

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
United States Senate  
September 8, 2011

Three years ago, in the wake of the Supreme Court's disappointing decision in *Crawford v. Marion County Election Board*, I chaired a hearing to examine modern-day barriers to our most fundamental civil right, our right to vote. At that time, Indiana and Georgia were the only states in the nation with restrictive photo ID laws. This year, however, a majority of states passed or considered amending voting laws to require specific identification. Today, the Senate Judiciary Committee examines this growing trend of disenfranchisement.

Many Americans associate barriers to voting with a dark time in our nation's history. We will never forget the courageous and resilient Americans who were attacked by dogs, blasted with water hoses, or beaten by mobs simply for attempting to register to vote. We remember a time when stubborn and recalcitrant state officials used discriminatory devices such as poll taxes, grandfather clauses, and literacy tests to exclude American citizens from their democracy. We cannot backslide on the progress we have made protecting every American's right to vote.

Five years ago, members of Congress stood together on the Capitol steps to reaffirm our commitment to achieving full democratic participation by reauthorizing the Voting Rights Act. This Committee played a key role in reinvigorating and reauthorizing that landmark law. After nearly 20 hearings held by the House and Senate Judiciary Committees, we found that modern day barriers to voting continue to persist in our country. We have made great progress in our national quest for a more inclusive democracy, and while today's tactics are nowhere near as vile, we must understand that today's voting restrictions are not only harmful but run contrary to our Constitution's text and history.

New voter disenfranchisement tactics arise almost every year. In fact, according to the National Conference of State Legislatures, since 2001, nearly 1,000 voter ID bills have been introduced in 46 states. This year, 35 states advanced legislation requiring citizens to obtain and display unexpired government-issued photo identification. Such legislation was passed by Republican legislatures in 12 states including Alabama, Minnesota, and Missouri. Only three states-- including my home state of Vermont -- do not have a voter ID law and did not consider voter ID legislation this year.

This Committee has already received expert testimony that voter ID laws will disenfranchise African-Americans, Hispanics, military veterans, college students, the poor, and senior citizens. And these laws are universally opposed by the AARP, the League of Women Voters, and traditional civil rights organizations who have long worked to protect Americans' access to the ballot box like the NAACP and MALDEF. So why is this the focus of so much effort in state legislatures? Beyond formal voting restrictions, in recent elections we have witnessed overt

threats by armed vigilantes attempting to intimidate Hispanic voters at the polls in Arizona. We witnessed cross burnings intended to intimidate African-American voters on the eve of an election in Louisiana. We also saw organized efforts in Maryland to deceive minority and low-income voters with false information about polling locations and phony endorsements. Yet these are not the stories or concerns we hear about when partisans advance new voting restrictions.

On the contrary, to justify their ill-conceived and ill-advised voter ID legislation, politicians allege wide-spread voter fraud. We even heard Congresswoman Gabrielle Giffords' 2010 challenger cite to "rumors" that his opposition was busing in people from across the Mexican border to vote illegally in a U.S. election. Of course, the Secretary of State in Arizona dismissed that allegation saying that it was simply an "urban legend." A previous Senate Rules Committee hearing examined the myth of wide-spread voter fraud and concluded that there was no credible evidence of in-person voting fraud, even in states like Indiana. That lack of evidence, however, has not stopped efforts by Republican state legislators in some states to pass restrictive photo ID laws.

Following the passage of Indiana's photo ID law, a dozen elderly nuns were turned away from the polls because they did not possess the required photo ID. I understand that several of them held expired photo IDs that were not sufficient under Indiana's restrictive law. Interestingly, the strict Indiana law did not prevent the Indiana Secretary of State, a politician who has made voter fraud prevention a priority, from committing fraud himself, resulting in a grand jury indictment. One can only conclude that at least in Indiana, the restrictive photo ID law did not prevent voter fraud while it certainly did prevent many otherwise-eligible voters from exercising their constitutional right.

It is regrettable that the Supreme Court did not protect the fundamental right to vote three years ago when it failed to invalidate Indiana's restrictive photo ID law. Had just two Justices been more protective of the right to vote, the nuns in Indiana would have been able to vote in that year's primary election. Because the burdensome law was allowed to stand, those sisters and untold others were disenfranchised and other state legislators were encouraged to make it more difficult for the elderly and the poor to vote.

Four decades ago when Virginia passed a law requiring voters to pay a \$1.50 poll tax the Supreme Court invalidated the law. Simply because the tax would apply to every voter did not make it permissible under the Constitution. Justice Douglas noted that "the right to vote is too precious, too fundamental to be so burdened or conditioned." I agree.

Our great Nation was founded on participatory democracy. Our founding document begins with "We the People." Successive generations of Americans have come together to amend our Constitution six times to expand the participation of its citizenry in the election of the government--to former slaves, to women, to young people, to include the direct election of Senators, and to prohibit poll taxes. In this way, "We the people" have reiterated and affirmed the fundamental importance of the right to vote. We should all remember Judge Wisdom's analysis in the 1963 case of *United States v. Louisiana*, where he concluded that a law which burdens a citizen from access to the franchise is a wall that must come down. His words are as true today as they were 48 years ago.

I thank the chairman of the Subcommittee on the Constitution, Civil Rights and Human Rights for calling this important hearing and the witnesses for traveling to be with us today.

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