

Voting Rights Presentation – May 4, 2014

Introduction & Opening Words

The true democracy, living and growing and inspiring, puts its faith in the people – faith that the people will not simply elect those who will represent their views ably and faithfully, but will also elect those who will exercise their conscientious judgment – faith that the people will not condemn those whose devotion to principle leads them to unpopular courses, but will reward courage, respect honor, and ultimately recognize right.

For in a democracy, every citizen, regardless of his interest in politics, “holds office”; everyone of us is in a position of responsibility; and, in the final analysis, the kind of government we get depends upon how we fulfill those responsibilities. We, the people, are the boss, and we will get the kind of political leadership, be it good or bad, that we demand and deserve.

JFK – Profiles in Courage [slightly paraphrases]

UU 5th principle & The History of the Right to Vote

The 5th principle of Unitarian Universalism is this: We affirm and promote The Right of Conscience and the Use of the Democratic Process Within Our Congregations and in Society at Large.

I chose this topic for this day for several reasons. I like to pick a legal theme for May, because May 1st is, among many other things, Law Day. As I remind you every time I speak in May, Law Day came about at the behest of President Eisenhower in the 1950's as a way to counter the Soviets' annual celebration on May 1st. In Soviet Russia, May Day which had traditionally been International Workers of the World Day, was turned into a spectacle where thousands of armored vehicles and military personnel would parade across Red Square in Moscow and pass before the Premier (in those days – Kruschev) to trumpet the country's military might to the world. It was literally an annual rattling of sabres.

So, Law Day was conceived to inspire reflection on the role of law in the foundation of the United States and to recognize the importance of law to our society. I am a lawyer and I firmly believe that the law has many times been the vindicator of rights, particularly minority rights, in our history. It was a character who was an anarchist who spoke Shakespeare's words "First we'll kill all the lawyers" – he meant that the lawyers, who implement and enforce the law, are the ones who keep us from anarchy.¹ I believe this to be true as well. Law Day was

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Shakespeare's exact line "The first thing we do, let's kill all the lawyers," was stated by Dick the Butcher in "Henry VI," Part II, act IV, Scene II, Line 73. Dick the Butcher was a follower of the rebel Jack Cade, who thought that if he disturbed law and order, he could become king. Shakespeare meant it as a compliment to attorneys and judges who instill justice in society.

Eisenhower's effort to designate a day when we think about the role of the law in our lives, and thus the reason that I like to choose a topic with legal aspects every May.

I chose this particular legal topic, voting rights, because it is part of our 5th principle and because there are continual challenges to the free exercise of voting rights in our country, in our state, in our own backyard. Rev. Parisa Parsa, First Parish in Milton, MA has written:

In our religious lives, the democratic process requires trust in the development of each individual conscience—a belief that such development is possible for each of us, as well as a commitment to cultivate our own conscience. We could call it a commitment to the value of each person.

In the words of Theodore Parker, Democracy means not “I am as good as you are,” but “You are as good as I am.” Our connection with the sacred is only as precious as our willingness to acknowledge the same connection in others.

It is very easy these days to be cynical about democracy in the United States of America. In fact, the majority of voting-age Americans choose not to vote at all. Scholar Cornel West notes, many American citizens don't vote because “they know that political leadership is confined to two parties that are both parasitic on corporate money and interests.”

UU minister Richard Gilbert reminds us that, although “both rich people and poor people have the formal freedom to vote… we know who has the greater influence on the candidates” and elected officials once

in office. Yes, it is easy to be skeptical of the value of the right to vote.

Pastor M. Lara Hoke, of the UU Congregation in Andover, Massachusetts states:

The right to vote is an amazing right to have, and a right not to be taken for granted. I wish all voting-age citizens would choose to vote in every election. I am grateful for the right to vote, which many people on earth do not have, and a right that was hard won for many – including women, racial minorities, and even unpropertied “white” men – in this country.

A brief history. When the country was founded, most U.S. states allowed only Caucasian males—who either owned property (i.e., at least 50 acres of land, usually), or, had incomes high enough to be taxed—to vote. Note that it is the states, and still is the states primarily, that set the requirements for being an eligible voter. Back then, women could vote in New Jersey (provided they could meet the property requirement) and in some local jurisdictions, in other northern states. Non-white Americans could also vote in these jurisdictions, provided they could meet the property requirement. Freed slaves could vote in four states. Initially, unpropertied men and women—white citizens, slaves, and ex-slaves, alike—were largely prohibited from voting; however, by the time of the U.S. Civil War, most white men had become eligible to vote regardless of property ownership status.

After the Civil War, and the post-Civil War Constitutional Amendments that intended to confer the right to vote upon freed slaves, many states came up with literacy tests, poll taxes, and even religious tests to intentionally deny immigrants (including legal ones and newly naturalized citizens), non-white citizens, Native Americans, and any other locally 'undesirable' groups from exercising any voting rights. Literacy tests were administered by local officials who used no objective criteria; they were merely an excuse to deny undesirables the right to vote.

In 1920, the US Constitution gained the 19th amendment which 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.

That language, the text of the 19th amendment, became law in 1920, just 94 years ago! Finally, the US Constitution had been amended to prohibit the states from denying women the right to vote on the basis of gender. Finally, approximately half of the population was enfranchised in all elections everywhere in the United States.

Poll taxes continued to be imposed to prevent people from voting, however. Georgia initiated the poll tax in 1871, and made it cumulative in 1877 (requiring citizens to pay all back taxes before being permitted to vote). By 1904, every former confederate state had followed Georgia's

lead and implemented poll taxes. Although these taxes were only \$1-\$2 per year and may seem small, those sums were beyond the reach of many poor black and white sharecroppers, who rarely dealt in cash. Sharecroppers, like miners in the north, worked the boss' land and lived in company housing. They acquired their food and goods at the company store and charged it to their account, to be paid from their wages. Rarely was there any money owed after the debt to the boss was paid annually. Often, the sharecropper just got further and further in debt and more beholden and tied to the boss. Paying money for the privilege to vote was virtually impossible.

The Georgia poll tax probably reduced overall turnout by 16-28%, and black turnout in half (Kousser, *The Shaping of Southern Politics*, 67-8). The purpose of the tax was plainly to disenfranchise, not to collect revenue.

Believe it or not, it was only in 1964, that the 24th amendment was added to the Constitution. It provides

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Although the 24th Amendment prohibited the poll tax in Federal elections, even that wasn't enough to prevent a last-ditch attempt to burden the right to vote with a tax or tax related complications. In Harman v. Forssenius, 380 U.S. 528 (1965), the Supreme Court struck down a Virginia law requiring federal electors to file burdensome paperwork if they did not pay a poll tax.

The summer of 1964 is known in our history as Freedom Summer. That summer, students who had participated in or become motivated by the lunch counter sit-ins and the freedom rides to integrate interstate bus terminals during the prior two years, now turned their attention to registering poor Southerners, primarily African Americans, to vote. They attempted to work all over the deep south, and in every county of Mississippi doing this. Early that summer, three young workers, Andrew Goodman, James Cheney, and Michael Schwerner, were murdered in Mississippi by Ku Klux Klan members, yet the registration effort went on, more purposefully than ever, and the publicity about Freedom Summer and the ultimate sacrifice paid by those young workers, helped to persuade the Congress in 1965 to pass sweeping legislation to further prohibit interference with the right to vote.

Among other things, the Voting Rights Act of 1965 repeated the prohibition of poll taxes for state elections. And the Supreme Court independently declared poll taxes to be an unconstitutional violation of the equal protection clause of the 14th Amendment in Harper v.

Virginia State Bd. of Elections, 383 U.S. 663 (1966). (meaning that even without the 24th amendment or the Voting Rights Act, poll taxes would be unconstitutional).

In 1971, just 43 years ago, the 26th amendment was added to the Constitution; it says that the right of those “Who are eighteen years of age or older, to vote, shall not be denied or abridged by the United States or by any state on account of age.” This of course came about due to the Vietnam War. Young men were being drafted in staggering numbers, yet many of them who were under the age of 21, were prohibited from voting, and thus having any voice concerning the legitimacy and wisdom of the conflict where they were being asked to lay down their lives.

When we reflect on all of the struggles involved in establishing the voting rights that we possess today, how can we not honor that struggle by voting at every opportunity?

Current Threats to the Right to Vote & What We Can Do In Response

Big topic. Many challenges to voting continue today. Repeatedly, we see those who drape themselves in the flag, trying to enact state laws and rules which impair the free exercise of the right to vote. I will cite but two examples that I find particularly offensive as I close.

States are all over the place on the issue of whether previously convicted felons, who have served their time, can vote. In Michigan,

believe it or not, felons' right to vote is restored after they are released from incarceration. 12 other states and DC have the same rule. In 24 states, the right resumes after completion of parole or probation. And in Maine and Virginia, anyone can vote, including those in prison! But In 11 states, felons risk losing the right to vote permanently.

Why is this important to me? Because I believe that one's debt to society is paid in full once imprisonment is over, and that a natural extension of that belief is the restoration of most rights, including the right to vote.²

This is also an important issue because our prison population has been so huge in the past decades that there is the potential of disenfranchising an enormous number of people, including a vastly disproportionate number of men of color. For me, just as the 18 year old boys of my youth should have, and got, the right to weigh in on the conflict that might kill them, those who have seen the insides of our penal institutions should have the right to affect political decisions about the future, including what criminal laws say and how they are enforced.

The second issue that I'm particularly revved up about is identification at the polling place. Proponents of tighter voter ID card rules, again those who drape themselves in the flag and tout democracy

²Some kinds of crimes, usually sex crimes, may subject offenders to permanent limitations on how close they can be to children. Even these lifelong restrictions have proved to be problematic but this is a subject for another day.

while working at every turn to thwart it, say that their proposals are need to prevent vote fraud (ineligible people voting, people voting twice, etc.). The current evidence of vote fraud is virtually non-existent in this country. (Not to say that it didn't happen in the past). Voter fraud is a phony, trumped-up reason to justify more efforts to keep people from voting who might not agree with the flag drapers. Happily, the federal courts are squelching many of these efforts as unconstitutional.

In Michigan, the law says that one may vote by either presenting an identification card or signing an affidavit with the declaration that one who one says he or she is. This law is routinely ignored by local voting officials. The signage at polling places says that an id must be presented, and poll workers do not tell people without id's that they can sign an affidavit and go ahead and vote. It is not clear that all poll workers even know of the affidavit option.

The reason why this is important is this: The flag drapers use the id requirement as another way to try to prevent "undesirables" from voting. The identification cards deemed acceptable cost money, and the id card requirement thus prevents those whose budgets do not allow for such luxuries from voting. Further, there are chunks of our society who have no other need for an id card, the elderly for example, who no longer drive. My mother has no current id, and if she wanted to vote, could not meet an id card requirement.

So, for several years, I have been conducting my own personal surveillance at our local polling places, monitoring for these issues. It is a delicate business: one risks getting kicked out for “interfering” if one is too overt. I purposely never, ever take my ID into the polling place, and when they try to turn me away, I remind them of the affidavit option. Sometimes the poll workers do not know what I am talking about, and the supervisor gets called over. Inevitably, the affidavit form gets located and I get to sign in, but the same poll workers will continue to tell people they need id’s and turn away those who don’t have them. Typically in our community, this has been elderly people and college students. I try to catch some of them in the hallway and counsel them to return and ask for an affidavit. I have taken some photos of the signage as well.

A much better course, I realize, is to attempt to talk with the people who are in charge, who create the signs, to try to bring about compliance with and education about the law. I plan to do this before the next election and will keep you posted on how my efforts fare. In the meantime, I encourage you to join me, and Barb Michael, and Gail Griffith, who have been going to vote ID-less for several years now. It never hurts to reinforce the right to vote without an ID at every opportunity. And pay attention to the news about other states’ efforts

to tighten id requirements even more, plus all of the other impediments the flag drapers put up to prevent democracy from happening.³

And finally, please exercise your right to vote. It was hard-won and you honor those who fought for it, and the others who vote, whenever you go to the polling place.

³ Examples include not enough polling places, long lines with no restroom facilities nearby, faulty voting equipment, and confusing ballots.