

Statement of Senator Russ Feingold (D-WI) on the Democracy Restoration Act of 2008

MR. FEINGOLD: Mr. President, in a democracy, no right is more important than the right to vote; in our democracy, no right has been so dearly won. This country was founded on the idea that a just government derives its power from the consent of the governed, a principle codified in the very first words of our Constitution: “We the People of the United States.” From the Civil War through the women’s suffrage movement through the Voting Rights Act of 1965 through the 26th Amendment, the continuing expansion of the franchise, a broadening of who “we the people” are, is one of our great American stories.

And so today I will introduce the Democracy Restoration Act of 2008. This bill will guarantee that citizens who are not incarcerated have the right to vote in Federal elections. I am pleased that the Senator from Rhode Island, Sen. Whitehouse, and the Senator from Maryland, Sen. Cardin, have agreed to be a cosponsor.

Once, only wealthy white men could vote in this country. Once, African Americans, ethnic minorities, women, young people, the poor, and the uneducated were all excluded. Today, we look back at those times and wonder how our country could have denied its citizens such a fundamental right for so long. And yet today, we continue to disenfranchise an estimated four million of our fellow citizens who were convicted of felonies but are no longer in prison. Two million of these people have fully served their sentences, and the other two million are on probation, parole, or supervised release. These people are living and working in the community, paying taxes, and contributing to society. But they cannot vote.

At this time, ten states still strip people who have completed their sentence—who have paid their debt to society—of their right to vote. Some 35 states deny the vote to people on parole, and 30 of those states also deny the vote to people on probation. I believe that the practice of stripping our fellow citizens of their voting rights is un-American. It weakens our democracy. It is an anachronism, one of the last vestiges of a medieval jurisprudence that declared convicted criminals to be outlaws, irrevocably expelled from society.

This principle was called “civil death” and in medieval Europe, it was reserved for the worst crimes. And yet today, here, in the greatest democracy in the world, we continue to sentence four million people—people who have served their time, people who are contributing members of society—to civil death.

One might ask how something as undemocratic as civil death could have survived to the present day. Unfortunately, Mr. President, the practice of

disenfranchising people with felony convictions has an explicitly racist history. Like the grandfather clause, the literacy test, and the poll tax, civil death became a tool of Jim Crow.

Across the country, thirteen percent of African-American men are disenfranchised because of a felony conviction. As of 2004, in 14 states, felony disenfranchisement provisions had stripped more than ten percent of the entire African-American voting-age population of the right to vote. In four states, they had disenfranchise more than 20 percent of eligible African-American voters.

The architects of Jim Crow would be proud of their handiwork, and how it has lasted long after the rest of their evil system was dismantled. The rest of us should be ashamed, and yes, outraged. If we believe in redemption, we should be outraged. Because civil death has denied four million Americans a chance at redemption. If we believe in progress, we should be outraged. Because civil death keeps this country chained to the worst moments of our past. If we believe in democracy, we should be outraged. Because civil death strikes at the heart of our democracy.

There is a growing movement across the country to expand the franchise and restore voting rights to people coming out of prison and reentering the community. In the last decade, 16 states have reformed their laws to expand the franchise or ease voting rights restoration procedures. This bill continues that movement. It provides that the right to vote for candidates for Federal office shall not be denied or abridged because a person has been convicted of a crime unless that person is actually in prison serving a felony sentence. It gives the Attorney General of the United States the power to obtain declaratory or injunctive relief to enforce that right. And it gives a person whose rights are being violated a right to go to court to get relief.

The bill also requires federal and state officials to notify individuals of their right to vote once their sentences have been served. This is an important part of the bill, given the long history of these civil death provisions. Even after this bill passes, many ex-offenders may not know their rights, and we should take affirmative steps to make sure that they do. No one should be disenfranchised because of lack of information.

Upon signing the Voting Rights Act of 1965, President Johnson said:

The vote is the powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls which imprison men because they are different from other men.

Mr. President, when prisoners return to their communities after serving their sentences, we expect and hope that they will reintegrate themselves into society as productive citizens. Yet, without the right to vote, rehabilitated felons are already a step behind in regaining a sense of civic responsibility and commitment to their communities. If our country wants ex-offenders to succeed at becoming better citizens, who both abide by the law and act as responsible individuals, then we need to restore this most fundamental right. I urge my colleagues to support this important legislation.

I ask unanimous consent that the text of the bill be included in the Record following my statement. I yield the floor.