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FROM SELMA TO SHELBY COUNTY: WORKING TOGETHER TO RESTORE THE PROTECTIONS OF THE VOTING RIGHTS ACT

HEARING

BEFORE THE

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WEDNESDAY, JULY 17, 2013

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 1:13 p.m., in Room SD–226, Dirksen Senate Office Building, Hon. Patrick J. Leahy, Chairman of the Committee, presiding.

Present: Senators Leahy, Feinstein, Durbin, Whitehouse, Klobuchar, Franken, Coons, Blumenthal, Hirono, Grassley, and Cruz.

OPENING STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

Chairman LEAHY. I am happy to welcome back to the Senate Judiciary Committee one of my heroes, Congressman John Lewis, and another dear, dear friend from so many battles over the years—not battles with each other but battles we have joined together on—Jim Sensenbrenner. And I welcome everyone to this important hearing. It is on an issue that affects all Americans: our right to vote.

The title of today's hearing, "From Selma to *Shelby County*: Working Together to Restore the Protections of the Voting Rights Act," speaks of the historic effort to protect our voting rights and expresses our determination to continue to work together to affirm the Voting Rights Act.

From its inception and through several reauthorizations, the Voting Rights Act has always been a bipartisan effort, and I hope that is going to continue. And part of that tradition is right here with John Lewis and Jim Sensenbrenner, two highly respected Members of the House of Representatives, one a Democrat, one a Republican, and from different States, but both with a shared commitment to voting rights. So I look forward to working with both of them as we seek to restore the protections of the Voting Rights Act after the *Shelby County* case.

The historic struggle for individual voting rights reached a turning point on the Edmund Pettus Bridge in Selma, Alabama, on March 7, 1965. I had just gotten out of law. A group of peaceful marchers led by John Lewis, a young John Lewis, were brutally attacked by State troopers. We call it "Bloody Sunday" today from the graphic photographs, and it became a catalyst for the passage

of the Voting Rights Act. Congressman Lewis later said that "your vote is precious, almost sacred. It is the most powerful, nonviolent tool we have to create a more perfect union."

To me, and to millions of others, he is a hero, and I thank him for being here today.

In 2006, Republicans and Democrats in the Senate and in the House of Representatives joined together to pass a reauthorization of the landmark Voting Rights Act with overwhelming bipartisan support. One of the reasons we were able to do it is the courageous Chairman of the House Judiciary Committee, Congressman Sensenbrenner, a true leader of that effort. In fact, having been here at that time as the Ranking Member of this Committee and watching what went on, I can say that we would not have been able to reauthorize that without his leadership in the House Judiciary Committee. I was proud to work with him back then, and I thank him for coming here to testify today. And I think he and I and Congressman Lewis were very happy when we saw the President sign that in the Rose Garden—on a gorgeous day, I might add.

In *Shelby County v. Holder*, five Justices of the Supreme Court held that the coverage formula of the Voting Rights Act was outdated. But even the five Justices who struck down the coverage formula in Section 4 have acknowledged that discrimination in voting continues to be a problem. As Chief Justice Roberts said, "voting discrimination still exists; no one doubts that." And that is why we are here today.

The Supreme Court has called on Congress to come together to update the Voting Rights Act. We have to work together—not as Democrats or Republicans, but as Americans. People die in other parts of the world trying to obtain the right to have a free country with a free right to vote. Americans should not be denied it by just the application of local laws. We need a strong Voting Rights Act.

Dr. King proclaimed: "When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir."

We owe it to our children, and I might say in a very personal way our grandchildren, to restore the Voting Rights Act to fulfill this promise and uphold the Constitution. No one's right to vote in any part of this great Nation should be suppressed or denied, yet we continue to see that discriminatory practice today. Every one of us, I do not care what our political alliances are, we should be totally opposed to suppressing votes. So let us work together on that.

Senator Grassley, we will hear from you, and I know that Congressman Lewis has a flight, so after you finish, I am going to turn to him.

OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. It is very right for you to hold this hearing, Mr. Chairman, after a significant decision by the Supreme Court and the extent to which Congress has a duty to do it in our checks and balances of Government.

The Voting Rights Act guarantees the fundamental right to vote for all qualified voters, regardless of race or language. The right to

vote guarantees the protection of other rights. The law was necessary to address a shameful history. I have voted to reauthorize the Act. I appreciate the testimony of our congressional colleagues, and I welcome both of them here and point out specifically for Representative Lewis that your participation in the Bloody Sunday helped lead to enacting the law and creating your enduring place in history. Thank you for being here today.

We should be pleased that our country has made advances in race relations since the Voting Rights Act was passed. The Act contributed to the progress. No doubt, though, more progress must be made and should be made, and a hearing such as this will help that dialogue to continue.

We last voted to reauthorize in 2006. Much has changed since then. The voter turnout rate was higher last year among registered African American voters than for other classes of people. More African American and Hispanic candidates than ever are winning elections.

Now, I say that because the Supreme Court has found these facts to be of constitutional significance. We are here today largely because Congress failed to heed the Supreme Court's 2009 warning that the differing treatments of States in the preclearance coverage formula raised serious constitutional questions. Eight Justices said so. The ninth would have struck the law down at that time. Congress could have drafted a new coverage formula to address those concerns. We could have created a formula based on 21st century realities, not the dramatically different conditions that existed in the 1960s and 1970s.

The Court then ruled as it did. Many people believe that Section 2 is the heart of the Voting Rights Act, unlike Section 5 that prohibits voter discrimination nationwide. Unlike Section 5, Section 2 can be used to challenge procedures before they take effect through injunctions. Over the years, the preclearance process has led to many fewer objections to proposed election law changes. Since the last reauthorization, only 31 objections have been made. There have been no objections raised to any changes in seven of the 16 States that are covered in whole or in part and in three of the States that are fully covered. A total of 99.86 percent of submissions have been approved. Additionally, the racial gap in voter registration and turnout is now lower in the States that were originally covered in Section 5 than is the case nationwide.

The Court has given Congress the opportunity to draft a new constitutional coverage formula. I disagree with a member of this Committee across the aisle who said, "As long as Republicans have a majority in the House and Democrats do not have 60 votes in the Senate, there will be no preclearance." Cynicism and defeatism have never before characterized reauthorization of the Voting Rights Act. Rather than blaming Republicans for blocking a bill that does not exist, the majority should bring forth a proposal for updating the coverage formula in a constitutional way. We should cover the whole country.

We could identify jurisdictions engaging in discrimination in the 21st century and where Section 2 is inadequate. There may be other options. I look forward to seeing what is brought before the Committee.

I certainly understand why there is no proposal yet, but for any new bill to pass, we must respect the Constitution's pronouncements. The Court based its ruling in part on the Tenth Amendment. Specifically, the Court said, "The Constitution provides that all powers not specifically granted to the Federal Government are reserved to the States or citizens thereof," and I would point out the word "specifically."

This is a formulation of the Tenth Amendment I have never seen before. It means that Congress can only enact laws that fall within the powers the Constitution specifically gives it, such as the enumerated powers of Article I and the 15th Amendment, which is the constitutional basis for the Voting Rights Act.

The Supreme Court's ruling requires Congress to show greater respect for the limitations of its power as against State authority. It is language that must be kept in mind if Congress considers legislation amending the Voting Rights Act. And the Court last month also ruled under the Constitution's Election Clause that Congress may regulate "how Federal elections are held but not who may vote in them." Those decisions are left to the States.

Further, any legislative fix should not threaten commonsense measures to ensure the integrity of voting, such as constitutional voter identification laws. Overwhelming majorities support these requirements. They know that the right to vote is denied as completely when a valid vote is canceled by the vote of someone ineligible to vote as when an eligible voter is blocked. And the Supreme Court has just ruled that, "It would raise serious constitutional doubts if a Federal statute precluded a State from obtaining the information necessary to enforce its voter qualifications."

This hearing is very important, and I commend you, Mr. Chairman, for holding it as soon as you are after the *Shelby* decision. I welcome all the witnesses.

Thank you.

Chairman LEAHY. Well, thank you.

We will start, as I said, with John Lewis. Also, on a personal point, I still remember with great fondness your introduction of me when I received a civil rights award, the Humphrey Award. I thought it was one of the culminations of my career in the Senate to be introduced by you. And we have seen especially recently so many times on television some of the scenes of 50 years ago. So I am glad you are here. Congressman Lewis, please go ahead, sir.

STATEMENT OF HON. JOHN LEWIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Representative LEWIS. Thank you, Mr. Chairman. I want to thank you, Mr. Ranking Member, and members of the Committee for holding this important hearing and inviting me to testify today.

Mr. Chairman, I ask unanimous consent that my full statement be included in the record.

Chairman LEAHY. Without objection.

Representative LEWIS. Since first being elected to Congress, Congressman Sensenbrenner has been a tireless champion of the Voting Rights Act. I am very proud and pleased to be with him today, my friend, my brother.

I have said it before and I will say it again to you today that Sections 4 and 5 are the heart and soul of the Voting Rights Act. The day of the Supreme Court decision broke my heart. It made me want to cry. I felt like saying, "Come, come, and walk in the shoes of people who try to register, try to vote, but did not live to see the passing of the Voting Rights Act."

I know that each of you knows this history, but I think it is important for the record to note what life was like before the Voting Rights Act of 1965.

When I first came to Washington, D.C., in 1961, the same year that President Barack Obama was born, blacks and whites could not sit beside each other on a bus traveling through Virginia, through North Carolina, through Georgia, Alabama, Mississippi, and to New Orleans. We saw signs that read, "White Only," "Colored Only."

In many parts of this country, people were denied the right to register to vote simply because of the color of their skin. They were harassed, intimidated, and fired from their jobs and forced off of farms and plantations. Those who tried to assist were beaten, arrested, jailed, or even murdered. Before the Voting Rights Act, people stood in unmovable lines. On occasion, a person of color would be asked to count the number of bubbles in a bar of soap or the number of jelly beans in a jar.

In 1964, the State of Mississippi had a black voting age population of more than 450,000, but only about 16,000 were registered to vote. One county in my native State of Alabama, Lowndes County, was 80 percent African American, but not a single one was able to register to vote. Not one. Selma is located in Dallas County, Alabama. During this period only 2 percent of African Americans were registered to vote in this county, and you could only attempt to register on the first and third Mondays of each month. Occasionally, people had to pass a so-called literacy test.

Before the Voting Rights Act, three young men I knew—James Chaney, Andy Goodman, and Mickey Schwerner—were working to register African Americans to vote in Mississippi in 1964. They were arrested, released from jail to members of the Klan in the middle of the night. Then they were beaten, shot, and killed.

On March 7, 1965, Hosea Williams, a staff person for Dr. Martin Luther King, Jr., and I attempted to lead a peaceful, nonviolent march from Selma to Montgomery. As we marched for the right to vote, more than 500 men, women, and children were chased, beaten, bloodied, and trampled by State troopers, some riding horseback. That terrible day became known as "Bloody Sunday."

A little over a week later, President Lyndon Johnson came before a joint session of the Congress, and he spoke to the Nation. He said, "I speak tonight for the dignity of man and for the destiny of democracy." And he presented the Voting Rights Act to Congress.

After months of hard work, Congress passed the bill, and on August 6, 1965, President Lyndon Johnson signed the Voting Rights Act into law and gave me one of the pens he used to sign that bill. I remember this period and these struggles like it was just only yesterday.

To this day, I truly believe that we are a better country, a better people because of the Voting Rights Act. We have made progress. We have come a great distance. But the deliberate, systematic attempt to make it harder and more difficult for many people to participate in the democratic process still exists to this very day. Only hours after the decision was announced by the Supreme Court, before the ink was even dry, States began to put into force efforts to suppress people's voting rights.

As I said and, Mr. Chairman, as you quoted, in a democracy such as ours, the vote is precious; it is almost sacred. It is the most powerful nonviolent tool we have.

It is my belief that the Voting Rights Act is needed now more than ever before. A bipartisan Congress and Republican President worked to reauthorize this law four times. The burden cannot be on those citizens whose rights were or will be violated. It is the duty and the responsibility of Congress to restore the life and soul of the Voting Rights Act, and we must do it, and we must do it now. We must act, and we must act now. We must do it on our watch, at this time.

Again, thank you, Mr. Chairman, Mr. Ranking Member, and members of this Committee for the opportunity to testify today. Thank you so much.

[The prepared statement of Representative Lewis appears as a submission for the record.]

Chairman LEAHY. Well, thank you, Congressman, and you bring us a sense of history. I also thank you for the book that you signed to me, "March (Book One)," that you helped write and edit. It will be seen by all five of my grandchildren.

I mentioned earlier that Congressman Sensenbrenner is a dear friend. We have been friends for years, and he is a civil rights icon in his own right. When he was Chairman of the House Judiciary Committee in 2006, he introduced the Reauthorization of the Voting Rights Act in the House of Representatives. He worked tirelessly to build a strong legislative record indicating the need for reauthorization of Section 5. I know because I watched some of those hearings. As he knows, I came by and we discussed it many, many times. But his steadfast leadership and his commitment to protecting civil rights for all Americans ensured that the bill would become law. I think as someone from the other body, I can say—and I was in the minority at the time. You, of course, were in the majority, your party. I can honestly say that we would not have gotten it through had it not been for the work you put in on it in the House.

So I will continue to work with him and to keep this a bipartisan issue. It will be a nonpartisan effort. It is one of the few things that definitely should. So, Congressman Sensenbrenner, please go ahead, sir.

STATEMENT OF HON. F. JAMES SENSENBRENNER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Representative SENSENBRENNER. Thank you very much, Mr. Chairman, Ranking Member Grassley, distinguished members of the Committee. Let me express my appreciation not only for your

statement and Senator Grassley's statement, but also the statements that have been made by my colleague in the House, John Lewis of Georgia.

I am not a civil rights icon. I try to be a mechanic to put together legislation that will work. I thought we did it in 2006. We are going to have to repair a few parts this year. And I am certainly on board to try to put something that will last for a long period of time.

I also deeply appreciate the comments that Mr. Lewis has made because he is truly a civil rights icon for what he did to emphasize the need for voting rights and the Voting Rights Act that Congress successfully passed in 1965 and has reauthorized since.

In 2006, I was proud to have served as Chairman of the House Judiciary Committee when the Voting Rights Act was last reauthorized, including the coverage formula of Section 5. I thank you for the invitation to participate in this hearing and to provide my perspective on the continued importance of the Voting Rights Act.

In 1965, the Voting Rights Act was signed into law. The last was passed at the height of America's civil rights movement when citizens of part of the country were fighting each other, and sometimes authorities, over how skin color impacts upon a person's place in democracy.

Historic in nature, the Voting Rights Act sought to end decades of racial discrimination that prevented minorities from fully exercising their constitutional right to vote. The law ensured that State and local governments do not pass laws or policies that deny American citizens the equal right to vote based on race.

As the leading democracy in the world, the United States should work to keep voting free, fair, and accessible. And that is why the Voting Rights Act is so important. It makes sure that every citizen, regardless of race, has an equal opportunity to have a say and to participate in our great democracy.

In 1982, I was pleased to help lead negotiations to reauthorize the Voting Rights Act then. The legislation cleared the House by a vote of 389–24, and it was signed into law by President Reagan. When signing the reauthorization, President Reagan stated, "There are differences over how to attain the equality we seek for all our people. And sometimes amidst all the overblown rhetoric the differences tend to seem bigger than they are. But actions speak louder than words. This legislation proves our unbending commitment to voting rights. It also proves that differences can be settled in a spirit of good will and good faith. As I have said before, the right to vote is the crown jewel of American liberties, and we will not see its luster diminished."

One of my most cherished keepsakes is one of the pens that President Ronald Reagan used to sign the 1982 extension. Anyone visiting my office will notice that this pen is proudly displayed.

A duty to support the Constitution once again led me to shepherd the 2006 reauthorization of the Voting Rights Act. While I was Chairman of the House Judiciary Committee, we held dozens of hearings examining the effectiveness of the Voting Rights Act, whether the VRA should be extended, and if so, what the extension should encompass. The Committee assembled more than 12,000 pages of testimony, documentary evidence, and appendices during its exhaustive consideration. In fact, the legislative record accom-

panying the consideration of the Voting Rights Act extension in 2006 is among the most extensive in congressional history.

The Committee's bipartisan conclusion: While we have made dramatic progress in ensuring no American is denied his or her right to vote based upon the color of his or her skin, the work remains incomplete. Again, in a bipartisan fashion, the House passed a 25-year extension.

As we are here today because of the Supreme Court's ruling in *Shelby County v. Holder*, which severely weakens the election protections that both Republicans and Democrats have fought so hard to maintain over the years, the Court essentially disregarded years and years of the extensive work of the legislative branch and substituted their own judgment. In a narrow 5–4 decision, the Justices voted to eliminate the law's existing formula for selecting which places are allowed to make changes to their election laws or procedure without clearance from the U.S. Department of Justice. Although the Court left in place Section 5, a provision that requires States or parts of States to ask permission from the Federal Government before making changes to their elections, that part of the law has little or no effect without the formula in Section 4, which was struck down.

By striking down Section 4 of the 1965 Voting Rights Act and thereby gutting the Act's Section 5, Congress is now presented with a challenge and a historic opportunity. We are again called together to restore the critical protections of the Act by designing a new formula that will cover jurisdictions with recent and egregious voting records. Our sacred Constitution guarantees that an American citizen cannot be kept from exercising his or her God-given right to vote because of race or color.

Though the Voting Rights Act has been enormously successful, we know our work is not yet complete and 8 years ago had 12,000 pages of a record to prove it. Discrimination in the electoral process continues to exist and threatens to undermine the progress that has been made over the last 50 years. I am committed to working to pass a constitutional response to the *Shelby County v. Holder* decision, and I look forward to working with anybody who wants to approach this effort in good Faith. I believe that the Voting Rights Act is the most successful of all of our important civil rights acts that have been passed since the mid-1950s in actually eliminating discrimination. We cannot afford to lose it now, and it is our obligation as Senators and Representatives to continue it.

Thank you.

[The prepared statement of Representative Sensenbrenner appears as a submission for the record.]

Chairman LEAHY. Gentlemen, I thank you both very, very much, and I wanted to hold this hearing before the August break because I want to be able to use the August break to work the phones a lot and talk to a lot of people from Vermont and people around the country, but be able to use that as a base to do it, and I am hoping that the two of you and anybody else in the House who would want can join with those of us here in the Senate who want when we come back in the fall and see what we can do.

I know you both have a tight schedule. You are welcome to stay if you would like, but I would be happy to have the next panel come up if you wanted to leave.

Representative SENSENBRENNER. We are due for votes pretty soon in the House.

Chairman LEAHY. I better let you go. It is a long way over there.

Representative SENSENBRENNER. Sometimes the differences between the House and the Senate are the difference between here and the moon—hopefully not on this one.

Chairman LEAHY. I hope not on this. In my office—I have an office that is just a couple feet from the so-called dividing line between the House and the Senate, and I like the fact that we are able to walk back and forth across that line often, as the three of us have done on many different issues. And I hope that both bodies will on this issue, because if you protect the right to vote for everybody, it is one of the greatest steps you can take to protect a democracy. So I thank you both very, very much for being here.

I would note, as we are going to set up for the next panel, Senator Durbin is the Chair of the Civil Rights Subcommittee and has held hearings on this. Senator, before we start that, did you wish to say something?

OPENING STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator DURBIN. Mr. Chairman, I want to thank you and Senator Grassley for this hearing today, and I want to congratulate my friend, Congressman John Lewis, for coming over and producing testimony that no one else can produce because of his singular role in the history of civil rights in America.

And a special thanks to Congressman Jim Sensenbrenner, who shows that there is true bipartisanship alive and well when it comes to preserving civil rights. Congressman Sensenbrenner, thank you for being here.

Mr. Chairman, it was 7 years ago that 98 Senators and 390 House members reauthorized the Voting Rights Act by an overwhelming bipartisan vote. After 21 hearings and 90 witnesses testified, a 15,000-page record was produced. Congress passed the bill, and President George W. Bush signed the reauthorization. We did so because we all recognized that, despite real progress in America, unlawful and unfair discrimination in voting remained. I heard some of those discriminatory practices firsthand in the series of hearings in my Constitution Subcommittee last Congress. Here on the Hill, I chaired the first congressional hearing to examine new State voting laws that limited early voting, tightened registration requirements, and required photo IDs.

We then took the Subcommittee on the road. At the invitation of Senator Bill Nelson, we went to Tampa, Florida, and at the invitation of Senator Sherrod Brown, we went to Cleveland, Ohio. In those places, we invited election officials from both political parties to testify as to changes in State law that were being contemplated and implemented in those two States of Florida and Texas.

Mr. Chairman, before there was any testimony taken at great length, we asked the election officials a basic question: What were the instances of voter fraud in your States of Florida and Ohio that

led for the States to change the laws relating to how people would register to vote and when they could vote and how they can vote?

In both States, the testimony was the same from election officials of both political parties. There was no evidence of voter fraud. None. These changes took place in the context of reducing opportunity for people to vote, period. I am not going to defend one person who tries to vote illegally or fraudulently. None of us would. But in those two States from election officials of both parties, there was no basis for these new State laws.

When the time came to challenge the laws in Federal court, what statute did they turn to? The Voting Rights Act. The Voting Rights Act asked the very basic question that goes back to the 15th Amendment as to whether we are keeping our promise to make voting racially free and free for all Americans. And that is why this hearing is so important and this testimony is so important.

I am just going to give three quick examples, Mr. Chairman, and yield. Do we still need this? Is this something that belongs in a museum, this Voting Rights Act, in the Civil Rights Museum somewhere? We still need it.

Listen to what we faced recently. In 2001, in the city of Kilmichael, Mississippi, an election was canceled because an unprecedented number of African American candidates decided to run for office. After the Department of Justice used the Voting Rights Act to require the election move forward, the town elected its first black mayor and its first majority black city council. In 2001, Kilmichael, Mississippi.

In 2004, officials in Walker County, Texas, threatened to prosecute two black students after they announced their candidacy for county office. When that threat did not keep them off the ballot, county officials tried to limit African American turnout by reducing early voting but only at polling places near a historically black college with a large number of black voters. 2004, Walker County, Texas.

In 2012, after the 2010 census showed that the African American voting population had grown significantly and the consolidated municipal government of Augusta-Richmond, Georgia, the Georgia Legislature passed a bill to change the date of the municipal elections but only in Augusta-Richmond County, Georgia. The bill would have changed the election date from November when African American turnout was known to be high to July, when it was substantially lower. 2012, the State of Georgia.

Do we still need the Voting Rights Act? Yes, we do. That is why this hearing is so important.

Mr. Chairman, I am glad that you brought those two opening witnesses, and I am glad that the panel will follow and we will have a chance to raise these questions. And I think you are right to make this issue an issue to be considered by the full Committee rather than just our Subcommittee, and I thank you for this opportunity.

Chairman LEAHY. I can assure you your Subcommittee is going to have a great deal of work to do on this, as you already have.

Our first witness is Ms. Luz Weinberg. Did I pronounce your first name correctly? Luz Urbáez Weinberg. I apologize. She has served as city commissioner of Aventura, Florida, since 2005. I understand

you are the youngest person, the first person of Hispanic descent to hold that office; also the vice president of the Board of Directors for NALEO, the National Association of Latino Elected and Appointed Officials.

Ms. Weinberg, please go ahead. Your microphone is not on. There is a little button on the front there that says "Talk."

STATEMENT OF LUZ URBÁEZ WEINBERG, COMMISSIONER, CITY OF AVENTURA, FLORIDA

Ms. WEINBERG. Thank you. Give me those 10 seconds back.

[Laughter.]

Ms. WEINBERG. Chairman Leahy, Ranking Member Grassley, and members of the Committee, thank you so much for the opportunity and the invitation to submit my testimony here on the need to restore the protections of the Voting Rights Act.

Mr. Chairman, as you mentioned, I am a Republican elected to serve my city of Aventura as a nonpartisan in the city of Aventura, northeast Miami-Dade County, Florida. I am the first, indeed I am still the only, Hispanic to hold that office. I have taken also statewide and national leadership positions. Just recently Governor Rick Scott appointed me to serve on the Miami-Dade Expressway Authority, and I also serve as the vice president of the National Association of Latino Elected Officials. And thank you, Senator Durbin, for joining us last month.

I am here today to share with you my firsthand account of the critical impact of the Voting Rights Act in guaranteeing access to the ballot box. As a result of the recent Supreme Court case, I urge this Committee to once again demonstrate your clear and principled commitment to equal voting rights for all Americans regardless of race, language spoken, and to also act swiftly to restore the protections.

Whether to maintain the Voting Rights Act, it is not a partisan issue. It is a nonpartisan issue. It is an issue for all Americans. Whether Republicans or Democrats, all Americans strongly believe in fair and equal electoral opportunities.

My experience serving as an elected official in South Florida has afforded me the privilege of being personally acquainted with how, absent a proactive, impartial check, election policies may disenfranchise ethnic and language minority communities.

Ever since I moved to Florida from Puerto Rico in 1986, I have had a front row seat to observe how the unfortunate, repeated attempts to adopt and implement policies that continue our national history of putting racial, ethnic, and language minority voters at a disadvantage. Two main incidents come to mind:

Number one, Osceola County in central Florida is one of many counties that have maintained an at-large election system for its commissioners. Only when its voters elected to switch to single-member districts was the first Hispanic commissioner finally elected.

In reviewing the county's election law changes, the Department of Justice identified that the commissioners favored a return to at-large elections, in part because they recognized that the substantial growth of the county's Latino population would lead to Latino voters electing candidates of their choice. Since 2002, Osceola County

has twice more faced charges that its electoral methods would reduce or eliminate Latino voting rights.

Second, in Florida, Latinos are more likely than average to have become registered to vote through third-party registers. Third-party registers, however, became subject to strict reporting requirements, deadlines to return registration forms, and large fines in 2011. These requirements were later withdrawn, but the change in the law led to several organizations like the League of Women Voters suspending their voter registration operations in Florida, which, of course, then meant a drop that we saw of 39 percent registration.

In the 1975 expansion of the VRA, five Florida counties were singled out for electoral discrimination against Latino voters and low participation rates that made them subject to the preclearance process set forth in Section 5. The VRA protects not just Latinos in these five counties formerly subject to preclearance, but it protected all voters statewide. For example, through the 1980s and 1990s, preclearance was actively used in Florida to ensure that absentee balloting procedures did not put underrepresented voters at a disadvantage. More recently, the preclearance process forced the careful reconsideration of the disproportionate impact that Latino voters might experience because of decisions to reduce our State's early voting period and to re-scrutinize the citizenship of Floridians already registered to vote.

The successful application of Section 5 has occurred not only in Florida in the course of formal requests for preclearance. The very fact that these State policymakers have had to anticipate fulfilling preclearance requirements has influenced them to voluntarily reconsider and reshape proposed new election laws.

For us Floridians, and particularly for Latino voters in Florida, the preclearance process of the Voting Rights Act has not only been effective but also critical in ensuring the preservation of equal electoral opportunities.

The preclearance mechanism has no peer. It is uniquely tailored to prevent irreparable harm to voters and candidates by requiring review for discriminatory effect before a new law may be implemented. It is, by its very design and definition, still very much necessary in our 21st century America.

On a personal note, I arrived in this country as a native-born immigrant; that is to say, I am one of millions of Puerto Ricans who leave the island for the mainland for a better life. I registered to vote as a young adult who had just a couple of years before my arrival not spoken a word of English. I have three children. I was very proud when my oldest son, Jonathan, now 20, registered to vote and voted for the first time 2 years ago. Last year, my daughter, Jessica, turned 18, just 2 weeks after the election cycle—she missed it—but she was filed and ready to vote. Jonathan registered Democrat. Jessica registered Independent. Their elected official mother, myself, is a Republican. So in my household, we are Latinos, white Latino, we are Afro-Latinos, who speak English, who speak Spanish, sometimes Spanglish, sometimes very badly; but first and foremost, we are Americans in my household. And we take our electoral process, exercising our right to vote, ensuring that the Voting Rights Act is preserved, we see it as a nonpartisan,

non-racial, and non-language-dependent priority. And I urge you to once again demonstrate your commitment to this priority of equal voting rights for all Americans and to please act swiftly to restore these protections so very necessary through the Voting Rights Act.

Thank you.

[The prepared statement of Ms. Weinberg appears as a submission for the record.]

Chairman LEAHY. Thank you very much.

Our next witness is Mr. Michael Carvin, a partner at the law firm of Jones Day here in Washington, D.C., where he focuses on constitutional and appellate litigation. He has testified before this Committee a number of times at the invitation of our Republican colleagues, and welcome again, Mr. Carvin.

STATEMENT OF MICHAEL A. CARVIN, PARTNER, JONES DAY, WASHINGTON, DC

Mr. CARVIN. Thank you, Mr. Chairman, Senator Grassley. Obviously the Committee is facing a very serious question, as is the entire Congress: Does *Shelby County*'s invalidation of Section 5 create some kind of gap in the civil rights laws which might expose minority voters to unconstitutional discrimination?

The thrust of my comments today is that there is no gap because Section 5 is no longer needed to ensure equal opportunity for minority voters for one simple reason, which is you have Section 2 of the Voting Rights Act, that has always been viewed as the heart of the Voting Rights Act. Section 2 is a very muscular provision which was amended by this body in 1982 to prophylactically eliminate anything that could be characterized as purposeful discrimination because it prohibits anything with a discriminatory result for minority voters. It was ballyhooed then and was universally hailed as an extraordinarily successful piece of legislation that has done much, much more than Section 5, to eliminate unconstitutional voting discrimination.

Section 5, on the other hand, was limited. It was limited in terms of the kinds of voting practices it got at, only changes in terms of the States it was addressing and in terms of time. It was always a temporary supplement to Section 2.

So I think the question that the Congress has to grapple with is not whether discrimination persists in the jurisdictions covered by Section 5, but whether it is the kind of discrimination that cannot be effectively remedied by Section 2 of the Voting Rights Act. And I would submit that there is not much argument that Section 2 is inadequate to the task. First, a couple of logical, intuitive points.

Preclearance requirements do not seem to be necessary for two reasons. One is we do not have it in most States. We do not have Section 5 on top of Section 2 in most States with respect to voting discrimination. And we do not have any kind of analogous preclearance requirement for any other form of discrimination. Employment, housing, educational discrimination is all dealt with through statutes like Section 2 that prohibit certain actions, not supplemented in any way by a preclearance requirement, even though, for example, employment discrimination is much more difficult to prove than voting discrimination because it is done in pri-

vate without the kind of ready access you have in the voting context.

With respect to what we have been calling "first-generation ballot access issues," I think the finding of Congress in 2006 was that those problems had been addressed as well in the covered jurisdictions and in the non-covered jurisdictions so there was really no reason to extend Section 5 just to get at those ballot access issues. Section 2 was more than adequate in Oklahoma and Arkansas to eliminate that kind of voting discrimination, and no one in Congress in 2006 found that what was okay in Arkansas was inadequate in Brooklyn or Manhattan or Mississippi, in part because Congress found that Mississippi actually had the highest participation of black voters of any State, but nonetheless remained a covered jurisdiction.

In terms of second-generation issues—and that was the principal focus of the Congress in 2006—they said, look, the covered jurisdictions have done a terrific job, indeed a better job than the non-covered jurisdictions in fostering minority participation and turnout, but they are diluting the vote through these at-large electoral systems and racial gerrymandering. And I would like to make two points about that.

Section 2 is actually more effective at dealing with second-generation vote dilution issues than is Section 5. For one thing, Section 5 cannot attack at-large voting systems because it only is triggered if there is a voting change. So if an at-large election system is in place, it cannot be got at by Section 5, but it can be got at by Section 2.

There has been an argument made which, in my view is completely false and counterfactual, which is somehow Section 2 challenges to racial gerrymandering are too slow or not effective enough. That is completely untrue. In every State outside of Section 5, people do not sit around before they bring their Section 2 lawsuits and say, "Let us have two or three elections and see how things go." They do exactly what they do in the Section 5 jurisdictions. They go to court before the new redistricting plan is entered and seek an injunction. The highly publicized case in Texas makes this point extraordinarily well. The Section 2 court has done its vote dilution work in November 2011, well before the elections in 2012, while the Section 5 court never issued a decision until late August in 2012.

So the point is that Section 2 courts can act and do act just as speedily and just as effectively in dealing with these redistricting issues. The only thing that the demise of Section 5 will help eliminate is the compelled racial gerrymandering that the Justice Department imposed on a number of jurisdictions to create these districts that were struck down as unconstitutional in *Shaw* and as the protection, as we saw in Texas, of white Democrats even though there was not cognizable or large minority population in those districts, and, frankly, to end the partisan uses by the Republicans of the Voting Rights Act. Some of the strongest supporters of the Voting Rights Act have always been Republicans because it is politically advantageous for Republicans to have these majority minority districts because the adjacent districts present political opportunities.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Carvin appears as a submission for the record.]

Chairman LEAHY. Thank you very much.

And our next witness is Justin Levitt, associate professor of law at Loyola Law School in Los Angeles, a national expert in constitutional law and voting rights. Before he joined the faculty of Loyola, he was counsel at the Brennan Center for Justice at New York University School of Law. He worked on cases promoting equal access to voting, and, again, I should note that all of your statement or any addition to it will be put in the record. Professor Levitt, I do not want you to think it is because of anything you have said or are about to say that I leave and turn the gavel over to Senator Whitehouse, but I am also required back on the floor. But please go ahead, sir.

STATEMENT JUSTIN LEVITT, ASSOCIATE PROFESSOR OF LAW, LOYOLA LAW SCHOOL, LOS ANGELES, CALIFORNIA

Mr. LEVITT. Not at all, Mr. Chairman, and thank you very much.

Mr. Chairman, distinguished members of the Committee, thank you for the invitation to testify here as well.

Our Constitution expressly gives Congress the specific enumerated power and the obligation to ensure that there is no electoral discrimination anywhere in the country based on race or ethnicity. Congress has repeatedly attempted to step up to that responsibility, not perfectly perhaps but pragmatically.

Shelby County ripped a sizable hole in Congress' work. That decision has left Americans today less sure that discrimination will not taint their elections. We have to correct that damage.

Sweeping national statistics hide the fact that, unfortunately, there are still public officials who try to limit electoral opportunity based on race or ethnicity, sometimes because of contempt, sometimes because of perceived political advantage. It is disgusting and it is illegal. And even with armies of lawyers, it is very hard to fix using existing tools like Section 2.

Normally we in the legal system depend on responsive lawsuits, the sort of tools that Mr. Carvin was talking about. If there is a legal problem, you sue, you prove harm, and it gets fixed. That is the way that the employment system, the housing system, the education system works. Exactly as Mr. Carvin said. Voting and election laws are different.

These normal lawsuits attack one practice at a time. Officials looking to limit political power based on race just switch tactics. Rule X draws a lawsuit? Okay, shift to Y. That draws a suit? Okay, shift to Z.

And important here, the official does not bear the costs of this whack-a-mole game. The taxpayers do. And if taxpayers get sick of it, it is hard for them to toss them out of office because the tactics he is changing affect the very structure of how the elections work. Election laws are different.

Normal lawsuits are also a little bit like ocean liners. They are complicated, they are very expensive, they are slow to get going. They can take years, and, frankly, I am not sure which Texas case Mr. Carvin is talking about. The court in Texas still has not deliv-

ered a decision on the merits, years after the original districts were put in place. There is still no decision based on these normal lawsuits.

In the meantime, when normal lawsuits are taking all of this time to get up and going, elections infected with discrimination are taking place. We know that elections have consequences. Well, discriminatory elections have consequences, too. Even when the contest is unjust, the winners still become incumbents, and they end up making policy in the meantime. While we are waiting to get the election structure right, it does not fix the policy that has already been passed. Election laws are different.

These are not just theories. The 2006 Congress collected 15,000 pages of examples. I have got plenty more from not just before 2006, but 2006, 2008, 2010, 2011, ongoing. They include some prominent statewide problems, but I am even more concerned about local jurisdictions where those most at risk have the least resources to fight back.

These examples also just are not old news. In 2009, 2 months after the President's Inauguration, Chief Justice Roberts, Justice Kennedy, and Justice Alito said, and I quote, "Racial discrimination and racially polarized voting are not ancient history. Much remains to be done to ensure that citizens of all races have equal opportunity to share and participate in our democratic processes and traditions."

Congress has understood that much remains to be done. Repeatedly it has recognized that the existing toolkit of tools like Section 2 are powerful, but for the most pernicious electoral discrimination, they are also, and here I quote again, "inadequate."

In 2006, Congress stepped up to meet the continuing need, which brings us to *Shelby County*. The Supreme Court's ruling had an enormous impact, but it also leaves Congress with plenty to do. The Court said that the formula Congress used in 2006 to cover some States and not others for preclearance purposes was not sufficiently tied to current conditions. It did not rule out a different formula. It did not rule out the idea of preclearance at all. It did not rule out safeguards other than preclearance, above and beyond the normal responsive litigation toolkit that exists today. It did not say we fixed the problem of discrimination in voting. And it did not change the basic truth that, quoting Chief Justice Roberts, "the 15th Amendment empowers Congress, not the Court, to determine in the first instance what legislation is needed to enforce it."

So now it is up to Congress once again. Polls show that the American people understand that this extraordinary right still needs more than just ordinary protection, whatever that may look like. In the last 50 years, Republicans and Democrats in overwhelming bipartisan majorities, including every member of this Committee who was able to cast a congressional vote in 2006, have stepped up to offer on a bipartisan basis that extra protection these very special rights demand. And I am delighted to offer whatever assistance I can as both Houses of Congress resume their bipartisan task.

Thank you very much.

[The prepared statement of Mr. Levitt appears as a submission for the record.]

Senator WHITEHOUSE [presiding]. Thank you very much, Professor Levitt.

We will begin the questioning with Senator Durbin.

Senator DURBIN. Thanks. Professor Levitt, when I read this decision, *Shelby County*, and noted the logic and argument used by the Chief Justice, it seemed to suggest that, absent Congress showing brand-new evidence on a regular basis, we are dealing with some old problem in America that has virtually gone away. That seems to be the majority argument in the case.

I think back to the last election cycle. There was an organization known as the American Legislative Exchange Council that was financed by major corporations and major political players that went State by State to change the electoral laws to restrict the right to vote. I visited two of those States. Ms. Weinberg, I was in your State of Florida and, as I mentioned, had electoral officials from both parties who could not point to a single instance of voter fraud that led to these changes. It clearly had some other design.

Now, many of these changes in State law were challenged under the Voting Rights Act under Section 5, for example, voter ID, as to whether or not it was discriminatory toward minority populations, the disabled, or elderly and the like.

So I would just ask you if you are familiar with this background and believe it is evidence that the Voting Rights Act and its protection of that basic right to vote still is a vibrant and timely issue.

Mr. LEVITT. Thank you, Senator. I am, and I have had the opportunity to speak with you on your Committee about exactly these issues that you have been highlighting. They are of concern, and they are very much present, and they exist not only at the statewide level, but at the county level, at the city level, at the municipal level. All the way down at all levels of government there are still profound challenges.

The existing tools that we have now help, but I do not believe that they are in any way sufficient. I believe that election laws are special and demand more.

Senator DURBIN. I might, Mr. Chairman, ask for unanimous consent or permission to enter into the record an exhibit which demonstrates the financial supporters of the American Legislative Exchange Council. Many corporations, once they learned what the agenda was of this council, have withdrawn their membership and financial support, but many have continued it, and I would like to put this in the record.

Senator WHITEHOUSE. Without objection.

[The information referred to appears as a submission for the record.]

Senator DURBIN. Let me add quickly, it is their right under our Constitution, their right of speech, their right of assembly, whatever they want to exercise, to spend their money for this purpose to try to change laws. I think it is legal and constitutional. But I think everyone should see whether the companies that they are doing business with are, in fact, using their profits to restrict the right to vote through the American Legislative Exchange Council.

Mr. Carvin, Professor Carvin, you talked about Section 2 and the fact that it is there as the last bulwark of protection, we should not be so distressed about the Court's decision as it related to Section

4. Your argument was considered by Justice Ginsburg in this *Shelby County* decision, and she noted on page 14, "Congress produced evidence that litigation under Section 2 of the VRA was an inadequate substitute for preclearance." In other words, we addressed that directly when we reauthorized the Voting Rights Act. She went on to give two specific areas: "Litigation occurs under Section 2 only after the fact when the illegal voting scheme has already been put in place and individuals have been elected pursuant to it, thereby gaining the advantages of incumbency. An illegal scheme might be in place or several election cycles before a Section 2 plaintiff can gather sufficient evidence to change it."

Then she goes on to say, "And litigation under Section 2 places a heavy financial burden on minority voters. Congress already also received evidence that preclearance lessened the litigation burden on covered jurisdictions as well, because preclearance process is far less costly than defending against a Section 2 claim."

So your argument that Section 2 is a good alternative seems to have been addressed directly by Justice Ginsburg. Would you like to respond?

Mr. CARVIN. Sure. It is quite factually inaccurate, the assertion that you wait in Section 2 cases until elections have already occurred to challenge it. Your State is actually a good example of this. There has never been a congressional redistricting in Illinois, which is not a covered jurisdiction, that has not been adjudicated prior to the first election, and some have been struck down on Section 2 grounds.

In the Texas case I was referring to, they entered an interim remedial order a year in advance of the elections. Section 5 and Section 2 litigation on redistricting is indistinguishable. You bring in a bunch of experts. You look at prior electoral returns, and you make projections going forward for the next——

Senator DURBIN. Mr. Carvin, it is dramatically different in my State, because when we put a redistricting or reapportionment map together, we know it is going to be challenged. The Democrats and Republicans do that for a living every 10 years. It is not a question of gathering poor, minority, dispossessed plaintiffs and trying to get the money together as well as the evidence. We are prepared for this. It is a regular ritual in my State and most others.

Mr. CARVIN. And most others. Redistricting is not an underlawyered operation here. The notion that these plans are somehow sneaking through in the dark of night—Justice Ginsburg says you have to wait for four electoral cycles——

Senator DURBIN. But that is a lot different, a lot different than some remote rural jurisdiction that might be faced with this same allegation of discrimination and have to bring together the lawyers, the money, and the evidence to challenge under Section 2.

Mr. CARVIN. Your argument, then, Senator Durbin, with respect, is not that you have to wait for elections to go by. It is that you have to go find a lawyer. We can both agree that Justice Ginsburg was flat wrong in suggesting you have to wait for elections to go by. As your experience in Illinois shows, the lawyers get together right after the map is passed and run to court. So that is not true. Does it happen less frequently in rural counties? That may be true. But that is the way we enforce every civil rights law, from Title

VII to Title VIII. And in all of them, if you have a meritorious claim, all of your expenses are paid for by the other side under the fee-shifting provision. We have political parties that are directly involved in redistricting. There is not a civil rights group in the country that does not have a voting system——

Senator DURBIN. I think you have made——

Mr. CARVIN [continuing]. And, of course, we have now got a lot of lawyers——

Senator DURBIN. You have made your point on redistricting, and I have responded.

Professor Levitt, I will close by allowing you a chance to respond.

Mr. LEVITT. It is odd to hear Mr. Carvin, who is a practitioner, step into the realm that I normally find myself in, which is pure theory. And I will say that I have also been an election practitioner, and I can tell you that the facts on the ground look different. Ask Charleston County, ask the voters of Charleston County, South Carolina, whether a case was brought that they were able to get relief for before the election happened, and they will tell you no. The case was brought in 2001. Plaintiffs asked for preliminary relief. They were denied. Elections happened. Elections happened again. It was not until 2004 that the court was able to actually provide relief.

The existing responsive litigation system that we have is not only slow, it is expensive. And I am delighted that Mr. Carvin is going to front the money for civil rights lawsuits all over the country. There are lawsuits that I would love to bring now, but I am not independently wealthy and cannot wait the 4 years to collect fees.

There are in my home jurisdiction places that desperately need Section 2 lawsuits brought where they are not being brought, in part because the data is hard to get, because the experts are hard to find and expensive to gather, and because particularly, as you mentioned, in the most rural jurisdictions there are not armies of lawyers waiting to sweep in. I wish it were true. It would be wonderful if it were true. But the fact of the matter is that there are lots of jurisdictions that need this extra protection, something other than the ability to file a responsive lawsuit after a law goes into effect in order to fight it.

Senator WHITEHOUSE. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. Thank you, all of you. I care a lot about this, having been a prosecutor for 8 years and actually enforced our election laws in the State of Minnesota. We are incredibly proud of our State. We have the number one turnout in the country. We have same-day registration, which I want to get to in a minute, and we also have people enforcing the laws and finding that when something does go wrong, we have an enforcement mechanism in place, which I think you all know is incredibly important.

I also was able to go with Congressman Lewis to Selma, as many people have done, just this last year, and something happened this year which was incredible, and that is that 48 years after that march across the bridge in Selma, the white police chief in Montgomery took his badge off and handed it to Congressman Lewis and apologized to Congressman Lewis that the police had not protected them on that bridge that day. And it made me think a lot

about how progress can take a long time. And I think we know that, and that is the acknowledgment that is made in the need to reauthorize this Act and how incredibly important it is to do that.

So I just want to go to those practical questions here with you, Mr. Levitt. I think we have seen recently some new barriers to voting. We have certainly seen that since the decision with some of the States, things like very strict voter ID requirements, things like shortening time periods where people can register to vote or can vote early. Could you talk about that and how here and now, not just 50 years ago, we are starting to see some major problems?

Mr. LEVITT. So that is absolutely right. There are new threats to the ability for every eligible American to vote and have that vote counted and have it counted meaningfully in a way that leads to meaningful representation. And there is no doubt about that.

There is an awful lot that Congress can and perhaps should do in order to remedy that, and I would say that in particular addressing these new laws, these new practices, and even the local versions thereof that discriminate on the basis of race and ethnicity is a special point of urgency for Congress. It is——

Senator KLOBUCHAR. Could you elaborate on that?

Mr. LEVITT. Sure. So some of the practices that have gotten the most attention are not necessarily the ones that are causing the most damage based on race or ethnicity in local jurisdictions. Changing the lines for a county commissioner or for a justice of the peace election, changing the language access materials that are sent out in a particular election, moving an election date to a date, as Senator Durbin mentioned, that you know is going to have less turnout, and moving that date as soon as the voting age population of African Americans hits 50 percent in a relevant jurisdiction, that is, changing the rules in response to a new perceived threat from minority citizens when really the minority citizens are exercising their rights as Americans, that is a particularly pernicious problem. It is the reason that there are constitutional amendments devoted entirely to the subject, and I think it is particularly important for Congress to focus on those issues here and now in response to *Shelby County*.

Senator KLOBUCHAR. Okay. Ms. Weinberg, as a Republican local official, I really appreciate you coming because we really want to focus on this as bipartisan solutions here. What do you think of what Professor Levitt just said? And do you see things that can be helpful on that local level, it is not just these national elections?

Ms. WEINBERG. Thank you for the opportunity because I did want to touch on that from an actual, practical, on-the-ground perspective of Section 2 versus Section 5 and what stays and what remains.

Absent Section 5, what transpired in the State of Florida last year with the citizenship clerk would have not been—would have continued, would have proceeded, and we would have stood to lose over 100,000 votes, a large number of that having been from Miami-Dade County. Section 2 alone is not sufficient. Section 5 has no peer. Section 2 alone is not sufficient. And I cannot stress that enough. It is an after-the-fact policy. And it is a cost-prohibitive, after-the-fact policy. And it is an evidence-exhaustive, after-the-fact policy, not to mention the fact that preclearance has—well, those

Section 2 cases, and I noted only two in my written testimony, but I can bore you with a whole lot of different cases, as I am sure Mr. Levitt is very familiar with, that have failed. Section 2 alone is not sufficient, and if this hearing could end up with a slogan, with my communications background, it would be that without preclearance, without Section 5, and only Section 2, it is hunting season for discriminatory voting practices.

Senator KLOBUCHAR. Okay. That is a good line.

Ms. WEINBERG. Thank you.

Senator KLOBUCHAR. The last thing I wanted to ask about was just this idea of same-day registration. They do not have it in Florida. I know that. But a number of States have it, including a number of States with Republican Governors, and one of the things I noticed, as I think—one of the goals here is to just make it easier for people to vote. And, in fact, five of the six top States for voting percentages have same-day registration. There are States like Iowa, there are States like New Hampshire, there are States that clearly—Maine, and I do not see this as a partisan issue. I see how do we make it easier to vote. Representative Ellison in the House and I in the Senate, along with Senator Tester, have a bill to have same-day registration across the country. Could you talk about how that could help, Professor Levitt?

Mr. LEVITT. Sure. And you are absolutely right that Minnesota has been a leader in election administration in the means that it takes in order to make sure that eligible Americans are able to participate. It has leapt to a national leadership level.

Same-day registration is one of the very important tools for this. This actually affects all Americans, not just those who are unregistered but those who have moved and would need to update their registration, not just those who are unregistered but those who find there is a problem with their registration somewhere, that somebody has put a typo into a system and they cannot be found on the records. Not just those who are unregistered but those who find when they get to the polls that for whatever reason something has gone wrong, election day registration provides a fail-safe mechanism to make sure that those who are truly eligible can participate on the same terms as everyone else.

It is an immensely important safety net, and it has been used, as you say, in States—both Republican and Democratic administrators, both Republican and Democratic voters have consistently restored election day registration where there have been threats to it in States that have had it. The voters really like it, and it is obvious why.

Senator KLOBUCHAR. Thank you. And I would also add to that, then move on to my colleagues, that the bottom States with the voter turnout, none of the 18 States with the lowest voter turnout have same-day registration. Does that surprise you at all?

Mr. LEVITT. It does not. It is a great safety net, and it makes sure that those who want to and are eligible to vote can and do so securely.

Senator KLOBUCHAR. Thank you.

Senator WHITEHOUSE. Senator Franken.

Senator FRANKEN. Thank you. Thank you all.

I was disappointed with the Supreme Court's decision in the *Shelby County* case, and I was particularly troubled by the suggestion at oral argument that Congress passed the Voting Rights Act only because it has a nice name and not because of the mountains of evidence before Congress or because of this body's longstanding bipartisan commitment to the promise of the 15th Amendment.

The Voting Rights Act is one of the greatest and most consequential achievements of the civil rights movement, as Representative Sensenbrenner said. It has improved our democratic process tremendously, and I believe that the law remains necessary today. The *Shelby County* decision was a setback. Justice Ginsburg put it well in her dissent when she wrote, and I am quoting, "Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet."

So I was disappointed with the decision, but I am also optimistic that we can fix this, because nobody really disputes that the Voting Rights Act is still needed.

Writing for the majority in *Shelby County*, Justice Roberts credited the Voting Rights Act with "great strides" that we have taken as a Nation, while also saying, "Voting discrimination still exists. No one doubts that."

So it seems to me that the question here is not whether we need the Voting Rights Act at all. The question is: What form should the law take? I am looking forward to working with all my colleagues on the Judiciary Committee to address that question in the months ahead. We have enacted a reauthorized Voting Rights Act on a truly bipartisan basis on five occasions in the past. I am hopeful that we can do it again in 2013.

Professor Levitt, we have touched on this already, preclearance, but I just want to get your response to this quote. This is from the House Judiciary Committee's report for the 1965 Act regarding preclearance. "The burden is too heavy, the wrong to our citizens is too serious, the damage to our national conscience is too great not to adopt more effective measures than exist today."

Do you believe that statement is still true?

Mr. LEVITT. I do. I think it was right then. And I think although unquestionably matters have improved all over the country, I think there are still problems that existing tools do not adequately address. And for those problems, the burden is still too heavy for the existing tools to do the work that they need to do to make sure that there is no discrimination on the basis of race or ethnicity in the right to vote or have that meaningful participation counted anywhere in the country. Justice should never be too expensive. Justice should never be too slow. Justice should never depend on an army of lawyers sweeping in to help. And that is the situation that we have now, is we are dependent on the ability to find help whenever we can.

Congress has in the past always recognized that that, for our most fundamental right, is not enough, and I take it that Congress is here today, this Committee is here today in order to start the process of another bipartisan effort to restore the recognition that waiting for help is not enough.

Senator FRANKEN. That is exactly why we are here.

Professor, from a constitutional law standpoint, I think that one of the most important points made in Justice Ginsburg's dissent is that the majority departed from established precedent with respect to the standard of review under the 15th Amendment. In *Katzenbach*, the Court said that, "Congress may use any rational means to effectuate the constitutional prohibition of racial discrimination in voting." In other words, to overturn a statute enacted under Congress' 15th Amendment powers, the Court must find that the statute is irrational. That seems like a really deferential standard, and I agree with Justice Ginsburg that the Court did not apply it in *Shelby County*.

What are your thoughts on this? And, in particular, what standard of review should we expect the Court to use when it analyzes potential amendments to the Voting Rights Act?

Mr. LEVITT. You are right, it is difficult to know what standard the Court used in *Shelby County*, if only because it did not tell us. The prevailing standard had been very deferential to Congress, and the Court tossed out more or less with the back of its hand all of the work that Congress had done, the 15,000 pages of record. The prevailing standard had been a recognition that Congress is the body empowered in the first instance to enforce the 15th Amendment, and that the legislation they passed should be viewed rationally, and any rational basis would suffice. And the Court seemed not to apply that standard, seemed to depart from *Katzenbach*.

They did not tell us what standard they were applying. What they did say was that any step that Congress takes has to reflect current conditions, and although I think the old standard met that test, they did not. I think that Congress has the ability to compile a record of current conditions that would more than authorize steps to supplant—steps to supplement the very important protections that exist today with more protections designed to ensure that there is no discrimination on the basis of race or ethnicity. I think Congress has plenty of latitude to establish a record supporting whatever steps Congress takes to provide the protection that we still desperately need.

Senator FRANKEN. Thank you. And I am sorry I went over time, but maybe we can get 16,000 pages if we go a little longer this time. Thank you. I yield.

Senator WHITEHOUSE. Senator Cruz.

Senator CRUZ. Thank you, Mr. Chairman. I would like to thank all three witnesses for being here and testifying today. I want to ask a couple of questions of Mr. Carvin, and let me say at the outset, you and I have known each other a long, long time. Indeed, my first job as a practicing lawyer was working for you in a very small law firm, and so I commit two things: number one, to tell no tales from those days; and, number two, to hold you harmless for any mistakes I may make, in this Committee or elsewhere in the Senate.

I would like to ask your legal judgment on what is required in response to the *Shelby County* decision, and the Supreme Court in *Shelby County* noted that Congress had before it in 2006 thousands of pages of records, as the last exchange just highlighted. And the Court went on to say, regardless of how to look at the record, however, no one can fairly say that it shows anything approaching the

pervasive, flagrant, widespread, and rampant discrimination that faced Congress in 1965 and that clearly distinguished the covered jurisdictions from the rest of the Nation at that time.

The question I want to start off with is: What record would Congress need to create in order to come up with a new coverage formula that would be constitutional?

Mr. CARVIN. I think the Congress made two basic mistakes in 2006, and I do not know if they are remediable in terms of real empirical evidence. The first was they gathered 15,000 pages of evidence about which jurisdictions are bad, but they did not use any of that evidence to designate the jurisdictions that are covered by Section 5. They relied on electoral information from 1968 and 1972, which would be akin to the 1965 Congress looking back at the Calvin Coolidge election to figure out who should be covered in 1965. So the first thing you need to do is look at whatever current information you have and get rid of this outdated formula.

The second finding they never made—and this was the thrust of my basic commentary—is identifying a problem that is Section 5 curing that Section 2 is not a completely prophylactic and effective remedy for. I doubt seriously you can make that argument. The one argument that has been made today that, again, is demonstrably untrue, as you actually know from private practice, this theory that Section 2 litigation has to wait three or four electoral cycles before anybody brings a lawsuit when we all know that those lawsuits are brought before the first election, as your home State of Texas vividly illustrates. In fact, Professor Levitt's example makes my point about how—he is talking about a challenge to an at-large system.

The first point that the Committee needs to understand is Section 5 cannot get at at-large systems because it only deals with voting changes. So it had nothing to do with getting rid of the principal vote dilution technique that was employed in the Deep South.

The second is this was a challenge to the city of Charleston that they could have brought at any time. They brought the case in January 2001, and they did not even move for preliminary injunction until April 2002. They waited 15 months.

So it is not as if Section 2 does not give the opportunity to get preliminary relief. It is just sometimes that plaintiffs, for whatever reason, do not take advantage of it.

So what Congress would have to do and what, frankly, I do not think they can show is that there is such a cognizable difference between the jurisdictions that are being covered that they need Justice Department oversight 24/7 and the districts that are not being covered. There may be a handful of districts out there that need that kind of extra supplement for Section 2, but Congress has not come close to identifying what those would be, particularly since the covered jurisdictions are actually doing better today in terms of minority vote participation than the non-covered jurisdictions.

Senator CRUZ. Thank you. Let me ask a follow up on that. You rightly noted that Section 2 of the Voting Rights Act remains in full force, and its protections are entirely in place. Section 5—what I would like to ask you is your practical experience. You have litigated a number of voting rights cases. You have worked with, alongside, and after the fact elected officials dealing with Section

5. And what I wanted to ask is: While Section 5 was in place, while the Department of Justice had the authority to preclear or not preclear the decisions of elected officials in States, to what extent did Section 5 effectively require elected officials to make decisions based upon race?

Mr. CARVIN. There was no question, it has been well documented in the 1990s, that the Justice Department had what they quite candidly labeled a "black max" policy, which was you had to maximize the number of black and Hispanic majority districts regardless of traditional districting principles, which is why you had those districts in North Carolina that ran down I–95 and were struck down by the Court as unconstitutional racial gerrymanders.

So the first thing that Section 5 was used for was these politically motivated racial gerrymanders, which I hasten to add I was involved with in the 1990s and greatly aided the Republican Party. There are no bones about that. So everything I am telling you today is actually contrary to the Republican Party's partisan interests.

In the latest round of redistricting—Texas is yet another good example—they have injected even more politics into the discussion because they now say that this new ability-to-elect standard that was enacted by Congress in 2006 protects white Democrats like Lloyd Doggett in 9-percent black districts. In other words, you cannot diminish any Democrat's ability to get reelected if they are the party that is predominantly supported by minorities.

So what Section 5 has done is taken a guarantee of equal racial opportunities and converted it into a partisan preference scheme. So one of the beneficial results of *Shelby County* is that you will be decreasing the amount of politically motivated racial gerrymanders, and you will be decreasing the amount that race has to be considered. Now, in every district, from districts where there is a 9-percent minority population to those with a 60-percent minority population, race has clearly driven redistricting over the last 30 years.

Senator CRUZ. Thank you, Mr. Carvin.

Senator WHITEHOUSE. Senator Blumenthal.

Senator BLUMENTHAL. Thank you. Thank you, Mr. Chairman.

I want to sort of follow Senator Cruz's questions, which I think really elicited something that I found very telling about the Supreme Court's opinion. When I heard you describing what would be irremediable, I was struck by the observation about Congress making a mistake here. And it is pretty much the reason that the Chief Justice gave for striking down the formula, and I am quoting: "Congress did not use the record it compiled to shape a coverage formula grounded in current conditions."

Isn't that a legislative judgment, how to use a record, whether it is 15,000 pages or 30,000 pages? We are not talking about the absence of a record. We are talking about the evidence from which Congress could draw a conclusion, and perhaps draw a conclusion, as Justice Ginsburg said, that maybe things have improved, but one of the purposes of Congress is to prevent or, I will quote her, "guard against backsliding."

My view is the Court was legislating in the most inappropriate and worst way. Put aside whether you agree or disagree with the

result. Don't you agree, Professor Carvin—I know you have thought and written a lot about this issue. Don't you think it was legislating?

Mr. CARVIN. I respectfully disagree, Senator, for this reason: If they had re-weighted the kind of evidence that Congress had looked at and said, no, it should not be this State and that State, then I agree with you they would be engaging in——

Senator BLUMENTHAL. But here the Chief Justice said they did not use the evidence, so——

Mr. CARVIN. And that was——

Senator BLUMENTHAL [continuing]. How can he reach that conclusion? They had evidence. If you were to say about a jury coming out with a verdict, well, they had evidence but they did not use it, courts do not do that. They say, "There was not evidence at all about this element of the crime, so no jury could have concluded reasonably."

Mr. CARVIN. No, but he said that the coverage formula was not based on that evidence, so he was saying you need to have some reasonable grounds for distinguishing between the States you are covering and the States you are not. You cannot just pass a law that says everybody east of the Mississippi is a covered jurisdiction. And when the coverage formula was criticized as not reflecting current realities, the answer was, well, we looked at 15,000 pages of testimony. Justice Roberts, I think using purely legal analysis, said we will defer like crazy if you were relying on that evidence for the coverage formula at issue. But since you did not rely on that, there is literally nothing to defer to, so, Senator——

Senator BLUMENTHAL. And for a judge to usurp a jury or Congress and say you did not rely on it without having some voir dire, some inquiry into what was going on in the juror's mind, was there some improper influence here? Don't we open the door to courts saying, well, for all of your fact finding, Mr. Congress, I am going to look at that evidence, I do not see enough of it to sustain this element of the law or this part of your decision, and, therefore, we are going to strike it down?

Mr. CARVIN. We defer every day, courts do, to administrative agencies, and you are arguing that similar deference should be done here. Now, let us assume the EPA looked at CO2 when it should have been looking at H2O. It would not do them any good to say we based the formula on CO2. We could have had a different formula based on H2O. The Court would say there is nothing——

Senator BLUMENTHAL. But it could say the absence of H2O and the presence of CO2 is what justifies this decision. I know we could go back and forth for some time. I am limited in terms of time, and I want to ask the two other witnesses, beginning with Professor Levitt, if I may, and perhaps we will be limited to you unless the Chairman gives you additional time. How do we fix this formula? The Court did not strike down the preclearance procedure. It simply struck down the formula, which may be, in fact, irremediable if we cannot get a bipartisan coalition together, which perhaps the Court counted on Congress failing to do, striking down only that part of the law and upholding the preclearance procedure. But really the task ahead of this Committee and the Senate is to try to arrive at a bipartisan substitute.

Mr. LEVITT. And I think there are lots of paths ahead, and it is part of why I am so very excited that this Committee is convening this hearing now in order to start down that path. And there are lots of different potential things that will help. The basic premise is the existing tools do not do the job. But there are lots of ways to modify the existing tools or return the tools that did exist in ways that will do the job, or at least further the job. The vigilance has to continue.

Some of that involves different ways to get information about where discrimination is actually occurring, the sorts of things that you do not get with having to go out into the world to file a lawsuit, but you did get from the preclearance process. Some of what I am sure will be discussed are different ways to identify where there is the most risk, whether that is based on current violations, whether that is based on political polarization, whether that is based on other danger signs, you will have to look to where the most risk currently is.

Other things will be done in order to make the available Section 2 process less cumbersome, less burdensome, less expensive. All of that will help. It may well be that some combination of all of the above is what Congress will need, and other creative ideas that have not even been put forth yet, in order to make sure that Congress is able to effectively stop the problem. That is really the task that Congress has. It is the task that the Constitution gives to Congress. And I really look forward to the months ahead when there will be lots of different ideas, most of which, maybe in combination, will be sufficient to the task.

Senator BLUMENTHAL. Thank you very much. I want to thank you, Mr. Chairman, and thank all of our witnesses for bringing to us the very important insights and intelligence that you have given. And I apologize, Mr. Carvin, for cutting you off a little bit there.

Mr. CARVIN. No, no, no.

Senator BLUMENTHAL. And I would welcome, I think other members of the Committee would as well, any answers, more specific answers you may have to that question I asked about the formula.

Thank you.

Senator WHITEHOUSE. I am interested in the question of deference as well. Here you had a bill—let us just stick with the Senate side that I am familiar with. Here you had a bill that passed the Senate 98–0. You were dealing with Congress at the height of its powers under the steelyard cases. You are dealing with a very, very extensive legislative record. We all can see that the record was abundant. The Supreme Court made the decision that within the halls of Congress, Congress had not looked at that record in the right way. And that is a point that one could argue and debate.

It strikes me that the people who actually get elected around here knew and demonstrated by their vote that this bill was necessary, including the Senators from all of the States that were subject to the preclearance procedure.

Do you think it should not be relevant to the Court, even if you are looking at kind of an admission against interest theory, as long as you are trying to—you know, once the Court starts second-guessing how Congress makes decisions, it opens a whole arena of

new areas. But you would think that one might be that you could follow kind of an admission against interest theory and say, look, if both Senators from every State that are subject to this have voted for this, they must know something about elections in their States. These are not stupid people. These are not people who are not familiar with the elective process in their State, and they have by their vote suggested that this is necessary. Why would that vote by those home State Senators not be something entitled to discussion or weight by the Court?

Mr. CARVIN. I fully agree with you that it is up to Congress to be the ones weighing conflicting evidence. I do not think the Court has ever suggested that strong bipartisan support affects the constitutional calculus. For example, when they struck down the Defense of Marriage Act, it was not because Senator Biden had spoken in support of it, it had been signed by President Clinton. We are going to infer——

Senator WHITEHOUSE. But that was different. That was different.

Mr. CARVIN. Was it?

Senator WHITEHOUSE. That was different. That was different because the challenge was more or less on the face of the law. Here you had a congressional record, and the Court's decision was that Congress, in reviewing its record, did not review it in the right way. They are actually not looking at the statute here. They are looking at the behavior of Congress, and that is what is a little bit different. And if you are going to look at the behavior of Congress, why not look at the behavior of Congress in the form of the actual votes by the actual Senators from the actual States who all conceded that this bill was necessary.

Mr. CARVIN. Fair enough. If they had second-guessed the evidence that Congress was looking at, they would have exceeded the judicial role. But they knew what Congress was looking at because Congress told them it was looking at 1968 and 1972 elections. That is what was determining whether or not a jurisdiction is subject to this extraordinary preclearance requirement or not. And no one, I do not think anyone pretended that the situation that existed in 1968 in Mississippi was reflective of the situation that existed in all the covered jurisdictions. So——

Senator WHITEHOUSE. Except that one could argue——

Mr. CARVIN [continuing]. They deferred to that judgment. They just thought that the judgment——

Senator WHITEHOUSE. Except that one could argue that the Senators from those actual States who actually are involved in elections and who presumably know more about elections in those States than a Supreme Court judge who has never been elected to anything, particularly not in that State, does, they appeared to agree.

Mr. CARVIN. But, again, I thought we had agreed, Senator, that psychoanalyzing senatorial motives in a vote for DOMA or for anything else is not how courts analyze congressional enactments. They look at the evidence.

Senator WHITEHOUSE. Yes, well, I suggest that that is exactly what the Court did in this case. They tried to sort of psychoanalyze Congress as a body, and I think they failed dramatically.

The other point that I would make I would ask Ms. Weinberg to respond to. When we in Congress hear about elections concerns, one that we hear an enormous amount about is voter fraud. And we have had voter ID laws and all sorts of discussions about the problem of voter fraud. You are the one elected official on this panel. My experience of voter fraud is that it is a problem that is so de minimis as to be virtually imaginary. It almost never comes up. It requires somebody to not vote and then to have somebody come in and pretend to be them and then vote in their place. And clearly there is some harm in the very, very infinitesimally rare cases in which that happens. But for that tiny, tiny little rare occasion, we have had this enormous effort across the country, this enormous voter ID effort, and an enormous amount of hue and cry politically.

Here, on the other hand, you have people who show up to vote. They want to. And they are told, sorry, wrong day, because they changed the day. Devices are used that actually prevent people who want to vote from having that opportunity. And when you weigh the two of them side by side, it strikes me that the level of concern relative to the rarity of somebody actually having their vote taken away from a fraudulent person coming in and trying to pretend to be them compared to the kind of wholesale discriminatory election practices that disenfranchise perhaps dozens, hundreds, thousands of people and the Court did not seem to be as concerned about that aspect of it.

In your electoral experience, how would you balance the risk to the electoral process of voter fraud versus disenfran—disenfranchisement through laws designed to manipulate and deter voting?

Ms. WEINBERG. I have trouble saying "disenfranchisement" too, so I was happy to see that you do, too.

Senator WHITEHOUSE. Thank you for bailing me out on that one.

Ms. WEINBERG. And, actually, you are correct. And to echo Senator Durbin's earlier comments regarding voter fraud, how very little is often found in that, and that is certainly the case. What we have experienced just as early as last year in Florida with the citizenship checks and all these voter ID issues, and I love to hear the fact that people recognize that there are those who love to come out to vote and do not get to. Voter fraud, it is not as significant an issue as the larger picture, and here is the deal with the decision having been passed, it is already a done deal. Congress now has an incredible opportunity to review what the coverage formula should be, and I have given you examples briefly in my testimony and many others in my written testimony of how we are personally on the ground, as local electeds, dealing with our voters in our cities.

I am very scared as an elected official for my constituents and the millions of folks in Florida and the millions of residents in the United States, and I will tell you why. The discriminatory practices of the 1960s which gave birth to the Voting Rights Act have gotten what I call my three S's: they have gotten extremely sneaky, extremely sophisticated, and extremely smarter. So it really behooves Congress at this time to take all that into consideration, all the histories of not only my five counties in Florida that are under preclearance coverage, the non-covered counties that have tried to

change some election laws that are of question, and I am sure my State of Florida is not alone with the other 49 States trying to come up with these sneaky, smarter, sophisticated discriminatory practices.

So I think it is a great time for Congress and for the decision to have come down as it did, for Congress to revisit, because we might not end up with what we had in the preclearance formula. I hope that there will be a whole lot of better legal protections for voters all across the State and all across the country for those specific instances where people have been sneaky about it.

Senator WHITEHOUSE. Thank you.

While Senator Grassley is settling in, let me ask one more question. Senator Cruz asked Mr. Carvin the question about what lesson Congress should take from the Court's discussion of the role of Congress in all of this and how we should improve our record on a going-forward basis. We have another scholar here who is interested and expert in this particular field of law. Professor Levitt, let me ask you to provide an answer to that same question. What lessons should we take from the *Shelby County* decision? And how, when we go about this, can we meet the test that the Court has imposed upon us?

Mr. LEVITT. The only real clarity that the Court has offered is that what Congress does has to be justified by current conditions. I think there is ample evidence that was before Congress, I think there is ample evidence that Congress can now compile about current conditions requiring more than the tools that presently exist, the fact that the existing responsive, reactive, expensive, cumbersome tools are powerful but not good enough, and that there is ample room for Congress to legislate to respond to the fact that the existing tools, while powerful, are not good enough. To have proactive and far more nimble protections to make sure that the most discriminatory laws are stopped before they ever go into effect, I think that is what Congress is going to have to focus on in the hearings to come. And there are many ways to achieve that, but that is the primary task that Congress has before it now.

And I will add that this has always been a task that Congress has embraced on a bipartisan basis in the past, and I think there is great hope that Congress will do so again in the future. Every single reauthorization of the Voting Rights Act came with the recognition that Section 2 on its own is not enough, and every single time substantial majorities of both Republicans and Democrats voted to confirm that. And I look forward to Congress creating that record once again now.

Senator WHITEHOUSE. Let me recognize our distinguished Ranking Member, Senator Grassley, but before he begins his question, let me ask unanimous consent that testimony provided by a variety of groups be added to the record. Without objection.

[The information referred to appears as a submission for the record.]

Senator GRASSLEY. The reason I was not here when you, except for the first witness, testified is because I had to be over on the floor. I apologize.

Commissioner Weinberg and Professor Levitt, other than the abstract concepts that the professor mentioned in his testimony, what

specific ideas do you have on how Congress should fix the statute? I will start with Commissioner Weinberg.

Ms. WEINBERG. Specific ideas on how Congress should fix the statute now—and "fix" is a good word—actually, there have been a few different national organizations that have been having conversations on what should be, and here is what I think Congress needs to consider very carefully, which I just made in my previous comments before you walked in, Ranking Member Grassley. It is the fact that these certain areas that, first of all, are covered counties, but also the non-covered counties, there have been instances and situations in States and counties where there have been certain practices that have been attempted to be put in place. So Congress needs to look at that overall picture on what those events have transpired. That would be my first recommendation.

And, second, I wanted to take the opportunity actually to thank the members of the Committee for their recent work on the comprehensive immigration reform because that ultimately, of course, leads to voters and Voting Rights Act needs.

But that is really the only concern from my perspective that I can see for what Congress needs to do going forward. But we are more than happy at NALEO and all of the other partnership organizations that we work with to work with Congress bipartisanly, nonpartisanly, to help come up with the best coverage formula.

Senator GRASSLEY. Professor Levitt.

Mr. LEVITT. Thank you, Ranking Member Grassley. I think there are a number of things that Congress can and should look at, including some of those mentioned by Commissioner Urbáez Weinberg, some of which I have also spoken about here, some of which are in my written remarks.

In addition to the sort of big, shiny statewide actions that Mr. Carvin has been focusing on that will, in fact, draw lawyers, I would urge the Committee to consider very carefully how it may best prevent and remedy discrimination in smaller jurisdictions where the ability to attract talent of Mr. Carvin's level is not quite so great.

Some of what Congress should consider will be informational, getting better information out on the impacts of new practices and what they may tell us about discrimination ongoing. Some of what Congress should consider may be about easing the costs and burdens of the very same responsive litigation that Mr. Carvin has been mentioning. Some of what Congress should consider I would think would be focusing on, in the jurisdictions where we have the most concern, stopping discrimination before it takes effect and that is perhaps the most important and the most directly targeted by the *Shelby County* decision itself.

I think all of those probably in some combination will be more adequate to fulfill Congress' 15th Amendment both opportunity and obligation to ensure that discrimination based on race or ethnicity is not found in America. Sadly, we have made a lot of progress, but we are not there yet, and I do not think that the existing tools will help us get there adequately. I think that there is an awful lot that Congress can do to further that goal.

Senator GRASSLEY. Mr. Carvin, apart from maximizing racial gerrymandering, are there other ways that the Justice Department

has applied preclearance requirements that should inform our decision of whether or how we might legislate?

Mr. CARVIN. Yes, I think the Justice Department has a very regrettable track record of not seeking to enforce non-discrimination or equal opportunity but, as I mentioned, partisan preference. You referred to the partisan gerrymandering, which we have already discussed. As I say, in the Texas case, they successfully took a very aggressive approach that would protect white Democrats even in areas where no minority Democrat could be elected.

Ms. Weinberg referenced the whole question of whether efforts to identify citizens is prohibited by Section 5. I represented the State of Florida which was using a Federal database to identify people who would be committing a Federal felony by voting, i.e., non-citizens. But they were nonetheless on the voter rolls, and the Justice Department in my mind incredibly came in and said it would violate Section 5 to deprive people of the ability to commit a felony by being a non-citizen that was voting.

So in many ways, it dilutes voting power because every time you elect—every time you allow a fraudulent vote by a non-citizen or a person who is traveling under false ID, you, of course, negate the votes of others.

The case I brought to challenge the constitutionality of Section 5 is yet another example. It was a majority black jurisdiction that had made the eminently sensible decision that in local elections they wanted to switch from partisan to nonpartisan elections. The Justice Department came in and said for some reason that the black community in that area did not know what was good for black voters and struck it down under Section 5 on the theory, again, that it would hurt the election of Democrats.

So it has been a very poor track record of distorting the equal opportunity mandate of Section 5 into one of preferences, particularly preferences with a partisan result.

Senator GRASSLEY. Professor Levitt, page 10 of your testimony cites objections that the Department of Justice raised in the preclearance process from 1982 to 2006. You also cited objections since 2000 which occurred at a lower rate. And you did not cite any figures of objections since we last reauthorized the law. This year the Supreme Court ruled that the kinds of selective intrusions on State power that Section 5 represents can only be justified by current conditions and must connect the coverage formula to a problem it targets.

So my question: In citing data from 1982, which is more than 30 years old, and no specific post-2006 data, how does your testimony provide contemporary evidence of discrimination in particular jurisdictions that the Supreme Court has determined is necessary for a constitutional coverage formula?

Mr. LEVITT. To be clear, Senator Grassley, the written testimony, including the parts that you mentioned, included objections after 2000, not merely limited to 2000 to 2006, but at any point after 2000—that is, within the last 13 years, this millennium, this century, not in any way ancient history.

I do not think that the current state of objections alone is the full state of the record, that there is still a significant problem that Section 2 cannot alone address. That is, we have had 73 objections

since 2000. In addition to that, there have been changes that were submitted that were then withdrawn after the Department of Justice asked for more information. Those are not always but often an indication that they were going to draw an objection, and so those requests as well added to the record.

Beyond that—and here we have a problem relying on Section 5 alone, and that is that one of the largest impacts of the Voting Rights Act has actually concerned changes deterred specifically because the preclearance regime exists. Ms. Urbáez Weinberg mentioned this in her testimony before, that the very fact that it was in place stopped some jurisdictions from making changes they otherwise would have put in place.

Now, despite that, I think you have ample signs that the existing problems in recent history, not ancient history, are not solvable by the tools that we have today, that there are problems with the existing tools that Congress will need to fix, and that requires a record not only of objections since 2000 but also of discriminatory behaviors, some of which were in briefs submitted to the Supreme Court and in argument before the Supreme Court. We have seen some truly—"regrettable" is not a sufficiently strong word, but I do not think I am allowed to use the strong words that I would like—to describe some behaviors not in ancient history but as recently as 2011. You had members of a State legislature referring to African Americans as "aborigines." That is the environment that we are in. And that is the environment that still needs amply robust tools beyond the tools that currently exist to help combat the discrimination that inevitably results.

I think there are lots of examples that I could give you. I would be happy to supply further examples, but I do not know that I have the time at the moment, in counties and local jurisdictions all over the place that have practices that would not be cured by today's laws, that we desperately need Congress to supply us tools to combat.

Senator GRASSLEY. Thank you. I have gone way beyond my time.

Senator WHITEHOUSE. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. Thank you.

One thing we have not focused on much is the wait time issue, the waiting in line, you know, the 102-year-old woman who was at the State of the Union who had waited for hours to vote. And it is not just anecdotes. A recent study showed that in the 2012 election, 22 percent of African Americans and 24 percent of Hispanics had to wait more than 30 minutes or longer to vote, but only 9 percent of white voters had to wait 30 minutes or longer.

I will start with you, Commissioner. What do you see as the cause of this disparity? And what can be done to remedy it?

Ms. WEINBERG. Thank you for the question. For us personally down in Miami-Dade County—and I am not smiling because it was funny. I am smiling because it is just incredibly embarrassing, what happened in Miami-Dade County. A half-hour, I think it is a gross understatement. I personally waited over 2 hours. Had it not been for my firm commitment to continue to vote every election, I would have probably walked away, as many did, I should note.

At least for us in Miami-Dade County——

Senator KLOBUCHAR. I assume you would have still won. Okay. Good. All right.

Ms. WEINBERG. As for us specifically in Miami-Dade County, I can tell you there were several factors, and the statistics that you quote are true and unfortunate, and I will tell you why they are. These districts that are predominantly minorities, that are predominantly African American and Latino communities, are either not properly staffed, many of them—and we had to deal with our early voting hours execution last year in Miami-Dade County, and an extremely long ballot on issues that had been held off that could have been voted on earlier. So you put together an extremely long ballot, improperly staffed, improperly trained personnel to assist those language-proficient needs of those communities, then you have got yourself a formula for hours and hours of wait.

Senator KLOBUCHAR. And so if someone, say, has an hour-long lunch break and they show up and they see that line, they can be likely to——

Ms. WEINBERG. Extremely often, and I will tell you why that is so bad in these communities. These are communities who work hourly wages jobs. These are communities that do their 7 to 3. If you eliminate early voting, then there are no real days for these communities to go to. An hour lunch is very generous. Most of these communities have a half-hour lunch if you are lucky. So if you have a half-hour lunch and you have to wait 3 hours in line, what are you going to do? Are you going to go back to work to make sure you have a full paycheck to feed your family that week? Or are you going to just forgo your vote?

Senator KLOBUCHAR. Okay. Thank you.

Professor Levitt, is this the kind of evidence you are talking about?

Mr. LEVITT. Yes, and I completely agree with Ms. Urbáez Weinberg. The 30-minute average is only an average, and the tail of that swing goes way, way, way, way up, 8 hours in 2004, 11 hours in 2008, 7 hours in 2012. That is a system that does not accommodate its own citizens choosing their own representatives, and that system is a system that is broken.

In some ways, lines are like fevers. They are caused by a lot of different factors, and the factors vary from place to place. Ms. Urbáez Weinberg is absolutely right that those were the factors that were primarily at issue in Florida. I will add to that a reduction in the opportunities to vote early in Florida contributed to the damage. I know that is something that members of this Committee have investigated before.

These are not unsolvable problems. So Starbucks has figured out how not to make you wait 7 hours in line to get a cup of coffee. The hours may be—it may be a long wait, but it is not 7 hours. And that is because they have paid a lot of attention—I am going to speak actually on Saturday to the National Association of State Election Directors about exactly this issue. They have paid a lot of attention to what is known in the academic literature as queuing theory, how many people are arriving, how many points of service you have to serve all of them, and how long each one takes. And

all of those are things that laws or practices can help alleviate the burdens of actual citizens waiting in line to cast their ballot.

If I had one silver bullet to try and get at much of this problem, it would be a massive reform to the registration system that we have. Registration problems are at the root of a lot of this fever, and you find that in various ways, whether it is people arriving at the wrong place or people not finding themselves on the rolls when they do arrive, whether it is staff who have to deal with registration problems on the ground and do not know how to combat it, whether you have problems over provisional ballots. A lot of the different things that lead to lines have their root in the registration system.

There are other problems besides, and lots of things that can be done, but if I had one change that I could make in order to relieve some of that fever, it would be changes to the registration system.

Senator KLOBUCHAR. We have already talked about how the same-day registration and other things have actually helped in a number of States.

It looks like you want to respond, Mr. Carvin.

Mr. CARVIN. Just to make the point that long lines are bad, but they do not have anything to do with racial discrimination or Section 5. Dade County, for example, where all those long line were, is not a covered jurisdiction. So the absence or presence of Section 5——

Senator KLOBUCHAR. But as we look at potentially the reauthorization and we are looking at new problems that have been created over the years or have gotten worse over the years, this is certainly something we could look at. We do not just have to be stuck in the old ways, which clearly there are many of us that like to see the preclearance and do some more work with that. But we also could look at other things that we could do, and it seems like these long lines are something that actually brought Mitt Romney's and Barack Obama's counsel together to form a commission to look at what we can do, and we could incorporate that work into this.

Mr. CARVIN. Fair enough, and I would suggest that you may want to look at Romney and Obama counsel's recommendations because this is much less of a civil rights issue than a voting administration issue. I note that, for example, the lines were the longest in areas which were run by predominantly minority cities, and so to turn this into a civil rights issue is sort of backward, plus which in 2012 with all these——

Senator KLOBUCHAR. I actually was looking at how we could get more people to vote, and you can call it whatever you want, but I think when people are waiting in these lines, we have problems. And so we are trying to come up with practical solutions after the Court decisions to solve some of these problems.

Mr. CARVIN. Fair enough, and I certainly did not mean to disagree. It is just the topic of this hearing is Section 5 and the damage done by *Shelby County*. Congress should always be looking at long lines, whether it has anything to do with *Shelby County* or Section 5. I just wanted to make the point that any such good government regulation of that sort would have nothing to do with any problem caused by *Shelby County* or resurrecting Section 5.

Senator KLOBUCHAR. Just the last thing I wanted to focus on is, I think, both Professor Levitt and Commissioner Weinberg, I liked some of the reasons you put forth for why Section 2 was not enough and why we need to look deeper in that, because one of the main things I see as an issue here is deterrence, and that is that if people think it is going to take 4 years to litigate a case or hundreds of thousands of dollars to hire a law firm, that is not really deterrence. So could you talk a little bit about that, Professor?

Mr. LEVITT. Sure. And you are right, there are jurisdictions, as I mentioned before, that have discriminatory laws in place right now that are not being challenged under Section 2 because the people in those jurisdictions cannot gather the data sufficiently, cannot get the money together to hire a lawyer sufficiently, do not have the resources or the time to do what is necessary.

There are other jurisdictions that are locked in current litigation that have not seen a resolution to their problems as time passes and as the individuals elected under those unjust systems continue to make policy.

Mr. Carvin talked before about the opportunity for swarms of lawyers to descend and to try and get preliminary injunctive relief. And I wish it were as simple and straightforward and easy as he describes. Sometimes it works, and that is great. Sometimes it does not, and in part that is because the Supreme Court has told courts in 2006, do not jump to conclusions, we do not want you offering preliminary relief, particularly right before an election, if the facts are still disputed. And often in these cases, as you can imagine, the facts are quite disputed, which is why preliminary relief like Mr. Carvin is talking about is not actually offered that often. I believe at the Supreme Court Solicitor General Verrilli mentioned that fewer than a quarter of cases end up in a preliminary injunction. I believe other attorneys at the Department of Justice have said that figure is closer to 5 percent or less. All of this means that when discriminatory laws are passed, jurisdictions are not deterred from passing those laws by the potential prospect maybe of a cumbersome, burdensome lawsuit that they are not paying for coming down the line.

Senator KLOBUCHAR. Last question. Commissioner, just as a Republican local elected official, you can see we have strong support here from Republican Congressman Sensenbrenner moving forward. You want to move forward on reauthorizing this. How would you suggest we build this coalition given some of the pushback we have seen? What arguments do you think are going to work with some of our Republican colleagues to move forward?

Ms. WEINBERG. I think the focus needs to remain on the fact that this is an American issue. I think it is the moment that we start cutting it down into the prevalent facts in some areas and a lot of parts of this country it is a racial issue, unfortunately. But we need to keep in mind that it is an all-American issue. I think if we reach out to the members of my party from that perspective, in an ideal world that should be sufficient, looking at the overall picture of why are we doing this, not for whom are we doing this.

Senator KLOBUCHAR. Very well put. Thank you.

Senator WHITEHOUSE. The note of an ideal world being a good one to end this particular hearing on, perhaps even an ironic note.

We will adjourn. The record of the hearing will stay open for one additional week if anybody wishes to add any material. I thank the witnesses, and I thank the Senators who participated in the hearing.

[Whereupon, at 3:15 p.m., the Committee was adjourned.]

[Questions and answers and submissions for the record follow.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

UPDATED Witness List

Hearing before the
Senate Committee on the Judiciary

On

"From Selma to *Shelby County*: Working Together to Restore the Protections of the Voting Rights Act"

Wednesday, July 17, 2013
Dirksen Senate Office Building, Room 226
1:00 p.m.

Panel I

The Honorable John Lewis
United States Representative (D-GA-5)
Washington, DC

The Honorable James Sensenbrenner
United States Representative (R-WI-5)
Washington, DC

Panel II

Luz Urbáez Weinberg
Commissioner
City of Aventura, Florida
Aventura, FL

Michael Carvin
Partner
Jones Day
Washington, DC

Justin Levitt
Associate Professor of Law
Loyola Law School
Los Angeles, CA

PREPARED STATEMENT OF HON. PATRICK LEAHY

Statement of Senator Patrick Leahy (D-Vt.),
Chairman of the Senate Judiciary Committee
On "From Selma to *Shelby County*: Working Together to Restore
the Protections of the Voting Rights Act"
July 17, 2013

I welcome everyone to this important hearing on an issue that affects all Americans – our right to vote. The title of today's hearing references the historic effort to protect our voting rights and expresses our determination to continue to work together to affirm the Voting Rights Act. From its inception and through several reauthorizations, the Voting Rights Act has always been a bipartisan effort and I hope that will continue. In keeping with that tradition today we welcome Congressman John Lewis and Congressman Jim Sensenbrenner. These men come from different parties and different states, but they share a deep commitment to the issue of voting rights. I look forward to working with both of them as we look toward legislation to restore the protections of the VRA in the wake of the Supreme Court's decision last month in *Shelby County v. Holder*.

The historic struggle for individual voting rights reached a turning point on the Edmund Pettus Bridge in Selma, Alabama, on March 7, 1965. There, a group of peaceful marchers led by a young John Lewis were brutally attacked by state troopers. The events of that day, now known as "Bloody Sunday," were captured in graphic photographs and on television. The powerful images became a catalyst for the passage of the Voting Rights Act. John Lewis later said that "your vote is precious, almost sacred. It is the most powerful, nonviolent tool we have to create a more perfect union." To me, and to millions of others, John Lewis is a hero and I thank him for being with us today. His sacrifice and the sacrifice of so many others who devoted their lives to the issue of voting equality must never be forgotten.

In 2006, Republicans and Democrats in the Senate and in the House of Representatives joined together to pass a reauthorization of the landmark Voting Rights Act with overwhelming bipartisan support. Congressman Sensenbrenner, as Chairman of the House Judiciary Committee, was a true leader of that effort. Without his commitment and leadership, we would not have been able to reauthorize the Act in 2006. I was proud to work with Congressman Sensenbrenner in 2006 and I thank him for coming here to testify today.

I hope we can continue to work together to fix and update the law. I would like to thank Senator Durbin, the Chair of the Subcommittee on The Constitution, Civil Rights and Human Rights for the series of Congressional hearings and field hearings he has chaired on voting rights. I will continue to work with Senator Durbin to ensure that we restore the Act's protections in light of the Supreme Court's decision. I would also like to thank Congressmen Jim Clyburn of South Carolina and John Conyers of Michigan, whose input was invaluable in 2006 and whose work will continue to be essential to our efforts this year. In addition, we have a witness on the next panel, Luz Urbáez Weinberg, who is a Commissioner for the City of Aventura in Florida. She is also Vice President of the Board of Directors of the National Association of Latino Elected and Appointed Officials (NALEO), which contributed significantly during the 2006 debate. I welcome Ms. Weinberg today and look forward to working with NALEO and others as we move forward on this most important issue.

In *Shelby County v. Holder*, five justices of the Supreme Court held that the coverage formula of the Voting Rights Act was outdated, yet even the five justices who struck down the coverage formula in Section 4 of the VRA have acknowledged that discrimination in voting continues to be a problem. And as Chief Justice Roberts noted in the majority opinion, "voting discrimination still exists; no one doubts that." That is why we are here today. The Supreme Court has called on Congress to come together to update the Voting Rights Act to meet current conditions, and it is up to us to meet that challenge. We must work together as a body – not as Democrats or Republicans, but as Americans – to ensure that we protect against racial discrimination in voting. We can only do that with a strong Voting Rights Act.

I am confident we can come together to achieve this because that is precisely what we did in 2006 when Republicans and Democrats in the Senate and in the House of Representatives joined to reauthorize key expiring provisions of the Voting Rights Act of 1965, including Section 5 and its coverage formula. After nearly 20 hearings that included over 90 witnesses in the House and Senate Judiciary Committees, we found that modern day barriers to voting continued to persist in our country. We explained and documented our findings, backed by a comprehensive record that included more than 15,000 pages of testimony.

This record, which was before the House and Senate before each body voted, included extensive evidence about the persistence of discriminatory practices in Section 5 covered jurisdictions. It included evidence that covered jurisdictions continue to engage in recurring discriminatory tactics, often in subtle forms that play on racially polarized voting to deny the effectiveness of the votes cast by members of a particular race, evidence that Section 5 provides an effective deterrent against bad practices in covered jurisdictions, and evidence that Section 5 plays a vital role in securing the gains minority voters have achieved against the risk of backsliding. We overcame objections through discussions and the hearing process, and by developing an overwhelming record of justification for extension of the expiring provisions. At the conclusion of that exhausting process, the House voted overwhelmingly to reauthorize it by a vote of 390-33. The Senate voted to reauthorize the Act unanimously by a vote of 98-0. President George W. Bush then signed the bill into law. This bipartisan effort sought to preserve the significant progress we made since President Lyndon Johnson signed the original Voting Rights Act into law.

Unfortunately, the Supreme Court's ruling by a narrow majority in *Shelby County* striking down the coverage formula for Section 5 as outdated contradicted the considerable record amassed by Congress, cast aside historical evidence, and substituted its own judgment over the exhaustive legislative findings of Congress. The Court placed far too much emphasis on the 1965 coverage criteria, while giving short shrift to the substantial record of ongoing discrimination in covered areas that Congress identified and relied upon. This record was a far more important factor than the outdated data that the Court alleges Congress used as the basis for its coverage formula. Any subsequent legislation that Congress enacts in response to the Court's decision must highlight the record of continuing discrimination with which the general public is more familiar with than it was at the time of the 2006 vote.

Despite my disagreement with the Court's decision, we have to work with what we have and restore the protections in the wake of *Shelby County*. According to the Court, the basis for the formula must be based on "current conditions." However, it is important to note that the

Supreme Court left Section 5 intact, which means that those protections can still work to safeguard against voter discrimination if we can come together in a bipartisan way to update the law. Section 5 provides a remedy for unconstitutional discrimination in voting by requiring certain jurisdictions with a history of discrimination to "pre-clear" all voting changes with either the Justice Department or the U.S. District Court for the District of Columbia. This remedy combats the practice of covered jurisdictions shifting from one invalidated discriminatory voting tactic to another, which had undermined efforts to enforce the Fifteenth Amendment for nearly a century. Section 5 has been extremely successful in combatting voting discrimination and is still necessary today. That is why I believe it is imperative that Republicans and Democrats work in a bipartisan manner to update the coverage formula so that Section 5 can continue to protect voters against modern day voter discrimination.

There are some who believe that we do not need the protections of Section 5 because Section 2 still exists. Section 2 of the Voting Rights Act is a general anti-discrimination provision that prohibits voting practices that have the purpose or result of discriminating on the basis of race, color, or membership in a minority language group. Plaintiffs may bring a lawsuit in Federal court challenging the voting practice, but the burden is on the plaintiffs to establish that there is a purpose or effect of discrimination. While Section 2 provides one avenue for plaintiffs to pursue an attempt to stop voter discrimination, history shows us that Section 2, on its own, is insufficient to resolve all our voter discrimination problems. This, in fact, was confirmed by the 2006 Report from the House Judiciary Committee, which stated that "failure to reauthorize the temporary provisions [Section 5 and its coverage formula], given the record established, would leave minority citizens with the inadequate remedy of a Section 2 action."

Litigation under Section 2 is very time consuming and expensive, but most importantly, the discriminatory policy or practice remains in effect while the litigation proceeds. There are some who argue that a plaintiff can seek a preliminary injunction to stop the discriminatory law from taking effect. This response misrepresents how difficult it is for a plaintiff – after a discriminatory law has already been enacted – to satisfy the unreasonably high burden that is required to obtain an injunction. The jurisdictions and parties who wish to discriminate understand just how difficult it is to prevent a discriminatory law from taking effect, which is precisely why they would argue that Section 5 is no longer necessary. Unlike Section 2, Section 5 shifts the burden onto those jurisdictions with a history of discrimination to establish that a proposed voting change is not discriminatory prior to implementation. Section 5 also acts as a deterrent, often prompting jurisdictions to consider the discriminatory impact of a proposed voting change so that it will not be blocked by the Federal government. It is therefore important that we preserve the protections of Section 5 for those jurisdictions that continue to discriminate against voters.

There are many recent examples of how Section 5 prevented voter discrimination that Section 2 otherwise would have been unlikely to prevent. In 2012, officials in Gonzales County, Texas sought to move a polling place, where significant numbers of African-American and Latino citizens voted, from an elementary school to a racially exclusive private club. After the Justice Department sent a written request for additional information about the change, the county abandoned the polling-place move.

In 2012, a panel of Federal judges appointed by presidents of both parties found that Texas intentionally discriminated against minority voters by submitting redistricting plans that would harm black and Latino voters. Specifically, in describing the congressional map, the court noted that "[t]he parties have provided more evidence of discriminatory intent than we have space, or need, to address here." The evidence demonstrated that the Texas Legislature had split existing voting precincts in a way that could only reflect a race-based motive; altered district lines to such an extent that in all three majority-black districts and one majority-Latino district the proposed plan removed the incumbents' home district offices from their new districts; and altered one congressional district to mask the fact that, although it still looked like an effective district for Latino voters, it would not in fact elect candidates preferred by Latino voters because the state legislature had intentionally removed high-turnout Latino precincts from the district. Based on its finding, the court refused to allow these redistricting plans to go through under Section 5.

In 2008 in Alaska, the State sought to eliminate precincts in several Native villages. The changes would have resulted in Native voters having to travel substantial distances by air or by boat simply to vote. Two weeks after the Justice Department responded with a request for more information, Alaska withdrew the submission. Section 5's preclearance process effectively deterred such a discriminatory change from occurring without having to take on a protracted and costly litigation.

In 2008 in Calera, Alabama, redistricting resulted in the black voting population decreasing from 79 percent to 29 percent. The impact was that it eliminated the only African-American district and thus deprived the African American community the opportunity to elect a candidate of their choice. The Justice Department subsequently brought a Section 5 action, alleging that these actions diluted the black vote. As a result of the challenge, the city's only African-American city council member was reinstated. These examples are all within the last five years. I echo Chief Justice Roberts, who stated in his majority opinion in *Shelby County* that "no one doubts" that "voting discrimination still exists." And Section 5 is clearly needed to deter these attempts at voter discrimination.

Thus, it should not be an either or choice between Section 2 and Section 5. They are complementary tools that work together to combat voter discrimination. And the Court itself has upheld Section 5 numerous times and left it intact in its last decision. So let us not try to make the protection of voting rights a partisan issue as it should not be one. The Voting Rights Act has never been a partisan issue. In fact, every reauthorization of the Act, including its initial passage, were marked by overwhelming support from both Republicans and Democrats.

In his historic "I have a Dream" speech, Martin Luther King, Jr. proclaimed: "When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir." We owe it to our children and grandchildren to restore the Voting Rights Act to fulfill this promise and uphold the Constitution. No one's right to vote should be suppressed or denied in the United States of America, yet we continue to witness such discriminatory practices today. I hope we can work together to address this most fundamental problem that tears at the fabric of this democracy. I thank all of the witnesses who are here with us today.

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PREPARED STATEMENT OF SENATOR HIRONO

STATEMENT OF SENATOR HIRONO

Hearing before the Senate Committee on the Judiciary

"From Selma to Shelby County: Working Together to Restore the Protections of the Voting Rights Act"

Wednesday, July 17, 2013

I would like to thank Congressman James Sensenbrenner, and my friend and civil rights icon, Congressman John Lewis, for sharing their valuable perspectives on the Voting Rights Act with us today.

The Voting Rights Act has been critical to ensuring every American has access to one of our country's most fundamental freedoms -- the right to vote. We may not all agree on the Supreme Court's decision last month, but the Court has now placed the ball in Congress's court to update the law.

The Court explicitly stated that there is no denying that discrimination continues to exist – and the Court notably did not touch Section 5. That's why it is all the more important that we do our job to restore the protections.

This hearing has been so helpful to demonstrate the bipartisan support for the Voting Rights Act. We should recall the initial enactment and every single reauthorization of the Voting Rights Act has had significant bipartisan support, so this is not a partisan issue. I believe that Congress must work together and act quickly to restore the provisions of the Voting Rights Act struck down by the Supreme Court and protect every Americans' right to vote.

PREPARED STATEMENT OF CONGRESSMAN JOHN LEWIS

JOHN LEWIS
5th District, Georgia

SENIOR CHIEF DEPUTY
DEMOCRATIC WHIP

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TESTIMONY OF CONGRESSMAN JOHN LEWIS (GA)
FOR THE U.S. SENATE JUDICIARY COMMITTEE HEARING ON
FROM SELMA TO SHELBY COUNTY: WORKING TOGETHER TO RESTORE THE PROTECTIONS OF THE VOTING RIGHTS ACT

July 17, 2013

Good afternoon. I thank you, Mr. Chairman, Mr. Ranking Member, and the Members of this Committee for holding this important hearing and inviting me to testify today.

I appreciate the opportunity, and I am proud to be here with my good friend, Congressman Sensenbrenner. Since first being elected to Congress, he has been a constant champion of the Voting Rights Act (VRA). I thank him and the Members of this Committee for your past work in support of this important legislation.

I said before, and I say again to you now -- sections 4 and 5 of the Voting Rights Act are the heart and soul of the VRA. I urge Congress to again act -- in a strong, prompt, bipartisan effort -- on the behalf of the people. Failure cannot occur on our watch.

The Supreme Court does not have the constitutional charge of protecting minority voting rights. Congress does. The responsibility to combat racial discrimination in electoral practices is one of the most important constitutional duties of Congress. Empowered by the 14th and 15th amendments, Congress tried for over 100 years to achieve the success finally realized by the Voting Rights Act. To fail to act in a timely, thorough, nonpartisan way is simply unacceptable. People of all races, all religions, and all parts of this country marched, protested, and even died for the right to vote. They sacrificed everything for the hope of equality.

I believe that no single statute has warranted more bipartisan, thorough research and attention from this institution. Since passing the Voting Rights Act, Congress continued to serve as the guardian of this precious right with unparalleled gravity. The Voting Rights Act has been the subject of scores of hearings, hundreds of witness testimony, and tens of thousands of pages of evidence.

Members of the House and Senate – the elected voices of the people -- know policy and politics in every single nook and cranny of this great nation. After unprecedented research, bipartisan Congresses repeatedly concluded that a few short decades had not yet stomped out hundreds of years of racial discrimination in our election systems. These efforts were like weeds, and they kept returning with different leaves, but the same roots. Bipartisan congressional oversight and investigations reiterated that the Voting Rights Act is the best tool we have.

Some argue that there are more minority elected officials today than there were in 1965, and that more minorities are turning out to vote. This may be true, but it does not mean that there are not powers at work to suppress the rights of minorities to vote. Others may argue that these are issues of past generations, but we in Congress know that there is an ongoing, deliberate, systematic effort to circumvent the letter and the spirit of the Voting Rights Act of 1965. The Voting Rights Act was what kept those forces who wanted to turn the clock back at bay. It was an integral part of the system of checks and balances to protect voting rights.

To this day, Congress works vigilantly to exercise its constitutional authority to see that the law is enforced. As an institution, we hold the feet -- of both Democratic and Republican administrations -- to the fire when it comes to protecting minority voting rights. Not a single Member of the House or Senate can take this responsibility lightly. Prior to the Voting Rights Act, Congress tried time and time again to get it right – to develop legislation which was flexible enough to respond to constantly changing efforts and strong enough to act as a deterrent.

All, who reviewed the evidence in 2005 and 2006, know that the "second-degree" tactics we found, and the submissions reviewed every day by the Department of Justice are similar to those which have existed since Reconstruction. It is the same face with a different mask, and we cannot rest until every variation of the seed has been destroyed, and the will no longer exists. Simply said, we are not there yet, and we have seen the clock turn back before.

The lessons of history must not be forgotten, and I think it is important for the record to note what life was like before the Voting Rights Act of 1965. President Lincoln signed the Emancipation Proclamation in 1863; the 14th amendment was ratified in 1868, and the 15th amendment was ratified in 1870. As many as 1500 African Americans were elected during the Reconstruction Era, but this lasted for only a few short years. It took Congress multiple attempts over another 100 years for the Voting Rights Act to become law, and for the tide to finally begin to turn.

In many parts of this country, people were denied the right to register to vote simply because of the color of their skin. They were harassed, intimidated, fired from jobs, and forced off of farms and plantations. Those who tried to assist were beaten, arrested, jailed, or even murdered. Before the Voting Rights Act, people stood in immovable lines. On occasion, a person of color would be asked to count the number of bubbles in a bar of soap or the number of jelly beans in a jar.

In 1964, the state of Mississippi had an African American voting-age population of more than 450,000, but only about 16,000 were registered to vote. One county, in my native state of Alabama – Lowndes County – was 80 percent African American, but not a single one was able to register to vote. Not one. In Dallas County, where Selma is located, only two percent of African Americans were registered to vote, and you could only attempt to register on the 1st and 3rd Mondays of the month. Occasionally, people had to pass a so-called literacy test.

Many of you know that I first came to Washington, D.C. on something known as the Freedom Rides in 1961. At that time, blacks and whites could not sit beside each other on buses in Virginia, in North Carolina, or in Georgia. We saw signs that read, "White Only. Colored Only." I returned a few years later to participate in the March on Washington for Jobs and

Justice on August 28, 1963. On that day, we met with Senator Everett Dirksen, a Republican from Illinois, and visited with President John F. Kennedy, Jr. and members of his Cabinet. At age 23, I was the youngest speaker at the March. I spoke sixth; Dr. Martin Luther King, Jr. spoke last. Today, I am the last living speaker from that historic day.

We returned to our homes invigorated, committed to the fight for equality and justice, but there were tough times ahead. President Kennedy was assassinated a few short months later. Three young men I knew -- James Chaney, Andrew Goodman, and Michael Schwerner, were working to register African Americans to vote in Mississippi in 1964. They were arrested and released from jail to members of the Ku Klux Klan in the middle of the night. Then they were beaten, shot, and killed.

On March 7, 1965, Hosea Williams, a staff person for Dr. Martin Luther King, Jr., and I attempted to lead a march from Selma to Montgomery. As we marched for the right to vote, more than 500 men, women, and children were chased, beaten, bloodied, and trampled by state troopers. That terrible day became known as Bloody Sunday. I will never know how I made it back from the Edmund Pettus Bridge to Brown Chapel AME Church; I just remember waking up in the hospital. It took two more efforts and the presence of federal reinforcement for us to finally complete the march.

A little over a week later, President Lyndon Johnson came before a joint session of Congress and spoke to the nation. He said, "I speak tonight for the dignity of man and for the destiny of democracy." President Johnson went on to say: "At times, history and fate come together to shape a turning point in a man's unending search for freedom. So it was more than a century ago at Lexington and at Concord. So it was at Appomattox. So it was last week in Selma, Alabama."

Shortly after this speech, the President presented the Voting Rights Act to Congress. Senator Mike Mansfield (D-MT) and Senator Everett Dirksen (R-IL), whom I met a few years earlier, introduced that historic bill, and Rep. Emanuel Celler (D-NY) sponsored the House companion. For the next few months, they worked in a bipartisan, bicameral effort to pass the legislation, and at the end of the summer, President Johnson gave me the pen he used to sign the Voting Rights Act into law.

When I was the Executive Director of the Voter Education Project, I returned to Congress to testify on the status of minority voting rights in 1971 and 1975. As the leader of a nonpartisan organization which worked in 11 states conducting non-partisan voter registration drives, I raised concerns about what we found on the ground -- names missing on voter rolls, erroneous instructions being provided to minority voters, the emergence of at-large elections, and efforts to dilute and deter minority voters. Over thirty years later, Congress found that these and other second-degree practices continued to exist, and the Department of Justice will attest that new ones continue to emerge to this very day.

It is true; we have made progress. We have come a great distance, but the deliberate, systematic attempt to make it harder and more difficult for many people to participate in the democratic process still exists to this very day. During the 2006 reauthorization process, Congress' research discovered that there is not a change in will, simply a change in tactics.

No one can deny that progress has been made, but no one – not even the Supreme Court – denies that the efforts to suppress and dilute minority voting rights continue to exist. Only hours after the decision was announced by the Supreme Court -- before the ink was even dry -- states began to put into force efforts to suppress people's voting rights. Let me be clear -- the progress seen in increased minority voter participation is because of Congress' actions. States did not willfully change their actions; it took the VRA – a strong, flexible, legislative tool -- for progress to be made.

Today, I ask each and every one of you, "Who will take the charge? Who will lead the process for Congress to come together again and fight for the rights of minorities in South Carolina? In Texas? In South Dakota? In Michigan? In New York? In Alaska? In Arizona? Who will do what is right, what is just. Who will fulfill our constitutional responsibility?"

The Supreme Court sent us back to the drawing table again, and the American people expect us to roll up our sleeves and get to work. Four times, Congress came together, conducted thorough, detailed research, and reauthorized this important Act. Four times, a bipartisan majority of the elected representatives of the people refused to turn its back when it came to protecting the most important, nonviolent tool that citizens have in a democracy. Four times, Republican Presidents signed the bipartisan results of thorough Congressional work into law.

In a democracy such as ours, the vote is precious; it is almost sacred. It is the most powerful nonviolent tool we have. Those, who sacrificed everything -- their blood and their lives -- and generations yet unborn, are all hoping and praying that Congress will rise to the challenge and get it done again.

It is my belief that the Voting Rights Act is needed now more than ever before. The burden cannot be on those citizens whose rights were, or will be, violated; it is the duty of Congress to restore the life and soul to the Voting Rights Act. And we must do it on our watch, at this time.

Again, I thank you, Mr. Chairman and Mr. Ranking Member, for the opportunity to be here with you today.

PREPARED STATEMENT OF HON. F. JAMES SENSENBRENNER, JR.

Statement by Representative F. James Sensenbrenner Jr.

Before the Senate Judiciary Committee

July 17, 2013

Good Afternoon Chairman Leahy, Ranking Member Grassley and distinguished members of the Committee. Thank you for inviting me to provide my perspective on the continued importance of the Voting Rights Act. I am proud to have served as Chairman of the House Judiciary Committee in 2006 when Congress last reauthorized the VRA.

The VRA is one of the most important pieces of civil rights legislation ever passed and is vital to our commitment to never again permit racial prejudices in our electoral process. It began a healing process that ameliorated decades of discrimination and helped distinguish a democracy that serves as an example for the world.

Free, fair, and accessible elections are sacrosanct, and the right of every legal voter to cast their ballot must be unassailable. The VRA broke from past attempts to end voter discrimination by requiring federal preclearance of changes to voting laws in areas with documented histories of discrimination. There is no acceptable remedy for an unfair

election after the fact. Section 5 of the VRA was the only federal remedy that could stop discriminatory practices before they affected elections.

That's why preserving the VRA is so important—it ensures that every citizen has an equal opportunity to participate in our democracy. Remedial actions can never be fully sufficient for elections, because often what is done cannot be undone, and voices silenced can never be heard.

In 1982, I helped lead negotiations to reauthorize the VRA. The legislation cleared the House of Representatives 389-24 and was signed into law by President Reagan.

When he signed the reauthorization, President Reagan said:

> There are differences over how to attain the equality we seek for all our people. And sometimes amidst all the overblown rhetoric,

> the differences tend to seem bigger than they are. But actions speak louder than words. This legislation proves our unbending commitment to voting rights. It also proves that differences can be settled in a spirit of good will and good faith. As I've said before, the right to vote is the crown jewel of American liberties, and we will not see its luster diminished.

One of my most cherished keepsakes is a pen President Reagan used to sign the 1982 extension. I proudly display it in my office; a symbol of the crown jewel of our liberty.

The 1982 extension was for 25 years. I believed it was the last time we would need to reauthorize the VRA. But in 2006, while I was Chairman of the House Judiciary Committee, I became convinced the legislation was still needed.

As Chairman, I held multiple hearings examining the effectiveness of the VRA, whether the VRA should be extended, and if so, what the

extension should encompass. Congress amassed a legislative record that totaled more than 15,000 pages documenting widespread evidence of intentional discrimination.

In the dissent in *Shelby County v. Holder*, Justice Ginsburg quoted me as saying that the VRA was "one of the most extensive considerations of any piece of legislation that the United States Congress has dealt with in the 27½ years I served in Congress." Had she called me, I would have updated that to 35½ years.

At the conclusion of its effort, Congress's bipartisan conclusion was that "evidence of continued discrimination clearly show[ed] the continued need for federal oversight."

Shelby County vs. Holder severely weakened the election protections that both parties have fought to maintain. The Court disregarded years of work by Congress. In a 5-4 decision, the Court eliminated the VRA's formula for determining which areas are covered by section 5. The result

is that the preclearance requirement remains, but it no longer applies anywhere except in the handful of locations currently subject to a court order.

The majority's decision suffers from one glaring oversight: it fails to account for the bailout procedures in the VRA reauthorization. Chief Justice Roberts correctly recognized that the VRA "employed extraordinary measures to address an extraordinary problem." But while the majority chastised Congress for failing to update section 4's coverage formula, it ignored the fact that covered areas can bailout of the VRA's coverage. Far from punishing areas for distant history, any covered jurisdiction could bailout of coverage by demonstrating a 10 year period without discrimination. The coverage formula, considered in conjunction with the Act's bailout procedures, ensures that the Act is a fluid and current response to discrimination. The very fact that these jurisdictions have not bailed out is evidence that the VRA's "extraordinary measures" are still necessary.

By striking down Section 4, the Court presented Congress with both a challenge and a historic opportunity. We are again called to restore the critical protections of the act by crafting a new formula that will cover jurisdictions with recent evidence of discrimination.

Any solution must be bipartisan and must comply with the Supreme Court's objections. Fixing the VRA will take time, but I am confident that my colleagues on both sides of the aisle can work together to ensure American's most sacred right is protected.

I did not expect my career to include a third reauthorization of the VRA, but I believe it is a necessary challenge. Voter discrimination still exists, and our progress toward equality should not be mistaken for a final victory.

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PREPARED STATEMENT OF LUZ URBÁEZ WEINBERG, COMMISSIONER, CITY OF AVENTURA, FLORIDA

Written Testimony

By

The Honorable Luz Urbáez Weinberg
Commissioner, City of Aventura, Florida

Before

The United States Senate Committee on the Judiciary

At a Hearing Entitled,
"From Selma to *Shelby County*: Working Together to Restore the Protections of the Voting Rights Act"

Washington, D.C.
July 17, 2013

Chairman Leahy, Ranking Member Grassley, and Members of the Committee: thank you for the opportunity to submit this testimony on the need to restore the protections of the Voting Rights Act (VRA), and its effectiveness in ensuring equal access to the polls in Florida, particularly for Latinos and other underrepresented voters.

My name is Luz Urbáez Weinberg. I am a Republican elected to the non-partisan Commission of the City of Aventura in 2005. I am currently serving my second term in this beautiful waterfront community in Northeast Miami-Dade County. I am the first, and still the only, Hispanic elected to this office. I have taken on state-wide and national leadership positions as well: earlier this year, Florida Governor Rick Scott appointed me to serve on the Miami-Dade Expressway Authority, and I am also Vice President of the Board of the National Association of Latino Elected and Appointed Officials (NALEO). In my personal life, I am Director of Communications for Bouygues Construction at the PortMiami Tunnel Project, and the proud mother of three children, two of whom are already registered voters of this great nation.

I am here today to share with you my firsthand account of the critical impact of the Voting Rights Act (VRA) in guaranteeing access to the ballot box. The recent Supreme Court decision in *Shelby County v. Holder* effectively stripped the VRA of the provisions at its heart: Section 4, which provided the coverage formula for section 5 preclearance. Today, this landmark legislation cannot provide the protection needed to guarantee that all Americans are accorded the most fundamental democratic rights, to vote and to serve our great nation in public office.

Voters From Across the Political Spectrum Call for Renewed Commitment to Ensuring an Even Playing Field in Elections

I call on this Committee to once again demonstrate clear, principled commitment to equal voting rights for all Americans regardless of race, ethnicity, or language spoken, and act swiftly to strengthen the Voting Rights Act. Americans -- Floridians, Latinos and other minorities, citizens who are not yet fully proficient in English, and all other voters of all political persuasions -- depend on you as their representatives to guarantee their right to vote by restoring the protections of the VRA. This Committee will serve our national interest best by encouraging all citizens to take part in elections, and by legislating to guarantee the creation and maintenance of voting systems that facilitate civic engagement.

In the spirit of the Voting Rights Act, I urge you to enact legislation to ensure that our great nation never returns to the era of civil repression and English literacy tests at polling places. We also need a new electoral framework to meet contemporary challenges to the participation of the Latino and other communities in the form of manipulation of districts and election methods, and the imposition of undue scrutiny of voters' qualifications.

I am honored to have the opportunity today to assure you that I support the active civil rights protections for which the Constitution calls. Whether to maintain laws like the

VRA is not a partisan issue; it is an American Issue. Whether Republicans or Democrats, Americans strongly believe in fair and equal electoral opportunities. Time and again, we have come together across the political and cultural lines that sometimes divide us to protest against government policies that would have perpetrated uneven treatment of certain communities.

A Robust Voting Rights Act Is Crucial for Latino Voters, and Will Be Increasingly Important to the Nation, and Florida in Particular, as the Latino Population Continues to Grow and Diversify

In order to secure our long-term prosperity and place of international leadership as a beacon of freedom, we must mobilize all Americans, and Latinos in particular, to participate fully in civic affairs. The VRA has been a cornerstone of these efforts, because it represents a promise that elections will remain a neutral zone in which all enjoy equal opportunities regardless of race, ethnicity, and language. Without its full protection, we risk policies and a culture that precipitate further declines in the numbers of Latino participants in elections, and ultimately, a weakened democracy.

Between the 2000 and 2010 decennial censuses, our nation's Latino population grew by more than 15 million people, or 43%. By 2050, the Census Bureau projects that one-third of all U.S. residents will be Latino. As our community expands, it is also increasing its presence in cities and counties which formerly did not have significant Latino populations. Latinos are also becoming increasingly diverse with respect to their experiences, national origin, and attitudes toward voting and politics.

In Florida, we have experienced a trend of which I am myself a part: in 1960, the state was home to just over 2% of Americans of Puerto Rican origin. By 2010, more than 18% of Puerto Ricans in the U.S. lived in Florida. As Latinos comprise larger shares of the electorate, particularly in communities where they have not been present in the past, our robust participation in elections becomes all the more crucial to the health and strength of American governance.

Aventura, my home city, mirrors many national demographic trends. We are a growing city with a growing Latino community. The number of residents in Aventura increased by more than 41% between 2000 and 2010, and in that period of time, Latinos jumped from nearly 21% to almost 36% of our population. Nearly 25% of eligible voters in Aventura are Latino, but with me as the sole Latino member of a seven-seat City Commission, there is only 14% Latino representation in city government. Aventura is also getting younger, which bodes well for our future. Our population under 18 more than doubled between the last two decennial censuses.

Aventura is also located in Miami-Dade County, which is required to provide language assistance with voting to Spanish-speaking citizens. According to the most recent Census Bureau data available, more than 3,000 adult U.S. citizens living in Aventura are not yet fully fluent in English, out of a total of just over 22,500 potentially eligible voters.

Latino and language minority voters are a significant segment of my constituents, and of the population as a whole in the region in which I live. In my home county of Miami-Dade, nearly 360,000 adult U.S. citizens do not yet speak English fluently – just as I myself did not only 25 years ago. About 90% of them are native Spanish speakers. Thus, Miami-Dade County's success in making elections accessible to language minorities can make the difference between whether many are able to vote or not.

My experience serving as an elected official in South Florida has ensured that I am personally acquainted with how election policies, absent a proactive impartial check, may negatively affect ethnic and language minority communities. Ever since I moved to Florida from Puerto Rico in 1986, I have had a front-row seat to observe the unfortunate, repeated attempts to adopt and implement policies that reflect and which continue our national history of putting racial, ethnic, and language minority voters at a disadvantage.

Actions That Threaten Latino Voting Rights in Florida Have Long Occurred, and Persist

In Florida there is a well-documented history of the use of white-only primaries and hefty candidate filing fees, among other tactics, to limit the role of underrepresented groups in government.[1] As far back as 1885, Florida's Constitution imposed a poll tax, segregated schools serving children of different races and ethnicities, and prohibited interracial marriage. As recently as 1967, the state legislature sanctioned rule-making to separate people riding public transportation according to race and ethnicity.

Some of what I have seen myself has also been documented through litigation in court and investigation by public and private watchdog organizations. In just the past 15 years, there have been a number of troubling incidents, of which the following examples are representative, but not an exhaustive accounting.

Problems with Language Assistance – Miami-Dade County has been a battleground for the modern movement to promote English-only rules. In 1980, voters in the County approved an ordinance that reversed the Board of County Commissioners' prior commitment to bilingualism and biculturalism. The ordinance prohibited, "the expenditure of any county funds for the purpose of utilizing any language other than English or any culture other than that of the United States;" it also required all county meetings, hearings, and publications to be issued in English only.[2]

The infamous hanging chads of the 2000 General Election led to scrutiny of a number of aspects of election administration, which in turn revealed a fact that many South and Central Florida voters could have confidently confirmed, and that is: according to the U.S. Civil Rights Commission, large numbers of voters not yet fluent in English were denied language assistance at polling places around Florida in 2000. Problems included poll workers not adequately trained to handle language assistance needs, who erroneously

[1] *E.g., DeGrandy v. Wetherell,* 794 F. Supp. 1076, 1079 (N.D. Fla. 1992) (recounting history of discriminatory voting policies in Florida).

[2] Concerning the social context for this ordinance, *see* Max J. Castro, *The Politics of Language in Miami, in* MIAMI NOW 109, 119 (Guillermo J. Grenier & Alex Stepick III, eds., 1993).

prevented volunteers and workers from providing language assistance to needy voters. Language assistance implementation problems have also been seen since then. The Department of Justice found that Orange County, for example, fell short in making elections accessible to its sizable number of Spanish-speaking voters in 2002.

Problems with Methods of Structuring Electoral Districts – One of the areas of Florida that has seen the most dramatic growth in its Latino community is the "I-4 Corridor", which runs from Daytona Beach through Seminole, Orange, Osceola, and Polk Counties to Tampa. This area of Central Florida has also increasingly drawn scrutiny for practices that have imperiled Latinos' electoral opportunities. This is not surprising given that authorities including the Supreme Court have noted a tendency of jurisdictions to act to limit the access and influence of new voting populations just as they are beginning to have a notable impact.[3]

Osceola is one of many Florida counties that have maintained, at various times, an at-large election system for County Commissioners. Osceola County voters elected to switch to single-member districts in 1992, and as a result, the first Hispanic Commissioner in the history of the County was elected in 1996. This development led directly, however, to a decision to return to at-large elections in 1998. The Department of Justice, reviewing events, concluded that the Commissioners favored a return to at-large elections in part because they recognized that the substantial growth of the County's Latino population would lead to Latino voters electing candidates of their choice in one or more districts under a single-member district scheme. Since 2002, Osceola County has twice made voluntary changes to its election administration practices and district structure in response to charges that electoral methods would reduce or eliminate Latinos' opportunity to elect their chosen representatives.

Problems with Voter Registration Rules – A recent change in state law governing community voter registration drives also threatened to have a disproportionate negative impact on Latino participation in Florida. Nationally, Latino voters are more likely than white, African American, or Asian American voters to report that they registered to vote with a form provided by a non-governmental third party. In Florida, Latinos are also more likely than average to have become registered to vote with the assistance of a third party registrar. In my community, when a trusted local organization goes out into public areas and asks citizens to register, more individuals have the confidence to complete the process knowing their personal information will be protected.

Third party registrars, however, became subject to strict reporting requirements, deadlines to return registration forms, and large fines for violations in 2011. Although these requirements were later withdrawn, the change in the law initially led to multiple organizations, including the League of Women Voters, suspending their voter registration operations in Florida. During this period of suspension, registration applications were down 39% compared to the same pre-2008 election period in my home county of Miami-Dade, whose residents are 65% Latino.

[3] *See, e.g., LULAC v. Perry*, 548 U.S. 399, 440 (2006).

The VRA's Preclearance Process Has Been a Highly Effective Deterrent Against Implementation of Policies that Threaten Florida Latino Voters

Florida's laws and policies have reflected the anti-Latino bias that necessitated the expansion of the VRA. In 1975, the preclearance procedures of Section 5 of the VRA were extended to cover counties and states in which, as of 1972, elections were conducted in English only, and voter registration or voting rates were less than 50%, where members of a single language minority group made up at least 5% of eligible voters. Congress also created Section 203 of the VRA, which requires jurisdictions to make all voting procedures and materials available in certain languages if spoken by more than 5% or at least 10,000 members of the voting-eligible community, and if the jurisdiction's language minority community has a higher than average illiteracy rate.

The Congressional record assembled that year showed that the Latino community faced particularly egregious misconduct. Witnesses and experts from the public and private sectors testified to observing and documenting economic threats, other intimidation, and even efforts couched in seemingly neutral terms, such as a shift to at-large elections, to diminish opportunities for Latinos to meaningfully influence election outcomes. In the end, Congress concluded that, "Election law changes which dilute minority political power...are widespread in the wake of recent emergence of minority attempts to exercise the right to vote."[4]

Five Florida counties were singled out for electoral discrimination against Latino voters and low participation rates that made them subject to the preclearance process set forth in Section 5 of the VRA. At latest count by the Census Bureau, these five counties, Collier, Hardee, Hendry, Hillsborough, and Monroe, all in the South and Central regions of Florida, were home to more than 190,000 Latino adult U.S. citizens.

But the VRA protected not just Latino voters in the five Florida counties formerly subject to preclearance, it protected all voters statewide. The state of Florida has determined that implementing a voting change in a non-covered county that would be impermissible in a covered county is inappropriate and could violate the equal protection guarantees in Florida's Constitution.[5] As a result, Section 5 determinations have effectively controlled the shape of election policies not only in those (formerly) covered counties that surround my home, including Monroe and Collier, but also in Miami-Dade and other Latino-rich Florida counties.

For example, through the 1980s and 1990s, preclearance was used actively in Florida to ensure that absentee balloting procedures did not put underrepresented voters at a

[4] H.R. REP. NO. 94-196, at 19 (1975).

[5] Fla. Div. of Elections Op. DE 98-13 (August 19, 1998) at 2, *online at* http://election.dos.state.fl.us/opinions/new/1998/de9813.pdf (stating that all 67 Florida counties should decline to implement new laws that had been denied preclearance because, "To do otherwise, in our opinion, has the potential to cause widespread voter confusion, affect the integrity of the elections process, impair uniform application of the election laws and could violate Federal and State laws and both the Florida and United States Constitutions.")

disadvantage. Absentee ballots can be a lifeline to some members of our communities, including elderly voters. Elderly citizens are the Floridians most likely to need language assistance to cast ballots.[6] Had it not been for Sections 4 and 5 of the VRA, my state would have allowed certain nearby counties with significant Spanish-speaking citizen populations to omit Spanish language translations of documents required to be executed by absentee voters from the packets mailed to those individuals.

Preclearance procedures have also been used to ensure that Hillsborough County restructured its local electoral districts fairly in the early 1980s, and that state-wide redistricting preserved opportunities for Latino voters to elect representatives of their choice. The 1992 plan to reapportion state Senate districts was determined by a federal court to be intentionally designed to diminish Latino electoral opportunities in the Hillsborough County area. This same Court noted that similar allegations not actionable under Section 5 were made against non-covered counties, including Escambia and Miami-Dade.[7] Ten years later, a plan for state House districts that proposed elimination of a majority-Latino district that included Collier County was halted by VRA-prescribed procedures, and we were ultimately successful in preserving a district in which Latino Floridians' votes were effective.

Most recently, the preclearance process forced the careful reconsideration of the disproportionate impact that Latinos might experience because of decisions to reduce our state's early voting period, and to re-scrutinize the citizenship of Floridians already registered to vote.

Early Voting Period – Florida acted to reduce early voting days and hours for the 2012 election, eliminating days and hours during which, if we assume the early voting rates recorded in 2008, an estimated 124,000 Latino Floridians would have cast their ballots in 2012. This action was taken despite Latino voters having been making increasing use of early voting periods in recent elections. According to a Pew Hispanic Center analysis, a greater percentage of Latino voters utilized early voting than of all voters combined in 2006 and 2010. Litigation based on Sections 4 and 5 of the VRA, however, led to a settlement that resulted in the covered counties and my own home county of Miami-Dade offering the maximum number of early voting hours allowed under the new law.

Citizenship Purges – Likewise, the preclearance process had a positive influence on an effort that gathered steam in the months leading up to the 2012 General Election: a decision to review the citizenship of already-registered voters and to challenge the qualifications of certain voters. Initially, this initiative was carried out through the use of state agency records, which are known to frequently mis-identify naturalized citizens as non-citizen immigrants based on their prior provision of immigration documents to the state. As a result, large numbers of Florida voters were alleged to be non-citizens when in fact they were naturalized citizens, many of them Latino. The pending pressure of a

[6] Census figures show that of all eligible voters in Florida, those aged 70 and older are most statistically likely to report that they do not speak English fully fluently.
[7] Letter from John R. Dunne, Assistant Att'y Gen., Civil Rights Div., to Robert A. Butterworth, Att'y Gen., State of Fla. 4 (June 16, 1992).

lawsuit arguing that Florida had to obtain preclearance in order to remove registrants as a result of this process helped push the state to promise not to purge any voters prior to the 2012 election.

A pending Section 5 lawsuit against the restrictive third party registration rules cited above likewise influenced the state to eventually agree not to enforce some of the most punitive of the proposed rules.

The successful application of Section 5 to Florida has occurred not only in the course of formal requests for preclearance. The very fact that state policymakers have had to anticipate fulfilling preclearance requirements influenced them to voluntarily reconsider and reshape proposed new laws. In 1998, 2001 and 2002, for example, exchanges between Florida state leadership and the Department of Justice resulted in clarification that new voter list maintenance procedures would not be implemented in a way that would negatively impact Latino voters in particular. As a result of concerns expressed by the Department of Justice, moreover, our state decided to voluntarily withdraw a proposal to require particular IDs from all Florida voters.

Floridians Need New Protections to Replace the Oversight Lost with the Invalidation of Section 4 of the VRA

I wish that I and the constituents I represent through my various roles could rest easy knowing that the VRA's work is done; that our ability to participate and compete in elections on a fair and equal basis is assured for the long term. Unfortunately, this is not the case; the surviving Sections of the VRA will not be fully effective in protecting me and many communities in Florida. Many of the election laws and policies I have discussed today are highly likely to continue in force or to reappear on the state legislature's agenda, particularly now that the state is free to immediately implement any and every policy it adopts. There are three pending circumstances that underscore my lingering concerns:

One: The Remaining VRA Will Not Adequately Address Discriminatory Citizenship Checks – Citizenship checks that disproportionately target naturalized citizens, for example, are likely to recommence shortly. Citizenship checks have a very strong, clear disproportionate impact on the Latino community. More than half of those initially identified by the state, and 41% of those on a later reduced list, were Latino, even though Latinos are about 16% of eligible voters in the state of Florida. Moreover, in Florida, more than 51% of naturalized citizens are Latino.

Changes in electoral policy like this that associate Latinos with election fraud act to alienate our community further from the voting process. A number of supporters of citizenship checks claim that new methods of scrutiny of voters' qualifications are necessitated by the prevalence of unauthorized registration and voting by non-citizens. The association of undocumented immigrants, stereotypically imagined to be Latino, with increased need to fight fraud in elections pushes members of the public to conclude that illegal Latino voters are casting votes in great numbers, when in fact the evidence tells us

that eligible Latino citizens are underrepresented among participating voters, and that non-citizens voting fraud is almost non-existant and very heavily penalized.

Two: The Surviving VRA Cannot Be Counted Upon To Remedy Long Lines – Another indication that the VRA's work is not done is found in Latino Floridians' experience of extremely long lines at polling places in 2012. I had the opportunity to observe this phenomenon first-hand in Miami-Dade County both during our early voting period and on Election Day.

Recent analysis by Professors Michael Herron of Dartmouth and Daniel Smith of the University of Florida has confirmed that Latino voters were most affected by this barrier to the ballot box, both within and across county lines. In Miami-Dade County, the precincts with the longest lines and latest closing times on Election Day had some of the most significant Latino populations. Likewise, Broward County precincts that served an electorate that was more than 90% white generally closed earlier, having processed every voter who came to cast a ballot, than those that served concentrations of Latino voters. The more Latino a precinct, the longer the precinct took to serve its voters, and the longer those voters waited in line, in Alachua, Hillsborough, Orange, and Osceola Counties. Long lines concentrated in heavily Latino precincts, both during early voting and Election Day polling, may have been caused in part by Florida's truncated early voting schedule last year. We do know, based on polling and social science, that just as Latino Floridians are overrepresented among early voters, Latino Floridians also spent a longer time, on average, waiting to vote than white Floridians.[8]

The problem of long lines simply cannot be remedied through the after-the-fact litigation that remains an option under today's VRA. We cannot go back to recapture the votes of the many participants who likely left their polling precincts without exercising their right to vote because of their experience of long wait times.

Three: The Remaining Provisions of the VRA Do Not Address the Full Range of Discriminatory Policies Proposed in Florida – Finally, this Committee must recognize that remaining provisions of the VRA are not always effective means to combat voting policies that ought to spark concern and careful reconsideration. For example, litigation based on Section 2 of the VRA has met with limited success in Florida.

Conclusion

Latino voters in South and Central Florida are today left unacceptably vulnerable to the ill effects of policies that in recent years were stopped or slowed by Section 5-related procedures. For us Floridians, and particularly for Latino voters in South and Central

[8] *New State Voting Laws II: Protecting the Right to Vote in the Sunshine State: Hearing Before the Subcommittee on the Constitution, Civil Rights, and Human Rights of the Senate Judiciary Committee,* 112th Cong. 14 (2012) (Written Testimony of Michael C. Herron and Daniel A. Smith), *online at* http://www.judiciary.senate.gov/pdf/12-1-27SmithTestimony.pdf; Michael C. Herron and Daniel A. Smith, *Congestion at the Polls: A Study of Florida Precincts in the 2012 General Election* 56 (June 24, 2013), *online at* http://b.3cdn.net/advancement/f5d1203189ce2aabfc_14m6vzttt.pdf.

Florida, Sections 4 and 5 of the Voting Rights Act have not only been effective, but also crucial in ensuring the preservation of equal electoral opportunities. The preclearance mechanism has no peer: it is uniquely tailored to prevent irreparable harm to voters and candidates by requiring review for discriminatory effect before a new law may be implemented. It ensures against backsliding in the face of increases in the numbers of underrepresented individuals eligible to vote. It applies rigorous review to investigate the possibility of discriminatory effect, and does not require difficult and ambiguous inquiries into the nature of the intent in legislators' minds. It is, by its very definition and design, still very much necessary in our United States of America today.

On a personal note, I arrived in this country as a native-born citizen, one of millions of Puerto Ricans who leave the island for the mainland to build a better life. I registered to vote as a young adult who had just a couple of years earlier not spoken any English. I have three children who are also native-born citizens. I was very proud when my oldest child, my now 20-year old son Jonathan, registered to vote a couple of years ago and immediately exercised his right in an election concerning a county ballot issue. Last year, my daughter Jessica turned 18 – unfortunately, two weeks after the November election – but she proudly filed her voter registration papers through school and is now eagerly awaiting her first opportunity to vote. Jonathan registered Democrat. Jessica registered Independent. Their elected official mother is a Republican. In my home, we are Latinos, Afro-Latinos, Jews and Catholics who speak English and Spanish, and sometimes Spanglish, but first and foremost, we are Americans. In my household, participating in the electoral process, exercising the right to vote, and ensuring that the Voting Rights Act is preserved are non-partisan, non-racial, non-religious and non-language-dependent priorities. I entrust these critical issues to this honorable Committee on behalf of my children, my constituents and the more than 153 million registered voters in this nation, as well as the millions more that will register in the years to come. I urge you once again to demonstrate your commitment to equal voting rights for all Americans regardless of race, ethnicity, or language spoken, and to please act swiftly to strengthen the Voting Rights Act.

I thank you for this opportunity.

PREPARED STATEMENT OF MICHAEL A. CARVIN, PARTNER, JONES DAY, WASHINGTON, DC

Senate Judiciary Committee
Testimony of Michael A. Carvin
Jones Day
July 17, 2013

Mr. Chairman and distinguished members, I appreciate this opportunity to testify concerning the ongoing protections of the Voting Rights Act in the wake of the *Shelby County* decision.

A. SHELBY COUNTY OPINION

The Supreme Court's recent landmark decision in *Shelby County v. Holder* (June 25, 2013) is a very important step in protecting the individual liberty safeguarded by the Constitution's structural limitations, in restoring the rule of law, in reducing politically motivated racial gerrymandering and in confirming the Nation's tremendous strides in ensuring equal opportunity for minority voters. Simply put, the Supreme Court correctly found that the 2006 Congress had not even attempted to identify those jurisdictions where Section 5's extraordinary preclearance obligations were needed because Section 2's protections were somehow inadequate.

A few threshold points about the constitutional basis for enacting Section 5 will help explain both why the *Shelby County* decision was entirely correct, and why the demise of Section 5 will not adversely affect equal minority voting opportunities. First, as *Shelby County* noted, it is axiomatic that the federal government does not possess some general or plenary power to regulate states in conducting elections. Slip. Op. at 10-11. Rather, as the Court has repeatedly noted, "the Framers of the Constitution intended the states to keep for themselves, as provided in the Tenth Amendment, the power to regulate elections." *Id.* at 10, quoting *Gregory v. Ashcroft*, 501 U.S. 452, 461-462 (1991). Nor, of course, does Congress have a "general right to review and veto state enactments before they go into effect." *Id.* at 9. In light of this, it has always been recognized that any potential congressional power to impose preclearance must be found in the

enforcement clauses of the Fourteenth and Fifteenth Amendments, which authorize Congress to "enforce" the Fourteenth and Fifteenth Amendment's prohibitions against abridging voting rights on account of race. *See South Carolina v. Katzenbach*, 383 U.S. 301, 308-310 (1966); *Shelby County*, Slip. Op. at 20. These Amendments, however, prohibit only *intentional* discrimination in voting; *i.e.*, disparate treatment of voters based on their race. *Mobile v. Bolden,* 446 U.S. 55 (1980); *Washington v. Davis*, 426 U.S. 229 (1976). Accordingly, while Congress has very broad power to "enforce" these nondiscrimination commands, it can only enact laws with some nexus to eradicating or remedying such purposeful discrimination—it cannot enact laws not fairly described as enforcing purposeful discrimination prohibitions, simply because the laws "help" minorities. *See City of Boerne v. Flores*, 521 U.S. 507 (1997).

The dispositive constitutional question, then, is whether Section 5 is needed to enforce the Civil War Amendments' prohibitions against purposeful discrimination, even though Section 2 of the VRA already prophylactically prevents any such potential discrimination, by prohibiting even *neutral* actions that have disproportionate "*results*" for minority voters. 42 U.S.C. § 1973(a). In prior cases, the Court found that Section 5 served a permissible enforcement role precisely and only because its extraordinary preclearance regime was necessary to supplement Section 2, by effectively curing problems that were difficult to resolve through Section 2's "case-by-case litigation." *See Katzenbach*, 383 U.S. at 328; *City of Rome v. United States*, 446 U.S. 156 (1980). The inference that Section 5 played a valuable supplementary role was quite reasonable in the 1960s and 1970s, given the level of entrenched Southern intransigence and the limited scope of Section 2, which in those decades only prohibited *purposeful* discrimination. *See Mobile* at 66. But, given the dramatic improvements in the covered jurisdictions since the 1960's and the fact that Section 2 has been

greatly expanded to now prohibit discriminatory "results," it is quite difficult to infer that Section 5's extraordinary and extra-constitutional regime is needed *on top of* Section 2's very effective remedies. And if Section 2 is effective at preventing and remedying unconstitutional discrimination in the covered jurisdictions, then Section 5's burdens are, by definition, gratuitous and unnecessary to vindicate the Constitution's guarantees.

Notwithstanding this obvious requirement, Congress in 2006 failed to provide any basis for concluding that ordinary litigation under Section 2 of the Voting Rights Act continues to be ineffective. Neither the statutory findings nor the House or Senate Reports contain any such conclusions regarding covered jurisdictions' conduct when Section 2 cases are being litigated or enforced. Instead, the congressional record shows that "[b]latantly discriminatory evasions of federal decrees are rare." *Nw. Austin Mun. Utility Dist. No. One v. Holder*, 557 U.S. 193, 202 (2009).

The absence of findings concerning Section 2's inadequacies shows that there is no cognizable need—and therefore no adequate constitutional justification—for extending Section 5. If Section 2 broadly and effectively precludes all actions with a discriminatory "result"—as it does—there is simply no need to supplement this effective antidiscrimination law with the burdensome preclearance requirement, just as it would be unconstitutional to supplement Title VII's "effects test" with a law requiring employers to preclear all hiring decisions with the Justice Department by proving the absence of such effect.

In fact, the legislative record clearly demonstrates that Section 5 no longer targets the states where discrimination is most pervasive. As the Supreme Court emphasized in *Northwest Austin*, even "supporters of extending § 5" acknowledged that "the evidence in the record" fails to identify "systematic differences between the covered and the non-

covered areas" and "in fact ... suggests that there is more similarity than difference." 557 U.S. at 204 (quoting Professor Richard Pildes). For example, as *Shelby County* noted, the evidence before the 2006 Congress showed virtually equal black-white turnout rates in the covered jurisdictions (with minority turnout steadily improving through 2012); a minority participation rate that is *better* than the general pattern seen in non-covered jurisdictions. *Shelby County*, Slip. Op. at 15. Indeed, *every* Justice in *Northwest Austin* directly warned Congress in 2009 about the inadequacies of an out-dated formula which fails to show that Section 5 problems are still "concentrated in the jurisdictions singled out for preclearance," and confirmed that Section 5 "*must* be justified by *current* needs." *Nw. Austin*, 557 U.S. at 2003; *accord id.* at 226 (opinion of Thomas, J.). Nonetheless, Congress took no steps after 2009 to update the coverage formula or identify "current[ly]" problematic jurisdictions.

More important, Congress in *2006* consciously *avoided* examining whether there was a "current need" for Section 5 (with or without Section 2), by refusing to tailor the preclearance burden to those jurisdictions which had the worst voting discrimination in 2006. Instead, Congress continued to rely on election data that was 34 to 42 years old to determine which jurisdictions would be covered. *See id.* at 199-200; *see also* 42 U.S.C. §§ 1973b(b), 1973c(a). Such reliance on outdated election data does not make sense, just as it would not have made sense for the Congress in 1965 to rely on data from the election of Calvin Coolidge to determine which states should be covered by Section 5.

Supporters of Section 5 argue that the 2006 Congress did make valid findings of "second generation" discrimination—*i.e.*, "racial gerrymandering" and "at-large voting" systems that "dilute" minority groups' aggregate "voting strength," as opposed to "first generation" barriers to an individual's right to vote—because there are allegedly more successful Section 2 suits in

covered jurisdictions than there are outside. *Shelby County*, Slip. Op. at 5, 19-21 (Ginsburg, J. dissenting). But this Section 2 evidence cannot justify the perpetuation of Section 5 for a number of reasons.

First, and most obviously, the 2006 Congress did not *use* the Section 2 evidence to identify the jurisdictions where preclearance is needed. It did not tie the coverage formula to the Section 2 evidence concerning "second generation" discrimination, but to the 40-year-old data which reflects "first generation" ballot access discrimination. Obviously, any congressional effort to arbitrarily extend preclearance to, say, all states east of the Mississippi River, would not be permissible just because statistical evidence showed higher concentrations of Section 2 suits east of the River. Congress' *selection methodology* itself must be justified. If Congress thinks that the level of Section 2 lawsuits is a proper basis for identifying jurisdictions which need Justice Department oversight under Section 5 preclearance, then it needs to tie the coverage formula to these Section 2 suits—not 40-year-old information concerning ballot access.

Second, any evidence that Section 2 suits are generally more prevalent in covered jurisdictions undermines, rather than supports, the notion that perpetuating Section 5 in those jurisdictions is needed. Again, the question is not whether discrimination persists in the covered jurisdictions or exceeds that in the non-covered jurisdictions, but, rather, whether the discrimination in those jurisdictions can be effectively remedied by Section 2 without burdensome Section 5 preclearance. If the 2006 Congressional record does actually show successful results in Section 2 proceedings in covered jurisdictions, this further confirms that Section 5 has outlived any useful role, since "case-by-case litigation" under Section 2 is now quite adequate to remedy discrimination in those jurisdictions. *See Katzenbach*, 383 U.S. at 328.

Finally, this Section 2 evidence does not, in fact, reflect any cognizable differences between the covered jurisdictions and the noncovered jurisdictions. For example, five of the ten states with the greatest number of successful Section 2 lawsuits are noncovered jurisdictions (and six of the top ten states where racially polarized voting has been most often found). *See* "Katz Report," *Hearing Before the Subcommittee on the Constitution of the House Committee on the Judiciary*, 109th Cong. at 974, 1019-20 (October 18, 2005). Any statistical disparity concerning the covered jurisdictions simply reflects that the South disproportionately had or has more at-large systems and many more jurisdictions where minorities can constitute a majority in a single-member district—a necessary prerequisite to making a Section 2 challenge. (At-large electoral systems were the principal focus of the amended Section 2 and the lawsuits brought under it, because those systems were viewed as the "most significant" cause of minority vote dilution. *See* S. Rep. No. 417, S. Rep. 97-417, 97 (1982); *Thornburg v. Gingles*, 478 U.S. 30, 63 (1986).)

Thus, the Court had ample reason to strike down the amended Section 5's coverage formula.

B. MINORITY VOTING RIGHTS UNDER SECTION 2, WITHOUT SECTION 5.

In response to all this, Section 5's proponents nonetheless contend that Section 2 is somehow inadequate to protect minority voting equality. Relatedly, they argue that these alleged inadequacies will lead to inequities in minority voting now that Section 5's coverage formula has been invalidated. But this assertion rests on gross distortions concerning both Section 2's ineffectiveness and Section 5's relative importance in ending voting discrimination.

1. The most obvious falsehood is that Section 2 litigation focuses on voting problems "only after the fact," requiring tolerance of illegal voting schemes "for several electoral cycles" so that a "§ 2 plaintiff can gather sufficient evidence to challenge" the system. *Shelby*

County, Slip Op. at 14 (Ginsburg, J., dissenting.) This is demonstrably untrue. It is quite clear that Section 2 vote dilution challenges to redistricting schemes occur in the same time-frame and are based on the same evidence as any Section 5 redistricting dispute. Virtually all Section 2 challenges are brought before the first election under a new redistricting scheme and all of them rely on precisely the same analysis of racially polarized voting and potential minority success as is analyzed in Section 5 cases. That is, both Section 2 and Section 5 courts project future minority electoral success and racially polarized voting based on past electoral returns. There is no reason to believe, and no evidence to suggest, that courts adjudicating Section 2 challenges are somewhat slower than the D.C. courts resolving Section 5 challenges. If anything, experience proves otherwise. In the highly publicized challenge to Texas' statewide redistricting, for example, the Texas three-judge-court adjudicating the Section 2 challenges resolved the case and entered a remedial plan in November of 2011, while the D.C. three-judge-court waited until late August of 2012 to resolve the Section 5 challenge, well past the time needed for relief that could effectively cure any problems prior to the upcoming elections. *See Perez v. Perry*, 835 F. Supp.2d. 209 (W.D. Tex. 2011); *Texas v. United States*, 2012 WL 3671924 (D.D.C. Aug. 28, 2012).

Thus, Section 2 is just as effective in addressing single-member redistricting schemes as is Section 5. Moreover, with respect to minority vote dilution caused by *at-large* schemes, Section 2 is markedly *more* effective than Section 5. Section 5 is inherently incapable of dismantling the dilutive at-large election schemes that were prevalent in the South because it only reviews voting *changes*, and no jurisdiction desiring to dilute minority voting strength would *change* its at-large system to a single-member scheme. Thus, Section 2, not Section 5,

was virtually the exclusive voting rights vehicle for eliminating racially dilutive at-large systems. *See, e.g., Gingles* at 79-80.

2. In short, Section 2 clearly addresses the "second generation" vote dilution issues referenced by the 2006 Congress at least as well as Section 5. Apparently recognizing this, some Section 5 proponents now switch gears and contend that Section 2 somehow does not adequately respond to "*first generation*" discriminatory denials of ballot access. Again, this is obviously untrue. The 2006 Congress unequivocally found that "first generation" ballot access discrimination—such as moving polling places or unreasonable voter qualification requirements—was not a special problem in covered jurisdictions, especially given that minority registration and turnout in those areas equaled or exceeded the rate in noncovered jurisdictions. *See Shelby County*, Slip Op. at 14-15. Since all agree that Section 2 is adequate to ensure nondiscriminatory minority voting participation in noncovered jurisdictions, and since such participation is *higher* in the covered jurisdictions, it necessarily follows that Section 2 is adequate in the covered jurisdictions—eliminating the need for additional Section 5 burdens.

More specifically, there is nothing to the notion that Section 2 somehow cannot address discriminatory ballot access barriers. While they have been constantly mentioned in connection with the *Shelby County* case, moving polling places has never been a significant source of Section 5 objections or controversies, and were not cited by the 2006 Congress as a sufficient basis for requiring continued preclearance. In all events, the reality is that Section 2 is more than capable of dealing with the extremely rare instances of discriminatory polling place relocations just before an election. Any litigant would simply obtain a TRO or preliminary injunction to prevent the move, presenting precisely the same evidence of inconvenienced minority voters that would be relied on in a Section 5 challenge.

In this regard, I note that the most controversial "ballot access" issue of the day—voter ID requirements—are just as (if not more than) prevalent in noncovered jurisdictions as they are in covered. *See* http://www.ncsl.org/legislatures-elections/elections/voter-id.aspx (list of states with voter identification laws). Moreover, voter ID requirements in covered jurisdictions have almost uniformly been *upheld* against Section 5 challenges. The *only* exception was the ID law enacted in Texas and, even in that case, there was concededly no objective proof that minorities would be disproportionately harmed or affected by the law. *See Texas v. Holder*, 2012 WL 3743676 (D.D.C. Aug. 30, 2012). Among other things:

- Minority turnout *increased* after voter ID laws were enacted in Georgia and Indiana. *See* Proposed Findings of Fact & Conclusions of Law ¶ 25 (DE 202);
- It was undisputed that, after Indiana and Georgia enacted a voter identification law, "virtually no Georgia or Indiana voters reported being turned away from the polls because of a lack of photo ID." *Texas*, 2012 WL 3743676, at *15;
- It was undisputed that "this finding remained constant across racial lines." *Id.*;
- There was no "reliable evidence" showing that minorities disproportionately lacked photo identification in Texas. *Id.* at *26.

Despite the lack of evidence of any *disparate impact* on minority voters, the Section 5 court denied preclearance based on rank speculation that it will be more difficult for blacks and Hispanics who currently lack voter identification to obtain voter identification because minorities are disproportionately less wealthy. *Id.* at *27-29. But this speculation is misguided because the relevant comparison is between minorities and whites who *lacked voter identification*—and no evidence supports the counter-intuitive notion that, within the relatively poor group lacking ID, minorities are disproportionately unable to pay the modest fee to obtain

such ID. In sum, save for the illogical , flawed *Texas* decision, there is no evidence or finding that voter ID rules discriminatorily exclude minorities, nor any evidence that Section 5 typically invalidates such requirements.

3. It is also claimed that Section 5's demise will somehow lead to an increase in racial gerrymandering, but just the opposite is true. Far from being a deterrent to racial gerrymandering, Section 5 has been the moving force behind most of these gerrymandered districts. As has been extensively documented, the Justice Department in the 1990s used its Section 5 powers to impose a "black-max" districting policy on covered jurisdictions, requiring them to discard traditional districting principles to maximize the number of grotesque majority-minority districts. *See Miller v. Johnson*, 515 U.S. 900, 921 (1995). Indeed, every racially gerrymandered district invalidated under *Shaw v. Reno*, 509 U.S. 630 (1993) and its progeny is directly traceable to the Justice Department's requirement to mandate such districts, even though they were irreconcilable with traditional districting principles.

In addition to being a powerful engine for racial gerrymanders, Section 5 has also been extensively used to require political line-drawing to advance parochial partisan interests. In the 1990 and 2000 redistricting cycles, Republicans used Section 5 to create or maintain *majority-minority* districts, because those districts served their political interests. (Majority-minority districts typically benefit Republicans because it makes the adjacent, predominantly white districts more amenable to Republican success.) *See, e.g.*, Steven Hill, *How the Voting Rights Act Hurts Democrats and Minorities*, The Atlantic, June 17, 2013 ("The GOP has found the VRA to be a great ally . . . [because] as traditionally applied, it has helped the party win a great number of legislative races.").

In the latest round of redistricting, Democrats used Section 5 as a partisan tool to preclude any diminution of their potential electoral success. For example, last year's decision in *Texas v. United States*, No. 11–1303, 2012 WL 3671924 (D.D.C. Aug. 28, 2012) squarely held that Section 5 prohibits diminishing the electoral fortunes of *white* Democrats solely because they receive the support of most minority voters in general elections, even though there is no indication that the district could elect a *minority* Democratic candidate or of racially polarized voting. *Id.* at *38-44. Specifically, the *Texas* court concluded that Section 5 protected the district of white Democratic Congressman Lloyd Doggett, even though whites constituted the vast majority of voters in his district. *Id.* at *39. Consequently, far from protecting minority voters against denials of *equal* opportunity "on account of *race*," Section 5 granted *preferential* partisan treatment of the nonminority candidate preferred by minorities in general elections (virtually always the Democratic candidate), in every district where there was a cognizable minority population. Needless to say, such a preference for one political party has nothing to do with protecting minorities against race-based discrimination and therefore has nothing to do with enforcing the Fourteenth and Fifteenth Amendments' guarantees of racial equality in voting.

In short, Section 5 adds nothing to Section 2's protection of equal racial opportunities, but grants preferential treatment and guaranteed success to certain political parties. The Supreme Court has frequently noted the constitutional concerns created by interpreting Section 5 in any such preferential manner, and it consistently interpreted the statute to avoid that result. *See e.g.*, *Northwest Austin*, 557 U.S. at 203; *Georgia v. Ashcroft*, 539 U.S. 461, 491 (2003) (Kennedy, J., concurring) ("considerations of race that would doom a redistricting plan under the Fourteenth Amendment or § 2 seem to be what save it under §

5"); *Reno v. Bossier Parish School Bd.*, 528 U.S. 320 (2000) (*Bossier II*). Nonetheless, the 2006 Congress *overturned* the two decisions raising these constitutional warnings and reversed their interpretation of Section 5 to make it even more preferential. *See Shelby County*, Slip Op. at 16. Specifically, the 2006 Congress created a quota floor for minority electoral success, by prohibiting any diminution in minorities' "ability to elect" their preferred candidates, regardless of whether changing demographics and traditional districting principles compelled altering district lines in that manner. *See* 42 U.S.C. § 1973c(b), (d). *See also Shelby County v. Holder*, 679 F.3d 848, 886-87 (D.C. Cir. 2012) (Williams, Sr. Cir. J., dissenting). (This is the "racial entitlement" Justice Scalia referred to at the oral argument in *Shelby*.) The demise of Section 5 therefore will not threaten minorities' equal voting opportunities, but will simply help end use of the VRA as a partisan tool (by both major parties).

C. FUTURE LEGISLATION

Although I have not seen any specific proposals for amending Section 5, I can make a few general comments about any such potential efforts. First, it will be very difficult, if not impossible, to devise a coverage formula that accurately identifies jurisdictions where Section 5 is permissible "enforcement" legislation. Given the clear success of Section 2's "case-by-case litigation," Section 5 will rarely, if ever, be needed in any jurisdiction, much less a significant number of political subdivisions or states.

Similarly, it will be very difficult to devise or justify any kind of "national code" regarding ballot access. The enforcement clauses of the Fourteenth and Fifteenth Amendments provide no basis for such legislation because, as noted, there is no evidence or allegation that Section 5 is needed to combat discriminatory denials of *ballot access* (as opposed to "second generation" vote dilution). Moreover, it will be quite difficult to show that any state practice

preempted by the new national code is arguably unconstitutional discrimination, thus precluding the argument that the code is proper "enforcement" legislation directed at potentially purposeful discrimination. The Elections Clause also seemingly provides no basis for such a law, even in federal elections, because it is the *State's* responsibility to establish criteria and enforcement methods for determining "*who* may vote" in "federal elections." *See Arizona v. Inter Tribal Council of Arizona*, p. 13. (June 17, 2013).

At a minimum, since it is extremely doubtful that *Shelby County's* invalidation of Section 5 will somehow lead to increased denials of equal voting opportunities, it would be wise to wait and evaluate whether or not Section 5 actually is needed to supplement Section 2, or whether such case-by-case litigation is adequate, as it concededly is for *all* other federal laws prohibiting discrimination in employment, housing, etc..

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Testimony of
Professor Justin Levitt,
Loyola Law School, Los Angeles

Before the
United States Senate Committee on the Judiciary

From Selma to *Shelby County*:
Working Together to Restore the Protections of the Voting Rights Act

July 17, 2013

Chairman Leahy, Ranking Member Grassley, and distinguished Members of the Committee, thank you for the invitation to speak to you today.

My name is Justin Levitt. After a semester teaching at the Yale Law School, I have returned home to Loyola Law School, in Los Angeles.[1] I teach constitutional law, criminal procedure, and the law of democracy — which means that I have the privilege of studying, analyzing, and teaching the Constitution from start to finish. From the first words of the Preamble to the final words of the 27th Amendment, our founding document is concerned with how We the People are represented: what we authorize our representatives to do, what we do not permit our representatives to do, and how we structure authority to allow our representatives to check and balance each other in the interest of ensuring that the republic serves us all.

My examination of the law of democracy is not merely theoretical. I have had the privilege to practice election law as well, including work with civil rights institutions and with voter mobilization organizations, ensuring that those who are eligible to vote and wish to vote are readily able to vote, and have their votes counted in a manner furthering meaningful representation. My work has included the publication of studies and reports; assistance to federal and state administrative and legislative bodies with responsibility over elections; and, when necessary, participation in litigation to compel jurisdictions to comply with their obligations under federal law and the Constitution.

I now focus on research and scholarship, confronting the structure of the election process while closely observing and rigorously documenting the factual predicates of that structure. I have analyzed, in detail, the effect of policies and laws that contribute to the burdens on eligible

[1] My comments represent my personal views and are not necessarily those of Loyola Law School or any other organization with which I am now or have previously been affiliated.

citizens as they attempt to exercise the franchise, or that limit their ability to achieve meaningful and equitable representation even when they are able to cast ballots successfully. I attempt to bring reliable data to bear on the effort to assess the nature and magnitude of the impact of election rules and representational structures. Sometimes this involves collecting data of my own; sometimes it involves assembling and assessing data collected by others, evaluating the merit and weight of raw original sources and sophisticated statistical analyses. It is in this role as researcher and scholar, grounded in reliable data, that I appear before you today.

I thank you for holding this important hearing, initiating what I hope will become bipartisan action in both chambers to ensure that the franchise remains secure. Voting, the right preservative of all other rights,[2] "is of the most fundamental significance under our constitutional structure."[3] Constant vigilance is necessary to ensure that the franchise remains equally meaningful for all eligible citizens, regardless of race or ethnicity. Congress has both the enumerated power and the moral responsibility to protect against electoral discrimination. And just a few weeks removed from the Supreme Court's decision in *Shelby County v. Holder*,[4] bipartisan Congressional action is now more important than ever.

The *Shelby County* decision struck down a vital portion of the Voting Rights Act, which has been widely hailed as one of the most successful pieces of civil rights legislation in the country's history. The Voting Rights Act is our most significant shared national commitment to equal participation and equitable political diversity, based in part on history that allows us to recognize that we all suffer when such a commitment is absent. That is just part of why the Act has enjoyed broad popular support from Americans of all colors and creeds.[5]

The Voting Rights Act has also always been an American commitment crossing partisan lines.[6] The Act — including the preclearance provisions of sections 4 and 5 at issue in *Shelby County* — was passed in 1965 by substantial majorities of both parties.[7] Those preclearance

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[2] Yick Wo v. Hopkins, 118 U.S. 356, 370 (1886).

[3] Crawford v. Marion County Election Bd, 553 U.S. 181, 210 (quoting Illinois Bd. of Elections v. Socialist Workers Party, 440 U.S. 173, 184 (1979)).

[4] 133 S. Ct. 2612 (2013).

[5] In recent polls, self-identified whites, blacks, and Hispanics all disapprove of the *Shelby County* decision, to statistically significant levels. *See* Press Release, ABC News/Washington Post Poll: SCOTUS Decisions, July 3, 2013, http://www.langerresearch.com/uploads/1144a24SCOTUSDecisions.pdf.

[6] Indeed, in recent polls, self-identified liberals, moderates, and conservatives all disapprove of the *Shelby County* decision, to statistically significant levels. *See* Press Release, ABC News/Washington Post Poll: SCOTUS Decisions, July 3, 2013, http://www.langerresearch.com/uploads/1144a24SCOTUSDecisions.pdf.

[7] 79% of Democrats voting on the measure voted in favor of the Act, and 88% of Republicans voting voted in favor of the Act. *See* 111 CONG. REC. 19,201, 19,378 (1965); House Vote #107 in 1965, http://www.govtrack.us/congress/votes/89-1965/h107; Senate Vote #178 in 1965, http://www.govtrack.us/congress/votes/89-1965/s178.

provisions were renewed in 1970,[8] 1975,[9] 1982,[10] and 2006;[11] on each and every occasion, the renewals were passed by substantial majorities of both parties. To your credit, Members of the Committee, each of you able to cast a Congressional vote in 2006 — Republican or Democrat — voted for the reauthorization measure. Despite occasional disagreements about the meanings of particular statutory terms, you recognized the power of bipartisan action on the fundamental structure necessary to safeguard the voting rights of each and every eligible citizen.

Presumably, you and your colleagues voted overwhelmingly, and in bipartisan fashion, to reauthorize the preclearance provisions of the Voting Rights Act because you and your constituents recognized how very far we have come since 1965. That undeniable and very positive progress exists in part due to the very protections that the Voting Rights Act offered. And you and your constituents presumably recognized that despite this remarkable progress, the protections of the Voting Rights Act remain unfortunately necessary. The more than 15,000 pages of legislative record that you assembled in 2006 powerfully testify to the regrettable, and no less undeniable, need for continued application of effective measures to prevent discrimination in the franchise.

Just a few weeks ago, the Supreme Court struck down an important portion of your 2006 work. As you know, section 5 of the Voting Rights Act establishes a regime of "preclearance": certain jurisdictions must submit election changes to a federal court or the Department of Justice before those changes may be implemented, in order to ensure that a change "neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color" or membership in a defined language minority group.[12] Section 4 of the Act is the primary provision determining where preclearance applies; it establishes the basic conditions governing which jurisdictions are subject to the preclearance requirement. In its original incarnation and in each amendment thereafter, section 4 has been effectively time-limited; its penultimate iteration was set to expire in 2007. In 2006, Congress reauthorized section 4.[13] It is

[8] 75% of Democrats voting on the measure voted in favor, and 63% of Republicans voting voted in favor. *See* 116 CONG. REC. 7,335-36, 20,199-200 (1970); House Vote #274 in 1970, http://www.govtrack.us/congress/votes/91-1970/h274; Senate Vote #342 in 1970, http://www.govtrack.us/congress/votes/91-1970/s342.

[9] 92% of Democrats voting on the measure voted in favor, and 75% of Republicans voting voted in favor. *See* 121 CONG. REC. 24780, 25219-20 (1975); House Vote #328 in 1975, http://www.govtrack.us/congress/votes/94-1975/h328; Senate Vote #329 in 1975, http://www.govtrack.us/congress/votes/94-1975/s329.

[10] 97% of Democrats voting on the measure voted in favor, and 89% of Republicans voting voted in favor. *See* 127 CONG. REC. 23,205-06 (1981); 128 CONG. REC. 14,337 (1982); House Vote #228 in 1981, http://www.govtrack.us/congress/votes/97-1981/h228; Senate Vote #687 in 1982, http://www.govtrack.us/congress/votes/97-1982/s687.

[11] 100% of Democrats voting on the measure voted in favor, and 88% of Republicans voting voted in favor. *See* 152 CONG. REC. 14,303-04, 15,325 (2006); House Vote #374 in 2006, http://www.govtrack.us/congress/votes/109-2006/h374; Senate Vote #212 in 2006, http://www.govtrack.us/congress/votes/109-2006/s212.

[12] 42 U.S.C. §§ 1973c(a), 1973b(f)(2) (2006).

[13] Fannie Lou Hamer, Rosa Parks, Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Velásquez, and Dr. Hector P. Garcia Voting Rights Act Reauthorization and Amendments Act of 2006 ("VRARA"), Pub. L. No. 109-246, § 4, 120 Stat. 577, 580 (2006), *amended by* Pub. L. No. 110-258, 122 Stat. 2428 (2008).

this reauthorization that was invalidated by the Supreme Court: the Court determined that section 4, as reauthorized in 2006, did not sufficiently reflect current conditions, and that the "disparate geographic coverage" reflected in section 4 was no longer "sufficiently related to the [current] problem[s] that it targets."[14]

There are many notable portions of the *Shelby County* opinion.[15] For today's purposes, I would like to emphasize two things that the Court did *not* say. First, the Court did not overrule the constitutionality of a properly tailored preclearance requirement — nor, indeed, did it take other potential remedies and prophylactic tools off of the table. The Court recognized that preclearance is a "stringent" and "potent" measure, an "extraordinary" tool to confront electoral discrimination based on race and ethnicity, which is necessarily an "extraordinary" harm.[16] Indeed, racial and ethnic discrimination with respect to the vote is so pernicious that a constitutional Amendment is devoted to nothing else, with power expressly delegated to Congress to enforce its protections.[17] The *Shelby County* Court refused to overturn four previous cases approving preclearance as an appropriate use of that enumerated Congressional power where remedies like affirmative litigation proved insufficient.[18] Indeed, the Court emphatically stated that "Congress may draft another formula [determining coverage for a preclearance requirement] based on current conditions."[19]

Second, despite offering justified praise for the momentous progress that we as a people have made, the *Shelby County* Court did not cast doubt on the stubborn persistence of electoral discrimination on the basis of race or ethnicity. This was not an oversight. Four years earlier, Chief Justice Roberts, Justice Kennedy, and Justice Alito — three members of the *Shelby County* majority — acknowledged that "racial discrimination and racially polarized voting are not ancient history. Much remains to be done to ensure that citizens of all races have equal opportunity to share and participate in our democratic processes and traditions . . . ."[20] In 2006,

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[14] Shelby County, Ala. v. Holder, 133 S. Ct. 2612, slip op. at 18, 20-21, 23-24 (2013).

[15] I have written previously about the opinion, *see* Justin Levitt, *Shadowboxing and Unintended Consequences*, SCOTUSBLOG (June 25, 2013, 10:39 PM) (hereinafter *Shadowboxing*), http://www.scotusblog.com/2013/06/shadowboxing-and-unintended-consequences/, and about some of the popular (mis)conceptions of the Act that seem to be reflected in the opinion, *see* Justin Levitt, *Section 5 as Simulacrum*, 123 YALE L.J. ONLINE 151 (2013) (hereinafter *Simulacrum*), http://yalelawjournal.org/images/pdfs/1173.pdf. Many other fine scholars have offered their own reactions to the opinion, and will be offering reactions for years to come.

[16] *Shelby County*, 133 S. Ct. 2612, slip op. at 11-12.

[17] U.S. CONST. amend. XV; Nw. Austin Mun. Dist. No. One v. Holder, 557 U.S. 193, 205 ("The Fifteenth Amendment empowers 'Congress,' not the Court, to determine in the first instance what legislation is needed to enforce it.").

[18] *See* South Carolina v. Katzenbach, 383 U.S. 301 (1966) (upholding the preclearance regime); Georgia v. United States, 411 U.S. 526 (1973) (upholding the 1970 reauthorization); City of Rome v. United States, 446 U.S. 156 (1980) (upholding the 1975 reauthorization); Lopez v. Monterey County, 525 U.S. 266 (1999) (upholding the 1982 reauthorization).

[19] *Shelby County*, 133 S. Ct. 2612, slip op. at 24.

[20] Bartlett v. Strickland, 556 U.S. 1, 25 (2009) (plurality).

the same year that Congress reauthorized section 5, Justice Kennedy wrote for a majority in striking down a redistricting map, noting that "[i]n essence the State took away the Latinos' opportunity because Latinos were about to exercise it. This bears the mark of intentional discrimination that could give rise to an equal protection violation."[21] These are merely a few salient examples from the recent annals of the U.S. Reports, demonstrating that the Court also recognizes what Congress knows well: despite progress toward equality, we are decidedly not yet at our goal. In 2006, the Congressional legislative record of harm justifying reauthorization of the Voting Rights Act ran to 15,000 pages. And even if under *Shelby County* that record did not suffice to support the "formula" of section 4 coverage, it surely bears disturbingly ample witness to present harm, and a present need for action.

Some of the present discrimination requiring continued Congressional attention appears, even today, to be based on deep-seated animus. But it is not necessary to find hatred to find troublesome racial and ethnic discrimination in the electoral realm. Chief Judge Kozinski of the U.S. Court of Appeals for the Ninth Circuit, often lauded as a leading conservative jurist, expressed the nub of the problem in a case concerning my home of Los Angeles:

> When the dust has settled and local passions have cooled, this case will be remembered for its lucid demonstration that elected officials engaged in the single-minded pursuit of incumbency can run roughshod over the rights of protected minorities. The careful findings of the district court graphically document the pattern—a continuing practice of [drawing districts] to prevent the emergence of a strong Hispanic challenger who might provide meaningful competition to the incumbent supervisors. The record is littered with telltale signs that reapportionments going back [for at least three decades] were motivated, to no small degree, by the desire to assure that no supervisorial district would include too much of the burgeoning Hispanic population.
>
> But the record here illustrates a more general proposition: Protecting incumbency and safeguarding the voting rights of minorities are purposes often at war with each other. Ethnic and racial communities are natural breeding grounds for political challengers; incumbents greet the emergence of such power bases in their districts with all the hospitality corporate managers show hostile takeover bids. What happened here—the systematic splitting of the ethnic community into different districts—is the obvious, time-honored and most effective way of averting a potential challenge. . . . Today's case barely opens the door to our understanding of the potential relationship between the preservation of incumbency and invidious discrimination, but it surely gives weight to the Seventh Circuit's observation that "many devices employed to preserve incumbencies are necessarily racially discriminatory."[22]

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[21] League of United Latin American Citizens v. Perry, 548 U.S. 399, 440 (2006).

[22] Garza v. County of Los Angeles, 918 F.2d 763, 778-79 (9th Cir. 1990) (Kozinski, J., concurring and dissenting in part) (internal quotations and citations omitted).

Regrettably, Judge Kozinski's observations apply well beyond the facts of that case, and well beyond Los Angeles' borders. Racial and ethnic discrimination, whether an end in itself or a tool to other ends, is both odious and constitutionally impermissible. And though it is neither innate to the political process nor ubiquitous, it is sufficiently widespread to continue to command Congressional attention.

Congress has provided some existing tools to combat discrimination, and they should not be overlooked. In addition to existing legislation governing federal elections, the Voting Rights Act has powerful components untouched by *Shelby County*, including section 2,[23] section 3,[24] section 11,[25] section 203,[26] and section 208.[27] These are vital tools.

If men were angels, no more would be necessary.[28] But experience continually demonstrates that we are as angelic as we are post-racial.

Accordingly, substantial bipartisan majorities of Congress have repeatedly determined that the provisions above are not alone sufficient in their present form to ensure the effective guarantees of the Fifteenth Amendment. In 2006 no less than 1965, Congress was right to fill that vacuum.

Each of the provisions above is enforced by affirmative litigation, forcing aggrieved citizens to respond to a particular unlawful policy with a lawsuit. That is, of course, the more familiar means of addressing violation in our legal system. But electoral harms are not normal harms, and existing "normal" remedies do not suffice.

As an initial matter, election-based harms cause irreparable damage on an extraordinarily compressed timeframe. An election held under conditions later found to be unlawful works its harm immediately. And though future contests may be held with the pernicious conditions mitigated or removed, those elected to office via unlawful procedures not only gain the sheen of incumbency, but are empowered in the interim to promulgate policy binding everyone in the

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[23] 42 U.S.C. § 1973 (prohibiting practices that result in a denial or abridgement of the right to vote on account of racial or language minority status, or that give racial or language minorities less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice, but relying on affirmative litigation as an enforcement mechanism).

[24] 42 U.S.C. § 1973a (permitting, after affirmative litigation, federal courts to impose a preclearance regime upon a finding of intentional discrimination).

[25] 42 U.S.C. § 1973i (prohibiting, inter alia, electoral fraud and intimidation).

[26] 42 U.S.C. § 1973aa-1a (requiring voting materials to be provided in multiple languages under certain circumstances).

[27] 42 U.S.C. § 1973aa-6 (ensuring that certain voters may be assisted with voting procedures by a person of the voter's choice).

[28] Indeed, if men were angels, these provisions would be irrelevant. But government power and responsibility have long been premised on the falsity of this counterfactual. *See* THE FEDERALIST NO. 51 (James Madison).

jurisdiction — including means to further retain power. "Elections have consequences," we are often told. Elections held on unlawfully discriminatory terms have consequences as well, far beyond the ability of affirmative litigation to correct. Preclearance was designed to stop discrimination before it could have this irremediable impact on local communities.

Election-based harms are also more difficult to deter through normal means. Through most of our legal system, civil litigation is — at least in theory — not only a means to achieve compensation and alterations in future behavior, but also an *ex ante* incentive to avoid wrongdoing. The prospect of a lawsuit forces would-be wrongdoers to think twice. That deterrent effect is less likely to materialize when racial discrimination in the election sphere is at stake. As Judge Kozinski noted, the incumbency incentive is immensely powerful; if altering voting structures on the basis of race or ethnicity is seen as an effective means to preserve incumbency, it provides a powerful motivation to engage in a repeated pattern of unlawful behavior. If a promulgated practice is struck down, officials have reason to try another, to achieve the same results by different means.

This is not merely ancient history: the Congressional record of 2006 contained examples less than six years old in which jurisdictions implemented a discriminatory practice, saw that practice challenged by responsive litigation, and then changed course to implement a different policy aimed at similar ends. Consider, for example, a jurisdiction in which a growing minority population threatened an incumbent's reelection, where repeated lawsuits finally forced a redistricting plan responsive to that minority population. It is both shocking and, in some ways, sadly unsurprising that the jurisdiction would change course, cutting off the candidate filing period to leave the incumbent unopposed.[29] The incentive to misbehave survives even multiple journeys through the courts. Without a remedy beyond the "normal" toolkit, citizens victimized by the discrimination would be stuck in an endless cycle of litigation.

The examples presented to Congress demonstrate that though the extreme conditions of the 1960s may have materially improved, the basic incumbency incentive structure — the preservation of power — remains. In other contexts, at least the repeated wear of responsive litigation might be expected to eventually overwhelm the incumbency incentive. But this wear is substantially dispersed in the context of electoral discrimination. The transaction costs of litigation, which fall directly on private parties and/or their insurers in normal civil litigation, are borne not by the officials but by their constituents. And the opportunity for the electorate to correct the misbehavior of their own officials is blunted because the policies at issue concern the very rules of the election itself.

All of this means that there is more need in the election arena than elsewhere to prevent discrimination on the basis of race or ethnicity by means that have expansive substantive breadth

[29] *See* Nina Perales et al., Voting Rights in Texas 1982-2006, at 29 (2006), http://www.protectcivilrights.org/pdf/voting/TexasVRA.pdf; *see also* Brief of Joaquin Avila, Neil Bradley, Julius Chambers, U.W. Clemon, Armand Derfner, Jose Garza, Fred Gray, Robert Mcduff, Rolando Rios, Robert Rubin, Edward Still, Ellis Turnage, And Ronald Wilson as *Amici Curiae* in Support of Respondents at 14-15, Shelby County, Ala. v. Holder, 133 S.Ct. 2612 (U.S. 2013) (No. 12-96).

but also offer speedy, proactive protection. After *Shelby County*, the existing enforcement tools are inadequate to meet the need.[30]

As the Supreme Court has recognized — and as Congress understood in 2006 — responsive voting rights litigation is "slow and expensive."[31] The time required for responsive litigation begins, in many ways, well before litigation itself. Responsive litigation depends on an ability to amass, process, and present substantial information even before filing a complaint — demographic and electoral data, formal legislative records and legislators' informal comments, and historical context, among others. Some of this data will be generally available to the public, but much of the information — election records and demographic statistics by precinct, documents used and developed in the course of evaluating the merits of a new policy — will be in the government's possession, and available only through a cumbersome public records request process.

Once a complaint is filed, litigation provides some additional tools for gathering information, but these, too, are often slow. Responsive litigation often features substantial discovery battles and extended motion practice, all of which may precede the awarding of even preliminary relief. Such preliminary relief, according to experienced litigators, is itself quite rare in affirmative voting rights litigation.[32] And the rarity only increases in the period shortly before an election — when immediate rulings are most necessary to prevent harm — based in part on the Supreme Court's admonishment that the judiciary should be particularly wary of enjoining enacted electoral rules when there is "inadequate time to resolve . . . factual disputes" before the election proceeds.[33]

This places many voting rights cases in a summary judgment or trial posture. There, the complexity of a voting rights case places even more reliance on extensive data collection and data analysis — which translates to additional time in court. Indeed, when asked to study the amount of judicial time and work required, the Federal Judicial Center determined that of 63 different forms of litigation, voting rights cases are the 6th most cumbersome for the courts: more cumbersome than an antitrust case, and nearly twice as cumbersome as a murder trial.[34]

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[30] *See* H.R. REP. NO. 109-478, at 57 (2006), reprinted in 2006 U.S.C.C.A.N. 618, 658 (recognizing that "a failure to reauthorize the [preclearance regime], given the record established, would leave minority citizens with the inadequate remedy of a Section 2 action.").

[31] Nw. Austin Mun. Dist. No. One v. Holder, 557 U.S. 193, 197 (2009).

[32] *See* Transcript of Oral Argument at 38, Shelby County v. Holder, No. 12-96 (U.S. argued Feb. 27, 2013) (statement of Attorney General Verrilli) (noting that a preliminary injunction was issued in "fewer than one-quarter of ultimately successful Section 2 suits"); J. Gerald Hebert & Armand Derfner, *More Observations on Shelby County, Alabama and the Supreme Court*, CAMPAIGN LEGAL CENTER BLOG (Mar. 1, 2013, 6:01 PM), http://bit.ly/Z7xvht (estimating that the true figure is likely "less than 5%").

[33] Purcell v. Gonzalez, 549 U.S. 1, 6 (2006).

[34] Only death penalty habeas cases, environmental cases, civil RICO cases, patent cases, and continuing criminal enterprise drug crimes were deemed more cumbersome. *See* Federal Judicial Center, 2003–2004 District Court Case-Weighting Study: Final Report to the Subcommittee on Judicial Statistics of the Committee on Judicial

All of this can translate to extensive periods of justice delayed. There is no systematic study of which I am aware statistically analyzing the time required to secure relief in responsive voting rights litigation.[35] But in 2006, Congress heard ample testimony concerning extended litigation periods in particular circumstances. One striking, though not particularly unusual, example involved a challenge to the at-large election structure of a county council. The complaint was filed on January 17, 2001.[36] Preliminary relief was sought on April 1, 2002; despite a finding that plaintiffs were ultimately *likely* to succeed, the preliminary injunction was denied, and local primaries proceeded in June.[37] After a bench trial, another motion for preliminary relief was filed in September 2002 in advance of the general election, and again relief was denied, allowing the general election to take place.[38] The court issued a decision in favor of plaintiffs in March 2003, with a remedial plan settled by August of that year;[39] on appeal, the court's decision was affirmed in April 2004.[40] Though the complaint was filed in January 2001, the 2002 elections were held under discriminatory conditions, and the winning legislators remained in office until new elections were held in June of 2004.

Such time and complexity also amount to substantial expense. A local challenge to districts drawn impermissibly on the basis of race or language minority status will require attorney time, filing fees, deposition costs, transcript fees, document production costs, expert fees, and on and on. Though reliable statistics are difficult to determine, such cases reportedly "require[ ] a minimum of hundreds of thousands of dollars."[41] In the litigation described immediately above, plaintiffs' fees and costs amounted to $712,027.71 — a sum that litigating plaintiffs or plaintiffs' groups must be readily prepared to spend to see litigation through.[42]

Resources of the Judicial Conference of the United States 5-6 (2005), *available at* https://bulk.resource.org/courts.gov/fjc/CaseWts0.pdf.

[35] Given the variation inherent in litigation, including the quality and experience of the attorneys, the nature of the data, and the quantity and incentives of the litigants, such studies would face significant methodological difficulties in attempting to parse the amount of time to be expected from an "average" successful case.

[36] United States v. Charleston County, 318 F. Supp. 2d 302, 313 (D.S.C. 2002).

[37] *Id.* at 327-28.

[38] United States v. Charleston County, No. 2:01-0155 (D.S.C. Sept. 18, 2002) (doc. 155) (order denying preliminary injunction).

[39] United States v. Charleston County, 316 F. Supp. 2d 268 (D.S.C. 2003); United States v. Charleston County, No. 2:01-0155, 2003 WL 23525360 (D.S.C. Aug. 14, 2003).

[40] United States v. Charleston County, 365 F.3d 341 (4th Cir. 2004).

[41] J. Gerald Hebert & Armand Derfner, *Shelby County, Alabama and the Supreme Court*, CAMPAIGN LEGAL CENTER BLOG (Feb. 28, 2013, 7:07 AM), http://bit.ly/Y3206a.

[42] Moultrie v. Charleston County, No. 2:01-0562 (D.S.C. Aug. 9, 2005) (doc. 207) (amended judgment).

In addition to their responsibility for plaintiffs' costs, the people of Charleston County *also* paid approximately $2 million to defend the incumbents' preferred system. *See* Brief of Joaquin Avila, Neil Bradley, Julius Chambers, U.W. Clemon, Armand Derfner, Jose Garza, Fred Gray, Robert Mcduff, Rolando Rios, Robert Rubin, Edward Still,

The time and burden would be troublesome on its own for a handful of cases. But the relevant gap in the existing enforcement scheme is likely to be much larger than just a handful. From 1982 to 2006, the Department of Justice interposed 750 objections to requests for preclearance, encompassing 2400 distinct discriminatory changes.[43] Over the same period, more than 205 additional changes submitted to the DOJ for preclearance were withdrawn from that process after the DOJ requested additional information.[44]

During that period, restrictive changes in the Court's interpretation of section 5,[45] and amendments to section 5 responding to the Court's interpretation,[46] modified the governing standards for preclearance; Department of Justice practice fluctuated accordingly. Since 2000, 73 objections to requests for preclearance were interposed, often (as above) with multiple distinct changes encompassed in a single submission.[47] In addition to these objections, several changes were (as above) withdrawn after requests for additional information.[48] To be sure, not every policy that was objectionable under the preclearance regime (or withdrawn before an objection was lodged) would also have been grounds for an affirmative lawsuit. But in a world without an effective preclearance regime, a substantial portion of these practices would likely have required litigation to ensure the absence of discrimination based on race or language minority status.

Beyond the measures above that *were* promulgated, it is further likely that the very existence of the preclearance process deterred changes that were *not* promulgated, in at least some of the thousands of jurisdictions covered by the preclearance regime before *Shelby County*.[49] If the preclearance process achieved any incremental deterrence at all, it is reasonable

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Ellis Turnage, And Ronald Wilson as *Amici Curiae* in Support of Respondents at 25, Shelby County, Ala. v. Holder, 133 S.Ct. 2612 (U.S. 2013) (No. 12-96). In the absence of a preclearance regime, local governments' taxpayers must pay doubly dearly for successful claims, covering incumbent officials' expenses as well as those of the plaintiff citizen victims. *See* Levitt, *Shadowboxing*, *supra* note 15.

[43] Brief for the Federal Respondent at 22, Shelby County, Ala. v. Holder, 133 S.Ct. 2612 (U.S. 2013) (No. 12-96).

[44] *Id.* at 30.

[45] *See, e.g.*, Georgia v. Ashcroft, 539 U.S. 461 (2003); Reno v. Bossier Parish Sch. Bd., 528 U.S. 320 (2000).

[46] Fannie Lou Hamer, Rosa Parks, Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Velásquez, and Dr. Hector P. Garcia Voting Rights Act Reauthorization and Amendments Act of 2006 ("VRARA"), Pub. L. No. 109-246, § 2(b)(6), § 5, 120 Stat. 577, 578, 580-81 (2006), *amended by* Pub. L. No. 110-258, 122 Stat. 2428 (2008).

[47] These totals are drawn from data at *Voting Rights Act: Objections and Observers*, LAWYERS' COMM. FOR CIV. RTS. UNDER LAW, http://www.lawyerscommittee.org/projects/section_5.

[48] As of the date of this testimony, I know of several submissions that were withdrawn, but I have not yet been able to determine precisely how many preclearance submissions were withdrawn since 2000. I would be happy to pursue this inquiry further at the Commission's request.

[49] As of March 2013, accounting for bailouts, there were 816 counties, 3733 municipalities, 2175 school districts, and 5017 special districts within jurisdictions covered by the preclearance requirement. U.S. Dep't of Justice, Jurisdictions Currently Bailed Out, http://www.justice.gov/crt/about/vot/misc/sec_4.php#bailout; Dept. of

to expect such policies to crop up in the absence of preclearance. Those policies further add to the press for attention of affirmative litigation.

It is impossible to estimate the quantum of affirmative litigation necessary to achieve full compliance in the absence of a preclearance provision. But "The Nation's Litigator" should not be expected to meet all of the new need under the post-*Shelby County* regime, at least given staffing at the current order of magnitude. The preclearance process primarily entailed an obligation to evaluate a steady flow of demographic, electoral, procedural, and historical information from covered jurisdictions. As a result, staff devoted to preclearance at the Department of Justice included talented analysts, demographers, historians . . . and as I understand it, comparatively few attorneys. A unit well-suited to the preclearance process cannot merely be re-tasked with an equivalent volume of affirmative litigation, much less the volume needed to compensate for the absence of an effective deterrent.

Fortunately, the Department of Justice is not the only entity authorized to enforce federal law; at least for the core protections of the Voting Rights Act, private citizens and organizations may bring causes of action as well. Yet if the concerns above create difficult pragmatic conditions for the federal government's primary law enforcement body under the current voting rights enforcement regime, those difficulties are compounded manifold for private plaintiffs. At most a handful of attorneys within any given state, and a handful of national organizations with a few voting rights specialists, can match the institutional expertise of the Department of Justice.[50] Perhaps none can match the Department's resources. These private entities with specialties in voting rights litigation may be able to muster a challenge to at most a few policies at a time, and often no more than one.[51] They could not be expected to deliver justice everywhere that it was warranted even in a regime with the deterrence of preclearance, much less in a new world without.

Given finite resources, more prominent disputes — for example, statewide redistricting battles — are likely to draw more substantial attention in responsive litigation. There is a far greater risk that smaller jurisdictions like towns, villages, constable districts, and school boards

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Commerce, Bureau of Census, 2002 Census of Governments, Vol. 1, No. 1, pp. 1, 22–60. It is not clear how many of the special districts are elected, and thereby required to submit changes for preelearance.

[50] *See* Brief of Joaquin Avila, Neil Bradley, Julius Chambers, U.W. Clemon, Armand Derfner, Jose Garza, Fred Gray, Robert Mcduff, Rolando Rios, Robert Rubin, Edward Still, Ellis Turnage, And Ronald Wilson as *Amici Curiae* in Support of Respondents at 28-29, Shelby County, Ala. v. Holder, 133 S.Ct. 2612 (U.S. 2013) (No. 12-96).

[51] *See, e.g.*, Voting Rights after *Shelby County v. Holder: A Discussion & Webcast on the Supreme Court's Voting Rights Act Decision*, Roundtable at the Brookings Institution, Transcript pt. 2, at 18 (July 1, 2013) (remarks of Thomas Saenz, Pres. & Gen. Counsel, MALDEF) ("I really appreciated those who believed that the LDF's of the world have the resources to challenge every state redistricting that might be a problem, but it's not true. I mean the simple fact is that my organization can probably pursue one statewide redistricting case at a time. So, we made a choice that Texas was more important for example, than California where we believe that there was at least one problem at the congressional level, and at least two at the legislative level. But the cost of pursuing two statewide cases at the same time was simply too high."), available at http://www.brookings.edu/~/media/events/2013/7/1%20voting%20rights%20act/20130701_voting_rights_transcript_pt2.pdf.

will be comparatively neglected. Yet such jurisdictions create much of the concern. Between the 1982 and 2006 reauthorizations of the preclearance regime, only 14% of the objections lodged by the Department of Justice under section 5 concerned statewide changes. 39% concerned county-level changes, and 48% concerned changes in municipalities, school boards, or special districts.[52] After *Shelby County*, current enforcement tools leave a substantial danger that discriminatory changes in local electoral policy will take effect before underresourced victims have an adequate opportunity to assemble a reasonably robust litigation response. If elections occur before sufficient proof of the wrong can be gathered, the officials elected under the improper regime are then empowered to make policy until plaintiffs overcome financial and logistical hurdles to make their case before a court.

Statewide changes affect many more voters at once, to be sure. But that is little consolation to the citizen denied equitable access to the election process for municipal government, acting on the vital kitchen-table issues that impact each of us most tangibly from day to day. Many local governments will never tread close to the line of discriminatory practice. But experience teaches, regrettably, that many others will. And we must continue to recognize that particularly in this arena, "injustice anywhere is a threat to justice everywhere."[53]

Congress can and should act to prevent such injustice. There is a present pragmatic need to supplement the existing legal framework for safeguarding voting rights, to prevent electoral discrimination on the basis of race, ethnicity, or language minority status. Voting rights are not only fundamental, but as explained above, uniquely resistant to normal modes of enforcement; they are extraordinary rights in need of extraordinary protection. Congress recognized as much in 2006 when it reauthorized the preclearance regime; absent an effective preclearance regime today, that need has returned.

In the weeks ahead, I trust that you will hear various proposals for action, to ensure that justice is neither too expensive nor too long delayed. Some will likely focus on replicating the role of the preclearance process in extracting information about the impact of a proposed change. Some will likely focus on structures to ease the costs or other burdens of responsive litigation. Some will likely focus on enhanced judicial management of an individualized preclearance procedure. Some will likely focus on a formula to replace section 4, based on recent transgressions or current sociopolitical conditions. It may be that some combination of the above is most appropriate to meet the need. But what is clear to pragmatists above all is that there is a need, and that the need must be met.

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[52] Levitt, *Simulacrum*, *supra* note 15, at 164 n.47. Given the deterrence function that preclearance served, it is not possible to predict, from the comparative mix of preclearance objections, the precise relative mix of cases warranting affirmative litigation in a world absent preclearance. And the calculations above do not account for litigable violations from *non*-covered jurisdictions that did not attract sufficient resources to see litigation through even while the preclearance regime was in place. Still, it seems reasonable to predict that given past practice, and given the sheer volume of counties and local governments, *see supra* note 49, such jurisdictions are likely to be responsible for a substantial majority of litigable violations going forward.

[53] MARTIN LUTHER KING, JR., *Letter from Birmingham Jail*, *in* WHY WE CAN'T WAIT 77, 79 (1963).

In this arena, since 1965, Congress has led, and it has done so with bipartisan action yielding bipartisan success. It is time for Congress to lead again. And so it is that I am delighted to appear at the hearing signaling Congressional resolve to take up its constitutional responsibility once more.

I thank you again for the opportunity to testify before you, and look forward to answering any questions that you may have.

QUESTIONS SUBMITTED BY SENATOR FRANKEN FOR MICHAEL A. CARVIN

Senate Judiciary Committee Hearing
"From Selma to Shelby County:
Working Together to Restore the Protections of the Voting Rights Act"
Questions for the Record Submitted by Senator Al Franken for Michael Carvin

Question 1: In your written testimony, you stated the following:

> These Amendments [i.e., the Fourteenth and Fifteenth Amendments] prohibit only *intentional* discrimination in voting; i.e., disparate treatment of voters based on their race. *Mobile v. Bolden*, 446 U.S. 55 (1980); *Washington v. Davis*, 426 U.S. 229 (1976). Accordingly, while Congress has very broad power to "enforce" these nondiscrimination commands, it can only enact laws with some nexus to eradicating or remedying such purposeful discrimination – it cannot enact laws not fairly described as enforcing purposeful discrimination prohibitions, simply because the laws "help" minorities. *See City of Boerne v. Flores*, 521 U.S. 507 (1997).

7/17/13 Judic. Cmte. Hrg., M. Carvin Written Testimony at 2 (emphasis in original).

(a) Do you believe that the Fifteenth Amendment gives Congress the authority to enact legislation that prohibits facially neutral voting practices that have discriminatory effects?

(b) If your answer to question (a) is in the negative, please cite legal authority to support your position. (Neither *Bolden* nor *Davis* addresses this issue; *Bolden* involved the application of the Voting Rights Act, not its constitutionality, and *Davis* had nothing to do with the Voting Rights Act or the Fifteenth Amendment.)

(c) If your answer to question (a) is in the negative, please explain why you believe that your position is consistent with the Supreme Court's decision in *City of Rome v. U.S.*, in which the Court addressed this precise issue and stated the following:

> Congress passed the [Voting Rights] Act under the authority accorded it by the Fifteenth Amendment. The appellants contend that the Act is unconstitutional because it exceeds Congress' power to enforce that Amendment. They claim that § 1 of the Amendment prohibits only purposeful racial discrimination in voting, and that in enforcing that provision pursuant to § 2, Congress may not prohibit voting practices lacking discriminatory intent even if they are discriminatory in effect. We hold that, even if § 1 of the Amendment prohibits only purposeful discrimination, *the prior decisions of this Court foreclose any argument that Congress may not, pursuant to § 2 [of the Fifteenth Amendment], outlaw voting practices that are discriminatory in effect.*

> *City of Rome v. United States*, 446 U.S. 156, 173 (1980) (emphasis added) (internal footnote providing Amendment text omitted).

Question 3. In *Shelby County*, the Court stated that "voting discrimination still exists; no one doubts that." *Shelby County v. Holder*, 133 S. Ct. at 2619. It also said that "there is no denying that, due to the Voting Rights Act, our Nation has made great strides." *Id.* at 2626. Similarly, in *Northwest Austin*, the Court stated that "[t]he historic accomplishments of the Voting Rights Act are undeniable," *Nw. Austin Mun. Utility Dist. No. One v. Holder*, 557 U.S. 193, 201 (2009), and that improvements in voter turnout, registration, and other metrics "are no doubt due in significant part to the Voting Rights Act itself, and stand as a monument to its success," *id.* at 202. Do you disagree with any of these statements by the Supreme Court?

Question 4. In *Northwest Austin*, the Court said the following:

> The first century of congressional enforcement of the [Fifteenth] Amendment, however, can only be regarded as a failure. Early enforcement Acts were inconsistently applied and repealed with the rise of Jim Crow. Another series of enforcement statutes in the 1950s and 1960s depended on individual lawsuits filed by the Department of Justice. But litigation is slow and expensive, and the States were creative in contriving new rules to continue violating the Fifteenth Amendment in the face of adverse federal court decrees.

Nw. Austin, 557 U.S. at 197–98 (internal citations and quotation marks omitted). In your view, was the Supreme Court wrong in this assessment? If so, how?

QUESTIONS SUBMITTED BY SENATOR FRANKEN FOR JUSTIN LEVITT

Senate Judiciary Committee Hearing
"From Selma to Shelby County:
Working Together to Restore the Protections of the Voting Rights Act"
Questions for the Record Submitted by Senator Al Franken for Justin Levitt

Question 1. In her dissenting opinion in *Shelby County*, Justice Ginsburg wrote the following:

> Congress also received evidence that litigation under § 2 of the VRA was an inadequate substitute for preclearance in the covered jurisdictions. Litigation occurs only after the fact, when the illegal voting scheme has already been put in place and individuals have been elected pursuant to it, thereby gaining the advantages of incumbency. An illegal scheme might be in place for several election cycles before a § 2 plaintiff can gather sufficient evidence to challenge it.

Shelby County v. Holder, 133 S. Ct. 2612, 2640 (2013) (Ginsburg, J., dissenting) (internal citations to Congressional Record omitted).

(a) What are your thoughts about this passage?

(b) Can you provide examples of situations in which elections have been held before an illegal voting scheme successfully could be challenged through § 2 litigation?

(c) Why is it significant that § 2 litigation can occur only after the fact, when the illegal voting scheme has already been put in place, whereas voting changes in jurisdictions covered by § 4 cannot go into effect until they have been approved?

Question 2. Does Congress have constitutional authority, pursuant to § 2 of the Fifteenth Amendment, to enact legislation that outlaws voting practices that are discriminatory in effect?

QUESTIONS SUBMITTED BY SENATOR GRASSLEY FOR LUZ URBÁEZ WEINBERG

QUESTIONS FOR THE RECORD FROM SENATOR CHARLES E. GRASSLEY "FROM SELMA TO SHELBY COUNTY: WORKING TOGETHER TO RESTORE THE PROECTIONS OF THE VOTING RIGHTS ACT"

SENATE JUDICIARY COMMITTEE, JULY 17, 2013

Question for Commissioner Weinberg:

What specific language would you propose to amend the Voting Rights Act in light of the Shelby County decision?

QUESTIONS SUBMITTED BY SENATOR GRASSLEY FOR MICHAEL A. CARVIN

QUESTIONS FOR THE RECORD FROM SENATOR CHARLES E. GRASSLEY "FROM SELMA TO SHELBY COUNTY: WORKING TOGETHER TO RESTORE THE PROECTIONS OF THE VOTING RIGHTS ACT"

SENATE JUDICIARY COMMITTEE, JULY 17, 2013

Question for Mr. Carvin:

Congress failed to heed the Supreme Court's 2009 warning that the 2006 preclearance formula might be unconstitutional on Tenth Amendment grounds. In Shelby County, the Court indicated that federalism concerns could render unconstitutional Section 5's prohibition of laws that could have favored minority groups but did not do so for a discriminatory purpose, and not only those redistricting plans that actually harmed minority groups. It also commented that racial considerations that might doom a redistricting plan because of Section 2 of the Act or because of the Fourteenth Amendment are potentially required because of Section 5.

How should we take into account the Supreme Court's warnings of potential problems with Section 5 in any legislation that we might consider?

QUESTIONS SUBMITTED BY SENATOR GRASSLEY FOR PROFESSOR LEVITT

QUESTIONS FOR THE RECORD FROM SENATOR CHARLES E. GRASSLEY "FROM SELMA TO SHELBY COUNTY: WORKING TOGETHER TO RESTORE THE PROECTIONS OF THE VOTING RIGHTS ACT"

SENATE JUDICIARY COMMITTEE, JULY 17, 2013

Questions for Professor Levitt:

1. Congress failed to heed the Supreme Court's 2009 warning that the 2006 preclearance formula might be unconstitutional on Tenth Amendment grounds. In Shelby County, the Court indicated that federalism concerns could render unconstitutional Section 5's prohibition of laws that could have favored minority groups but did not do so for a discriminatory purpose, and not only those redistricting plans that actually harmed minority groups. It also commented that racial considerations that might doom a redistricting plan because of Section 2 of the Act or because of the Fourteenth Amendment are potentially required because of Section 5.

   How should we take into account the Supreme Court's warnings of potential problems with Section 5 in any legislation that we might consider?

2. You mentioned some goals and aspirations in your testimony. What specific language would you propose to amend the Voting Rights Act in light of the Shelby County decision?

3. At the hearing, I asked you for contemporary examples, post-2006, of evidence of discrimination in changes in voting laws that could justify a constitutional coverage formula for preclearance. You testified, "I think there are lots of examples that I could give you. I'd be happy to supply further examples, but I don't know that I have the time at the moment, in counties and local jurisdictions all over the place that have practices that would not be cured by today's laws that we desperately need Congress to supply us tools to combat." Please supply those specific examples and their outcomes.

RESPONSES OF LUZ URBÁEZ WEINBERG TO QUESTIONS SUBMITTED BY SENATOR GRASSLEY

City of
Aventura
Government Center
19200 West Country Club Drive
Aventura, Florida 33180

August 7, 2013

Ranking Member Chuck Grassley
and Members of the Judiciary Committee
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

Re: Restoration of Protection of Voting Rights Act Hearing Follow-Up

Dear Senator Grassley:

Thank you for your letter and follow-up question to my testimony on July 17th regarding what specific language I propose to amend the Voting Rights Act in light of the Shelby County decision. I am very happy to provide you my response below for the record.

The Supreme Court, Members of Congress from both sides of the aisle, and communities across our country have all acknowledged and reminded us that discrimination in voting still exists, that the Voting Rights Act work is still not done, and its valuable protections are still very much needed in 21st Century America. Laws and policies that selectively diminish opportunities for Latinos and other underrepresented voters to participate in elections continue to be enacted throughout the country, and demand a multi-faceted, dynamic solution in the form of a renewed and strengthened Voting Rights Act.

An amended Voting Rights Act should provide for the strongest possible enforcement of Constitutional guarantees against racial or ethnic discrimination in voting, a task that is firmly committed to Congress. An updated Voting Rights Act might, therefore, focus federal oversight on policies or practices that have been shown to discriminate against voters based on race or ethnicity, rather than on denoting whole jurisdictions as either bad or benign. A revised VRA shall also arm the federal courts with the tools they need to ensure the promise of the Constitution is real for all voters.

A modernized Voting Rights Act ought to also provide workable means by which discriminatory voting practices will come to the attention of interested and relevant parties, as well as practical procedures for conducting timely review of those laws most likely to violate federal voting rights laws. These are all critical areas that will ensure American voters once again feel protected when exercising their right to vote.

On behalf of all whom I represent and those whose concerns I voice, I thank you for your work in this very important issue. I remain available to the Senate and House through this delicate process, and trust that American voting rights' protections will be properly and timely restored.

Humbly yours,

Luz Urbáez Weinberg
Commissioner, City of Aventura, FL
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RESPONSES OF MICHAEL A. CARVIN TO QUESTIONS SUBMITTED BY SENATORS FRANKEN AND GRASSLEY

Senate Judiciary Committee Hearing
"From Selma to Shelby County:
Working Together to Restore the Protections of the Voting Rights Act"
Questions for the Record Submitted by Senator Al Franken for Michael Carvin

Question 1: In your written testimony, you stated the following:

> These Amendments [i.e., the Fourteenth and Fifteenth Amendments] prohibit only *intentional* discrimination in voting; i.e., disparate treatment of voters based on their race. *Mobile v. Bolden*, 446 U.S. 55 (1980); *Washington v. Davis*, 426 U.S. 229 (1976). Accordingly, while Congress has very broad power to "enforce" these nondiscrimination commands, it can only enact laws with some nexus to eradicating or remedying such purposeful discrimination – it cannot enact laws not fairly described as enforcing purposeful discrimination prohibitions, simply because the laws "help" minorities. *See City of Boerne v. Flores*, 521 U.S. 507 (1997).

7/17/13 Judic. Cmte. Hrg., M. Carvin Written Testimony at 2 (emphasis in original).

(a) Do you believe that the Fifteenth Amendment gives Congress the authority to enact legislation that prohibits facially neutral voting practices that have discriminatory effects?

(b) If your answer to question (a) is in the negative, please cite legal authority to support your position. (Neither *Bolden* nor *Davis* addresses this issue; *Bolden* involved the application of the Voting Rights Act, not its constitutionality, and *Davis* had nothing to do with the Voting Rights Act or the Fifteenth Amendment.)

(c) If your answer to question (a) is in the negative, please explain why you believe that your position is consistent with the Supreme Court's decision in *City of Rome v. U.S.*, in which the Court addressed this precise issue and stated the following:

> Congress passed the [Voting Rights] Act under the authority accorded it by the Fifteenth Amendment. The appellants contend that the Act is unconstitutional because it exceeds Congress' power to enforce that Amendment. They claim that § 1 of the Amendment prohibits only purposeful racial discrimination in voting, and that in enforcing that provision pursuant to § 2, Congress may not prohibit voting practices lacking discriminatory intent even if they are discriminatory in effect. We hold that, even if § 1 of the Amendment prohibits only purposeful discrimination, *the prior decisions of this Court foreclose any argument that Congress may not, pursuant to § 2 [of the Fifteenth Amendment], outlaw voting practices that are discriminatory in effect.*

> *City of Rome v. United States*, 446 U.S. 156, 173 (1980) (emphasis added) (internal footnote providing Amendment text omitted).

Question 3. In *Shelby County*, the Court stated that "voting discrimination still exists; no one doubts that." *Shelby County v. Holder*, 133 S. Ct. at 2619. It also said that "there is no denying that, due to the Voting Rights Act, our Nation has made great strides." *Id.* at 2626. Similarly, in *Northwest Austin*, the Court stated that "[t]he historic accomplishments of the Voting Rights Act are undeniable," *Nw. Austin Mun. Utility Dist. No. One v. Holder*, 557 U.S. 193, 201 (2009), and that improvements in voter turnout, registration, and other metrics "are no doubt due in significant part to the Voting Rights Act itself, and stand as a monument to its success," *id.* at 202. Do you disagree with any of these statements by the Supreme Court?

Question 4. In *Northwest Austin*, the Court said the following:

> The first century of congressional enforcement of the [Fifteenth] Amendment, however, can only be regarded as a failure. Early enforcement Acts were inconsistently applied and repealed with the rise of Jim Crow. Another series of enforcement statutes in the 1950s and 1960s depended on individual lawsuits filed by the Department of Justice. But litigation is slow and expensive, and the States were creative in contriving new rules to continue violating the Fifteenth Amendment in the face of adverse federal court decrees.

Nw. Austin, 557 U.S. at 197–98 (internal citations and quotation marks omitted). In your view, was the Supreme Court wrong in this assessment? If so, how?

My answers are attached.

ANSWERS FOR
SENATOR FRANKEN

Answer 1(a): Yes. As the testimony you quoted clearly states, "Congress has very broad power to 'enforce'" the Constitution's "nondiscrimination commands," so it can go beyond the Constitution's purposeful discrimination prohibition so long as the statutes can be "fairly described" as prophylactic measures to redress purposeful discrimination. *See City of Boerne v. Flores*, 521 U.S. 507 (1997). Thus, the extra-constitutional "results" standard in Section 2, as interpreted by the Supreme Court, is permissible enforcement legislation, for the reasons described in my Nix amicus brief in *Shelby County* (p. 23-26). Of course, if an effects prohibition, like the "ability to elect" standard added to Section 5 in 2006, acts as a quota floor for predicted electoral success of minority-supported candidates, then it is impermissible enforcement legislation because it both violates the Constitution's nondiscrimination commands and cannot be fairly described as an effort to enforce them. (*See* Nix amicus brief in *Shelby County*, p. 29-34.)

1(b): Not applicable

1(c): Not applicable

[No Question 2]

Answer 3: No. Section 2 of the Voting Rights Act, along with the Act's prohibition against discriminatory tests and devices, played a very valuable role in securing the historic advances identified by the Supreme Court. These provisions both provided minorities with equal access to the ballot and, after the "results" test was added to Section 2 in 1982, effectively eliminated "second generation," minority "vote dilution" problems caused by gerrymandered districts and at-large electoral systems. While Section 5 played a much less significant role in the "improvements" to the status quo described by the Supreme Court, it nonetheless supplemented these other VRA provisions by freezing the status quo where "case-by-case litigation was inadequate to combat wide-spread and persistent discrimination in voting" because of "obstructionist tactics." *See South Carolina v. Katzenbach*, 383 U.S. 301, 328, 334-35 (1966). That role was necessarily supplementary because Section 5 had the "limited substantive goal" of "preventing nothing but backsliding" and permitted discriminatory voting changes "no matter how unconstitutional [they] may be." *See Georgia v. Ashcroft*, 539 U.S. 461, 477 (2003); *Reno v. Bossier Parrish Sch. Bd.*, 528 U.S. 320, 335-336 (2000). In short, Section 5 could not have meaningfully contributed to the status quo improvements referenced by the Supreme Court since Section 5 did not *reach* the existing discriminatory voting practices established in the South—such as at-large systems—because it only reached "*changes*" and only prohibited *retrogressive* changes.

Answer 4: No. The Supreme Court quotation you provide is a quite correct and concise explanation of the limited role that Section 5 was always designed to play—supplementing Section 2's case-by-case litigation to insure that recalcitrant jurisdictions could not evade or avoid "federal court decrees." Consequently, the question in 2013 is whether such supplementation of Section 2 is needed because Section 2, even as amended in 1982, somehow is inadequate to deal with voting discrimination. It will be quite difficult to make such a showing because it is conceded that evasion of federal court decrees is quite rare in the covered jurisdictions and because the new Section 2 does effectively redress discrimination in the non-covered jurisdictions—which are not meaningfully different from the covered jurisdictions.

QUESTIONS FOR THE RECORD FROM SENATOR CHARLES E. GRASSLEY "FROM SELMA TO SHELBY COUNTY: WORKING TOGETHER TO RESTORE THE PROECTIONS OF THE VOTING RIGHTS ACT"

SENATE JUDICIARY COMMITTEE, JULY 17, 2013

Question for Mr. Carvin:

Congress failed to heed the Supreme Court's 2009 warning that the 2006 preclearance formula might be unconstitutional on Tenth Amendment grounds. In Shelby County, the Court indicated that federalism concerns could render unconstitutional Section 5's prohibition of laws that could have favored minority groups but did not do so for a discriminatory purpose, and not only those redistricting plans that actually harmed minority groups. It also commented that racial considerations that might doom a redistricting plan because of Section 2 of the Act or because of the Fourteenth Amendment are potentially required because of Section 5.

How should we take into account the Supreme Court's warnings of potential problems with Section 5 in any legislation that we might consider?

Answer:

In light of the *Shelby County* language you cite, any effort to perpetuate or revive Section 5 must eliminate the 2006 substantive amendments to that statute, which expand Section 5 to reach non-retrogressive changes and also alter the retrogression standard to prohibit any diminution in minorities' "ability to elect." As *Shelby County* and other numerous Supreme Court cases have noted, the former amendment was used by the Justice Department to impose grossly unconstitutional racially gerrymanders in the covered jurisdictions and the latter amendment, as noted, is a quota floor requiring preferential treatment of candidates supported by minority voters. These are the enhanced federalism burdens and unconstitutionally race-conscious aspects of Section 5 referred to in *Shelby County* and the cases it cited.

RESPONSES OF JUSTIN LEVITT TO QUESTIONS SUBMITTED BY SENATORS FRANKEN AND GRASSLEY

Senate Judiciary Committee Hearing
"From Selma to Shelby County:
Working Together to Restore the Protections of the Voting Rights Act"
Questions for the Record Submitted by Senator Al Franken for Justin Levitt

Question 1. In her dissenting opinion in *Shelby County*, Justice Ginsburg wrote the following:

> Congress also received evidence that litigation under § 2 of the VRA was an inadequate substitute for preclearance in the covered jurisdictions. Litigation occurs only after the fact, when the illegal voting scheme has already been put in place and individuals have been elected pursuant to it, thereby gaining the advantages of incumbency. An illegal scheme might be in place for several election cycles before a § 2 plaintiff can gather sufficient evidence to challenge it.

Shelby County v. Holder, 133 S. Ct. 2612, 2640 (2013) (Ginsburg, J., dissenting) (internal citations to Congressional Record omitted).

(a) What are your thoughts about this passage?

* * *

I agree with its characterization.

Congress passed the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Velásquez, and Dr. Hector P. Garcia Voting Rights Act Reauthorization and Amendments Act of 2006 in overwhelmingly bipartisan fashion. And before Congress passed the law, it received plentiful evidence that § 2 of the Voting Rights Act—though a powerful tool—was insufficient to combat the most pernicious forms of racial and ethnic discrimination with respect to the franchise. Congress agreed then, as it had on four previous occasions, that § 2 was inadequate on its own. And though § 2 remains powerful today, it also remains, as presently constructed, inadequate on its own.

The principal limitation of § 2 is, as Justice Ginsburg noted, the fact that it authorizes only responsive litigation. While the preclearance regime was designed to stop discriminatory policies before they were ever implemented, § 2 litigation must necessarily wait for a practice to take lawful effect before it can be challenged. Indeed, a § 2 lawsuit brought to challenge an unsigned bill or potential but nonfinal policy proposal would be dismissed, correctly, as unripe.

Thus, § 2 litigation "occurs only after the fact, when the illegal voting scheme has already been put in place."

Once a discriminatory practice has become law or local policy, successful responsive litigation requires several steps. Data sufficient to prove dilution of the vote in the totality of circumstances must be gathered; these data often include information under the jurisdiction's control that may only be gathered pursuant to public records requests or through litigation's discovery process. To the extent that the data include demographic and political information, they must be analyzed by experts, which means that an available expert must be located and retained.[1] And lawyers must be sought, which means that either the Department of Justice must be convinced to prioritize the deployment of its resources toward resolving the issue at hand or private attorneys must be found, either by raising sufficient funds or finding pro bono counsel willing and able to devote the time and resources to litigate an exceedingly complex case. (Indeed, as noted in my written testimony, the Federal Judicial Center recently determined that of 63 different forms of litigation, voting rights cases are the 6th most cumbersome: more cumbersome than an antitrust case, and nearly twice as cumbersome as a murder trial.)

There are some occasions when the local victims of discrimination can amass data, experts, and attorneys, and when a thoroughly prepared case can work its way through the courts on an expedited docket, between the time that a discriminatory practice becomes law and the next election to follow.

But often — particularly when a practice is changed shortly before an election or when the change occurs in a jurisdiction where the victims have fewer resources — it will not be possible to prepare and present a thorough case before an election is held on discriminatory terms. Sometimes the problem is simply insufficient time to amass existing data. In other circumstances, the change is sufficiently novel within the jurisdiction that victims may fear a dilution of their vote, but the impact cannot be proven to the certainty demanded by a court until after an election is held and those fears are realized.

The theoretical prospect of temporary relief for a partial case is insufficient in practice. The Supreme Court has instructed lower courts to be wary of enjoining state practices when there is "inadequate time to resolve . . . factual disputes" before an election takes place.[2] And given how complex responsive voting rights litigation can be, there will often be inadequate time to resolve factual disputes quickly. In those circumstances, as

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[1] The availability of an appropriate expert should not be assumed. In 2012, an Alaska trial court described one of the factors contributing to some of its state redistricting body's delay:

> It is also unclear whether the Board could have found a VRA expert to start sooner than [Lisa] Handley did. There was testimony that there are about 25 VRA experts [in the country]. These experts work on elections and voting issues around the country and around the world. Handley was chosen and officially hired while she was working on a project in Afghanistan. Had the Board chosen another candidate, it is possible that the candidate also would have been in the middle of another project in a different country or state.

In re 2011 Redistricting Cases, No. 4FA-11-02209 CI, at 102 (Alaska Super. Ct. Feb. 3, 2012), *available at* http://www.akredistricting.org/Litigation/Superior%20Court%20Memorandum%20Decision.pdf.

[2] Purcell v. Gonzalez, 549 U.S. 1, 6 (2006).

Justice Ginsburg explained, litigation will only reach a practical resolution after a discriminatory rule has produced a tainted election.

* * *

(b) Can you provide examples of situations in which elections have been held before an illegal voting scheme successfully could be challenged through § 2 litigation?

* * *

Yes.

Some of these examples concern litigation to challenge a recent discriminatory change to a voting practice. Others concern litigation to challenge a longstanding rule; though these battles might not have been resolved by a preclearance procedure, they nevertheless help to demonstrate the drawn-out nature of a potential § 2 case and its inability to supply swift relief to the most pernicious discrimination.

I hasten to add that the incidents that follow are but a few recent examples. They do not purport to either canvass or represent the universe of past § 2 litigation, either in the substance of the claims or the geographic scope; they also do not purport to represent the universe of litigation that will have to be brought under § 2 in the absence of a proactive enforcement regime like preclearance. Furthermore, they also do not purport to account for the discriminatory voting practices that in fact violate § 2 but have not been challenged because the victims lack the wherewithal to mount responsive litigation. Not all of these examples would have been prevented by a preclearance procedure as it had been configured in the past, even had the jurisdiction been required to preclear its laws.[3] They are indicative only of the cumbersome nature of § 2 litigation, and of the fact that in some circumstances, relief under § 2 may arrive only after intervening elections have been held under discriminatory rules.

One example is the *Black Political Task Force v. Galvin* case, involving a discriminatory redistricting plan designed to favor a particular incumbent at the expense of minority voters.[4] The complaint was filed on June 13, 2002. After a trial, the plan was enjoined in February 2004, and a remedial plan was implemented in April 2004. The 2002 elections, however, were held under discriminatory conditions, and the winning legislators remained in office under those conditions until new elections were held in 2004.

Another is the *Bone Shirt v. Hazelton* case,[5] involving another discriminatory redistricting plan. The complaint was filed on December 26, 2001. After a trial, the court ruled in September 2004 that the plaintiffs had proven that the 2001 districts were unlawful. It was not until August 2005, however, that a remedial plan was imposed.

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[3] I have provided no examples of § 2 litigation to combat retrogressive changes within previously covered jurisdictions, because there should have been no need to file such litigation in previously covered jurisdictions: § 5 should have prevented the retrogressive practice from becoming law in the first place.

[4] 300 F. Supp. 2d 291 (D. Mass 2004).

[5] 336 F. Supp. 2d 976 (D.S.D. 2004).

That is, despite the fact that the complaint was filed in 2001, and the fact that plaintiffs had proven by the fall of 2004 that the 2001 districts were unlawful, both the 2002 and 2004 elections were held under discriminatory conditions, and the winning legislators remained in office under those conditions until new elections were held in 2006.

In my written testimony, I also urged an attention to local elections when assessing the adequacy of affirmative litigation. One example is the case of *New Rochelle Voter Defense Fund v. City of New Rochelle*,[6] involving a discriminatory city council districting plan. The plan was adopted on April 29, 2003. A complaint was filed on May 27, 2003. Plaintiffs requested preliminary relief, but that relief was denied because the impending election was too close at hand. In December 2003, the court found for plaintiffs, and a remedial plan was imposed thereafter. The 2003 city council elections, however, were held under discriminatory conditions, and the winning legislators remained in office under those conditions until new elections were held; I believe that those new elections were first held in 2007.

Another example is the *United States v. Charleston County* case referenced in my written and oral testimony. It involved a challenge to the existing at-large election structure of a county council. The complaint was filed on January 17, 2001. Preliminary relief was sought on April 1, 2002; despite a finding that plaintiffs were ultimately *likely* to succeed, the preliminary injunction was denied, and local primaries proceeded in June. After a bench trial, another motion for preliminary relief was filed in September 2002 in advance of the general election, and again relief was denied, allowing the general election to take place. The court issued a decision in favor of plaintiffs in March 2003, with a remedial plan settled by August of that year; on appeal, the court's decision was affirmed in April 2004. Despite the fact that the complaint was filed in January 2001, the fact that both the Department of Justice and private plaintiffs were involved, and the fact that the plaintiffs convinced a court in April and May of 2002 that they were likely to *succeed* in demonstrating discrimination, the 2002 elections were held under discriminatory conditions, and the winning legislators remained in office under those conditions until new elections were held in June of 2004.

* * *

(c) Why is it significant that § 2 litigation can occur only after the fact, when the illegal voting scheme has already been put in place, whereas voting changes in jurisdictions covered by § 4 cannot go into effect until they have been approved?

* * *

Under the preclearance regime in effect up until the court's decision in *Shelby County*, discriminatory changes in election laws in any jurisdiction subject to preclearance were stopped before they could lawfully be implemented. As long as the Department of Justice or federal courts followed the law, no change for the worse in any covered area would have the opportunity to affect voters in the jurisdiction.

[6] 308 F. Supp. 2d 152 (S.D.N.Y. 2003).

By contrast, § 2 and other responsive litigation tools are not available to victimized voters or to the government until a new policy takes legal effect. Given the complexity and expense of a § 2 case, some discriminatory policies — particularly ones affecting local jurisdictions — will take effect without the realistic possibility that a challenge can be mustered in the near future at all. Other discriminatory policies will be challenged, but the available data may not allow plaintiffs to meet their burden of proof to show dilution under the totality of the circumstances. Still other discriminatory policies will be challenged successfully, but as indicated above, relief may be granted only after an intervening election or elections.

When elections take place under discriminatory policies, all voters in the jurisdiction are deprived of their right to a fair election on lawful terms. Moreover, candidates who win such elections receive the practical benefits of incumbency; these may continue to provide undue advantage in future elections, even once the challenged discriminatory features of the election structure have been remedied.

Furthermore, even if discriminatory electoral features are eventually remedied and minority voters are able to achieve an equal opportunity to participate in the process and elect their candidates of choice, the elections that have taken place under discriminatory conditions install winning incumbents who are empowered to make policy until new elections are held. Those policies promulgated by the winners of an election held under discriminatory terms may one day be repealed or superseded, but they are never fully remediable. This is, perhaps, the most fundamental limitation of cumbersome responsive litigation, and a reason why responsive litigation is, on its own, less equipped to address the most pernicious election-related harms than it is to address discrimination in any other realm.

* * *

Question 2. Does Congress have constitutional authority, pursuant to § 2 of the Fifteenth Amendment, to enact legislation that outlaws voting practices that are discriminatory in effect?

* * *

In *City of Rome v. United States*, the Supreme Court reiterated that "under the Fifteenth Amendment, Congress may prohibit voting practices that have only a discriminatory effect."[7]

Congress may constitutionally do so pursuant to its expressly delegated and enumerated responsibility to enforce the prohibitions and secure the guarantees of § 1 of the Fifteenth Amendment. Section 1 has been interpreted to prohibit intentional discrimination.[8] Of course, Congress may, in the exercise of its enforcement authority under § 2 of the Fifteenth Amendment, directly prohibit and provide a cause of action to enjoin

[7] City of Rome v. United States, 446 U.S. 156, 175 (1980).
[8] Reno v. Bossier Parish School Bd., 520 U.S. 471, 481 (1997).

intentional discrimination. But the Court has also clearly stated that Congress may also, in the exercise of its enforcement power, remedy past discrimination, including "prohibit[ing] state action that . . . perpetuates the effects of past discrimination."[9] And the Court has further stated that Congress may also, in the exercise of its enforcement power, act prophylactically "to prevent and deter" intentional discrimination by prohibiting conduct that is not itself unconstitutional.[10] Such Congressional action need not be confined to voting practices for which immediate proof of intentional discrimination is available.

Indeed, Congress has, in the past, determined that facts on the ground rendered it necessary and proper to outlaw voting practices that are discriminatory in effect, in order to ensure adequate remediation or prevention of the denial or abridgment of the right to vote on account of race, color, or previous condition of servitude. The Supreme Court has, without exception, upheld such legislation.[11]

In ensuring that the exercise of its power is "sufficiently related"[12] to a present need to remedy or deter constitutional violations, Congress has not, to my knowledge, ever used its enforcement power under the Fifteenth Amendment to prohibit practices based purely on a statistical disparity. The preclearance regime of the Voting Rights Act, for example, prohibited discriminatory effects where context demonstrated past misconduct (in need of remediation) and present risk (in need of deterrence). The "results test" of § 2 of the Voting Rights Act is similarly not based purely on electoral results alone; instead, it relies on danger signs demonstrating enhanced risk of perpetuating past or present misconduct. The totality of the circumstances analysis, driven by (but not limited to) the "Senate factors" of the 1982 Senate Judiciary Committee report,[13] perform this function.[14]

That is, when Congress has acted in the past to prohibit practices with a discriminatory effect, it has done so based on at least one of several different ties to the underlying substantive prohibition of the Fifteenth Amendment. Congress has outlawed voting

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[9] *Id.* at 176.

[10] Tennessee v. Lane, 541 U.S. 509, 518-19 & n.4 (2004) (noting the existence of this power under both Fourteenth and Fifteenth Amendments); *see also* Lopez v. Monterey County, 525 U.S. 266, 282 (1999) (addressing Fifteenth Amendment enforcement power, relying in part on Congressional ability to deter or remedy violations of the Fourteenth Amendment, even if in the process conduct is prohibited that is not itself unconstitutional).

[11] *See, e.g.*, South Carolina v. Katzenbach, 383 U.S. 301, 334 (1966); Oregon v. Mitchell, 400 U.S. 112 (1970) (literacy tests).

[12] The "sufficiently related" standard reflects language in *Shelby County*. Shelby County v. Holder, 133 S. Ct. 2612, 2622 (2013). The Supreme Court has not yet determined whether this standard is closer to the "congruence and proportionality" standard of the Fourteenth Amendment enforcement power, *see* City of Boerne v. Flores, 521 U.S. 507, 520 (1997), or the "rational basis" standard previously applied to the Fifteenth Amendment enforcement power, *see* South Carolina v. Katzenbach, 383 U.S. 301, 324 (1966), or indeed, whether there is a meaningful difference between the two. *See Shelby County*, 133 S. Ct. at 2622 n.1; Nw. Austin Mun. Utility Dist. No. 1 v. Holder, 557 U.S. 193, 204 (2009). Both standards reflect that there must be some relationship between Congressional enforcement power and the underlying constitutional harm, and that Congress has substantial latitude in choosing means to confront the constitutional harm but may not change the substantive definition of that which constitutes a constitutional violation. *See* Justin Levitt, Section 5 as Simulacrum, 123 Yale L.J. Online 151, 172-73 (2013).

[13] S. REP. NO. 97-417, at 28-29 (1982), *reprinted in* 1982 U.S.C.C.A.N. 177, 205-06.

[14] Indeed, courts have recognized that, for these reasons, "calling section 2's test a 'results test' is somewhat of a misnomer." United States v. Blaine County, Montana, 363 F.3d 897, 909 (9th Cir. 2004).

practices that are discriminatory in effect based on the recognized difficulty of proving intentional discrimination, which leads to underenforcement of constitutional wrongs; based on the need to stop the perpetuation of the impact of past discrimination; based on the assessment of a contextual risk of present or future discrimination, often with reference to historical patterns; based on the unique and uniquely pernicious incentives that some incumbent policymakers may see in electoral discrimination as a means to preserve power (and a recognition that there are not similarly powerful incentives to discriminate in other arenas); or based on some combination of the above.

QUESTIONS FOR THE RECORD FROM SENATOR CHARLES E. GRASSLEY "FROM SELMA TO SHELBY COUNTY: WORKING TOGETHER TO RESTORE THE PROECTIONS OF THE VOTING RIGHTS ACT"

SENATE JUDICIARY COMMITTEE, JULY 17, 2013

Questions for Professor Levitt:

1. Congress failed to heed the Supreme Court's 2009 warning that the 2006 preclearance formula might be unconstitutional on Tenth Amendment grounds. In Shelby County, the Court indicated that federalism concerns could render unconstitutional Section 5's prohibition of laws that could have favored minority groups but did not do so for a discriminatory purpose, and not only those redistricting plans that actually harmed minority groups. It also commented that racial considerations that might doom a redistricting plan because of Section 2 of the Act or because of the Fourteenth Amendment are potentially required because of Section 5.

   How should we take into account the Supreme Court's warnings of potential problems with Section 5 in any legislation that we might consider?

   * * *

   It is first important to note that the portions of *Shelby County* cited in the question, relating to section 5, are dicta. They are not necessary to the holding of the Court — which issued a ruling on only the Section 4 formula determining *which* jurisdictions were subject to preclearance — and thus they are not statements of law binding on either Congress or the courts, including the Supreme Court itself.[1] That said, dicta from the Supreme Court are often given greater weight than dicta by other courts, and it is certainly prudent to seriously consider concerns that the Court articulates.

   The first portion of the question seems to refer to the following statement in *Shelby County*: "In 2006, Congress amended § 5 to prohibit laws that could have favored such groups but did not do so because of a discriminatory purpose, *see* 42 U.S.C. § 1973c(c), even though we had stated that such broadening of § 5 coverage would 'exacerbate the substantial federalism costs that the preclearance procedure already exacts, perhaps to the extent of raising concerns about § 5's constitutionality.'"[2] This statement has two components. The first is the notion that the 2006 reauthorization "exacerbates" "federalism costs." To speak of federalism "costs," rather than simply noting a shift in the allocation of federal-state power, implies a baseline federalism balance; I presume, therefore, that the Court views a shift of historical authority from

[1] *See, e.g.*, Kirtsaeng v. John Wiley & Sons, Inc., 133 S. Ct. 1351, 1368 (2013). *See also* Judge Pierre N. Leval, *Judging Under the Constitution: Dicta About Dicta*, 81 N.Y.U. L. Rev. 1249, 1255 (2006) ("[C]ourts are more likely to exercise flawed, ill-considered judgment, more likely to overlook salutary cautions and contraindications, more likely to pronounce flawed rules, when uttering dicta than when deciding their cases. . . . Giving dictum the force of law increases the likelihood that the law we produce will be bad law.").

[2] Shelby County v. Holder, 133 S. Ct. 2612, 2626-27 (2013) (quoting Reno v. Bossier Parish Sch. Bd., 528 U.S. 320, 336 (2000)).

the state governments to the federal government (or, presumably, from the federal government to the state governments) as a "federalism cost." If this is true, then any expansion of the preclearance regime "exacerbates" federalism costs, simply because any limitation on the authority of state governments shifts the federal-state balance from the position ex ante. Given the Reconstruction Amendments realignment of the federalism balance, and particularly given the Fifteenth Amendment's express provision *to Congress* of the power to ensure no denial or abridgment of the franchise on account of race or ethnicity, the notion that a particular procedure might exacerbate federalism costs is different from the notion that a particular procedure might exacerbate federalism costs in a manner that causes constitutional concern.

With respect to that latter issue, the Court's statement is doubly hedged. It says that the broadening of the preclearance regime increases federalism costs, "perhaps" to the extent of "raising concerns" about constitutionality.

In my eyes, the double hedging is warranted in this context. Theoretically, it is possible that Congress could someday exceed its mandate under the Fourteenth and Fifteenth Amendments with respect to the federalism balance struck by those Amendments, by implementing a procedure unrelated to remedying or preventing constitutional violations.[3] And as Congress considers further legislation, it should certainly keep that limitation firmly in mind.

However, I do not believe that the identified 2006 amendment to § 5 comes close to that line. Congress did, indeed, expand preclearance protection to encompass election practices undertaken with "any discriminatory purpose" to deny or abridge the right to vote on account of race, color, or language minority status.[4] But I am at a loss to understand how Congressional prohibition of election-related laws undertaken with such a discriminatory purpose could violate the Constitution, since election-related laws undertaken with such a discriminatory purpose directly violate both the Fourteenth and Fifteenth Amendments of the Constitution.

Before 2006, as construed by the Court, § 5's intent prong prohibited only practices undertaken with the intent to retrogress.[5] This meant that changes promulgated with the intent to dilute minorities' effective exercise of the franchise would be barred by statute, just as they are barred by the constitution.[6] So, for example, district lines designed to "crack" a minority community, and thereby intentionally reduce their electoral power on account of their race or language minority status, would be

[3] I expand on this issue in further detail in my answers to Questions from Senator Franken, related to this same hearing.

[4] 42 U.S.C. § 1973c(c). The "any discriminatory purpose" standard includes laws undertaken with discriminatory purpose that also have a discriminatory impact, and laws undertaken with discriminatory purpose where the electoral impact is more difficult to discern. It might also include laws that undertaken with discriminatory purpose where it is proven that the law does not have a tangible discriminatory electoral impact, though I am not aware of any objection (from the Department of Justice or from a court) under this standard since 2006.

[5] Reno v. Bossier Parish Sch. Bd., 528 U.S. 320 (2000).

[6] Technically, such changes are subject to strict scrutiny — but I cannot conceive of a compelling government interest that would justify an intent to dilute minorities' effective exercise of the franchise.

prohibited. But Congress recognized that the intent to retrogress is not the only means to achieve harm. Now, after 2006, new district lines designed to limit the electoral power of a minority group to the status quo, fracturing a rapidly growing community so as to maintain their pre-existing power but no more, would also be prohibited, if motivated by the intent to discriminate against that group based on race or language minority status. Consider a city attempting to ensure that the preferred representatives of a burgeoning Latino community could not seize majority control of the city council, and acting accordingly, based on the city leadership's concerted intent to discriminate against the Latino electorate. Such discrimination would directly offend the Constitution. And it is therefore entirely sensible that Congress would prohibit such action as an exercise of its enforcement authority.

Indeed, a change to state or local law or practice, where the nature of the change would have been different but for a discriminatory purpose, would appear to violate the Constitution no matter the electoral effects of the change. Direct and tangible electoral harm to particular victims need not result: the constitutional violation is in the process of promulgating the change, and in the message sent by a system where an impermissible purpose drives the result. That principle underlies decisions like *Shaw v. Reno*.[7] And it clearly justifies a statute focusing on discriminatory motivation as a means to enforce the parallel constitutional command.

* * *

The second portion of your question seems to refer to the following quotation from *Shelby County*, drawn from Justice Kennedy's concurrence in *Georgia v. Ashcroft*: "[C]onsiderations of race that would doom a redistricting plan under the Fourteenth Amendment or § 2 [of the Voting Rights Act] seem to be what save it under § 5."[8] This is no more than a restatement of the Court's jurisprudence that decisions based predominantly on race or ethnicity must be justified by a compelling government interest. This principle, too, is important for Congress to keep in mind as it contemplates further legislation. But I also see no reason why this points to any current "problem" with Section 5, and I do not believe that it will unduly constrain Congressional action in the future.

The Court has determined that electoral decisions based predominantly on race or ethnicity must be narrowly tailored to a compelling government interest.[9] Such decisions, when not sufficiently justified, are unconstitutional. This is what Justice Kennedy meant by "considerations of race that would doom a redistricting plan under the Fourteenth Amendment or § 2" of the Voting Rights Act. In the past, states and

[7] 509 U.S. 630 (1993). A similar principle must be the theory supporting the standing of plaintiffs in cases like *Parents Involved in Community Schools v. Seattle Sch. Dist. No. 1*, 557 U.S. 701 (2007), and *Fisher v. Univ. of Texas at Austin*, 133 S. Ct. 2411 (2013).

[8] *Shelby County*, 133 S. Ct. at 2627 (quoting Georgia v. Ashcroft, 539 U.S. 461, 491 (2003) (Kennedy, J., concurring)).

[9] *See, e.g.*, Miller v. Johnson, 515 U.S. 900, 916, 920 (1995).l

local jurisdictions had drawn districts based predominantly on race without adequate justification, and the courts had struck such districts down.

The consideration of race and ethnicity required by Section 5, in contrast, does have sufficient justification: it is required in order to comply with a Congressional statute passed pursuant to Congress's enforcement authority under the Fourteenth and Fifteenth Amendments, to prevent or remedy constitutional violations. Local consideration of race to comply with a regime that Congress believes proper to prevent or deter constitutional violations is far different from local consideration of race in the context of a scheme to violate the Constitution, or even local consideration of race in the context of pursuing partisan or personal political advantage — it demonstrates proper regard for a enforcement regime established by the branch of government specifically empowered to enforce the Reconstruction Amendments of the Constitution. That may be why considerations of race or ethnicity in a redistricting plan have been "safe" under Section 5: because the considerations of race or ethnicity have been sufficiently justified. And, accordingly, in the 48-year history of Section 5, the Court has never struck down as unconstitutional a state or local consideration of race or ethnicity undertaken in proper compliance with Section 5.[10]

In considering potential legislation now, Congress can and should follow the model of adequate justification. If Congress does require the consideration of race or ethnicity (which may be the only effective means to ensure an absence of discrimination in jurisdictions with the electoral incentive to discriminate), it should do so pursuant to a regime properly enforcing the guarantees of the Fourteenth and Fifteenth Amendments. Congress may perform its due diligence in this regard by tying legislation to evidence supporting an ongoing need to prevent or remedy violations of the Fourteenth or Fifteenth Amendments. Such support would ensure that if a state or local jurisdiction considers race or ethnicity pursuant to Congress's command, the consideration of race or ethnicity will be sufficiently justified.

* * *

2. You mentioned some goals and aspirations in your testimony. What specific language would you propose to amend the Voting Rights Act in light of the Shelby County decision?

* * *

As implied above, I believe that it would be premature to suggest specific language before weighing the evidence gathered to support the present need to prevent or

[10] Occasionally, jurisdictions have misconstrued the requirements of Section 5, and promulgated policies that were ostensibly thought to be required by the statute, but were not actually required by the statute. Some such policies have been challenged, and struck by the Court as actions undertaken predominantly based on race without sufficient justification. For these policies, however, the problem lies with the unwarranted policy itself, and not with the requirements of Section 5.

remedy violations of the Fourteenth and Fifteenth Amendments. Any specific language should arise from the accumulated corpus of evidence — including future hearings and proffered submissions from the public — and not vice versa.

That said, there are several concerns with the existing enforcement regime that Congress should further investigate; proposed statutory language can then be drawn from the results of these investigations. The concerns are particularly salient in light of the unique nature of voting rights violations. In no other arena do elected officials have incentives to discriminate that are quite as direct: discrimination with respect to other civil rights may satisfy personal prejudice or appeal as an issue to prejudiced constituents, but discrimination with respect to the franchise directly determines the composition and strength of a bloc of the electorate that may appear to threaten existing incumbent power. And in no other arena is responsive litigation as likely to be inadequate to address resulting harm.[11]

First, the pre-*Shelby County* preclearance regime was useful in its ability to extract information about the motivations for and impact of a proposed electoral change. It was comparatively straightforward to review proposed changes, and flag troublesome instances for further follow-up, because covered jurisdictions were responsible for explaining their actions and identifying the consequences. Without an effective preclearance regime, changes may occur without adequate explanation, and without the public presentation of data regarding the impact. The victims of discriminatory practices will be forced to seek this information from their own governments. And while some of the information will be readily available through sources like the U.S. Census, other data or analysis (e.g., racial polarization studies, differential access to electoral prerequisites, differential burdens of particular changes in procedures, ostensible official motive) will be far more difficult to acquire, particularly for victims in local jurisdictions and without substantial means. Congress should investigate different options for ensuring that the information necessary to evaluate potential violations is readily available, and should draft language accordingly.

Second, the pre-*Shelby County* preclearance regime was useful in its ability to resolve disputes quickly and without substantial private expense. The vast majority of potential claims were resolved through the Department of Justice's administrative process, before intervening elections unduly deprived voters of their rights. Without an effective preclearance regime, victims will be dependent on responsive litigation. And while some of this litigation will be taken up by the Department of Justice, they are neither staffed to meet the likely need (and probably could not feasibly be staffed to meet the need), nor are they reliably able to gain relief before a proximate election. Congress should investigate different options to make responsive litigation in the voting arena better able to address the problems above, and should draft language accordingly. These investigations might include inquiry into limits on the implementation of changed practices shortly before an election, provisions to speed

[11] I expand on this issue in further detail in my written and oral testimony offered at the July 17 hearing, and in my answers to Questions from Senator Franken, related to this same hearing.

the pace and ease the costs of preliminary relief, or provisions to change the scale of the resources available to public enforcement bodies.

Third, there is an avenue for preclearance in effect after *Shelby County* — the Section 3 "bail-in" determination — but it relies on individual judicial determinations of intentional discrimination, after prolonged responsive litigation. As Congress recognized in 1982, even amidst ample circumstantial evidence of wrongdoing, proof of intentional discrimination is exceedingly difficult to obtain, and courts' reluctance to brand officials as racists likely leads to underenforcement of constitutional prohibitions. Congress should investigate different options to allow courts to exercise expanded equitable authority to order preclearance in individualized instances, and should draft language accordingly. These investigations might include inquiries into the value of allowing judicial bail-in even in the absence of ironclad proof of intentional discrimination, if circumstances otherwise indicate a pronounced risk of violations in the future.

Finally, Congress should investigate the value of a resurrected preclearance regime not dependent on individualized judicial determinations, and should draft language accordingly. This preclearance regime would not depend on responsive litigation, and would therefore be aimed at preventing or remedying constitutional violations in a manner more effective than the existing enforcement regime after *Shelby County*. Investigations might include the comparative ability or inability of citizens within different jurisdictions to pursue responsive litigation, the comparative lingering effects of past discrimination in different jurisdictions, or the comparative risks of future violations, as evidenced by underlying demographic, sociological, and political data (including a history of conduct that creates enhanced risk for future concern). Any statutory language amending the application of a section 5 preclearance regime should arise out of these investigations, to ensure that the Congressional exercise of its enforcement power is sufficiently related to the remedy or prevention of constitutional violations.

* * *

3. At the hearing, I asked you for contemporary examples, post-2006, of evidence of discrimination in changes in voting laws that could justify a constitutional coverage formula for preclearance. You testified, "I think there are lots of examples that I could give you. I'd be happy to supply further examples, but I don't know that I have the time at the moment, in counties and local jurisdictions all over the place that have practices that would not be cured by today's laws that we desperately need Congress to supply us tools to combat." Please supply those specific examples and their outcomes.

* * *

Below, I list some examples that I had in mind — evidence of discrimination after 2006 that would seem to support appropriate Congressional exercise of its

enforcement power. I hasten to add that these are only pieces of evidence. Not all of these pieces of evidence look to be of equal weight; some may be indications of intentional discrimination and others may not, some practices are more subtle and others more blatant. Additional context may further mitigate or exacerbate the degree to which they indicate problems in need of remedy or deterrence.

I also emphasize that these examples do not, in any way, purport to be a catalog of all election-related discrimination since 2006. They are data points based on the data readily at my disposal, drawn largely from litigation and from official records maintained by the Department of Justice. In the short amount of time available to answer these questions, I have not had the opportunity to canvass all such sources comprehensively. Furthermore, for the reasons explained above, the complexity and cost of responsive litigation mean that some acts of election-related discrimination are never challenged or resolved in the course of litigation, and will not appear on the public record even pursuant to a comprehensive search. Congress should certainly seek to determine the extent of data points well beyond the examples below, including data from individuals and entities with more extensive direct experience of election-related discrimination.

Nor do I believe that the evidence of discrimination supporting Congressional action is or should be limited to examples since the 2006 reauthorization. To be sure, there must be a current need supporting current action. But that current need is informed by past behavior as well as recent behavior. A long record of misconduct may indicate that a 2013 incident is the latest in a pattern signaling increased danger for the future; the absence of such a record may indicate that a 2013 incident is more of an anomaly. Congress need not, and should not, blind itself to context in the course of evaluating its path forward.

This context should also not be limited to specific discriminatory acts. Where there is extreme electoral polarization along racial or ethnic lines,[12] or where underlying sociocultural factors reveal abnormal racial or ethnic prejudice,[13] there is greater danger that officials will have the incentive to engage in future discrimination. And though parity in registration or turnout does not alone reveal the absence of discriminatory effects, where there are significant disparities in registration or turnout, those disparities may supply further evidence that the impact of past discrimination lingers still.

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[12] *See, e.g.*, Stephen Ansolabehere et al., Race, *Region, and Vote Choice in the 2008 Election: Implications for the Future of the Voting Rights Act*, 123 HARV. L. REV. 1385 (2010) (discussing the extent to which voting preferences are polarized by race and ethnicity); Stephen Ansolabehere et al., *Regional Differences in Racial Polarization in the 2012 Presidential Election: Implications for the Constitutionality of Section 5 of the Voting Rights Act*, 126 HARV. L. REV. F. 205 (2013) (same).

[13] Christopher S. Elmendorf & Douglas M. Spencer, The Geography of Racial Stereotyping: Evidence and Implications for VRA Preclearance After *Shelby County* (UC Davis Legal Studies Research Paper Series, No. 339, 2013), http://ssrn.com/abstract=2262954 (discussing the relative extent of stereotyping of racial and ethnic minorities).

I cannot hope to compile all of this context on my own, let alone in the time provided for responding to questions generated by the July 17 hearing. In that spirit, I offer below only some specific examples of evidence responsive to the question. The examples are sorted into nine broad categories; Congress should seek additional evidence in each of the nine categories below, and beyond. The pieces of evidence below are drawn from multiple sources, and encompass only the period from July 27, 2006 — the effective date of the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Velásquez, and Dr. Hector P. Garcia Voting Rights Act Reauthorization and Amendments Act of 2006 — to the present.

* * *

First, there was since 2006 at least one notable proceeding under Section 5 that proceeded entirely through the preclearance regime in the federal courts rather than through the administrative process of the Department of Justice. It arose out of Texas.

Just one month before the 2006 reauthorization of Section 5, the Supreme Court released its decision in *League of United Latin American Citizens v. Perry*.[14] The case concerned Texas's mid-decade congressional redistricting. As Justice Kennedy explained in his opinion for the Court:

> District 23's Latino voters were poised to elect their candidate of choice. They were becoming more politically active, with a marked and continuous rise in Spanish-surnamed voter registration. . . . In successive elections Latinos were voting against [incumbent Congressman] Bonilla in greater numbers, and in 2002 they almost ousted him. Webb County in particular, with a 94% Latino population, spurred the incumbent's near defeat with dramatically increased turnout in 2002. . . . In response to the growing participation that threatened Bonilla's incumbency, the State divided the cohesive Latino community in Webb County, moving about 100,000 Latinos to District 28, which was already a Latino opportunity district, and leaving the rest in a district where they now have little hope of electing their candidate of choice.
>
> The changes to District 23 undermined the progress of a racial group that has been subject to significant voting-related discrimination and that was becoming increasingly politically active and cohesive. . . . The District Court recognized "the long history of discrimination against Latinos and Blacks in Texas," . . . and other courts have elaborated on this history with respect to electoral processes:
>
> "Texas has a long, well-documented history of discrimination that has touched upon the rights of African–Americans and Hispanics to register, to vote, or to participate otherwise in the electoral process. Devices such as the poll tax, an all-white primary system, and restrictive voter

[14] 548 U.S. 399 (2006).

> registration time periods are an unfortunate part of this State's minority voting rights history. The history of official discrimination in the Texas election process—stretching back to Reconstruction—led to the inclusion of the State as a covered jurisdiction under Section 5 in the 1975 amendments to the Voting Rights Act. Since Texas became a covered jurisdiction, the Department of Justice has frequently interposed objections against the State and its subdivisions." . . .
>
> Against this background, the Latinos' diminishing electoral support for Bonilla indicates their belief he was "unresponsive to the particularized needs of the members of the minority group." . . . **In essence the State took away the Latinos' opportunity because Latinos were about to exercise it. This bears the mark of intentional discrimination that could give rise to an equal protection violation.** . . . The State not only made fruitless the Latinos' mobilization efforts but also acted against those Latinos who were becoming most politically active, dividing them with a district line through the middle of Laredo.
>
> Furthermore, the reason for taking Latinos out of District 23, according to the District Court, was to protect Congressman Bonilla from a constituency that was increasingly voting against him. . . . The policy becomes even more suspect when considered in light of evidence suggesting that the State intentionally drew District 23 to have a nominal Latino voting-age majority (without a citizen voting-age majority) for political reasons. . . . This use of race to create the facade of a Latino district also weighs in favor of appellants' claim. . . . The State chose to break apart a Latino opportunity district to protect the incumbent congressman from the growing dissatisfaction of the cohesive and politically active Latino community in the district. . . .[15]

On remand from the Supreme Court, the district court approved a new congressional map to remedy Texas's violation of the Voting Rights Act, and ordered a special election for November 7, 2006, with a runoff required if no candidate received a majority of the vote. District 23 went to a runoff, which Texas scheduled for December 12: the Feast of the Virgin of Guadalupe, a holy day of special significance to the Latino population of the district, and likely to interfere with Latino turnout. Moreover, early voting for the runoff election was unusually curtailed: the local election administrators attempted to start on the weekend, as permitted by statute, but were ordered by the Secretary of State and the local district attorney to delay until the weekend was over. Only after preclearance proceedings commenced were voting hours extended to allow weekend voting sufficient to allow working Latino citizens an equitable opportunity to vote in the election.

This backdrop is particularly relevant because Texas returned to redistricting just five years later. In 2011, the state drew new state legislative and congressional plans. The

[15] *Id.* at 438-441 (internal citations omitted) (emphasis added).

plans were submitted for preclearance to a three-judge court of the U.S. District Court for the District of Columbia, rather than to the Department of Justice.

That court refused to grant preclearance. After a trial, the court once again found not only retrogression, but intentional discrimination, including many of the same elements present in *LULAC* and, indeed, throughout Texas's history. The court found, again, the use of race to create the mere façade of districts affording Latinos an equitable ability to elect candidates of choice, in the same district challenged in *LULAC*: "The mapdrawers consciously replaced many of the district's active Hispanic voters with low-turnout Hispanic voters in an effort to strengthen the voting power of CD 23's Anglo citizens. In other words, they sought to reduce Hispanic voters' ability to elect without making it look like anything in CD 23 had changed. . . . We also received an abundance of evidence that Texas, in fact, followed this course by using various techniques to maintain the semblance of Hispanic voting power in the district while decreasing its effectiveness."[16] Nor was this the only such example. Referring to the state House plan, the court found: "The record shows that the mapdrawers purposely drew HD 117 to keep the number of active Hispanic voters low so that the district would only appear to maintain its Hispanic voting strength, and that they succeeded. . . . These incidents illustrate Texas's overall approach in HD 117: Texas tried to draw a district that would look Hispanic, but perform for Anglos. According to the experts, that was the result achieved."[17] The court also concluded that the "economic engines" and official district offices were removed from districts where minorities have the ability to elect candidates of choice, and that "[n]o such surgery was performed on the districts of Anglo incumbents."[18]

These and other findings led the court to conclude that the congressional and state Senate maps were enacted with discriminatory intent (it noted "record evidence that causes concern" for the state House maps, but did not ultimately reach the question).[19] Indeed, the court specifically noted that "[t]he parties have provided more evidence of discriminatory intent than we have space, or need, to address here."[20]

* * *

[16] Texas v. United States, 887 F. Supp. 2d 133 (D.D.C. 2012) (internal citations omitted), *vacated by* 133 S.Ct. 2885 (2013). Though the conclusions of the preclearance court have been vacated by the Supreme Court's decision in *Shelby County*, the underlying facts are still very much relevant to Congress's deliberations.
[17] *Id.* at 171-72.
[18] *See id.* at 160.
[19] *See id.* at 159 ("[W]e agree that the [congressional] plan was enacted with discriminatory purpose. . . ."); *id.* at 161 ("[W]e are also persuaded by the totality of the evidence that the plan was enacted with discriminatory intent."); *id.* at 162 ("[W]e conclude that the Texas legislature redrew the boundaries for SD 10 with discriminatory intent."); *id.* at 177-78 ("Because of the retrogressive effect of the State House Plan on minority voters, we do not reach whether the Plan was drawn with discriminatory purpose. But we note record evidence that causes concern. . . . This and other record evidence may support a finding of discriminatory purpose in enacting the State House Plan. Although we need not reach this issue, at minimum, the full record strongly suggests that the retrogressive effect we have found may not have been accidental.").
[20] *Id.* at 161 n.32.

Second, in the period from July 27, 2006, through *Shelby County*, the Department of Justice offered at least 27 objections under section 5 that were not later withdrawn, and for which preclearance or its equivalent was not later granted by a court.[21] These 27 objections meant that on at least 27 specific occasions after July 27, 2006, jurisdictions with a history of discriminatory practices failed to show that an election-related change was not put forth with discriminatory intent and that it would not have a retrogressive effect. These examples include:

- A 2006 change in the voting residence of the incumbent African-American chair of the Randolph County, Georgia, Board of Education (#2006-3856). The chair's property straddled district lines. He had long represented district 5, where more than 70% of the voters were African-Americans; despite the fact that the County had represented that he was an eligible voter of district 5 and that a superior court judge had later confirmed his legal residence, the all-white county board of registrars determined — without notice to the chair, and for tenuous reasons — that he was instead a resident of district 4, where more than 70% of the voters were white. One prior objection had been lodged against a change in Randolph County (and another objection had been lodged against a change by a jurisdiction within Randolph County).
- A change in the method of filling a vacancy for a County Commissioner seat, serving from 2006-2008, in Mobile County, Alabama (#2006-6792). The change would have moved from election to gubernatorial appointment, for districted seats that were themselves established by Voting Rights Act litigation. More than 63% of the registered voters in the district in question were African-American; the Governor answered to a much different constituency. Three prior objections had been lodged against changes in Mobile County (and three additional objections had been lodged against changes by jurisdictions within Mobile County).
- A 2007 change in the City Council elections of Fayetteville, North Carolina, from nine districted elections to six districts and three at-large seats, and a change in the configuration of the six remaining districts (#2007-2233). In a racially polarized community, African-Americans constituted about 44% of the electorate; they had shown a consistent ability to elect four candidates of choice in the prior configuration, but would likely have the ability to elect only three candidates of choice after the change. One prior objection had been lodged against a change in Fayetteville.
- A 2007 attempt to close the only Secretary of State branch office in a majority-minority township of Saginaw County, Michigan (#2007-3837). The branch office accounted for nearly 80% of voter registration in Buena Vista Township, and was the only location in Buena Vista to obtain photo identification cards in order to comply with Michigan's state law.

[21] The following information with respect to objections is drawn from the collection of objections maintained by the Lawyers' Committee for Civil Rights Under Law, at http://www.lawyerscommittee.org/projects/section_5.

- A 2007 change in the number of County Commissioners in Charles Mix County, South Dakota, from three to five (#2007-6012). Native Americans had the ability to elect their candidate of choice in one of the three prior districts, but would have a reasonable ability to elect a candidate of choice in only one of the five new districts, diluting their voice on the county commission. The change was made immediately after the first election of a Native American to the County Commission.[22]
- A 2007 change to the qualifications necessary to run for water district supervisor in Texas, requiring supervisors to own land in the district (#2007-5032). In addition to general disparities in land ownership, several existing Hispanic supervisors did not own land in their districts. 20 prior objections had been lodged against changes by the state of Texas (and 177 additional objections not included in this list had been lodged against changes by local Texas jurisdictions).
- A change over several election cycles to the procedures for supplying language assistance in Gonzales County, Texas, where a significant portion of the Hispanic voting-age citizens have limited English proficiency (#2008-3588). The county decreased its bilingual assistance at the polls despite a growth in the Hispanic electorate, and stopped providing many election notices in Spanish; election notices that were provided in Spanish had numerous errors and omissions. One prior objection had been lodged against a change in Gonzales County (and one additional objection had been lodged against a change by a jurisdiction within Gonzales County).
- A 2008 change to Louisiana procedures prohibiting changes in precinct boundaries (#2008-3512). Previous procedures would have frozen precinct boundaries in anticipation of the Census from January 1, 2009, through December 31, 2010; the new procedures would have kept boundaries frozen through December 31, 2013, without any opportunity to adjust precinct boundaries to provide flexibility for redistricting bodies using precincts as the building blocks for districts, including where required by federal law. 21 prior objections had been lodged against changes by the state of Louisiana (and 125 prior objections not included in this list had been lodged against changes by local Louisiana jurisdictions).
- A 2008 redistricting plan for the City of Calera, in Shelby County, Alabama, following on the heels of 177 annexations that had not been submitted for preclearance (#2008-1621). The proposed plan would have eliminated the sole district providing an opportunity for African-Americans to elect candidates of choice: the district was established as the result of a consent decree issued in litigation under the Voting Rights Act, and the plan to eliminate the district was proposed the year after the consent decree was dissolved. Despite the objection, the city unlawfully proceeded with elections under the new plan; the sole African-American member of the City Council

[22] This objection was made pursuant to a consent decree obligating Charles Mix County to submit changes for preclearance under section 3(c) of the Voting Rights Act.

was defeated. The DOJ had to bring a separate legal action to prevent the winners of that unlawful election from taking office. A new plan was developed and precleared, allowing voting to proceed at-large using a limited voting method, which would give minority voters the ability to elect a candidate of choice even in the at-large structure.

- A 2009 redistricting plan for County Commission in Lowndes County, Georgia, adding two floterial districts to the three-district commission (#2009-1965). African-Americans had the ability to elect their candidate of choice in one of the three prior districts, but would have a reasonable ability to elect a candidate of choice in only one of the five new districts, diluting their voice on the county commission.
- A 2009 change for county boards of education and municipal school districts in Mississippi, from plurality-win elections to majority-win elections (#2009-2022). 24 prior objections had been lodged against changes by the state of Mississippi (and 145 prior objections not included in this list had been lodged against changes by local Mississippi jurisdictions).
- A change over several election cycles to the procedures for supplying language assistance in Runnels County, Texas, where a significant portion of the Hispanic voting-age citizens have limited English proficiency (#2009-3672). The county decreased its bilingual assistance at the polls despite a growth in the Hispanic electorate and rejected offers of qualified help; there is no testing of the assistance that is provided, and at least one of the individuals asserted to be bilingual was not proficient in Spanish.
- A 2010 appointment of two trustees for the Fairfield County School District, South Carolina, adding to (and diluting the authority of) the existing seven districted trustee positions (#2010-0971). More than 55% of the voting-age population of the county is African-American, but the ad hoc appointment — for a single twelve-year term — would be made by the two existing members of the county's legislative delegation, neither of whom was the candidate of choice of the African-American community.
- A 2011 redistricting plan for East Feliciana Parish, Louisiana (#2011-2055). In a jurisdiction where African-Americans constituted about 44% of the voting-age population, and had the ability to elect candidates of choice in 4 of the 9 districts for the parish's governing body, the new plan responded to an increase in African-American registration in one of the four districts by redrawing the district in a way that added a substantially white area and deprived African-Americans of their practical ability to elect candidates of choice. Though the proffered explanation for the change was to increase population equality, the substantial population inequalities produced by the plan suggested pretext. Three prior objections had been lodged against changes by East Feliciana Parish.
- A 2011 redistricting plan for the Board of Supervisors of Amite County, Mississippi (#2011-1660). African-Americans constituted about 40% of the

voting-age population, and had the ability to elect candidates of choice in 2 of the 5 supervisor districts. Faced with an increasing likelihood that African-Americans would actually elect their candidate of choice in one of these districts, the new plan shifted electoral power to deprive the African-American community of their practical ability to elect a candidate of choice in the district in question. Three prior objections had been lodged against changes by Amite County (and one additional objection had been lodged against a change by a jurisdiction within Amite County).

- A 2011 South Carolina law prohibiting eligible voters from casting a valid ballot without particular forms of photo identification (#2011-2495). Minority voters were disproportionately likely to not have a satisfactory type of ID, and to have difficulty procuring the required identification. In follow-on litigation, the procedures were clarified to ensure that voters with a broad range of reasonable impediments to obtaining identification would not be precluded from casting valid ballots; the clarification, amounting to a change in the promulgated policy, was produced largely as a result of the preclearance process. 11 prior objections had been lodged against changes by the state of South Carolina (and 109 prior objections not included in this list had been lodged against changes by local South Carolina jurisdictions).
- A 2011 redistricting plan for the Commissions Court of Nueces County, Texas (#2011-3992). Hispanic citizens had an ability to elect candidates of choice in three districts and the Hispanic population of the county was growing; however, after a narrow victory by an Anglo candidate to provide a majority of the seats on the governing body, the ensuing redistricting was conducted in a manner excluding the Hispanic community, and diminishing the ability of Hispanic citizens to elect their candidate of choice in the narrowly contested district. A new plan was submitted in 2012, and precleared. One prior objection had been lodged against a change by Nueces County (and one additional objection had been lodged against a change by a jurisdiction within Nueces County).
- A 2011 redistricting plan for the Commissioners Court of Galveston County, Texas (#2011-4317). Minority voters had the ability to elect a candidate of choice in one district. Without informing the commissioner for that district in advance of the change, a new map was proposed with changes likely to eliminate the minority voters' ability to elect candidates of choice; an area that had been overwhelmingly Anglo was newly included in the relevant district, with Anglo voters expected to return in the wake of Hurricane Ike and exercise control of the district. A new plan was submitted in 2012, and precleared.
- A 2011 reduction in the number of justices of the peace and constables, and a redistricting plan for those districts, in Galveston County, Texas (#2011-4374). Minority voters had the ability to elect candidates of choice in three of eight justice of the peace districts, in part because of previous Voting Rights Act litigation; in the first redistricting following the release of jurisdiction

under that litigation, the proposed plan provided minority voters with an ability to elect candidates of choice in only one of five districts. Only the precincts where minority voters had the ability to elect candidates of choice were consolidated under the new plan. One prior objection (not including the objection above) had been lodged against a change by Galveston County (and four prior objections had been lodged against changes by jurisdictions within Galveston County).

- A 2011 Texas law implementing a requirement that eligible voters without a particular form of photo ID would not be permitted to cast a valid ballot (#2011-2775). Minority voters were disproportionately likely to not have a satisfactory type of ID, and to have difficulty procuring the required identification, particularly given the relative incidence of minority voters without ID in counties without any operational driver's license offices (resulting in, for some voters, the need to travel 176 miles round-trip — without a driver's license — in order to arrive at an operational office within business hours to get the required identification). In follow-on litigation, a three-judge trial court confirmed that Texas had failed to show that the new law would not have a discriminatory impact. As mentioned above, 20 prior objections not included in this list had been lodged against changes by the state of Texas (and 177 additional objections not included in this list had been lodged against changes by local Texas jurisdictions).
- A 2011 redistricting plan for the City of Natchez, Mississippi (#2011-5368). The new plan marked the third time in a row that the city had redrawn a particular ward, with growing African-American population, to limit the African-American electorate to just below a majority of the district. The city maintained that the change was necessary to support the African-American populations of other wards — including a ward drawn to pack the African-American voting-age population at 97.5%. One prior objection had been lodged against a change by Natchez.
- A 2011 redistricting plan for the Board of Commissioners and Board of Education in Greene County, Georgia (#2011-4687, 2011-4779). African-American voters had the ability to elect candidates of choice in two of the five seats (four of which were districted and one of which is elected at-large). The proposed plan unnecessarily eliminated the minority voters' ability to elect in both of those districts.
- A 2011 change in the school board election structure for the Pitt County School District, North Carolina, over the objections of the local board (#2011-2474). The change effectively added an at-large seat to the school district, diluting the voice of minority voters able to elect a candidate of choice to one of the six districted seats on the board. One prior objection had been lodged against a change by the Pitt County School District; an additional suit had also been brought under section 2 of the Voting Rights Act to challenge an earlier at-large district.

- A 2012 redistricting plan for the Board of Commissioners and Board of Education in Long County, Georgia (#2012-2733, 2012-2734). The existing five-district plan was established as the result of litigation under the Voting Rights Act. The proposed plan decreased the ability of the significant and growing African-American population to elect a candidate of choice. One prior objection had been lodged against a change by the Long County.
- A 2012 redistricting plan for the City of Clinton, Mississippi (#2012-3120). Despite the fact that the African-American population has doubled in the past two decades, with African-Americans now comprising 31% of the voting-age population, the city's new district plan continued to fragment minority communities so that none of the six districted aldermen's wards provide minority voters with an opportunity to elect candidates of choice. The city's claim that it would not be possible to draw a ward in which minority voters had the ability to elect candidates of choice appeared to be false, and easily disproved.
- A 2012 change to the date of the mayoral and commissioner elections in Augusta-Richmond, Georgia, from November to July of even-numbered years (#2012-3262). Voting is racially polarized, and African-American turnout is disproportionately less in July; the state executed the change, over the objections of the local board, just after African-Americans became a majority of the voting-age population. The proffered reasons for the change were not actually accomplished by the change, and appear pretextual. A similar attempt to schedule elections in Augusta and Richmond for July was previously rejected under section 5 of the Voting Rights Act. 19 prior objections not included in this list had been lodged against changes by the state of Georgia (and 152 additional objections not included in this list had been lodged against changes by local Georgia jurisdictions).
- A 2012 proposal to covert two of the seven districted trustee seats for the Beaumont Independent School District, Texas, to at-large elections (#2012-4278). The seven seats were originally implemented as a result of federal voting rights litigation; the proposal would have reverted to the system challenged in that litigation, and in a district of significant racial polarization, would have reduced African-American voters' ability to elect candidates of choice from four of the seven trustee seats to three. One previous objection had been lodged against the Beaumont Independent School District.
- A 2013 series of changes to the Beaumont Independent School District, Texas, "with the effect that in three districts that provide black voters with the ability to elect candidates of choice, the black-preferred incumbent trustees would be removed from their offices and replaced with the candidates they defeated in the last election (and who received virtually no support from black voters), without the incumbent trustees in those three districts having had

notice that an election would be held in their districts or the opportunity to qualify for re-election." (#2013-895).[23]

* * *

Third, in the period after July 27, 2006, there were several suits brought to enjoin election changes that should have been precleared but were not submitted for preclearance; court orders often led to interim relief preventing significant opportunity for dilution. These suits are difficult to identify, and what follows does not purport to be a comprehensive list. But examples include:

- A suit brought in 2008 to enjoin Waller County, Texas, from implementing new voter registration procedures that had not been submitted for preclearance.[24] There was a troublesome history of election-related difficulty in Waller County directed at Prairie View A&M, a "historically black university." The new changes included restrictions on individuals assisting others with voter registration, and new rejections of registration applications for reasons including the absence of a ZIP code and the failure to use the most recent version of a registration form. The vast majority of forms rejected were from Prairie View A&M students. A consent decree reinstated voters whose applications were rejected for immaterial reasons, and expanded opportunities for voter registration.
- A suit brought in 2012 to enjoin municipal elections in Evergreen, Alabama, under a new five-seat redistricting plan that had not been submitted for preclearance.[25] While more than 62% of the population is African-American, the proposed plan would "pack" African-American voters into two districts with African-American population greater than 86% in each. The city also excluded register voters who were not billed by the municipal utility system from the list of voters eligible for the municipal election (again, without preclearance). An interim remedial and non-dilutive plan was adopted for a special election in 2013.

* * *

Fourth, Department of Justice records indicate that, after July 27, 2006, at least 25 changes to election laws (in addition to those above) in covered jurisdictions were withdrawn after the DOJ requested more information. This list is drawn from investigation of Notices of Preclearance Activity on the DOJ's website;[26] there are

[23] Objection letter from Thomas E. Perez, Asst. Att'y Gen., U.S. Dep't of Justice, to Melody Thomas Chappell, Esq., April 8, 2013, at http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_040813.pdf.
[24] United States v. Waller County, Tex., No. 4:08-cv-03022 (S.D. Tex. 2008).
[25] Allen v. City of Evergreen, Ala., 2013 WL 1163886, No. 13-cv-00107 (S.D. Ala. 2013).
[26] *See* U.S. Dep't of Justice, Notices of Section 5 Activity Under Voting Rights Act of 1965, As Amended, http://www.justice.gov/crt/about/vot/notices/noticepg.php; U.S. Dep't of Justice, Archive of Notices of preclearance activity under the Voting Rights Act of 1965, as amended, http://www.justice.gov/crt/about/vot/notices/votarch.php.

known errors and omissions in these notices, and as a result, it is likely that the 25 noted changes underrepresent the true number of changes withdrawn after requests for more information. (In the same period, there were at least 220 additional withdrawn submissions; some of these may have been in response to requests for more information that were not noted on the DOJ's website.) Changes to election procedures may be withdrawn by submitting jurisdictions at any time for any reason. However, requests for more information may also flag changes more likely to draw a formal objection, and withdrawals in the face of such requests may represent discriminatory changes deterred by a preclearance regime.

I am not aware of further information concerning such submissions that is available in the absence of a public records request; I would not have been able to receive the results of such a request before offering this response to questions for the record of the July 17 hearing. I do suggest that the Committee further investigate these and other withdrawn submissions, to see whether they reveal likely discrimination. The changes withdrawn after requests for more information include:

- Bilingual procedures adopted for the Springlake-Earth Independent School District, Texas (#2007-2807).
- Bilingual procedures adopted for Alaska (#2008-1726).
- A redistricting plan for Foley, Alabama (#2008-2327).
- A redistricting plan and precinct realignment for the Edwards Aquifer Authority, Texas (#2008-2646).
- A redistricting plan for the Warren County School District, Georgia (#2008-2885).
- A redistricting plan and change to the voting method of the Edwards Aquifer Authority, Texas (#2008-4709).
- An annexation and redistricting for Gretna, Louisiana (#2008-5848).
- Several changes to the terms of office and recall procedures for Arizona (#2009-2458).
- A change to the requirements for submitting referenda in Louisiana (#2009-2690).
- A change to the number of officials, method of election, and redistricting plan for Telfair County, Georgia (#2009-3258).
- Several changes to the method of election, term of office, and nominating procedures for officials in Arizona (#2010-2512).
- A change to the ballot format of Monroe County, Florida (#2010-2867).
- A change to the location of a polling place in Lowndes County, Georgia (#2010-2884).
- A change to absentee voting procedures in Arizona (#2011-1619).

- A redistricting plan and precinct alignment for the Board of Supervisors of Cumberland County, Virginia (#2011-1770).
- A redistricting plan for the Cumberland County School District, Virginia (#2011-1874).
- A change to absentee voting procedures and the administration of elections in Arizona (#2011-2283).
- A redistricting plan and precinct alignment for Marlin, Texas (#2011-3394).
- A change in the form of government, including the number of officials and a redistricting plan for Decatur, Alabama (#2011-4375).
- A change in the method of election and a redistricting plan for Decatur City School District, Alabama (#2011-4690).
- A change in the method of election and the number of officials, and a redistricting plan for those officials, in the Sumter County School District, Georgia (#2011-3249, 2011-4261).
- A change to the location of a polling place in Gonzales County, Texas (#2011-5346).
- A change to voter registration procedures in Alabama (#2011-5037).
- A change to voter qualifications in Alabama (#2012-5304).

* * *

Fifth, there have been several lawsuits in the period since July 27, 2006, successfully challenging election procedures under section 2 of the Voting Rights Act. These show a denial or abridgment of the right to vote on account of race, color, or language minority status; in the totality of circumstances, members of a minority group were denied an equal opportunity to participate in the political process and elect representatives of their choice. Some of them reflect new changes in law or practice; others reflect existing structures newly challenged. I have not had the opportunity to compile a list of all such successful cases (not all of which result in published decisions), and what follows does not purport to be a comprehensive list. But examples include:

- A suit brought in December 2006 against the at-large structure used to elect the six Trustees of the Village of Port Chester, New York. Though Hispanics constituted about 28% of the citizen voting-age population, no Hispanic candidate had ever been elected as a Trustee, in part because voting is racially polarized. After recounting a history of some discrimination against Hispanics, a federal court found for plaintiffs, and approved the village's proposed cumulative voting system as a means to remedy the violation. In the next election, a Hispanic candidate was elected as a Trustee for the first time.

- A judgment in 2007 against the at-large structure of two of the nine seats for the city council of Tupelo, Mississippi; the other seven seats were districted.[27] Voting in Tupelo is racially polarized. A federal court found for plaintiffs, which I believe led to the elimination of the two at-large seats.
- A judgment in 2007 against the structure of the Euclid, Ohio, City Council, which elected four members from districted seats and five at-large.[28] Evidence showed both a history of discrimination and substantial "racial divisiveness," including responses to general surveys about issues of concern to voters that featured "complaints, of varying invective, about the growing African–American population . . . ."; a council member had introduced legislation by noting that it was "an opportunity to do something that could attract individuals, young yuppies, white people that the City wants to bring in here."[29] A 2006 mid-decade redistricting reduced the African-American percentage of the voting-age population in the ward with the highest concentration of African-American voters; despite the fact that 30% of the city's population was African-American, no African-American candidate had ever been elected to the city council, in part because voting is racially polarized. A federal court found for plaintiffs, leading to the imposition of eight districted seats with one president elected at-large. In the next election, an African-American candidate was elected to the city council for the first time in the city's history.
- A suit brought in 2007 against the at-large structure of the eight seats of the Irving, Texas, city council.[30] Despite a sizable Hispanic population, only one Hispanic candidate had ever been elected to a city council seat, in part because voting is racially polarized. (The single successful candidate, James Dickens, "did not have a Spanish surname and did not publicly acknowledge his Hispanic background until after the election.")[31] A federal court found for plaintiffs, leading to the imposition of six districted and two at-large seats.
- A suit brought in 2008 against the at-large structure of the Euclid City School Board, Ohio.[32] Though African-Americans constituted about 40% of the voting-age population, no African-American had ever been elected to the school board, in part because voting is racially polarized. The city stipulated to liability, and a federal court implemented a limited-voting system designed to address the dilution of the African-American vote.

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[27] Jamison v. Tupelo, Miss., 471 F. Supp. 2d 706 (N.D. Miss. 2007).
[28] United States v. City of Euclid, 580 F. Supp. 2d 584 (N.D. Ohio 2008).
[29] *Id.* at 600, 601 n.22.
[30] Benavidez v. City of Irving, Tex., 638 F. Supp. 2d 709 (N.D. Tex. 2009). A different federal court determined that a similar suit against the Irving Independent School District did not show sufficient evidence of threshold minority population size to proceed with a Section 2 claim. *See* Benavidez v. Irving Ind. Sch. Dist., 690 F. Supp. 2d 451 (N.D. Tex. 2010).
[31] *Benavidez*, 638 F. Supp. 2d at 727.
[32] United States v. Euclid City Sch. Bd., 632 F. Supp. 2d 740 (N.D. Ohio 2009).

- A suit brought in 2008 against the at-large structure of the nine seats of the Georgetown County School District, South Carolina.[33] African-Americans constituted about 34% of the voting-age population. The litigation prompted a consent decree, yielding seven districted seats (three of which offered African-Americans an opportunity to elect candidates of choice) and two at-large seats.
- A suit brought in 2008 against the district plan for the school board of Osceola County, Florida.[34] The Department of Justice had prevailed in a Section 2 lawsuit against Osceola County's Board of County Commissioners two years earlier. The school board then moved from an at-large to a single-district structure, but despite the fact that Hispanic citizens constituted 34% of the registered voters in Osceola County, none of the school board's five districts offered an equitable opportunity for Hispanic voters to elect candidates of choice. No Hispanic candidate had ever been elected to the school board, in part because voting is racially polarized. Pursuant to a consent decree, the school board redrew its district plan to create a district in which Hispanic citizens had the opportunity to elect a candidate of choice.
- A suit brought in 2009 against the at-large structure for electing the mayor and four commissioners for the Town of Lake Park, Florida.[35] Though African-Americans constituted about 38% of the citizen voting-age population, no African-American candidate had ever been elected to a commission seat, in part because voting is racially polarized. Pursuant to a consent decree, the town adopted a limited voting system intended to give the African-American community an equal opportunity to elect candidates of choice.
- A suit brought in 2010 against the at-large structure of the Farmers Branch, Texas, city council.[36] Though Hispanics constituted about 24% of the citizen voting-age population, no Hispanic candidate had ever been elected as mayor or to one of the five city council seats under the at-large system, in part because voting is racially polarized. A federal court found for plaintiffs, leading to the imposition of districts — and to the election of the first Hispanic city council member.
- A suit brought in 2011 challenging new redistricting plans for the Wisconsin state legislature.[37] A federal court found that two state Assembly districts drawn in the Milwaukee area "cracked" the Latino population, diluting their ability to elect candidates of choice.
- A suit brought in 2011 against the at-large structure of the Fayette County Board of Commissioners and the Fayette County Board of Education, in

[33] Consent Decree, United States v. Georgetown County School District, No. 2:08-cv-00889 (D.S.C. Mar. 21, 2008).
[34] Consent Judgment and Decree, United States v. Sch. Bd. of Osceola County, No. 6:08-cv-00582 (M.D. Fla. Apr. 23, 2008).
[35] Consent Judgment and Decree, United States v. Town of Lake Park, No. 9:09-cv-80507 (S.D. Fla. Oct. 26, 2009).
[36] Fabela v. City of Farmers Branch, Tex., 2012 WL 3135545, No. 3:10-cv-01425 (N.D. Tex. 2012).
[37] Baldus v. Members of the Wis. Gov't Accountability Bd., 849 F. Supp. 2d 840, 854-58 (E.D. Wis. 2012).

Georgia.[38] Though African-Americans constitute about 20% of the citizen voting-age population, no African-American candidate had ever been elected to either board, in part because voting is racially polarized. The court found that the Board of Commissioners "is not politically responsive to African-American voters," whose votes were diluted under the totality of the circumstances.[39] Remedial proceedings are pending.

- A suit brought in 2012 against inequitable early voting availability in Shannon County, South Dakota, which is entirely within the boundaries of the Pine Ridge Indian Reservation.[40] Early voting is statutorily required for 46 days before election day; in most counties, voters are able to use early voting at their county courthouse, but officials planned to make early voting available within Shannon County (which has no courthouse) for only six days. On all other days, Shannon County citizens would have to travel to Fall River County, which is up to 2 hours and 45 minutes away, in order to vote. After the suit was brought, the state committed to a full period of voting in Shannon County.

* * *

Sixth, there have been several lawsuits or other proceedings in the period since July 27, 2006, successfully resolving challenges to election procedures under language minority provisions of the Voting Rights Act.[41] These sections ensure, inter alia, adequate access to intelligible election-related materials for significant populations of citizens who speak other languages but have limited English proficiency; often, and particular for older Americans, the limited English proficiency can be traced to a history of discriminatory educational opportunities. The sections also ensure that individuals in need of language assistance can bring trusted individuals with them to the polls to translate ballot materials. As above, some of the actions below reflect challenges to new changes in laws or practices; others reflect existing structures newly challenged. I have not been able to compile a list of all such successful cases (not all of which result in published decisions), and what follows does not purport to be a comprehensive list. But examples include:

- A judgment in the fall of 2006 against Cochise County, Arizona, based on the failure to provide sufficient translation and language assistance to Spanish-speaking citizens.[42] The county entered into a consent decree requiring, inter alia, the provision of translated materials and expanded access to language assistance.

[38] Order, Ga. State Conference of the NAACP v. Fayette County Bd. of Comm'rs, __ F. Supp. 2d __, 2013 WL 2948147 (N.D. Ga. May 21, 2013).
[39] *Id.* at *25.
[40] Order, Brooks v. Gant, 2012 WL 4748071, No. 5:12-cv-05003 (D.S.D. Oct. 4, 2012).
[41] When the Department of Justice brings such actions, a consent decree or other settlement often follows in short order. I do not know whether private plaintiffs' experience is similar.
[42] Consent Decree, Order and Judgment, United States v. Cochise County, No. 06-cv-00304 (D. Ariz. Oct. 12, 2006).

- A suit brought in the fall of 2006 against Philadelphia, for failure to provide sufficient language assistance to Spanish-speaking citizens.[43] Philadelphia disputed the allegations, but after the suit was filed, Philadelphia established a plan to increase Spanish-language support for the proximate election; a settlement agreement later provided further extensive enhancements to the language assistance program.
- A suit brought in the fall of 2006 against the City of Springfield, Massachusetts, for failure to provide sufficient language assistance to Spanish-speaking citizens.[44] The city disputed the allegations, but the parties entered an agreement requiring, inter alia, expanded access to translated materials and translators.
- A judgment in 2007 against Cibola County, New Mexico, stemming from a suit filed in 1993 concerning election practices adversely affecting Native Americans who primarily speak Keresan and Navajo.[45] Despite Department of Justice observation, the county conceded that they remained "in violation of the VRA and the Court's decree," 14 years later. The County additionally failed to process complete and timely voter registrations and failed to provide adequate provisional ballot envelopes, disenfranchising dozens of individuals, most of whom cast ballots on American Indian reservations.
- A suit brought in 2007 against Galveston County, Texas, for failure to provide sufficient language assistance to Spanish-speaking citizens.[46] The county entered into a consent decree requiring, inter alia, expanded access to translated materials and translators.
- A suit brought in 2007 against the City of Earth, Texas, for failure to translate appropriate materials into Spanish.[47] The district entered into a consent decree requiring, inter alia, expanded access to translated materials and translators.
- A suit brought in 2007 against the Littlefield Independent School District, in Texas, for failure to translate appropriate materials into Spanish.[48] The district entered into a consent decree requiring, inter alia, expanded access to translated materials and translators.

[43] Settlement Agreement, United States v. Philadelphia, No. 2:06-cv-04592 (E.D. Pa. Apr. 26, 2007).
[44] Revised Agreed Settlement Order, United States v. Springfield, No. 3:06-cv-30123 (D. Mass. Sept. 15, 2006).
[45] Second Order Extending and Modifying Stipulation and Order Originally Entered April 21, 1994, United States v. Cibola County, No. 1:93-cv-01134 (D.N.M. Mar. 19, 2007).
[46] Consent Decree, Judgment, and Order, United States v. Galveston County, No. 3:07-cv-00377 (S.D. Tex. July 20, 2007).
[47] Consent Decree, Order, and Judgment, United States v. City of Earth, No. 5:07-cv-00144 (N.D. Tex. Sept. 4, 2007).
[48] Consent Decree, Order, and Judgment, United States v. Littlefield Ind. Sch. Dist., No. 5:07-cv-00145 (N.D. Tex. Sept. 4, 2007).

- A suit brought in 2007 against the Post Independent School District, in Texas, for failure to translate appropriate materials into Spanish.[49] The district entered into a consent decree requiring, inter alia, expanded access to translated materials and translators.
- A suit brought in 2007 against the Seagraves Independent School District, in Texas, for failure to translate appropriate materials into Spanish.[50] The district entered into a consent decree requiring, inter alia, expanded access to translated materials and translators.
- A suit brought in 2007 against the Smyer Independent School District, in Texas, for failure to translate appropriate materials into Spanish.[51] The district entered into a consent decree requiring, inter alia, expanded access to translated materials and translators.
- A suit brought in 2007 against Kane County, Illinois, for failure to provide sufficient language assistance to Spanish-speaking citizens.[52] The county disputed the allegations, but entered into an agreement requiring, inter alia, the provision of translated materials and expanded access to language assistance.
- A suit brought in 2007 against Walnut, California, for failure to provide sufficient language assistance to citizens speaking Chinese and Korean, but with limited English proficiency.[53] The city disputed the allegations, but entered into a consent decree requiring, inter alia, the provision of translated materials and expanded access to language assistance.
- A suit brought in 2007 on behalf of Alaska Native citizens whose first and primary language is Yup'ik.[54] Alaska failed to provide effective language assistance, including failing to provide qualified bilingual pollworkers and effective translations of ballots or personnel capable of translating ballots into Yup'ik; pollworkers also prohibited Yup'ik speakers from seeking assistance from private translators under section 208. A federal court found that the evidence for this latter point "appears to go well beyond" isolated instances of election-related misconduct.[55] The litigation resulted in preliminary relief, and a final settlement.
- A suit brought in 2008 against the city of Penns Grove and Salem County, New Jersey, for failure to provide sufficient language assistance to Spanish-

[49] Consent Decree, Order, and Judgment, United States v. Post Ind. Sch. Dist., No. 5:07-cv-00146 (N.D. Tex. Sept. 4, 2007).
[50] Consent Decree, Order, and Judgment, United States v. Seagraves Ind. Sch. Dist., No. 5:07-cv-00147 (N.D. Tex. Sept. 4, 2007).
[51] Consent Decree, Order, and Judgment, United States v. Smyer Ind. Sch. Dist., No. 5:07-cv-00148 (N.D. Tex. Sept. 4, 2007).
[52] Memorandum of Agreement, United States v. Kane County, No. 1:07-cv-05451 (N.D. Ill. Sept. 26, 2007).
[53] Agreement and Order, United States v. City of Walnut, No. 2:07-cv-02437 (C.D. Cal. Nov. 9, 2007).
[54] Order, Nick v. Bethel, No. 3:07-cv-00098 (D. Alaska Feb. 16, 2010).
[55] Order re: Plaintiffs' Motion for a Preliminary Injunction Against the State Defendants 9, Nick v. Bethel, No. 3:07-cv-00098 (D. Alaska July 30, 2008).

speaking citizens.[56] The city and county disputed the allegations, but entered into a consent decree requiring, inter alia, the provision of translated materials and expanded access to language assistance.

- A memorandum of understanding undertaken in 2008, between the Department of Justice and Massachusetts, with respect to Spanish-speaking voters of Puerto Rican descent in the City of Worcester. For election-related materials that the state provides to Worcester, the state agreed to provide materials in both English and Spanish.[57]
- A suit brought in 2009 against Fort Bend County, Texas, for failure to provide sufficient language assistance to Spanish-speaking citizens.[58] The county did not admit to the allegations, but entered into a consent decree requiring, inter alia, the provision of translated materials and expanded access to language assistance.
- A suit brought in 2010 against Riverside County, California, for failure to provide sufficient language assistance to Spanish-speaking citizens.[59] The county disputed the allegations, but entered into an agreement requiring, inter alia, the provision of translated materials and expanded access to language assistance.
- A memorandum of agreement undertaken in 2010, between the Department of Justice and Shannon County, South Dakota, with respect to American Indian citizens who primarily speak Lakota.[60] The Department of Justice claimed violations of law that the county disputed. The parties entered into an agreement expanding access to oral translations of election-related materials, and to other language assistance.
- A suit brought in 2010 against Cuyahoga County, Ohio, for failure to provide sufficient language assistance to Spanish-speaking citizens of Puerto Rican descent.[61] The county disputed the allegations, but entered into a consent decree requiring, inter alia, the provision of translated materials and expanded access to language assistance.
- A suit brought in 2011 against Lorain County, Ohio, for failure to provide sufficient language assistance to Spanish-speaking citizens of Puerto Rican descent.[62] The county had provided no bilingual election-related materials until a Department of Justice investigation in 2010. The county entered into

[56] Settlement Agreement, United States v. Salem County, No. 1:08-cv-03276 (D.N.J. July 29, 2008).
[57] Memorandum of Understanding Between United States and Commonwealth of Massachusetts, Sept. 22, 2008, at http://www.justice.gov/crt/about/vot/sec_203/documents/worcester_mou.pdf.
[58] Consent Decree, Judgment, and Order, United States v. Ft. Bend County, No. 4:09-cv-01058 (S.D. Tex. Apr. 13, 2009).
[59] Memorandum of Agreement, United States v. Riverside County, No. 2:10-cv-01059 (C.D. Cal. Jan. 21, 2010).
[60] Memorandum of Agreement Between the United States of America and Shannon County, South Dakota, Apr. 23, 2010, at http://www.justice.gov/crt/about/vot/sec_203/documents/shannon_moa.pdf.
[61] Agreement, Judgment, and Order, United States v. Cuyahoga County Bd. of Elections, No. 1:10-cv-01949 (N.D. Ohio Sept. 3, 2010).
[62] Memorandum of Agreement Between the United States of America and Lorain County, Ohio, United States v. Lorain County, No. 1:11-cv-02122 (N.D. Ohio Oct. 7, 2011).

an agreement requiring, inter alia, the provision of translated materials and expanded access to language assistance.

- A suit brought in 2011 against Alameda County, California, for failure to provide sufficient language assistance to citizens speaking Spanish and Chinese, but with limited English proficiency.[63] In 1995, the Department of Justice had also filed a suit against the county with respect to Chinese-speaking citizens, resolved by consent decree. In 2011, the county entered into a further consent decree requiring, inter alia, the provision of translated materials and expanded access to language assistance.
- A suit brought in 2012 against Colfax County, Nebraska, for failure to provide sufficient language assistance to Spanish-speaking citizens.[64] The county disputed the allegations, but entered into a consent decree requiring, inter alia, the provision of translated materials and expanded access to language assistance.
- A suit brought in 2012 against Orange County, New York, for failure to provide sufficient language assistance to Spanish-speaking citizens of Puerto Rican descent.[65] The county entered into a consent decree requiring, inter alia, the provision of translated materials and expanded access to language assistance.

* * *

Seventh, there have been several lawsuits in the period since July 27, 2006, successfully challenging election procedures under the Constitution or other statutes, with facts indicating discriminatory intent or a disproportionate effect on minorities. As above, some of these challenges reflect new changes in laws or practices; others reflect existing structures newly challenged. I have not been able to compile a list of all such successful cases (not all of which result in published decisions), and what follows does not purport to be a comprehensive list. But, for example:

- In 2006, a federal court enjoined a provision of Ohio law requiring naturalized citizens — but not any other citizens — to show documentation of their citizenship when challenged.[66] The court explained: "This Court has personally presided over numerous naturalization ceremonies and has witnessed firsthand the joy of these new Americans and their intense desire to participate in this nation's democratic process. There is no such thing as a second-class citizen or a second-class American. Frankly, without naturalized citizens, there would be no America. It is shameful to imagine that this statute

[63] Consent Decree, Judgment, and Order, United States v. Alameda County, No. 3:11-cv-03262 (N.D. Cal. Oct. 19, 2011).
[64] Consent Order, United States v. Colfax County, No. 8:12-cv-00084 (D. Neb. Mar. 2, 2012).
[65] Consent Decree, United States v. Orange County Bd. of Elections, No. 7:12-cv-03071 (S.D.N.Y. Apr. 19, 2012).
[66] Boustani v. Blackwell, 460 F. Supp. 2d 822 (N.D. Ohio 2006).

is an example of how the State of Ohio says 'thank you' to those who helped build this country."[67]

- In 2007, a federal court placed the Noxubee County, Mississippi, Democratic primary elections under the supervision of a manager appointed by the court for a four-year term, removing Ike Brown and the county party's executive committee from the process of running the election.[68] The court found that Brown and his confederates intentionally discriminated against white voters, who were the minority racial group in the county; it concluded that Brown "engaged in improper, and in some instances fraudulent conduct, and committed blatant violations of state election laws [ ] for the purpose of diluting white voting strength,"[69] including through absentee ballot fraud and unlawful coercion and fraudulent voting by poll workers. Indeed, the improper behavior continued even after a finding of liability by the court.
- In 2011, Florida increased restrictions on individuals and organizations assisting others with voter registration. This was the latest in a series: Florida increased restrictions in 2005 in a law that was struck down, increased restrictions in 2007 in a law that was upheld after challenge, and again increased restrictions in 2011. A federal court struck some of these latest restrictions, finding that the state's procedures "impose a harsh and impractical 48–hour deadline for an organization to deliver applications to a voter-registration office and effectively prohibit an organization from mailing applications in. And the statute and rule impose burdensome record-keeping and reporting requirements that serve little if any purpose . . . ."[70] The court found that the state's requirements "could have no purpose other than to discourage voluntary participation in legitimate, indeed constitutionally protected, activities."[71] Minority voters are disproportionately likely to register (and re-register after moving) through the voter registration drives targeted by Florida's law.[72]
- Since July 27, 2006, several actions have been brought against at-large election structures in local California jurisdictions, under the California Voting Rights Act. This state cause of action is related to its federal counterpart, but specifically targets dilutive at-large structures: it provides that "[a]n at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters" in a racial or language minority

[67] *Id.* at 827.
[68] United States v. Brown, 494 F. Supp. 2d 440 (S.D. Miss. 2007), *aff'd* 561 F.3d 420 (5th Cir. 2009).
[69] *Id.* at 485.
[70] League of Women Voters v. Browning, 863 F. Supp. 2d 1155, 1158 (N.D. Fla. 2012).
[71] *Id.* at 1164.
[72] Justin Levitt, *Election Deform: The Pursuit of Unwarranted Electoral Regulation*, 11 ELECTION L.J. 97, 100 (2012).

group.[73] And like its federal counterpart, it focuses on polarized voting. I believe that most cases that have been brought under the CVRA since 2006 have been resolved by settlement or consent decree; there is no single official repository of such cases of which I am aware. News reports or collected court filings indicate that at-large structures have been modified since 2006 pursuant to the CVRA in the City of Modesto, Madera Unified School District, Cerritos Community College District, Tulare Local Healthcare District, Ceres Unified School District, City of Compton, and San Mateo County Board of Supervisors; a court recently issued a tentative finding of liability in the City of Palmdale, and it is expected that the suit will progress to a remedy phase.[74] Several other cases are pending.

* * *

Eighth, nonpartisan nonprofit organizations have monitored general (and often primary) elections in every federal cycle after July 27, 2006. Some of these organizations have collected reports from the field in states where the organizations are most active, of incidents on or around election day for which a lawsuit would not have brought effective relief. Many of these incidents involve pollworkers or other officials, and even when they do not constitute changes in official policy, they may well inform deliberations about the jurisdictions or practices most at risk for discriminatory activity.[75] In the time available to answer these questions for the record, I have not been able to fully mine either the summary compendia of such incidents or the underlying repositories of incident reports[76] for specific acts indicating discrimination, but I believe these reports will be a valuable source of information for Congress.[77] Such incidents include, in just a smattering from 2012:

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[73] CAL. ELEC. CODE § 14027. Unlike its federal counterpart, the California Voting Rights Act does not demand that minorities in the jurisdiction live in a compact community in order to seek relief.

[74] Statement of Decision, Jauregui v. City of Palmdale, No. BC 483039 (Cal. Super. Ct., Los Angeles County July 23, 2013).

[75] Academic compendia have also surveyed the electorate, and these surveys similarly reveal evidence of troublesome disparities in experience by race or ethnicity. *See, e.g.*, R. Michael Alvarez et al., 2008 Survey of the Performance of American Elections: Final Report 41-46 (2008), *available at* http://www.pewcenteronthestates.org/uploadedFiles/Final%20report20090218.pdf.

[76] *See, e.g.*, Our Vote Live, at http://electionawareness.appspot.com/reports.

[77] *See, e.g.*, Asian American Legal Defense and Education Fund, Asian American Access to Democracy in the 2006 Elections (2008), http://www.aaldef.org/docs/Election_2006_Report_AALDEF.pdf; Election Protection, 2008 Primary Report: Looking Ahead to November (2008), http://www.866ourvote.org/newsroom/publications/document/0019.pdf; Asian American Legal Defense and Education Fund, Asian American Access to Democracy in the 2008 Elections (2009), http://www.aaldef.org/docs/AALDEF-AA-Access-to-Democracy-2008.pdf; Election Protection, Election Protection 2008: Helping Voters Today, Modernizing the System for Tomorrow (2009), http://www.866ourvote.org/newsroom/publications/body/0077.pdf; *The 2008 Election: A Look Back on What Went Right and Wrong: Hearing Before the Comm. on H. Admin., Subcomm. on Elections*, 111th Cong. (Mar. 26, 2009) (statement of Arturo Vargas, Exec. Dir., Nat'l Assn. of Latino Elected and Appointed Officials Educ. Fund); Asian American Legal Defense and Education Fund, Language Access for Asian Americans Under the Voting Rights Act in the 2012 Elections (2012), http://aaldef.org/AALDEF%20Election%202012%20Interim%20Report.pdf; Election Protection, Our Broken Voting System and How to Repair It: The 2012 Election Protection Report (2013)

- In 2012, a pollworker in New Orleans incorrectly informing citizens with limited English proficiency whose primary language is Vietnamese that they were not entitled to bring assistants with them to help translate.[78]
- In 2012, a pollworker in Kansas City "asked a voter's interpreter to leave the premises and threatened the interpreter with arrest."[79]
- In 2012, in Panorama City, California, the headset intended to provide Spanish translation was not working, causing Spanish-speaking voters to leave in frustration.[80]
- In 2012, in El Cajon, California, a Hispanic voter gave his name to the pollworker, and the pollworker reportedly responded, "You are a wetback."[81]
- In 2012, in San Bernadino, California, the polling place supervisor "ordered two Latino Election Protection volunteers to be removed from the premises, stating that he did not want anyone who did not speak his language there. The supervisor then stated that if the volunteers wanted to do anything about it 'he had a shotgun.'"[82]

* * *

Ninth, there are some disturbing reports of racial prejudice by legislative and executive officials more generally, not directly connected to voting regulations. Even though these go beyond particular changes to specific electoral practices, they do indicate very troubling attitudes of public officials toward their own constituents, and provide additional incremental grounds for greater review of local action. For example, consider a recent Alabama case, involving a federal prosecution on various counts amounting to abuse of public office. During the case, the federal government used several informants, including several Alabama state legislators. The court found these legislators were not motivated by cleaning up corruption, but rather by "reducing African-American voter turnout" and "purposeful, racist intent."[83] One legislator — in 2010 — referred to African-Americans as "Aborigines"; another bemoaned the fact that if a gambling referendum were on the ballot, "every black in this state will be bused to the polls."[84] As the court noted, the state legislators

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[hereinafter 2013 Election Protection Report], http://www.866ourvote.org/newsroom/publications/document/EP-2012-Full-Report.pdf; Asian Americans Advancing Justice, Voices of Democracy: Asian Americans and Language Access During the 2012 Elections (2013), http://www.advancingjustice-aajc.org/sites/aajc/files/Full-layout-singlesv1-072313.pdf.

[78] 2013 Election Protection Report, *supra* note 77, at 44.

[79] *Id.* at 45.

[80] *Id.* at 45.

[81] *Id.* at 10; Report #65099, OURVOTELIVE.ORG, (Nov. 6, 2012, 11:23 PM), http://electionawareness.appspot.com/report/65099.

[82] 2013 Election Protection Report, *supra* note 77, at 10, 58.

[83] United States v. McGregor, 824 F. Supp. 2d 1339, 1345 (M.D. Ala. 2011).

[84] *Id.*

"plainly singled out African–Americans for mockery and racist abuse."[85] The court further explained:

> To some extent, "[t]hings have changed in the South." Northwest Austin Mun. Util. Dist. No. One v. Holder, 129 S.Ct. 2504, 2514 (2009). Certain things, however, remain stubbornly the same. In an era when the "degree of racially polarized voting in the South is increasing, not decreasing," Alabama remains vulnerable to politicians setting an agenda that exploits racial differences. . . . The Beason and Lewis recordings represent compelling evidence that political exclusion through racism remains a real and enduring problem in this State. Today, while racist sentiments may have been relegated to private discourse rather than on the floor of the state legislature, see Busbee v. Smith, 549 F.Supp. 494, 500 (D.D.C.1982) (Edwards, J.) (labeling a state lawmaker a "racist" for using racial slurs to refer to majority-minority districts), it is still clear that such sentiments remain regrettably entrenched in the high echelons of state government. . . .
>
> [T]he discriminatory intent expressed by [the legislators] represents another form of corruption infecting the political system. [O]pposition to the bill was not grounded in impartial evaluation of the merits of SB380. Rather, they were motivated by a fear of who might turn out to vote. The purpose of their competing scheme was to maintain and strengthen white control of the political system. It is intolerable in our society for lawmakers to use public office as a tool for racial exclusion and polarization. This form of race discrimination is as profoundly damaging to the fabric of democracy as is the bribery scheme the government seeks to punish.[86]

[85] *Id.* at 1346.
[86] *Id.* at 1347-48 (some internal citations omitted).

American Civil Liberties Union
Statement Submission For

"From Selma to Shelby County: Working Together to Restore the Protections of the Voting Rights Act"

Hearing Before the U.S. Senate Committee on the Judiciary

Submitted by

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July 17, 2013

Introduction

The American Civil Liberties Union (ACLU), on behalf of its over half a million members, countless additional supporters and activists, and fifty-three affiliates nationwide, is pleased to submit this statement for today's hearing, *From Selma to Shelby County: Working Together to Restore the Protections of the Voting Rights Act*, to ensure key protections in the Voting Rights Act are restored following the Supreme Court's decision in *Shelby County v. Holder*.[1] We thank the Committee for this hearing and applaud the bipartisan nature of this effort.

[1] Shelby County v. Holder, 133 S. Ct. 2612 (2013).

The ACLU is a nationwide, non-partisan organization working daily in courts, Congress, state legislatures, and communities across the country to defend and preserve the civil rights and liberties that the Constitution and laws of the United States guarantee everyone in this country. The ACLU works at the federal, state, and local level to lobby, litigate, and conduct public education in order to both expand opportunities and to prevent barriers to the ballot box.

With one of the largest voting rights dockets in the nation, the ACLU's Voting Rights Project, established in 1965, has filed more than 300 lawsuits to enforce the provisions of the Voting Rights Act and the U.S. Constitution. The current docket has over a dozen active voting rights cases from all parts of the United States, including Alaska, California, Florida, Georgia, Iowa, Kentucky, Montana, Pennsylvania, Virginia, Washington, Wisconsin, and Wyoming. The ACLU is also engaged in state-level advocacy on voting and election reform all across the country.

The ACLU was co-counsel in both of the recent Supreme Court cases *Shelby County v. Holder* and *Arizona v. Inter Tribal Council of Arizona* (ITCA), and in *Shelby County*, represented among other clients, the Alabama State Conference of the NAACP, to defend key provisions of the Voting Rights Act.

In addition, the ACLU's Washington Legislative Office is engaged in federal advocacy before Congress and the executive branch on a variety of federal voting matters and was one of the leading organizations advocating for the Voting Rights Act extensions of 1982 and 2006. We issued reports on the continued need for the Act[2] and provided expert testimony on racial discrimination in the then-covered jurisdictions.[3]

The Voting Rights Act of 1965 has proven to be one of the most effective civil rights statutes in eliminating racial discrimination in voting. For almost half a century, the Act has been utilized to ensure equal access to the ballot box by blocking and preventing numerous forms of voting discrimination. Unfortunately, the recent decision in *Shelby County v. Holder* invalidated the coverage formula of Section 4(b), which determines which jurisdictions are subject to preclearance. With the loss of Section 4(b), Section 5 has been rendered virtually obsolete, resulting in the loss of the most innovative and incisive tools against racial discrimination in voting, including preclearance and notice to DOJ of voting changes. The overwhelming evidence of the continued need for the Voting Right Act means that Congress must restore the ability for enforcement of Section 5 through

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[2] Laughlin McDonald and Daniel Levitas, *The Case for Extending and Amending the Voting Rights Act. Voting Rights Litigation, 1982-2006: A Report of the Voting Rights Project of the American Civil Liberties Union*, (March 2006), *available at* http://www.aclu.org/voting-rights/case-extending-and-amending-voting-rights-act.; Caroline Fredrickson and Deborah J. Vagins, *Promises to Keep: The Impact of the Voting Rights Act in 2006*, ACLU (March 2006), *available at* http://www.aclu.org/voting-rights/promises-keep-impact-voting-rights-act-2006.

[3] *See An Introduction to the Expiring Provisions of the Voting Rights Act and Legal Issues Relating to Reauthorization: Hearing Before Senate Judiciary Committee*, 109th Cong. (2006) (testimony of Laughlin McDonald, Director, ACLU Voting Rights Project), *available at* http://www.aclu.org/voting-rights/testimony-laughlin-mcdonald-director-aclus-voting-rights-project-house-judiciary-subco; *The Voting Rights Act: Evidence of Continued Need: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 109th Cong (2006) (testimony of Nadine Strossen, President, ACLU), *available at* http://www.aclu.org/voting-rights/statement-aclu-president-nadine-strossen-submitted-subcommittee-constitution-regarding.

the creation of a new coverage formula that appropriately captures recent racially discriminatory voting practices.

Following the decision in *Shelby County*, the ACLU will continue to devote substantial energy and resources to defending the right to vote for all. We look forward to working with this Committee in restoring the critical rights we have lost in ensuring all voters have access to the ballot free from discrimination.

I. Bipartisan History of the Voting Rights Act

Congress passed the Voting Rights Act of 1965 to enforce rights guaranteed to minority voters nearly a century before by the Fourteenth and Fifteenth Amendments. Although these amendments prohibited states from denying equal protection on the basis of race or color and from discriminating in voting on account of race or color, African Americans and other minorities continued to face disfranchisement in many states. Poll taxes, literacy tests, and grandfather clauses were used to deny African American citizens the right to register to vote, while all-white primaries, gerrymandering, annexation, and at-large voting were used widely to dilute the effectiveness of minority voting strength.[4]

The passage of the Act represented the most aggressive steps ever taken to protect minority voting rights. The impact was immediate and dramatic. In Mississippi, African American registration went from less than 10% in 1964 to almost 60% in 1968; in Alabama, registration rose from 24% to 57%. In the South as a whole, African American registration rose to a record 62% within a few years of the Act's passage.[5] The Department of Justice (DOJ) has therefore called the Act the "most successful piece of civil rights legislation ever adopted."[6] But the promise of the Act has not yet been fully realized. Progress has been made, but despite the Supreme Court's recent decision, the full gamut of the Act's protections is still needed today.

In the 48 years since its passage, the Voting Rights Act has guaranteed millions of minority voters a chance to have their voices heard in federal, state, and local governments across the country. These increases in representation translate to vital and tangible benefits such as much-needed education, healthcare, and economic development for previously underserved communities. Prior to the Act's passage, African American communities had been denied resources and opportunities for many years; their issues were often ignored and discounted. Officials elected when equal voting opportunities are afforded to minority citizens have been more responsive to the needs of minority communities.[7]

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[4] Fredrickson &Vagins, *supra* note 2.
[5] *See* Victor Rodriguez, *Section 5 of the Voting Rights Act of 1965 after Boerne: The Beginning of the End of Preclearance?*, 91 CAL. L. REV. 769, 782 (2003).
[6] U.S. Department of Justice, Civil Rights Division, Voting Section, *Introduction to Federal Voting Rights Laws*, http://www.usdoj.gov/crt/voting/intro/intro.htm.
[7] Fredrickson &Vagins, *supra* note 2, at 2.

As President Ronald Reagan noted upon signing the 1982 reauthorization of the Voting Rights Act, the right to vote is "crown jewel of American liberties."[8] Recognizing this importance, Congress has passed every Voting Rights Act reauthorization and extension by overwhelmingly bipartisan votes. The 1965 Act passed the Senate 77-19, and the House 333-85.[9] The 1970 extension passed the Senate 64-12, and the House 234-179.[10] The reauthorization in 1982 garnered similar support passing 85-8 in the Senate[11] and 389-24 in the House.[12] Congress last extended the Act in 2006, 98-0 in the Senate and 390-33 in the House, concluding that the coverage formula enforced by Section 5 was needed for at least another 25 years. Including the 2006 reauthorization, the last three extensions have been signed by Republican presidents.

In 2006, the congressional fact-finding effort built a strong case for the continuing need to maintain the Voting Rights Act's protections. The resulting record included more than 750 Section 5 objections by DOJ that blocked the implementation of some 2,400 discriminatory voting changes; the withdrawal or modification of over 800 potentially discriminatory voting changes after DOJ requested more information; 105 successful actions to require covered jurisdictions to comply with Section 5; 25 denials of Section 5 preclearance by federal courts; high degrees of racially polarized voting in the jurisdictions covered by Section 5; and reports from tens of thousands of federal observers dispatched to monitor elections in covered jurisdictions.[13] In total, the record included over 15,000 pages of testimony and reports and statements from over 90 witnesses in over a dozen hearings.[14]

Although significant progress has been made as a result of the passage of the Voting Rights Act, equal opportunity in voting still does not exist in many places. Discrimination on the basis of race and language still deny many Americans their basic democratic rights. Although such discrimination today is often more subtle than it used to be, it is still current and must still be remedied.

II. *Shelby County v. Holder*

Unfortunately, on June 25, 2013, the Supreme Court, in *Shelby County v. Holder*, invalidated the coverage formula in Section 4(b), which defines who is subject to Section 5 pre-clearance.

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[8] Ronald Reagan, Remarks on Signing the Voting Rights Act Amendments of 1982 (June 29, 1982), *available at* http://www.presidency.ucsb.edu/ws/?pid=42688.

[9] *See Senate Roll Call Vote No. 78* (May 26, 1965); *House Roll Call Vote No. 32* (Feb. 10, 1964), *available at* http://docsteach.org/documents/5637787/detail; *House Roll Call Vote No. 87* (July 9, 1965), *available at* http://www.govtrack.us/congress/votes/89-1965/h87.

[10] *See Senate Roll Call Vote No. 342* (Mar. 13, 1970); *House Roll Call Vote No. 151* (Dec. 11, 1969), *available at* http://docsteach.org/documents/5637787/detail.

[11] *See Senate Roll Call Vote No. 190* (June 18, 1982).

[12] *See House Roll Call Vote No. 242* (Oct. 5, 1981).

[13] Laughlin McDonald, *Don't Strike Down Section 5*, http://www.aclu.org/blog/voting-rights/dont-strike-down-section-5 (Mar. 6, 2013); *see also* H. R. Rep. No. 109-478 (2006); S. Rep. No. 109-295 (2006).

[14] Deborah J. Vagins & Laughlin McDonald, *Supreme Court Put a Dagger in the Heart of the Voting Rights Act*, http://www.aclu.org/blog/voting-rights/supreme-court-put-dagger-heart-voting-rights-act (July 2, 2013).

In 2008, the City of Calera, a subsidiary of Shelby County, Alabama, sought to make over 170 annexations, in conjunction with changes to its redistricting plan. Together, these changes would eliminate the city's sole majority African American district, which had elected an African American candidate – who was the City's lone African American councilperson – for the previous 20 years.[15]

In its submission to DOJ, Calera admitted that it had already adopted the annexations without receiving preclearance. DOJ objected to both the unprecleared annexations, as well as the redistricting plan. Notwithstanding this denial, Calera went on to conduct City Council elections with both the annexations and the rejected plan in place, causing the city's sole African American councilmember to lose his seat. DOJ was then compelled to bring an enforcement action under Section 5 to enjoin certification of the results of the illegal election. After a consent decree was reached with a new precleared plan, the city's lone majority African American district was restored, and black voters in Calera succeeded in electing their candidate of choice. Shelby County subsequently challenged Sections 4(b) and 5 of the Voting Rights Act as facially unconstitutional.

The Supreme Court invalidated the coverage formula in Section 4(b), which defines which jurisdictions are subject to Section 5 preclearance. The Court found that while "voting discrimination still exists," Section 4(b) of the Voting Rights Act was unconstitutional, on the basis that the coverage formula had not been updated recently and no longer reflected current conditions of discrimination. Therefore, the formula can no longer be used as a basis for subjecting jurisdictions to preclearance.[16] Section 5's continued operation thus depends on establishing new or expanded coverage, which complies with the Court's decision. As the Court noted: "[w]e issue no holding on section 5 itself, only on the coverage formula. Congress may draft another formula based on current conditions."[17] Without congressional action through the creation or expansion of a coverage formula, the kind of discrimination occurring in Calera, Alabama and elsewhere cannot be subject to the preclearance mechanism that stops discriminatory voting changes before they take effect and U.S. citizens lose their right to vote.

III. Recent Examples of the Impact of Section 5

Section 5 has been particularly effective in stopping discriminatory state and local voting changes from going into effect. It is important that the safeguards of Section 5 continue to apply in those jurisdictions with recent and egregious examples of discrimination. The elimination of precincts, changes in polling locations, methods of electing school board or city council members, moving to at-large districts, annexations, and other changes can have the purpose or effect of denying or abridging the right to vote on the basis of race, color, or membership in a language minority group. Recent examples, since the 2006 reauthorization of the Voting Rights Act, of such discriminatory voting measures blocked by Section 5 are numerous. As the Court acknowledged, "voting discrimination still exists; no one doubts that."[18] In those areas where voting discrimination continues to exist, Section 5 must be enforced, and a coverage formula is needed to achieve this.

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[15] Letter from Grace Chung Baker, Acting Assistant Attorney General, to Dan Head,(Aug. 25, 2008), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_082508.pdf.
[16] Shelby County v. Holder, 679 F. 3d 848 (2012).
[17] *Shelby County*, 133 S. Ct. at 2612.
[18] *Id.*

Without this important function, millions would be disfranchised. What remains of our legal avenues after *Shelby County* is not enough. The following are a few very recent examples:

- In 2006, Randolph County, Georgia, attempted to reassign the African American Board of Education Chair's voter registration district from a seventy percent African American voting population to a seventy percent white voting population.[19] These changes were done in a special closed door meeting the sole purpose of which was to change the voter registration district of the Chair. In a unanimous vote, the all-white members of the Board of Registrars voted for the district change. Section 5 prevented this blatantly discriminatory change from taking place.

- In 2007, Mobile County, Alabama attempted to change the method of selection for filling vacancies on the county commission from a special election to a gubernatorial appointment.[20] After carefully considering information provided by the county, census data, public comments, and information from interested parties, DOJ found that the change would have a retrogressive effect, diminishing the opportunity of minority voters to elect a representative of their choice to the commission. Following the DOJ objection, Mobile County withdrew its request for the voting change.

- In 2007, Buena Vista Township in Allegan County, Michigan attempted to close a voter registration center located at a Secretary of State branch office.[21] The branch offices constituted 79.13% of total voter registrations for the Township, and the specific branch closure would have closed the only branch in a majority-minority township, resulting in the nearest branch being a one hour and forty minute round trip on public transportation with no other viable branch alternative for registering to vote.

- In May 2008, Alaska attempted to eliminate precincts in several Native villages, which would force many Native Alaskans to travel to precincts 33 to 77 miles away, unconnected by roads, and accessible only by air or water.[22] Two weeks after DOJ asked for additional information on why these changes were necessary, the State decided against moving forward with these precinct consolidations.

- In 2009, Georgia implemented an error-filled voter registration verification system that matched voter registration lists with other government databases.[23] Individuals who were identified as failing to match were flagged and required to appear on a specific date and time at the county courthouse with only three days' notice to prove their voter registration. The

[19] Letter from Wan J. Kim, Assistant Attorney General, to Tommy Coleman (Sept. 12, 2006), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_091206.pdf.
[20] Letter from Wan J. Kim, Assistant Attorney General, to John J. Park, Jr., (Jan. 8, 2007), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_010807.pdf.
[21] Letter from Grace Chung Becker, Acting Assistant Attorney General, to Brian DeBano and Christopher Thomas (Dec. 26, 2007), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_122607.pdf.
[22] Suzanna Caldwell, *Voting Rights Act: What does ruling mean for Alaskans?*, Alaska Dispatch, June 25, 2013, http://www.alaskadispatch.com/article/20130625/voting-rights-act-what-does-ruling-mean-alaskans.
[23] Letter from Loretta King, Acting Assistant Attorney General, to Thurbert E. Baker (May 29, 2009), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_052909.pdf.

verification systems errors disproportionately impacted minority voters. Although representing equal shares of new voter registrants, more than 60% more African American voters were flagged for additional inquiry then white voters. In addition Hispanic and Asian registrants were more than twice as likely to be flagged for further verification as white voter registration applicants. Section 5 stopped this retrogressive voter registration provision from continuing. The objection was later withdrawn on the mistaken premise that the state had significantly changed the database matching system.[24]

- A locality in Texas sought to reduce the number of polling places for local and school board elections in 2006 from 84 polling places to 12.[25] Moreover, the assignment of voters to each polling place was incredibly unbalanced. The polling place with the smallest proportion of minority voters would have served 6,500 voters while the site with the largest proportion of minority voters would have served over 67,000. Following a DOJ complaint, a three judge court entered a consent decree prohibiting the locality from implementing the change without first obtaining preclearance.[26] Section 5 prohibited this change due to the retrogressive effect.

- In Charles Mix County, South Dakota, after the first Native American candidate was poised to become a county commissioner, the county increased the number of county commissioners from three to five.[27] Native Americans would only have been able to elect the candidate of their choice in one of the five new districts as opposed to one of the three original districts. This racially discriminatory impact in addition to comments admitting discriminatory purpose led DOJ to object to the proposed plan.

- Between 2009 and 2012, three Georgia counties proposed redistricting changes to their county commissions and board of education, which would have altered the division of African American populations in the counties, resulting in a retrogression effect on their ability to elect minority members and diluting the current minority representation on the commissions and board.[28] Through Section 5, plans that would have reduced the level of African American voting strength and reduced their ability to elect their candidates of choice were prevented.

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[24] *See generally* Kathy Lohr, *Georgia Allowed to Continue Voter Verification*, NPR, Sept. 14, 2010, http://www.npr.org/templates/story/story.php?storyId=129855592.

[25] Letter from Wan J. Kim, Assistant Attorney General, to Renee Smith Byas (May 5, 2006), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_050506.pdf.

[26] United States v. N. Harris Montgomery Cmty. Coll. Dist., Civil Action No. H 06-2488 (S.D. Tex. Aug. 4, 2006) (consent decree judgment).

[27] Letter from Grace Chung Baker, Acting Assistant Attorney General, to Sara Frankenstein (Feb. 11, 2008), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_021108.pdf.

[28] Letter fromThomas E. Perez, Assistant Attorney General, to Walter G. Elliott (Nov. 30, 2009), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_113009.pdf; Letter from Thomas E. Perez, Assistant Attorney General, to Michael S. Green, Patrick O. Dollar, and Cory O. Kirby (Apr. 13, 2012), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_041312.pdf; Letter from Thomas E. Perez, Assistant Attorney General, to Andrew S. Johnson and B. Jay Swindell (Aug. 27, 2012), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_082712.pdf .

- Also in 2012, Galveston County, Texas submitted a redistricting plan for its commissioners court reducing the number of districts for electing justices of the peace and constables.[29] DOJ found that the process leading up to the proposed plan involved the deliberate exclusion from meaningful involvement in key deliberations of the only member of the commissioners court elected from a minority ability-to-elect precinct. Following changes to the redistricting plan made by the county, DOJ approved the revised plan.[30]

IV. Section 5 Provides Necessary Protections Unavailable In Other Laws

The protections that exist in Section 5, and enforced through Section 4, provide a powerful tool for deterring state and local governments from adopting discriminatory election procedures and preventing discriminatory practices that have been adopted from being enforced.[31] This preclearance requirement is a fundamental element of the Voting Rights Act that does not exist elsewhere, and has been rendered largely useless by the *Shelby County* decision.

There are several unique elements of Section 5 that are particularly valuable in defeating discrimination in voting. First, Section 5 requires those jurisdictions included in a coverage formula to submit all proposed election changes to DOJ or the federal District Court of the District of Columbia prior to implementation.[32] This functions as a notice mechanism giving DOJ a level of knowledge regarding voting changes superior to relying on communities and watchdog groups to identify voting changes as they are proposed. As the examples previously discussed demonstrate, the majority of discriminatory changes take place at the local level where they may be difficult to identify if the reporting onus is removed from the jurisdiction and placed on groups or individual voters.

Second, in evaluating the intent or effect of the change, Section 5 places the burden of proof on the jurisdiction requesting the election change to show that the change does not have a "retrogressive" effect on minority voters.[33] Unlike Section 2, which places the burden on the voter to prove discrimination, Section 5's burden of proof makes it more effective in preventing discrimination by requiring the jurisdiction show any change will not have a discriminatory impact prior to the law taking effect. The purpose of Section 5 is to "shift the advantage of time and inertia from the perpetrators" of discrimination in voting to the voters.[34]

Third, Section 5 targets ongoing discrimination in a relatively low-cost way through an administrative process. By largely avoiding long and drawn out legal battles, Section 5 avoids the

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[29] Letter from Thomas E. Perez, Assistant Attorney General, to James E. Trainor III (Mar. 5, 2012), *available at* http://www.justice.gov/crt/about/vot/sec_5/pdfs/l_030512.pdf.
[30] T.J. Aulds, *Galveston County: DOJ gives green light to county redistricting map*, KHOU, Mar. 24, 2012, *available at* http://www.khou.com/news/neighborhood-news/Galveston-County--DOJ-gives-green-light-to-county-redistricting-map-144092286.html.
[31] *Shelby County, 133 S. Ct. at 2639 (2013) (Ginsburg, J., dissenting) (citing The Continuing Need for Section 5 Pre-Clearance: Hearing before the Senate Committee on the Judiciary, 109th Cong., 2d Sess., pp. 53–54 (2006)).*
[32] 42 U.S.C. § 1973c.
[33] Beer v. United States, 425 U.S. 130 (1976).
[34] South Carolina v. Katzenbach, 383 U.S. 301, 328 (1966).

high costs of case-by-case litigation associated with Section 2 claims.[35] Through the simple administrative process covered jurisdictions submit proposed changes in writing to DOJ. Within sixty days, the Attorney General can decide whether to object to the change. If there is no objection, the jurisdiction may implement the change. If an objection is filed, the jurisdiction may submit the changes directly to a three-judge panel of the District Court for the District of Columbia for preclearance without deference to the findings from DOJ.[36] This method allows for instances of discrimination to be identified in real-time, as the change is proposed and before going into effect.

Although Section 2 is a valuable tool in stopping discriminatory voting practices after they occur, it lacks the hallmarks of Section 5 that prevents discrimination from occurring in the first place. Section 2 does not provide notice of the proposed change, nor can it freeze a change and prevent it from going into effect. Section 2 allows victims of discrimination in voting to seek remedies in court, but often only after the discrimination occurs, violating the individual's right to vote. Moreover, no state[37] or federal constitutional claim is an adequate substitute for Section 5 because no other law provides advance notice of the change and uses preclearance to stop the discriminatory practice from going into effect.

Only when the powerful tools of Section 5 can operate under a new regime, can the goals of the Voting Rights Act be accomplished.

Conclusion

The ACLU thanks the Senate Judiciary Committee for holding this important hearing to address the Voting Rights Act following the *Shelby County* decision. The Voting Rights Act's long bipartisan history of protecting the right to vote and rooting out racially discriminatory changes through Section 5 must continue. Therefore, it is crucial that congressional action be taken to restore and redesign its protections and allow the Voting Rights Act to continue to be the crown jewel of civil rights laws. All the other rights we enjoy as citizens depend on our ability to vote; it is necessary that we safeguard access to the ballot for every citizen. We look forward to working with the Committee on new legislative proposals.

[35] Justin Levitt, *Shadowboxing and Unintended Consequences*, SCOTUSBlog (June 25, 2013, 10:39 PM), http://www.scotusblog.com/2013/06/shadowboxing-and-unintended-consequences/.
[36] 42 U.S.C. § 1973c.
[37] *See, e.g.*, Joshua A. Douglas, The Right to Vote Under State Constitutions, 67 VAND. L. REV. (forthcoming 2014).

Joint Statement of
Asian Americans Advancing Justice and
Asian American Legal Defense and Education Fund

Before the
Committee on the Judiciary
United States Senate

Hearing
"From Selma to *Shelby County*:
Working Together to Restore the Protections of the Voting Rights Act"

July 17, 2013

Introduction

Enforcement of the Voting Rights Act of 1965 (VRA) has been critical in preventing actual and threatened discrimination aimed at Asian Americans in national and local elections. Continuing discrimination in voting and more generally against Asian Americans remain, especially in areas of new growth such as the South and is likely to worsen as a result of the decision in *Shelby v. Holder*. Asian American voters have been left more vulnerable to wrong-doers and have suffered a serious roll-back in their right to vote. Asian Americans Advancing Justice ("Advancing Justice") and the Asian American Legal Defense and Education Fund ("AALDEF") submit this testimony to elucidate the precarious landscape of Asian American voting rights in wake of the Supreme Court's decision in *Shelby v. Holder* and respectfully ask that it be entered into the record.

Organizational Information

Advancing Justice and AALDEF are organizations that promote the constitutional and civil rights of Asian Americans, including the right of Asian Americans to participate in the United States' political process.

Advancing Justice is a national affiliation of four civil rights nonprofit organizations that joined together in 2013 to promote a fair and equitable society for all by working for civil and human rights and empowering Asian Americans and Pacific Islanders and other underserved communities. Our member organizations are: Asian Americans Advancing Justice | Chicago (formerly Asian American Institute - the leading pan-Asian organization in the Midwest dedicated to empowering the Asian American community through advocacy, research, education, leadership development, and coalition-building); Asian Americas Advancing Justice | AAJC (formerly Asian American Justice Center - a national organization that advances the civil and human rights of Asian Americans and builds and promotes a fair and equitable society for all

through public education, policy analysis and research, policy advocacy, litigation, and community capacity and coalition building); Asian Americans Advancing Justice | Asian Law Caucus (formerly Asian Law Caucus - the nation's oldest legal organization defending the civil rights of Asians and Pacific Islanders, particularly low-income, immigrant, and underserved communities); and Asian Americans Advancing Justice | Los Angeles (formerly Asian Pacific American Legal Center - the nation's largest legal organization serving Asians and Pacific Islanders, through direct legal services, impact litigation, policy advocacy, and leadership development). Advancing Justice was a key player in collaborating with other civil rights groups to reauthorize the Voting Rights Act in 2006. In the 2012 election, Advancing Justice conducted poll monitoring and voter protection efforts across the country, including in California, Florida, Georgia, Illinois, Texas, and Virginia.

AALDEF is a 39-year-old national civil rights organization based in New York City that promotes and protects the civil rights of Asian Americans through litigation, legal advocacy, and community education. AALDEF has monitored elections through annual multilingual exit poll surveys since 1988. Consequently, AALDEF has collected valuable data that documents both the use of, and the continued need for, protection under the VRA. In 2012, AALDEF dispatched over 800 attorneys, law students, and community volunteers to 127 poll sites in 14 states to document voter problems on Election Day. The survey polled 9,298 Asian American voters.

Advancing Justice-AAJC and AALDEF filed an amicus brief with the U.S. Supreme Court in *Shelby County, Alabama v. Holder* on behalf of 28 Asian American groups. The brief urged the Court to uphold Section 5 of the VRA, demonstrating that Section 5 was necessary to protect the voting rights of Asian Americans in areas such as political representation and discriminatory voting changes in light of the ongoing discrimination experienced by Asian Americans. This testimony draws heavily on the examples documented in our amicus brief.

Voting Discrimination Against Asian Americans Continues to Exists

Asian Americans[1] continue to face pervasive and current discrimination in voting, particularly in jurisdictions that were previously covered for Section 5 preclearance.

For example, in the 2004 primary elections in Bayou La Batre, Alabama, supporters of a white incumbent running against Phuong Tan Huynh, a Vietnamese American candidate, made a concerted effort to intimidate Asian American voters. They challenged Asian Americans at the polls, falsely accusing them of not being U.S. citizens or city residents, or of having felony convictions.[2] The challenged voters were forced to complete a paper ballot and have that ballot vouched for by a registered voter. In explaining his and his supporters' actions, the losing incumbent stated, "We figured if they couldn't speak good English, they possibly weren't

[1] The notion of "Asian American" encompasses a broad diversity of ethnicities, many of which have historically suffered their own unique forms of discrimination. Discrimination against Asian Americans as discussed here addresses both discrimination aimed at specific ethnic groups along with the discrimination directed at Asian Americans generally.

[2] *See* H.R. Rep. No. 109-478, at 45; *see also Challenged Asian ballots in council race stir discrimination concern*, Associated Press State & Local Wire, Aug. 29, 2004, *available at* http://news.google.com/newspapers?nid=1817&dat=20040830&id=cc4dAAAAIBAJ&sjid=w6cEAAAAIBAJ&pg=6668,5046184.

American citizens."[3] The Department of Justice (DOJ) investigated the allegations and found them to be racially motivated.[4] As a result, the challengers were prohibited from interfering in the general election, and Bayou La Batre, for the first time, elected an Asian American to the City Council.[5]

In another example, from the 2004 Texas House of Representatives race, Hubert Vo's victory over a white incumbent prompted two recounts, both of which affirmed Vo's victory over the incumbent's request that the Texas House of Representatives investigate the legality of the votes cast in the election. The implication was that Vo's Vietnamese American supporters voted in the wrong district or were not U.S. citizens. Vo's campaign voiced concern that such an investigation could intimidate Asian Americans from political participation altogether.[6] Vo's election was particularly significant for the Asian American community because he is the first Vietnamese American state representative in Texas history.[7]

Also in 2004, New York poll workers required Asian American voters to provide naturalization certificates before they could vote.[8] At an additional poll site, a police officer demanded that all Asian American voters show photo identification, even though photo identification is not required to vote in New York elections. If voters could not produce such identification, the officer turned them away and told them to go home.[9]

Asian American Voters Lose Protection Against Discrimination Due to *Shelby* Decision

Overt racism and discrimination against Asian Americans at the polls persist to the present day and will worsen without Section 5 to combat such behavior. Prior to the Supreme Court's *Shelby* decision, voting rights advocates used Section 5 to protect Asian American voters in redistricting, changes to voting systems, and changes to polling sites. The following are current examples of harmful actions against Asian American voters that were stopped by Section 5, but now that the coverage formula has been struck, and most jurisdictions are no longer covered by

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[3] *See* DeWayne Wickham, *Why renew Voting Rights Act? Ala. Town provides answer*, USA Today, Feb 22, 2006, *available at* http://www.usatoday.com/news/opinion/editorials/ 2006-02-22-forum-voting-act_x.htm.

[4] *See* H.R. Rep. No. 109-478, at 45; *see also* Press Release, U.S. Dep't of Justice, *Justice Department to Monitor Elections in New York, Washington, and Alabama*, Sept. 13, 2004, *available at* http://www.justice.gov/opa/pr/2004/ September/04_crt_615.htm ("In Bayou La Batre, Alabama, the Department will monitor the treatment of Vietnamese-American voters.").

[5] *See* Wickham, *supra.*

[6] *See* Thao L. Ha, *The Vietnamese Texans*, in *Asian Texas* 284-85 (Irwin A. Tang ed. 2007).

[7] *See* Test. of Ed Martin, Trial Tr. at 350:15-23, *Perez v. Perry*, 835 F. Supp. 2d 209 (W.D. Tex. 2011) (hereinafter "Martin Test."); Test. of Rogene Calvert, Trial Tr. at 420:2-421:13, *Perez,* 835 F. Supp. 2d 209; Test. of Sarah Winkler, Trial Tr. at 425:18-426:10, *Perez*, 835 F. Supp. 2d at 209.

[8] New York City has the nation's largest Asian American population for places. Elizabeth M. Hoeffel, Sonya Rastogi, Myoung Ouk Kim & Hasan Shahid, U.S. Census Bureau, *The Asian Population: 2010*, at 12 tbl.3 (2012), *available at* www.census.gov/prod/cen2010/briefs/c2010br-11.pdf. Most of the examples of Section 5's success in this brief draw from the Asian American experience in New York City because of its sizeable Asian American population and because it is one of the few places in the country covered under both Section 5 and Section 203.

[9] *See* Continuing Need for Section 203's Provisions for Limited English Proficient Voters, Hearing Before the S. Judiciary Comm., 109th Cong. 37 (2006) (testimony of Margaret Fung, AALDEF, Exec. Dir.); Letter from G. Magpantay, AALDEF Staff Attorney, to J. Ravitz, Exec. Dir., New York City Bd. of Elections (June 16, 2005) (submitted to Congress).

Section 5, Asian Americans are once again vulnerable to nefarious discriminatory actions such as these that will weaken their voting rights and power.

For example, discriminatory redistricting plans continue to be drafted in states with large Asian American communities. As shown in *Perry v. Perez*, 132 S. Ct. 934 (2012), the Texas Legislature drafted a redistricting plan, Plan H283, that would have had significant negative effects on the ability of minorities, and Asian Americans in particular, to exercise their right to vote.

Since 2004, the Asian American community in Texas State House District 149 has voted as a bloc with Hispanic and African American voters to elect Hubert Vo, a Vietnamese American, as their state representative. District 149 has a combined minority citizen voting-age population of 62 percent.[10] Texas is home to the third-largest Asian American community in the United States, growing 72 percent between 2000 and 2010. [11]

In 2011, the Texas Legislature sought to eliminate Vo's State House seat and redistribute the coalition of minority voters to the surrounding three districts. Plan H283, if implemented, would have redistributed the Asian American population in certain State House voting districts, including District 149 (Vo's district), to districts with larger non-minority populations.[12] Plan H283 would have thus abridged the Asian American community's right to vote in Texas by diluting the large Asian American populations across the state.[13]

In addition to discrimination in redistricting, Asian American voters have also endured voting system changes that impair their ability to elect candidates of choice. For example, before 2001 in New York City, the only electoral success for Asian Americans was on local community school boards. In each election – in 1993, 1996, and 1999 – Asian American candidates ran for the school board and won.[14] These victories were due, in part, to the alternative voting system

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[10] *See* United States and Defendant-Intervenors Identification of Issues 6, *Texas v. United States*, C.A. No. 11-1303 (D.D.C.), Sept. 29, 2011, Dkt. No. 53.

[11] Asian American Center for Advancing Justice, *A Community of Contrasts: Asian Americans in the United States 2011*, App. B, at 60 (2011), *available at* http://www.advancingjustice.org/pdf/Community_of_Contrast.pdf. (hereinafter "*Community of Contrasts*").

[12] *See* Martin Test. at 350:25-352:25. District 149 would have been relocated to a county on the other side of the State, where there are few minority voters. *See* http://gis1.tlc.state.tx.us/download/House/PLANH283.pdf.

[13] In fact, it was only due to Section 5 that the Texas Legislature was not able to dilute the Asian American community's right to vote. Advancing Justice-AAJC's partner, the Texas Asian-American Redistricting Initiative (TAARI), working with a coalition of Asian American and other civil rights organizations, participated in the Texas redistricting process and advocated on the District 149 issue. Despite the community's best efforts, the Texas Legislature pushed through this problematic redistricting plan. However, because of Section 5's preclearance procedures, Asian Americans and other minorities had an avenue to object to the Texas Legislature's retrogressive plan, and Plan H283 was ultimately rejected as not complying with Section 5. See Texas v. United States, C.A. No. 11-1303 (D.D.C.), Sept. 19, 2011, Dkt. No. 45, ¶ 3. Indeed, AALDEF submitted an amicus brief to the D.C. District Court illustrating how the Texas plan retrogressed the ability of Asian Americans to elect a candidate of their choice and violated Section 5. However, the U.S. Supreme Court vacated the District Court of the District of Columbia's ruling suspending Texas' redistricting map as moot in light of their decision in *Shelby*.

[14] *See* Lynette Holloway, *This Just In: May 18 School Board Election Results*, N.Y. Times, June 13, 1999, *available at* http://www.nytimes.com/1999/ 06/13/nyregion/making-it-work-this-just-in-may-18-school-board-election-results.html; Jacques Steinberg, *School Board Election Results*, N.Y. Times, June 23, 1996, *available at* http://www.nytimes.com/1996/06/23/nyregion/neighborhood-report-new-york-up-close-school-board-election-

known as "single transferable voting" or "preference voting." Instead of selecting one representative from single-member districts, voters ranked candidates in order of preference, from "1" to "9."[15] In 1998, New York attempted to switch from a "preference voting" system, where voters ranked their choices, to a "limited voting" system, where voters could select only four candidates for the nine-member board, and the nine candidates with the highest number of votes were elected.[16] This change would have put Asian American voters in a worse position to elect candidates of their choice.[17]

Furthermore, the ability of Asian Americans to vote is also frustrated by sudden changes to poll sites without informing voters. For example, ever since AALDEF began monitoring elections in New York City, there have been numerous instances of sudden poll site closures in Asian American neighborhoods where the Board has failed to take reasonable steps to ensure that Asian American voters are informed of their correct poll sites. Voters have been misinformed about their poll sites before the elections or have been misdirected by poll workers on Election Day, thus creating confusion for Asian American voters and disrupting their ability to vote.

In 2001, primary elections in New York City were rescheduled due to the attacks on the World Trade Center. The week before the rescheduled primaries, AALDEF discovered that a certain poll site, I.S. 131, a school located in the heart of Chinatown and within the restricted zone in lower Manhattan, was being used by the Federal Emergency Management Agency for services related to the World Trade Center attacks. The Board chose to close down the poll site and no notice was given to voters. The Board provided no media announcement to the Asian language newspapers, made no attempts to send out a mailing to voters, and failed to arrange for the placement of signs or poll workers at the site to redirect voters to other sites. In fact, no consideration at all was made for the fact that the majority of voters at this site were limited English proficient, and that the site had been targeted for Asian language assistance under Section 203.[18] With Section 5 no longer applicable in most jurisdictions, disruptive changes to polling sites, voting systems, and redistricting plans can now occur unfettered, wreaking havoc on Asian American voters' ability to cast an effective ballot.

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results.html; Sam Dillon, *Ethnic Shifts Are Revealed in Voting for Schools*, N.Y. Times, May 20, 1993, *available at* http://www.nytimes.com/1993/05/ 20/nyregion/ethnic-shifts-are-revealed-in-voting-for-schools.html.

[15] *See* Thomas T. Mackie & Richard Rose, The International Almanac of Electoral History 508 (3d ed. 1991).

[16] *See* 1998 N. Y. Sess. Laws 569-70 (McKinney).

[17] AALDEF utilized Section 5 to protect Asian American voters in NY by providing comments urging DOJ to oppose the change and deny preclearance as the proposed change would make Asian Americans worse off. DOJ interposed an objection and prevented the voting change from taking effect. *See* Letter from M. Fung, AALDEF Exec. Dir., and T. Sinha, AALDEF Staff Attorney, to E. Johnson, U.S. Dep't of Justice (Oct. 8, 1998) () (submitted to Congress with AALDEF Report and on file with counsel). *See also,* Voting Rights Act: Section 5 of the Act-History, Scope, and Purpose, Hearing Before the H. Subcomm. on the Const., H. Judiciary Comm., 109th Cong. 1664-66 (2005) (appendix to statement of the Honorable Bradley J. Schlozman, U.S. Dep't. of Justice) (providing Section 5 objection letter to Board and summarizing changes made to the voting methods, along with overall objections to the changes).

[18] The voters were only protected from this sudden change that would have caused significant confusion and lost votes because DOJ issued an objection under Section 5 and informed the Board that the change could not take effect. The elections subsequently took place as originally planned at I.S. 131, and hundreds of votes were cast on September 25. *See* AALDEF Report at 41.

Discrimination Against Asian Americans Creates a Barrier to Voting

Discrimination against Asian American populations is of particular concern given the perception of Asian Americans as "outsiders," "aliens," and "foreigners."[19] Based on this perception, at various points in history, Asian Americans were denied rights held by U.S. citizens. Remnants of the sentiment that evoked these denials persist today and continue to harm Asian Americans.

This shameful history of extensive discrimination against the Asian American community in the United States is well known. Until 1943, federal policy barred immigrants of Asian descent from even becoming United States citizens, and it was not until 1952 that racial criteria for naturalization were removed altogether.[20] Indeed, history is replete with examples of anti-immigrant sentiment directed towards Asian Americans, manifesting in legislative efforts to prevent Asian immigrants from entering the United States and becoming citizens.[21]

Legally identified as aliens "ineligible for citizenship," Asian immigrants were prohibited from voting and owning land.[22] Both immigrant and native-born Asians also experienced

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[19] *See, e.g.*, Claire Jean Kim, *The Racial Triangulation of Asian Americans*, 27 Pol. & Soc'y 105, 108-16 (1999) (describing history of whites perceiving Asian Americans as foreign and therefore politically ostracizing them). In 2001, a comprehensive survey revealed that 71% of adult respondents held either decisively negative or partially negative attitudes toward Asian Americans. Committee of 100, *American Attitudes Toward Chinese Americans and Asians* 56 (2001), *available at* http://www.committee100.org/publications/ survey/C100survey.pdf. Racial representations and stereotyping of Asian Americans, particularly in well-publicized instances where public figures or the mass media express such attitudes, reflect and reinforce an image of Asian Americans as "different," "foreign," and the "enemy," thus stigmatizing Asian Americans, heightening racial tension, and instigating discrimination. Cynthia Lee, *Beyond Black and White: Racializing Asian Americans in a Society Obsessed with O.J.*, 6 Hastings Women's L.J. 165, 181 (1995); Spencer K. Turnbull, Comment, *Wen Ho Lee and the Consequences of Enduring Asian American Stereotypes*, 7 UCLA Asian Pac. Am. L.J. 72, 74-75 (2001); Terri Yuh-lin Chen, Comment, *Hate Violence as Border Patrol: An Asian American Theory of Hate Violence*, 7 Asian L.J. 69, 72, 74-75 (2000); Jerry Kang, Note, *Racial Violence Against Asian Americans*, 106 Harv. L. Rev. 1926, 1930-32 (1993); Thierry Devos & Mahzarin R. Banaji, *American = White?*, 88 J. Personality & Soc. Psychol. 447 (2005) (documenting empirical evidence of implicit beliefs that Asian Americans are not "American").

[20] *See* Chinese Exclusion Act of 1882, ch. 126, 22 Stat. 58, 58-61 (prohibiting immigration of Chinese laborers; repealed 1943); Immigration Act of 1917, ch. 29, 39 Stat. 874, 874-98, and Immigration Act of 1924, ch. 190, 43 Stat. 153 (banning immigration from almost all countries in the Asia-Pacific region; repealed 1952); Leti Volpp, *Divesting Citizenship: On Asian American History and the Loss of Citizenship Through Marriage*, 53 UCLA L. Rev. 405, 415 (2005).

[21] *See, e.g.*, Philippines Independence Act of 1934, ch. 84, 48 Stat. 456, 462 (imposing annual quota of fifty Filipino immigrants; amended 1946); Immigration Act of 1924, ch. 190, 43 Stat. 153 (denying entry to virtually all Asians; repealed 1952); Scott Act of 1888, ch. 1064, 1, 25 Stat. 504, 504 (rendering 20,000 Chinese re-entry certificates null and void); Naturalization Act of 1790, ch. 3, 1 Stat. 103 (providing one of the first laws to limit naturalization to aliens who were "free white persons" and thus, in effect, excluding African-Americans, and later, Asian Americans; repealed 1795).

[22] *See Ozawa v. United States*, 260 U.S. 178, 198 (1922); *see, e.g.*, Cal. Const. art. II, § 1 (1879) ("no native of China . . . shall ever exercise the privileges of an elector in this State"); *Oyama v. California*, 332 U.S. 633, 662 (1948) (Murphy, J., concurring) (noting that California's Alien Land Law "was designed to effectuate a purely racial discrimination, to prohibit a Japanese alien from owning or using agricultural land solely because he is a Japanese alien").

pervasive discrimination in everyday life.[23] Perhaps the most egregious example of discrimination was the incarceration of 120,000 Americans of Japanese ancestry during World War II without due process.[24] White immigrant groups whose home countries were also at war with the United States were not similarly detained and no assumptions regarding their loyalty, trustworthiness and character were-similarly made.[25]

Racist sentiment towards Asian Americans is not a passing adversity but a continuing reality, fueled in recent years by reactionary post-9/11 prejudice and a growing backlash against immigrants.[26] Numerous hate crimes have been directed against Asian Americans either because of their minority group status or because they are perceived as unwanted immigrants.[27] In 2010, the nation's law enforcement agencies reported 150 incidents and 190 offenses motivated by anti-Asian/Pacific Islander bias.[28]

Discriminatory attitudes towards Asian Americans manifest themselves in the political process as well. For example, during a 2009 Texas House of Representatives hearing, legislator Betty Brown suggested that Asian American voters adopt names that are "easier for Americans to deal with" in order to avoid difficulties imposed on them by voter identification laws.[29] Although this statement did not physically obstruct any voters from reaching the polls, it made clear that the Asian American community's voice was unwelcome in American politics and notably cast Asian Americans apart from other "Americans." At a campaign rally during the 2004 U.S. Senate race in Virginia, incumbent George Allen repeatedly called a South Asian

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[23] *People v. Brady*, 40 Cal. 198, 207 (1870) (upholding law providing that "No Indian. . . or Mongolian or Chinese, shall be permitted to give evidence in favor of, or against, any white man" against Fourteenth Amendment challenge); *see also Gong Lum v. Rice*, 275 U.S. 78 (1927) (upholding segregation of Asian schoolchildren).

[24] *See* Exec. Order 9066, 7 Fed. Reg. 1407 (Feb. 19, 1942) (authorizing the internment); *see also Korematsu v. United States*, 323 U.S. 214 (1944) (upholding the internment under strict scrutiny review).

[25] *See Korematsu*, 323 U.S. at 233, 240-42 (Murphy, J., dissenting) (noting that similarly situated American citizens of German and Italian ancestry were not subjected to the "ugly abyss of racism" of forced detention based on racist assumptions that they were disloyal, "subversive," and of "an enemy race," as Japanese Americans were); Natsu Taylor Saito, *Internments, Then and Now: Constitutional Accountability in Post-9/11 America*, 72 Duke F. for L. & Soc. Change 71, 75 (2009) (noting "the presumption made by the military and sanctioned by the Supreme Court that Japanese Americans, unlike German or Italian Americans, could be presumed disloyal by virtue of their national origin").

[26] *See* U.S. Dep't of Justice, *Confronting Discrimination in the Post-9/11 Era: Challenges and Opportunities Ten Years Later*, at 4 (Oct. 19, 2011) (noting that the FBI reported a 1,600 percent increase in anti-Muslim hate crime incidents in 2001), *available at* http://www.justice.gov/crt/ publications/post911/post911summit_report_2012-04.pdf.

[27] *See, e.g.*, *id.*, at 7-9 (discussing numerous incidents of post-9/11 hate crimes prosecuted by the DOJ).

[28] Fed. Bureau of Investigation, *Hate Crime Statistics* (2010), *available at* http://www.fbi.gov/ about-us/cjis/ucr/hate-crime/2010/tables/table-1-incidents-offenses-victims-and-known-offenders-by-bias-motivation-2010.xls.

[29] R.G. Ratcliffe, *Texas Lawmaker Suggests Asians Adopt Easier Names*, Houston Chron., Apr. 8, 2009, *available at* http://www.chron.com/news/houston-texas/article/ Texas-lawmaker-suggests-Asians-adopt-easier-names-1550512.php.

volunteer for his opponent a "macaca" – a racial epithet used to describe Arabs or North Africans that literally means "monkey" – and then began talking about the "war on terror."[30]

Incidents of discrimination and racism like these perpetuate the misperception that Asian American citizens are foreigners, and have the real effect of denying Asian Americans the right to fully participate in the electoral process. These barriers will only increase as the Asian American population continues to grow. Asian Americans have become the fastest growing minority group in the United States. While the total population in the United States rose 10 percent between 2000 and 2010, the Asian American population increased 43 percent during that same time span.[31]

The fastest population growth occurred in the South, where the Asian American population increased by 69 percent.[32] With the coverage formula struck and no current Section 5 coverage for these states, Asian Americans are susceptible to extensive discrimination, both in voting and other arenas. When groups of minorities move into or outpace general population growth in an area, reactions to the influx of outsiders can result in racial tension.[33] Thus, as Asian American populations continue to increase rapidly, particularly in the South, levels of racial tension and discrimination against racial minorities can be expected to increase.[34]

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[30] *See* Tim Craig & Michael D. Shear, *Allen Quip Provokes Outrage, Apology; Name Insults Webb Volunteer*, Wash. Post, Aug. 15, 2006, *available at* http://www.washingtonpost.com/wp-dyn/content/article/2006/08/14/AR2006081400589.html.

[31] *See* Hoeffel *et al.*, *supra* note 5, at 1, 3. The U.S. Census Bureau data in this brief reflects figures for Asian Americans who reported themselves as "Asian alone." Counting the Asian American community's rapidly growing multiracial population, who reported as "Asian alone or in combination," this growth rate is 46 percent. *Community of Contrasts*, *supra*, at 15.

[32] *Id.* at 6.

[33] *See* Gillian Gaynair, *Demographic shifts helped fuel anti-immigration policy in Va.*, The Capital (Feb. 26, 2009), *available at* http://www.hometownannapolis.com/ news/gov/2009/02/26-10/Demographic-shifts-helped-fuel-anti-immigration-policy-in-Va.html (noting that longtime residents of Prince William County, Virginia, perceived that their quality of life was diminishing as Latinos and other minorities settled in their neighborhoods); James Angelos, *The Great Divide*, N.Y. Times, Feb. 22, 2009 (describing ethnic tensions in Bellerose, Queens, New York, where the South Asian population is growing), *available at* http://www.nytimes.com/2009/02/22/nyregion/thecity/22froz.html?_r=3&pagewanted=1; Ramona E. Romero and Cristóbal Joshua Alex, *Immigrants becoming targets of attacks*, The Philadelphia Inquirer, Jan. 25, 2009 (describing the rise in anti-Latino violence where the immigration debate is heated in New York, Pennsylvania, Texas, and Virginia); Sara Lin, *An Ethnic Shift is in Store*, L.A. Times, Apr. 12, 2007, at B1 (describing protest of Chino Hill residents to Asian market opening in their community where 39% of residents were Asian), *available at* http://articles.latimes.com/2007/apr/12/ local/me-chinohills12.

[34] In 2011, the growth of immigrant communities and rising anti-immigrant sentiment in Alabama led to the passage of H.B. 56, the toughest immigration enforcement law in the country. Also in 2011, state lawmakers in other southern states, including Georgia and South Carolina, launched efforts to deny the automatic right of citizenship to the U.S.-born children of undocumented immigrants. *See* Shankar Vedantam, State Lawmakers Taking Aim at Amendment Granting Birthright Citizenship, Wash. Post, Jan. 5, 2011, *available at* http://www.washingtonpost.com/wp-dyn/content/article/2011/01/05/AR2011010503134.html; *see also United States v. Wong Kim Ark*, 169 U.S. 649 (1898) (holding Fourteenth Amendment grants U.S. citizenship to native-born children of alien parents). At the federal level, Alabama members of the U.S. House of Representatives co-sponsored legislation to enact this restriction. Birthright Citizenship Act of 2011, H.R. 140, 112th Cong. (2011). This bill was reintroduced in 2013 and co-sponsored again by Alabama Representatives, as well as legislators from Arizona, Georgia, and Texas. Birthright Citizenship Act of 2013, H.R. 140, 113th Cong., (2013).

Such discrimination creates an environment of fear and resentment towards Asian Americans, many of whom are perceived as foreigners based on their physical attributes. This perception, coupled with the growing sentiment that foreigners are destroying or injuring the country, jeopardizes Asian Americans' ability to exercise their right to vote free of harassment and discrimination. Given the discrimination against Asian Americans and immigrants that persists as these populations continue to grow, the lack of Section 5 protections will be problematic for these communities.

Conclusion

American citizens of Asian ancestry have long been targeted as foreigners and unwanted immigrants, and racism and discrimination against them persists to this day. These negative perceptions have real consequences for the ability of Asian Americans to fully participate in the electoral and political process. Section 5 of the VRA was an effective tool in protecting Asian American voters against a host of actions that threaten to curtail their voting rights. However, the Supreme Court's recent decision dismantling the coverage formula has left a large gap in protections for Asian American voters that requires Congressional action. We look to Congress to work in a bipartisan fashion to respond to the Court's ruling and strengthen the VRA as it did during the 2006 reauthorizations and each previous reauthorization. We respectfully offer our assistance in such a process.

COMMON CAUSE
Holding Power Accountable

Testimony of Karen Hobert Flynn
Interim Co-CEO & Senior Vice President for Strategy and Programs
Common Cause

United States Senate Committee on the Judiciary

From Selma to *Shelby County*:
Working Together to Restore the Protections of the Voting Rights Act

July 17, 2013

Thank you for the opportunity to submit written testimony for today's hearing on restoring the protections of the Voting Rights Act (VRA). Common Cause is a nonpartisan, grassroots organization dedicated to restoring the core values of American democracy, reinventing an open, honest, and accountable government that works for the public interest, and empowering ordinary people to make their voices heard.

The Supreme Court's radical and shameful *Shelby County*[1] decision, striking down Section 4 of the Voting Rights Act, dealt an immeasurable blow to crucial voter protections that took decades to secure and enjoyed nearly universal bipartisan support. Since 1965, the Voting Rights Act, with Section 4 intact, has served as America's most effective weapon against voter discrimination, preventing communities and states with a demonstrated history of racial and ethnic discrimination from impeding minority participation in our democracy. The preclearance requirement of the Voting Rights Act is not the "perpetuation of racial entitlement" suggested by Justice Scalia earlier this year, but a reaffirmation of our commitment to the core value of

[1] *Shelby County, Alabama v. Holder*, No. 12-96 (United States Supreme Court June 25, 2013).

American democracy: that every citizen has the right to participate in the political process and make his or her voice heard.

Common Cause is proud of its history of vigorous support for the VRA, which includes extensive lobbying for the law's 1975, 1982, and 2006 reauthorizations and our submission of an amicus brief to the Supreme Court in support of the Act's constitutionality. Archibald Cox, Common Cause's chairman from 1980-92, defended the original act before the Supreme Court, after helping to develop some of its key provisions as United States Solicitor General. The VRA, including its preclearance requirement, is essential to our nation's continuing effort to foster open, fair and equal access to our elections for all Americans; in light of the *Shelby* decision, it must be revived and strengthened through Congressional action.

"Every American citizen must have an equal right to vote," President Johnson told a joint session of Congress in 1965, and "there is no duty which weighs more heavily on us than the duty we have to ensure that right."[2] With these words, President Johnson helped persuade Congress to assume responsibility for preventing voter discrimination throughout the country. Later that year, passage of the Voting Rights Act inaugurated a preclearance system that required certain states and jurisdictions with histories of discrimination to notify the Department of Justice and get its approval of any proposed changes in election law or procedure. The provision empowered the government to protect voting rights by enforcing Constitutional protections set forth in the 14th and 15th Amendments.

After a half-century during which Congress renewed the preclearance requirement four times, the Supreme Court last month struck down a provision at the heart of the 2006 reauthorization, which passed 98-0 in the Senate and 390-33 in the House. Then-House Judiciary

[2] President Lyndon B. Johnson, Address Before a Joint Session of Congress (Mar. 15, 1965).

Committee Chairman Jim Sensenbrenner, a witness at this morning's hearing, described the 2006 reauthorization as "one of the most extensive considerations of any piece of legislation that the United States Congress has dealt with in the 27½ years" he had then served.[3] In *Shelby County v. Holder*, the Court gutted the VRA by rejecting the preclearance provision's coverage formula which determined the states and localities subject to preclearance. Importantly, however, *Shelby County* did not strike down the *concept* of preclearance. In other words, Section 5 remains good law but is now without the pre-*Shelby County* formula that allowed our government to apply it most effectively.

Before the VRA's passage, and now in the post-*Shelby* limbo, the Department of Justice could challenge discriminatory voting laws only *after* they went into effect. While this power is undoubtedly constitutional and important, it proved constrictive because post-enactment litigation is slow and costly. Furthermore, states can and have circumvented the effects of adverse judgments by slightly altering and then re-instating the voting law changes in question, thus subjecting the changes to another round of post-enactment litigation. The preclearance provision provided an effective and efficient solution by enabling the Department of Justice to reject discriminatory practices *before* enactment, avoiding many of the costs and challenges of litigation.

In the years after the Voting Rights Act was signed into law, there have been hundreds of attempts to disenfranchise minority voters in jurisdictions covered by the preclearance requirement. In fact, between the 1982 and 2006 reauthorizations of the VRA, the Department of Justice blocked over 700 discriminatory rule changes. As Justice Ginsburg noted in her dissent in *Shelby County*, "Congress found that the majority of these changes were 'calculated decisions to

[3] *Shelby County, Alabama v. Holder*, No. 12-96, slip op. at 36 (U.S. June 25, 2013) (Ginsburg, J., dissenting).

keep minority voters from fully participating in the political process.'"[4] Over 100 additional successful actions were brought during this time by private plaintiffs seeking to enforce the VRA's preclearance requirements. By striking down the coverage formula in Section 4, the Supreme Court rendered Section 5's preclearance requirement functionally void, unless jurisdictions are "bailed in" pursuant to Section 3. This substantially narrowed the federal government's power to block discriminatory voter restrictions.

To comprehend the importance of Sections 4 and 5 of the VRA, one need look no further than the abhorrent changes these provisions were used to thwart over the past four and one half decades. For example, in 2004, the Richland-Lexington School District No. 5 in South Carolina, which included a rapidly-growing, 15% African-American population, introduced a proposal to change its process for electing school board members. The current system provided for seven at-large board seats awarded to the highest vote getters in each election. The proposed change would have eliminated the at-large seats in favor of numbered seats and a majority vote requirement, "thus eliminating the ability of a cohesive minority [to elect] their candidate of choice."[5] Because South Carolina was a jurisdiction covered under Section 4 of the VRA, the Department of Justice blocked the change, which would have unfairly marginalized the electoral impact of the local African-American community.

In 2001, the all-white city council of Kilmichael, Mississippi, a majority black community, decided to cancel upcoming municipal elections after a number of black candidates qualified to be placed on the ballot. Because Mississippi was subject to the VRA's preclearance

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[4] *Shelby County, Alabama v. Holder*, No. 12-96, slip op. at 13 (U.S. June 25, 2013) (Ginsburg, J., dissenting).

[5] *Real Stories of the Impact of the VRA*, The Leadership Conference, http://www.civilrights.org/voting-rights/vra/real-stories.html#villeplatte (last visited July 16, 2013).

requirements, the Department of Justice used its authority to prevent the cancellation, finding that "the town did not establish that its decision was motivated by reasons other than an intent to negatively impact the voting strength of black voters."[6] Unfortunately, this appalling example of blatant discriminatory intent is far from uncommon.

The VRA has also served the critical function of protecting voters from discrimination in how district lines are drawn. In 2011, for example, the Texas legislature drew new maps in advance of the 2012 elections. The Department of Justice found that the proposed plan was "adopted, at least in part, for the purpose of diminishing the ability of citizens of the United States, on account of race, color, or membership in a language minority group, to elect their preferred candidates of choice to Congress."[7] Federal courts also found not only that the redistricting maps as enacted by the Texas Legislature were "enacted with discriminatory purpose" but also that its voter identification laws were "strict, unforgiving burdens on the poor" and would depress minority turnout. Texas gained over four million new residents in the last decade. Nearly 90 percent of that growth came from minority citizens (65 percent Hispanic, 13 percent African-American, 10 percent Asian).[8] Yet, Texas managed to draw fewer districts that would give minority voters the opportunity to elect a candidate of their choice, shrinking the number from 11 majority minority seats to 10. Further, the court found that the Texas Legislature systematically removed valuable assets from minority districts, such as the university, a rail line, and even the Alamo. It was only because of Section 5 of the Voting Rights Act that these discriminatory laws were not allowed to be implemented.

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[6] *Id.*

[7] United Statse and Defendant-Intervenors Identification of Issues, *Texas v. United States*, Sept. 23, 2011, Civil Action No. 1:11-cv-1303 (D.D.C.).

[8] Ari Berman, *Texas Redistricting Fight Shows Why Voting Rights Act Still Needed*, The Nation, June 5, 2013, http://www.thenation.com/blog/174652/texas-redistricting-fight-shows-why-voting-rights-act-still-needed#.

Until last month, the VRA guarded against these radical infringements upon American minorities' right to vote. After *Shelby County*, the Department of Justice lost the notification requirement that ensured transparency of election administration in historically problematic jurisdictions and lost its ability to efficiently eliminate discriminatory voting laws and practices before their implementation. The Supreme Court's gutting of the preclearance formula essentially gave jurisdictions with a history of racial discrimination freedom to disenfranchise minority voters.

Indeed, less than two days after the *Shelby County* decision, six states[9] previously covered under the preclearance formula proceeded with plans to enact new voting restrictions that will make it harder for millions of Americans to vote - if they vote at all. For example, just two hours after the court's ruling, Texas announced that it was moving forward with a strict new photo identification requirement. Passed by the Texas legislature in 2011 but blocked by a federal court last year, the law could have prevented nearly 795,000 predominantly black and Hispanic voters from casting ballots in the 2012 election.[10] The court said it "imposes strict, unforgiving burdens on the poor, and racial minorities in Texas are disproportionately likely to live in poverty."[11] Now, however, without the critical protections of the VRA, Texas and a number of other states can move full speed ahead with requirements that a federal court had

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[9] Texas, Mississippi, Alabama, Arkansas, South Carolina, and Virginia. Joseph Diebold, *Six States Already Moving Forward with Voting Restrictions After Supreme Court Decision*, ThinkProgress.org, http://thinkprogress.org/justice/2013/06/27/2223471/six-states-already-moving-forward-with-voting-restrictions-after-supreme-court-decision/ (last visited July 15, 2013); Michael Cooper, *After Ruling, States Rush to Enact Voting Laws*, N.Y. TIMES, July 5, 2013, http://www.nytimes.com/2013/07/06/us/politics/after-Supreme-Court-ruling-states-rush-to-enact-voting-laws.html?pagewanted=all.

[10] Rosa Ramirez, "Does the Texas Voter ID Law Discriminate Against Blacks, Hispanics," NATIONAL JOURNAL, May 29, 2013, http://www.nationaljournal.com/thenextamerica/politics/does-the-texas-voter-id-law-discriminate-against-blacks-hispanics-20120716; Cooper, *supra* note 7.

[11] *Texas v. Holder*, 888 F. Supp. 2d 113, 144 (D.D.C. 2012).

found racially discriminatory and will inevitably prevent tens of thousands of minority voters from casting ballots.

This flood of discriminatory voting restrictions in the wake of *Shelby* underscores the need for Congress to act swiftly to reestablish the protections of the Voting Rights Act. As Congress begins this process, its guiding principle must be that *every* American's right to vote should be unimpeded and protected, regardless of race or ethnicity.

In 1965, while campaigning for the passage of the Voting Rights Act, President Johnson noted that "the existing process of law cannot overcome systematic and ingenious discrimination" and that "no law...on the books...can ensure the right to vote when local officials are determined to deny it."[12]

Unfortunately, those words ring true again today. As Justice Ginsburg observed in her *Shelby County* dissent, the court has upended "one of the most consequential, efficacious, and amply justified exercises of federal legislative power in our Nation's history."[13] It is vital that Congress act immediately to revitalize this landmark legislation and fulfill America's promise to protect every eligible citizen's right to vote.

[12] President Lyndon B. Johnson, Address Before a Joint Session of Congress (Mar. 15, 1965).
[13] *Shelby County, Alabama v. Holder*, No. 12-96, slip op. at 3 (U.S. June 25, 2013) (Ginsburg, J., dissenting).

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Adding Flexibility for Section 2 Voting Rights Act Compliance

Testimony from FairVote – The Center for Voting and Democracy
By Rob Richie, Executive Director and Drew Spencer, Staff Attorney
Presented to the Senate Judiciary Committee, July 16, 2013

About FairVote

FairVote – The Center for Voting and Democracy is a non-partisan, non-profit think tank and advocacy organization working since 1992 on reforms ranging from election administration to electoral systems. Based in Takoma Park, FairVote works locally, statewide and nationally. FairVote has advised non-governmental organizations and policy-makers at all levels on the conduct of elections.

Introduction

We thank you for holding this hearing on an exceptionally important and timely topic: "From Selma to Shelby County: Working Together to Restore the Protections of the Voting Rights Act." We believe that the times demand solutions to protection of voting rights that can be sustained over time and be less vulnerable to who controls the levers of power in a jurisdiction. Federal law should ensure all eligible voters have reasonable access to vote in all elections. Similarly, we must look to methods of elections that are fundamentally fair to all Americans and minimize the impact of how district lines are drawn. Our nation has decades of experience with such fair representation voting alternatives to winner-take-all voting rules; we know they work well for all voters and are consistent with our laws and political history. The importance of fair voting methods has become even clearer in the absence of preclearance protections.

To fully realize the goals of the Voting Rights Act, we recommend statutory changes to clarify that states and localities are able to use fair representation voting methods to uphold minority voting rights. We also recommend changes in voting system certification standards to ensure that no jurisdiction wanting to resolve a voting rights case with a fair voting method is denied from doing so because its voting equipment is not ready to run elections under rules already in place in some American jurisdictions.

The Vulnerability of Protected Racial Minorities with Winner-Take-All Rules

Among the most serious impediments to the ability of racial minorities to have full access to the ballot in places with racially polarized voting are election methods that result in vote dilution for racial minorities. In the past, this has typically been seen in local jurisdictions using winner-take-all at-large or multi-member elections, and it has typically been remedied by the use of single-member districts including some number of "majority-minority" districts, which make it possible for racial minorities to elect candidates of choice. The use of majority-minority districts has largely succeeded at ensuring higher levels of representation in places where racial minorities would otherwise be locked out of elections by dilution of their votes' effectiveness.

However, the use of majority-minority districts suffers from limits that raise questions as to whether single-member districts can really be a lasting remedy to racial minority vote dilution. Most importantly, the fairness of such systems for racial minorities is not intrinsic to their adoption; rather, it depends on how district lines are drawn. In an era when oversight of line-drawing is likely to decline in areas of the country where most racial minorities live, this dependency on the fairness of line-drawing raises concerns. As a result, we need to give greater attention to voting methods that, once adopted, are *intrinsically fair* as long as voter turnout is sufficiently comparable among different groupings of voters.

Further, majority-minority districts require encircling a particular area for racial minority representation, leaving most racial minority voters outside of that area with little chance to elect candidates of choice. In fact, racial minorities in all of the states that were covered by Section Five of the Voting Rights live in congressional districts where they are unlikely to elect preferred candidates. Single-member districts also generally result in fewer women being elected compared to multi-member elections. In addition, where racial minorities are too geographically disparate to be effectively grouped into a majority-minority district, single-member districts do not remedy their vote dilution at all. Finally, the U.S. Supreme Court has held that the use of majority-minority districts may violate the equal protection clause of the Fourteenth Amendment to the Constitution where districts are drawn principally for racial classification rather than based on traditional redistricting criteria.

Fortunately, we have a long history of using fair representation alternatives to winner-take-all elections that do not rely on single-member districts and can remedy vote dilution for far more

racial minority voters. For example, the use of cumulative voting in multi-member elections allows voters to "self district" by electing candidates by separate blocks of voters without respect to where they vote geographically. The system was used for more than a century to elect the Illinois House of Representatives, with one outcome being early election of African Americans in white-majority districts. Cumulative voting today is used in jurisdictions that adopted it to remedy racial minority vote dilution claims brought under Section 2 of the Voting Rights Act in Alabama, New York, South Dakota and Texas. In Chilton County (AL), it has consistently allowed the population to elect a candidate of choice in every election since its first use in 1988 – often winning the highest number of votes of any candidate in the election even though African Americans make up about one in eight county residents. More recently, cumulative voting was adopted in Port Chester, New York, following a lawsuit brought under Section 2 of the Voting Rights Act, with similarly positive results – including a Latino candidate finishing first in the 2013 elections. Appended to this testimony is a law review article co-authored by Rob Richie and Drew Spencer for the *University of Richmond Law Review* which addresses legal questions about such fair representation systems and convincingly makes the case for the use of choice voting as a means to uphold racial minority voting rights at all levels of government.

Recommended Statutory Changes

We recommend statutory changes that would make it easier for jurisdictions to turn to fair representation voting methods at different levels of government:

Amending Section 2 of the Voting Rights Act: Section 2 of the Voting Rights Act should be amended to clarify the standard established by in the U.S. Supreme Court in *Thornburg v. Gingles* that the racial minority population must be sufficiently geographically compact to constitute a majority-minority district. Such a requirement is relevant at the *remedies* stage, should plaintiffs seek the use of majority-minority districts as a remedy, but it should not block litigation at the *liability* stage, especially where jurisdictions may have otherwise remediable vote dilution.

California adopted this approach in 2002 when it passed its own California Voting Rights Act. The California Voting Rights Act explicitly noted that the racial minority population does not need to be geographically compact to find liability. The California Court of Appeals noted in *Sanchez v. Modesto* that this change from the federal Voting Rights Act anticipates the use of fair

representation voting methods. California's experience demonstrates that vote dilution claims can be brought under laws that do not require geographical compactness for a finding of liability.

Improve Voting System Certification Standards: The Election Assistance Commission should be required to include in its voting system federal certification requirements the mandate that voting systems be capable of conducting elections under any electoral rules used anywhere in the United States, including cumulative voting and ranked choice voting. It is problematic for voting machine vendors to operate in the United States without the ability to run elections as currently structured – particularly as we know that all the major vendors can meet this standard.

Furthermore, local jurisdictions considering the adoption of fair voting methods that would promote minority representation should not be impeded by a lack of certified voting systems tested for them. Appended to this testimony is a letter signed by civil rights organizations calling for such flexibility to be part of voting equipment standards.

Permit States to Elect Congressional Representatives by Fair Voting: The U.S. Constitution does not constrain states to electing congressional representatives from single-member districts. Indeed, for much of the nation's history, states elected their congressional delegations by a variety of creative means. Only since 1967 have states been required by federal law to adhere exclusively to election by single-member districts.

The 1967 law requiring that states elect their congressional delegations exclusively from single-member districts should be repealed. In its place, states should be required to use fair representation voting methods like cumulative voting when they elect from multi-member districts. Congressman Mel Watt's States' Choice of Voting Systems Act in 1999 would have made this change; it earned support from both Democrats and Republicans in the House and the Department of Justice. Appended to this testimony is 1999 testimony by law professor Nathaniel Persily and the Department of Justiee on Congressman Watt's legislation.

Additional Resources:

Civil rights groups' letter supporting voting equipment flexibility for fair representation voting methods: Letter from civil rights groups discussing the importance of flexibility in voting equipment, including the value of equipment being ready to administer elections under rules already in place in American states and localities. Following the letter is a more detailed description of voting equipment flexibility. Available at http://archive.fairvote.org/administration/flexibility.htm.

Nathaniel Persily's 1999 testimony in support of legislation to allow multi-seat district elections for Congress: In September 1999, Stanford law professor Nathaniel Persily, then a staff attorney at the Brennan Center for Justice, provided testimony before the House Judiciary Subcommittee on the Constitution regarding legal and policy issues raised by the States' Choice of Voting Systems Act. Among his points: "Multi-member districts allow for the possibility that traditional political communities, such as counties or cities or even whole states, could be represented as organic units in the Congress -- a practice that was part of the redistricting 'tradition' before the court imposed the one-person, one-vote rule. Under present law, district boundaries rarely overlap with anything that can be defined as a political community. ... Thus, instead of working against the grain of geographic districting, which is a frequently heard critique of multi-member districting schemes, such systems can reinforce regional identities for communities that have historical and political meaning for their inhabitants." Available at http://judiciary.house.gov/legacy/pers0923.htm.

Testimony of the Department of Justice, in support of legislation to allow multi-seat district elections for Congress: Anita Earls, then deputy assistant attorney general for the Civil Rights division, testified in September 1999 before the Committee on the House Judiciary Subcommittee on the States' Choice of Voting Systems Act. She said: "The Department of Justice supports this legislation as a valuable way to give state legislatures additional flexibility in the redistricting process.... Giving states greater flexibility in the redistricting process is an important objective. Redistricting is one of the most difficult and complex jobs that a state legislature ever undertakes. The process brings into play a huge number of variable criteria: the one person, one vote requirement of the U.S. Constitution; the Voting Rights Act's requirement that the votes of racial and language minorities not be diluted; the concerns of incumbent officeholders and the needs of diverse constituencies; geography and population distribution; state laws and policies that constrain the legislature's choices; and a host of other political, social, and economic interests and realities." Available at http://judiciary.house.gov/legacy/hodg0923.htm.

Law review article on fair representation voting methods: *The Right Choice for Elections: How Choice Voting Will End Gerrymandering and Expand Minority Voting Rights, From City Councils to Congress*, by Rob Richie and Drew Spencer. This article includes detailed analysis of legal questions involving the Voting Rights Act and potential use of fair representation voting methods. Available at http://lawreview.richmond.edu/wp/wp-content/uploads/2013/03/Richie-473.pdf.

FairVote analysis of impact of fair voting on African American voting rights: *A Representative Congress - Enhancing African American Voting Rights in the South with Choice Voting* shows how many more African American voters would be able to elect preferred candidates with fair representation voting methods in southern states. Available at http://www.fairvote.org/a-representative-congress-enhancing-african-american-voting-rights-in-the-south-with-choice-voting#.UeWXIo3VCYI.

NATIONAL CONGRESS OF AMERICAN INDIANS

Testimony of the National Congress of American Indians before The United States Senate Committee on the Judiciary July 17, 2013

I. Introduction

On behalf of the National Congress of American Indians, thank you Chairman Leahy and Ranking Member Grassley for allowing NCAI to submit testimony on the important topic of today's hearing: *From Selma to Shelby County: Working Together to Restore the Protections of the Voting Rights Act.* Established in 1944, NCAI is the oldest and largest national organization representing the interests of all 566 American Indian tribes and Alaska Native villages. Historically, citizens of Tribal Nations have been denied equal access to the ballot box. The Voting Rights Act and all of its resources has been a law that tribal citizens depend on to help balance historical inequities at the polling place. For this reasons, we are encouraged the Committee has scheduled this hearing and would like to share historical perspectives on voting rights from Indian Country, as well as offer some insight on where we go from here – with the collective goal of ensuring we do not take steps backward in providing all citizens equal access to exercise the constitutional right to vote.

II. History of Voting Rights and American Indians and Alaska Natives

Although American Indians and Alaska Natives understand that the best way to protect their rights is through active participation in the political system, efforts have been made to limit the American Indian vote. There are approximately 1.9 million tribal members that make up the total enrollment of America's 566 federally recognized Indian tribes.[1] In 2004, American Indians voted in record numbers and their participation was credited as outcome determinative in several races.[2] Historically, however, American Indians and Alaska Natives have been forced to resort to the courts to protect their ability to participate in local, state, and federal elections and combat burdensome time, place, and manner voting regulations that effectually disenfranchised them.[3]

American Indians "have experienced a long history of disenfranchisement as a matter of law and of practice."[4] It was not until Congress passed the Indian Citizenship Act of 1924 that all Indians were granted United States citizenship.[5] Prior to 1924,

[1] BIA, *American Indian Labor Force Report,* Tribal Enrollment, at iii (2005).

[2] *See, e.g.*, Daniel McCool, Susan M. Olson & Jennifer L. Robinson, NATIVE VOTE: AMERICAN INDIANS, THE VOTING RIGHTS ACT, AND THE RIGHT TO VOTE 177-183 (2007); Danna R. Jackson, *Eighty Years of Indian Voting: A Call to Protect Indian Voting Rights*, 65 MONT. L. REV. 269, 270-271 & n.7 (2004) (quoting Michael Barone, Grant Ujifusa & Douglas Matthews, THE ALMANAC OF AMERICAN POLITICS 1468 (2004)).

[3] *See Harrison, et al. v. Laveen,* 67 Ariz. 337 (1948)(Native Americans are "residents of the state" and qualified to participate in state elections) overturning *Porter v. Hall*, 34 Ariz. 308 (1928); *Trujillo v. Garley*, No. 1353 (D.N.M. 1948); *Allen v. Merrell*, 353 U.S. 932 (1957).

[4] *Continuing Need for Section 203's Provisions for Limited English Proficient Voters: Hearing Before the S. Comm. on the Judiciary,* 109th Cong. 309 (2006) (letter from Joe Garcia, NCAI).

Indians were denied citizenship and the right to vote and could only become citizens through naturalization "by or under some treaty or statute."[6] The 1924 Act ended the period in United States history in which obtaining United States citizenship required an Indian to sever tribal ties, renounce tribal citizenship and assimilate into the dominant culture.[7] With the passage of the Indian Citizenship Act and by operation of the Fourteenth Amendment, an Indian who is a United States citizen is also a citizen of his or her state of residence.[8]

Notwithstanding the passage of the Indian Citizenship Act, some states continued to deny Indians the right to vote in state and federal elections through the use of poll taxes, literacy tests, and intimidation.[9] It took nearly forty years for all fifty states to recognize American Indians' right to vote. For years, Arizona denied Indians the right to vote because they were "under guardianship," placing them on par with convicted felons, the mentally incompetent, and the insane.[10] In other places, Indians were denied the right to vote unless they could prove they were "civilized" by moving off the reservation and renouncing their tribal ties.[11] In 1956, Utah was one of the last states to ban a statute that prevented Indians residing on the reservation from voting because it did not count them as citizens of the State.[12] This was over 30 years after the Indian Citizenship Act was passed by Congress, and only several years prior to passage of the VRA in 1965.[13]

Since the passage of the VRA, at least seventy-three cases have been brought under either the Voting Rights Act or the Fourteenth or Fifteenth Amendments in which Indian interests were at stake.[14] The discrimination trends that emerge from these cases closely track the experience of African Americans, with discrimination shifting from *de jure* to *de facto* over time. Recent cases focus on the discriminatory application of voting rules with respect to registration, polling locations, and voter identification requirements,[15] as well as general overt hostility to Native voting. For example, in 2002 a South Dakota State legislator stated on the floor of the State Senate that he would be "leading the charge . . . to support Native American voting rights when Indians decide to be citizens of the state by giving up tribal sovereignty."[16]

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[5] An Act of June 2, 1924, 43 Stat. 253, Pub. L. 175 (1924) (codified as amended at 8 U.S.C. § 1401(b)).
[6] *Elk v. Wilkins*, 112 U.S. 94, 103 (1884).
[7] COHEN'S HANDBOOK OF FEDERAL INDIAN LAW, § 14.01[3], n. 42-44 (2012 Ed.).
[8] U.S. CONST. amend. XIV, § 1.
[9] *Continuing Need for Section 203's Provisions for Limited English Proficient Voters: Hearing Before the S. Comm. on the Judiciary*, 109th Cong. 309 (2006) (letter from Joe Garcia, NCAI).
[10] *Harrison, et al. v. Laveen*, 196 P.2d 456 (1948).
[11] California limited voting rights to white citizens; Idaho, New Mexico and Washington withheld the right to vote from Indians not taxed. The North Dakota Constitution limited voting to "civilized" Indians who have severed tribal relations. Daniel McCool, Susan M. Olson & Jennifer L. Robinson, NATIVE VOTE: AMERICAN INDIANS, THE VOTING RIGHTS ACT, AND THE RIGHT TO VOTE 10 (2007).
[12] *Allen v. Merrell*, 353 U.S. 932 (1957).
[13] *Id.*
[14] Daniel McCool, Susan M. Olson & Jennifer L. Robinson, NATIVE VOTE: AMERICAN INDIANS, THE VOTING RIGHTS ACT, AND THE RIGHT TO VOTE 45 (2007).
[15] *Id.* at 46; *see id.* at 48–68 (collecting cases).
[16] *Boneshirt v. Hazeltine*, 336 F. Supp. 2d 976, 1046 (D.S.D. 2004) (quoting Rep. John Teupel).

On a national level, in *Bush v. Gore*, the Supreme Court noted that "the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another."[17] It is our belief that this statement stands for the idea that no matter where an individual comes from, and regardless of how much property an individual owns, each citizen is entitled to exercise their constitutionally guaranteed right to vote.

III. Section 4(b) of the Voting Rights Act

Unfortunately, this Nation has a history of disenfranchisement at the polling place. Section 4(b) of the Voting Rights Act, which was recently struck down as unconstitutional by the Supreme Court in *Shelby County v. Holder*, put in place criteria to identify areas within the United States where Congress noted a need for greater protections – preemptive protections to be specific, for one's right to cast a ballot in elections. Under that Section, Congress looked to areas where voting disparities between white and non-whites were so great, as to evidence significant marginalization at the polling place. Also, Congress identified areas where overt tests or devices were used to abridge one's right to vote, such as literacy tests which disproportionately affected low-income minorities, as well as American Indians and Alaska Natives whose first language was not English, and many of which did not speak, let alone read, English at all. These jurisdictions became known as "covered jurisdictions", and encompassed counties and – in some instances, entire states. As covered jurisdictions, any change in voting laws needed to either: a) be pre-cleared by the Department of Justice; or b) approved by a three-panel DC Circuit court.

With the recent holding in *Shelby County v. Holder*, the Voting Rights Act loses a critical component which placed the burden on historically discriminatory jurisdiction to prove their changes in voting laws could pass muster, or – in other words—were not veiled attempts to circumvent individuals' voting rights.

This process was important in several respects. First, it ensured that "covered jurisdictions" think hard before enacting changes to their voting laws. After all, if a "covered jurisdiction" sought changes for upcoming elections, it would undoubtedly want to make sure such laws would pass the pre-clearance process in order to be enacted. This arguably led to better law.

Relatedly though, it isolated the review process in the legislative field. In other words, real votes were not affected until the new law was pre-cleared or approved by the DC court. This cannot be emphasized enough because it places the cost and time burdens on the legislative body and not the individual voters, as Section 2 arguably does.

However, and perhaps most important, Section 4(b) and its counterpart Section 5 are familiar to "covered jurisdictions" and to the voters they sought to protect. The Court attributed much of its decision on the fact that voting demographics in "covered jurisdictions" had improved significantly since their inception. However, instead of applauding the effectiveness of the preclearance process, the Court instead veered down a path where the preclearance processes' own

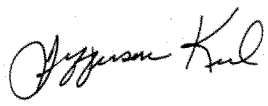
[17] *Bush, et al. v. Gore, et al.*, 121 U.S. 525, 530 (2000), *See, e.g., Harper* v. *Virginia Bd. of Elections*, 383 U.S. 663, 665 (1966) ("[O]nce the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause of the Fourteenth Amendment.").

effectiveness eventually became its worst enemy: the Court concluded the formula used to identify covered jurisdictions was no longer needed. Many suspect this analysis could not be further from the truth. Unfortunately, the American Indian and Alaska Native vote will represent a large portion of those affected to discern the validity of the Court's analysis.

IV. Conclusion

In conclusion, NCAI calls on Congress to act in filling the gap left by the *Shelby* decision. While the Court held the tests used under Section 4(b) were no longer useful, it also left the door open for Congress to determine a new test, one which reflects the modern challenges for historically disenfranchised voters. NCAI asks that Congress work with voting rights advocates and scholars to determine what that more modernized test encompasses. Once again, we thank the Committee for this opportunity to comment on this issue and hope to continue the dialogue toward better and more effective voter protection law.

Sincerely,



Jefferson Keel
NCAI, President

ADL 100

Imagine a World Without Hate™

July 17, 2013

The Honorable Patrick Leahy
Chair, Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member, Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley,

We strongly welcome the Senate Judiciary Committee hearings on the aftermath of the Supreme Court's June 25 *Shelby County v. Holder* decision, which we believe is a major setback to the progress we have made in civil rights over the last 50 years. We appreciate the opportunity to provide the views of the Anti-Defamation League (ADL), and would ask that this statement be included as part of the hearings record.

ADL is a leading civil rights organization that has been working to secure justice and fair treatment for all since its founding 100 years ago. Recognizing the Voting Rights Act of 1965 (VRA) as one of the most important and most effective pieces of civil rights legislation ever passed, ADL has strongly supported the VRA and its extensions since its passage almost 50 years ago.

The success of the VRA is undeniable. It has helped to eliminate discriminatory barriers to full civic participation for millions of Americans, and has sparked significant advances for equal political participation at all levels of government. In the years immediately after passage of the VRA, African American voter registration increased dramatically, and the number of African Americans elected to public office increased fivefold in five years.[1] Today there are more than 9,000 African American elected officials,[2] including the first African American president. Many of these elected officials are from jurisdictions that were protected by the preclearance provisions of Section 5 of the VRA.[3] Surely, the United States would not have made such progress without the VRA.

The success of the VRA in improving minority voter participation and increasing the number of African American elected officials is not a demonstration that the protections of the VRA are no longer necessary. To the contrary, extensive Congressional testimony from 2006 before passage of the Act's latest extension and subsequent evidence show that Section 5's preclearance requirements continue to serve as a crucial safeguard for the right to vote for millions of citizens. In 2006 Congress found that "the hundreds of objections interposed [and] requests for more information submitted followed by voting changes withdrawn from consideration by jurisdictions covered by [Section 5]" evidenced continued discrimination,[4] and that many of the laws blocked by the Department of Justice pursuant to Section 5 closely resembled attempts to disenfranchise voters before passage of the VRA. Proposed laws blocked by Section 5 have included discriminatory redistricting plans, polling place relocations, biased annexations and de-annexations, and changing

[1] See H.R. Rep. No. 109-478, at 18, 130 (2006), reprinted in 2006 U.S.C.C.A.N. 618.
[2] *Id.* at 18.
[3] *See* Chandler Davidson & Bernard Grofman, The Voting Rights Act and the Second Reconstruction, in Quiet
Revolution in the South 378, 381-86 (Chandler Davidson & Bernard Grofman eds., 1993).
[4] Pub. L. No. 109-246, § 2(b)(4)(A).

offices from elected to appointed positions.[5] After extensive hearings and very thorough consideration, the House concluded that these proposed voting changes, successfully prevented by Section 5 of the VRA, were "calculated decisions to keep minority voters from fully participating in the political process," showing that "attempts to discriminate persist and evolve, such that Section 5 is still needed to protect minority voters in the future."[6]

Seven years later, the protections of Section 5 continue to be just as necessary. Actions by a number of covered states in the hours and days immediately following the *Shelby County* decision striking down the formula in Section 4 of the VRA, effectively gutting Section 5, demonstrate how crucial Section 5's preclearance provision continues to be in protecting minority voting rights. Shortly after the decision, Texas Attorney General Gregg Abbott announced that the state's voter ID law and a redistricting plan, both of which had been previously blocked by Section 5, would go into effect immediately. The three judge panel that had reviewed the Texas voter ID law and denied preclearance in 2012 found that "based on the record evidence before us, it is virtually certain that these burdens will disproportionately affect racial minorities. Simply put, many Hispanics and African Americans who voted in the last election will, because of the burdens imposed by SB 14, likely be unable to vote."[7] Without Section 5 safeguards, that discriminatory voter ID bill is now in effect. Similarly, unnecessarily restrictive voter ID laws in North Carolina, South Carolina, Alabama, Mississippi and Virginia are all moving forward, despite scant evidence of in-person voter fraud and the great potential to disparately impact minority voters. Another pending bill in North Carolina threatens to reduce college age voting by preventing students' parents from claiming them as dependents on their tax returns if the student registers to vote at his school address. In less than one month since the Supreme Court struck down the preclearance formula -- effectively ending preclearance unless and until Congress creates a new formula -- laws that threaten to reverse the progress made by the VRA are moving forward.

History provides important, sobering lessons about what can happen when protections for minority voting rights are rolled back. After the Civil War, Congress moved swiftly and decisively to enfranchise African American men. Under the supervision of federal troops, more than 700,000 African American men were registered to vote in the South by 1868, a 75 to 95% registration rate. The 15th Amendment was ratified in 1870, and the Enforcement Act of 1870 prohibited discrimination in voter registration and created criminal penalties for interfering with voting rights. These combined efforts and federal protections led to unprecedented rates of African American participation in elected government. By the end of Reconstruction, 18 African Americans had served in statewide office in Southern states, there were eight African Americans in Congress from six different states, and more than 600 African Americans served in state legislatures.[8] When Reconstruction ended in 1877 and the Supreme Court struck down key portions of the Enforcement Act, progress quickly reversed. Southern states began implementing racial gerrymandering, followed by more brazen efforts to disenfranchise African American voters, including poll taxes, literacy tests, whites-only primaries, and grandfather clauses. By the early 1900's, 90 percent of African Americans in the Deep South had been disenfranchised by these schemes. The widespread, insidious disenfranchisement of African American voters only ended in 1965, with passage of the VRA.

To be sure, the United States is very different today than it was after Reconstruction. Yet the possibility of repeating history by reversing decades of progress on improving minority voting rights looms large. The Supreme Court majority in *Shelby County* ignored extensive congressional findings of ongoing election discrimination – instead substituting its own view that a muscular VRA is no longer needed. We certainly hope that one day the protections of the Voting Rights Act will no longer be necessary and that

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[5] H.R. REP. NO. 109-478, at 36.
[6] *Id.* at 21.
[7] No. 12-cv-128, 2012 U.S. Dist LEXIS 127119, at *86 (D.D.C. Aug. 30, 2012).
[8] Eric Foner, Reconstruction: America's Unfinished Revolution 1863-1877, at 353, 355, 538 (1988).

all eligible voters will be able to vote, free from discriminatory barriers. Unfortunately, that day has not yet come. Congress must act to create a new formula, restoring the safeguards of Section 5 preclearance and protecting minority voting rights.

In his speech proposing the VRA, President Lyndon Johnson said, "Many of the issues of civil rights are very complex and most difficult. But about this there can and should be no argument. Every American citizen can and must have an equal right to vote. There is no reason which can excuse the denial of that right. There is no duty which weighs on us more heavily than the duty we have to ensure that right."[9]

Almost 50 years later, President Johnson's words ring true today. We urge Congress to work swiftly and decisively to enact a new formula for Section 4 of the VRA, restoring the Act's crucial voting rights protections and ensuring to every American citizen an equal right to vote.

Sincerely,

Barry Curtiss Lusher
National Chair

Abraham H. Foxman
National Director

[9] President Lyndon B. Johnson, Special Message to the Congress: The American Promise, 1 Pub. Papers 281, 282 (March 15, 1965), available at http://lbjlibrary.org/lyndon-baines-johnson/speeches-films/president-johnsons-special-message-to-the-congress-the-american-promise.

LDF

DEFEND EDUCATE EMPOWER

Statement of

Sherrilyn Ifill
President & Director-Counsel

&

Ryan P. Haygood
Director, Political Participation Group

&

Leslie M. Proll
Director, Washington Office

NAACP Legal Defense and Educational Fund, Inc.

United States Senate
Committee on the Judiciary

Hearing on
"From Selma to Shelby County:
Working Together to Restore the
Protections of the Voting Rights Act"

Dirksen Senate Office Building, Room 226
July 17, 2013
1:00 p.m.

LDF
DEFEND EDUCATE EMPOWER

On behalf of the NAACP Legal Defense and Educational Fund, Inc. ("LDF"), we are pleased to submit this statement to the Senate Judiciary Committee in connection with the hearing, "From Selma to Shelby County: Working Together to Restore the Protections of the Voting Rights Act." We are grateful to Chairman Patrick J. Leahy, Ranking Member Charles Grassley, and Members of the Judiciary Committee for holding this important hearing in response to the United States Supreme Court's devastating ruling last month in *Shelby County, Alabama v. Holder*, and we welcome this essential dialogue about the value and imperative of political inclusion and equality, principles that the Voting Rights Act was enacted to protect. Passed at the height of the Civil Rights Movement, the Voting Rights Act is widely regarded as one of the greatest pieces of civil rights legislation in our nation's history. It continues to be of critical importance to LDF's clients, and to voters of color more broadly, as an essential protection in defending and expanding the right to vote for voters of color, as well as language minorities.[1]

Notwithstanding the Voting Rights Act's essential role as our democracy's discrimination checkpoint, and our continuing need for its critical protections, on June 25, 2013, the United States Supreme Court in *Shelby County, Alabama v. Holder*

[1] Founded under the direction of Thurgood Marshall, LDF has been a pioneer in the efforts to secure, protect, and advance the voting rights of people of color in this nation, particularly those of Black Americans. LDF has been involved in nearly all of the precedent-setting litigation relating to the voting rights of people of color since its founding in 1940. LDF also has played a significant advocacy role in the enactment of the Voting Rights Act of 1965 and its subsequent reauthorizations in 1970, 1975, 1982, and 2006. LDF defended the Voting Rights Act before the Supreme Court most recently in *Shelby County, Alabama v. Holder*.

("*Shelby County*"), in a radical act of judicial overreach, struck down a key provision—Section 4(b) (also known as the "coverage provision")—of the Voting Rights Act.[2] In so doing, the Supreme Court effectively rendered Section 5 of the Voting Rights Act, the "preclearance provision," inapplicable.[3]

By invalidating Section 4(b)'s coverage provision, the Supreme Court disregarded Congress's authority under the 14th and 15th Amendments to enact legislation to defend those amendments' guarantees—an authority appropriately invoked by Congress in its 2006 reauthorization of the Voting Rights Act. Congress, in reauthorizing the Voting Rights Act, undertook an extensive examination, based on many months of hearings, to identify the places that exhibited the kind of persistent racial discrimination in voting that required the specific prophylaxis offered by Section 5's preclearance structure. The Supreme Court's decision in *Shelby County* has left millions of minority voters without a key protection to stop discrimination in voting *before* it occurs, in places that require strong medicine to address the effects of both the history and ongoing reality of racial discrimination in voting.

Responding to the Supreme Court's *Shelby County* decision must be a top priority for Congress. In the hours following the decision, a number of officials from jurisdictions formerly covered by Section 5, including Texas, Mississippi, and North

[2] 570 U.S. ____ (2013) (slip op., at 24).

[3] Section 4(b) identified 15 places that Section 5 protected including: Alabama, Texas, Mississippi, Louisiana, Arizona, North Carolina, South Carolina, Georgia, Florida, Alaska, South Dakota, Virginia, Michigan, New York, and California because of the longstanding and ongoing nature of racial discrimination in voting in these areas.

Carolina, made clear their intentions to move forward with voting changes that will adversely affect access to political participation among communities of color.[4] It is, therefore, imperative that Congress respond aggressively and expeditiously to safeguard the rights of Black, Latino, Asian American, American Indian, and Alaska Native voters in those situations in which they are the most vulnerable to discrimination in voting.

This statement will address three topics that are central to Congress's response to the Supreme Court's *Shelby County* decision: (1) the expansive 2006 Congressional record that reflects the need for strong protections for voters of color from discrimination in those places formerly covered by Section 5 of the Voting Rights Act; (2) the problem that, left without Section 5's protections, communities of color in formerly covered jurisdictions are vulnerable to the myriad of discriminatory voting changes, particularly at the local level, that will arise in jurisdictions now emboldened by the Supreme Court's *Shelby County* decision; and, (3) Congress's ability to address the *Shelby County* decision and to protect vulnerable communities from racial discrimination in voting.

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[4] *See, e.g.*, Ryan K. Reilly, *Harsh Texas Voter ID Law 'Immediately' Takes Effect After Voting Rights Act Ruling*, THE HUFFINGTON POST, June 25, 2013, http://www.huffingtonpost.com/2013/06/25/texas-voter-id-law_n_3497724.html (Texas Attorney General announcing, within hours of the Shelby decision, that "the state's voter ID law will take effect immediately," as may redistricting maps); Geoff Pender, *Next June, Miss. Voters must have ID: Secretary of State reveals time for implementation*, THE CLARION LEDGER, June 25, 2013, http://www.clarionledger.com/article/20130626/NEWS01/306260018/Next-June-Miss-voters-must-ID (Mississippi Secretary of State expressing his intention to move forward to implement Mississippi's voter ID law in June 2014); *Statement from Attorney General Roy Cooper on U.S. Supreme Court Decision on Voting Rights Act.* June 25, 2013, http://www.ncdoj.gov/News-and-Alerts/News-Releases-and-Advisories/Press-Releases/Statement-from-Attorney-General-Roy-Cooper-on-U-S.aspx (North Carolina Attorney General expressing that the State General Assembly is "now considering legislation that . . . would limit early voting and require voter I.D.") .

LDF
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The 2006 Congressional record reflects the need for strong protections for voters of color in those places formerly covered by Section 5 of the Voting Rights Act.

In 2006, during the last reauthorization period, Congress received more testimony and information about the voting experience of citizens of color, both in and outside the jurisdictions covered by Section 5, than it had during any prior reauthorization. Over a ten-month period, the House and Senate Judiciary Committees held 21 hearings, received testimony both in support of and against reauthorization from over 90 witnesses—including state and federal officials, litigators, scholars, and private citizens—and amassed more than 15,000 pages of record evidence. A bipartisan Congress ultimately determined—by the overwhelming vote of 98-0 in the Senate and 390-33 in the House[5]—that persistent and adaptive voting discrimination remained a pervasive problem in the now formerly-covered jurisdictions, and that without Section 5 "minority citizens will be deprived of the opportunity to exercise their right to vote, or will have their votes diluted, undermining the significant gains made by minorities in the last 40 years."[6] As today's witness, Representative James Sensenbrenner, then-Chair of the House Judiciary Committee, observed, the 2006 reauthorization of the Voting Rights Act was based on "one of the most extensive considerations of any piece of legislation that the United States Congress has dealt with in the 27 1/2 years that I have been honored to serve as a

5 *See* 152 Cong. Rec. 14,303-304, 15,325 (2006).
6 Pub. L. No. 109-246, 120 Stat. 578, § 2(b)(9) (2006).

Member of this body."[7] The expansive record before Congress demonstrated that, while voters of color have made undeniable progress, unconstitutional discrimination remained common, persistent, and adaptive in the then-covered jurisdictions. Between 1982 and 2006, the Department of Justice blocked over 600 voting changes under Section 5 after determining that the changes were discriminatory.[8] Evidence in the Congressional record revealed that a majority of these objections were based, at least in part, on purposeful discrimination.[9]

Without Section 5's protections, voters of color are vulnerable to the myriad discriminatory voting changes that will arise in formerly covered jurisdictions now emboldened by the Supreme Court's *Shelby County* decision.

Notwithstanding Congress's carefully-considered judgment in reauthorizing Section 5 of the Voting Rights Act in 2006, the Supreme Court's *Shelby County* decision has deprived voters of color of a vital tool necessary to prevent racial discrimination in voting. Even as our country has made significant progress in combating racial discrimination in our political system—in great measure because of the protections afforded under the Voting Rights Act—the ongoing record of racial discrimination makes plain that there are continuing efforts in many places to deny voters of color the opportunity to participate equally in our shared democracy. These efforts require an aggressive response. Within hours of the *Shelby County* decision, for example, Texas Attorney General Greg Abbott announced that the State planned to "immediately"

7 152 Cong. Rec. 14,230 (2006).
8 H. R. Rep. No. 109–478, at 21.
9 November 1, 2005 Hearing, at 180-81.

implement a 2011 voter-identification law which had previously been blocked by a Section 5 federal court as the most discriminatory measure of its kind in the country.[10] Abbott likewise announced that the State may implement redistricting maps.[11] Mississippi and North Carolina quickly followed suit, announcing that they also planned to adopt discriminatory voting changes that Section 5 may have blocked.[12] These changes threaten to undermine hard-fought gains to expand democracy for people of color.

These are not isolated post-2006 efforts to discriminate in formerly covered jurisdictions. In 2008 in Alaska, Section 5 rejected plans to eliminate precincts in several Native villages, which would have required voters to travel by air or sea to cast a ballot.[13] In 2008 in Calera, Alabama, the county in which the *Shelby County* case originated, Section 5 reinstated the city's only African American city council member after he lost his seat when the Black voting-age population was inexplicably reduced from 79% to just 29%.[14] Attempts to dilute or deny voters of color full access to the political process threaten to take root in an accelerated basis across the country, and particularly in

10 *See supra* n. 4.
11 *Id.*
12 *Id.*
13 Br. of Alaska Federation of Natives, *et al.* as Amici Curiae in Supp. of Resp'ts, at App. 32-36, *available at* http://www.naacpldf.org/files/case_issue/Shelby-Brief%20of%20Amici%20Curiae%20the%20Navajo%20Nation.pdf.
14 Br. of Resp't.-Intervenors Earl Cunningham, *et al.*, at 19-20, *available at* http://www.naacpldf.org/files/case_issue/12-96%20bs%20Earl%20Cunningham%20et%20al..pdf.

formerly-covered jurisdictions, now emboldened by the *Shelby County* decision, which do not have Section 5 to operate as an initial check on discriminatory voting changes.

In particular, in the wake of the *Shelby County* decision, two of the gravest risks to voters of color in formerly-covered places arise from the fact that, without the prophylactic protections of Section 5, (1) officials in formerly covered jurisdictions will now make changes to voting laws without providing notice to voters, and (2) discriminatory voting measures will now have to be challenged *after*, rather than *before*, such changes take effect. The challenges are likely to be particularly pronounced for voters of color at the local level, where Section 5 blocked more than 85% of proposed voting changes between 1982 and 2006, rather than at the state-level.[15] For example, in Kilmichael, Mississippi, in 2001, the white mayor and all-white Board of Alderman attempted to take the extraordinary step of cancelling elections to prevent Black citizens from electing the candidate of their choice after the 2000 Census showed that Blacks had become a majority of the City and were poised, for the very first time, to elect their candidates of choice to the city counsel.[16] Voters of color in places like Kilmichael, and scores of local communities in the previously covered jurisdictions across the United States more broadly, are vulnerable to future attempts to dilute or deny their right to vote. It is precisely in those local communities where Section 5 has been so transformative by giving voters of color opportunities to robustly participate in the political process.

[15] Justin Levitt, *Section 5 as Simulacrum*, YALE L.J. ONLINE 151 (2013), http://yalelawjournal.org/2013/06/07/levitt.html.

[16] October 25, 2005 (History) Hearing, at 1616-19.

At the same time, in the absence of Section 5's application anywhere because of the *Shelby County* decision, discriminatory voting measures now will have to be challenged through litigation *after* they take effect, through case-by-case litigation under Section 2 of the Voting Rights Act (and perhaps state law) that is time-consuming, costly, and permits racial discrimination to take root in the electoral process *before* it can be remedied. Congress made clear during the 2006 reauthorization that Section 2 litigation by itself is an inadequate response to the persistent and adaptive problem of racial discrimination in voting in certain parts of our country.[17]

Congress can and must protect vulnerable communities from racial discrimination in voting in the wake of the *Shelby County* decision

Congress can and must respond aggressively to protect voters of color from racial discrimination following the Supreme Court's ruling in *Shelby County.* Today's witness, Representative John Lewis, who was severely beaten during the Selma to Montgomery March that led to the passage of the Voting Rights Act, has described the Supreme Court's decision in *Shelby County* "as a dagger to the heart of the Voting Rights Act."[18] Congress, however, has the power to respond, as it did in 2006, to protect voters of color from the material harm resulting from the Supreme Court's *Shelby County* decision.

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17 H. R. Rep. No. 109–478, at 57.

18 Press Release, *Rep. John Lewis Calls Court Decision 'a Dagger' in the Heart of Voting Access*, June 25, 2013, http://johnlewis.house.gov/press-release/rep-john-lewis-calls-court-decision-%E2%80%9C-dagger%E2%80%9D-heart-voting-access.

LDF
DEFEND EDUCATE EMPOWER

Today is an important first step of a bipartisan effort to address the *Shelby County* decision. Since its enactment in 1965, the Voting Rights Act has enjoyed overwhelming bipartisan support. Every reauthorization has been signed into law by a Republican president. We fully hope and expect that Congress can cast partisanship aside, and take action to ensure that the cornerstone of our democracy is as strong as ever. We urge Congress to respond aggressively, intentionally, and expeditiously to ensure that voters of color can equally and fully participate in the democratic process.

Thank you for the opportunity to submit this statement.

I am Jim Dickson, Acting Co-Chair of the National Council on Independent Living's (NCIL) Voting Rights Working Group. I have two disabilities, I am blind and I am blunt.

The National Council on Independent Living is the longest-running national cross-disability, grassroots organization run by and for people with disabilities. Founded in 1982, NCIL represents thousands of organizations and individuals including: Centers for Independent Living (CILs), Statewide Independent Living Councils (SILCs), individuals with disabilities, and other organizations that advocate for the human and civil rights of people with disabilities throughout the United States.

I have 29 years experience with election administration and nonpartisan voter registration and education issues. I am immediate past chair of the United States Election Assistance Commission's Board of Advisors. I've been privileged to be part of the disability and civil rights leadership teams which played major roles in both the drafting and passage of the National Voter Registration Act (NVRA) and the Help America Vote Act (HAVA).

NCIL is testifying to urge the Committee to adopt legislation

to restore the effectiveness of main enforcement provisions in the Voting Rights Act of 1965 (VRA). Legislation is needed because the Supreme Court's recent decision in Shelby County v. Holder, [1]. has the effect of overruling VRA requirements that States and counties with a record of racially discriminatory voting procedures must seek preclearance from the Department of Justice before changing their procedures. Experience has shown that preclearance is the most effective process in the VRA to stop discriminatory practices.

The VRA prohibits voting procedures that restrict the rights of citizens to vote on the grounds of race or color. Protecting the rights of citizens of all races to vote is a vital part of our democracy. But the VRA also plays an important role in protecting the rights of people with disabilities to vote. Many of the practices which have been stopped by the VRA preclearance procedures limit not only the voting rights of people of different races and colors, but also the rights of people with disabilities.

Many people with disabilities face special challenges in

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[1] http:// supremecourt.gov/opinions/12pdf/12-96_6k47

exercising their rights to vote. They may find it difficult to get to registration sites and polling places because they are unable to drive themselves, and find public transportation challenging or unavailable. Many people with disabilities are unable to stand in line for long periods as was required in many polling places in the 2012 elections. Voters with visual difficulties may find it difficult to read ballots and displays on voting machines.

As a result of these and other difficulties, people with disabilities vote at lower rates than other citizens. Numerous studies have shown this. Professor Douglas Kruse of Rutgers University recently concluded that this disability gap was about 12% in 2012. He has concluded that "Closing the disability gap could add 2.2 million voters in the near term, and 3.0 million voters over the longer term".[2]

Without preclearance requirements, States and counties would be likely to go forward with changes in voting practices that would make it more difficult for people with disabilities to vote, and widen the disability gap

[2] http://smlr.rutgers.edu/research-centers/disability-and-voter-turnout.

An important example is new requirements for voters to show government issued photo ID at the polls. Before the Shelby case, the Department of Justice had refused to grant preclearance to a Texas law requiring voters to show a driver's license or one of two other acceptable forms of ID. College and State employee ID were not acceptable.[3]

Photo ID requirements would be likely to reduce voting by people with disabilities. A significant number of people with disabilities are unable to drive and therefore do not have the most widely used photo ID, a driver's license. These citizens may find it difficult to learn about and obtain other photo IDs. It has been estimated that more than 11% of citizens with disabilities lack government issued photo IDs.[4]

Another type of restriction which has been blocked in VRA preclearance cases are reductions in the number of polling places, requiring voters to travel great distances to vote. These types of restrictions will limit voting by people with disabilities who may be

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[3] **STATEMENT OFWADE HENDERSON, PRESIDENT & CEO THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS,SENATE COMMITTEE ON THE JUDICIARY ,JULY 17, 2013**

[4] http://www.brennancenter.org/analysis/voter-id

unable to drive themselves and may find public transportation to far-off sites to be unavailable or difficult to use. In an extreme case, the VRA was used to block an Alaska proposal to eliminate polling places in Native American villages and require those voters to travel 33-77 miles to polling places accessible only by air or water.[5]

Fewer polling places are likely to result in longer waits standing in line to vote, which will discourage voting by many people with disabilities.

Similarly, States and counties subject to Section 5 may propose unwarranted limitations on early voting and voting by mail . These procedures are of great importance and widely used by people with disabilities.

A study by Professor Kruse's of the 2012 election found that

"People with disabilities may especially benefit from more flexible opportunities to vote, including the chance to vote before election day at a more convenient time (e.g., when accessible transportation is more

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[5] **American Civil Liberties Union Statement Submission For "The Voting Rights Act after the Supreme Court's Decision in *Shelby County*", Hearing Before the U.S. House of Representatives Committee on the Judiciary Subcommittee on the Constitution and Civil Justice, ,July 18,2013**

easily available) or to vote by mail, which may be of special value for those with mobility impairments who have difficulty getting to a polling place"

Professor Kruse found that in 2012, voters with disabilities in were more likely to vote early in a polling place or election office (42.1% did so compared to 30.4% of voters without disabilities). Similarly, voting by mail was also higher among those with disabilities: over one-fourth (28.4%) of voters with disabilities did so, compared to one-sixth (17.3%) of voters without disabilities. [6]

Limitations on early voting and voting by mail are likely to discourage a significant number of people with disabilities from voting..

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Significantly, a number of the States which were subject to VRA preclearance before the Supreme Court's decision are States in which people with disabilities have had the greatest difficulties in voting. The coverage provision which the Supreme Court overruled made 9 States subject to preclearance (Alabama, Alaska, Arizona, Georgia, Louisiana,

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[6] See study cited in note 2

Mississippi, South Carolina, Texas and Virginia) , as well as a large number of counties in North Carolina and some counties in other States. Many of the 9 covered States have high disability gaps (the gap between turnout rates for people with disabilities and those without). Ranking all the States by disability gaps with 50 being the largest gap, Professor Kruse's study found that South Carolina has the 24th highest disability gap , Georgia the 35th,Mississippi the 36th, Arizona the 42d, and Virginia the 46th.[7]

Moreover, the nine covered States include States with a high percentage of people with disabilities in their overall populations. One of the covered States, Alabama, has the second highest percentage of people with disabilities of all states, and Mississippi has the third highest percentage . Louisiana and South Carolina also have percentages considerably above the national average. [8]

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[7] Study cited in note 2.

[8] Data compiled by Cornell University from U.S. Census Bureauhttp://www.disabilitystatistics.org/reports/acs.cfm?statistic=1

In conclusion, NCIL urges reinstatement of the preclearance procedures of the VRA. These procedures are an invaluable means of preventing discriminatory changes in voting practices. Preclearance protects the right to vote, not only for racial minorities, but also for the more that 50 million of our citizens who have disabilities. As Thomas Paine and many others have said the right to vote is the foundation for all of the rights we Americans treasure.

Thank you for the opportunity to present NCIL's views to the Committee

Jim Dickson

National Urban League | *Empowering Communities. Changing Lives.*

Statement for the Hearing Record

Before the

Senate Judiciary Committee Hearing:

"From Selma to Shelby County: Working Together to Restore the Protections of the Voting Rights Act"

July 17, 2013

Chairman Leahy, Ranking Member Grassley, members of the Committee, thank you for the opportunity to present our views on what must be the highest priority for this Congress and our nation - preserving our democratic process by restoring the protections of the Voting Rights Act. Vital protections that were stripped by the U.S. Supreme Court in its devastating 5-4 decision on June 25, 2013, in *Shelby County, Alabama v. Holder*. ***The National Urban League has one unequivocal message to both houses of Congress – suspend gridlock, come together as in the past, and fix the Voting Rights Act NOW!***

The Supreme Court's decision in *Shelby* is, quite frankly, ominous for our democracy, and yes, for African Americans who know all too well the high and often tragic price that was paid to secure their right to vote. It is beyond irony that as we commemorate the 50th anniversary of the Great March on Washington - at the height of the Civil Rights Movement – we still find ourselves fighting to ensure that every U. S. citizen can exercise this most fundamental right.

The Voting Rights Act was necessary in 1965 and remains so in 2013. If the voter suppression tactics employed by numerous states in the 2012 elections aren't evidence enough, consider that in the first four months of this year alone, restrictive voting bills have been introduced in more than half the states. In fact within two hours of the Supreme Court's decision, the state of Texas declared it would now implement the voter ID law that had previously been ruled the most discriminatory law of its kind in the country. The State is also considering implementing a 2011 redistricting plan that was found to be discriminatory against the state's minority voters.

According to the NAACP Legal Defense Fund, which is closely monitoring how states subject to the Section 4 formula are responding to the Shelby

decision, a still growing list of states indicate they do intend to implement new discriminatory voting changes. The states include Florida, Georgia, Mississippi, North Carolina, South Carolina and Texas.[1]

The Supreme Court's decision is a direct blow to 50 years of progress towards voter equality and to the dream that Dr. Martin Luther King so passionately and purposefully shared with us in 1963. As Georgia Congressman John Lewis, who was brutally beaten during the Selma to Montgomery march that led to the passage of the Voting Rights Act of 1965 put it, "the Supreme Court put a dagger in the heart of the law."

Some point to the reelection of President Obama and the record voter turnout as a reason to say "All's well" without acknowledging that these achievements have occurred ***because of the VRA***, which is all the more reason to immediately restore its protections. Moreover, with 16 months to go until the 2014 midterm elections and with states--including Texas and others -- rushing to enact voter suppression measures, we cannot afford business as usual with our political system at continuous logger heads.

In the majority opinion, Chief Justice Roberts wrote that the coverage formula today is based on decades-old data and racist practices. Yet, Judge Roberts ignored thousands of pages of evidence presented over the course of 20 hearings that resulted in a bipartisan Congress overwhelmingly re-authorizing the Voting Rights Act in 2006. Justice Roberts also passed over new evidence in the 2012 election: the long lines at the polls, onerous voter ID requirements and registration procedures, and other measures clearly designed to make voting more difficult for certain communities that proved that discrimination and racism are still threats to democracy and efforts to protect the right to vote are still sorely needed.

The National Urban League is acutely aware of the importance of the voting franchise. In response to the unprecedented campaign in dozens of states to make it more difficult to vote through restrictive ID requirements, onerous registration procedures, cut-backs in poll hours, early voting and other measures, the Urban League launched its Occupy the Vote effort, which reached more than 150,000 citizens around the country.

The National Urban League will remain as diligent as ever in defending and protecting the rights that were so hard fought - and died - for during the Civil Rights Movement of the 1950's and 1960's. We will mobilize our communities to push Congress to abandon party lines and partisanship and act immediately in the best interest of our nation and our democracy by enacting a new and responsible 21st Century formula for Section 4. We cannot focus on a

[1] "How Formerly Covered States Are Responding To The Supreme Court's Voting Rights Act Decision," NAACP Legal Defense Fund, July 1, 2013.

celebration of progress until we ensure a continuation of the very equality and opportunity that are at the core of the country.

Established in 1910, the National Urban League is the nation's oldest and largest civil rights and direct services organization serving over 2 million people each year in urban communities in 35 states and the District of Columbia.

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Statement of

Gary R. Redding, Legal Fellow

On behalf

of the Rural Coalition

for

The United States Senate Committee on the Judiciary

For inclusion in the record in the record for the Hearing Entitled, "From Selma to Shelby County: Working Together to Restore the Protections of the Voting Rights Act"

Washington, D.C.
July 24, 2013

Assuring Voting Rights for Rural and Farm Communities

For forty-eight years, the Voting Rights Act has been a historic law benefitting the masses of U.S. citizens in their quest to participate equally in America's democratic political process. The current and potential threats to citizens' voting rights inform us that the Act is necessary even today. We must now modernize the Act to reflect the realities of today's political landscape. This statement provides a brief overview of past and present voting conditions and limitations in rural and farm communities, the implications of Section 2 of the Voting Rights Act in the wake of the *Shelby County, Alabama v. Holder* U.S. Supreme Court decision, and provides conclusions and recommendations for updating Section 4 of the Voting Rights Act and making the process for reporting voting rights violations more straightforward and practical.

The Voting Rights Act, a codification of the Fifteenth Amendment to the U.S. Constitution, prohibits states from requiring any "voting qualification or prerequisite to voting, or standard, practice, or procedure ... to deny or abridge the right of any citizen of the United States to vote on account of race or color." 42 U.S.C. § 1973(a). Prior to the Act's passage, non-white citizens and some poor whites in rural America had to satisfy certain preconditions before voting, such as paying a poll tax or passing an oral or written literacy test that required they demonstrate fluency in English, interpret or read the U.S. Constitution to the satisfaction of the registrar, name local or national elected officials, and more. Thanks to workers in the Civil Rights Movement and citizens particularly in rural communities, many of whom are still active in the Rural Coalition, the Voting Rights Act was enacted in 1965 and has been continually reauthorized, most recently in 2006.

Yet in 2013, many residents in rural and farm communities across America continue to face many of the voting challenges in local, state, and national elections that people in 1965 faced when the Voting Rights Act was passed. Even today, a high percentage of people remain who have difficulty acquiring information about the candidates and the issues. Factors that impede their participation include poor and oftentimes still segregated education systems that have left them unable to fully read and comprehend information about candidates and issues. Lack of access to electricity, computers, and the Internet in their homes and communities also limits their ability to follow news, watch political debates, and otherwise acquire critical information. Senior citizens, especially, still struggle to find transportation to and from voting precincts, which can sometimes be thirty or more miles away from their rural homes. Furthermore, the political process that is supposed to promote voter turnout often discourages or prevents people from voting.

In 1993, the U.S. Congress enacted the National Voter Registration Act (NVRA) to make voting more convenient and accessible by providing a NVRA form for prospective voters to register to vote, update their registration information, or register with a particular political party. In order to establish residency in a state, voting applicants are required to swear and affirm that they are a U.S. citizen.

Despite these federal provisions and protections, proponents of restrictive voting requirements at the state level have in recent times proposed numerous laws to make

voting even more difficult. Though each state differs in the particulars, the overall effect reduces voter participation. Opponents of these restrictive voting requirements and others also argue that they disproportionately target communities of color, the elderly, and youth.

Beginning on January 1, 2013, the Kansas Secure and Fair Elections (SAFE) Act required Kansas citizens registering to vote for the first time to prove their U.S. citizenship. This law poses a challenge for rural residents without a car or a ride to a certified location, like a post office, to get a government or state issued ID or the funds to pay for one. In Alabama, Arizona, Delaware, Florida, Iowa, Kentucky, Mississippi, Nebraska, Nevada, Tennessee, Virginia, and Wyoming, former incarcerated citizens with certain felony convictions may be permanently deprived of the right to vote, even after they have been successfully paroled. In Florida, Hawaii, Idaho, Louisiana, Michigan, South Dakota and New Hampshire, all residents must produce a photo ID to cast a ballot. The hurdles here are similar to those who have to provide proof of citizenship to register.

In 2004, the Arizona legislature passed Proposition 200, the Arizona Taxpayer and Citizen Protection Act, to require prospective voters to present documentary proof of citizenship to register to vote and a photo identification before receiving a ballot at a precinct. In *Arizona v. The Inter Tribal Council of Arizona, Inc.*, the Supreme Court invalidated Proposition 200. The majority reasoned that it violated the NVRA, which mandates that States "accept and use" the standard federal voter registration form, and that the additional requirements would-be voters in Arizona had to satisfy were not included in the federal form. *Arizona v. The Inter Tribal Council of Arizona*, 133 S.Ct. 2247, 2252 (2013). However, the Supreme Court suggested that Arizona and other states could propose that Congress enact additional requirements for the NVRA form. *The Inter Tribal Council*, 133 S.Ct. at 2261.

In addition to such widespread attempts to weaken federal voting rights protections with new or excessive requirements and restrictions, some states are trying to nullify it altogether. *Shelby County, Alabama v. Holder* is the most recent case to come before the Supreme Court. Shelby County, a mostly white suburb of Birmingham, sought to invalidate Sections 4 and 5 of the 1965 Voting Rights Act by claiming they were being punished unfairly for decades old discrimination. Section 5 requires all or parts of sixteen states with a history of racial discrimination in voting to get federal approval before implementing changes to their voting laws. It applied to all or part of the following: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia; forty counties in North Carolina, five in Florida, four in California, three in New York, two in South Dakota, as well as ten towns in New Hampshire, and two townships in Michigan. Congress chose all or parts of these sixteen states using a formula in Section 4 to identify where racially discriminatory voting practices had been more prevalent. In 2006, Congress reauthorized Sections 4 and 5 of the Voting Rights Act for another twenty-five years.

Shelby County argued that Sections 4 and 5 should be discontinued because its current political conditions are no longer racially discriminatory. The Supreme Court voted 5-4 to strike down Section 4 of the Voting Rights Act as unconstitutional. Its formula can no

longer be used as a basis for requiring certain jurisdictions to "preclear" changes to their voting laws with the federal government. Supreme Court Chief Justice John Roberts, writing for the majority, explained that Section 4's "coverage [formula] today is based on decades-old data and eradicated practices," and "the conditions that originally justified these measures no longer characterize voting in the covered jurisdictions." *Shelby Cnty., Alabama v. Holder*, 133 S.Ct. 2612, 2628, 2619 (2013). Furthermore, no holding was issued "on [Section] 5 itself, only on the coverage formula." *Id* at 2632. Conversely, Supreme Court Justice Ruth Bader Ginsburg wrote in her dissent that "the record for the 2006 reauthorization makes abundantly clear [that] second-generation barriers to minority voting rights have emerged in the covered jurisdictions as attempted substitutes for the first-generation barriers that originally triggered preclearance in those jurisdictions." *Id* at 2652. Since the decision, numerous proposals have been made to replace Section 4, the most popular probably being to rely solely on Section 2 of the Voting Rights Act.

Advocates for Section 2 point out that it applies nationally, whereas Section 5 (and 4) only applies to certain covered jurisdictions. Chief Justice John Roberts writes in *Shelby*,

> Our decision in no way affects the permanent, nationwide ban on racial discrimination in voting found in [Section] 2. The current version forbids any "standard, practice, or procedure" that "results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color." 42 U.S.C. § 1973(a). Both the Federal Government and individuals have sued to enforce § 2, see, *e.g., Johnson v. De Grandy,* 512 U.S. 997, 114 S.Ct. 2647, 129 L.Ed.2d 775 (1994) , and injunctive relief is available in appropriate cases to block voting laws from going into effect, see 42 U.S.C. § 1973j(d). Section 2 is permanent, applies nationwide, and is not at issue in this case.

Id at 2632, 2620.

Thus, in order to protest a voting rights violation, a person has the right to injunctive relief under Section 2. However, this can only be done by filing a lawsuit through the courts, whereas under Section 4 and 5 action is taken through an administrative process through the U.S. Department of Justice.

These same advocates against revitalizing Section 4 believe that Section 2 is underutilized and provides enough protection to prevent racial discrimination in voting. Former career attorney in the Voting Section at the United States Department of Justice and House Judiciary Committee Voting Rights Act hearing witness J. Christian Adams believes "if discrimination in voting remains a problem, you would hardly know based on recent Section 2 enforcement activity. Either discrimination in voting doesn't exist anymore at levels necessary to justify federal oversight under Section 5, or the Justice Department has decided not to vigorously enforce the law." *The Voting Rights Act after the Supreme Court's Decision in Shelby County* before the U.S. House Judiciary Committee's Subcommittee on the Constitution and Civil Justice, 113th Cong. 10 (2013). Constitutional attorney and Senate Judiciary Committee Voting Rights Act hearing witness Michael Carvin contends that Section 2 "broadly and effectively precludes all actions with a discriminatory 'result'." *From Selma to Shelby County: Working Together*

to Restore the Protections of the Voting Rights Act before the U.S. Senate Judiciary Comm., 113th Cong. 6 (2013). These testimonies fail to acknowledge that litigation under Section 2 of the VRA is untimely, incredibly expensive, and lengthy.

In 2006, Justice Ginsburg explains in her dissent, "Congress received evidence that litigation under §2 of the VRA was an inadequate substitute for preclearance in the covered jurisdictions. Litigation occurs only after the fact, when the illegal voting scheme has already been put in place and individuals have been elected pursuant to it, thereby gaining the advantages of incumbency. An illegal scheme might be in place for several election cycles before a §2 plaintiff can gather sufficient evidence to challenge it." *Holder,* 133 S. Ct. at 2640. In addition, Justice Kennedy has pointed out that "Section 2 cases are very expensive. They are very long. They are very inefficient. I think this section 5 preclearance device has – has shown – has been shown to be very very [sic] successful." *Nw. Austin Mun. Util. Dist. No. 1 v. Holder*, 129 S.Ct. 2504, 2509 (2009). Thus, we need to stop voting rights violations before they occur.

Reporting on voting rights violations poses special challenges for the estimated "46.2 million people, or 15 percent of the U.S. population, [who] reside in rural counties." Hope Yen and Hannah Dreier, Census: Rural US loses population for the first time, Yahoo News, June 13, 2013, http://news.yahoo.com/census-rural-us-loses-population-first-time-040425697.html.

The following hypothetical situation is based on a composite of actual experience encountered by our members in rural communities. It features Larry and is used to illustrate the barriers and challenges to voting faced by people who live in rural communities, and the impact on someone who is denied his rightful chance to vote.

Larry, 38 years old, married, father of ten-year-old twin boys, and a minimum wage factory worker, drives with his family twenty-five miles from his rural community to his polling place to vote. On the way, Larry stops for gas and pays $3.67 a gallon for regular unleaded gas, the current national gas average. After purchasing $25 for gas for only 6.81 gallons, the family proceeds to the polling place.

It is now 10:00 AM. Larry and his wife decide to each take a child into their respective voting booths. His wife goes into hers but before Larry can make it to his, a poll worker stops him. The poll worker tells Larry that his name is not on the voter roll. Unbeknownst to him, his name had been removed because his voter identification card was returned as undeliverable (as happened and was ruled unconstitutional in *U.S. Student Ass'n Found. et al. v. Land et al.*). Larry and his wife registered to vote last year during a door-to-door registration drive in their rural community.

Unable to vote or convince the poll worker that he is eligible to vote even though his wife was able to, Larry and his family return home, having driven fifty miles round-trip, only to have one of two votes counted for the family.

Larry and his wife sit at the kitchen table and ponder what to do. They are unaware that a Section 2 complaint is filed with the United States Department of Justice. The United States Department of Justice's website instructs people to "contact the Voting Section at Voting.Section@usdoj.gov to make a complaint concerning a voting matter." The "Voting.Section@usdoj.gov" link is an email address. Even if they were aware, they could not send the email from their home.

The rural area Larry's family lives in does not have Internet access. Why?

National private cable providers are either refusing to provide Internet service to rural areas or planning to install it one or two roads a year. Bruce Hall, the owner of Freedom Wireless Broadband, explains, "The problem is that many people live away from cable lines which could provide broadband (internet access). Comcast and Verizon can offer to build a line in order to provide broadband, but the cost to build the line to provide the service is astronomical. The broadband company would likely never recoup the costs. It costs whatever it does to build that network and (broadband providers are) not ever going to make it back in that monthly charge." Kelcie Pegher, Rural areas struggle to find internet providers, The Daily Record, February 26, 2013, http://thedailyrecord.com/2013/02/26/rural-areas-struggle-to-find-internet-providers/. Some communities have attempted to establish their own public Internet companies and have seen their efforts thwarted or complicated by cable companies working in tandem with state legislatures.

In May 2011, the North Carolina General Assembly, heavily influenced by Time Warner Cable, passed its bill entitled "An Act to Protect Jobs and Investment by Regulating Local Government Competition with Private Business" that will allow "Time Warner Cable [to] build networks anywhere in the state but the public sector is limited to its political boundaries or very close to them. A public network must to [sic] price its communication services based on the cost of capital available to private providers. This means that if a city can borrow at a lower rate it cannot use this lower cost to offer a lower price." David Morris, Why is Mighty Time Warner So Scared of Tiny Salisbury, NC, Huffington Post, June 24, 2011, http://www.huffingtonpost.com/david-morris/time-warner-public-competition_b_883223.html. So, Time Warner Cable can refuse to expand its internet service to rural communities in North Carolina and these same rural communities who want to build an infrastructure themselves cannot or will be hindered by the law's geographical or rate restrictions.

A few hours later, Larry and his wife try to recall a local community citizen's organization that could possibly help but one does not exist in their community. It is now 2 PM and both have to work in the morning at the local factory, so they scratch the idea of driving to an organization in a neighboring county. Besides, it would require more gas to drive the sixty miles to reach the organization's office.

His wife suggests they call a neighbor who lives two miles away and has dial-up Internet or travel twenty-five miles to the closest library. They decide to call the neighbor and Larry is invited over. Larry sits down at the computer and the dial-up connection fails to

connect. The neighbor tells Larry to give it five or so minutes and the connection is slow. Once online, Larry doesn't know where to go.

If Larry did, he would have to go to http://www.justice.gov/ or use a search engine to find the site. Once there, he would have to first find on the homepage where the link to "submit a complaint" is under the "Department of Justice Action Center" section. Second, he would have to know to click on the link. Third, he would have to scroll down to find the "voting rights discrimination" link and know to click on it. Fourth, he would come to a page titled "How To File A Complaint" and either click on the "Voting Section" link at the top of the page or have to scroll down to the very bottom to find the "Voting" section. Fifth, Larry would read that he "can register a complaint [by sending] an email message to the Voting Section at Voting.Section@usdoj.gov." Even for a computer savvy person, successfully completing all these steps might prove to be daunting.

Let's say that Larry completed all the aforementioned steps. Larry may see the word "complaint" and believe he is unprepared to compose a formal email explaining why he was denied the right to vote. Furthermore, he may not have an email address because it hasn't made sense to have one since he does not have Internet access at home and therefore no computer.

So, Larry heads back home. It is now 5:00 PM.

Larry decides to call a local attorney to ask for assistance in filing a complaint. The attorney's office is thirty-five miles away and his law firm specializes in local civil and criminal law, not civil rights law. Despite this fact, the attorney invites Larry to his office but informs him that he will be charged $75.00 an hour for the consultation and drafting of the complaint.

Larry gives up. He also decided not to vote in the local school board election that occurred ten days later.

These are typical situations faced by our diverse rural, farm member communities in rural areas around the country.

Although Chief Justice Roberts acknowledged in *Shelby* that "voting discrimination still exists; no one doubts that," some members of Congress appear to be against working in a bipartisan effort to update the Voting Rights Act. *Holder,* 133 S. Ct. at 2620. Senate Minority Leader Mitch McConnell (R-KY) called the Voting Rights Act "an important bill that passed back in the '60s at a time when we had a very different America than we have today." Susan Davis, Congress Unlikely to act on voting rights ruling, USA Today, June 25, 2013, http://www.usatoday.com/story/news/politics/2013/06/25/congress-reacts-voting-rights-rulling/2456477/. Rep. Goodlatte (R-VA), chairman of the U.S. House Judiciary Committee, said that even though Section 4 has been ruled unconstitutional, "it's important to note that under the Supreme Court's decision in *Shelby County (v. Holder)* other very important provisions of the Voting Rights Act remain in place,

including Sections 2 and 3." Tom Curry, Conservatives not keen on effort to revise key section of Voting Rights Act, NBCNews, July 18, 2013, http://nbcpolitics.nbcnews.com/_news/2013/07/18/19540938-conservatives-not-keen-on-effort-to-revise-key-section-of-voting-rights-act?lite. Section 3 also requires judicial intervention to impose preclearance requirements on a jurisdiction that enacts discriminatory voting procedures or laws. What Sen. McConnell, Rep. Goodlatte, and others fail to consider, however, are the geographical distinctions that create different challenges for voters in urban and rural areas.

Participation in the voting process is especially critical for rural and farm communities because the lack of resources in these areas often correlates directly with lower engagement in the voting process and voter turnout. Not only do our votes need to be counted, but our children need to see us vote in person.

Conclusions and Recommendations

While Section 2 may provide tools to remedy discrimination for those with the resources to access legal assistance and the courts, it is not sufficient to prevent discrimination and other tools must be provided to assist communities such as those mentioned here.

Renewing preclearance and other administrative options that can be used in a proactive matter is essential to the protection of voting rights. Section 4 needs to be reviewed, and expanded to more areas and situations. Below are some of our recommendations and we urge the committee to seek additional input and work quickly to renew this important section of the law.

(1) **A new preclearance formula for Section 4 of the Voting Rights Act should be created by the U.S. Congress.** Chief Justice Roberts noted in *Shelby*, "Congress may draft another formula based on current conditions." We believe this formula should include new factors, including data on changes in election participation rates as compared to population by race, gender, age and ethnicity data from 2006 to the present. Review factors should include all or parts of U.S. States that have been previously required to have preclearance, or which have a persistent record of racial discrimination at the polling places. Whether rural communities have real access, including Internet access, to the voter registration system in place in a particular locality should also be a factor.

(2) **The section should mandate that citizens who believe their voting rights have been violated based on race, age or other factors, may file a petition either on paper or online, and the U.S. Department of Justice should be required to invoke preclearance based on the receipt of such petition.** This option would allow citizens to report voting rights violations and to mobilize others to sign-on so voting rights violations can be addressed immediately through an administrative process.

(3) **The U.S. Department of Justice should create an ombudsman position to solely investigate and address complaints of maladministration or voting rights violations.** A voter who believes their rights have been violated should be able to immediately call the ombudsman on election day on a toll-free number with access to a fully staffed office that is open 24-hours a day to submit voting rights complaints. This office should also be open throughout the year.

(4) **A "Voter Bill of Rights" should be created and posted in all registrars' offices and in each polling place that includes what a citizen can do if he or she is denied the right to vote.** These options should include clear information on what to do to submit provisional ballots, and on using the U.S. Department of Justice's website to file a complaint or having a phone number that can be called immediately to file a complaint. Furthermore, the U.S Department of Justice should provide a more user-friendly way for people to report voting rights violations on its website. The link to the "Voting Section" should be placed in a more prominent location and the "Voting Section" should have its own webpage within the site. On that page, it should be explained that people without Internet access can submit a complaint by calling the department.

(5) The U.S. Department of Justice should keep records of the locations from which all complaints, whether by phone, mail or electronically, and be mandated to investigate and invoke preclearance in areas where complaints exceed a set level that should be specified in the revision of the law.

The Rural Coalition, born of the civil rights and anti-poverty rural movements, has worked for 35 years to assure that diverse organizations from all regions, ethnic and racial groups and gender have the opportunity to work together on the issues that affect them all. The foundation of this work is strong local, regional and national organizations that work to assure the representation and involvement of every sector of this diverse fabric of rural peoples and communities.

Testimony of U.S. Public Interest Research Group Democracy Advocate Blair Bowie:

Section 4 of the Voting Rights Act was a critical piece of legislation that helped ensure the ability of eligible voters to cast a ballot regardless of race, age or gender. The Court's decision is a blow to voters' rights and will have a real impact on voters. U.S. PIRG has been working to make it as easy as possible for citizens to vote for more than 35 years and will continue to secure our hard-won victories to promote voter registration. U.S. PIRG urges Congress to immediately update the formula that is used to determine which state and local governments must comply with the preclearance provisions of the act.

Blair Bowie
U.S. PIRG Democracy Advocate
7.16.13

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STATEMENT OF
WADE HENDERSON, PRESIDENT & CEO
THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS

"FROM SELMA TO SHELBY COUNTY: WORKING TOGETHER TO RESTORE THE PROTECTIONS OF THE VOTING RIGHTS ACT"

SENATE COMMITTEE ON THE JUDICIARY

JULY 17, 2013

Chairman Leahy, Ranking Member Grassley, and Members of the Committee: I am Wade Henderson, President and CEO of the Leadership Conference on Civil and Human Rights. Thank you for the opportunity to submit testimony for the record on the need to restore the protections of the Voting Rights Act (VRA).

The Leadership Conference on Civil and Human Rights is a coalition charged by its diverse membership to promote and protect the civil and human rights of all persons in the United States. Founded in 1950 by A. Philip Randolph, Arnold Aronson, and Roy Wilkins, The Leadership Conference works in support of policies that further the goal of equality under law through legislative advocacy and public education. The Leadership Conference's more than 200 national organizations represent persons of color, women, children, organized labor, persons with disabilities, the elderly, gays and lesbians, and major religious groups.

The Leadership Conference is committed to building an America that is as good as its ideals – an America that affords everyone access to quality education, housing, health care, collective bargaining rights in the workplace, economic opportunity, and financial security. The right to vote is fundamental to the attainment and preservation of each of these rights. It is essential to our democracy. Indeed, it is the language of our democracy.

The VRA has been one of the most successful pieces of civil rights legislation, and has enjoyed broad, bipartisan support every time it has come up for reauthorization. In fact, since it was passed in 1965, the last four reauthorizations of the VRA were signed into law by Republican Presidents. In each instance, members of both parties recognized the ongoing importance of protecting minority voters from discrimination and during the most recent renewal in 2006, they worked together to amass an extensive record to establish the ongoing need for these protections.

Numerous, repeated, and deeply disturbing instances of discrimination and discriminatory laws compel the need for swift bipartisan congressional action to restore the efficacy of the VRA. Although the days of poll taxes, literacy tests, and brutal physical intimidation are behind us,

efforts at disenfranchisement of voters of color continue to this day. These modern day efforts include such strategies as mandatory voter identification laws and racially-biased gerrymandering that disproportionately impact communities of color. That is why the Supreme Court's ruling in *Shelby County v. Holder* was devastating not only to communities who have been protected by Section 5, but also to our nation's democratic process. The Court undermined Congressional authority and wrongly gutted one of the most important protections the VRA contains. By striking down Section 4(b) of the Act—the coverage formula—the Court effectively removed the ability of Section 5 to do its job. Section 2 alone is insufficient to protect the rights of minorities and other marginalized groups. Accordingly, we now must look to Congress to renew its efforts to ensure that all voters are able to participate in the democratic process.

I. Introduction

Voting changes such as strategic redistricting to minimize the influence of black and Latino voters, shortened early voting periods, limits on poll worker assistance, proof of citizenship requirements, and restrictions on community-based registration, disproportionately impact communities of color and are examples of tools used to abridge the right to vote today.

The VRA—specifically Section 5 and its coverage formula under Section 4(b) – was able to keep many of these changes at bay, but the Supreme Court's recent holding in *Shelby County* has put at risk much of what we have accomplished over the course of the past half-century. Notably, in *Shelby County*, the Supreme Court did not invalidate Section 5's preclearance requirements; however, the majority did hold unconstitutional Section 4(b).[1] Without a formula by which to identify jurisdictions where Section 5 will be applied, the protections of that section will go unenforced.

According to the Court, Section 4(b) exceeded Congress' power to enforce the Fourteenth and Fifteenth Amendments because the formula was based on old data that was not rationally related to the present day.[2] The majority took note of the great improvement in voter registration racial parity between 1965 and 2004. Despite recognizing that these changes were "in large part *because* of the Voting Rights Act," it used them as a basis upon which to weaken the Act.[3] In addition, by focusing solely on statistics, the Court ignored an extensive record compiled by Congress, including dozens of deeply disturbing incidents indicating very real discrimination and the very real need for the VRA. Justice Ginsburg's dissent supplies a long list of such examples, including cases in which counties attempted to purge voter rolls of Black voters, suspend or postpone elections in which Black candidates were expected to win, and selectively prosecute Black candidates.[4]

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[1] *See Shelby Cnty., Ala. v. Holder*, 133 S. Ct. 2612, *24 (2013).
[2] *Id.* at *17.
[3] *Id.* at *15.
[4] *Id.* at *15-17 (Ginsburg, J., dissenting).

It was only through Section 5 that these efforts were stopped before they could taint the electoral process; other provisions, such as Section 2, which the Court did not strike down, would not have been effective in preventing racial discrimination at the outset. Although Section 2 provides some protections for voters throughout the country against discrimination, these cases are long, expensive, and complex. In some instances, it can take years before a remedy is provided, well after the law has been implemented and has had a negative impact on voters. By contrast, Section 5's pre-clearance provision stops discriminatory voting laws before they can take effect.

In applying Section 5 to areas of the country with a history of discrimination, using the formula prescribed in Section 4(b), Congress ensured that its strongest remedy was reserved for the places it was most needed. As Justice Ginsburg wrote, "just as buildings in California have a greater need to be earthquake proofed, places where there is greater racial polarization in voting have a greater need for prophylactic measures to prevent purposeful race discrimination."[5]

II. The Importance of the VRA – Section 4(b) and 5

In 2010, state legislators across the country introduced and passed an unprecedented number of voting measures that threatened our democracy by suppressing voter participation. Photo ID requirements, shortened early voting periods, and community-based registration, among other barriers, have been estimated to disenfranchise more than five million Americans, and disproportionately impact communities of color.[6]

In 2011, the Department of Justice blocked South Carolina's strict voter ID law, which required that any person wishing to vote present a government-issued ID In response to Section 5 litigation, South Carolina revised its law to create exemptions and reduce its discriminatory impact. Without Section 5, thousands of people of color would have continued to be disenfranchised. The law had already prevented many voters from exercising their right to vote – including 82-year-old Hanna White, who never had a birth certificate, and was therefore unable to get a state-issued ID.

Likewise, during Texas' redistricting process in 2011, lawmakers sought to draw political boundaries that discriminated against Latino and African-American voters. Over the course of the past decade, Texas' population has grown by 4.2 million people, 89 percent of which was the result of an increase in its racial minority population. Despite this, the Texas legislature drew the boundaries of its congressional districts in such a way as to minimize the number of seats in which Latinos or African Americans could elect a candidate of their choice. Thanks to Section 5, however, a district court denied preclearance to the plan, and the state's discriminatory plan was not used in the 2012 election cycle.

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[5] *Id.* at *21 (Ginsburg, J., dissenting).
[6] Wendy R. Weiser and Lawrence Norden, *Voting Law Changes in 2012* (Brennan Center for Justice at New York University School of Law 2012). *Available at:* http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/Brennan_Voting_Law_V10.pdf.

As a result of the Supreme Court decision in *Shelby County*, however, the voting rights of millions of minority voters are in danger. Any doubt that Latinos, African Americans, and other groups would face disenfranchisement without Section 5 of the VRA has been laid to rest as numerous state and local governments have already begun implementing policies that would have otherwise not been allowed to take effect.

In addition to promulgating new legislation, since the decision in *Shelby County*, some states previously covered under Section 4(b) have announced their intent to enforce legislation previously blocked by the Justice Department. For example, in the lead-up to the 2012 election, the state of Texas passed the most severe and discriminatory voter ID law in the country. The law would have placed a significant burden on all voters, and in particular, racial minorities, by requiring that any person wishing to vote produce one of three types of government-issued photo identification. While a handgun license would have been an acceptable form of identification under the law, neither a college ID nor a state employee ID would have been accepted. All told, the law would have precluded 795,000 voters from participating in the election. However, Texas was covered under Section 4(b) and thus subject to pre-clearance, allowing the Justice Department to block the law's implementation and thereby preventing tens of thousands of Latino and African-American voters from being disenfranchised in the 2012 election. Immediately after the Supreme Court issued its decision in *Shelby County*, however, Texas officials announced that they would begin strictly enforcing that very law.[7]

Texas is the first example of how the striking down of the coverage formula under Section 4(b) has not only impacted the ability to use Section 5 as a tool to stop the implementation of discriminatory voting legislation, but has also eliminated the deterrent effect that it had on state and local governments. Thus, we can expect even more efforts than before to prevent underrepresented groups from exercising their right to vote.[8]

III. Conclusion

The VRA has been incredibly successful at protecting minority voters from discrimination, in large part because of the pre-clearance provision in Section 5.[9] For decades, Section 4(b) and Section 5 of the VRA have been vital to combating some of the most egregious violations of the right to vote. In large measure as a result of those sections, in most states in the South, African Americans and Whites have reached parity in voter registration. The Supreme Court's decision in *Shelby County* has now put at risk the very progress it used to justify its opinion.

Without congressional action, decades of progress in combating racial discrimination in our electoral system is now at risk. Time and again, Congress has reauthorized the VRA on a

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[7] Matt Vasilgambros, *That Was Quick: Texas Moves Forward With Voter ID Law After Supreme Court Ruling*, THE NATIONAL JOURNAL, (June 25, 2013, 12:59 PM), http://www.nationaljournal.com/politics/that-was-quick-texas-moves-forward-with-voter-id-law-after-supreme-court-ruling-20130625

[8] Myrna Perez and Vishal Agraharkar, *If Section 5 Falls: New Voting Implications* (Brennan Center for Justice at New York University School of Law 2013). *Available at*: http://www.scribd.com/doc/147170166/If-Section-5-Falls-New-Voting-Implications.

[9] *Shelby Cnty*, 113 S. Ct.. at *3 (Ginsburg, J., dissenting).

bipartisan basis – most recently in 2006. At that time, both parties worked together to thoroughly investigate the use of and need for the VRA. The two houses of Congress together held a total of 21 hearings on the VRA and received numerous investigative reports and other documentation. In total, the legislative record filled more than 15,000 pages.[10] This is an effort this Congress must reproduce in order to protect one of the most basic rights in a democracy – the right to vote.

We look forward to working with members of both parties to achieve this result. Thank you for your leadership on this crucial issue.

[10] *Id.* at *7 (Ginsburg, J., dissenting).

Statement for the Record
U.S. Senator Chris Coons
July 24, 2013

Mr. Chairman, given the historic scope of last week's hearing on the Voting Rights Act, I wanted to give constituents from Delaware and other folks from around the country an opportunity to have their own voices be part of our proceedings. More than 500 people provided brief testimony, which I have included below in the order in which it was submitted.

Nancy Doorey
Wilmington, DE
The right to vote is the most fundamental of our democracy and, because of all that is at stake in elections, one of the most susceptible to foul play. The full protection of the voting rights act should be enured to all Americans eligible to vote.

Bill Clemens
Frederica, DE
The American citizens are becoming aware of the desperation of the elite power mongers who fear losing their power to control us with their just us ideology. They are trying to keep their power by depriving every citizen of their right to vote They could care less about a middle class and improving economy in America. Corporate greed mongers know they can make their profits overseas in developing countries. American's have been reduced to pawns in their game.

Christine Whitehead
Wilmington, DE
As a transplanted Southerner, I have seen all the forms of poverty and discrimination in this country. To me, the Court showed total ignorance of the difficulty many poor people will have if they are required to show a driver's license in order to vote. They showed total ignorance of the attitude that still exists in many southern states toward African-Americans. There is still a controlling white elite in many urban communities and even many small towns. Someone should pay more attention to the backgrounds of justices nominated to the Court. A decision such as the one on the Voting rights Act shows that greater diversity of education and social experiences would help create a better outcome for some cases. Meanwhile, the Congress must rectify this mistake and restore the full protection of the Act.

Ann Nolan
Lewes, DE
Bigotry and discrimination is far from over. I witnesses it daily in my everyday life and i am a member of the white majority. There is very little more important than the right to vote for all. The process should be made as convenient and accessible as possible, and independent redistricting commissions should be the law of the land.

Robert L Bryant
Hockessin, DE
The legitimacy and survival of a Government depends upon the perception of those governed that it acts fairly. Our government will not be perceived as fair if politicians protect their jobs and pocketbooks by creating obstructions to voting. Or by unfair taxation. Or by taxation without representation. Etc.

Marcia DeWitt
Rehoboth Beach, DE
I totally support a new voting rights bill to protect all citizens' right to vote. Please pursue this on behalf of our state.

Robin Whitaker

Bear, DE
The Voting Rights Act is pivotal to ensure the rights and interests of all individuals are represented in governing body. It is the role and responsibility of the governing body to represent their constituency. This cannot possibly be achieved without the right to vote. This speaks to the moral fiber of our nation and contradicts the democracy that this country boasts of around the globe. To deny one the right to vote transitions the US from a democratic society to a communist or third world country such as Afghanistan.

Stuart Snyder
Hockessin, DE
States across the country and confounding the logistics for people to vote. These efforts include reducing the amount of voting machines, limiting voting days and hours. This has made it more difficult for people of senior age, or the poor to vote. This has resulted in more difficulty for people who for the most part belong to the Democratic party to vote, thus influencing elections.

Jerrry Lucas
Newark, DE
A democracy only works if the people believe that they have some impact on who is chosen for leadership positions. The voter ID laws and oddly drawn districts are clear examples of what people will do to distort the will of the majority and stay in power. Finally there is no real penalty for unlawful actions that took place in the past and therefore some reasonable upfront remedy must exist before the voting damage is done.

Joel Coppadge
Wilmington, DE
As an African American, I grew up watching the struggles of our civil rights and how hard Dr Martin Luther King Jr fought for not only our rights but to protect those for all citizens. The protection of these rights are as critical today as they were 40 to 50 years ago. Without these protections, it would have been possible to silence many voters that marched with Dr King and who knows could have possibly led to a different outcome in the last presidential election. Can you imagine saying President Romney?

Anne Gunn
Wilmington, DE
The right to vote is a constitutional right that defines who we are as a country. As citizens, we are protected by the Constitution. The laws and rules that govern voting in all elections should be uniform and not left to the whims of local governments. The Voting Rights Act must be restored -- in order to afford every citizen equal voice in how we are governed. Otherwise, disenfranchisement will again become "how we do business." That prospect is very scary.

Ronald Davis
Dover, DE
As an African-American male, born and raised in the United States, my rights and fellow African-American citizens, should not have to have our Voting Rights renewed every forthy or fifty years in this country. African- Americans should have the same privilages as other americans. Please allow the Voting Rights Act to remain active. The last I checked, African-americans are still ciitzens in the United States.

Deborah Sebesta
Dover, DE
For the SCOTUS to believe that we do not need the Full protection of the voting rights act shows exactly how out of touch they all are from the pulse of this country. I sat close to my TV and cried as I watched my American brothers and sisters stand in line upon line in horrible circumstances, just to exercise the right of citizenship that was uttered first by our founding fathers, and later yelled by We the People since. If we do not have something in our Constitution to protect and preserve our rights to pick our own

representation, the blood shed by our forefathers is for naught. Today it is discrimination against black people. Tomorrow it could be discrimination against Jews, or Catholics, or women. Since our Republican brothers and sisters are so fond of bringing back the specter of Nazism, in my opinion, voter discrimination would be the start of what they so fear.

Jennie Keith
Lewes, DE
As a white American I strongly believe that we need the full protections of the Voting Rights Act. Obstacles to any person's right to vote undermine the foundations of our democracy. Thank you for your efforts to restore this essential right for all Americans.

Stephanie Zahner
New Castle, DE
Every American has a God given right to their vote-no matter the gender,race or faith of that American-why have we lost sight if this simple fact. What has happened to our nation and our people that we have become so hateful and ugly? To quote LBJ-1965- "There is no moral issue. It is wrong-deadly wrong-to deny any of your fellow Americans the right to vote in this country." It was true in 1965 and is true today. Thank You

Ocie Bernstein
Wilmington, DE
In addition to the guarantees of our Constitution, the world watches us. If we want to spread democracy (as I hope we can) we must make sure that every citizen has the right to fully participate in our own democracy.

Ellen Stone
Ann Arbor, MI
My mother is elderly and mentally ill,yet very active politically because she has access to good health care and family support. Not all citizens like her have drivers licenses or photo ID. How will the US ensure people like my 82 year old mother can vote?

Carolyn Webb
Bronx, NY
Back in June of 1964 there were 3 Great REAL heroes in this country named MIKE SCHWERNER, ANDREW GOODMAN and JAMES CHANEY. they PAID WITH THEIR LIVES because they FOUGHT FOR WHAT THEY BELIEVED IN--The RIGHT TO VOTE for Every ADULT CITIZEN of this nation to VOTE! regardless of COLOR, SEX, RELIGION, FINANCIAL STATUS or ETHNIC ORIGIN. To Maliciously Slam minority group into losing their HARD EARNED VOTING RIGHTS by VICIOUSLY GUTTING the very heart and soul of the Civil Rights Movement, is not only a horrible insult to the memory of the BRAVE MESSRS. SCHWERNER, GOODMAN and CHANEY but it is the first horrible step in turning this country into a real nightmare--an Extreme Right wing FASCIST DICTATORSHIP! Back in Germany 1933 when HITLER was unfortunately elected to the leadership of Germany one of the FIRST things he did was to SMASH UP and DESTROY the VOTING RIGHTS of the German-Jewish People! And let us remember exactly where that led to!, in June 1964 3 real great American heroes named MIKE SCHWERNER, ANDREW GOODMAN and JAMES CHANEY Paid with their lives Fighting for true democracy in this country, the RIGHT to VOTE for every adult citizen in this country regardless of Color, Sex, Religion, Financial Status or Ethnic Background! To allow what these great real heroes of the civil rights movement to be maliciously smashed up and destroyed by the RIGHT WING EXTREMISTS in this country is not only a horrible insult to the memory of Messrs. SCHWERNER, GOODMAN and CHANEY but also the FIRST STEP in turning This nation into a right wing FASCIST DICTATORSHIP! When Hitler unfortunately got elected to power in Germany in 1933 the first thing he did was to smash up and DESTROY the voting rights of the German-Jewish people--and we all know what that led to., Back in June of 1964 three great real American Heroes PAID with their lives so that all adult citizens could havetTHE RIGHT TO VOTE regardless of COLOR, SEX, RELIGION. FINANCIAL

STATUS or ETHNIC ORIGIN! Their Names were MIKE SCHWERNER, ANDREW GOODMAN and JAMES CHANEY. To allow the voting rights act in this country is not only a horrible insult to the memory of Messrs. Schwerner, Goodman and Cheney but a first step in turning this natim into a horrible RIGHT WING FASCIST d i c t a t o r s h i p!

Janice Johnson
Scottsdale, AZ
We cannnot go backwards now! I support full restoration of the Voting Rights Act.

Theodore Killheffer
Wilmington, DE
It is extremely important for Congress to restore the effectiveness of the Voting Rights Act that the Supreme Court recently nullified by voiding the list of affected jurisdictions. A new title should promptly be enacted based on updated data or, failing that, Congress should require that any changes in voting procedures in any jurisdiction be pre notified and subject to Department of Justice approval if made within, say, six months of a scheduled electin.

Paul Spiegelman
San Diego, CA
The Voting Rights Act is essential to protect against a national campaign of voter suppression. The Supreme Court's radical judicial activism, placing its policy judgments ahead of the virtually unanimous views of Congress was lawless and must be rejected. The Supreme Court's suggestion that there is no longer a need for the VRA is nonsense. There is national effort underway by the Republican Party to suppress black and Hispanic votes: onerous voter ID laws, abolition of early voting, abolition of same day registration are all part of concerted action by Republican legislators and party officials to limit minority voting. The VRA provision for pre-clearance in the states of the former Confederacy is the least we need. Actually, the pre-clearance procedure should be extended to any jurisdiction which proposes a change in law which would have a disparate impact on minority voters. Paul J. Spiegelman Professor of Law Thomas Jefferson School of Law

Rosemary Kaleo
Philadelphia, PA
This is silly. This is 2013 and The rights of the people of the Free world are being taken away!! THe voting rights act enures te peoples right to choose who should govern them and those who play the game of naming the founding Fathers as godly men ought to know that as godly men they may have made mistakes but they wanted this naion to form and be free. This takes away the right that all MEN AND WOMEN ARE CREATED EQUAL. TH world is watching this go on and we look like fols. Martin Luther king Jr. Fought for Civil rights and in one of His speeches he stats "All we are saying to America I DO WHAT YOU SAID ON PAPER". The world looks to u to do what we said on paper in actions. We look like fools because of politicl corruptness and those wo know they are doing wrong. This is ASHAME! I work at the Birthplace of our nation and there are many concerned people who come from around the world to visit Philadelphia. They are wondering about the people in power who think they do not have to pay attention to the rights of the people. I'm done. Thank you for allowing me the time to speak.

Denise Gilmore
Wilmington, DE
Let's just move ahead & have 1 form of ID to vote including the voter Id form mailed to to voters

Gabriela Amari
Brooklyn, NY
These protections are the most important part of the voting rights act! The more we have changed, fhe more we have remained the same in terms of racial discrimination in this country! This Bad ruling from the conservative end of the SCOTUS has opened the door to major voter intimidation and voter

Suppression. No time was wasted after that ruling..Conservative states have literally Jumped to put in place Voter I.D. laws which will disenfranchise large blocks of voters of color. This is racism at fhe State Level..The Worst Kind of racism next to Killing Innocent Children of Color for No Reason and Getting away with it . This Cannot Remain the Law. Do Your Jobs. Do them Well. Represent All of your constituents and Do The Right Thing. Voter Suppression and Intimidation Must Stop Now. State Legislatures Must Stop The Racism! Fix The Voting Rights Act! It is right in the Name-Voting Rights!

Patricia Simpkins
Oroville, CA
No one's voting right's should be taken away by the color of your skin or what church you go to.

Scott Blackson
Milford, DE
Current events should make it clear to everyone that racial discrimination is NOT ancient history. The fact that as soon as the Supreme Court repealed the VRA as we know it, many states immediately jumped on the opportunity to change the voting rights of their states...changes that were not allowed when the VRA was in place. Please put it back. Voting is too important to screw up the way the Supreme Court has done for partisan reasons.

Joan Kendall
Mountlake Terrace, WA
we have been losing our rights as voters since the gop has come into power in southern and northern states I hate to see what is happening in voters rights and also what a few are doing with womens rights. its time for this country to wake up to the needs of all people.

Anita Chariw
Wilmington, DE
SCOTUS has done serious harm to the decades of people who have worked so hard to ensure ALL citizens have the right to choose their leaders through the Voting Rights Act. With the onslaught of attacks on womens' rights, social safety net programs, destruction of a middle class and refusal to hold accountable those who brought our country to its knees, we cannot allow this injustice against voters to prevail!

Patricia Frey
Dagsboro, DE
In 2006 the full Congress reviewed and heard testimony about voting rights protections and violations of those rights. Congress, the people's representatives, agreed in record numbers and across party lines that the level of violations of voting rights was still widespread, both in states that were already on watch and in some states not before censored, and you chose to keep the Voting Rights Act fully intact. It was the right thing to do; thank you. From all that I have seen and read, there has been little to no improvement in the record of violations in the years since that Congressional decision. During the 2012 elections there were numerous violations reported and observed in the public arena... last minute changes in polling stations; attempts to change requirements of eligibility to vote; preventable, or at least better management of long voting waits; etc,etc,etc. There is absolutely no evidence that warrants the decision by the SCOTUS to remove the voting rights protections of the ACT. This is not a "black/ white issue. This is an American issue; an issue that every thinking American citizen should care about. Freedom to vote without noxious impediments is absolutely essential to an American democracy. In my personal view, every American citizen should have exactly the same requirements to exercise his/her voting rightsno matter where we live. Fortunately,however, the Court did put the ball back in Congress' court and it is critical for all legislators to have the courage and honesty to do the right thing ... restore protections lost by the Supreme Court's action and strengthen protections where needed with a renewed and revitalized Voting Rights Act. Thank you for the opportunity to be heard.

Nancy Horisk-Sherr

Hockessin, DE
As a free nation that upholds rights "for the people," we need to ensure that every American citizen can exercise that right to cast a vote on issues that impact them.

Subash Dutta
Buffalo Grove, IL
Your Honor, I want the full voting rights restored. My family and I are directly affected by it as we will be discriminated against it. I want to always have my most powerful right as a citizen, the right to vote. You are requested to put it back, please.

Betsy Cole
Claymont, DE
I remember in 1972 working the polling place, not able to vote because my birthday was in December and I was 1 month shy of the voting age. I was so upset and today I make sure that every chance I have to vote I do. Now we are taking steps to discourage voters. And not just any voters but the citizens who need their voices heard the most. It is archaic, discriminatory and against all that we stand for as a nation to make voting complicated to the point of voters giving up their constitutional right to vote. Those who are behind this legislation need to be stopped and voted out of office. America cannot not afford to have anyone tamper with this essential right to a free democracy.

Carol Reilly
Wilmington, DE
I fell since I work at the polls in Delaware as an inspector, the person must show proof of identity, such as a drivers license, Voter card, State ID, or some form of picture ID. We need to have some proof that the person is who they say they are before being permitted to vote. In our state if ID isn't presented then they need to sign a waiver of voter identification and qualification. That way the burden of proof is on the Voter. We need this in order to maintain a fair and impartial voting process. I still stand behind the rule that you must be a citizen in order to vote.

JB Bonds
Chadds Ford, PA
My comments are summarized in Current and past activities in Florida. Gore vs Bush; OBama vs Romney (Virginia polls closed after midnight, Left to it's own devices and we'll have Travon Martins nationwide.

Richard Smith
Wilmington, DE
The State of Delaware NAACP would like to work with you on the new Voting Rights Act.

Kenneth Woods
Wilmington, DE
Pleas restore the full protections of the Voting Rights Act. Please don't go back to the barbaric discriminatory voting rules of the past. We need all Americans involved. Making it harder for anyone to vote only hurts true democracy.

Sonia Sloan
Wilmington, DE
We have come a long way in preserving the right to vote for all of our citizens. The Supreme Court decision to restrict those rights is a travesty. It is now up to Congress to reverse that decision and restore the right to vote for ALL.

Charles Jackson
New Castle, DE

Everyone from every country including America should have the fundamental right to a free election process regardless of their economic situation.

Arthur Kempner
Wilmington, DE
Fear and misinformation should not stand in the way of Democracy. Please restore the full protections of the Voting Rights Act.

Joshuah Shields
Stone Mountain, GA
Since the 2008 Presidential Election, I was proud of being a voter. Yet the ruling by the Supreme Court against the Voting Rights Act has angered me. There is no need to return to the way voting used to be. I understand the fact that many people don't vote when they should, but people like me exercise our voting rights every election year. I urge the Senate Judiciary Committee to keep fighting, and protect the voting rights of America.

Cynthia Armour
Milton, DE
In the history of the United States, and indeed, many other countries, voting rights were, at some time or another, denied to just about every group except white men. I am a 78 eight year old white grandmother, my female ancestors endured imprisonment, beatings and rape to get the right to vote. At least, we finally won. For minorities, especially African Americans, the problem hasn't gone away. We have to stop enforcing the law piecemeal, we must have the full protection of the voting rights act for ALL Americans.This is our absolute right under the Constitution, if we don't have Liberty and Justice for All, then we have nothing.

Woody Kaplan
Boston, MA
The right to vote is so basic to our democracy, that it should be encouraged and made easier, not impeded. This is not a partisan issue; it is an American issue.

Karen Barker
Newark, DE
As an American and a Delawarean who votes in every election, I feel that our nation should encourage everyone to vote. I am concerned that what the Supreme Court did to the Voting Rights Act really damaged this right that we should all have, and that discrimination is very likely now in terms of voting. I encourage the Senate, the House, the Supreme Court and the President all to work together to correct this mistake that was made.

Katharine Lancy
Wilmington, DE
Congress was warned several times to reform that part of the Voting Rights Act and they did nothing. So as much as I disagree with what they did, It's hard to say you all weren't warned. You need to legislate various levels of compliance and each one should have its own penalty. The text should be something like: "Between now and the next election, any evidence of willful disregard of the voting rights rules of the previously penalized states will result in their instant reinstatement."

Jim Green
Newark, DE
You would be well served by asking the radio commentator John Watson about that piece of legislation that was overturned for no apparent reason.

Juliet Dee

Wilmington, DE
I would just ask that all nine Supreme Court justices and every member of Congress would read the book that University of Delaware Professor Gary May has just published on the Voting Rights Act. If the next generation had any idea of the blatant and outrageous discrimination that occurred in the past, I am confident that Congress would restore the full protections of the Voting Rights Act. Thanks so much for your good work on this issue.

Leslie F Goldstein
Newark, DE
I do want the Voting Rights Act restored. The most recent election cycle made plain that many states are re-arranging rules with an eye to partisan benefit, in a way that disproportionately hurts black and Hispanic voters. But Chief Justice Roberta had a point also. Congress should refer specifically to evidence in its own relatively recent hearings to demonstrate that racial bias is still an issue in those parts of the country where preclearance is being imposed, or else Congress should equally impose preclearance everywhere. signed, Leslie F.Goldstein, Morris Professor of Political Science Emerita, University of Delaware

David June Sr
Wilmington, DE
This is an atrocity to the voting public and should be reprimanded from the record! This country is not going to be controlled by the select few who think they have the right to manipulate a common principle that every american has the right to vote regardless of his or hers life status,color,culture,creed. Lets get real people! It goes like this we the people in order to form a perfect union! Not we the select few who think they will control the Union! Remember this! United We Stand Divided We Fall!!!!

Judy Winters
Wilmington, DE
Our nation continues to need to protect our minority citizens from areas in our country that still need our careful monitoring. the Union Jack is flown, Jim Crow has returned,prisons are over-crowded with a majority being the minority. Please help us be all that we can be and restore the Voting Rights Act.

Grace Ennis
Smyrna, DE
Everyone has the right to vote unless they have a serious felony or are a noncitizen of the United States. If they are duly registered to vote, they have the right to vote with no discriminations. I am certified to register people to vote and we need to restore the full protections of the Voting Rights Act. Thank you.

Sheila DiSabatino
Wilmington, DE
Restore the full protections of the Voting Rights Act.

Pat Beagle
Crystal Lake, IL
There are several reasons why I oppose the Supreme Court's decision on the the Voting Rights ruling. First of all, voting should be the same for all citizens in the country. Having different laws from state to state is silly in that our population moves easily and often from state to state and is first and foremost a citizen of this country and secondly a citizen of a state. Secondly, voting practices need to encourage voting and not make it harder for many to participate. Third is to re-establish PROTECTION from any practice that can manipulate certain political outcomes, make voting more difficult or in any way endanger our DEMOCRACY. We are supposed to be a government of the people, by the people and for the people. Let's encourage and protect the people's contribution to maintain that Democracy.

Carol Clapham

Wilmington, DE
I grew up traveling from east to west, from north to south: I attended the University of Georgia when it was intregated. In 1965, I moved to West Chester, PA, to learn the schools there were not yet intregated. Race tolerance is a slow thing, and sometimes needs urging along, as shown by the number of states such as Texas who immediately proposed and even passed laws restricting voting. This becomes personal in that my husband no longer drives, and his license will run out in 4 years; however, he has a life time of knowledge and experience. Some states may make it difficult for him to have the proper identification to vote, though we own our home, worked hard all our lives, and have always voted.

Philip Goldstein
Newark, DE
The Supreme Court was wrong. There is still way too much discrimination in Southern states, and this discrimination is only getting worse, now that the Voting Rights Act has been suspended. If it can be reinstated, that would be good.

Marsha Jones
New Castle, DE
Please help to support protections for the Americans voting rights. As America is generating new Americans citizens from all different backgrounds and ethic groups, it is essential that voting rights be protected and especially for the future generations of our children.

Eloise Wilmore
Bear, DE
Our nation should not return to the discriminatory voting rules of the past because many people lost their lives to bring equality to all american citizens. It's wrong, hateful & against god's law to discriminate against mankind. We should not go backwards. Going backwards is like a "dog going back to his vomit." we must move forward for the better as civilized citizens do!!!

Robert Epstein
Washington, DC
Punitive voter ID laws and long voting lines in minority areas are just two examples of an ever-growing effort to suppress voter rights in the South and elsewhere. The States and Districts that are subject to the Voting Rights Act's pre-clearing requirements are constantly attempt to manipulate their districts to disenfranchise minority voters through Gerrymandering and other means. The full Voting Rights Act is badly needed in full force to stem the tide of these obscene attempts to disenfranchise thousands of voters. Congress should act to remedy this situation and strengthen, not weaken, the Voting Rights Act.

Howard A Corwin
Naples, FL
Voting Rights for all is the American Way. It is clear that many states do not want legitimate voters to vote. The Supreme Court is leaving it up to Congress. This is the time for Congress to act for all Americans. Many states are clearly trying to limit voter participation. The Senate is supposed to work for all the American people. Any senator who is not working for all the people to have the right to vote and create conditions to make sure that happens is a disgrace to the Senatorial body. There are such senators representing the base elements of their electorate. It is time to work for the entire electorate, not for gerrymandered biased areas that are trying to limit fair voting.

Karla Bell
Newark, DE
The Full voting Rights Act is critical to this country's stand as "freedom for all" and "land of the free". As our country's history attests, we evolve on equality measures, but sometimes need government to protect the minorities and groups who are the disadvantaged in one way or another to pave way for democracy for all. Personally, as an out lesbian, I've seen this first hand. The fact that full protections of

the Voting Rights Act have been taken away for the first time since 1965 because of the "perception" by some that we don't need it anymore scares me. Simply put, what was the harm in keeping it - if we didn't need it - then it wouldn't have a negative impact still existing; however, the implications of not having the full protections are grave, and send a message to our country's citizens that certainly is not the "equal opportunity" message we should be sending. Everyone's voice is important - and we need to make sure everyone has equal access to voting and having a say in this country's democratic process.

Edith Coleman
Wilmington, DE
The recent action of the Supreme Court in scaling back the Voting Rights Act is nothing but unconstitutional. I have read some of the "reasoning" behind the vote by some of the justices and frankly do not understand what they are saying. Their decision to launch an unconstitutional act has not been justified. Unless they can provide valid reasons for voting the way they did, I feed this country's lawmakers have no choice but to do everything they can to restore easy access to voting for every citizen.

Gerald Connor
New Castle, DE
I am sorry to have to say this--without restoring the full protections of the Voting rights Act not every citizen in the United States of America will have the opportunity to cast a vote. The United States wants other nations to allow their citizens the right to vote in free and open elections, while our own citizens are being denied the right to vote. Certainly not leading by example.

Jim Hochstetler
New York, NY
A majority on the Supreme Court took the absurd position that discrimination no longer exists, and agreed with the lawsuit from Alabama that claims they no longer discriminate. Following this very bad decision, at least several states immediately acted to gerrymander in favor of Republicans and / or suppress the minority vote. Legislative action is immediately needed to reverse the damage caused by yet another partisan activist ruling by a majority (Republican appointed, everyone of them) on the Supreme Court.

Carol Jackson
New York, NY
Racial profiling goes on and on while white people and others deny it exists. Racially prohibitive voting laws are being enacted with due haste since the stupid and racist five on Supreme Court pulled the teeth out of the Voting Rights Act. Schools for children of color continue to be underfunded and deliver inferior education. ETC.!!!!!!!!!

Chris McGinn
New York, NY
I think that it's been shown time & again that as hard as we try, there's discrimination all around us. The only safe way to avoid this is to have laws that EVERYONE has to answer to to protect ALL of us. Even the law, can be up for interpretation, but having the law on the books keeps each state from having their own form of voting guidelines.

Carol McGrath
Coatesville, PA
The voting acts right should be restored because we need an accurate accounting of the people of this country and what they want NOT just the people who are being influenced by big corporations, who want to control everything from the food we eat and other things that affect our bodies, to the way our country responds to and is viewed by the rest of the world.

Bobbie Passwaters

Wilmington, DE
It is important to restore the protection of the voting rights of Americans. We the people and that means all of us need to be heard. Each and every voice is important and essential because it is our lives and our livelyhood that is at stake. I fully support Senator Coons and this committee to fight to restore these voting rights. Any discrimination on any level is totally unacceptable in this country. I appreciate my right to vote and each and every American must be afforded that same right.

Charles Pitchalonis
Southampton, PA
The proof of the necessity of the V.R.A. is evident by the swiftness of several states to immediately institute or initiate laws to hamper the minority voters in those states.

Amy Lipton
Huntington Station, NY
Please keep our country moving forward, not backward. Restore the full protections of the Voting Rights Act now! Thank you.

Christian Kunig
Smyrna, DE
I am of German heritage so I have to bring up that famous saying that goes: then they came for the Jews and I said nothing because I wasn't a Jew; finally they came for me and there was no one left to speak up for me. Do you gentlemen think that, because you are the Government, you are somehow exempt from anything bad that can happen to our Democracy!? If you continue to let the right wing extremists and the corporate interests (who are pretty much the same crowd nowadays!) take this country over, BELIEVE ME when I tell you that they will come for you, too! If not, they will come for your children! I doubt that your children will thank you for any lip service you have paid. These guys are at least every bit as insistent and prsistent as Hitler's top brass! They want all the green paper and they want to stay out of prison. If they tell you they want anything else, they're lying just like Hitler's top brass were. If I can understand all this from "down here", why can't you? Fix the vote permanently and don't ever let it get broken again. Oh, and stop taking all those bribes, kickbacks, and donations from corporate, OK? It's unAmerican.

Carolyn Modeen
Sun City, AZ
Here in Arizona, voting rights being taken away are current and grievous. I. Must now vote both primary AND general elections to remain on voting by mail. 2. Strict laws govern your ID when you go to the polls to vote 3. Republicans now do not need as many signatures on their petitions to run, as do Democrats and independent parties

Patricia Orlinski
Sun City, AZ
If we do not fix the voting rights act, then we must let the world know this country is no longer a Democracy, but an Aristocracy.

William Allen, Jr.
Los Angeles, CA
"It is NOT 1964 anymore." THAT IS WHAT THE INCREDULOUSLY INANE AND BIGOT JUDGES OF THE SUPREME COURT CLAIMED, WHEN THEY GUTTED SECTION 5 and DISMANTLED PARTS OF THE VOTING RIGHTS ACT. While, it may not be 1964...it CERTAINLY IS 2013------which means that in many ways, things are JUST AS BAD...IF NOT INEXORABLY WORST THAN IN1964. With all of the underhanded, disrespectful, deceitful and duplicitous ways that the "Rethuglicans" have used to heinously enforce Voter Suppression in so many, many (Red), (Southern) States; stacking Governors, High Judge(s) and Congress Members to do their bidding of ----OBSTRUCTIONISM AND "TURNING BACK THE CLOCK" OF CIVIL RIGHTS ACHIEVEMENTS...it is ABSOLUTELY IMPERATIVE THAT PERMANENT FEDERAL RESTORATION PROTECTIONS

MUST BE MADE. Shredding aspects of the Constitution; and making a "mockery" out of LIBERTY AND JUSTICE FOR ALL...NEVER was acceptable then...AND IT IS NOT ACCEPTABLE NOW! Thank you for holding these hearings to make a permanent rectification of an insidious miscarriage of "justice." With NON-VIOLENT-INTENSE -BRAIN STORMING AND COMMUNITY GRASSROOTS ACTIVISM; AND OF COURSE THE POLITICAL CLOUT AND INTEGRITY OF POLITICAL LEADERS WHO WISH FOR A BETTER LIFE FOR ALL AMERICANS----WE, THE PEOPLE, CAN BRING "TRUE JUSTICE FOR ALL." Thank you for your arduous and assiduous endeavors on behalf of all fair-minded Americans. God Bless You in doing this work.

Sergio Sanchez
Walnut, CA
the voting rights act is the only way that everyone in this country will have an opportunity to vote.

Thomas Wargo
La Honda, CA
"Remove the stop sign--there hasn't been an accident at this intersection in years. . ."

Michael B Wisper
South San Francisco, CA
It's quite clear that certain Southern states still need the full Voting Rights Act in place. All you need do is look at what Texas tried to cram through their Legislature only HOURS after the SCOTUS removed a key portion of that legislation as witness to the error of touching that law. Others will follow as they find loopholes to abuse their new power to prevent certain members of our citizenry from practicing their right to vote, you may be sure.

Margaret Wessels
Aptos, CA
I taught U.S History and American Government for 35 years. I not only taught the U.S. Constitution, but how important the right to vote is spelled out in that document. We have made improvements to the right to vote and expanded that right to many more people. It would be a travesty to do away with those protections. We need to make it easier to vote not make it more difficult.

Eldon Carvey
Williston, VT
The right to vote is fundamental to what it means to be an American citizen. No American of voting age who wishes to vote and is eligible should ever be denied this right. It is clear both by the actions of many state Legislatures, and by the history of minority disenfranchisement that has been a tradition in certain parts of our country, that our citizens badly need the protections that the Voting Rights Act affords them. Thus, I urge every member of Congress to act promptly and decisively to pass an updated version of the Voting Rights Act as soon as is reasonably possible. Thank you.

Andrew Charlton
Wilmington, DE
As a man who grew up in the Post-Civil-Rights era, I grew learning the benefits of fuller suffrage, and the dangers of limiting it. When Americans take a stake in, and are included in their society, they are then citizens, and we then truly in a democracy. An Oligarchy, and Dictatorships are the result of limited suffrage, and disenfranchisement. You only need to look at our ghettos, and the Middle-East to see its end result. We cannot fully realize our human and national value, unless all non-incarcerated citizens are a part of the process. And since the Federal Government is the body that grants Citizenship, and has the power and the Supremacy Clause behind it, this body needs to protect these natural rights for all of its citizens, by not leaving it to the states. Please vote on a New Voting Rights act, one that preserves all voters rights for this 21st Century.

Kevin Kalmes

Chicago, IL
I live in Chicago, IL.. on voting day the excitement is palpable.. especially for those of us who work on campaigns. Getting up and walking, busing, driving to the pols is source of pride and exercise of a civic duty that cannot, should not, will not be compromised, repealed, obstructed. I love voting day and proudly wear my "I Voted" badge all day. In fact, I can often pull that coat out of the closet the following year and my badge of hope and courage is still on display. Do not allow the full protections of the Voting Rights Act to be denied any American.. repairing the discriminatory voting rules of the past was a hard fought battle. Voting is our testament to being a Proud American!

Fr. Antony Hughes
Medford, MA
Although things have certainly changed in the South one thing has not and that is the egregious and often surreptitious attempt to make it difficult for minorities, in particular, but not exclusively, to vote. As long as that is a problem, then the Voting Rights Act is necessary. We have seen in the past two presidential elections examples of the disenfranchisement of voters built on trumped up charges of voter fraud. Strange, It is not minorities who engage in voter fraud, it is state and local officials and political party officials. And yet it is minorities you are asking to pay the price if you do not restore the Voting Rights Act in full.

Don Hunter
Arab, AL
In almost all the states where Republicans hold the governorship and both houses of the state legislature, efforts are being made to restrict voting. That is so WRONG!

Jerry Hicks
Oak Park, IL
The right To vote is our most precious asset as a citizen, any attempt to take anyone's vote away because they don't drive and then place the registration place 100's of miles away from that person because of their race or political point of view is the most reprehensible thing any state can do. The Supreme Court has lost my respect due to this type of political decision manipulation! Apparently this group has forgotten their own roots, and how voting allowed these very same judges the voice they dictate to us how our laws are to be interpreted. It is their responsibility to protect the weakest of us from this very treachery. The mind boggles at this ridiculous decision. My consolation is how history will remember this group for giving away our democracy. One can only hope they'll be laughed at for being such foolish, foolish men.

Donna Cohen
Wilmington, DE
I believe everyone should have to show an ID to vote. I was pleased that my husband had been removed from the polls after he died, but my neighbor was still listed even though he died years before. It should not be a burden for anyone to have an ID. Can you receive welfare without one? Sincerely Donna Cohen P.S. Think Obamacare should be repealed and rewritten. No law is fair that has exemptions, waivers, Dear Senator I believe everyone should have to show an ID to vote. I was pleased that my husband had been removed from the polls after he died, but my neighbor was still listed even though he died years before. It should not be a burden for anyone to have an ID. Can you receive welfare without one? Sincerely Donna Cohen P.S. Think Obamacare should be repealed and rewritten. No law is fair that has exemptions, waivers. No law should be 1200 pages. No President should be allowed to abridge the law as written. I hate the corruption, crony capitalism, the abandonment of our Constitution, institutions writing laws - EPA, Why is government involved in student loans? Please, can we return to our Constitution!, Dear Senator I believe everyone should have to show an ID to vote. I was pleased that my husband had been removed from the polls after he died, but my neighbor was still listed even though he died years before. It should not be a burden for anyone to have an ID. Can you receive welfare without one? Sincerely Donna Cohen P.S. Think Obamacare should be repealed and rewritten. No law

is fair that has exemptions, waivers. No law should be 1200 pages. No President should be allowed to abridge the law as written. I hate the corruption, crony capitalism, the abandonment of our Constitution, institutions writing laws - EPA, Why is government involved in student loans? Please, can we return to our Constitution! I'll help you when you begin to help my/our country.

William Morse
Warwick, RI
This country was started in having faith and trust. Today The USA is going in reverse doing what some other countries have done and are doing, having no equal rights, no voting rights. The only rights are for those who are suppose to represent people in this country are only getting what they can for their own benefits. The voting rights are being made to help certain individuals get elected in office by groups where others cannot vote them out.

Dan Lenke
Cambridge, MA
"Voter fraud' is a soul-sapping LIE. Support real and true democracy. ENCOURAGE all Americans TO vote. We need each and all of us.

Donald DeWees
Wilmington, DE
I cannot understand why we do not require a photo ID at the polling booths. A national/federal ID or state issued drivers license or ID should be required. Make it easy for people (motor voter law) to obtain the ID, but no ticket, no laundry.

Jill Fuchs
Camden Wyoming, DE
The Voting Rights Act is a legal tool which protects voters from voter suppression. Every American has a righty to vote.

Dr. Tracy Todd Woodson
Wilmington, DE
The Voting Rights Act is as important today as it was almost 50 years ago! I write this because there remains a segment of our citizens (black, white, hispanic and asian) that lack the access to those new requirements (driver's license) that some states are legislating. They are young and old and these citizens exists in all of our 50 states! It is imperative that this US Congress not be seen as the Congress that disenfranchised millions of citizens of this basic and fundamental right.

Rodger Smith
Garnet Valley, PA
Tho progress has been made to assure the right of everyone to have access to the voting booth, there are still areas of the country where it is more difficult than others; especially with the new effort of some to create stringent ID rules that will limit access. Any restriction limiting access to voting by our people is just plain unjust.

Jennifer Best
Newark, DE
The voting rights act is important for many reasons. First, without it there is the potential in all 50 states for the government to make laws that exclude certain groups of people from voting. There are many states that still consider minorities to be inferior and would not hesitate to create laws that would disenfranchise these minority groups. Second, voting should be a basic right, just as life livery and the pursuit if happiness. If United States citizens are allowed to choose their leaders, why make it possible for certain people to take away that right by taking away the safe guard that was put there to prevent it. Finally, getting rid of the voting rights act sets the nation back sixty years. Going back to the days of forced segregation, disenfranchisement and racism are not something the United States of te 21st century should be about. If we want to be a prosperous nation, all citizens should be protected in their right to vote for our leaders. Or we may end up no better than Egypt or Syria.

Yvonne Miles

Newark, DE
Please restore our voting rights. I can't believe anyone would deny us of our privilege. Feels as though we are back in the 30's and 40's, I should say even further than that. How can any American deny Americans this right? Shame on you. You have set us back racially back centuries. How would you feel if your rights were denied?? Concerned citizen in Delaware

Patti Breedlove
Chico, CA
For our country to survive and remain free for all it's citizens need to protect every citizen's ability to VOTE. Despite their color or ethnic origine, religion, or taste. Not to limit hours, registration, proof I"D, We need to expand the availability and not allow States the right to restrict their citizens to opportunity or inconvience to go to the polls or vote absentee if they choose. This trying to hamper the rights of each citizen to determine a forgone conclusion by a few to control all of the people because they do not agree with their picks or policies is not JUSTICE or Fair. Therefoe it is necessary to PROTECT THE VOTER RIGHTS FOR ALL PEOPLE. To separate individuals because they do not agree with a few is UNLAWFUL AND NOT TO BE ALLOWED UNDER ANY CIRCUSTANCES. BLACKS, LATINOS, WHITES, ASSIANS, MUSLIMS...IF CITIZENS SHOULD BE ABLE TO VOTE IN EVRY ELECTION.

Linda Mitchell
Clarksville, IN
I live in Indiana, home of the KKK and the required ID for voting. I am a poll-worker every election. It is very hard to turn people away when they show up at the polls. All have been 50 and older or students and some have come in wheelchairs. Reasons for turning people away has included expired IDs, IDs from schools that were not state universities. We turned away a veteran last year. We also turned away a woman who had voted every election since she was old enough to vote, and that was more than 50 years. At least one of the workers knew every person who was turned away, but we didn't have a choice. This is very sad.

Douglas Holmes
Valley Center, CA
Because today it's more based on targeting the lowest factor (locations) on the socioeconomic ladder than it is about race, it just so happens more districts with a minority populace happens to fall within those boundaries that are being stifled. No longer about Jim Crow than it is about James Crow esquire.

Richard Van Aken
Holland, PA
Racism and all that goes with it are alive and well in present day USA. Anyone believing otherwise has their reasons but the fact remains if you ask to the majority of people of color they'll tell you the truth whether folks believe them or not doesn't change the facts.

Sandip Dasverma
Richland, WA
Don't allow Jim Crow to come back. All men are born equal but the difference in opportunities create the differences. This was intended to be corrected by voting rights act. The racists and their cronies want to bring back the old days and deprive many from voting - as seen from the laws passed in the last 3 weeks, where racists prevail.

Suzanne M. Burke
Savannah, GA
I had the honor of being friends with the late W. W. Law, the great Civil Rights leader in Savannah and of serving on the board of the Ralph Mark Gilbert Civil Rights Museum in Savannah as well as consulting to the the W. W. Law Archives. I heard stories of the difficult battle for Civil Rights, with all the sacrifices and commitment of earlier generations. I have seen that in many respects there are still two societies in

America, perhaps especially in the South. When I spoke at a memorial service for Mr. Law at the Bryan Street First African Baptist Church, there were very few other white people. I was raised in Texas, and also remember seeing the take out window for black patrons at a local restaurant. When I went to college in Mississippi, my roommate and I had a room in an "all black" wing of a dormitory, and the dorm mother explained to use that we might be more "comfortable" in another part of the building. (We didn't move, and she became a minister after attending the Princeton Seminary.) I teach a wide variety of students, black and white, people with disabilities and traditional college students. Without diversity, the world is poorer and America betrays its promise of equality. Turning back the clock on Civil Rights, and the access to American society that it represents, would be one of the great tragedies of our age. It would return us to that terrible period after Emancipation and the Reconstruction era. I worked with Mr. Law on a project to commemorate the "40 Acres and a Mule" event held in Savannah at the close of the Civil War. When I read the text of one of the speeches of the black minister, I teared up a little. Mr. Law had been watching me closely, and he relaxed then. He saw that I understood something of the depth of the broken promises to freed slaves. I am deeply shocked that the Supreme Court ended the Voting Rights Act. Justice Clarence Thomas was someone that Mr. Law was proud of. He wouldn't be proud of this decision. Please help restore these protections before many American citizens are disenfranchised.

Brenda Troup
Bolton, MA
It is all too clear this country is still full of racists. In addition, those who know they can't win elections on the merits have been trying hard to prevent citizens from voting for several election cycles: wrong voting times and places told to people, onerous ID rules demanding documents many do not have, too few ballots or workers, long lines, etc. If you can't win fairly, go ahead and lose. The right to vote is THE fundamental right of democracy. That right should apply to everyone, not just the white and rich.

Jack Elam
Houston, TX
I have recently started registering voters. With the VRA ruling, Texas implemented its Voter ID requirement. Now these new voters also have to ensure they have an approved picture ID to vote. It is another step which many may have to perform before they can cast a ballot. The registration forms don't inform new voters about this new requirement.

Dorothy and Donald Holtzman
Lakewood, NJ
It is common sense. Everyone deserves the full right of the Voting Rights Act. People fought too long and hard for the right to vote. It should not be lost. Get with the 21st Century.

Sarah Newman
Lake Saint Louis, MO
Efforts to restrict voting rights through ridiculously difficult voter ID laws to changes in the number of polling places, early voting laws, electoral-vote count laws, etc., are at an all-time high. Virtually all these laws make it harder for minorities -- non-whites, the poor, the old -- to vote. Racism is worse now than in the '60s. Perhaps it's time for ALL states to be subject to pre-approved changes to voting laws, Voting laws should make it EASIER for ALL to vote. That's what America is about. That's what democracy is about.

Stephen McCarty
Tarpon Springs, FL
While the truth comes in many different forms for many different people, even a casual observer of the last several general elections could not help but question the obviously orchestrated attempt of non-defensible, last minute changes to election law in those states that currently have one-party control of the Houses, Senates and Governorships. While not politically correct to say so in public, the Voting Rights Act should be upheld not only for the racial issues it was meant to address, but also to assist in preventing any particular political party from implementing election law that negatively affects select swaths of voters.

Harold Nelson
Denver, CO
The idea that these southern states no longer require scrutiny is not supported by their actions. As soon as possible, they will begin to disenfranchise their disadvantaged citizens.

ERNEST DUN
Newark, DE
I am a retired U.S. Army officer and have been stationed at many duty stations in the U.S. and overseas. I have voted in almost every Presidential election as well as most local elections since my retirement. However, I continue to move around because of my wife's employment. If voting is made difficult, I'm concerned I won't be able to vote. I also have two children in college and want to be sure they will be able to vote where they live. Some localities make it hard for college students to vote, which discourages good citizenship and participation in an essential democratic process. Voting should be made easier than more difficult.

Isabel and David Taylor
Washington, DC
It is imperative to restore full protection of the voting rights all over the United States of America. It is essential that those who may have difficulty getting papers and IDs in order, still have the right to vote in this great country of ours. The United States of America is great because of its struggle to become better and more just all the time. We must ensure that the lapse which has occurred is corrected asap. We CANNOT GO BACKWARDS!!!

Harry Letaw
Severna Park, MD
Thank you for this opportunity to express my thoughts on the essential need to restore full protection to all who would exercise their franchise. It is unconscionable to leave any task undone, any step not taken to ensure that the United States of America remains the stronghold of Liberty and Freedom. I urge you with great earnestness and full respect for your contributions to the body politic to take action to assure universal citizen suffrage without exception.

Thomas Dailey
Marydel, DE
we as a nation have fought so hard to get where we are now and to not protect everyone in this country's voting rights would be a tragedy. We the people are those famous words that truly need to be supported in every way!!!!!!

Jan Kirk
Milford, DE
The Voting Rights Act should be restored immediately so that all Americans can exercise their right to vote. Without it, we leave the door open for states to disenfranchise minority voters. In fact, I think the Voting Rights Act should apply to all states, and that we should have a Federal Elections Bureau. It's apparent, with the gerrymandering and voter identification confusion, that there are some that don't want people to be allowed to vote, or that certain voters won't have time/ability to vote. Shame on us for not having the same rules for every voter in every state! It's not THAT hard! Thank you for addressing this important issue.

Tracey Holden
Wilmington, DE
The Voting Rights Act is an essential piece of legislation. The Supreme Court left the door open for Congress to update the Act; it is the RESPONSIBILITY of our elected representatives to ensure that ALL

Americans can vote without impediment. I used to live in Texas and racism is alive and well there; do not let the horrors of history stain the electoral processes of today!

Tom and Wave Starnes
Rehoboth Beach, DE
We think the United States still has much work to do before equal voting rights exists for all our citizens. We are distressed by the Supreme Court's action removing one section of the Act, and we feel the Senate should form a committee to work on a law which would address the issue of equal voters rights. During the last election period seveal states tried to implement restrictive laws whicih would prevent some citizens from having the right to vote. We need a law to prevent a state from implementing restrictions on voting by citizens.

Leslie Stillwell
Wilmington, DE
Isn't strange that the states that are trying to change voting rights all have republican governors and state congresses . Seems to me they are trying to dictate (become elected dictators) who can vote (republicans) and who should not (Democrats). The republicans have gerrymandered districts to keep republican control. Shame on them.... There are afraid to let the voters decide who should serve. If they had their way no Democrat would ever be elected again. They always refer to the constitution , but ignore what the constitution actually says.

Jared Cornelia
Wilmington, DE
After the fiasco that was the George Zimmerman verdict, it is clearly evident that the Supreme Court erred in stripping out provisions of the Voting Rights Act. The Act is needed now more than ever. The GOP will return to gerrymandering and the disenfranchisement of voters in the South and Midwest now that the Voting Rights Act has been gutted. We MUST restore the Act ASAP and definitely before the 2014 Presidential election.

Pamela Burgess-Jones
Wilmington, DE
Recent events that have occurred have shown discrimination based on race, gender and sexuality is still alive and very much well in our country. If we are truly honest with ourselves and stop hiding behind party and group affiliations we will admit that those protections obliterated from the Voting Rights Act are still needed. How can we say we have come so far when individuals are still being profiled and attacked based on race? How can we say we have come so far when we still have to deal with officials in high places of our own country making derogatory, insensitive and ignorant statements about a person's race, gender and sexuality? To uphold the ruling of the Supreme Court on the Voting Rights Act is to open the door wide for the possibility of thousands of Americans losing their right to vote because of the whim or bias of individuals . Is this the legacy we want to leave our children? My child, your child, their children should be able to vote regardless of race, gender, sexuality, income level or education level. Those who do not remember or who refuse to acknowledge their history are definitely doomed to repeat it. Why do we have to go back? We should only want to go forward. Forward does not include opening the door to the pain, misery and loss of life that occurred before the law was put into place. Please, do the right thing. Work together for a change. Put aside party and "lobby" affiliations. Work together for the good of ALL Americans. Not just a chosen few. Restore the critical protections of the Voting Rights Act.

N Taylor Collins
Dover, DE
The voting act news to be restored as it is apparent that many states are gerrymandering their districts and everyone can be impacted. It is evident in the House right now that there are elected officials who do not represent the majority of their constituents and seek to serve their own special agendas. I am concerned that elected officials in many parts of the country are anti-women, anti-poor and anti-

government. These are worrisome times as the supression of any voters diminishes the effectiveness of our country as a whole. The Tepublicans are on the wrong side of many issues and I fear that the elimination of the voting act will allow them to gerrymander democracy out of existence. This is a sad time for us. Please make sure all of us are given freedom to vote.

Harry Pruitt
Folsom, CA
I want to see the voting right restored because it will insure participation of all of Americas's citizens who wish to exercise their rights and freedom of choice in choosing whom they wish to represent them, regardless of their party.affiliation. Reducing the vote only serves to create an atmosphere of separation and division and ultimately rejection of all politicians.

Daniel Belachew
Cambridge, MA
Just weeks after the Supreme Court's ruling against the landmark Voting Rights Act, the Senate Judiciary Committee will hold a hearing to plot a path forward for restoring the critical protections Americans have lost. We need to fix this. America should never return to the discriminatory voting rules of the past. I urge you to restore full rights that the Voting Rights Act provided. Thank you.

Barbara Burkett
Shelby, NC
Southern born and bred -- and all but 19 years of my life of nearly eight decades has been lived in the South: I know something about my fellow Southerners. Far more fortunate than many of them, I had parents who taught me that inside whatever color skin we have -- or whatever our ethnicity or religion or political bent -- we are very much alike, with the same hopes and dreams. It breaks my heart to know that many of my African American and Latino friends feel ostracized, threatened, and frightened by the move to weaken the Voting Rights Act. Their fears cannot be fully appreciated by white Americans. The recent decision by the SCOTUS against a most significant part of the Act makes we wish that each member of the Court -- and Congress --could get out of their comfort zone and their ivory tower in D.C. and experience life as it is for many in the South, and see that we have a long way to go before all of us are fully equal under the law, and truly are equals. I am angered for the sake of all who feel so threatened by the Court's decision, and feel deeply that Congress MUST re-instate and even strengthen the Voting Rights Act. Make if inviolable for all time! Yes, the lot of many African Americans has improved since LBJ signed the Act into law, but I know first-hand that we still have major battles ahead! I've been unbelievably fortunate, and my dearest wish is to see all of us as blessed as I have been. I will never feel completely free until my fellow citizens have the same voting privileges, and with the same ease, as I have. It is one of our most precious privileges. There must be no threats to it. The SCOTUS had hardly finished handing down their decision before the current legislature of my beloved state announced its intentions to make voting more difficult for many of my fellow citizens. The hemorrhaging of voting rights makes me wonder, "Who's next?" -- It must never be just for the privileged few, but for all of us! Thank you, Senator Coons, for all you do for us. I may be a Tar Heel, but I follow politics very closely, and applaud you heartily and admire what you have achieved in such a short time!

Ann Mische
Nellysford, VA
Virginia has already passed voter ID laws and had "gerry-mandered" my rather liberal district to attach it to a very conservative southern base and to make our district so long and narrow that the urban portion at the north and the agricultural portion in the south have little if any geographic or economic/political common interests. Now we are told that the Republicans are proposing using the voting districts like mini states and in Presdential elections each district will vote in a winner takes all for its electoral vote, thereby making out state something other than one man, one vote. I'm ashamed to have to say this about the state of my birth.

Diana Egozcue
Fredericksburg, VA
The Supreme Court's ruling against the Voting Rights Act went against the 19th Amendment which guaranteed women the right to vote. The Amendment says that the states may not abridge or deny our right to vote, and that's exactly what they have done. Women are the ones who are most affected by these changes because we live longer and need to absentee vote more often; we work at more low wage jobs so we can not take off to vote; we care for small children and parents so our time is limited; and the list goes on. How can the state abridge our right to vote as guaranteed in the Constitution? I think they have interfered with federal law, and the Congress needs to be guaranteeing through legislation that our voting rights should not be subject to the political whims of the states. We as citizens need protective guarantees for our Constitutional rights.

Timothy Jost
Harrisonburg, VA
It is essential that Congress extend the pre-approval requirements of the voting rights act to stem voter suppression here in the South, where draconian voter id laws and redistricting to dilute or concentrate minority vote are becoming more problematic, not less.

Wallace Collins
Oklahoma City, OK
Across our great country, there seems to be a move to make it harder to vote, harder to register to vote, and to take away the right that made this country great! Why should it be harder to register and vote than it is to buy a gun in this country?

Diana Haynes
Saltville, VA
Our forefathers fought for our rights andno one should be able to take us backwards just to keep votin privileges for the elite.

Timothy Monn
Midland, VA
The protections offered by the portion of the Voting Rights Act struck down by the Supreme Court are still critically needed in many states because there are documented cases from 1990 onward of people being targeted by race, national origin, or other demographic categories in Florida, Georgia, and Ohio. I personally think that ALL states should have to pre-certify changes in their voting laws to be certain that they will not result in voter discrimination before they are implemented. Restore Today!

Winnie Kang
Fredericksburg, VA
Being able to vote is an important basic right for all American citizens. unfortunately racism and bigotry are still alive and well in these United States, and citizens still need to have this protective legislation in place. Without it, voters will be denied their rights and discrimination will rear its ugly head again. I am a 69 year old white woman from Virginia, and have seen in my lifetime too many forms of legalized hatred from segregated schools to Jim Crow laws. Much progress has been made, but we must remain vigilant in our efforts to have a fair and just society, one in which all citizens have equal rights. The Voting Rights Act is basic to continuing this vigilance.

Gayle Janzen
Seattle, WA
The republiCONS know they can't win on their anti-everything agenda without rigging elections. They've stacked the SCOTUS with their right wing ideologues so they can take us backward in time when it was virtually impossible for minorities to vote. This is the exact opposite of a democracy. If the republiCON's actually had ideas that would help this country and the vast majority of the citizens instead of just the 1%,

then they wouldn't have to keep spending so much of their time taking us backwards to THEIR good 'ol days when only white males had any power. Times have changed, so get over yourselves and starting accepting the fact that this the 21st century, not the 19th.

Jerry P Draayer
McLean, VA
The Voting Rights Act represents a fundamental value added to our Nation's founding principles. The recent ruling by the Supreme Court, albeit presumptively that of the best mind in the business, flies in the face of our dynamically evolving democracy; Congress needs to act, and act quickly to restore these principles that are part-and-parcel to who we are as a Nation within and beyond the free world. Restore privileges of the VRA!

Joseph Yates
Richmond, VA
I am a white male who grew up in the South during the height of the civil rights movement. To say that all vestiges of discrimination and been eliminated throughout the south is wishful thinking. The current rush of ill-conceived methods to restrict voting rights is enough reason to protect the rights that have been the foundation of civil rights since 1964 and 1968.

William Turley
Paris, VA
The party in control in Richmond Virginia is doing everything they can think of to eliminate voting in the Commonwealth. The Supreme Court seems to think this kind of thing ended in the last century, it did not. We had people in line for hours to vote in the last election-this was not a mistake and was not just one of those things. It was planned and if not for the resolve of a great many people it could have changed the national election results in Virginia.

Don Moldover
Potomac, MD
Voting is fundamental. Not enough people vote as it is and the checks and regulations in the Voting Rights Act are a bare minimum to help restrain the runaway movement towards preventing the power of poor people in this nation from voting. We need strong protection against corrupt influences and we need to roll back the Gerrymander even though it has survived for almost 200 years. Without the principle of one-person-one-vote, 'democracy' is a total sham, falsehood and corruption of the spirit of our nations's founders.

Frederick Fuller
Roanoke, VA
Americans do not want to believe racism continues to be alive and well here. But, we are human beings and we are never going to be perfect. SCOUSA has set the path for a return to the days of yesteryear by the decision made regarding the Voting Rights Act. Somewhere in our land a voter will be denied the right to vote because she is the wrong color, or religion, or economic class, or because she is a woman. It will happen. If one citizen is denied, that's one too many and represents a massive crime against our Constitution. The court may be supreme, but in this case it is wrong. Please assist Senator Coons to get this corrected.

Margery Coffey
Rosalie, NE
We need the Voting Rights Act because there is an active minority that wants to suppress the rights of others. The only voter fraud in this country is the work of politicians that gerrymander the districts and the bureaucrats that carry out discrimination at the polls.

Lynn Kearney

Arlington, VA
When I came of age in the early 60's, African Americans in political office or in any powerful positions were almost non-existent. Today, while African Americans are found in the Congress and the White House, many live in poverty so dire that any challenge to their voting rights, because of the cost in money and time, will result in their giving up those rights. The same is applicable to other minorities and to young people especially, but also to anyone who struggling to get through college or to find work that pays the bills.

James C. P. Berry
New York, NY
The Voting Rights Act must be restored that all citizens have the ability to cast votes. After all, is not this what America is all about and what we fought for over 200 yeas ago? Please do your duty as guardians of freedom in the United States of America.

Christina Cowlishaw
Henrico, VA
It doesn't matter where we come from, what our ethnicity is, or what level of education we have achieved; what matters is that as upstanding American citizens we are guaranteed the right to vote. Period. Installing road blocks of any nature, especially those in sheep's clothing, goes against every single principle that our founding fathers fought for. Our ancestors built this country with the intent of creating a democratic nation where every voice can be heard. If your heritage doesn't include family that have been here since the beginning, then it is most likely that your ancestors came here in the hopes of being part of this great democratic machine. If so, then you are lucky to be an American and afforded the right to vote. My family came here in 1664 and were part of this developing nation from the start, but that doesn't make me any more an American or any more priviliged to vote than a first generation American. The point is that we all have the right and any effort to restrict that is simply wrong. Please restore the full protections of the Voting Rights Act before we begin a backwards slide into a time of ignorance, mistrust and hatred. This is an enlightened, 1st world country, but we could very quickly become something much, much less.

Marilyn Hayward
Montchanin, DE
The most important right we have as citizens is the right to vote. It is essential that we ensure that ALL American citizens have that right. And yes, our country has changed...to a degree. But there are still those out there who would try to make it difficult for people of color to vote. By restoring the full protection of the voting rights act, we will send a strong message that everyone should be able to vote.

Victoria Linden
Hendersonville, NC
Voting is my right as a US Citizen.

Charles Relyea
Savannah, GA
Because people can't be trusted. If the Voting Rights Act is gutted, there will be a rise in voter suppression.

Sophia Savich
Gualala, CA
Voting should be a right for everyone!, Everyone should have the right to vote!

Joel Trupin
Marshfield, VT

The right to vote is the most basic right of a democracy. Any law or procedure that interferes with that right must be struck down.

Phyllis Fanger
Needham, MA
Voting is our most precious liberty. Our recent history demonstrates that it must be protected. There is no valid reason to weaken the Voting Rights Act at this time. I am a poll worker and I know how important the right to vote is for every American.

Eric Chipman
Watertown, MA
EVERYBODY HAS A RIGHT TO VOTE! IT IS WHAT A DEMOCRACY SHOULD AND DOES STAND FOR!

Art Hanson
Lansing, MI
We need a strong voting rights act to protect our right to vote.

Ann Collins
Saint Louis, MO
The history of the suppression of Voting Rights in America is long and deeply shaming. The Voting Rights Act created by President Johnson in 1965 was desperately needed as republicans and some democrats actively denied certain groups of our society the right to vote. It hasn't changed all that much. With the recent Supreme Court's discriminatory decision it appears that certain republicans are jumping on a bandwagon to keep American citizens from voting and practicing their Constitutional rights! Just recently Senator Grassley has vowed "should not threaten common-sense measures to ensure the integrity of voting, such as constitutional voter identification laws." Unfortunately his common-sense measures are the grossest of violations of this American right. Such ugly practices as gerrymandering and voter ID laws. It should be noted just 0.0023 percent of votes are the product of such fraud. And none of these votes were ever used in any election. Right Wing media is full of lies and gross exaggerations of the number of voter fraud. But it does not occur. I feel personally that Gerrymandering should be outlawed nationwide. It is a political tool to influence the results of votes in the States. It is a manipulation that does great harm. I live in Missouri and have seen the stupidity of the republican party in dividing up the State for their benefit only. The groups most often discriminated against are persons of color, the elderly and students. Recently, North Carolina republicans instituted a law that would penalize parents if their children voted at school. The bottom line is at this time - republican support suppression of voting right because they have failed miserably in trying to get their candidates elected and that is the only reason they are pursuing this action. They are of such low moral values they would cheat to win.

Gabriel Torres
New York, NY
The full protections of the original Voting Rights Act must be restored. With the recent ruling by the supreme court we have been stripped of the provision which ensures that voters are not discriminated against and subsequently disenfranchised. The job of the federal government is to ensure the rights of the people, a fundamental aspect to that theory as well as the democratic republic system. How can we the people feel secure that our right to vote will not be removed by the states if the federal government need not approve changes in states that have had a history of turning away voters for illegitimate reasons? We must have a safety net to protect us and it is therefore that I submit the Voting Rights Act to be fully restored.

Sue Christiansen
Iowa City, IA

All 50 states and the District of Columbia must have pre-clearance before changing their voting laws. This was never more important than RIGHT NOW! We have seen many attempts by Republicans to suppress voter rights in recent months.

Robert Krikourian
El Dorado Hills, CA
We need to move forward as a country, not backward. If we truly want to be part of the global community and be an example of democracy to the rest of the world, we need to be inclusive, not exclusive. This is 2013, not the 1950s or 1960s. In order to have a society where everyone participates in the democratic process, we need to include everyone. Just because the Supreme Court issued a narrow, 5-4 decision, should not mean that we throw out something which has worked for the past forty-eight (48) years. Simple.

Eileen Miller
New York, NY
How can we even consider returning to past discriminatory voting rules? I remember the marches and the violence against people who tried to vote. We thought these years were behind us as a people but nothing is safe with this Supreme Court. This ruling and Citizens United and other rulings by this Supreme Court has proven to me that we need to amend the power of this court so that it is no longer Supreme.

Daniel Valverde
Forest Hills, NY
In our last presidential election, over 30 states passed laws that allegedly prevented voter fraud, but were in fact, naked attempts to disenfranchise voters. Many of these laws were struck down BECAUSE OF the Voting Rights Act, which should be proof enough that this important legislation was necessary. For conservative lawmakers to deny this is false, disingenuous and self-serving. CLEARLY the need for these laws is there, and removing them amounts to nothing more than an attempt to bias the vote toward white conservatives. In doing so, the conservative Supreme Court justices disgrace their court and this country. These justices demonstrated with the Citizens United decision that they do not respect the will of the American people, and with this more recent decision they continue to debase and abuse the fabric of our democracy.

Joseph Rainho
Watertown, MA
It was needed before to insure all eligible voters could vote. In light of the illegal and immoral legislative acts on the part of some republican governors (not capitalized intentionally to denote small minds and small men/women), it is now MORE IMPORTANT THAN EVER.

Jean Toles
Portland, OR
I am a retired women who knows that some suffragettes were force fed when they went on a hunger strike to get the vote for women. During the civil rights movement of the 50s, 60s and 70s black people suffered terrible abuse and some died to force our government to enforce their right to Vote as outlined in the Constitution. The Southern states and others, as well, are putting in place provisions for voting so restrictive that people who've been voting all their lives cannot meet them. The US cannot claim itself to be a democracy when people who want all of the power can find ways to keep others who want shared power to vote in order to try to get people into the government to represent their interests. John Roberts does not want a democracy in the US. He wants a plutocracy, a fascist government. It's criminal that those who fought and died for voting rights decades ago should have to do it again. Shame on John Roberts.

Mara Sabinson
Cornish, NH

What about "with liberty and justice for all?" Voting is a basic right in a democracy. Without it we have no democracy. ONE PERSON, ONE VOTE. It's 2013, not 1913!!!

Zhila Sajadi
Northridge, CA
The Voting Right Act worked, plain and simple. So, the only logical deduction of the ruling against it was to stop it from working! All the deliberate jargon and confusing arguments used were just talk. The Supreme Court failed all Americans by this ruling due to an outright blindness and ignorance caused by prejudice, partisanship and hate that are interwoven into the fabric of some of these judges being. So, again, the only logical and common sense summation for this ruling is the obstruction of freedom to vote for a certain group of citizens that are less privileged. We have to reverse this ruling at once! Shame on those judges responsible for this ruling.

Michael Eisenberg
Cary, NC
Voting is a right not a privilege. We should be working to get to 100% participation not working to supress voters rights.

Victor Magana
Fresno, CA
The immediate reaction, to the recent Supreme Court ruling on the Voting Right Act, on the part of certain states, proves exactly why it must be preserved intact. As soon as they felt free to do so, several states moved ahead with voter discrimination and suppression laws. Those who have historically attempted to make it harder for certain otherwise qualified voters to cast their ballots, have thus proven that they have not changed their character, and thus clearly underlined the continuing necessity for this entire watchdog law.

Adrienne Kirshbaum
Highland Park, IL
So many people fought to ensure their right to participate in our democracy. To limit that right is to move backwards, which is exactly the wrong direction that we should take. It is clear from everything that has happened in recent history that we have not moved past the discriminatory practices the Voting Rights Act was meant to prevent. We need its protection now more than ever!

Kathleen Miller
Claremont, CA
You know what's right; do that.

Stewart Sheehy
Tucson, AZ
Because some people just don't have the ability to show all there information is no reason why they cannot vote. If they are at the polls and are registered they get to vote!!!!

Lisa MacMillan
Dearborn, MI
This country has a long way to go with regard to racial equality. The recent George Zimmerman trial speaks volumes, as well as the fact that Texas and other southern states, just hours after the Voting Rights Act was abolished, once again began their efforts to make it more difficult for African Americans, the elderly and the young to exercise their right to vote. How the Supreme Court can determine that we've come a long way since this Act was put into place is beyond my comprehension. Where do those five live? In a bubble?

Sam Brown

Knox, IN
All Americans should have the right to vote easily, and without having to show a photo ID. America was founded by a group of people who wanted to set up a country without all the requirements of their homelands where they had to carry ID papers and could be ordered to produce ID papers anytime a authority figure demanded them. America is already beginning to resemble Europe because whenever someone has an encounter with a copper he or she had better show their papers or be hauled off to jail for not having PAPERS. If we as a nation allow this on voting just so the repugs can manipulate the vote what comes next .

Donna Dale
Richmond Heights, MO
Several states, including Texas, have acted to apply restrictive measures to prevent "voter fraud", which has been proven to be extremely rare. These restrictions will especially prevent lower income citizens from exercising a civil right that should be easy to fulfill.

Jey Gunasegaram
Albuquerque, NM
Voting is a Civil Right. We have to be an example to the rest of the world. How can USA monitor other Nations Voting when it makes it difficult for Americans to Vote?

Richard Dyer
Buckfield, ME
The right for ALL CITIZENS to vote is the most fundamental underpin of our way of government, and the MOST IMPORTANT right guaranteed in our constitution.

Joe Glaston
Desert Hot Springs, CA
Voter suppression is not what America is all about. Without protection of the right of all citizens to vote we cease to be a Democracy.

Dan and Paula Fogarty
Santa Rosa, CA
There is an abundance of evidence that the Voting Rights Act was still necessary, notwithstanding the comments by the activist Supreme Court to the contrary. Voting is a sacred right and must be preserved at all cost.

Betty Brooks
Hailey, ID
I am asking you to restore voting rights for all Americans.

Susan Kunin
Spokane, WA
First let me say that in this day and age there is no reason that the judges in the Supreme Court should be for life! They should have term limits because the right wing conservative judges are the least open minded and most unfair we have ever experienced! Secondly, what are the republicans so afraid of? That if "all" people are allowed to vote they may not win?! With their constant war on women and homophobia and just plain wrong headedness, they most likely won't win if all if "fair" as it should be. They don't deserve to win! The republican party has been reduced to a party of representing absolutely nothing! They do not care about the people of this country and they only care about their own political ambitions and satisfying the most extreme people in their own party. They are cowards and fools! Let "all" of the people vote!

Barbara Kellogg
Arcata, CA
Oversight is still needed where Jim Crow exists. There are too many subtle ways people can be disenfranchised

Jim Kelly
Los Angeles, CA
The Voting Rights Act has for decades prevented the passage and enactment of legislation and re-districting which had as its primary goal the disenfranchisement of voters whose views differed from the views of those in power. It needs to be restored to ensure that no one voter or class of voters is precluded from voting, or that districts are redrawn to ensure the election of a particular candidate or to prevent the re-election of a serving official.

Harry Johnson
Indianapolis, IN
make it right.

Jeffrey Brzyski
Tonawanda, NY
They start taking freedoms and protections away from us and then they never stop. We are headed toward a dictatorship society if the leaders of our country don't start using their heads.

Chris Gill
Huntington, WV
This is a democracy, not a GOP monarchy. The GOP hates minorities or anyone who votes against them!! They have no idea what America is, stands for, or represents. They don't care about America, ALL THEY CARE ABOUT IS THEIR PARTY!! They would reenact slavery if they could. Everybody should be allowed to vote, not just white rich assholes like the GOP!!

Jeanette Merkel
Thousand Oaks, CA
I want the full protections of the Voting Rights Act restored. A return to discrimination is a given if we let go of regulation

Alan Batterman
Monsey, NY
The VRA must be restored in order to prevent Republican state governments from enacting voter suppression methods such as: Voter ID laws; closing or shortening hours at DMV offices in places where people are likely to vote Democratic to make it difficult to get the ID; shortening voting time; purging voter rolls; making registration more difficult; voter intimidation, such as threatening billboards and police harassment; and creating long lines at polling places. And more.

John Tovar
Cedar Falls, IA
The un-Godly long lines that I saw on T/V during the last election and the hindrance that some states are creating or wish to create to disqualify or hinder people from voting is un American. The American right to vote is every bit sacred as our entire Constitution.Not one American needs road blocks and hurdles to vote.

Chris Minich
Lewis Run, PA
I repeat what I've said all along. Why should we make it harder to vote than to buy a gun? The whole voter I.D. is totally absurd. When there isn't a problem with voter fraud why does the system need

"fixed". A few years ago some Democrats were tossing around the idea of using the drivers license system as a for of identification for immigrants Republicans said that would be too expensive. whose shoe is on what other foot anyways?!!!!!

MaryAnn Nutter
Hayesville, NC
When I was growing up the most honored behavior included fairness. In fact fairness = good/smart. The attack on voters who do not have drivers licenses hits old, college age and users of public transportation people most unfairly. Also voting places are hugely discriminatory; such as 62K+ voters to a single voting location in low income minority neighborhoods and a 6K voters per location in Republican areas. No, not fair.

Caren Bar-Zvi
Deerfield Beach, FL
As a long supporter of civil and equal rights for all americans, the VRA was necessary, even though the Bill of Rights says equality for all. Obviously it doesn't mean the same thing to all, and ergo the VRA, and the amendment for the Woman's Vote. If this stop gap is removed permanently, we will undo equality for all, which is the essence of our republic, and fall back to a caste system, not a democracy

Fleming El Amin
Winston Salem, NC
Voting is a sacred trust and an inheritance paid by untold sacrifices of our ancestors. We must restore the Voting Rights Bill to honor their sacrifices Often citizens like Fannie Lou Hammer were beaten close to death just to be able to vote . Restore the Voting Rights Act., Voting is a sacred trust and an inheritance paid by untold sacrifices of our ancestors. We must restore the Voting Rights Bill to honor their sacrifices Often citizens like Fannie Lou Hammer were beaten close to death just to be able to vote . Restore the Voting Rights Act.., Voting is a sacred trust and an inheritance paid by untold sacrifices of our ancestors. We must restore the Voting Rights Bill to honor their sacrifices Often citizens like Fannie Lou Hammer were beaten close to death just to be able to vote . Restore the Voting Rights Act..

Suzanne Marks
Atlanta, GA
Denying or inhibiting the right to vote for capricious and/or partisan reasons is against the very foundation of our republican form of government. Not only have Jim Crow laws been a historical reality for too many, but today states have used gerrymandering redistricting and other methods to suppress voting. In 2006, Congress voted almost unanimously to reauthorize the Voting Rights Act, as ample evidence of voter suppression was presented. After the recent Supreme Court ruling gutting the Act, several states immediately instituted voting restrictions that were determined discriminatory under the Act.

Paul Cameron
Carrollton, TX
Re-write the Voting Rights Act (VRA) so that is passes SCOTUS (Supreme Court of the United States!

Lynn Snyder
Pompano Beach, FL
it is a right of every american to vote and not some kind of a privilege!!!!!

Joyce Downer
Longview, WA
We tell out citizens that it is not only their right, but their responsibility to vote; to be responsible and informed voters because this is how our country works. How can it work if portions of us are not ALLOWED to vote? If we discriminate against some, how long before we discriminate against most? How

long before it won't be necessary for any to vote? Those who want power, those who think they know better and/or those who think they ARE better are already trying to grab the right to vote from as many of us as they can since the Supreme Court's recent ruling against portions of the Voting Rights Act. Our country is imperfect. We have some pretty high ideals, but in practice we often fall short. If we are to ever achieve the high ideals of our country, we must protect this most basic right. Please fix the Voting Rights Act. Do it now. An Ordinary Citizen, Joyce Downer

Suzan Syrett
Menlo Park, CA
We have seen over and over efforts to make voting more difficult- purging registration voter lists as was done in Florida, limiting the number of polling places to guarantee long lines (especially discouraging for elderly who cannot be on their feet for hours), disallowing early voting so people whose jobs make it difficult if not impossible to get to a polling place on a weekday, and requiring ids of people who don't drive or have easy access to trahnsportation - especially affects older poor seniors. The robustness of our democracy depends on the support of a large informed electorate whose voice must be heard. Without a method to insure that no class of qualified voter is discriminated against our "democracy" only will represent the special interests who manage to get these restrictions in place.

Mark Gorman
Malden, MA
How do I know that voter rights are so important? Easy, because 1. Martin Luther King made it a goal to get it 2. His opponents are now making it harder for people of minimum means — especially minorities in small towns - to get the required extra whatevers to keep it. 3. We can see how quickly the rule changes came into existence. At a time when people of the same ideology have blocked everything that they can to help fix your job situation.

Irving Smolens
Melrose, MA
I am a D-day veteran of the 4th Infantry Division. I fought as an Artillery soldier in all five major campaigns in Western Europe and was prepared to lay down my life to invade Japan. I consider the right to vote as sacred for all Americans. That was one of the things I fought for. Any attempts by state laws to restrict an American citizen's right to vote is un-American and anathema to me. Kennedy and Johnson championed that act and Congress must pass a provision that will comply with the Supreme Court's stipulation that will render any State government attempts to impede the right to vote unlawful.

Vicki Clarke
Raleigh, NC
This confirms that our country is going backwards. How could the Supreme Court possibly deny us this. All the Republican legislators here in North Carolina were thrilled and are now seeking ways to obstruct voting. No open polls on Sunday and limit early voting and of course, a picture ID when you vote. It is obscene.

Marie Keegan
Boonton, NJ
This is our last chance to STOP and reverse the GOP controlled states and the Supreme Court decision from rolling back voters rights. For many more of us, all we have left is our voice and if that's taken away what's left? We don't have money or positions of power, but we have our voice In these last few years,many Americans have lost homes, jobs and now choice-we cannot lose our voice. Our voice is our vote. This legislative body is the last voice many of us have left. We can't go back.We can't back down.

Dr. James McMahon
New Bern, NC

Having provided psychotherapy for over 34 years, I have worked with innumerable victims of domestic, community, and combat violence. One consequence of being traumatized, particularly chronically, is shame and withdrawal. Everything we can do to empower victims to change their own lives and those of their families is worth gold. Putting barriers of any kind to voting, speaking strongly, being part of a make-change community must be eliminated. Voting and speaking up for yourself, while not being intimidated by a family perpetrator or community authority is essential for victims to participate in changing their and other lives.

Gerald McKelvey
Manteca, CA
Everybody should have the right to vote. Nobody should be excluded. This was a very bad decision on the part of the supreme court. It needs to be terminated and everybody's rights should be restored.

Natalie Hanson
Lansing, MI
We need a strong voting rights act to protect our right to vote.

Audrey Cleary
Bismarck, ND
The Voting Rights Act addresses our Democracy. Without Voting Rights, many Americans will not be able to vote. Is this a Democracy then? I think not. And it should not be made difficult for Americans to vote. We must make it as easy as possible for all Americans to vote. I have worked at the polls and it is so special to see persons coming up gleefully to vote. We know how to do it right in North Dakota. Let's let the rest of the country do the same.

Bonnie Reukauf
Payette, ID
If we truly believe that this country is the best in the world we should always, always go forward making things better. More and more we are going backwards instead. What are we doing? Why would we want to hurt people and stifle people and undo the good that we have done? Why?

David Rainey
Pound Ridge, NY
The Voting Rights Act provisions that the Court struck down are still very much needed. I grew up in the South. While the environment for minorities is clearly better than in the 1960's, discrimination still clearly exists. Recent attempts to restrict voting rights are well documented. These restrictions disproportionately impact the poor, elderly and minorities by the very nature of the restrictions imposed. This country should encourage voting rather than restricting it as the bedrock of our constitutional values.

Marian Blackwell
Henderson, NC
I think it is crazy to take away a right that we already had. I am sure you want your children and grandchildren no matter where they live the right to vote. I am 87 and i think you are acting very childish to want to do this crazy act. most of the time you say you are a christian, Are you sure you know what constitutes a Christian. In case you do not know, be CHRIST like. JESUS CHRIST did not take away things from people, HE helped . so PLEASE restore or return full Voting Rights Act.

Denise Weber
Indian Trail, NC
Everyone has a right to vote. It is not a rich mans right alone or a corporation. It stands for WE THE PEOPLE.

Miriam Butterworth

Bloomfield, CT
It is so obvious that discrimination against the weakest in our society is alive and well. Look at the rush to put obstacles in the way of voters who will have difficulty in complying to new restrictions in the states that were watched for voting discrimination under the Voting Rights Act.

Emil Toth
Chapel Hill, NC
There has to be continuous monitoring and regulation of Voting Rights because unscrupulous people will always try to take advantage of any loop holes they can find in the interpretation of the now watered down law.

John Gault
Los Osos, CA
How can we claim to have a democratically elected government if large percentages of our citizenry are disenfranchised based on questionable criteria? There are those in our government who do not believe in democratic representation and are doing their best to destroy it. This is their method of winning elections that they may not win fairly. We have come a long way from the days when only white male land owners could vote. Let us not regress.

Kathy Cohen
Torrance, CA
The voting rights act was invoked several times during the last election, how is it possible that it is no longer needed?

Elizabeth Iglesias
Coral Gables, FL
Dear Senator Coons, Thank you for sending this email invitation, and thanks to Senator Leahy and the entire committee for taking this important issue up. Beyond the important question of pre-clearance, please look at practices that produce differential wait times for different communities. When some Americans can vote in 30 minutes and others have to wait more than 8 hours, it's terribly demoralizing and manifestly unfair, but Florida officials don't seem to care. Florida elections chief: Not our job to measure voting wait times http://tv.msnbc.com/2013/06/28/florida-elections-chief-not-our-job-to-measure-voting-wait-times/

Miriam Leiva
Harrisburg, NC
All US citizens should have the rights under the law to vote! I treasure my right to vote in the US since I came and became a citizen (born in Cuba). I also believe there should be nation wide rules to protect all voters in every state and US territory. We, the people, must help to make sure all have access to the polls.

PAMELA MERRITT
High Point, NC
Our state, NC, has passed draconian voter suppression laws aimed specifically at minority, aged, and youth voters. As a volunteer in 2008 and 2012 I routinely drove elderly voters to the polls. One woman in particular was 98 years old. She took her right to vote seriously. We took her to early voting and went straight into the polls. She would not be able to wait in line for 7-8 hours. And, having been born at home in rural GA, she has no birth certificate and little resources or energy to get one, no driver's license...no state approved photo ID at all. Everyone knows her but her vote, which is her Constitutional Right, would not be counted even if she had the energy to wait in the long lines. It is a sad fact, but certainly true, that NC residents are in desperate need of the protections afforded by the Voting Rights Act. We face, with the current State Legislature, a modern "Jim Crow" era.

William Burns
San Diego, CA
My God, is this a representative democracy or an oligarchy of the rich, greedy, and powerful?

Carol and Ivan Hoyt
Sequim, WA
We should do as Australia and REQUIRE EVERYONE TO VOTE or pay a fine! Democracy works best with the input (vote) of everyone.

Christopher Vichiola
Torrington, CT
I , Christopher Vichiola, am in favor of supporting the voting rights fro all United States Of America Citizens. I am against any laws that discriminate against people who have alegal right to vote.. We the American people must protect our civil rights gains. Our constitution was written we the people, and not a select few people should have the right to vote.

Tanya Wagner
Mechanicsburg, PA
It is my opinion, speaking as a 77 year-old white woman and former registered Republican (now Independent) on this subject, that, if anything, the Voting Rights Act should be expanded, not gutted. This opinion is based on incontrovertible evidence that what is happening not only in southern states but throughout the country (my state of PA is one of them) is purposefully designed to limit the ability of all citizens to exercise their constitutional right to vote. I appeal to certain members of the Supreme Court to act like the fair-minded, knowledgeable judges we expect them to be, and end their uber-conservative activist ways. I am amazed and appalled at how patently obvious they are in their elitist attitudes, so shamelessly confirmed by their public comments.

Jeanne Hirshfield
Rancho Mirage, CA
Anything that hampers our access to voting is a threat to our freedom.

Steven Hibshman
San Mateo, CA
We need to protect the rights of all Americans.

Leslie Nagler
Columbus, NJ
The town hall meeting is the classic typical image of local American democracy at work. In the town hall meeting it was classic because all members of the community were able to participate. For me it is simply un-American to try to exclude some members of the community from voting. This is particularly true when those who espouse the need for restrictions offer no significant evidence that voter fraud is a problem.

Marie Zentgraf
Fitchburg, MA
I can't even believe this country is at such a place. Our children are fighting wars all over the globe so foreigners can have a democracy. When our own citizens are being being denied those same rights. Someone needs to tell them they are fighting for a country that does not exist. Never in the history of this country have we gotten it right. Not from the American Indians, Mexico or our own African Americans. We as a nation should be ashamed. It is why I do not pledge the flag. It sounds great on paper,but the reality is quite sad.. I as a white American apologize to all our fellow Americans that have been ignored., I can't even believe this country is at such a place. Our children are fighting wars all over the globe so foreigners can have a democracy. When our own citizens are being being denied those same rights.

Someone needs to tell them they are fighting for a country that does not exist. Never in the history of this country have we gotten it right. Not from the American Indians, Mexico or our own African Americans. We as a nation should be ashamed. It is why I do not pledge the flag. It sounds great on paper,but the reality is quite sad.. I as a white American apologize to all our fellow Americans that have been ignored.

Kay Murray
Orland Park, IL
Why do you fear broadening the vote? I think voters' rights protections should be restored and apply to every district in the country.

Marguerite Boyens
Stone Mountain, GA
The fact that so many states have reinstated formerly unacceptable, clearly discriminatory voting rules is proof positive that the nation needs clear, universal rules governing voting that will guarantee the voting rights of all citizens equally. Look at the reality of the country. Do we have anything like equal protection under the law? right now, no, we do not.

Carole Yandell
Coarsegold, CA
I support the Voting Right Act, 2013. We should continue on the path of our past voting rights, build on those and continue to improve them. I have worked at the polls, helping with ballots, answering voters' questions. I have never seen any discrimination, and if they occur, I will be the first to report them to our county clerk.

Ingrid Klaube
Ballwin, MO
What has become of our once leading Nation? If we continue with such horrid laws we will be heading for a Civil War and need no enemies to destroy us. The Supreme Court made the first step in that direction. Frightening scenario.

Carole Berkowitz
Natick, MA
We, as Americans, need to protect our precious right to vote. After such a long fight, the Voting Rights Act was won, making sure that everyone had this sanctified right. Now it appears that some states are setting up new rules to discourage this right. I think it is wrong. This comes at a time when other countries are looking to become more democratic. How can we encourage this change for them if we can not protect our own voting rights at home!

Charles Straut
Brooklyn, NY
Given the recent Supreme Court's ruling against the landmark Voting Rights Act, the Senate Judiciary Committee must plot a path forward for restoring the critical protections Americans have lost. You must support the restoration of the full protections of the Voting Rights Act. Our nation shouldn't return to the discriminatory voting rules of the past.

J Kelly
Olalla, WA
The world look to us to lead by example, every vote is nessary to continue what the this country stands for.

Donald Ludwig
Henderson, NV

Negating the Voting Rights Act was anti-American treason by Roberts and his four man cadre. From Bush/Gore, Citizens United, FISA, etc. this group of so-called "justices" have hurt our nation more than Ben Laden ever dreamed of.

Nora Parrish
Jacksonville, FL
The Voting Rights Act is absolutely critically important to voters everywhere, especially people of color, poor people, and senior citizens. These segments of society can be so easily and unjustly disenfranchised. Please do not allow this to happen; vote in a new Voting Rights Act to protect the rights of ALL US citizens.

E Ulrich
South Bend, IN
The Voting Rights Act performed a necessary function previously. The Act should be updated according to current data. But it should be updated and restored so that it can make sure that all citizens are allowed to vote as easily as possible, not disenfranchised by self-serving politicians.

Tom Szczepanski
Wilmington, DE
From the time I was a child, I looked forward to when I could vote. I always thought it was one of the great privlidges if living in America. If you aren't happy with the way things are, your vote gave you a voice to make those changes. The Voting Rights Act was a pivotal way that helped make sure that everybody was given an equal chance to make their voices heard by those trying to silence them. If areas targeted by the VRA were showing signs that they have changed, I would be among the first to say that they should not berestricted any longer. When several of those states announced within hours of the Supreme Court decision that they will go through with changes that were already denied by the DOJ, it shows that the law is still necessary. You can't truly say that we will in a democracy anyone able to vote is denied. The VRA must be restored to ensure that.

Astarte' Rainbow
Portland, OR
When the SCOTUS voted down the Voting Rights Act we saw immediate gerrymandering of districts and new voting requirements being shoved through various state governments which would disenfranchise so very many people from voting. This is an obscene and, in my opinion, very unamerican way for government to conduct its business. We need rules that cover ALL the states now that the SCOTUS has undone the few protections the Voting Rights Act had given. Please - don't allow this to happen to the citizens of this country I call home. Thank you!

Joan Carrara
Antioch, CA
This Bill should be in effect so every American can vote without obstacles. We all support this country and we all should have a say. By voting that lets us feel that we are all Americans.

Diane Dutch
Peru, IL
Restoring the voting rights act is the only way we can insure discrimination is not a factor in elections. In the past discrimination has taken many forms including threats to oneself. If we are truly a free country then The Voting Rights act will guarantee that freedom.

Adeline Smith
La Mesa, CA
When you stop a group or an individual from a constitutional right or human right,your headed down the path of communism .Blacks marched down the street to have the right to vote and were killed to have this human right.If you stop one group,what would stop this from happening to all humans!

Maria Miguel
Bear, DE
Please don't continue to remove our constitutional right for fair access to voting. It's so bad for our country to keep people from participating in the democratic process.

Jimmy Johnson
Dublin, GA
Thanks for asking for my input. As a southerner, I know first-hand the gerrymandering that politicians use to dilute the vote of one party while increasing the voters chances in the other party. There is NO question that racism is still very prevalent here in the South, which is all I can attest to. Please just look at a reality television show on at this very date (Big Brother 15 on CBS). There are several players from Texas and Arkansas and at least 3 of these players have made racist and homophobic degrading remarks!! Aaryn (Texas), Jeremy (Texas) and Spencer (Arkansas). Please keep in mind that all of these people are young, but they still show there bigotry and hatred, so where did they learn it?? Most likely in their homes with their parents and friends, so does that sound as if these Southern states are for equality and have no biases? I think not!! (NOTE: THERE IS ALSO 1 NEW YORKER WHO HAS ALSO STATED SOME OF THESE SAME HATEFUL THINGS, WHICH SHOWS BIGOTRY REALLY HAS NO BOUNDARIES). This is the best example I can give you as to the reason we need some oversight on voting to ensure fair and equal voting without coercion and intimidation. I would say we could use the Paula Deen fallout, but she was raised in the South during the Jim Crow era, so I don't think we need to count that era. Sincerely, Jimmy E. Johnson

Marjorie Chappel
Smyrna, DE
We need the full protections of the Voting Rights Act. The USA had discrimatory voting rules and other harmful rules in the past. Minority peoples have served and loved their country. We have built and died for the USA. How can we go to other parts of the world insisting on full civil rights for all when we don't practice it here in the USA. I went to a white college in 1963 and had the KKK burn crosses on campus just because I wnated to educate myself. Let's not turn back the clock.

Quinton and Carrie Moore
Bear, DE
It is evident that into just I, but the State of DE wants the Supreme Court to restore the "full Voting Rights Act" It would be against our civil rights not to! We will not accept/tolerate returning to the same discriminatory voting rules of the past! Please represent the people of DeDelaware and support the full Voting Rights Act!

Majed Subh
Wilmington, DE
Immigrants need not only to participate in this civilization by eating, drinking, shopping and learning the language but also in deciding to whom they give their votes.

Sandra Fluck
Millsboro, DE
I believe everyone's right to vote should be protected.

Lisa Eriksen
Redondo Beach, CA
We absolutely need the Voting Act fully restored. Too many states are making it difficult for minorities, the old and students to vote. That is the right and responsibility of ALL citizens

David Rickards

Frankford, DE
When you restrict any citizen from voting, you cheapen the system. Rather than intentionally lowering the voter ranks, we should be trying to get a larger portion of the populance involved in the process. With the technology available today we should be allowing retina identification be used to assure everyone not incarcerated the right to vote for the representatives in the area they live regardles of where they vote.
Delaware was recongized as having the best voter registration and tabulation system in the country in1972. I was involved in the creation of that system and believe Delaware should be s test state for the country again.

Dennis O'Brien
Milton, DE
The voting rights act already contained an out for the areas affected. If they demonstrated that they would uphold their citizen's rights, they could petition for release. SCOTUS overturned this provision and immediately several states passed restrictive laws that wouldn't have been allowed under the Voting Rights Act. If the reasons for this provision were indeed a part of the past, why were these state legislatures poised to create laws that would not have been allowed under the old law. The simple fact is that 50 years has taught them nothing and the VRA is still necessary in its entirety.

Suzanne Fraser
Fairlee, VT
With the Supreme Court's ruling against the Voting Rights Act last month, they have reopened the floodgates to forms of voter discrimination that millions of Americans worked so hard and for so long to close. It is critical that Congress restores the protections that have been lost. Thank you for working to reinstate the Voting Rights Act.

Stefan Kozinski
Wilmington, DE
In a land founded on the principle of birthrights common to all humans, not one of the countless abuses of these inalienable rights has ever justified itself; but by falsely invoking this or that popular notion to its apparent justification, each of these abuses has served as a precedent for many more. The very first such abuse of humanity was unacceptable for all time, and each further abuse in this perverse spiral is only all the more unacceptable.

Ray Williamson
Frederica, DE
My parents, grand and great grand parents have already fought this battle. Now we musy honor their fight and protect something that makes this country a better place for e everyone who is a regestered voter.

Barbara Tenney, M.D.
Milton, DE
By viewing the number of states that since the Supreme Court decision have passed or proposed legislation to make voting more difficult, including specific picture IDs, changing polling locations, etc. It is obvious that the Voting Rights Act needs to be reinstated. We should be encouraging every adult citizen to vote their conscience and to facilitate that process, not make it more difficult.

Virginia Thorne
Wilmington, DE
Our right to vote is extremely important. It must not be made difficult or impossible. We need the Voting Rights Act. Thank you.

Mark & Susan Glasser
Los Angeles, CA

Voitng right - that every person has a fair oportunity to cast his or her ballot - is the foundation of our democracy. If we truly want such a form of government, then anywhere there is any type of concern that this fundamental right is threatened, North, South, East or west, we must take not and insure that it is protected.

Rodney tenBrink
Muskegon, MI
I support the voting rights act that the Supreme Court ruled against and would like to see it restored the right to vote in know way should anyone not be able to vote

Jane Groebner
Boise, ID
It's clear after the last election cycle when so many states tried to change voting rules that would have limited old people, students and minorities the ability to cast their ballots, that we still need protections in place. One argument the opponents will use is that we still have the right to appeal to the courts, but that takes so long the election will be over and done with before a correction is made. All you need to do is draw up a new list of districts that need DOJ oversight. How hard can that be? Maybe it should apply everywhere. Just do it!!

Priscilla Rocco
Costa Mesa, CA
It is clear that citizens should not have to wait in line for hours to vote or be required to present ID that is excessive. Any governor that allows this, has a political agenda to suppress voting of the elderly, students and minorities. Our government representatives are put in office to protect our rights as Americans, not to suppress them.

Arthur Lockwood
Conyers, GA
My 94 year old mother moved in with me in Georgia. When I went to register her, they wouldn't accept her Mi. driver's license. They wanted her birth certificate. When I got that, they said I needed her marriage license. However, it seems that she took her stepfather's name when she entered school. I have no consistent record of her names. Effectively she is shut out if the voting process in Georgia.

Danny Astiz
Sherwood, AR
This is just a ploy, to limit who can vote. Voter fraud is not a problem. Every American citizen should have the right to vote. To limit the number of people who can vote is just wrong. To force elderly folks to have to get ID's is just wrong.The 99% is not trying to cheat the government, however the government is trying to cheat the 99% out of their vote. The government is suppose to be by the people for the people. Not the rich against the poor. Always remember in 1964, One man one vote. Anyone who can become a registered voter should have the privilege of voting. Shame on the GOP for trying to find a way to keep America voice silent.

Mike Jayjock
Langhorne, PA
The issue of voting rights is clearly not "over" and needs the continuing protection of the law. I urge you to restore the full protection of these rights.

Carolyn Reese
El Prado, NM
A return to the original Voting Rights Act is absolutely necessary for assuring all citizens can exercise their voting rights. This is proven by continuing efforts to curtail these rights.

Ann Wray
Cincinnati, OH
This country was born on the right that all of us are equal and we all have the same rights. With this in mine everyone has the right to vote and nothing should prevent us from our right, This country was born on the right that all of us are equal and we all have the same rights. With this in mine everyone has the right to vote and nothing should prevent us from our right

Duey Foster
Baldwin Park, CA
All of us are not asleep! Those of us who are awake will wake up others. We know why those Supreme Justices got in office. We allowed politicians rather than statesman to represent us. We have for decades labored under the burden of racist policies and legislation. No one in their right mind can find even a small degree of acceptance in the "injustice" that it fosters. From this day forward there will be a quiet but diligent voter revolution. It is an easy way to make the world a better place. Human rights and race relations are another category in which the United States fall shamefully behind the rest of the world.

Ernestine Lyons-Goodwin
Louisville, KY
enough injustice has been done to the american people. it needs to be stopped now so our children will not suffer the injustice that we have instituted these last 200 years., enough injustice has been done to the american people. it needs to be stopped now so our children will not suffer the injustice that we have instituted these last 200 years.

Larry Havron
East Amherst, NY
Any step backward in the voting rights act will be a step back to the nineteenth century. I implore you not to weaken it but if anything to make it stronger. The right to vote is as fundamental as the right to speak and must remain a cornerstone of every American's rights and our republican form of government.

Roslyn Wolin
Westlake Village, CA
Every citizen has the right to vote and no one has the authority to change that.

Michael Wechter
Arden, NC
All that needs to be done to see how important this act is would be to look at the number of states that are trying to make voting more difficult by discriminitory voter ID, less early & or Sunday voting. The right to vote is sacred & if anything, needs to be overprotected. It can't be left to the whims of politicians whose goal is to reduce voter turnout by any means possible. (they will succeed)

Gloria Combe
Northville, MI
It's critical that voters rights be protected and based on the efforts of the far right to disenfranchise voters by eliminating Sunday voting, requiring identification that is often not available to the elderly or poor, such as a driver's license its clear that the full protection of the Voting Rights Act is needed.

Janet Johnson
Birmingham, AL
Why do we as a country and society want to take history and some of our American citizens who have worked and fought hard to make this country what it is today backwards 40+ years. Haven't this community and culture suffered enough? Haven't they paid their dues above and beyond the call of duty. Haven't we kept the oppressed for well too long? Give the people their rights and freedom back as they deserve. This is social injustice and it is time w stop it in it's tracks.

Terrie Allen
Pasadena, CA
The voting Rights Act is still crucial. One Black President does not parity make. I have served on our local Human Relations Commission and I can tell you with assurance that we have many miles to travel before we can declare victory over bigotry, prejudice and discrimination. Democracy is depending upon you to do the right thing!

Susan Sauerberg
Darien, IL
The supreme court was wrong about the voting rights act. Many states are trying to make it more difficult for minority people to vote. WHERE WAS THE SUPREME COURT DURING THE LAST ELECTION?

Jean Molinari
San Pedro, CA
Our Nation is not a third world continent and our democracy must prevail in the voting rights for all american citizen, there's no reason for changes. We, the people, expect respect as you would expect it in return.

Dean Myers
Port Saint Lucie, FL
Your Honors I address you as a concerned citizen. I understand that some things have changed in our society, however this is due in part to the voting rights act. I fear that this change(reversal) will be pernicious to the forward movement of our country. The conspectus of this matter I fear will exacerbate voting rights in a vast part of the country. Perhaps some restructuring is needed, but lets not throw the Baby out with the bath water. please do not be obtuse.Let us not forget the 50s and 60s with blood in the streets and sacrifice by so many.

Betty Paola
Mulino, OR
Removing the Voting Rights Act was done to make it harder for people in the South to vote. Every American should be allowed to vote. Judge Scalia and Judge Clarence Thomas are both friends of the Koch Brothers, and its terrifying to think that these men in high office can be manipulated by others. By allowing this it stops our government from being a true Democracy. Rules at state level will probably include trick questions, and ID s that will be too expensive for the poor to purchase.I did see something about requiring in one state a proof of 5th grade education, I have to say this is ridiculous! My Grandfather was born in 1892, had a 2nd grade education, could read and write, and was very intelligent. He was also a Republican, who supported Unions, the middle class. voters rights,and frankly knew more than some of the so called political leaders. He knew about the Founding fathers and even knew who Paul Revere was riding to warn, and it certainly wasnt the British

Hazel Poolos
Richfield, NC
We need to make it as accessible and easy to vote as possible in today's world. There is no fraud to worry about. We just need to encourage all eligible voters to get out and vote for their future.

Connie Johnson
Salem, OR
Contrary to the opinion of the Supreme Court, racism is alive and well in these United States, especially in the South. To remain a democracy, we must preserve the voting rights of ALL of our citizens. To do otherwise is un-American.

Thomas Grant

Jamestown, NC
Early voting has been limited by the current NC legislature after yeilding unprecidented participation in democracy here. That combimed with other efforts to possibly disenfranchise NC voters makes it necessary to guarantee that voters in this state have equal access to the right to vote. Democracy in this country depends on it.

Robert Smith
Shrewsbury, MA
It is critical to our democracy to maintain voter rights. We the people must be protected against racial, economic, and political discrimination.

Rosemary Graham-Gardner
Manhattan Beach, CA
I became an American Citizen after living in this country for many years, not because I felt American, but because I wanted to be involved in the decisions made by elected officials..Also, being a Travel Facilitator-Interpreter in the Southwest, I constantly come into contact with indigenous population whom I feel have been terribly wronged by the US Government and continue to be wronged over and over again..A lot of the populations have no ID and have a hard time going to register and get an ID..If you want a true Democracy in this country (and there is none in this World), then, you should make every concerted effort to make sure ALL are able to have a voice and participate, not just so-called white people, which incidentally does not exist! I am so sick and tired of the double standards in this country, the hijacking of our Constitution by Big Business. All Citizens and Natives particularly should have a Voice and be able to participate in the political process.This country has become a bloody joke and a mockery of what the free thinking founding fathers stood for..This is NOT a Christian Country..This is a Country that should be the best country in the World and it is not anymore when its citizens no longer have a voice that has been replaced by the Big Business bullies!

Jane Orci
Alexandria, VA
There must be a timely review process available when there is the potential or it is suspected that the right to vote has been or may be denied to anyone because the right to vote is fundamental to the existence of a democratic state.

Kathryn Mary Stahl
Clinton, MI
My grandmother was so determined that she would vote in 1920 that she voted absentee because she was in the maternity ward. My uncles fought in WWII to protect our freedoms. My husband fought in the VietNam conflict. In 1963-64, before I was old enough to vote, I rang a bell on the Athens campus of Ohio University in support of the Civil Rights marches. As an adult, I worked for 20 years as an election inspector at my precinct so that my neighbors would have their opportunity to vote. All American citizens 18 and older must be allowed to register to vote and then must also be allowed to vote.

Claudia Russell
Pompano Beach, FL
As a new citizen, I'm very much aware of my rights. I waited many years before becoming a citizen of this lovely country. To find people willing to step back (nay deny) some of my rights at this juncture; in this experiment known as the United States of America, is very disheartening. The U.S.A. is still a beacon to millions of people around the world; many of whom fight (and yes die) to get to this country to experience a life (a life-style) that many here take for granted. Returning to the voting past is not only fool hardy, it's just WRONG. We MUST LEARN from the past NOT REPEAT it. Thank you.

Roger Keller
Portland, OR

Dear Sir: I believe the Voting Rights Act should not be reduced but expanded to include easy access to voting places, an end to electronic voting machines which mandates paper ballots for all elections. I also believe this country should look at ending the practice of "gerrymandering" counties and voting districts. Every vote needs to be easily cast, counted in a reasonable time, and easily verified should a recount be necessary. Paper ballots fill all these needs. Thank you for the opportunity to speak.

Shante A Hill Ali
Philadelphia, PA
To the Senate Judiciary Committee: I am pray that this testimony will be heard in this court which is made up to protect all American regardless of race. Why are you trying to defeat the cause of equality to all peoples by changing the ruling of the Voting Rights Act. This is a plead to the Senate Judiciary Committee to know that I support Senator Coons to restore the full protections of the Voting Rights Act, the real question is Why? Why would you go back to the discriminatory voting rules of the past when you say the United State of America is freedom to all or are these words meaningless to this country. I thought that we all deserve to be able to vot, To the Senate Judiciary Committee: I pray that this testimony will be heard in this court which is made up to protect all Americans regardless of race. Why are you trying to defeat the cause of equality to all peoples by changing the ruling of the Voting Rights Act. This is a plead to the Senate Judiciary Committee to make known that I support Senator Coons to restore the full protections of the Voting Rights Act but the real question is Why would you go back to the discriminatory voting rules of the past when you say the United States of America is freedom to all or are these words meaningless in this country. I think we all are deserving to be able to vote for the party of our choice. How would feel if this protection is being taken away from you? Don't let this happen, let us keep going forward in our thoughts and get away from racism here in this United States of America and keep HOPE A LIVE!!! I support restoring the full protections of the Voting Right Act.

Barbara Tompkins
Peach Bottom, PA
We the people, feel this is nothing but a real waste of time. No American, should be denied the right to vote! Our country is in need for more important areas to be taken care of. Such as, job's, health care, etc.. We are watching an listening very carefully to what is going on.

Wendy Denby-Pascale
Alliance, NE
America needs to be represented by the poor as well as middle class, and the wealthy. But alot of the poor don't have a car or a drivers license. It also costs to get a duplicate birth cert.,which is needed to get a drivers license. Equality and Justice for all should not exclude the poor.

Mark Rubbert
Garrison, ND
Moving forward is what our country should be doing. However, it seems that we are just making more laws and Acts that just keeps us from uniting us a nation. The more discriminatory the government the more "head over heals" one will think, and communist is formed at heads of state without them realizing it. We are free nation that has welcomed everyone the beginning of this nation. Now it has become a club for anyone who can make the most peragotory statement against an individual or group of people to make it a law. I ask you why you all have become communist?

Mary Smith
Long Beach, NY
Do not turn back the clock on our voting rights - restore the protections of the Voting Rights Act now !

Kevin Orgain
El Paso, TX

I experienced voter discrimination every time I go to the polls to vote this last election was very bad they ask for two different types of identifications along with the voter registration card this is America is it not? The voting rights act should be protected by all means ask them why they shouldn't protect the rights of every American C .people died for this right congress need to stop all this grid lock and do what is the best for the people who put them there in the first place to run this country not according to those persons that think they got there by themselves.

Rick Nevitt-LaMantia
Capitola, CA
Voting is the RIGHT of every American. Race , class, sex, sexual orientation or economic status have n place in determining this RIGHT. It is NOT a privilege, it is the birthright of every American and needs to be addressed in this manner

Sandra Singleton
Kansas City, MO
I'm an Afro-American and my father was in WW2. He gave his life so ALL of us could VOTE not just the wealthy,privilage,white,special interest groups. Why do we take one step forward and three steps back when we disagree? And why is it the burden always fall on the disinfranchise? This is America not Natzi Germany!, WE as a people have come to far to let rights be taken away by people who wish us to regress to the pass. Because of the computer people are letting their true feelings be know .Why does the voting law for blacks has to be revoted every 25 years? Why do the GOP want harsher voting laws because things in recent elections haven't gone their way? Is't that what those laws were for?

Chanda Farley
Canton, NC
The right of American citizens of every race, gender, religion, etc., to vote is not only a significant foundation of the democracy in our proud nation, but one of the most powerful and nonviolent methods of communication to a government that should be: "...of the people, by the people, and for the people."
Unfortunately discrimination of minorities in America continues in this day and age, as do blatently transparent efforts of a few unworthy representatives to enforce obstructive measures that would infringe upon the freedoms of many US citizens to exercise what should be their uncontested right to vote. Despite overwhelming evidence and statistics that have proven voter identity fraud to be a rare occurence many states (particularly in those areas of the US with a legacy of long-standing entrenched and state sponsored voting discrimination) are attempting to adopt measures that would potentially allow for many minority voices to be silenced injustly. I live in one of those states. I was born in North Carolina, and the most recent measures to alter voting practices (voter ID requirements, discussions of removing electronic voting procedures and switching to paper ballots to complicate the voting procedure and potentially reduce the voter turn out at the polls, etc.) are not only offensive to me and the system of ethics and morals I was raised to uphold, but a shameful reflection on my state of sentiments I neither share nor wish to be associated with. No person should be ashamed of where they come from, and more importantly no American should be discriminated against by a nation that pledges "...liberty and justice FOR ALL."

Catherine Garneski
Newark, DE
Why do you want to change the voting laws?? If it is not broken, don't fix it.

Robert Olkowski
Waukesha, WI
How can Republicans claim civil rights legislation is no longer necessary when Mississippi only recently ratified the 13th amendment (the one outlawing slavery)? How can Republicans claim civil rights legislation is no longer necessary when hate groups like the Ku Klux Klan and Neo-Nazis still exist? How can Republicans claim civil rights legislation is no longer necessary when a white man is exonerated of

killing a black youth in a confrontation he was instructed by police to avoid and a black woman is sent to prison for firing warning shots to frighten off her abusive husband? The Republican party is only interested in disenfranchising black voters because they are more likely to vote Democrat.

Helen Kenny
Winchester, VA
The right to vote is a privilege , that should be available to all citizens of our great country. Regardless of age or any other criteria. If you are a citizen of the United States then you should be allowed to vote. In Virginia our Gov. has made it right for non-violent felons to vote. his is very important, especially for the people who have paid their debt to society, for something that they had done as a young person.

Rhonda Bracken
Kenly, NC
Honored Members, Even though we have made strides in dealings with and fair treatment to all of the many different races and cultures that make up the everyday American citizen we still have a long way to go towards equal treatment to all citizens. Unfortunately I have seen it and heard it myself...and I honestly believe in my heart and soul that this law should be back on the books AND just not for the southern states BUT all fifty states and US territories. I have not just seen and heard injustices towards African Americans but also Latinos and Native Americans in my home state of North Carolina. This is a Great Nation and I love it very much, and I want to keep it as such for me and my children as well as my neighbors also... no matter what ethnic background they are.....Together we will be a strong nation and thrive.

Geraldine Thomas
Bear, DE
Every American should be able to vote. We go to wars in other countries for people to have freedoms. Voting is by far the most important freedom. All citizens should be able to participate in the government, voting is how you are able to participate By the people and for the people.

Marian Rowland
Barto, PA
We need the protections of the voting rights act.

John Ogden
Norcross, GA
Under the Constitution, Amendments 14, 15, 19. & 26 all refer to rights & privileges accorded to all citizens. (excluding criminals etc) It seems to me that any act that would reinforce these rights & privileges would be welcomed. Also, Amendment 14 states that no State shall make or enforce any law which shall abridge the privileges of citizens of the United States. It is about time Congress started to act like Statesmen and not a bunch of self serving politicians. Pass this Act and get on with our Countries business.

Letitia Riley
Stockton, CA
The experiences of voters who stood in line for hours to vote in the 2012 election is vivid testimony as to why the on-going efforts to suppress the rights of citizens to vote must be stopped. The only way to make sure this growing trend is stopped is to not only restore the Voting Rights Act but to expand it to all states.

Susan Pederson
Long Island City, NY
Until our nation becomes truly race neutral, legally, socially and morally, we owe it to ALL citizens to keep the Voting Rights Act in place as a tool to equalize the odds for every group discriminated against at polls in any juridsiction.

Ellen Burk
New Castle, DE
I testify that full voting rights act should be restored.

Gerry Larson
Lincoln, NE
Every state should bend over backwards to promote full and easily accessible voting in ways that encourage voting and offer myriad ways to accomplish it. A national day of voting is not a bad start, but early voting and voting occurring over consecutive days is a must. Call what many state legislatures are intent on doing just what it is: voter disenfranchising. Doing anything less with facilitating easy voting rather than imposing obstacles like ID requirements is not Democracy.

Gail Yborra
Wilmington, DE
Every process in this country should be FOR the American people and ensuring our rights. Voting is the greatest privilege in a democracy; to allow any obstructions of this right tells the world we are not what we claim to be. Failing to provide protection of this right is the same thing, especially because protection is actually needed. Voting rights and protection of them should be expanded. Polls should open at 7:00 am and close at 11:00 pm in all states to allow the voices of all to be heard; the voice of the people is far more important than trying to limit the voting hours. Police and or members of the Army Reserve should be stationed at polling stations around the country to ensure that there is no obstruction to any person's right to vote, particularly in areas where obstruction occurs. Any person or organization trying to impede our voting process should be arrested with a mandatory jail sentence of six months - - yes, in jail. Those who do not support the free process in this country should be stripped of citizenship, inclusive of those born in the United States. This should apply to any politician engaged in or promoting obstruction of our voting rights, allowing them to be immediately removed from office. The American processes are supposed to be by the people and for the people. We must take back our rights and punish those who would obstruct them. Perhaps the Supreme Court of the United States (SCOTUS) needs to stand the court of the people as it is clear that SCOTUS no longer looks after the people's basic rights. While we're at it, let's consider a separate vote for the Vice President; this enable the people to determine the best partnership to run our country, and would serve bipartisanship. We have had a few vice presidents who were not fit to become president, so it's time to eliminate that risk.

Kevin Decoteau
Northampton, MA
I believe that the voting rights is a guarantee to citizens of this country that their voice and vote matters no matter what the color of your skin or language you speak. It is such an important right that people have died for it, been beaten up for it and given their all to maintain this right. We do not live in a post racial society as shown by the recent trial of Mr. Zimmerman, it was all about race, yet no one dared say that. If this is indeed an equal opportunity country lets continue to enforce the, Voting Rights Act.

Wendy Jorgensen
Columbus, OH
My worst personal memory related to voting occurred in the 2004 presidential election As a Caucasian living in a "nice" neighborhood, I was able to vote after 45 minutes. People in the primarily African-American neighborhoods had to wait in the rain for over ten hours. I was really ashamed of Ohio, and it only promises to get worse if federal protections are not restored.

Cheryl Laura Marlow
Puyallup, WA
Our most precious Right is that which allows us to elect persons whom we choose to represent us to the Nation. If we lose this Right we are no longer Americans; we are something else, and we could end up as

slaves as a result. If we lose our Right to vote we lose the very foundation of our fragile Democracy, and thus we can be assured that other privileges will can and will be lost also. This is fascist thinking,(let's call it what it is!) by those who are constantly meddling in other areas of our lives. We could end up like the Germans were when they could do nothing to keep an antihuman philosophy from taking hold. Remember what happened there? It's like everyone has forgotten! It's little stuff at first:" Stand your ground ", and reproductive rights, for example, will no longer be something to argue about. All kinds of heinous edicts could be handed down which could cause the demise of any of a number of groups, depending on the prejudice of the day. We need to encourage, not hinder, all who have a good and proper vision of what freedom is. We should be outraged that some have been singled out to deny voting rights. Every citizen of the United States should feel compelled to stand up for this. Otherwise we are just another third-world country, with riots and bloodshed as part of our new-found dynasty of dictators and totalitarianism. That is all we can expect. If those who think certain voters should be denied the privilege, it will be just a matter of time before it's all of us. We must be ever vigilant for those who seek to deny us this Right, so that dictators shall never rule our wonderful, beautiful America.

Kenneth Glanden
Newark, DE
Move forward, not backward. Voting should be our most cherished right and all should be encouraged, not discouraged to vote.

Anthony Muraski
Plymouth, MI
The "Old South" is roaring back.

Gregory Jaskolka
Wilmington, DE
In light of the distrust ingrained in the public conscience since the 2000 Presidential election and the Supreme Court's decision on the Citizens United debacle, it is imperative that ALL Americans be permitted to exercise their inherent right to participate in the process of electing our representatives.

Cherie Warner
Pullman, WA
What is the point of going backwards when the law that was passed was a hard won victory when it was passed. Everyone has a right to vote NOT just the elite rich. Jus because someone has money does not guarantee they are good citizens, are educated, or know was is best for the common ordinary citizen. We ended slavery now this act is moving us backward by tying the hands of the common working person so the rich have control. That is not fair; it is not equal; it is not freedom; it is not ethical, and it should never be legal.

Roslyn Regudon
Lynnwood, WA
It is clear the Supreme Court justices are out of touch with reality when they voted to remove the DOJ's authority to deal with states who pass laws that discriminate against certain populations. Evidence? The IMMEDIATE passage of laws in the very states under scrutiny that will make voting more difficult for minorities, elderly, and students. Discrimination lives! We must do everything possible to assure that ALL who are able to vote can do so.

Dial Hoang
Garden Grove, CA
As an Asian American, I am concerned not just about my voting rights, but those of all minorities. Please restore the full protections of the Voting Rights Act so all Americans can participate in the democractic process.

Bridget Weaver
Seaford, DE
The Voting Rights Act has been an important safeguard for my civil rights and a cornerstone of what I believe is a commitment to fairness and equality by my government. It takes a very long time for attitudes to change and we are not finished, so the cautions and safeguards provided by this act are still really necessary. Please consider that the intolerance exhibited by many members of our society is becoming commonplace and tacitly accepted. This is not a hopeful situation for the rest of us, those who are not the "ruling class". I use and appreciate my rights and freedoms every day of my life. If these are eroded, the system we so cherish is at serious risk Thanks for your time and attention. Bridget Weaver

Joy Hunt
Mount Shasta, CA
Restore the VOTING RIGHTS ACT now! All legal American citizens of every color, gender, nationality, and religion must have voting rights restored so that an America of The People can have its say as much as possible in who our elected national leaders are. This is essential to freedom and fair play. Thank you for your respect of this, Supreme Court and all others.

Helena Smith
Henderson, NV
Voting should be as easy here as we want it to be in countries that we have fought for freedom.

Rick Haggerty
Florence, MA
Every human being should be treated equally and no barriers should inhibit voting. Minorities should especially be guaranteed fair and expedient access to voting.

Lyle Dykstra
Newark, DE
It is essential for the health of our democracy that all citizens have the opportunity to vote. It is clear that in our history ethnic groups (African-Americans) have been denied the right to vote. In 2012 the Justice Department reported that there were states again attempting to disenfranchise citizens. Congress must act to ensure that all citizens have the opportunity to vote.

Ronel Namde
Wilmington, DE
Thomas Jefferson said 'all men are created equal,' and I was always taught to believe that. Believe that this nation was founded with that tenet, but without the voter rights act I don't see how we can achieve that. All over the country, people should have the right to vote with reasonable proof of citizenship or registration. As a black woman who would just decades ago been unable to vote, I really believe in everyone's right. Please restore the Act that can help protect this right for many others!

Gerard Smit
Newark, DE
calling on Congress to restore the full protections of the Voting Rights Act we lost because of the Supreme Court decision of last month.

Michael Ryan
Granada Hills, CA
I believe what the Supreme Court removed from the voting rights act should be restored with a blanket federal amendment to cover the entire country ro ensure everyone is included.

Judith Whalen
Telford, PA

The decision by the US Supreme Court does not take into account that it is only because of the Voting Rights Act that conditions are what they are. By rescinding it, one can expect that this will no longer be the case and in many states there will be an assault on voting rights: i.e. voter ID's (supposed to eliminate fraud which does not exist) and other impediments to the right to vote, especially in the case of the elderly and poor. Many will be disenfranchised unless Congress does act to re-instate this important piece of legislation. It should be written in stone!

Jan Rutland
Brainerd, MN
We need to make it easier for people to vote rather than harder., Voting is a right and people should not have to jump through hoops and wait for hours in line to vote.

Rosrmarie Molettiere
Millsboro, DE
I think the entire United States should be covered by the voting rights act. It is very obvious that many states have instituted laws/practices to make it difficult for people to vote, especially if you are a minority. It is the right of all citizens to vote. Our democracy depends on it. Those who try to limit voting are despicable. They should be ashamed of themselves. We need a republic that is of the people, by the people, and for the people. (all the people, not just a few)

Linda Petrulias
Cazadero, CA
I currently have a drivers license and a passport and am healthy enough to stand in long lines to vote. I currently live in my own home. Someday I may be too old to drive or too ill to travel and not be able to stand in long lines. I may be moving from place to place for care. I will still have the right to vote. Certain states want to deny citizens their right to vote simply because they have no picture ID or stable address or are unable to stand in line for hours at the voting place. That is wrong.

Edythe Herson
Glen Gardner, NJ
Democracy works when all its citizens have equal opportunity to exercise their vote.The Supreme Court removed critical protections even though the Chief Justice acknowledged that racism still persisted in the U.S.It is imperitive that the Senate Judiciary Committee sees fit to restore these protections.

John Sheehan
Waterford, CT
I can only use the comparison provided by Justice Ginsburg in her dissent - The removal of Voting Rights Protections is like folding up your umbrella while it is raining because the umbrella kept you dry. Please restore the safeguards of the Voting Rights Act as soon as possible.

Cindi Stooksbury
Norris, TN
Civil rights activists called the decision devastating, and a dissenting justice said it amounted to the "demolition" of the law, widely considered the most important piece of civil rights legislation in American history. - I concur. Cindi Stooksbury

Karen Hansen
Littleton, CO
Everyone who has reached voting age should have the right to vote.

Lisa Vaughn
Middletown, NY

Dear Senate Judiciary Committee, It is extremely important to protect the voting rights of everyone in this country. Our voting rights must be protected in order for every American Adult Citizen to be able to freely vote in this country and without being exposed to discriminatory practices. We must fix this situation and not return to the discriminatory voting rules of the past. We must move forward and allow every American Citizen's voice be heard through their right to vote.

Marvin Sanoff
Boynton Beach, FL
One more mistake by the supreme court.It took 3 hours after the SP Decision for Texas to pass Voter ID laws designed to reduce minority votes!!! Thirty plus states passing similar laws(All Republican controlled State Legislators)

John Comstock
Abilene, TX
I am a WHITE American. I am 88 years old and served four years in The Marine Corps in WW2. I have never had any trouble voting (I ALWAYS VOTE.) nor do I anticipate that I will. I do, however have younger members of my family. I have friends of color. It is important to me, but more important to America that these young members of my family and my friends of color "MUST" be able to vote without a lot of hassle. I would appreciate your cooperation. Thank you.

Day Jolliff
Fountain Hills, AZ
Racism is alive and well in America. Although it may not be as blatant as it has at other periods of our history, it thrives in the bigoted hearts of those who would discriminate or deny rights of the poor, the elderly and persons of color. This country was not founded on religious principle, but the separation of church and state, Blurring these lines is dangerous to our future and points directly to all forms of discrimination including voting rights. You have only to look at the countries of the world who impose religion on rights to see how restricting voting rights or encouraging unreasonable and unnecessary standards for the right to vote ruins the very basic freedom our country is based on. States who would require 'extra' steps to obtain the right to vote in excess of Federal standards that have worked well for us under the protection of the Voting Rights Act are doing nothing but trying to put discriminating rules in place to make it more difficult or impossible for certain people to exercise their right to vote. This is nothing more than trying to make discrimination legal for classes of people who have been protected by the Voting Rights Act. This shameful behavior needs to be prevented and the full protections of the Voting Rights Act must be restored.

Susan Deile
Wayne, NJ
I am a registered Republican in the state of New Jersey who is outraged that ANYONE would work to deny ANYONE their right to vote. I see these measures as chipping away at those who are legally and morally entitled to vote. What kind of a democratic republic are we that institutes restrictions designed to channel outcomes to disenfranchise those deemed less worthy to participate in our government processes?

Richard Logan
Venice, FL
I believe that without the Voting Rights Act States, mine included (Florida) will continue to put road blocked to reduce the voting rights of the people who have jobs that do not give time off to go to the polls is wrong. That States that limit or reduce the the number of day for earlier voting hurts the poor and minimizes their chances to get to the polls because of the type of jobs and the day time hours that they work.

Judith Bohne

Womelsdorf, PA
I do not believe that the states which were previously on the list for repressing and denying vote to minorities and the poor and uneducated have sufficiently reformed their attitudes regarding voting and enfranchising the public in the matter of the vote. Texas for instance is already preparing to redistrict to minimize the ability of certain portions of the population to vote. I doubt that Pennsylvania where I live will be far behind;.

James L. (Jim) Whittier
Steilacoom, WA
All adult American citizens who have registered to vote are eligible to vote in the locality where they reside. Please make it possible for them easily to register to vote and to exercise their right to vote. Thank you.

Hugh Nibert
Newport News, VA
yes back in 1965 they gave all the right to vote. what is the matter with the republican. they no the can't win with there way of hurting people get republican out of the house

Mac Gardner
Wilmington, DE
I travel the US for work. I was disappointed when the SCOTUS handed down the recent decision impacting voters rights. Discrimination is alive and in our great nation. I believe in our democratic process and and I implore all legislators to do everything in your power to protect and preserve fairness in our democratic process.

Sandra Brady
Pinellas Park, FL
This is "supposedly" a free country. If it is free why do we have to present "papers" confirming who we are to vote. If we register, that should be enough. It is beginning to look like Russia where everyone has to carry ID to verify they have a right to be where they are. All other countries are progressing and we're joining the Syria's of this world.

John Nutefall
Ponchatoula, LA
I have high frequency hearing loss. Please provide the appropriate support for those who have similar problems.

Lori Repp
Comstock, WI
As a result of the gerrymandering now made legal due to the ruling against the Voting Rights Act, people of this country are going to be receiving legislators that in no way represent their interests. People fought and died for that law. Our Supreme Court judges who voted against the Act basically spit on the graves of those brave men and women who died to bring voting equality to ALL people in this nation. That was and still is a sad day indeed for the history of this nation. I hope our politicians now debating this issue step forward and decide to be on the right side of history again, and not the wrong one as those Justices chose.

Greg Davis
Quinton, VA
The supreme court is not connected to real American life. We still need protected voting rights. DISCRIMINATION IS NOT DEAD !.

Pepper Hume

Bartlesville, OK
This country was founded on the principle of one citizen, one vote. Too many people have fought and died for the right of every citizen of this country to vote. Gerrymandering and the Electoral College compromise too many citizens' basic right to vote as it is. Unreasonable voter requirements that vary from state to state are intolerable.

Paul Stoddard
Rancho Cucamonga, CA
IF WE ARE NOT NATIVE AMERICANS,WE ARE ALL IMMIGRANTS

Marleena Kindness
Browning, MT
In Montana, Tribal rights are being denied by State Counties. Some County governments will not work with the Tribes to set up Voting Booths on Tribal Lands. Many Tribal Members do not have transportation or money for gasoline to travel to County Voting Stations. We have had to fight for every right, including the right to worship with the passage of the Indian Religious Freedom Act. As the First Nations on the North American Continent, you would think we would be protected in terms of our rights and our existing lands. Thank you!

James Madaras
Port Saint Lucie, FL
The Voting Right Acts was the only thing that in the Sate of Florida I reside and Vote forced the hands of County Commissioners to make sure they accommodated individuals with disabilities as myself, it along With pressing lawsuits about improper access to building (ADA) forced the hand to allocate monies for retrofits making it possible as LATE as 2005 these violation just were beginning to be rectified and still have not finished, So how Judge Scalia say this issues no longer exist in the south, I still Experience the hanging unfinished issue today? Its amazing how the Supreme Court looks at issues like this as , well we gave rights to gays to marry so will trade this old law for new standing to show we are (the Supreme Court) is still in touch with the masses, well the Constitution IS THE MASSES, less they not forget as in corporations which they have no issue writing a blank check to their own sets of laws, I am also in favor of Gay rights but hey first rights for the people in general!, leave them intact, In this world they can Honestly say after the George Zimmerman/Trayvon Martin case Racial indiscretions are thing of the past?, What are they drinking in their Koo lade?

Peter Hemp
Hayfork, CA
The Civil War never ended. The same mentality of Dixie is manifested with the Court's shameful decision.

Matinah Salaam
Santa Monica, CA
with so many of the segregation, defacto- segregation, jim crow laws yet on the books, some hopelessly obscured in other matters, retaining the capacity to vote as the law requires is absolutely essential. for now this works.

Gurbachan Mann
Canton, MI
Please restore Voting Rights Act. thanks.

Lee Olson
Arlington, WA
We need a government of, for, and, by the people--THE people, not just SOME people.

Paul Levinson

Hyde Park, MA
This is such an obvious need in light of the verdict in the Zimmerman case in Florida. African Americans, Seniors, and other groups are being systematically marginalized or eliminated from the national dialogue. The Republicans have worked tirelessly to impose Voter Registration laws, every one of which has been ruled unconstitutional. The VRA decision of the Supreme Court could not have been a nicer gift to these narrow, bigoted, mean people who are losing in their outreach because they advocate making America a mean, sexist, racist, classist, cheap society; not a single one of those is an American value to which we aspire. Please use your power pulpit to tell the Supreme Court you expect it to act on behalf of ALL Americans, not just the ones who have money and the right race to affect the Republican agenda.

John Tamarri
Vernon Hills, IL
Make it so all that are eligible can vote.

Mark Thomas
Blackshear, GA
We as Americans have a right to vote for whom we choose. The Voting Rights Act needs to be restored and protected at all cost, I t should not be to help one party or the other

Barbara Anne Kirkman
Salem, OR
discriminatory actions goes against the very foundation of our country, our constitution and the Bill of Rights. Any action taken to modify in any respect the Voting Rights Act, is an un-Constitutional act. Any political person who seeks to destroy voting rights, in my humble opinion, has taken an aggressive step that is an act of treason.

Steve Georgeff
Mobile, AL
History, and the mistakes made by man and country alike, are a blueprint for avoidance of those very mistakes. After the horrid American error of our Civil War, fought for the right to own people or not as property, our country had the good sense to give former slaves the full rights of American citizenry, and it was enforced by the power of the American government. However, in those States that seceded from the Union, when the enforcement of the government exited, voting rights, equal educational rights, and all other forms of citizenship, exited with that enforcement. It appears that we are in the process of repeating those mistakes. With the enforcement wing of the Voting Rights Act being clipped by the Supreme Court, what is to keep those same States and other areas of the country, from doing the same again? The process of executing those discriminatory actions may come in different forms, but the intent remains that same. We cannot repeat the history presented before us.

Alan Shovan
East Longmeadow, MA
Thank You For Defending Democracy ' Who in the World does the Supreme Court Represent? Citizens United ' Section 4 of the Voting Rights ' on and on. Section 4 of the Voting Rights ' Must be Reinstated as LAW. 2012 Election ' Can We All Forget That Easily-!? Voting ' Our Constitutional Right ' Deny Our Right to VOTE ' DEMOCRACY TAKES ON A WHOLE NEW MEANING! KEEP UP THE FIGHT ' I AM DEEPLY APPRECIATIVE ' ALAN

Caroline Darst
Somerville, MA
The Zimmerman trial in Florida and assorted attempts at Voting Rights infringement in the last presidential election have proven to this CAUCASIAN that the time has not yet come for the Voting Rights Act to be limited - rather, it should be expanded!

Kim Edwards
Cedar Hill, TX
This is supposed to be a country of "The Land of the Free and Home of the Brave"! I have a hard time believing that. No one should have the right to take anyone's voting privileges away. Why must there even be a bill for black people to vote in the "Land of the Free"? It's disgusting and GOP's are even more disgusting!

Margaret King
Albuquerque, NM
The Voting Rights Act took decades to implement. Please restore it or we will lose what so many of us fought so hard to achieve.

Sherrie Heckendorn
Portland, OR
The hallmark of a democracy is the ability to vote with no restrictions. When even one person is denied the ability to vote, that endangers our democracy. We need to ensure that all in our country are able to vote without restrictions or 'fees'(id costs money)

Tamera Postles
Lincoln, DE
According to the ACLU website (http://www.aclu.org/voting-rights/voting-rights-act-0) "In June 2013, in a huge blow to democracy, the U.S. Supreme Court struck down the coverage formula used in Section 5. Section 5 of the Act requires jurisdictions with significant histories of voter discrimination to "pre-clear," or get federal approval from the Department of Justice (DOJ), for any new voting practices or procedures, and to show that they do not have a discriminatory purpose or effect. "Importantly, however, the 5-4 decision does not strike down Section 5 itself, leaving it to Congress to devise a new coverage formula. ACLU is working with Congress to devise a new formula." If the ACLU's report is accurate, then Section 5 still exists, but now requires a new coverage formula. I believe the Act is still needed; however, the coverage formula [as described by the Supreme Court Ruling information I have read] is severely outdated. That needs to be addressed well before the next election. I might add, I see no problem with a country-wide requirement for photo-ID to be presented as identification at the polling place. Children are assigned Social Security numbers at birth; why shouldn't people registering to vote be given a photo ID for that purpose? Granted, the logistics for putting something of that sort into effect would be complicated. However, it would effectively end "stuffing" of ballot boxes.

Mary Berdan
Port Huron, MI
The roadblocks placed in the ;paths of American voters in recent elections; long lines, too few election workers, insisting on photo I.D., are ugly reminders of racist discrimination since the abolition of slavery! The "Supremes" are out of touch with the majority of adult American citizens on too many issues; returning our country to the pre-Civil War culture is unconscionable!

Jim Rambo
Forreston, TX
The members of the Supreme Court should watch the Rachel Maddow show more often. Her research team is tops in the business. She has repeatedly cited instances of voting protections being violated....and by the same old cartel of states. I need not testify. I cede my spot to Rachel!!

Ron Suermann
Harvest, AL
I live in the south and still see raciest all over the place... Anyone that says racism is gone has never lived in the south...

Nick Berezansky
Ridgewood, NJ
As a white American, it's plainly obvious to me that people of color and in particular, Black people have and still are, facing many difficulties exercising their right to vote. The Voting Rights Act helped to alleviate SOME of these problems. It desperately needs to be put back in place.

Amanda Yoder
Chesapeake, VA
I personally have seen voting discrepancies within racial minorities, especially in the states with racist history. Please make sure these voting rights are restored, despite the Supreme Court ruling!

Maurita Bernet
Little Falls, MN
What is our Supreme Court thinking??? That our country is "totally healed" from it's discriminatory past? WE NEED the provisions of the Voting Rights Act to continue to try to promote more equality, especially when it comes to giving a voice to each one equally. Thank you.

Will Johnson
Fort Lauderdale, FL
I'm a white American citizen who believes that voting protections are still needed for minority groups who have been discriminated against historically. For the racist supreme court to refuse to acknowledge that these groups, especially black Americans, no longer,need these protections is ludicrous. Here on Florida black Americans are little more than targets thanks to ALEC and the shoot (blacks) first law as evidenced by the tragic and farcical outcome of the Trayvon Martin trial. Also, in this century, farm owners have been found guilty of slavery of immigrant farm workers n Florida. To say the state of Florida does not still need voting rights protections is insanity. The truth is that the members of the current supreme court should be wearing white robes and pointed caps and attending KKK meetings instead of black judicial robes and pretending to represent justice in our highest court.

Kathleen Garry
Minneapolis, MN
There is not logic to restricting the right to vote in this country. There is no evidence of rampant or even frequent occasions of fraud. I cannot help but believe that some members of the judiciary committee have been unhappy with the 'unrestricted' votes that have occurred in recent elections! Your committee must have better things to do!

Stephen Moose
Mechanicsville, VA
The Voting Rights Act is still needed, because Jim Crow is still alive and well. Many in state and local government are using their political power to prevent legitimate voters from casting their ballots. Without an effective Voting Rights Act, these people can and will cheat American citizens out of the right to vote.

Elizabeth Langlois
Saint Paul, MN
How can we have a true Democracy with discriminatory voting rules?

Richard Stuckey
Chicago, IL
Attempts at voter disenfranchisement are flagrant and frequent, mostly n Republican controlled states. They know they can only win by cheating as they are on the wrong side of history on almost every subject. Please restore the full protections of the Voting Rights Act and make them apply to every State. No one

should be allowed to deliberately cheat low income, elderly or students from their right to vote, anywhere.

Jeffrey Malone
Los Angeles, CA
As a citizen it is my responsibility to make sure every other citizen is represented fully and completely with their rights and duties. It is clear that certain parts of the country are not committed to that process and we must, as concerned citizens, stand up and demand that those under represented be supported by the government with laws that ensured their rights are protected. I experienced no rights in Mexico City in 1968 right after the Olympics and want to make sure no one ever has to live in that state

Terry Severson
Shakopee, MN
Any obstacle or the means to create an obstacle between the citizen and the voting booth must be eliminated.

Robert and Mary Bishop
Saint Bonifacius, MN
I am a 75 year old white male, born in Florida and raised in Virginia and Alabama. Without the protection of the Voting Rights, my fellow citizens who are non-white or poor will loose all that has been gained and, I very much fear, be even more suppressed than before. Do not let this happen! Restore the intent of the voting rights act. Robert Bishop Ex southerner

Todd Dibble
Westbrook, MN
Put a stop to government/corporate/industrial-complex revolving door. Citizens and good politicians need to put an end to our plutocracy/kleptocracy. We also need to put an end to our imperialist tendencies and be a TRUE beacon to the world. What an opportunity squandered!

Gail Findley
Las Vegas, NV
There are too many older seniors who may not have the proper identification, nor have a way to get their birth certificate because of numerous reasons, Some people live in areas that are not close to cities and do not have anyone who can help them obtain the necessary documentation. The constitution guarantees each of them the right to vote. Many of them have voted in the past and should be allowed to continue to vote. All citizens that have problems should have the right to vote and no state has the legal right to deny them that right.

JudyAnn Davis
Oklahoma City, OK
The recent Supreme Court decision invalidating a key section of the 1965 Voting Rights Act is a severe "setback" for fair representation in this country. The Supreme Court justices were wrong when they said in 5-4 vote that the VRA Congress most recently renewed in 2006 relies on 40-year-old data that does not reflect racial progress and changes in U.S. society. The court did not strike down the advance approval requirement of the law that has been used, mainly in the South, to open up polling places to minority voters in the nearly half century since it was first enacted in 1965. The decision is a setback, a tremendous setback, for those that truly believe in civil rights legislation. Section 4 of the law, the part that sets the formula for preclearance, was the most important part of the law. I am upset about, Section 4 of the VRA that was really a safeguard to ensure states are fair. Never, in my lifetime, did I think things would revert to 196S when violence, intimidation, literacy tests and the like were used to disenfranchise voters. I believe the law as it was originally written was working and should have remained untouched. When the VRA was passed, there was a problem ensuring all Americans of legal voting age had access to the polls in certain states. VRA set up a formula in Section 4 of the act that determined whether states

must seek approval to change voting procedures or laws if there was a "test or device" to cast a ballot, how many voters were registered and who participated.

Elizabeth Peterson
Chesterfield, VA
I'm very concerned for that segment of the population that will be harmed by this law. I remember the days when people protested and some even died to have these rights. How can anyone believe this is the way to live our lives in America.

Joseph Beausoleil
Estero, FL
Democracy is government by the people. Until 100 percent of eligible voters participate in elections, our democracy is imperfect. In the last presidential election, less than 60 percent of those eligible voted. President Obama won with 51 percent of the vote. That means less than 31 percent of the voting population determined the outcome of the election. With today's electronic technology, a 100 percent turnout is feasible. Make that your goal and pass legislation to ensure that we have a democratic government, a government elected by the majority of the people.

Aaron Kramer
New York, NY
the Supreme court must live in other world to think that old thinking ends a few years latter.

Maria Miller
Grand Rapids, MI
ANY law that takes a US citizen's right and responsibility to vote, is a law AGAINST Democracy!!

Charles Layne
Beaverdam, VA
The USSC asked the Congress to provide a map for the voters rights program. I believe the correct map is having all states and all districts submit changes in election law for approval, not just the selected few as struck down by the Court.

Marc Woersching
Valley Village, CA
The restoration of Section 4 of the voting rights act is essential in order to prevent further attempts at voter suppression against, minorities, young people and the elderly. While blatant attempts to prevent citizens from voting are far less frequent since the Voting Rights Act was enacted in 1965, more subtle methods of stopping people from voting continue to be utilized.

Jean Gonzales
Boise, ID
THe act needs to be preserved peio to the confusing Supreme Court decision. The "watch list" criteria should be updated and the rest of the act stay in place. Also the vote on the new data shoudl go forward promply. Using the updated data only, perhaps using OBM numbers rather than individually calculated numbers from senators, who for the most part have proved unable to overcome partisan ideas or rules or pressures. Thes is pathetic, by the way. Our founding fathers did some hanky panky and self sserving actions, but the current Congress has been shameful on this.

Donald Di Russo
Hyde Park, MA
Politicians are still actively trying to disenfranchise people, sometimes for racial reasons, others just for political expediency & gain. This is WRONG WRONG WRONG & is not to be tolerated in a democracy. People have worked too long & hard to insure that ALL citizens have the vote.

Mary Mille
Bay Shore, NY
We all worked really to get new voters registered in this neck of the woods. We need fewer impediments not more.

Avril Prakash
Solana Beach, CA
As much as we like to think it is, racism in this country is not over. It has transformed from the days of Jim Crow laws and segregation to voter ID laws and discriminatory redistricting. States like Florida, Alabama, Texas, South Carolina, and Mississippi are still struggling to grant basic voting rights to their citizens. Until the day comes when these states and their counties can ensure that everyone has the right to vote.

Betty Keely
Abingdon, VA
Discrimination still lives !! We can not afford to go backwards but ust strive for equality for all U S Citizens! Voting equality must be maintained! Don't even think of restricting these rights. We must stop discrimination now.

Stephen Vandivere
Centreville, VA
I want to live in a democracy where every American citizen who wishes to can vote. The Voting Rights Act has been effective. The actions of many state legislatures to pass more stringent voter id requirements following the Supreme Court decision striking down one section (because it is out-of-date) are clear evidence that the Act is still needed. All you need to do is fix the flawed Article the Court found fault with. Any change to restore the Act should ensure that it covers any states not previously covered that have records of discriminatory voter disfranchisement.

Tom Holmes
Champlin, MN
I remember when there was not acceptance for blacks to vote. The 1960's were filled with campaigns to create equal rights for all. We have come a long way since then; let's not go backearfs in time!

Patricia Guthrie
Chalfont, PA
With "voting rights" (i.e. voter suppression) laws being passed in several states, including my state of Pennsylvania, our right to vote is under attack. In Pennsylvania, the supposed reason for this law is to stop voter fraud. The only problem is there has been NO VOTER FRAUD WHATSOEVER in the Keystone State. My husband and I work at the polls and have for years - so, we see voting up close every year. And, voter fraud simply DOES NOT EXIST. The REAL reason for the law was to hand Pennsylvania to Romney in the 2012 election, as stated by the Republican Senate majority leader, caught saying that on video. Fortunately, the law was blocked just before the election. But, the Republicans are trying again. Their reason is OBVIOUS - THEY CAN'T WIN ELECTIONS FAIRLY - THE ONLY WAY THEY CAN WIN IS BY CHEATING. Jim Crow is ALIVE AND WELL, in spite of what the Supreme Court thinks. And, Jim Crow is not only a "good ole Southern boy" these days - he's all over the country - and, HE MUST BE STOPPED FOR GOOD.

Janet Strauss
Richmond, VA
I believe that any impediment to voting is unfair to the poor and elderly.

Peter Perlmutter
Lynnfield, MA

Five decades ago, the voting rights act was passed, not to ameliorate past voting sins, but to assure that they were not continued without oversight and the opportunity to keep race and politics out of elections. If anything transpired as a result of the voting rights act during the past five decades., it is the affirmation of their importance to the democratic electoral and judicial system. The law should not have been gutted by the Supreme Court, but strengthened. Congrress has to opportunity to do just that!

Becca Greenstein
Newton, MA
Everyone registered should be allowed to vote. No questions asked.

Arvin Blakeney
Littleton, CO
Justice Roberts said times has changed! Where has he been? The only reason it changed was that the law forced the issue. We should have a law that assures voting rights for all of our states. The previous list of states is not adequate. Discrimination has been at an all time high since President Obama was elected. And ALEC worded laws are being implimented in TOO many states. We must act now to restore order and freedom.

Collette Wynn
Washington Depot, CT
Restore voting rights protections

Gary Thompson
Saint Paul, MN
Bring back the full Voting Rights Act!

Harvey Lyons
Ann Arbor, MI
I fought for Voting Rights in Korea

Kolloh Nimley
Byron, MN
Voting is a right, it is personal and it is power. As an American your voting right gives you opportunity to make your voice heard. It is the beginning of the chance to make a decision without the influence of others.

Elizabeth Christeller
Bruington, VA
There are many people who want to vote who cannot even get out of their homes to vote, much less get somewhere to get a picture ID. I believe their votes should be counted and that Congress needs to find a way to insure that all who want to vote are able. If the picture ID is so important, the government needs to hire someone to go to residences to take pictures and give the voter an ID on the spot.

John Kibler
Monroe, NC
I live in a County (Union County, NC) that was covered under section 4 of the Voting Rights Act. Things have NOT changed enough here that we do not need the VRA. We need Congress to restore the full power of the voting rights act now! If you do not there will be widespread voter suppression in my County and in North Carolina.

Edna Rainey
Tampa, FL

Many Americans marched and sustained e juries in the fight for Equal Rights in this country. American liberties are not just for some, but for all. The 1965 Voting Acts law should not be a part of partisan politics. We are all equal as citizens of this country and we all deserve to be treated as such. Voting is a right not just a privilege.

Patricia Noonan
Sedalia, CO
Eventhough it has been many years since I first voted, I can still remember the anticipation and excitement at being able to vote. I cannot imagine what it would feel like to have that right taken away from me by politicians who are afraid of my vote. The right to vote is not negotiable, it is the foundation of our democracy, do not put barriers in the way of Americans who understand their duty to participate in our government.

Cornelius Williams
Alexandria, VA
Too many have given their lives and efforts to allow even one step backward. As current events show, there are people who are not yet ready to be trusted to ensure equality, justice, freedom and liberty for all unless that policy is in writing. America still has many rivers to cross before it's deemed we've reached our goal.

Carol Stoneburner
Minneapolis, MN
A democracy depends on full and uncoerced participation of all its eligible citizens. No state should fear legal requirements to ensure this, at least as long as they are doing nothing wrong. The Voting Rights Act should be restored, and if necessary, extended to all states.

Hal Pillinger
Port Chester, NY
Racism is still very much alive and well in america. Worse still, a cynical and undemocratic form of institutional racism practiced by rethuglican state governments has been on the rise. They are passing racist voter suppression laws that can only be prevented by the voting rights act!!

Edna Mullen
Saint Charles, MN
My father had a saying - "it it ain't broke, don't fix it" - there is no evidence that the Voting Rights Act was broken, indeed to the contrary, there is evidence that it is needed now more than ever. Voter supression, and attempts to suppress voter turnout last November, reached new highs. There are now more gerrymandered Congressional Districts, in States such as North Carolina, than ever before. It is clear the VRA is as needed now as much as it was when President Johnson signed it into law, and as our Elected Representatives you have a duty to not only preserve democracy, but to promote and enhance it; the VRA is an essential tool in doing just that.

Walter Scott
Sacramento, CA
Dear: Sir. As far as I am concerend, any thing that makes it harder for any American to vote is a insalt to the Founding fathers as well as to all the people who have fought and died to keep this a free country! So it is vital that the coungress repair the damege that the Supream court did when it voied the part of the voting rights act that had places with a history of voter supression get an OK from the Juestis department before going ahead.

Abdulkadir Yusuf
Minneapolis, MN

Base on human right act voting right act is very important in, USA shouldn't return past discriminatory voting rules now we are 21 century, all united states youth & families they stand with Senator Chris Coons where every they are state or city in USA.

Donald Hughes
Hopkins, MN
It is vitally important to our democracy for ALL eligible voters access to the polls and while the Supreme Court ruling does not block that access it fails to assure it. This also opens the door for those politically inclined to create those roadblocks under the guise of this ruling.

Sherry Cannon
Peoria, IL
As an African-American female who grew up in the fifties and sixties, i remember how it felt to live in the Jim Crow America, and sadly that same feeling has returned. Race and class is such a dividing piece of our fabric today, it is sad and disheartening to see all the gains we have made be slowly eroded. I don't know about you, but I believe we can and must do better, for all our kids.

Linda Pomeroy
Chesterton, IN
I'm 68 yrs. old... I remember my grampa having to have people signing something to prove they knew him for a certain number of years to get social security...he had no birth certificate...yet, I also remember that he voted and worked election board every election...he would not be able to even vote today.... not right... I truly believe that people that just want to cast their vote are going to break the voting laws...that is up to the big guys in the Republican party..much more corrupt things going on there than in the voting booth..like trying to keep seniors and minorities from voting, the very people that have worked hard and believe in our great country...

Russell Kania
North Miami Beach, FL
Obstructionism is what these phony are what these laws are.

Barry and Sandra Pitaniello
Lubbock, TX
Democracy is threatened when Republicans or Democrats do anything to keep people from voting. People have died, in our lifetime, while trying to get equal rights for all. The Southern states are famous for doing everything they can to keep minorities from voting...shortening early voting days, moving polling places which can burden persons without transportation...the list is endless. Our entire country is being undermined by time taken by elected officials to make sure they can be reelected. Stop worrying about the next election and do what is right for our country now. How can we spread Democracy when we don't even have fair elections here. It's a disgrace. Do what is right for our country, not what is best for you. Barry and Sandra Pitaniello

Marlene Schneider
Long Lake, MN
I feel very strongly that it is right for ALL Americans to have the right to vote!

Roz Rickman
Castro Valley, CA
We ALL should have the priviledge of voting.

Gary Overby
Madison, WI

I want ALL eligible voters to have their will counted, recorded, and verified. I want to eliminate double votes by wealthy multiple property owners. I believe this is the true vote fraud.

Mike Dotson
Carterville, IL
The Voting Rights Act worked pretty well since LBJ's Presidency. If it isn't broken, why are we trying to fix it? The fact is that only racists who don't want minorities to be able to vote would want to fix the Voting Rights Act. For racism to be out in the open like this in 2013 is inane. Voter fraud is not that much of a problem, even as of the 2012 Presidential election (See http://www.snopes.com/politics/ballot/2012fraud.asp). Yet discriminatory voter ID laws are already being proposed in NC and IN EFFECT in TX. It seems we can't become a vanguard to the rest of the world in eliminating racism after all. As long as minority voters are unable to let their voices be heard, MLK's dream is a dream deferred.

Margie Tomlinson
Mount Prospect, IL
When we go to vote in national elections (federal judges, federal representative, federal senators, federal presidents and so forth) all the voting rights laws should be the same - what is needed to register to vote, what is needed to identify to vote, number of hours allotted to vote and over how many days! We are "one nation under God indivisible with liberty and justice for all." What part of all do states not understand when they deprive some citizens residing in the state their voting rights???

George Mcjimpsey
Mokena, IL
Just look at all the states that have enacted new voter registration laws that restrict voter access now that the supreme court has made it's ruling.

Barry Greenhill
Reston, VA
Revive Title IV of Voting Rights Act!

Robert Jehn
Cochranton, PA
Every American citizen should have the right to vote without any type of discrimination. Voter's rights should not depend upon color or social status.

Timothy Mullen
Saint Charles, MN
Efforts since 2010 to restrict the ability to vote - by demanding higher levels of identification, restricting or reducing early voting to name but two - under the false pretense of stamping out voter fraud, which has been statistically proven not to exist, proves that there are still elected officials who would seek to make it harder for certain sections of society to vote. In the 21st Century that is unacceptable and it is essential that the VRA remains to keep these dishonorable office holders within the law.

Barb Olson
Schaumburg, IL
There is a need to restore the full protections of the Voting Rights Act because today there are still areas that have unfair restrictions for people. In some areas the early voting times have been limited so very long lines happen which discourage some from voting. In some areas the identification required is unfair because the cost involved and the type of identification required is difficult for many people to obtain.

Frank Anastasia
Los Angeles, CA

History has proven many times over that minorities will get the short end of the stick when the government does nothing to protect them. The reason the states haven't discriminated against minorities is because of the Voting Rights Act and to believe those states won't go right back to impeding access to polls to minorities is at best naive, at worst complicit! In fact, Texas immediately put into place actions and restrictions that were previously deemed illegal under the Voting Rights Act. And you can bet more states are going to follow suit. Do the right thing Congress and restore the protections provided by the Voting Rights Act.

Terry Stukey
Haysville, KS
What the supreme court did with this decision was move us back to where we were before voting rights act was put in place. It hurts minorities,the poor,& elderly.

Barbara Njus
Elgin, IL
Racism and partisanship are still rampant. We should expand Section 4 of the Voting Rights Act to include ALL THE STATES to enfranchise ALL VOTERS of legal age with a Federal Law protecting universal voting rights.

Joseph Hoe
Hamilton, MT
Please restore the Full Protection of the Voting Rights Act.

Margaret Latkin
Falls Church, VA
As a 68 year old white woman, I have vivid memories of voter discrimination in the south, where I grew up. I was also keenly aware that, in a somewhat less flagrant way, the same thing happened in many places outside the south. One has only to review the 2012 election to know that the effort to discourage and shut out minority voters, especially African Americans is alive and well---in Florida, in Ohio, and in many other places in our country. To cite improvement and progress as a reason for ending safeguards to ensure every American's voting rights is like saying that because one has bathed and is currently clean, no further baths are needed. To safeguard the "cleanliness" of our voting procedures we must continue to monitor and protect them with strong consequences for violations. If anyone doubts that there are those who intend to limit voting rights for many of our citizens, they have only to look at the stampede to pass restrictive new rules for voting within HOURS of the Supreme Court decision. I feel as if our nation is backsliding on this critical empowerment of particular groups of citizens. It MUST be nipped in the bud. Thank you for your attention.

Barbara Roach
Alexandria, VA
Every citizens has a right to vote. Because we pay taxes. The people on Capital Hill should know that we pay there taxes. We the citizens of AMERICA as they say on Capital Hill pay TAXES and we have a right to vote. If we the CITIZENS STOP PAYING TAXES FOR EVERYONE ON CAPITAL HILL THERE WILL BE NO U S OF AMERICA!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

g k
Lakeville, MN
everyone needs to vote

Linwood Southall
Chesapeake, VA
I feel the voting rights should be protected and that all citizens should be empowered with the right to vote without any issue. To many people have died in order to bring this fundamental right into law to

have it changed to lessen the chance for fairness in all elections at all levels of government. I am a citizen and all of us should have the right to vote.

Rex Dale & Nettie Tipton
Cotter, AR
How can we tell others about democracy if we are not protecting our own?

Robert Reynolds
Newport News, VA
There is a clear need for the immediate restoration of the full voting rights act. First of all, look at the number of states, previously restricted by the act, which are pushing through legislation which would have been stopped by the Justice Department under the former voting rights act. These bills include unreasonably stricter voter ID requirements, unreasonable restrictions on absentee and other types of voting, and unreasonable restrictions on voter registration. It is obvious to me that the purpose of this new legislation is to suppress minority voting. For example, minority voters will have the most trouble with stricter ID requirements. The inequity in voting times in primarily minority voting districts compared with primarily white districts is a clear indication of the need for continued federal oversight of and intervention in the legislation passed by a number of states, primarily southern states, affecting voting rights. In my home state of Virginia, as well as in other states, voting districts have been, and are being, gerrymandered by Republican legislatures. The sole purpose of most of these redistricting efforts is to improve the Republicans' chances for winning more districts. When I was a student, we were taught that gerrymandering is bad. Now it appears to be OK. I can't understand how a voting district can include a number of areas that are not contiguous. I encourage Congress to pass a new voting rights act that maybe changes some of the formulas, but that includes all of the previous oversight.

Sharon Dymowski
Alexandria, VA
We all know that every American has and deserves the right to vote. After all that has been witnessed over the last many years, in various states across the country, I am further convinced that there are certain issues that need to be handled by the federal government. We can't let rules about voting rights be determined by states.

Michael Mills
Winchester, VA
Dear Sirs & Madams - To revert to any other than the previous voters rights is a travesty and dishonors our Founding Fathers. ALL have the right and privilege to have their voices heard without jumping through any hoops and, in effect, being disenfranchised. The only fraud being perpetrated is that of certain powerful individuals trying to make it difficult for ALL voices to be heard and not just those they would prefer to hear with their greely chosen votes.

Elaine Ruggieri
Charlottesville, VA
1. It strengthens our democracy for one and all. 2. As the best democracy in the world, we should show how we earn that distinction.

Lynne Kane
Chapel Hill, NC
America really needs a Redistricting Process Group mandated that involves an equal number from each political party plus one or two who are experts in using the fair-distribution voter software that is available. Until then, America needs the Voting Rights Act to protect minorities' right to have a vote that counts like all other votes.

Lynn Kable

Amherst, VA
Since moving to Virginia about ten years ago I have become familiar with the reasons why the Voting Rights Act is important to protect citizens' right to vote. Definitely, there are areas of our state where people in power want to stay that way -- and not by allowing everyone legally allowed to vote to do so. We must not return to the discriminatory voting rules of the past, and we must not allow those who are determined to enact NEW discriminatory voting rights to be able to do so with impunity. We ask Congress to support the right to vote for all citizens legally entitled to do so. I personally would also like it if they would make it easier for people to get their voting rights restored after they finish paying for a crime. It is sort of expected in my neighborhood that many African American males, especially poor ones, will be incarcerated on some charge or another while a teenager, and will lose their voting rights and will never get them restored again. I think this is not a good idea.

Pat Runions
Loveland, CO
State after state has tried to close voting places in liberal centers, Ohio is one, causing lines of 8 hours long to vote. Obviously, an attempt to prevent voting by areas that are traditionally liberal voting areas. You did not see this happen in any conservative loaded areas. Not one.

Pamela Hall
New York, NY
We need to protect the rights pf our citizens to vote! We cannot ask for identifications that many do not have. Vote!

Evard Hall
Greenwood, DE
The Voting Rghts Act was important 50 years ago, and it is no less important today! Any effort to deny, impede or curtail anyone's right to vote, in any way is against the principals that this country was founded on. Any measure, no matter how small, or seemingly insignificant, that creates a barrier to an individual's right to vote is truely "anti-American". If change,in some form is needed, it should in no way make it more difficult for someone to vote. Changes, if deemed necessary, should make it easier for EVERYONE who is eligible to vote-to vote.

A.T. Miller
Scipio Center, NY
As Clerk of the Friends Committee on National Legislation, the Quaker lobby in the public interest in Washington DC, I know how important it is to have every voice heard and to have comprehensive community input into all of our collective decisions. We need to make it easier to vote and to make voting in our nation fully inclusive of all adults. The Voting Rights Act has served as an enormously effective and productive tool in moving us towards a more perfect union, precisely because it has prevented exclusion proactively, rather than waiting for litigation after the fact. Democracy depends upon participation and participation depends upon access.

Kathleen Logullo
Tuckahoe, NY
The voting rights act must be restored because sadly their is still racial discrimination in this country and it is more prevalent some states than others. As a teacher I see racial prejudice still being taught to children by their parents. This law is needed to protect everyone and create a culture of fairness for our citizens all citizen regardless of where they live, socio- economic standing, skin color, or gender. We need this law and section 5 which was rendered to protect us all.

Marianne Rubin
Evanston, IL

Redistricting and regulations only keep minorities from having a voice. We need a voting rights act; it is not obsolete.

Ryan Heiser
Atlanta, GA
Voter protection and the accuracy of political vote's should be a necessity to our society. I feel the system is flubbed at the moment and needs some serious upgrade's. E verify, imigration, and citizenship are related to this notion. I feel if you solve these problem's, and create new policy to better protect the true opinion's of our citizens society will be a better place for all.

Mary Lou James
Green Valley, AZ
Voting in a Democracy is one of our most important rights. All citizens must have the right to have their voices heard. I care about the Voting Rights Act. Please see that our rights are not eroded little by little. I have written a letter to our local paper, it was printed on Sunday. This has been a successful law, it has worked well since its hard fought inception. We have so many pressing problems, let us move forward not backward.

edna anderson
Beloit, WI
I am living on a fixed income. I can't even save enough money to change the address on my driver's license. Why should I, and others who don't have the money have to spend money that we don't have to get I Ds or things that are out of our reach because we can't afford them? This is supposed to be a land where EVERYBODY can vote, not where a person can only vote if they have the money and the time to spend waiting to vote. Once everyone gets the things that are "needed" this time to vote, I have no doubt that there will be other hoops that will have to be jumped through, until there will be no way for the poorer among us to be able to afford to vote.

Aeyrie Silver Eagle
Yorba Linda, CA
Just because we have a black president doesn't mean we do not still need the voting rights act! That is a nonsensical argument. Look around you and see what is happening now in certain states where the protections of the voting rights act are no longer in place. These protections are still very much needed..

Mark Forsyth
Alexandria Bay, NY
Racism in America is not dead.Though the lynching tree may have been cut down,the roots grow deep.As Justice Ginsburg stated,"You don't throw your umbrella away because it has kept you dry when it rains" Well,you don't gut the Voting Right Act when has been effective either.Already we see gerrymandering and redrawing the lines of voting districts.Elderly and disabled folks who are required to stand in line for hours in order to register to vote or to actually cast their vote.I call on you to restore the Voting Rights Act to full measure and to forever protect the voting rights of ALL Americans.

Jacqueline Carter
Carrollton, TX
Voting rights are American. Anti-voting rights are not. What country do you think this is anyway?

Debra Crowe-Kuwaye
Kailua, HI
Voting freedom is one of the most important rights we have. To corrupt and deny these rights equally to all Americans is immoral.

Constance Welch

Berlin, CT
Help Chris win support for restoring the full protections of the Voting Rights Act. All Americans should have the right, & OBLIGATION TO VOTE!!

Cindi Hernandez
Mena, AR
Lived in Texas for 50 years...if you are a person of color or know a person of color who has tried to get a fair shake at anything in Texas, you know why this voting rights act was crucial...all hope is now fading....shame on SCOTUS!

Doug Cecere
Fort Collins, CO
Racism is alive and well in this country. Also, the temptation for the powers that be to suppress the voting rights of groups likely to vote against what those powers feel are their best interests....well, that's just too tempting for them to avoid. It's already apparent in the voting suppression that has accelerated since the SCOTUS gutted the Voting Rights Act. They were pushing voter suppression bills through state legislatures the very next day!

John Steppert
Longview, WA
I feel passionately that there should be no laws or conditions that impede persons from having access to places where they can vote. Those elected leaders in the past fought long and hard to enfranchise all people regardless of gender and race. We should not ever return to discriminatory voting rules of the past. All citizens need the full protection of the Voting Rights Act. Rev. John Steppert, Longview, WA

Mark Jacobs
Shapleigh, ME
We need the full Voting Rights Act to keep all sides honest. Each and every American has the right to vote. It is the one thing that the least among us can do to take part in this great Nation! There are those who are nto being allowed to vote under the false pretense that they are protecting us against voter fraud. There is NO evidence that this is or has occurred. Please restore the voting rights act to prevent the LOSS of the privilege to vote.

Terrance Schrammen
Saint Paul, MN
we should not as citizens be withheld from voting in the united states of america based on religion,creed or past judgements we should all be participants in democracy for the representation of all of our citizens for democracy is not exclusive to the few but to all we must progress and endure for the betterment of our society as a whole we must be determined in this act of freedom the we hold dear that it is necessary for the united states of america to be represented by our freely elected officials

Linda Schofel
Livingston, NJ
It is simply heartbreaking that the Supreme Court voted against certain provisions of the Voting Rights Act. Surely, there will be much discrimination against voting for minorities, youth and seniors. For the Supreme Court justices to deny that discrimination, particularly against Black Americans, no longer exists is a denial of reality in this country. As an attorney and social worker (and a Jewish Caucasian senior citizen), I have always held the Supreme Court in the highest esteem. While I am delighted that they rejected DOMA, their conservative ideology has poisoned, to some extent, the highest court in the land. The conservatives on the court are more interested in protecting the rights of old rich white men and corporations. It has become an activist court, unfortunately with some justices unwilling to accept progress and the rights of all people, not just some who are like they. They function in their Ivory Tower, completely clueless about the lives of millions. What a shame. (This, of course, does not apply to the

women on the Court.) Unless proper provisions are enacted to protect the voting rights of all people, our country is in serious trouble. Clearly, the strict requirements regarding identification, closing early voting, and making it difficult for seniors and minorities to vote is not the American way.

Carey Million
Whittier, CA
The Voting Rights Act was one with the legal acts that created this country. It came centuries later but nonetheless was part of the ongoing creation and reaffirmation of our democracy. What it reaffirmed was the principal of 'one person one vote' by making it more real in practice in the mid-1960's. I say reaffirmed because by then various political machinations had precluded that practice; perhaps they had even from the initial framework of our country. The Voting Rights act does need to be updated. The practice of voting throughout the United States needs a thoroughgoing review, particularly given the ongoing controversies attendant upon each election cycle. It needs to review voting practices, especially those that are exclusionary, and obviously discriminatory, in all 50 states. In an excellent Reuters blog (http://blogs.reuters.com/great-debate/2013/07/15/renewing-voting-rights-with-roberts-in-mind/) Ari Milber lays out an excellent two phased approach. It is excellent because it is not formulaic, like the current approach; it is adaptable and thus easily applied across the many counties of our 50 states. It is excellent also because is it simple and uniform, placing a voting district under supervision for a decade if two violations were determined by a federal judge over a decade of voting. Policing only areas where there is illegal activity, it reduces the onus on regions of the country, provides rapid incentives to that locality to improve itself and reduces the timeframe, and thus the extra local to federal financial and other costs for supervision, among many other benefits. Let's return, or perhaps better said, let's continue on the path of perfecting this imperfect political process we Americans have invented! So very many voters are disgusted with the functioning of our democracy these days. This will not fix every problem. But it is an elegant solution to one very serious one--that of implementing the will of the people. Thanks, Carey Million

Elizabeth Bartlett
Jarrell, TX
Within hours after the Supreme Court's decision was announced, government officials of my own state made their own announcement - that they would immediately implement an ID law that had already been declared to be discriminatory and was designed to reduce the votes of minorities they assumed would vote for someone else besides themselves. Elections should be decided by voters - all voters - based on their decisions of who supports the best policies and persuades the most voters to get out and vote. Elections should not be decided by how thoroughly some votes can be suppressed., Within hours after the Supreme Court's decision was announced, government officials of my own state made their own announcement - that they would immediately implement an ID law that had already been declared to be discriminatory and was designed to reduce the votes of minorities they assumed would vote for someone else besides themselves. Elections should be decided by voters - all voters - based on their decisions of who supports the best policies and persuades the most voters to get out and vote. Elections should not be decided by how thoroughly some votes can be suppressed.

Arnold McMahon
Arcadia, CA
We should apply the legal standard of "beyond a reasonable doubt" to this situation. Because the right to vote is so important and central in a democracy, the citizens need to be sure, sure, sure that nobody is going to try to deprive somebody of their right to vote before we lift the provisions of the Voting Rights Act. We have clearly not reached that point yet. All across the country, jurisdictions are seeking to introduce laws to restrict voting. Besides, the Voting Rights Act provides a release from its provions when a jurisdiction can show that it no longer needs the Act. That is a sensible and brilliant piece of legislation. Let us keep it.

Howard Jenkins

Clarksdale, MS
Contrary to the courts ruling,racism and jim crow laws will come back in the south because it never died, it just hid until this very dangerous ruling.People in charge of these laws only do the right thing when you make them do the right thing

Clifford Simon
Cresskill, NJ
It is critical for our democracy to restore the protections of the voting rights act so that everyone is guaranteed the right to vote.

Bob Vella
Longview, WA
It is painfully obvious to everyone that GOP activists greatly fear our nation's demographic changes will erode their traditional White conservative political power base. Their euphoria over SCOTUS' gutting of the Voting Rights Act, and their determined efforts at voter suppression across the country, provide the evidence for this assertion. However, these Republicans don't have the courage to publicly admit their true motivations; and the corporate-controlled mainstream media refuses to challenge their blatant dishonesty. America is not, by any means, a post-racial society. The civil rights and voting rights gains that have been made were done so by legislative action, not by some imagined moral epiphany by previously bigoted people. Unfortunately, racism is still alive and well in our land. It's just not as overt as it used to be. Case in point: the numerous incidents involving "Stand Your Ground" laws.

Sonja Chan
Kankakee, IL
I am retired, age 72, and I no longer drive. If it becomes a law that I will have to produce a picture i.d. to vote, how and where am I supposed to get a picture i.d.? How will I get to the location? How much will it cost? How much of my personal privacy will I be giving up? I have voted in the same place for over 20years and the people I saw there when I first started voting there are the same people who are there now: Are they going to be challenging me? Come on. Let's get real. This is nothing more than the Republicans trying to "fix" the elections. You know it; I know it; We all know it so let's stop it. Here and now.

Stuart Pakulla
Crystal Lake, IL
we need to get the voting rights act back

a d
Delray Beach, FL
As long a devious schemers are afoot in the politics/elections voting rights must be protected. Act to ensure protections - please.

Howard Spivak
Fair Oaks, CA
voting needs to be fair and impartial, and all registered voters have both the right, and the obligation as citizens of this great country, to excercise that right. Citizens need be ENCOURAGED to vote, such that our democracy is more than in name only.

B. E. Murphy
Park Forest, IL
To say that I'm appalled with the Supreme Court's recent ruling against the landmark Voting Rights Act is an understatement. The 15th and 19th Amendments of both the Constitution and the Bill of Rights, states: "15th and 19th Amendment The Fifteenth Amendment prohibits each government in the United States from denying a citizen the right to vote based on that citizen's "race, color, or previous

condition of servitude". The Nineteenth Amendment to the United States Constitution prohibits any United States citizen to be denied the right to vote based on sex." And the Voting Rights Act goes further and elaborates on such rights. "Of the people, by the people, for the people . . . " so says the Constitution. It doesn't say this one and not that one, or this group and not that group. The Supreme Court's ruling against the Voting Rights Act is unConstitutional. Every United States citizen has the right to vote, as provisions of the 15th and 19th Amendments to the Constitution. The Supreme Court is supposed to represent the epitome of justice in the United States, but since 2001 has continued to contravert, by its action, a credibility of its name. The Supreme Court's role is one of justice and fairness, not to favor partisanship or politization of its role. SHAME ON THE SUPREME COURT FOR THIS RULING.
We must reverse this ruling for the sake of ALL United States citizens and our country period.

Carolyn Sabin
San Jose, CA
In order to be a full functioning democracy we desperately need to change what happened in the Supreme Court regarding voting rights. We ordinary citizens need our voting rights protected, not cut away from us. Discrimination is unAmerican - it is ugly in every aspect. Please eliminate discrimination from the many states who don't care.

Barbara Schachman
Berkeley Heights, NJ
Voter suppression attempts in the most recent presidential election is proof that preclearance is still necessary before states can change their voting laws. This is an opportune moment to update the law and include states that have attempted to abuse Section 4 Congress has the power to insure that every voter in this country has the right to free and fair elections.

Todd Watkins
Washington, DC
The strides we have made as a nation stem directly from the Voting Rights Act. This is not an ancient or hypothetical wound. The actions of the covered states since the court's ruling indicate that at this very minute 50 years of progress is being undercut. They'll say they don't hate blacks or minorities and, they are right: they hate democrats. But blacks and minorities should not pay because Republicans cannot win our votes fairly. Further, the court seemed to be concerned about a stigma on those particular states. Why should they have a stigma? Well, they rose in armed insurrection to defend slavery (read any of the declarations of secession to them when their supporters say the war was about states' rights). We let them back into the union and they erected Jim Crow laws which were only stopped with the voting rights act and within days of the voting rights act being struck down they're erecting new barriers to minority voting. How does that saying go: "Fool me once, shame on you; fool me twice shame on me; fool me three times call John Roberts"? If this were a criminal who had committed the same crime twice why would you trust them again. That's what this court has done for our democracy.

Cama Merritt
Winston Salem, NC
I want my government to be FAIR. It is not fair to require the most vulnerable in our community--the poor, the handicapped and the elderly--to jump through hoops in order to participate in our democracy.

Emily Hall
Birmingham, AL
The Voting Rights Act is a significant piece of legislation that was passed in order to ensure that African-Americans like myself would have the same rights that should've been God given. Now decades of progress have been eliminated in one fell swoop and it isn't right. I feel as if my rights are under constant assault and it is my hope that Congress begins to make things right by restoring the Voting Rights Act and all of its previous provisions. Thank you.

Frank Miele
Washington, DC
Hard to believe that we Americans in the 21st century still have to FIGHT for our right to vote!!

Susan Norris
Chincoteague Island, VA
I have had many black housekeepers/accountants/friends etc. over the years. At least four of them were born at "home" in the rural South - one in NYC - and NONE OF THEM HAVE/HAD Birth certificates or driver's licenses. Three didn't even have certificates of graduation from 8th grade. None of the older versions had joined the armed services. And three of them lived in NYC and/or rural N. Carolina and still didn't drive. What on earth are they going to do for a picture ID? How can they vote if you don't give people who drive them (grandkids) time to get home from work, and/or let them vote on weekends or from a church on Sunday? Passports - they've only lived in two states in their lives, and can't even imagine going to Atalanta!

Richard Loeppert
Raleigh, NC
Following the Supreme Court's ruling, members of the Republican-dominated North Carolina legislature immediately took the ruling as a justification for disenfranchising a significant proportion of citizens (but especially the poor, minorities, the elderly, and college-age youth) of their fundamental right to vote. North Carolina has a recent history of progressive action of towards ensuring the right to vote for all citizens. But these decades of progress are now in jeopardy, thanks in large part to the recent Supreme Court decision. Actions are needed to provide a path forward for restoring the fundamental protections that many Americans have lost.

Luz Sanchez
New York, NY
It is our right. You can not deny our rights!!!!!!!!! Luz N Sanchez

Corina Aragon
Dillon, CO
I remember when I became 18 years of age in September 1949. I was excited,--not because I could go into a bar and order a drink--it was because I could vote the November of that year. I had become a true American. The right to vote is what our Democracy is built on. No law should pass or any other obstruction should be allowed to infringe on any person's right to vote in this country.

Sylvia Kimmel
I fully agree with Justice Ruth Bader Ginsburg, in a lengthy dissent tracing the history of recent voting discrimination, said Congress already had more than enough justification for singling out some states and not others. "Recognizing that large progress has been made, Congress determined, based on a voluminous record, that the scourge of discrimination was not yet extirå_pated," she wrote. "In my judgment, the Court errs egregiously by overriding Congress' decision."

Joseph Staples
Keene, NH
Racial bias affects voter turnout and voter participation. We need the Voting Rights Act to keep our democracy valid and legitimate.

Camilla Bowman
Lebanon, IN
The Voting Rights Act had a purpose. Stripping away parts of it, sets us back in time. When states do whatever they can to deprive people the right to vote, by limiting hours of voting, setting up voter ID laws, shortening early voting days, redistricting, which affects many people, especially students, seniors,

disabled, minority, then immediately put into action these restrictions, it tells you they should be states that the law was originally written for. Ironic, or not, it seems to be states in the South, and/or with Republican governors that are doing this. We should be extending the right to vote for ALL Americans, not limiting it! That is one right we have as a democracy that we are trying to help other countries have. How can we set a good example, if we are limiting our own people? Put back our voting rights; otherwise, we don't have the kind of an America we were privileged to have.

Mary Ayers
Santa Barbara, CA
According to the Constitution all citizens of the United States have the right to their casting a vote. What should be instituted is that when a person is approved for the justice position on the Supreme Court, it must be so stated that they will look at the whole country before he judges and not by their ideology. If a justice is playing politics with the laws then that justice should be impeached.

Suzanne Dalton
Canton, OH
This country was founded on liberty. Discriminatory voting rules not only contridicts said liberty,but also insults the principle of equality for all.

Barbara Hughes
Sanford, FL
Without the Voting Rights Act, "We the people of the United States" loses meaning in many states, including both the state I grew up in (Georgia) and the state I live in now (Florida). As a person of both states, I know that we need the voting rights act; if we do not have it, we are hypocritical about having equality.

Conrad Cimarra
Fremont, CA
I am a Filipino-American. My family and I came to this country because we knew that every vote counts here, unlike in our former country where the Marcoses reigned. It still is rigged in that nation in spite of the many political changes that had occurred. I humbly ask you not to destroy that dream; one vote equals one count. We do not want a dictatorship. We want the freedom to choose our leaders and rules.

Rena Schmiedeke
San Clemente, CA
It is clear that many states are still passing laws that make it impossible for many people in America to vote. This is not right since democracy is based on equal voting rights for all Americans. Restore the full protections of the Voting Rights Acts now!

Ottilie Lee
Montclair, NJ
The reason we need the voting rights act is that individual states will deny some people the right to vote as we saw at the last election which in my mind is a crime

Lee Zanger
Annapolis, MD
Despite tremendous progress in race relations in the United States, it is obvious that, tragically, racism still exists. It is rarely the overt racism of the segregation/ desegregation struggle, but rather resides in persistent stereotypes, attitudes, suspicions, and a sense that non-whites are the 'other,' somehow different from whites. Look at the reaction to President Obama's election and the durability of the Birther's movement. Because of these attitudes, it is crucial that the most basic right in a representative democracy, the right to vote, is protected for everyone, especially groups that might be considered 'other.' It is only fair to judge all states on what is happening right now, rather than event of

50 or 30 years ago, but where states are not doing the job, the Federal government must act to protect the right to vote across the nation and for all people.

Sandra Fink
Alamo, CA
If you think prejudice based on skin color is gone, you are hopelessly naive. Minorities still need protection .

joyce wulbert
Lewisville, TX
restoring Voting Right I was an impotant act in stopping discrimintoru voting rule. several states have already startin on voter rules that would restrict voting.

Susan Spivack
Cobleskill, NY
Any laws that make it more difficult to vote are attempts to STOP people from voting. The Voting Rights Act held some of these behaviors in check for some states and localities. Now that parts of it have been eliminated, those states are eagerly beginning to enforce laws that will guarantee fewer poor people, and people of color will have the opportunity to vote. A real democracy cannot survive some efforts.

Guillermo de Padua
Chatsworth, CA
Race descrimination is still alive and thriving at this present age and time. I am an asian american and feel it wherever i go here in america

Maureen Cleveland-Ryan
Burlington, VT
I believe that there is ample current and historical evidence that we have not moved past discriminatory voting rules and pratices in the United States. Without the Voting Rights Act, which is as relevant today as it was when it was first instituted, the on-going attacks on targeted populations of voters based on race, religion, political affiliation and age will be ramped up and we will, as a nation, lose the integrity of our voting system. I wish we were in a place historically where there was no need for this legislation, but after numerous battles after to protect voters rights on a state by state basis from attempts to disenfranchise voters by their demographics and voting history, it is clear that we still need the Voting Rights Act.

Phyllis Silverman
Huntington, NY
Restore the full protections of the Voting Rights Act for all citizens of the U.S.

Tom Vosik
Christiansburg, VA
I'm 62 and disabled. And poor. I depend on Social Security Disability payments and Medicare to keep me alive. As you can imagine, I don't vote Republican, a party that has intentionally made itself an irrelevant outlier in the political arena--I need to vote for men and women who are aware of me, my condition, and who are fighting the banks and investment interests that keep the GOP alive to fight against my ability to survive. I'd be a fool to vote for an enemy! I live in Virginia, where the present governor and attorney general, both Republican, the former about to be indicted for corruption, as well as the state senate--half Republican--have over and again introduced legislation to make it harder and harder for me to keep my franchise. Like I said, I'd be a fool to vote for them. But in Virginia, they're trying hard so that I can't vote for them at all--which is a vote in their favor. That's despicable.

Robert Geteles

Manchester Township, NJ
The Voting Rights Act gave the right to vote to hundreds of thousands of Americans who were denied their right because of their race, religion, ethnicity, etc. The Federal Government has to have the ability to protect all of those people whose rights are still being attacked by politicians who believe their primary job is to be re-elected instead of serving the citizens.

Christmas Leubrie
Monte Rio, CA
I believe there is a very real and present danger of return to great and systematic barriers to accessing voting in our country for many communities of various races and thnic backgrounds.As this country changes it's majority white status, the fears of the previously dominant white majority is driving many atttempts to delay changes in our representatives, and in voting trends. In many areas of our country in the last few elections, even with the Voting Rights Act there were and continue to be egregious attempts to place great hardships to voting. Some of these are removal of voting places without knowledge of the community, lack of sufficient voting machines, which created waits of over 8 hours in some communities, and poll workers who were demanding(illegally) IDs unavailable to elderly or non driving public . In addition there were numerous attempts to subvert the vote by limiting the times of voting,allowing non poll workers to challenge the rights of others to vote, often based on race or ethnic background, illegal challenges of the right to vote based on inaccurate felon lists, and on and on..I shiudder to think of the many ways of subverting and preventing others attempts in voting we will face now the the prior, sometimes inadequate protections of the voting rights act are removed. It is a very challenging time on our country ,which continues to have great troubles in racial relations and prejudice. It is not time to eliminate the Voting Rights act, instead we should have it strengthened.

Kevin W
Gurnee, IL
Already, less than half of the US population votes. Encouraging or even mandating people to vote would reduce the impact of actual voter fraud by increasing the number of legitimate votes.

Christine VerSteeg
Holley, NY
Uphold voting rights and stop the on-going attempts at voter suppression. Thanks.

Raleigh Stout
Greensboro, NC
Discrimination, voter suppression, Republican party survival, voting district gerrymandering, and power grabs are underlying symptoms that reveal the premeditated exclusion of those who are already eligible to exercise their right to vote. None of these reasons are valid, and each should be illegal on its face. Why turn back the clock now at the national, state, and community level when we should be including all our eligible voters to the maximum extent possible. We all must be permitted to enjoy our rights and the fruits of our participation in voting. Any other result means that the people are not effectively in power, and our system of government is not about kings, queens, and princes. The news is already tracking stories of states that are moving to further discriminate against voters in light of recent Supreme Court ruling against the Voting Rights Act.

Jean Fleming
Studio City, CA
I see our rights taken away slowly. This is probably the most important of all.

Aren B
Roswell, NM
Everyone needs a fair right to vote, and creating rules that hamper one class of people or another is not right, fair nor constitutional.

George Pope
San Mateo, CA
Our democracy has been harmed by big money parading as individual voters needs a lot of rehabilitation. The full protections of the Voting Rights Act must be restored.

Shari Farrar
Hackett, AR
If SCOTUS, as its best judgment believes that discrimination has ended in the US, then they are unqualified to make such judgments. Perhaps the air they breath is too rarified, so they do not see what's going on around them. Racism is alive and well in many, many ways in the US. Research the internet - the bigotry and racism is shocking. Much of the old 50s and 60s style of bigotry is gone, yes. But, it has been replaced with something more subtle and far more virulent, in that it is hidden in public policy that on the surface appears reasoned. It is not, and it does not take much thought to expose it for what it is. Yes, we have made strides, but have we eliminated prejudice and bigotry - no! We will have eliminated it when the only need to feel superior to another human being is not prefaced by the amount of melanin in their skin, the physiology of their appearance, or the manifestations of their culture. Unfortunately, there are collective psyches in this country that still feel that way. We need to tweak public policy to counteract such virulence. The SCOTUS decision on the VRA took this nation a giant step backward.

Jason Gregory
Newfield, NJ
The supreme court should always work to defend the constitution as that is not only their right, but their job. The only way we can continue to be a republic is through all of us as citizens having a voice. It is sad, though, that our system does not want to hear truth. Our supreme court does not deserve capital letters as they have the cushiest jobs in dc.

Duane J. Matthiesen
Lexington, MA
Democracy is synonomous with voting. Every citizen must participate in democracy. Thus, voting must be made easy for everyone: students, old people, people with handicaps, people without transportation, etc. Registration should be possible, even at the polls. Denying any citizen the right to vote must not be allowed.

Margaret Richardson
Saint Paul, MN
Times have changed. Discrimination is wrong. Period.

David Batty
Avon Park, FL
Discriminatory acts have happened in the past and are happening in the present. Pass the full voting rights act for the good of this nation.

Walter Tsou
Philadelphia, PA
Texas implements the voter ID law hours after the Supreme Court decision. This will exclude hundreds of thousands, mostly minority or poor households who do not have the necessary documentation. You cannot leave it to the states alone.

John Caruso
Medina, OH
Now it is them but it can be us at any time. Really no them just us. This is a restriction of our rights

Philip Blackburn
College Station, TX
OK Folks, It's quite simple. Voting rights are and should be the same for all voters. There is no grey area. There is no need in politicizing this constitutional right. No person is eligible to vote without a valid voters registration card and you can't get one without meeting the proper qualifications to do so. So, quit wasting our tax dollars and insulting our intelligence by playing this stupid game. I promise that the public is quite aware what is truly going on here and we are very fed up. You guys need to wake up.

David Farrell
Tualatin, OR
Restore the full protections of the Voting Rights Act.

Byron James
Lawrence, KS
Bigotry is still with us. Blacks and other minorities vote the party who does the most for the working man, but parties who represent the power elite want to cheat them out of their vote. This reflects a large primitive element of our society. It is in everyone's best interest to stop these immature actions. WE ARE ALL ONE! What we do to the least of these, we do unto ourselves.

Jean Holveck
Glen Mills, PA
I moved from Delaware to Maris Grove in Pennsylvania 6 years ago. For the last PA election the republicans tried to get the ID law passed and failed but not before they caused one of my neighbors a lot of stress. You see she is over 90 and no longer drives and did not have a license. When she moved she misplaced her birth certificate. She has voted in every election that she has been able to since women were allowed to vote. Her daughter helped her with getting the birth certificate information. $$. And friends from the community got her to the DMV for an ID. But not without a great deal of stress. She has at least 3 family members who have served their country the last being a grandson who was in the war in the middle east. She herself is a member of the Stockings for Soldiers group and writes the most beautiful messages to our service personel. She is a lovely, kind woman and should not have had to go through this trauma.

Sandra E. Bradley
Venice, IL
I want the Voting Rights Act because it is a right afforded to me as an American Citizen. I want my Children, Grandchildren and their Children to be able utilize this right in our Democracy. Without that right, many Americans in this country will not have a voice in the decisions that will ultimately affect them.

Gregg Cusick
Durham, NC
all people want fairness, and I hope all want all legal voters' rights respected and protected. here in nc, partisan/racial gerrymandering has already disenfranchised many, but the devastating trend is toward SILENCING many, be it because we are poor or homeless, elderly, disabled, and not middle-aged, high-income, white. racism still exists here (in nc, in the us) so dangerously, strongly ... The Voting Rights Act is powerful legislation supporting FAIRNESS and the Constitutionally guaranteed rights of all the populace; and to deny even one citizen the voice, the vote, because of his or her above-mentioned status is unconstitutional, immoral, and unfair. thanks for listening, gregg cusick

David Brothers
Fairfield, CT

The Voting Rights Act worked and works. Don't fix it, if it isn't broken simply to appease prospective voters. We have lots of areas that could be improved in our country from roads and polluted rivers to equal opportunity to corruption to immigration reform.

Dortha Killian
Norman, OK
There is no justifiable reason for not restoring the full protections of the Voting Rights Act. The Supreme Court's ruling against landmark Voting Rights Act is insane and foolish. What the hell is going on with some of the Supreme Court Judges???

Jack Dresser
Springfield, OR
After the vigorous efforts at vote suppression including "caging" in our last 3 presidential elections, it is obvious that we need more, not less, voting rights protection.

Leo Mara
Livermore, CA
All Americans have the right to vote and we should do all we can to remove any obstruction to the exercise of that right. If we institute any requirements they should be fully paid for by the state including time off from work.

Carol Solecki
Roselle, IL
Voting rights of minorities are being violated. Elections should represent all of the population, not just certain segments.

Katrin Winterer
Winchester, MA
please reinstate the voting rights act...we need it in support of our/a true democracy...with all citizens able to participate...

Evadne Giannini
Mountain Dale, NY
Please restore the full protection of the Voting Rights Act. Going backwards into further discrimination is not a path forward that our country should be taking at this time.

Patrick Theros
Washington, DC
I do not understand how the Court could presume that Congress does not know the facts and arrogates to itself the right to decide a case on the personal views of five Justices. Deciding on a point of law or of the Constitution would have been appropriate.

Peter Damon
Los Angeles, CA
Please restore the Voting Rights Act. It takes the voice away from our citizenry and gives control of elections to special interest groups.

William Neuhalfen
Louisville, KY
Any citizen of the United States of America has the right to vote if they are 18 years of age period. Any convicted felon should have the right to vote as long as they remain a citizen of the United States. Any one who wants to return to the period of Jim Crow and James Crow laws should be brought up on charges

of discrimination. There has always been discrimination in this country. Take a couple classes in Sociology and History and make more informed decisions. All Americans have the right to vote, period.

Lilyana Srnoguy
Bozeman, MT
We are Americans! We are free and have 100% to vote! ALL of as! So quit this unjust thing and restore all of our rights.

Bruce Rowley
Newark, DE
The SCOTUS decision that gutting the Voting Rights Act is a call to Congress to address the continuing attempts to subvert the rights of every American of every race. Congress needs to expand the language of the Voting Rights Act so that it applies to all jurisdictions, not just those areas that were initially outlined in 1967. As recent history has shown, legislative decisions in such states as Pennsylvania and Ohio show that Jim Crow is still alive. Congress needs to stop these blatant attempts to silence our neediest Americans.

Nicki Smith
Palo Alto, CA
Voting is the cornerstone of our Democracy. We need laws that encourage, protect and support every citizen's ability to be heard and to participate in our government.

Laura Brown
Newark, DE
Making sure voting rights are fair and equal for all should be a priority for any American who values the promise of freedom that is so intrinsic to our progress over the course of history.

Jean Gore
Boulder, CO
We can't go backwards on protecting voters rights!

Pat Kelly
Tacoma, WA
if these rights on voting are taken away nothing voted on counts for any thing in the U S A nothing in Washington D C means any thing our laws are gone nothing and no one is even elected to office your out of a job and the job you are doing you need to be ousted out of your job.

Sandra Erickson
Custer, SD
What is happening in state legislatures across our country is proof enough that preclearance needs to stay in place. Justice Ginsburg said it best. "Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet." There is a reason the VRA was reauthorized in 2006, and the large legislative record should be taken into account. Please restore the protections that were stripped away by the Supreme Court.

Frances Harrington
Lillington, NC
The actions of states subsequent to the ruling of the Supreme Court provide evidence that discriminatory voting rules still exist. I am a North Carolinian, a fact that I am no longer proud of. We have been subjected to redistricting and discriminatory voter ID measures. HOW CAN YOU DEFEND SUCH PRACTICES? I am embarrassed to be an American and a North Carolinian. The world is laughing at the democracy that you set forth as an example. RESTORE ALL COMPONENTS OFTHE VOTING RIGHTS ACT!

Sandi Martin
Parkersburg, IA
I think it is a no brainer! Everyone deservers to vote! Only those trying to manipulate the voting would NOT have a clue!! Stop being bigots!

Mark Wilde
Las Vegas, NV
At a time in history when it has been documented repeatedly that there are huge voting rights violations aimed specifically at the groups protected by the section of the VRA that has been rolled back, it's seems clear to me that we are meant to strengthen protections, NOT remove them.

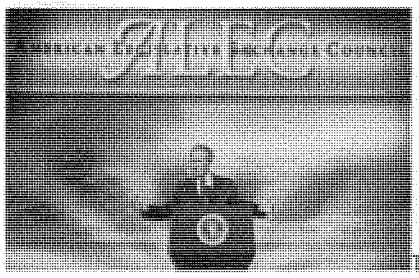
Vivian Carlip
Davis, CA
I have been a conscientious voter for most of my 88 years because I want our country to have the best possible government that a democratic society can have. It shocks me to think that the Supreme Court can have handed down a decision that could interfere with the voting rights of citizens, especially for groups that have faced unjust discrimination in the past. Please continue your efforts to restore and improve voting rights through legislation.

Leonard Hearne
Columbia, MO
I have served 4 years in the military during Vietnam. I did not make these sacrifices only to have have congress and the supreme court threaten my right to vote.

Mary Eberts
Wilmington, DE
Not knowing the entire contents of this Voting Rights acts makes it difficult to form a decision. However, I do not want a law that makes it difficult for anyone who is a citizen of the US to vote in any election for who he/she feels will be the best person to represent the best interests of the general public. If it hadn't been for the League of Women Voters in Aiken, SC my husband would never have gotten registered to vote in the Presidential election of 1956. The hours the registration books were open to register were very limited and so unavailable to most of the workers at the Savannah River Plant. The League put the pressure on the local officials to extend the hours open longer. And at that only until 6pm as I remember. It took at least an hour driving to get to that office and getting there before they closed the door wasn't easy., Not knowing the entire contents of this Voting Rights acts makes it difficult to form a decision. However, I do not want a law that makes it difficult for anyone who is a citizen of the US to vote in any election for who he/she feels will be the best person to represent the best interests of the general public. If it hadn't been for the League of Women Voters in Aiken, SC my husband would never have gotten registered to vote in the Presidential election of 1956. The hours the registration books were open to register were very limited and so unavailable to most of the workers at the Savannah River Plant. The League put the pressure on the local officials to extend the hours open longer. And at that only until 6pm as I remember. It took at least an hour driving to get to that office and getting there before they closed the door wasn't easy.

EXPOSED: The Corporations Funding The Annual Meeting Of The Powerful Right-Wing Front Group ALEC

By Zaid Jilani on August 5, 2011 at 1:15 pm



This week, the American Legislative Exchange Council (ALEC) is holding its annual meeting in New Orleans, Louisiana. ALEC is a powerful corporate front group that allows big corporations to help write legislation that it then delivers to state legislators across the country. The organization is so influential that as many as a third of all state legislators nationwide, mostly Republicans, are members of its legislative outreach network. Much of the nation's most dangerous right wing legislation, like laws decimating collective bargaining and promoting climate denial, have come from ALEC.

Now, a source who attended ALEC's annual meeting has passed on a list of its corporate financiers. The documents detail different levels of funding, ranging from "Presidential" to "Trustee" level sponsors. According to the source, "If the funding levels have not changed since last year's meeting," then that means that Presidential sponsors gave $100,000, Chairman sponsors gave $50,000, Vice-Chairman gave $25,000 and Director sponsors gave $10,000. Trustee-level sponsors appear to be new this year.

The following are the documents showing the large list of corporations financing the meeting. As you can see, they run the gamut from big polluters like BP to online retailers like Amazon.com to drug industry representatives from PhRMA to Koch Industries:


THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL
RESIDENT
bp
RAI
Takeda
ExxonMobil
Peabody
Chevron
AMERICAN ELECTRIC POWER
ALLERGAN
UnitedHealthcare
WALTON FAMILY FOUNDATION
Walmart
Save money. Live better.
VISA
Bayer
SPN
Lumina
PhRMA
at&t
Altria
EZCORP

To learn more about ALEC, see the Center for Media and Democracy's new website ALEC Exposed, which provides an easy way to search through the legislation that the front group has been promoting and passing in states around the country.

Financiers Of ALEC's 38th Annual Meeting:

PRESIDENT LEVEL
BP
Reynolds American
Takeda Pharmaceutical

CHAIRMAN LEVEL
Allergan
Altria
American Coalition for Clean Coal Electricity
American Electric Power
AT&T
Bayer
Chevron
ExxonMobil
EZCorp

DIRECTOR LEVEL
Amazon.com
Atmos Energy
BlueCross BlueShield Association
CenturyLink
Chesapeake Energy
ConocoPhillips
Dow
Encana
Energy Transfer
Gulf States Toyota
International Paper
Jacobs Entertainment
LouisianaTravel.com
NetChoice

Lumina Foundation
Peabody
PhRMA
Shell
State Farm
State Policy Network
UnitedHealthcare
Visa
Walmart
Walton Family Foundation

VICE-CHAIRMAN LEVEL
CashAmerica
Entergy
FedEx
Franklin Center for Government and Public Integrity
Freepont-McMoran Copper & Gold
Intuit
Johnson & Johnson
Koch Industries
LouisDreyfus Commodities
Louisiana Seafood
McMoran Exploration
National Rifle Association
Pfizer
Sanofi
TogetherRX Access
UPS
QEP Resources
StateNet
TimeWarner
WellPoint

TRUSTEE LEVEL
American Federation for Children
BlueCross Blue Shield of Lousiana
BNSF
Cleco
CN
Cox
CSX
Genesee & Wyoming Inc.
Harris Deville & Associates
HP
Kansas City Southern
Kraft Foods
Lilly
Louisiana Chemical Association
Louisiana Railroads Association
Louisiana Realtors
Merck
Norfolk Southern
RestoringFreedom.org
Society of Louisiana CPAs
Southern Strategy Group
Spectra Energy
The Capitol Group
Union Pacific
USAA
Walgreens

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