

Making it Easier to Vote vs. Guarding Against Election Fraud

In recent years, the Democratic Party has pushed for easier voting procedures. The Republican Party worries that easier voting increases the chances for election fraud. These different views of voting collided in Indiana over a voter photo ID law that finally went to the Supreme Court.

The body of the original Constitution does not mention the right to vote. The 15th, 19th, and 26th amendments to the Constitution, however, guarantee the right to vote to racial and ethnic minorities, women, and those 18 or older. Also, the 14th Amendment bars states from denying to any person the "equal protection of the laws." In addition, Congress has passed laws that affect elections involving federal offices.

Within these limits, each state makes its own election laws. People are usually eligible to vote if they are a U.S. citizen, 18 or older, and a resident of the state. Individuals are qualified to participate in elections if they have completed all state requirements such as registering to vote.

After the Civil War and Reconstruction, most Southern states enacted poll taxes, placing a fee, typically around \$1.50, to register and vote. The intent of these taxes was to put an economic burden on poor people, especially African Americans, to discourage them from voting. In the 1960s, the 24th Amendment and the Supreme Court outlawed all poll taxes.

The modern high in national voter turnout occurred in 1960 when 63 percent of qualified voters cast their ballots for president. After 1960, voter turnout declined to around 50 percent in presidential elections and even lower in state and local contests. In most other democracies, voter participation often reaches 70 percent or higher.

As participation in voting declined, studies concluded that significant barriers existed that made voting difficult for many U.S. citizens. Sometimes people had to travel long distances during working hours to a county court house to register to vote. Some states required individuals to live at one address for up to a year to qualify for voting.

By the late 1980s, reforms to make it easier to vote had been slow and inconsistent among the states. All this changed in 1993, however, when the Democrats decided to back the Motor Voter Law.

The Democrats: Make Voting Easier

Toward the end of Ronald Reagan's presidency, the Democratic Party decided on a campaign to make it easier to register more voters. An estimated 75 million eligible voters could not vote because they were not registered. The Democrats wanted especially to register more people likely to vote for their party, such as the poor, minorities, and those depending on government services.

In 1992, Democrat Bill Clinton won the White House with a Democratic majority in Congress. One of the first laws passed by Congress and signed by President Clinton was the National Voter Registration Act of 1993. Also called the "Motor Voter Law," this act enabled people to register to vote when they applied for government services like a driver's license or welfare benefits. The law also required states to accept mail-in registrations and increased the amount of time before election officials could remove inactive voters from voting lists. Most Republicans opposed Motor Voter, arguing that there was no requirement to check an individual's citizenship or identification.

Largely due to Motor Voter, the number of Americans added to the voter rolls between 1994 and 1998 increased by 20 percent. Republicans grew concerned that the law was helping the Democrats expand their voter base. In response, the Republicans developed technology to make use of public and business databases to target people likely to register for their party.

Republicans also believed the law was registering too many ineligible or unqualified voters. They began to challenge the identity and voting status of voters in some heavily Democratic areas. The Democrats responded with charges of voter intimidation and racism.

At the state level during the 1990s, Democrats favored new election laws that made registration and voting easier. For example, "same day" laws in a few states allow unregistered voters to show up at the polls on voting day, register to vote, and cast a ballot.

Some states passed laws to permit "early voting," enabling registered voters to vote at certain locations before election day. Oregon adopted a system of voting entirely by mail over a two-week period. Many states eased the use of mail-in absentee ballots as an alternative for voting in person.

Following the 2000 presidential election, which came down to a handful of contested votes in Florida, both parties had complaints. Democrats claimed election officials did not count votes properly. Republicans cited cases of election fraud.

In 2002, Congress passed and President Bush signed the Help America Vote Act. The major provisions of this bipartisan law attempted to address concerns of both parties:

- To assure accuracy in the vote count, states must replace old punch card and lever voting machines with modern electronic systems.
- To maintain accurate voter registration lists, states must develop and maintain a centralized voter database.
- To deter fraud in mail-in registrations, voters who register in this way must present identification when they vote in person for the first time in a federal election; identification may include a photo ID, a current utility bill, or other such document that shows the name and current address of the voter.
- To allow qualified voters who mistakenly are left off registration lists to vote, states must allow them to cast a "provisional" ballot; such a ballot will only be counted if election officials later verify that the person was qualified to vote.

The Republicans: Guard Against Fraud

While the Help America Vote Act answered some of its concerns, the Republican Party continued to argue that many voting reforms increased the chances for election fraud. Republicans emphasized that preventing election fraud not only assures accurate voting results but also instills confidence among voters in the election process. Fraud in elections leads many to wonder why they should vote at all, thus further driving down voter turnout.

Election fraud covers a wide range of criminal acts under both federal and state laws. These crimes are usually felonies, punishable by up to five years in prison and by a fine. Election fraud must involve the *intentional* corruption of the voting process by voters, election officials, political parties, or others.

The fraud may come from individual acts or conspiracies, which include a number of people who scheme together. See the box for examples of election fraud.

Republicans claim that many of the laws making it easier to vote have caused more cases of election fraud, which threatens American democracy itself. The lack of strict safeguards, they argue, has resulted in non-citizens, non-residents, felons, and others ineligible or unqualified to vote to show up at the polls and cast ballots.

Republicans fault the Motor Voter Law for making it difficult for states to remove dead persons, those who have moved, duplicate names, and other "deadwood" from voter registration lists. This enables fraudulent voters to vote multiple times by assuming the identity of others.

Similarly, the Help America Vote Act makes it possible for unqualified persons to cast a provisional ballot. Poll workers could intentionally or mistakenly mix these ballots in with regular ones.

Perhaps the biggest threat to the election process, say the Republicans, is the fraudulent use of absentee ballots. Voters are increasingly voting absentee by mail without ever having to prove who they are. In addition, the Republican Party has accused Democrats of taking stacks of absentee ballots into poor housing projects and nursing homes, then misleading or intimidating voters on how to vote.

In recent years, Republicans have pointed to a number of cases of election fraud to prove their case. Missouri Republicans charged that hundreds of voters cast fraudulent ballots in St. Louis during the 2000 presidential election. In 2004, after Republicans lost a close election for governor in the state of Washington, they claimed election officials counted hundreds of unverified provisional ballots.

The Republicans argue for a number of proposals to guard against election fraud such as:

- Requiring proof of citizenship when registering to vote.
- Reducing the number of years required before deleting the names of inactive voters from registration lists.
- Allowing persons to vote by provisional ballot only if poll workers can immediately verify they are qualified to vote by calling the state election office.
- Limiting absentee ballots only to those who apply individually and will be unable to vote at a polling place on Election Day.
- Requiring a government-issued photo ID in order to vote in person and a witnessed or notarized signature on an absentee ballot.

How Common Is Election Fraud?

Just how big a problem is election fraud today in the United States? A Rasmussen Poll conducted in January 2008 found that nearly 25 percent of Americans believe there are large numbers of people voting illegally. But actually determining the extent of election fraud is difficult because neither the federal government nor most states maintain statistics on this type of crime.

In many of the election fraud cases cited by the Republicans, it turns out those voters' errors, mistakes by poll workers, and poorly administered state election procedures are at fault. In other cases, federal and state investigations found no evidence that voters or others intended to commit election fraud.

Currently, the best indicator of election fraud is the number of convictions in federal cases prosecuted by the U.S. Department of Justice (DOJ). Between 2002 and 2005, the DOJ charged nearly 100 persons, resulting in the convictions of more than 50 for election fraud.

During the same period, 24 persons were convicted of voter fraud (illegal voting). Of these, 14 were non-citizens, five voted multiple times in one election, and five were felons who had lost their voting rights. During this three-year period, the DOJ prosecuted no cases against persons who voted illegally by using the identity of someone else.

In addition, 30 people were convicted who had been involved in vote-buying conspiracies in five states. Those convicted were mainly party and election officials.

Democrats argue that the small number of federal convictions indicates that it is rather rare in the United States today. Republicans, however, counter that these figures do not include cases arising out of state and local elections. But these cases are hard to nail down since only two states have a system for collecting election fraud information.

Republicans argue that the number of election fraud cases is irrelevant. Any amount of fraud, they say, could corrupt a close election and undermine faith in the election process.

Democrats charge that the Republican anti-fraud campaign is a hoax since election fraud hardly exists in the United States today. The cry for more laws to prevent election fraud, the Democrats say, is nothing

Examples of Election Fraud

Voter Fraud (Illegal Voting)

- Giving false identity, citizenship, residency, etc., when registering to vote.
- Voting when not eligible or qualified.
- Voting in the name of another such as someone who has died or moved.
- Voting multiple times in an election.

Other Types of Election Fraud

- Registering fictitious persons or those not eligible to vote; paying persons to register.
- Buying votes.
- Threatening voters to vote in a certain way or not to vote.
- Tampering with voting machines.
- Completing an absentee ballot of a person who did not say how it should be marked.
- Stuffing ballot boxes with invalid ballots.
- Changing or destroying valid ballots.
- Falsely counting or certifying voting results.

more than an attempt to make it more difficult for Americans, especially likely Democratic voters, to register and vote.

The Battle Over Voter Photo ID

Twenty-four states now require some form of identification to vote in person at a polling place. Seven of these states require a photo ID. In 2005, a bipartisan commission headed by former Democratic President Jimmy Carter and former Republican Secretary of State James Baker recommended a photo ID for voting. Opinions polls show that a large percentage of Americans think this is a good idea.

Republicans have enthusiastically embraced state laws that require photo IDs for voting. They argue such identification is necessary to prevent a person from stealing the identity of others, such as those who have recently died, and voting multiple times.

Democrats vigorously oppose voter photo IDs as a solution to a problem that does not exist. Furthermore, they claim that millions of Americans, especially the poor, elderly, and disabled, lack photo identification. Such individuals would be economically burdened by having to pay a fee either for the photo ID itself or for supporting documents, like a birth certificate. This is just another illegal poll tax, the Democrats argue.

In 2005, the Indiana state legislature passed a law that required voters to show a state or federal photo ID before voting in person. All Republicans, who held a majority in the legislature, voted for this law. All the Democrats voted against it.

The Indiana photo ID was free, but it required supporting proof of identity such as a birth certificate, which costs up to \$12 in Indiana counties and perhaps higher for out of state births. Someone who wanted to vote on Election Day but did not have a photo ID at the voting place could cast a provisional ballot. But for it to be counted, the individual had to take a photo ID to a county office within 10 days.

Arguing that the photo ID law was unconstitutional under the 14th and 24th amendments, the Indiana Democratic Party and other groups sued state election officials in federal court. The two sides finally argued the case, *Crawford v. Marion County Election Board*, before the U.S. Supreme Court in January 2008. The court considered this question: Does a law that requires voters to present government photo identification excessively burden the right to vote of citizens?

The Democratic Party cited the economic burden on up to 43,000 Indiana citizens who might need to pay for a birth certificate or some other supporting document to acquire a photo ID. The Democrats also argued that the law placed a special burden on poor, elderly, ill, and disabled persons who would likely find it difficult to travel to a government office to have a photo ID made. Moreover, the Democrats pointed out, no case of an individual taking the identity of another voter had ever occurred during the entire history of Indiana.

The Indiana state officials argued that legitimate state interests such as maintaining voter confidence in the election system outweighed any minimal costs and inconveniences to citizens. In addition, the state officials pointed to the poor condition of Indiana's voting lists. These lists contained names of persons who were dead or no longer residents, thus requiring photo identification to deter multiple voting. Finally, no Indiana citizens had testified that it would be impossible for them to get a photo ID.

On April 28, 2008, the U.S. Supreme Court decided 6–3 that Indiana’s photo ID law was constitutional. Justice John Paul Stevens wrote that the state interests were "both neutral and sufficiently strong" to outbalance claims that the photo ID law was an excessive burden on citizens. Writing in dissent, Justice David Souter declared the law placed an "unjustified economic burden" on citizens, deterring poor Indiana residents from exercising their right to vote.