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How Much Longer will African Americans be Disenfranchised? (2023-2024)

Pierce Burm

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“How Much Longer will African Americans be Disenfranchised?” Pierce Burm (research inquiry example)

Questions to Consider For Discussion and Reflection

A research inquiry asks students to find, evaluate, synthesize, and use many sources in order to enter into a specific conversation. As you read Burm’s essay, consider the following questions:

- Burm’s research inquiry synthesizes a number of legal and legislative sources. How or why do you think the author selected these kinds of sources to demonstrate the systemic racism involved in voter suppression? What kinds or genres of sources do you think best fit your own research inquiry?
- In the structure of the essay Burm organizes information in a geographic sequence by moving from examples in Mississippi to Alabama, and then to Tennessee. How does this organizational structure work in the essay as a whole? What other kinds of sequencing might Burm have chosen? Why do you think Burm ultimately decided to use each state as a way to synthesize information?
- While Burm concludes the essay with a gesture to other forms of systemic racism in U.S. history, the overall essay remains tightly focused on voter rights and disenfranchisement. Why do you think that Burm makes this choice to focus on voting as opposed to a more general conversation on systemic racism? How does limiting the scope of the research inquiry allow for greater specificity and examples? What can this choice suggest about the scope of your own research inquiry?

How Much Longer will African Americans be Disenfranchised? by Pierce Burm

Many different states throughout the south have implemented ways to keep African Americans from voting since the Fifteenth Amendment was ratified and provided suffrage to voters of color. Several states have passed laws to prevent African Americans from voting. In order to keep these laws from holding any weight, Congress passed different acts meant to prevent disenfranchisement. These acts include the Civil Rights Act of 1964, the Voting Rights Act of 1965 (VRA), and the John R. Lewis Voting Rights Advancement Act. Although the federal government is trying to prevent voter suppression from taking place, certain state governments and court decisions have pushed back the progress. The *Shelby County v Holder* decision made by the Supreme Court in 2013 set back efforts to end voter suppression by stating that Section five (VRA 3) of the Voting Rights Act was unconstitutional. After the *Shelby County* decision was rendered, many southern states, including Mississippi, Alabama, and Tennessee, implemented laws that legally led to the disenfranchisement of African Americans, ultimately a set of unjust actions.

The Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex, or national origin. This act prohibits discrimination in public accommodations and federally funded

programs. The Civil Rights Act ended the application of Jim Crow laws throughout the southern states. The VRA was one of the most important acts passed to help African Americans gain suffrage. This act outlawed literacy tests and provided for the appointment of federal examiners. Section five of the Voting Rights Act required covered jurisdictions to obtain preclearance from the District Court of the District of Columbia, or the US Attorney General for any new voting practices. Section two of the Voting Rights Act applied a nationwide prohibition of the denial or abridgment of the right to vote based on race or color (VRA 1).

The *Shelby County v Holder* decision deemed Section five of the Voting Rights Act unconstitutional. This decision allowed states to make changes to voting rights without the approval of the first District in DC or the Attorney General. The states that were forced to get preclearance before this decision were Alabama, Georgia, Louisiana, Mississippi, South Carolina, Texas, Virginia, and certain parts of Florida and North Carolina. The John R. Lewis Voting Rights Advancement Act reinstated the preclearance requirements that Section five of the Voting Rights Act had previously implemented. States that meet the requirements of preclearance are forced to submit changes to voting practices before they are instated. If a state violates the following three requirements, then they are subject to preclearance: 15 or more voting rights violations during the previous 25 years, 10 or more voting rights violations that occurred during the past 25 years with at least one committed by the state itself, or 3 or more violations that occurred during the past 25 years that led to the state administering the election (John R. Lewis Voting Rights Act). Along with preclearance requirements, the bill also authorizes the Department of Justice to require states to provide certain documents or answers to questions for enforcing voting rights. These acts are meant to keep states from disenfranchising African Americans but states such as Mississippi, Alabama, and Tennessee have a poor history of passing laws to keep African Americans from voting. It is evident in state laws that these three states are preventing African Americans from voting and violate their Fifteenth Amendment rights.

Mississippi has spent years trying to keep African Americans from voting. In 1890, Mississippi held a second constitutional convention to write a new constitution that had many sections designated to keep African Americans from voting after the ratification of the Fifteenth amendment. Section 241 implemented a felony-disenfranchisement scheme which led to the disenfranchisement of anyone convicted of bribery, burglary, theft, arson, obtaining money/goods under false pretenses, perjury, forgery, embezzlement, or bigamy (Mississippi Constitution p. 105). Section 243 of the new constitution implemented a \$2 poll tax, which is equivalent to \$59.71 in 2021 (Mississippi Constitution p. 106). Section 244 added a literacy test but left the implementation of said test to the clerk's discretion (Mississippi Constitution p. 107). These sections led to less than 1% of Black Mississippians being registered to vote in 1940. After 1940 and into the Jim Crow era, the state legislature made many changes that affected Black Mississippians. For example, in 1960, they amended the Mississippi constitution to require "good moral character" as a qualification for voting in an effort to disenfranchise black voters; it is important to note that good moral character is not defined in the constitution, therefore clerks are left to decide whether a person fits this qualification or not. In 1964, Mississippi experienced the Freedom Summer, a campaign to highlight the ongoing oppression in Mississippi and to register African American voters. One of the most influential people involved with the Freedom Summer Campaign was Robert Moses, who worked with Northern white student volunteers to organize voter registration drives across the state; among the volunteers, seven were killed, more

than a thousand participants were arrested by local police, and dozens were beaten. One year after the Freedom Summer, the Voting Rights Act of 1965 was passed, which effectively ended the Jim Crow Era.

The VRA required specific states to gain preclearance before enacting any voting practice changes. This Act led to the Department of Justice issuing 169 objections to voting changes in Mississippi between 1965 and 2006. Currently it is harder to vote in Mississippi than in almost any other state in the country and Mississippi was ranked 47th in voter turnout in 2020. This inability to vote is due to strict laws surrounding voting in person, the inability to obtain an absentee ballot and most of all due to the photo ID requirement. People in Mississippi find it very difficult to register for an absentee ballot. A Jasper County resident named Candice shared her experience trying to obtain an absentee ballot for her 90-year-old grandma. Candice's grandmother, Gladys, is over 65 and entitled to vote by mail-in absentee ballot under Mississippi law. Gladys is still forced to request an absentee ballot for each election (SPLC). In order to vote in Mississippi, voters must obtain a state issued photo ID; this law was introduced within hours of the *Shelby County* decision by the Supreme Court. Along with the photo ID requirement, Mississippi's election officials often move polling locations without notifying voters. The location changes often take place in Black communities, which leads to the small number of registered Black voters being able to vote because they are unaware of the location. There are many stories from residents of Mississippi who upon reregistering to vote were turned away from their polling location and forced to cast their ballots in different places or were kept from voting during that election year. In the Southern Poverty Law Center report on voting rights there are 33 examples of voter suppression provided. A Harrison County resident named Joanne moved in the fall of 2020 and re-registered to vote at her new address, but on election day she was turned away from the polling place at which she registered and was forced to cast her ballot at a different location that was thirty minutes away (SPLC). African American voters are 38% of Mississippi's overall population but they make up 59.2% of the disenfranchised population (SPLC). With Section five of the Voting Rights Act deemed unconstitutional and state legislation able to work around the laws put in place by Congress, Black voters will continue to be suppressed unless something changes.

Alabama, like Mississippi, has put a lot of time and effort into preventing voters of color from exercising their Fifteenth Amendment rights. In 1901, Alabama wrote a new constitution that was intended to permanently establish Black Alabamians as second-class citizens by enshrining segregation, racial discrimination in voting, and other racist policies into the law. At the time of the Voting Rights Act was passed, only 19.4% of African Americans of voting age were registered to vote, and under Section five, between 1969 and 2013, the Department of Justice blocked over 100 proposed voting changes in Alabama. (SPLC). Just as Mississippi wasted no time in passing a photo ID law, within 24 hours of the *Shelby County* decision, in the exact county that was involved, Shelby County, a voter photo ID law was put into effect, requiring voters to present an approved form of photo ID to vote. There are many stories about how photo ID requirements have disenfranchised voters of color. In the SPLC report on voting rights in Alabama, 56 examples of voter suppression are provided, including photo ID requirements. For her parents to vote in the 2016 election, a resident of Butler County, Rosalind, had to take her 91-year-old parents to obtain new photo IDs. Both of Rosalind's parents are in wheelchairs, making it even more difficult to get them into the courthouse to obtain IDs. Once obtained, Rosalind had

to make photocopies of the IDs to attach to her parents' absentee ballots. The requirement of photo IDs keeps Black voters like Rosalind's parents from exercising their rights.

Alabama also has a record of closing or moving polling locations without letting voters know that their locations changed. When Karen, a voter in Colbert County, went to vote on Election Day in 2020, she discovered that her normal polling location was closed, and her new location was much further from her home and not accessible by public transportation (SPLC). In Madison County, Alabama, four polling locations were closed despite a 13% population growth between 2010 and 2020 and an increase of 40,000 voters between 2016 and 2020. This is significant because 24.3% of Madison County's population is black. Alabama, along with Mississippi, has extremely strict voting and election day restrictions. Alabama is one of 11 states that does not offer in person early voting, and they only allow absentee voting in narrow circumstances, imposing restrictions on those that qualify.

Many people are disqualified from voting and registering within Alabama, including those who are convicted of treason, murder, arson, embezzlement, robbery, crimes involving moral turpitude, and so many more. The moral turpitude section of the Alabama constitution was struck down in the SCOTUS in *Hunter v Underwood*. Although it was struck down, in 1996, the Alabama legislature passed Constitutional Amendment 579, which effectively restored the moral turpitude clause. This amendment has caused an estimated 286,000 Alabamians to lose their right to vote (SPLC). Moral turpitude is very vaguely defined as an immoral act; it was written this way to disenfranchise African Americans. Recently within Alabama, in the last two election cycles, Black registration and turnout has fallen below that of whites. In 2020, white registration exceeded black registration by over 10 percent and white turnout by over 8 percent. The aforementioned John R. Lewis Voting Rights Advancement Act was introduced in Alabama in 2019. Since the Fifteenth amendment was ratified and franchised African Americans in the US, Alabama has prevented them from voting. Whether it is through amendments to their state constitutions or moving or closing polling locations, African Americans have struggled to vote in Alabama for over 100 years. Along with Alabama and Mississippi, Tennessee has many state laws put in place to prevent African Americans from voting.

Tennessee has one of the worst histories of preventing African Americans from voting. During his tenure as Governor of Tennessee, Dewitt Senter and his government repealed freedmen's right to vote and authorized poll tax for later use. In 1889 and 1890 Senter signed three election bills related to limiting the vote and making it harder for poor and illiterate people to vote. The first bill was the Myers Law which required voters that lived in districts or towns that had cast more than 500 votes in 1888 to re-register at least 20 days before each election. The next bill was the Lea Law, passed to prevent federal supervision of state elections through the creation of separate boxes for federal and state ballots. The third bill put into law was the Dorton Law which banned voters from receiving help to fill out their ballot unless they had voted in 1857, which was 10 years before black men had gained the right to vote (PBS). These three bills made it almost impossible for African American men to vote in Tennessee. The previously mentioned poll tax was not repealed until 1953. After all of these bills were enacted John McFerren helped to start a voting registration campaign. John McFerren was a civil rights activist who spent most of his life fighting to help other African Americans register to vote. Sharecroppers that registered to vote were evicted from the land they worked on. Those that were evicted were invited to live on the land of two black farmers. They lived in tents for over two years and experienced violence during this time; KKK members would shoot into the tents (PBS). Currently, along with

Mississippi and Alabama, Tennessee requires a government issued photo ID to vote. Tennessee Legislation passed the voter identification law in 2011 to ensure election integrity (Harvard Law Review 1831-38). This continues to be an issue today.

As in many other states, one in five black Tennessee residents cannot vote because of past felony convictions. According to the Sentencing Project, Tennessee denies voting rights to over 470,000 citizens; this is due to Tennesseans inability to vote due to prior felony convictions. According to the Collateral Consequences Resource Center (CCRC), a person convicted prior to 1973, between 1981 and 1986, and after 1996 is permanently disenfranchised unless they get pardoned by the governor or their vote gets restored by action of the court. Persons convicted between 1973 and 1981, and most convictions between 1986 and 1996, are eligible to vote once they complete their sentence and obtain a certificate of restoration from the Board of Probation and Parole; this certificate must prove that all court debt has been paid and their child support is up to date (CCRC). One citizen, Leola Scott, recently attempted to register to vote but discovered that she was unable to because she was convicted of nonviolent felonies 20 years ago (Fortis par. 1-2). Scott went to the courthouse and a clerk told her she owed \$2,390 for her past conviction. Another example is Pamela Moses, who got her probation officer's signoff to vote again, but a day later the Tennessee Department of Correction stated there was a mistake. Moses was charged with lying on an election document, then convicted and sentenced to six years in prison; the conviction was later thrown out. Although most of the state legislators support the disenfranchisement of Black Tennesseans, some legislators have attempted to make changes. In 2019, two Republicans sponsored a bill that would have automatically restored voting rights to those who completed their sentence and in 2021, two Democrats sponsored a bill that would have granted vote restoration (Fortis par. 26). Just as Mississippi has low voter turnout, Tennessee ranks 49th in voter turnout. With such an abundant history of preventing African Americans to vote, if Tennessee does not change their laws, black voters will continue to be suppressed.

A persistent argument offered by officials in Mississippi, Alabama, and Tennessee is that photo IDs required for voting are necessary to combat voter fraud. In Alabama, proponents of the photo ID law argue that it was created to decrease instances of voter fraud. According to research done by the Southern Poverty Law Center, voter fraud levels are very low to begin with and using photo IDs is not decreasing the levels at all. Alabama also claims its photo ID law is "designed to preserve the credibility and integrity of the electoral process" (SPLC). As aforementioned, the alleged voter fraud is nonexistent within Alabama and this law was enacted to suppress the vote of African Americans. In justifying Mississippi's photo ID laws during a 2021 news conference, Senator Cindy Hyde-Smith recounted how a friend of hers told her that her "deceased father" had voted in an election. Hyde-Smith's friend later told the press that this incident occurred several decades ago, after the death of her father in 1993. Hyde-Smith's friend never reported the incident to authorities, and no one has ever verified her allegations, but that single story from more than two decades ago sufficed to compel Senator Hyde-Smith to assert that voter fraud was "alive and well" (SPLC). To counter this, a 2013 analysis of 2,068 reported fraud cases conducted simultaneously with the enactment of Mississippi's photo ID requirement by *News21* found just 10 alleged cases of in person voter impersonation fraud since 2000. This represents about one instance of voter impersonation for every fifteen million prospective voters (SPLC). Along with Senator Cindy Hyde-Smith, Alabama's Secretary of State John Merrill honestly believes voter fraud is true and a large problem within Alabama. Merrill has dedicated

significant State resources to fighting it, including during the depths of the Covid-19 pandemic. In a local interview in August 2019, Merrill referenced 928 instances of alleged voter fraud reported through an anonymous form. In response to this claim, only two or three instances were found to be actual misconduct. Without reliable evidence, Merrill's office intimidates voters by using the myth of voter fraud to burden thousands of voters of color (SPLC). In Tennessee, the photo ID requirement was implemented to prevent voter fraud from occurring. According to *The Heritage Foundation*, only eleven individuals have been convicted of voter fraud in the 50 years the foundation has been covering voter fraud. The Heritage Foundation, a conservative thinktank, reports instances of voter suppression in all 50 states. The information provided proves that election and voter fraud are infrequent and do not affect the integrity of elections. The myth of voter fraud is used by many states, such as Mississippi, Alabama, and Tennessee, to justify their photo ID requirements, and even without any reliable evidence to back up these claims. The state governments get away with these false accusations and false notions that voter fraud is prevented drastically by the installation of photo ID requirements.

Throughout the United States' incomparable history of systemic racism, states in the south have prevented African Americans from voting ever since the 15th Amendment was added to the Constitution. States such as Mississippi, Alabama, and Tennessee have passed bills and circumvented Supreme Court decisions and acts passed to prevent voters of color from voting. All three of the states previously mentioned are still implementing laws and closing polling locations to prevent African Americans from voting. In Alabama, Mississippi, and Tennessee one of every thirteen adults is disenfranchised (Uggen et. al.) Voter suppression is such a prevalent issue throughout the United States and without strict bills being passed more and more states will implement measures to diminish the miniscule vote that African Americans do have.

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