

OPPOSITION TESTIMONY TO SB153— DAVID PEPPER

It's a tactic that has a long and infamous history: **voter registration manipulation**.

And it is a form of voter suppression that truly slashes at the jugular vein of American democracy.

By complicating, narrowing or closing entirely the front door into the electorate, forms of **voter registration manipulation** have proven to be among the most damaging to a fully inclusive democracy over the centuries, reducing overall involvement in our democracy—especially voters of color, new American communities, and women.

It's the despicable tool that did much of the work to destroy Reconstruction and build Jim Crow, disfranchised urban and immigrant communities in the North repeatedly in the 1800s, all while reducing overall participation in America's democracy to a level well below other nations.

The recent wave of voter registration manipulation—which includes the Ohio's SB153—renews this oppressive and brutally effective tactic, driven by similar myths and lies.

Backdrop: Registration as the Front Door to Democracy

Going back centuries, the battle over America's democracy is in many ways a battle over the process of voter registration.

We take it for granted now, but the step all citizens must take prior to actually voting—better thought of as “pre-registration”—has essentially served as the front door to democracy for most of our history. How widely that door is open or closed, and who gets to enter it, determine the size and shape of the American electorate. And if you're not even in that (registered) electorate, you basically aren't part of our democracy whatsoever.

At the peaks of our democracy, spirited and aggressive registration efforts have expanded the electorate—in size and diversity—nearly overnight. A military-led registration drive following the Civil War allowed hundreds of thousands of newly freed slaves to enter American democracy, which upended Southern politics. A similar drive happened immediately following the Voting Rights Act, when federal registrars registered huge numbers of long-suppressed Black voters and old tactics of registration manipulation were outlawed.

On the flip side, disastrous declines of participation have followed periods where anti-democracy forces clamped down on the registration process, or closed it outright—wielding it as a weapon against certain groups, and in a way that dramatically reduced overall participation.

In the early to mid 1800s, concerns about Catholic-Irish immigrants corrupting American elections led to a voter registration process in the first place. As UC Davis historian Gregory Downs explained a few years ago, complicated and time-consuming registration requirements have a suppressive effect:

“Requiring [voters] to go on one day to register to vote and then to go again to vote” has three impacts: (*remember these—they are still relevant)

1) “Increased the Literal “Opportunity cost” of voting...two times, especially during work days”

2) “requires a longer period of time in which you can demonstrate a stability of address...if you register in one location and move to a different district in the months in between, you’ve self-disfranchised,” and this need for residential stability “specifically aim[ed] to capture a group that is...marginal, or moving among different forms of temporary housing”

3) requires citizens to go “to confront representatives of the established order” (city hall, a political registrar, etc.) as opposed to “show[ing] up on the day of and to vot[ing]”

Add in literacy and English language tests, durational residency requirements, and other obstacles that could directly target certain populations (some only applied to certain cities), and the shaping of the registration processes shaped democracy itself. And excluded many, as intended.

While these steps ebbed and flowed in the North depending on the era (and new waves of immigrants), over time, they led to an overall diminished participation level.

BUT....when white Democrats in the South were looking for ways to crush the new Black participation in Southern elections during Reconstruction, the North’s use of registration to suppress immigrants provided a perfect model. So, starting in Mississippi, new Southern governments imposed it to great effect, adding not just a registration process—and requiring all voters to register anew—but added a wide variety of hurdles, including literacy tests, poll taxes, grandfather clauses (waiving hurdles for white voters), etc.

The shutting off of voting through registration manipulation worked to brutal effect. It was a central part of wiping out high Black registration and voting rates in the 1870s and 1880s, down to almost 0 by the 20th century. Louisiana's number of registered Black voters, for example, fell from 130,000 to 730.

And this of course meant actual voting cratered as well. As Professor Downs summarizes—in 1880, *every* Southern state saw between a 40% to 80% Black voter rate in elections; by 1912, *every* Southern state had a Black voting rate of 3% or lower. (Alabama fell from 55% to 2%; Florida from 84% to 2%; North Carolina from 81% to 1%.)

Tragic. And wholly intentional.

That lack of voting is what allowed the rest of Jim Crow to kick in for lifetimes...until, back to our theme, the Voting Rights Act *re-opened* the voter registration process and actively registered huge numbers of those excluded voters. Since that time, states and leaders have generally worked to make the registration process as easy and costless as possible, providing numerous options for American citizens.

Until now.

The Lesson:

As Professor Downs says: *“Registration is secretly the place that voter disfranchisement has happened in American history, even though it sits off stage.”*

And it's exactly what SB153 will repeat under the lie that non-citizens are voting in huge numbers.

The truth is that 95% of the ways that we all choose to register and re-register would be rendered functionally illegal by these laws, including:

- **online voter registration**
- **mail-in voter registration**
- voter registration by **third parties and non-profit groups**
- **campaigns or parties** conducting voter registration drives (same reason)
- **all on-line BMV registrations:** and any in-person BMV appointments where the voter has not brought the IDs required beyond their updated drivers' licenses

Instead, every registration or re-registration (or undoing of a purge) would have to take place by traveling and waiting in line at a county elections office, which for most citizens is less convenient—which is why only 5% use that option now when they register or re-

register to vote. And each time a person moves, they have to head back to that same inconvenient office to stay on the rolls.

This is the re-running of the old playbook, aiming for the same effects that Professor Downs summarized above:

1. to increase “the opportunity cost of voting”
2. disproportionately impacting “a group that is...marginal, or moving among different forms of temporary housing” — the more inconvenient registration becomes, the more Professor Downs’ quote (that by moving, “you’ve self-disfranchised”) becomes the reality again
3. to require citizens to go to an official government office as opposed to registering in ways that may be more comfortable or easy, such as with non-profit or community groups they know

As in both Jim Crow and the anti-immigrant Northern examples, these new inconveniences and the IDs required disproportionately impact certain groups disfavored by those in power, **including women, voters of color, young voters and seniors.**

And over time, the impact of all this can and will dramatically change the size and balance of the voting electorate, watering down the participation of these groups.

As Downs warns: *“If someone can successfully disfranchise once, they’ve changed the electorate that will weigh in on those laws.”* That allows them to keep going further.

“We might not see that impact until it’s almost too late and fix them.”

While America focuses on Washington, history shows us that the real damage to American democracy comes from statehouses enacting bills just like SB153.

And it was the state-by-state manipulation of registration that made it so much harder to undo over time.

Senators, respectfully, don’t join the company of the most notorious voter suppressors in American history. That is a legacy you surely do not want.

Oppose this terrible bill.