

The



Democratic Voice

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July Meeting
Monday, July 18
Balancing National Security
And Privacy Rights
Panel Discussion

Harry's Hofbrau
390 Saratoga Ave, San Jose
Dinner 6 PM, Meeting 7 PM

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Voter suppression—past and present

by Shirley Odou, Editor

With starry-eyed assurance, we Americans celebrate our democracy, convinced that it is a model for the rest of the world to emulate. At the heart of our confidence is the right to vote. As Dr. Garrick Percival, San Jose State University Political Science professor and SCCDC guest speaker in June, said, “the right to vote is a cornerstone of democratic governance.” Yet the struggle for suffrage in this country has been “a slow, uneven march to achieve greater access, greater participation, and greater equality.” Despite progress, universal suffrage remains an ideal with some citizens still blocked from voting and others, for whatever reason, not exercising their franchise. In the last few years, incredibly inconsistent with the paradigm we proclaim, several states have passed laws making it more difficult to vote, measures that could be decisive factors in the outcome of the 2016 election.

Historical Background

Tracing the history of voting rights from the country’s inception through the 20th Century and to the present, Percival noted that in the early days of the Republic only white male property owners were allowed to vote. By 1830 voting rights were expanded to include white male non-property owners. It was not until 1870 in the aftermath of the Civil War that blacks could vote with the passage of the 15th Amendment stating that the right of citizens to vote “shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.” Fifty years later in 1920, the 19th Amendment giving women the right to vote became the law of the land. The 26th Amendment lowering the voting age to 18 was adopted in 1971.

For every step forward, there is “inevitably a backlash.” “We’re seeing this happen with the Equal Rights movement,” Percival said, and earlier, with the Jim Crow



Dr. Garrick Percival

laws implemented primarily in the South following the Reconstruction Era. Once they had gained the right to vote, African-Americans went to the polls in large numbers, according to Percival, “gaining positions of political power.” In the late 1800s and the early 1900s, to counter the growing influence of black voters, “a number of policies were adopted in mostly the Southern states that tried once again to restrict African-Americans’ right to vote. They came in several forms—poll taxes, literacy tests, and grandfather clauses that stated if your grandfather could vote before the 15th Amendment, you could vote, but if not, then you couldn’t. So obviously this only allowed whites to vote.” While these laws applied, with the exception of the grandfather clauses, to whites as well as blacks, written purposefully not to be in conflict with equal protection under the law laid out in the 14th Amendment, they disproportionately affected African-Americans, leading to thousands of them being turned away at the polls.

Voting Rights Act

The 1960s saw dramatic change in the country brought about by the civil rights movement, beginning in the 1920s, and culminating with the passage of the Voting Rights Act, thus officially putting an end to Jim Crow laws. In *(continued on page 3)*

Balancing national security and privacy rights: a panel discussion

by Shirley Odou, Editor

Reopening the question of security versus privacy was the San Bernardino attack that killed 14 people on December 5, 2015. When Apple refused to provide the FBI with information from the perpetrator’s cell phone, arguing that to do so would compromise their customer’s privacy, the government demanded the corporation comply. Tim Cook, CEO, dubbed the demand “government overreach.” With continuing acts of violence that may be linked to terrorist groups, finding a balance between protecting national security and privacy rights is crucial. On July 18, SCCDC will host a panel discussion with participants DA Jeff Rosen, Defense Attorney Daniel Mayfield, and activist Rami Elkinway, each presenting his own perspective. They will be considering whether Americans should be prepared to give up some of their privacy for greater security or whether the government has already gone too far in invading our personal privacy. (www.debatewise.org)

Jeff Rosen, District Attorney for Santa Clara County has a distinguished record as a prosecutor. His mission as DA is to vigorously pursue justice in a fair way and treat everyone with respect. He oversees the largest prosecutor’s office north of Los Angeles, serving a population of about 1.3 million. He is a graduate of Boalt School of Law. Dan Mayfield has been practicing law since 1979. A frequent speaker at the Santa Clara University Law Clinic and a former member of the Executive Committee of the Santa Clara County Bar Association, he is currently a member of the California Attorneys for Criminal Justice, the California Public Defenders Association, and the National Lawyers *(continued on page 4)*

“Republicans will do anything to win an election—except get the most votes.” ~ Bill Maher

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Board requests club endorsements for Helen Chapman, Jimmy Nguyen

by Tom Pyke and Fred Rehhausser, Endorsement Co-chairs

Earlier this year, the club membership voted to endorse Ash Kalra for State Assembly District 27, Norm Klein for San Jose City Council (SJCC) District 6 and Josh Barousse for SJCC District 8, along with no endorsement in the 17th Congressional district race (Honda-Khanna).

At its June meeting, the Executive Board voted to affirm the club's tradition that the membership's endorsement would not be reconsidered unless our endorsed candidate lost in the primary. Specifically, there will therefore be no reconsideration of the club's endorsement votes in the AD-27 or CD-17 races.

But what happens when our endorsed candidate does *not* make it to the general election as a top

two finisher in the "jungle primary"?

In SJCC-6, Norm Kline did not finish in the top two. Club member Helen Chapman finished in a dead heat with Republican Dev Davis, and will fight on until November. Given that Helen was the top vote-getter among six strong Democratic candidates, is a highly valued candidate in her own right, and will be running against a Republican, the Executive Board voted unanimously to recommend that the membership vote to endorse Helen at our July 18 meeting.

In SJCC-8, our endorsed candidate, Josh Barousse, finished out of the running as well. Two Democrats, Jimmy Nguyen and Sylvia Arenas, were left to contest the

general election. In April, club member Nguyen participated in our candidate forum and was second in our voting, falling three votes short of the two-thirds needed for a dual endorsement. On the other hand, Arenas chose to not participate in our forum. Our basic rule is that a candidate needs to participate in our forum (if there is one) in order to be endorsed. Under these circumstances, the Board also voted unanimously to request that the membership vote to endorse Jimmy at our next meeting.

If two-thirds of the qualified membership (members 50 days before the July 18 meeting) votes in the affirmative, then Helen Chapman and Jimmy Nguyen will join Ash Kalra as club-endorsed candidates. The Board encourages you to support these fine Democratic candidates!!

Arguments against VTA's 2016 tax ballot measure

by Rob Means, President

(On June 7, 2016, SCCDC President Rob Means made a 3-minute presentation to Milpitas City Council opposing the VTA tax measure. The measure will be on the ballot in November. Following are his arguments. Shirley Odou, Editor).

Vote against this measure because VTA plans to spend one of every 4 dollars on a boondoggle. One-fourth of all the money collected goes toward the BART connection between Berryessa and Caltrain, sometimes known as the BART Burrow.

The BART Burrow is a boondoggle in two big ways. First, at a price of \$470 million, BART technology costs 20 times as much as Personal Rapid Transit

(PRT) technology to accomplish the same level of service. VTA wants to spend \$470 million on the BART Burrow, when just \$200 million of PRT technology would do the job. In fact, given how noisy and rough BART rides are now, PRT would deliver better service—quieter, smoother, and 24/7 operation.

The second big reason "boondoggle" is appropriate for the BART Burrow is over-capacity—10 times more than needed. Commuter rail like BART can handle up to 60,000 people per hour in just one direction. However, VTA estimates that 55,000 people per day (p/d) will use both directions of the BART Burrow. Clearly, BART is way oversized for the demand. PRT with a capacity of 3,000 to

5,000 people per hour, is scaled appropriately to the demand along the BART Burrow route.

Perhaps the worst thing about a boondoggle is the opportunity costs—that is, all the transportation projects that we could have done with that money. At a time when global warming threatens the human species, we can't afford to wait. For example, just 1% of the cost of the BART Burrow could build a much-needed PRT loop to serve the Milpitas BART station and help use some of the over-capacity there.

Insist on a better plan! Reject VTA's proposed BART Burrow connection and the tax they would use to fund it. Vote NO on this measure in November.

(continued from page 1: VOTER SUPPRESSION—PAST AND PRESENT) Percival's view, "The Voting Rights Act was one of the most important pieces of legislation passed in the 20th Century along with the Civil Rights Act."

In explaining the Act, which he called "very complex," he focused on two "primary areas," Section 4 and Section 5. Section 5 sets out "covered jurisdictions," sixteen states, most of which are in the South with a history of discrimination at the polls, must seek "pre-clearance" (approval) from the Department of Justice before making changes in voting laws that would violate the 15th Amendment. Under Section 4, Congress created a formula to determine whether a state or county was a "covered jurisdiction." The VRA results were spectacular with voter registration among African-Americans increasing three and four fold after its implementation. For example, in Mississippi before VRA was passed in 1965, only about 6% to 7% of African-Americans were registered to vote; two years later that number had risen to 60%. With that kind of demonstrable success, in 2006, Congress reauthorized it for an additional 25 years by a 98 to 0 vote in the Senate, and 390 to 33 in the House.

Then in 2013 in the *Shelby vs. Holder* case, (a lawsuit challenging the VRA filed by a small county in Alabama,) the United States Supreme Court struck down VRA's Section 4 in a 5-4 decision that rendered Section 5 "unenforceable." The conservative majority in the Roberts Court argued that the formula in Section 4 needed to be updated by the Congress. So far, the Republican-dominated Congress has not taken any action to address the issue, a consequence of the Supreme Court ruling that Percival believes Roberts anticipated.

Voter ID Laws

In recent years, several states have found a subtler way to restrict voting, thereby avoiding violation of the Constitution. Among these are voter ID requirements. South Carolina in 1950 was the first state in the nation to call for a photo ID. Twenty years later Hawaii followed suit, enacting its own form of voter ID law. By 1980, five states in all had some requirement for voter identification at the polls. Presently that number has risen to include 33 states, seventeen of which require photo IDs; the other 16 accept some form of ID with the voter's name and address, such as a bill or canceled

bank check.

One of the states with the strictest ID laws is Indiana, accepting only government-issued documentation with photos. Should voters fail to have their IDs with them when they vote, they fill out a provisional ballot at the polls, then must go to their registrar of voters office within a limited number of days to show their documentation to prove they are who they said they were when they voted. Several groups, concerned about this additional step in the process, filed a lawsuit against the state, arguing that this "put an undue burden on a citizen's right to vote." The case *Crawford vs. Marion* was brought to the United States Supreme Court on an appeal from a lower court in 2008. In a 6-3 decision with John Paul Stevens authoring the majority opinion, the Court upheld Indiana's law under the 14th Amendment, stating "that the state had a compelling state interest in trying to weed out potential fraud which has to be weighed against any burden placed on the voter," even though the Court "did not show any proof of voter fraud." A significant ruling joined by liberal Justice Stevens, it "opened the door for other states to adopt their own strict form of ID laws." And, in fact, studies have shown that voters, after filling out provisional ballots, rarely follow through by going to their registrar of voters offices with their IDs, resulting in their votes not being counted.

There are two types of "voter restrictive laws: the strict ones like Indiana's, now adopted by eleven states; and the non-strict. With non-strict voting requirements, voters without photo ID or some other acceptable form of ID when they come to vote can sign a sworn affidavit which the poll worker can immediately check against the signature on the voter registration rolls. Voters can even have someone who knows them vouch for them to let the poll workers know that they are who they say they are.

Evaluating Voter ID laws

In evaluating the effectiveness of these laws in accomplishing their purported goals, Percival presented his analysis based upon two questions: "Is there evidence these laws help prevent fraud; and, Do they tip the outcome of elections?"

To answer the first question is to conclude that it is a non sequitur. After numerous studies by independent scholars employing different methodologies and

the Government Accountability Office, no systematic evidence of in-person fraud has been found, i.e., a person appearing at the polls pretending to be someone else. The indisputable record leads to one conclusion: There is no in-person voter fraud.

As far as whether Voter ID laws affect the outcome of the election, Percival said research in this area is meager and murky at best. In a study published in the journal *Politics* in 2009, the conclusion was that they had "little to no main effects on turnout." However, Percival proffered that in marginal races like in Florida in 2000, they could play a major decisive role. And since they fall heavily on ethnic and racial minorities, as well as the poor and older people, Percival sees them as a "third dimension" in evaluating the laws. In fact, Eric Holder, who was proactive in defending the VRA during his tenure, on new voter restrictions said, "Some of the achievements that defined the civil rights movement now hang in the balance."

Felon Disenfranchisement

One of the most overlooked unaddressed instances of voter disenfranchisement are felons, now numbering over six million in this country, a group that disproportionately includes African-Americans, many in prison because of drug convictions. In fact, one in thirteen blacks cannot vote due to a felony. In Florida, 25% of African-Americans, totaling 500,000 people, are disenfranchised felons, and will never regain their right to vote, even after having paid their debt to society. Some states do restore felons' franchise, permitting them to vote once they have completed their sentences. Still even many of those who could vote fail to do so, either misinformed or unaware that they have the right to vote. Pointing to the 2000 Florida election, Percival maintained that the presidential race would not have been decided by 537 votes had 500,000 African-Americans not been disenfranchised because of a felony, and Al Gore would have won the election outright without the Supreme Court's unprecedented decision.

Other forms of voter suppression

In addition to the Supreme Court gutting the VRA, new Voter ID laws, and felon disenfranchisement, Republican-dominated states have found new ways to make it more difficult to vote. These include cutting down *(continued on page 4)*

News & Notes

Santa Clara County Democratic Party invites you to the **Free Democratic Party Unity Picnic** on Saturday August 6, 2016. Join friends, activists, candidates and elected officials at Emma Prusch Park (647 South King Road, San Jose,

CA 95116) for a day of fun and friendship. Food and drinks are provided, so make sure to mark your calendar today! Please RSVP at (408) 445-9500 by July 23rd.

Move to Amend is screening **Michael Moore's movie** *Where to Invade*

Next on August 15 from 6 PM to 9 PM in the banquet room at Harry's Hofbrau, 390 Saratoga Avenue in San Jose. The movie will begin at 6:30 PM following a no-host dinner at 6 PM. There will be a 15-minute intermission at 7:30 PM. The event sponsored by MTA is free to the public.

(continued from page 3: VOTER SUPPRESSION—PAST AND PRESENT) on polling places, creating long lines on election days, eliminating early voting, and same day registration, purging the rolls of legal voters, and restricting third party voter registration drives, among many others. The League of Women Voters and Rock the Vote, an organization focused on registering young people, suspended their registering drives in Florida, facing substantial fines if they did not meet the timeline for turning in forms set by the state. These kinds of restrictions on voter registration drives are not exclusive to Florida, but are among the most onerous.

Although southern states have been ahead of the game in adopting policies discouraging participation, even in battleground states like Wisconsin and Ohio voters are facing new barriers. Most of these barriers were passed very quickly in states in which governorships and Legislatures were in Republican hands after the 2014 mid-term elections. Political scientists, Percival

said, measure the “costs” of voting on participation. In 2014 research by Dr. Michael McDonald correlating ease of access with participation found that the “lower the difficulty, the higher the participation rates,” a statistic that should motivate Republicans to keep on finding ways to make it harder to vote. Percival concluded by stressing the importance of Democrats voting in midterms “Democrats do well in presidential election years, but in off-year elections they stay home and this is how Republicans dominate state legislatures nationally and also allow votes to pass” to enact these restrictive voting laws.

Elizabeth MacNamara, President of the League of Women Voters in the United States, testifying before a House committee on contemporary voter suppression said, “The right to vote and have your vote counted is the very foundation of our democracy.”

Our long torturous road to the ideal, universal suffrage, may never be attained by the United States or any democracy, even those with compulsory voting. Yet we most assuredly cannot be the model for the world when we undo the progress we have made. Nor can we or should we stand in judgment of nations new to democratic governance, countries who have only known monarchic and autocratic rule, and dictatorships for being slow in developing as democracies when we look back at our own history.

(continued from page 1: BALANCING NATIONAL SECURITY AND PRIVACY RIGHTS) Guild. Rami Elkinway is a member of the Executive Committee of the Bay Area Council on American-Islamic Relations. He holds a BA in Economics from UCLA, and various professional certifications in the areas of project management and information security. A Q & A session will follow the panelists' discussion.

The meeting will be held in the banquet room at Harry's Hofbrau 390 Saratoga Avenue in San Jose. The program begins at 7 PM following a no-host dinner at 6 PM. If you wish to join us for dinner, please try to arrive no later than 6 PM. There will be a short business meeting at approximately 8:30 PM, including an endorsement vote (See page two). For more information, call 408-247-9513.

Upcoming Events

July 18—SCCDC General Meeting, Harry's Hofbrau, 390 Saratoga Ave., San Jose. Dinner at 6; meeting at 7 PM.

July 21—Clean Money Campaign Meeting, Democratic HQ, 2901 Moorpark Ave, Suite 110, San Jose 7 PM.

July 27—SCCDC E-Board Meeting, Headen-Inman House, 1509 Warburton, Santa Clara, 7 PM. Coffee and dessert will be served.

Look for Your Invitation Soon

Saturday, August 27, 2016

1-4 PM

SCCDC's 35th annual celebration

Breaking the Mold

A Tribute to 10 Democratic Presidents

Who Changed America

And to the 2016 Democratic Presidential Candidate

Guest Speaker

Larry Stone

Santa Clara County Tax Assessor

**BBQ luncheon, entertainment and
Donation Drawing**

Enter to win one of our fabulous prizes

Climate change is driven by the population explosion, and CO2 levels are already at dangerous levels

World Population (billions)		Atmospheric CO2 (parts per million)		
1900	Now	1850	Safe	Now
1.60	7.2	317	350	405
U.S. Population—324 million (up from 100 million in 1900)				
World Population—7.4 billion				