

November 3, 2021

RE: S. 4, the John Lewis Voting Rights Advancement Act

Dear Senator,

The American Civil Liberties Union (ACLU) urges you to vote “YES” on cloture on the motion to proceed to S. 4, the John Lewis Voting Rights Advancement Act. We thank Senators Leahy, Murkowski, Durbin, and Manchin for their work to reach a bipartisan compromise on the John Lewis Voting Rights Advancement Act¹ and urge members to vote “yes” to proceed for consideration of this bipartisan legislation. The ACLU will score this vote.



**National Political
Advocacy Department**
915 15th Street, NW, 6th Floor
Washington, DC 20005-2112
[aclu.org](https://www.aclu.org)

Ronald Newman
National Political Director

Anthony D. Romero
Executive Director

Deborah N. Archer
President

More than a century ago, the Supreme Court described the right to vote as the one right that is preservative of all others.² Unfortunately, our nation has a long and well-documented record of fencing out certain voters, in particular Black, Native, and other voters of color. The landmark Voting Rights Act of 1965—which has been reauthorized, amended, and updated with overwhelming bipartisan support five times since 1965³—has been crucial in combatting the persistent and widespread problem of racial discrimination in voting. Congress must restore the protections of the Voting Right Act by passing the John Lewis Voting Rights Advancement Act to respond to the current voting rights landscape.⁴ To this end, the John Lewis Voting Rights Advancement Act also includes the Native American Voting Rights Act to respond to the unique challenges, barriers, and discriminatory tactics facing Native American voters.

¹ Press Release, Senator Patrick Leahy, Leahy, Murkowski, Durbin And Manchin Announce Bipartisan Compromise On The John Lewis Voting Rights Advancement Act (Nov. 2, 2021), <https://www.leahy.senate.gov/press/leahy-murkowski-durbin-and-manchin-announce-bipartisan-compromise-on-the-john-lewis-voting-rights-advancement-act>.

² *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) (“[The right to vote] is regarded as a fundamental political right, because [it is] preservative of all rights.”).

³ Voting Rights Act of 1965, 79 Stat. 437; Voting Rights Act Amendments of 1970, 84 Stat. 315; Voting Rights Act Amendments of 1975, 89 Stat. 400; Voting Rights Act Amendments, 96 Stat. 131 (1982); Voting Rights Language Assistance Act of 1992, 106 Stat. 921; Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act, 120 Stat. 577 (2006), as amended, 52 U.S.C. § 10301 *et seq.*

⁴ See Sophia L. Lakin et al., *The Case for Restoring and Updating the Voting Rights Act: A Report of the American Civil Liberties Union 2021* (Jul. 14, 2021), <https://www.aclu.org/report/aclus-2021-report-case-restoring-and-updating-voting-rights-act> (highlighting how voting practices denying or abridging the right to vote on account of race, ethnicity, and language minority status persist); *Oversight of the Voting Rights Act: Potential Legislative Reforms: Hearing Before the H. Subcomm. on the Constitution, Civil Rights, and Civil Liberties of the U.S. House Committee on the Judiciary*, 117th Cong. (2021) (statement of Sophia Lin Lakin, Deputy Director of the ACLU’s Voting Rights Project).

Eight years ago in *Shelby County v. Holder*,⁵ the Supreme Court struck down the formula used to determine which jurisdictions were covered by a federal preclearance process. This meant that the most effective part of the Voting Rights Act—the requirement that jurisdictions with a long history of voter suppression submit proposed changes to election laws to federal officials *before* they went into effect—functionally ended. Many jurisdictions took *Shelby County* as a green light to enact with impunity discriminatory voting laws that disproportionately impact voters of color.

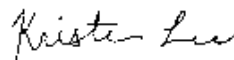
In *Shelby County*, the Supreme Court’s reasoning in dismantling preclearance was premised in part on the idea that plaintiffs could still challenge discriminatory voting laws under Section 2 of the Voting Rights Act and win relief before an election occurs with a discriminatory practice in effect.⁶ This year, however, the Supreme Court narrowed the interpretation of Section 2 at odds with the statute’s intent of eradicating all voting practices that have racially discriminatory effects in *Brnovich v. Democratic National Committee*.⁷ The decision effectively raises the already high bar to successfully challenge racially suppressive laws, reinforcing the need for Congress to take up Chief Justice John Roberts on his call in *Shelby County* for Congress to update the Voting Rights Act’s protections based on current conditions of discrimination in voting.⁸

The Fourteenth and Fifteenth Amendments, which respectively guarantee the right to due process and equal protection under the law and the right to vote without discrimination based on race, expressly give Congress the power to enforce their guarantees.⁹ Although this country has made incredible progress since the enactment of the Reconstruction amendments, this obligation is ongoing.¹⁰ Congress must act now to cement the legacy and restore the protections of the Voting Rights Act. The ACLU urges you to vote “yes” on cloture on the motion to proceed to the John Lewis Voting Rights Advancement Act. If you have any questions, please contact Kristen Lee at klee@aclu.org.

Sincerely,



Christopher E. Anders
Federal Policy Director



Kristen Lee
Policy Analyst

⁵ 570 U.S. 529 (2013).

⁶ 570 U.S. at 537 (“Both the Federal Government and individuals have sued to enforce § 2, ... and injunctive relief is available in appropriate cases to block voting laws from going into effect.”).

⁷ 141 S. Ct. 2321 (2021).

⁸ 570 U.S. at 557 (“Our country has changed, and while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions.”).

⁹ U.S. Const. amends. XIV § 5, XV § 2.

¹⁰ See ERIC FONER, *THE SECOND FOUNDING* xx (2019) (“All three [Reconstruction] amendments end with a clause empowering Congress to enforce their provisions, guaranteeing that Reconstruction would be an ongoing process, not a single moment in time. ... The Bill of Rights said nothing about how the liberties it enumerated would be implemented and protected”).