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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