

Testimony of Lori Roman  
Before the U.S. Committee on House  
Administration  
Subcommittee on Elections

Voting in America: The Potential for Voter ID Laws, Proof-of-Citizenship Laws, and Lack of Multi-Lingual Support to Interfere with Free and Fair Access to the Ballot

Chairman Butterfield, Ranking Member Steil and members of the Committee, thank you for the opportunity to testify today. I am the president of the American Constitutional Rights Union and ACRU Action Fund, non-profit organizations defending the rights of American citizens. Our motto is "Live Free."

It is important that we address the duty to ensure access to the ballot box while also protecting the integrity of the voting process. Put bluntly, we should all want to make it easy to vote and hard to cheat.

Many of my remarks today refer to an article in the Yale Law and Policy Review called "The Other Voting Right: Protecting Every Citizen's Vote by Safeguarding the Integrity of the Ballot Box." This article was co-written by one of my colleagues, former Ohio Secretary of State and U.S. Ambassador to the United Nations Human Rights Commission J. Kenneth Blackwell. Unfortunately, his schedule did not permit his participation in this hearing.

Our country has spent many decades advancing the rights of citizens to fully participate in our constitutional republic. The first cornerstone of that quest is freedom, which has been fought for and won.

As for the right to vote, there are two basic voting rights I would like to address today. The first is the electoral franchise: the right to cast a ballot that is tabulated to determine the outcome of elections. 1

The second is a right for each citizen not to have his legitimate vote diluted or cancelled by an illegal vote. The Supreme Court recognized this interest when it declared that "the right to vote is the right to participate in an electoral process that is necessarily structured to maintain the integrity of the democratic system." 2

We must recognize that this has always been a fight by political factions in America. Sometimes it has actually been a war.

First, we fought, quite literally, for freedom for all Americans. After the Civil War, the 14<sup>th</sup> Amendment to the Constitution was ratified giving citizenship to persons "born or naturalized in the United States," including former slaves, and it guaranteed "equal protection of the laws" to all citizens. This was passed by Republicans with no Democrat support.

For Black American men, the right to vote came with passage of the 15<sup>th</sup> amendment in 1870. The amendment passed with Republicans supporting the rights of Black Americans to vote and Democrats trying to block that right.

The 15th Amendment states: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

In reality, for Black Americans the right to vote did not necessarily mean they were able to vote.

Black Americans endured violence, intimidation, literacy tests, and onerous poll taxes designed to block them from full participation in society. These actions were committed mostly by southern Democrats. The Republican party was the protector of the right of Black Americans to vote before and after the Civil War.

It took fifty more years for women to get the right to vote nationally. In 1920, women were finally granted that right with the 19<sup>th</sup> Amendment that was pushed and passed by a Republican led House and Senate. My grandmother was 20 years old at that time and cherished her right to vote.

The 19<sup>th</sup> Amendment states: “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex. Congress shall have power to enforce this article by appropriate legislation.”

It has taken many years to stop actions blocking access to the polls by one method or another. As Americans, we should be proud that we fought hard for freedom and access. And now, we must fight for voting integrity. Citizens have a right to vote, and we also have a right to have our votes protected from being stolen, or discarded, or diluted by illegal votes.

There are simple and common-sense ways to protect the integrity of the vote. First, voter rolls must be maintained and updated. This is codified into federal law. The second, voter identification, is codified into many state laws and is also considered a gold standard for election integrity across the globe. The third, is citizenship, which is indicated in the 15<sup>th</sup> and 19<sup>th</sup> amendments and has been addressed by the Supreme Court.

### **Clean Voter Rolls**

The National Voter Registration Act of 1993 (NVRA) which is often called the “motor voter law” makes it easy to register people to vote, but most people are unaware that it also calls for procedures to identify and update the registrations of those who have moved or died to ensure accurate voter rolls.

Election officials are required by state and federal laws to clear voter rolls of voters who are deceased, ineligible to vote or moved to another jurisdiction.

Unfortunately, voter rolls across the country are filled with the names of millions of people who have died, moved away, or are not U.S. citizens. Potentially, in every case this could allow a ballot to be cast fraudulently which would dilute legitimate votes.

Over the years, ACRU has brought lawsuits against counties which have shirked their responsibilities under the law. ACRU asserts the right conferred by Congress to demand clean voter rolls under Section 8 of the National Voter Registration Act (NVRA).

In one case, ACRU found that not a single person—including the deceased—was removed from voter rolls between 2013 and 2015. There was strong evidence to indicate that the county became motivated to clean up those rolls only after ACRU's lawsuit was filed and the State moved to take executive action in the county.

There is no excuse for lapses in list maintenance. It is the law. The Department of Homeland Security allows states to use its privacy-protected Systemic Alienation Verification for Entitlements database to confirm citizenship status of voters. Under the National Voting Rights and Help America Vote Acts, states have access to motor vehicle bureaus, public assistance, Social Security and Postal Services databases to match addresses and check deaths.

Some people have tried to assert that it is racist to remove people from the voter rolls who have died or relocated. But roll maintenance is has nothing to do with the ethnicity of the person who died or moved. It is mandated by federal legislation and it protects every citizen's vote from being diluted.

## **Voter ID**

There will always be some competition in the quest to increase access while maintaining ballot integrity. We have a desire to remove individual barriers to voting, making it as convenient as possible. Yet we must protect legal votes from dilution by imposing some burdens, such as requiring identification.

In many ways, it seems completely unnecessary to make the case for such a common-sense provision as voter identification. In fact, polls repeatedly show that Americans of all ethnicities support voter id.

I quote the Yale Law and Policy Review article co-authored by Amb. J. Kenneth Blackwell, a board member of ACRU Action Fund:

The reality is that states have significant authority under the Constitution to protect legal votes from illegitimate dilution. In 2008, a plurality opinion of the Supreme Court asserted that if a state's burdens on voting are merely inconvenient and if its restrictions are nonsevere and nondiscriminatory, those burdens are evaluated under a much less demanding "important regulatory interests" standard that is deferential to policymakers' judgments.

The Supreme Court's precedents show that, when assessing the magnitude of the burden that laws impose on voting rights, it determines how the law applies to the entire electorate, not just the impact on individual voters with "peculiar circumstances." Absent discriminatory intent, this proposition holds even where protected classes are concerned. As a result, it should follow that states need not provide elaborate empirical verification regarding the significant interests they purport to uphold through election laws.

Voter identification laws are excellent examples of statutes designed to protect the public integrity of the electoral process, and challenges to such laws appear

frequently on the federal docket. A recent bipartisan, blue ribbon commission concluded that allowing polling officials to confirm the identity of a person requesting a ballot is imperative for democratic electoral systems." As a step in the right direction towards respecting state primacy... the Supreme Court found that an Indiana statute did not impose "excessively burdensome requirements" on any type of voter. Courts are increasingly willing to uphold these measures as seen in several federal cases.

Many, even in this Congress, have maintained that requiring voter identification is racist. Yet, members of Congress voted for the Affordable Care Act, most often referred to as ObamaCare. This legislation forced every single American, of every income level, age, and ethnicity to buy health insurance. Compared to receiving a free identification from the government, the process of purchasing medical insurance is quite daunting, complicated, and expensive. Members of Congress added a financial penalty for any American who did not buy this insurance, further increasing the burden.

Recently, many Black leaders have publicly indicated that they feel that the insinuation that Black Americans are not able to obtain free identification is insulting and dishonest.

A few weeks ago, Black American leaders, including ACRU Action Fund Board Member Amb. J. Kenneth Blackwell, signed a letter urging members of Congress to deescalate their rhetoric equating voting integrity measures such as voter identification, with Jim Crow laws.

The signers appealed to the senators:

“The fight to ensure every American’s right to vote has been a long and costly battle dating back long before any of us were born. The policy differences of today pale in comparison to what was overcome by the noble generations that preceded us. To compare today’s policy differences with the literal life and death struggle of previous generations is to diminish those heroes’ struggle, sacrifice, and enormous accomplishments. It is past time for today’s generation to come together in an honest, civil, and straightforward way to protect these shared values of voter access and election integrity. It should be easy to vote and hard to cheat.”

Another signer of this letter, Lt. Gov. Mark Robinson, the first Black Lieutenant Governor of North Carolina, testified before the House Judiciary Committee recently saying, “the notion that black people must be protected from a free ID to secure their vote is not just insane—it is insulting.”

## **Citizenship**

Pertaining to citizenship requirements for voting, I quote again from the Yale Law and Policy Review article:

“Framing voting as a civic duty is particularly evident in the citizenship qualifications mandated by law. Indeed, one of the distinctive attributes of the right to vote in the United States is that it is reserved only to citizens. This restriction is significant when analyzing a constitutionally protected right such as voting, which is "of the most fundamental significance under our constitutional structure."

“... the Court has suggested that citizenship is not a suspect classification when considering the right to vote. The Court has elaborated on this concept, holding that certain public functions are properly performed by citizens and that discrimination based on citizenship in the realm of those public functions are merely subject to rational-basis review. For example, the Court applied this logic to uphold a New York law that allowed only U.S. citizens to be police officers. Such reasoning applies at least equally well to voting laws, since the citizen is participating in a self-governmental act that determines public policy when voting, which is perhaps the most significant public function a citizen can perform.”

Throughout this testimony, I have referred to the 15<sup>th</sup> and 19<sup>th</sup> Amendments to the Constitution. It is important to note that both of those amendments refer to the right to vote for **citizens**.

The 15<sup>th</sup> amendment states: “The right of **citizens** of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.”

The 19<sup>th</sup> Amendment states: “The right of **citizens** of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex. Congress shall have power to enforce this article by appropriate legislation.”

## **Conclusion**

In conclusion, the rights of American citizens to vote and to also have their vote protected from dilution from fraudulent votes is codified in federal and state laws, supported by Americans, and is grounded in common sense.

Thank you for the opportunity to present this information today.

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- 1 *See* *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964) ("No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.").
  2. *Burdick v. Takushi*, 504 U.S. 428, 441 (1992).