**Negative Briefs**

Every good case has its adversaries, and that’s what the Negative Briefs are for. When you hear an affirmative case run by Blue Book — a case similar to it — use the Negative Briefs to build arguments against it.

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NEGATIVE: REPEALING THE 17TH AMENDMENT

**(Some of the evidence in this brief was researched by Simon Sefzik.)**

OVERVIEW / CRITERION / BACKGROUND / PHILOSOPHY

Philosophy: Allowing the American People to vote vs. state legislators that could abuse.

Sally Kohn 2010. (Bachelor's degree in psychology - George Washington University. Dual degree from New York University School of Law in public administration and legal studies. Root Tilden public service scholar at the New York Univ School of Law) Huffington Post, “The 17th Amendment is Good for America” 14 June 2010, <http://www.huffingtonpost.com/sally-kohn/the-17th-amendment-is-goo_b_611203.html>

Madison said, "The essence of Government is power; and power, lodged as it must be in human hands, will ever be liable to abuse." So the question is, who do you trust more? Do you trust the American people to directly elect our government? Or do you want to give more power to state legislators for them to potentially abuse? Do you want to believe that the American people can wisely change and carryout the governance of our nation, including amending the Constitution? Or do you think that a few wealthy elites from centuries ago still know absolutely best how our country should be run today?

Reverse Advocacy: The quality of State legislatures suggest repealing the 17th would be a really bad idea

Joshua Spivak 2010. (senior fellow at the Hugh L. Carey Institute for Government Reform at Wagner College. J.D. from Columbia Law School) Forbes, “Don't Repeal The 17th Amendment” April 2 2010 <http://www.forbes.com/2010/04/02/seventeenth-amendment-repeal-louie-gohmert-opinions-contributors-joshua-spivak.html>

The argument to get rid of the direct election of senators is a tough sell. It goes against the strong current in America favor of increased democracy. Though they claim it would benefit the populace by restoring the federal-state balance and presumably limit government, proponents would have to overcome the argument that they, in effect, do not trust the American people to properly select their own officials. These are high hurdles to jump. Just as bad, though, is if voters are asked to take a look at the modern record of state legislatures throughout the country. While they may decide that repealing the 17th Amendment is not the worst idea in the world, they’ll certainly realize it’s up there.

SOLVENCY

Madison & Hamilton: Senators were not intended by the Founders to protect States’ rights

Prof. Terry Smith 2010. (distinguished research professor at the DePaul University College of Law) 22 Oct 2010 Why we have, and should keep, the 17th Amendment <http://articles.latimes.com/2010/oct/22/opinion/la-oew-smith-17th-amendment-20101022> (brackets in original)

That an ostensibly populist movement like the tea party would so openly disdain a populist constitutional amendment is itself a noteworthy contradiction. But the repeal idea also reflects a common misconception of the Senate as a representative of the states as well as a misunderstanding of the true reason for the 17th Amendment's existence. The legislative appointment of senators that preceded the 17th Amendment was not uniformly or even primarily viewed as a means of protecting states' rights in the national government. First, as framers such as James Madison pointed out at the Philadelphia Constitutional Convention of 1787, it was the undue solicitude of state legislatures to popular will that precipitated the effort to form the national government. The appointment of senators by these same legislatures would likewise reflect the sovereignty of the people, not abstract states' rights. Indeed, even under legislative appointment, many state legislatures routinely held popular primaries or conducted polls to determine whom to appoint to the Senate. And once appointed, senators voted individually rather than on a per state basis, and there was no mechanism to recall a senator who cast a vote with which his state legislature disagreed. All of these incidents of the legislative appointment of senators underscore what Alexander Hamilton said of the notion of states' rights being represented by the Senate: "As states are a collection of individual men, which ought we to respect most, the rights of the people composing them or of the artificial beings resulting from the composition[?]"

State legislatures had already lost control over their Senators before the 17th Amendment  
Analysis: Remember, there was never any enforceable law that the Senators had to vote the way state legislatures wanted them to.

Prof. Jay S. Bybee 1997. (Associate Professor of Law, Louisiana State Univ.) ULYSSES AT THE MAST: DEMOCRACY, FEDERALISM, AND THE SIRENS' SONG OF THE SEVENTEENTH AMENDMENT , Northwestern University Law Review, Vol 91 No. 2 <http://scholars.law.unlv.edu/cgi/viewcontent.cgi?article=1365&context=facpub>

The original structure of the Senate left state legislatures in a difficult position. The lack of formal rotation suggested the possibility of a more permanent institution in Congress. The states' inability to recall senators, together with the loss of the power of instruction, limited the influence state legislatures had over the Senate. If state legislatures could not make senators accountable in any unique way, there was little reason to have senators elected by state legislatures. And as senators became less accountable and state legislatures less demanding or vigilant, the states as political entities ceased to be represented in the Senate. In many respects, the Seventeenth Amendment was an acknowledgement of the legislatures' failed control over senators.

No effect on excess scope of federal power - no reason to expect senators elected by state legislators to be opposed to federal power.

Prof. Ilya Somin 2011. (Professor of Law, George Mason University School of Law. M.A. in Political Science from Harvard University; J.D. from Yale Law School. Research expertise includes constitutional law.) “Why Repealing the 17th Amendment Won’t Curb Federal Power” Sep. 2011. Pg. 91 <http://www.fed-soc.org/doclib/20110912_ZywickiSominEngage12.2.pdf>

Repeal advocates such as Gene Healy of the Cato Institute assert that the Amendment “has done untold damage to federalism and limited government.” 3 The assumption underlying such claims is that senators elected by state legislatures would be more interested in protecting state autonomy than senators elected by voters, and therefore more committed to limiting federal power. Unfortunately, repeal of the Seventeenth Amendment is unlikely to have the effect that advocates hope for. This is so for two reasons. The Amendment actually had little if any effect on the scope of federal power because most senators would have been popularly elected even without it. Moreover, there is no reason to expect senators elected by state legislatures to be more opposed to federal power than popularly-elected senators.

Senators elected by state legislators are even MORE likely to support expanded federal power

Prof. Ilya Somin 2011. (Professor of Law, George Mason University School of Law. M.A. in Political Science from Harvard University, and J.D. from Yale Law School. Research expertise includes constitutional law.) “Why Repealing the 17th Amendment Won’t Curb Federal Power” Sep. 2011. Pg. 91 <http://www.fed-soc.org/doclib/20110912_ZywickiSominEngage12.2.pdf>

Even if a constitutional amendment could effectively eliminate popular election of senators and replace it with selection by state legislatures, it is far from clear that federal power would contract. The claim that senators chosen by state legislatures would act to curb the feds relies on the assumption that state governments oppose federal power. Professor Todd Zywicki argues that, before the Seventeenth Amendment, “senators had strong incentives to protect federalism [because] [t]hey recognized that their reelection depended on pleasing state legislators who preferred that power be kept close to home.” 8 Whatever was the case before 1913, under modern conditions senators chosen by state legislatures often have strong incentives to support expanded federal power. Those incentives arise precisely because senators’ reelection depends on “pleasing state legislators.” The state legislators in question are often heavily dependent on federal subsidies and regulations. They are unlikely to do anything to overturn the federal trough at which they themselves regularly feed.

“Senate Candidates don’t have to spend campaign money” Response: Candidates would still spend

Joshua Spivak 2010. (senior fellow at the Hugh L. Carey Institute for Government Reform at Wagner College. J.D. from Columbia Law School. Public relations executive. ) Forbes, “Don't Repeal The 17th Amendment” April 2 2010 <http://www.forbes.com/2010/04/02/seventeenth-amendment-repeal-louie-gohmert-opinions-contributors-joshua-spivak.html>

Repealing the 17th Amendment would not remove this pervasive influence of money in the process. Candidates would still spend a ton of it (both personal and fundraised) to win office–only this time it would be directed at one specific interest group: state legislators. The senators and assembly representatives would be showered with campaign funds and other potential benefits (after all, many of the part-time legislators hold outside jobs). Avoiding bribery and corruption in the selection process was one of the stated impetuses for the 17th Amendment in the first place. Despite a century of campaign finance reform debates and better investigative techniques, nothing has really changed with the state legislature. We may quickly find that enough legislators are still susceptible to financial inducements.

“More representative” Response: Since citizens elect the state legislators & then the legislators elect senators it’s unclear on how that is more representative.

Prof. Steven L. Taylor 2010. (Ph.D., Professor - Political Science at Troy University.) “Repeal the 17th Amendment?” 24 Aug. 2010 <http://www.outsidethebeltway.com/repeal-the-17th-amendment/>

The notion that somehow having the state legislatures choose Senators is more representative of the state’s interest than having the voters of the state choose the Senator is odd on its face. It assumes that the state legislature is more representative of the state than the state’s citizens. Since the former is a non-random sample of the latter, it is rather unclear to me why this would be the case. Further, since the state legislature is chosen by the citizens of the state I am wholly unclear on why giving them the power to choose Senators makes that selection better for the state than allowing the citizens to select the Senators. Why the addition of a group of middle-men/women would improve the quality of selection is beyond me.

Pre-17th Amendment, over half the states figured out how to do popular vote for Senators anyway

Thomas H. Neale 2013. (Specialist in American National Government, Congressional Research Service) 16 July 2013 Filling U.S. Senate Vacancies: Perspectives and Contemporary Developments <http://www.fas.org/sgp/crs/misc/R40421.pdf> (brackets and ellipses in original)

After years of experimentation with different plans by the states, in 1904, Oregon voters used the newly enacted initiative process to pass legislation that had the effect of requiring state legislators to pledge to elect the Senate candidate who received the most votes in the primary elections. By 1911, over half the states had adopted some version of the Oregon system.

Abolishing the 17th amendment might not change anything: States adopted mechanisms that bound legislators to popular vote. Gene Healy, who advocates repeal of the 17th, nevertheless admits in 2010:

Gene Healy 2010 (Vice president at the Cato Institute. B.A. from Georgetown University, J.D. from Univ of Chicago Law School.) “REPEAL THE 17TH AMENDMENT?” 8 June 2010. <http://www.cato.org/publications/commentary/repeal-17th-amendment> (“quixotic” is pronounced quiz-ottik and means a useless quest for an impossible goal; reference Spanish author Cervantes and his character Don Quixote)

And repeal might not change anything. By 1913, more than half of the states had already adopted mechanisms that effectively bound state legislators to the voters’ choice, and it’s hard to imagine their 21st century counterparts ignoring the people’s will in senatorial selection. “Democracy is popular,” Zywicki notes dryly. Repealing the 17th is a noble but quixotic goal. However, by focusing on the damage that amendment did, the Tea Partiers have drawn much-needed attention toward the problems that plague us. And diagnosis, one hopes, is the first step toward an eventual cure.

Popular vote remains: State legislatures will hold popular votes even post-repeal of the 17th

Prof. Akhil Reed Amar 2005. (Professor of Law at Yale Law School, teaches constitutional law; JD, Yale School of law.) “Notes on the 17th Amendment and States’ Rights” 15, Dec. 2005. <http://www.cato-unbound.org/2005/12/15/akhil-reed-amar/notes-17th-amendment-states-rights> [Brackets in original]

As for repealing the Seventeenth Amendment: I once floated this idea as a thought experiment (in a footnote that appeared in The University of Chicago Law Review in 1988). [A pdf of the paper is here. See footnote 98 —ed.]. Then I did more research into the Amendment and the issue seems far more complicated.Prior to the Amendment, many states had improvised de facto direct election systems via party primaries and nonbinding popular votes (aka “the Oregon Plan”). So mere repeal might not change much, unless these improvisations were also prohibited by amendment. Also, the Amendment was an important harbinger of one person/one vote, bypassing malapportioned legislatures and eliminating all sorts of democratic oddities that existed under the pre-Amendment regime.

After repeal, states would keep popular vote.   
[Note: This happens because the state legislature could vote to approve whoever is elected by popular vote, thus technically meeting the Constitutional requirement that the legislature chooses the Senator.]

Prof. Ilya Somin 2011. (Professor of Law, George Mason University School of Law. M.A. in Political Science from Harvard University, and J.D. from Yale Law School. Research expertise includes constitutional law.) “Why Repealing the 17th Amendment Won’t Curb Federal Power” Sep. 2011. Pg. 91 <http://www.fed-soc.org/doclib/20110912_ZywickiSominEngage12.2.pdf>

If the amendment were repealed today, popular election would almost certainly remain in the vast majority of states. As Todd Zywicki recognizes, “Democracy is popular.” In theory, popular election could potentially be blocked if the amendment repealing the Seventeenth included a ban on state legislation designed to ensure that senators are chosen by popular vote. It would be difficult, but perhaps not impossible, to draft an amendment that could effectively preclude all the different devices state legislatures could use to promote popular election of senators.

Senators chosen by Legislatures would be unlikely to oppose federal power any more than Status Quo

Prof. Ilya Somin 2011. (Professor of Law, George Mason University School of Law. M.A. in Political Science from Harvard University, and J.D. from Yale Law School. Research expertise includes constitutional law.) “Why Repealing the 17th Amendment Won’t Curb Federal Power” Sep. 2011. Pg. 91 <http://www.fed-soc.org/doclib/20110912_ZywickiSominEngage12.2.pdf>

But so long as Congress has the power to give the states handouts for virtually any purpose, senators chosen by state legislators are unlikely to oppose federal power any more than current senators do. At this point, there is little prospect that the Court will crack down on federal grants to state governments in the foreseeable future.

DISADVANTAGES

1. Back-room deals and corruption

Link: State legislators could secretly appoint Senators through back-room deals

Sally Kohn 2010. (Bachelor's degree in psychology - George Washington University. Dual degree from New York University School of Law in public administration and legal studies. Root Tilden public service scholar at the New York University School of Law. Chief Agitation Officer of the Movement Vision Lab, organizer, political satirist. Expert Journalist.) Huffington Post, “The 17th Amendment is Good for America” 14 June 2010, <http://www.huffingtonpost.com/sally-kohn/the-17th-amendment-is-goo_b_611203.html>

There's a movement afoot to repeal the 17th Amendment of the United States Constitution which allows for the two US Senators from each state to be "elected by the people thereof." As proof that the Tea Party wants to infringe on your democracy and make it easier for elite corporate interests to control Washington, they want to take away our vote and allow state legislators to secretly appoint Senators through back-room deals.

Link: Pre-17th Amendment voting in Legislatures led to corruption

Prof. Wendy Schiller 2013. ( Associate Professor of Political Science and Public Policy at Brown Univ.) 30 May 2013 “Wendy Schiller: 17th Amendment centennial” <http://news.brown.edu/pressreleases/2013/05/schiller>

We used to elect senators in state legislatures, so the house and senate would vote separately and if they picked the same person with a majority that person would become senator. If they did not, they had to vote every single day thereafter until they picked somebody. About 30 percent of the elections that took place in the later part of the 19th century and early part of the 20th century were conflictual, where they could not agree on the first ballot. And this created a big opportunity for corruption, where state legislators were bribed for their votes.

Historical Example: Bribery in Delaware for a Senate seat

Prof. William W. Boyer and Prof. Edward C. Ratledge 2009. (Boyer - Charles Polk Messick Professor Emeritus in the Department of Political Science and International Relations at the University of Delaware. Ratledge - associate professor at the School of Urban Affairs and Public Policy and the director of the Center for Applied Demography and Survey Research at the University of Delaware) Delaware Politics and Government <http://books.google.fr/books?id=tyvEF0CWc5oC&pg=PA55&lpg=PA55&dq=legislature+senate+seats+vacant+delaware&source=bl&ots=dsG8Rka2Pa&sig=RpFq3gdnD8m6L1lG5ID_guCTiPY&hl=en&sa=X&ei=bPIMUqbwG6io4gTkqoDwDw&redir_esc=y#v=onepage&q=legislature%20senate%20seats%20vacant%20delaware&f=false> (brackets added)

By purchasing the necessary votes, primarily of Republican state legislators who had gained control of the legislature, [John Edward] Addicks sought repeatedly to be named one of Delaware’s two United States senators. In 1899 he received twenty-one of the necessary twenty-seven votes to be elected; in 1901 he received twenty-two votes. Although he ultimately failed to garner enough votes, coming as close as one vote to being elected, Addicks’s efforts split the Republican Party into two factions – so-called Regular Republicans who rejected his bribes and Union Republicans who supported Addicks.

Link: The 17th amendment reduces corruption & prevents bribes

Prof. Akhil Reed Amar 2005. (Professor of Law at Yale Law School, where he teaches constitutional law, criminal procedure, and federal jurisdiction. He is among the most frequently cited scholars of constitutional law. A Legal Affairs poll placed Amar among the top 20 contemporary US legal thinkers. BA, Yale JD, Yale School of law.) Published by Cato Unbound. “Notes on the 17th Amendment and States’ Rights” Dec. 15, 2005. <http://www.cato-unbound.org/2005/12/15/akhil-reed-amar/notes-17th-amendment-states-rights> [Brackets in original]

The Seventeenth Amendment has also probably reduced corruption in state legislatures, whose members were, under the pre-Amendment regime, more than occasionally bribed in connection with Senate elections. And there are other effects to consider, as I explain in my discussion of the Seventeenth Amendment in my new book, America’s Constitution: A Biography, at pp. 409-15.

Abolishing the 17th would increase corruption & bribery of state legislators

Joshua Spivak 2010. (senior fellow at the Hugh L. Carey Institute for Government Reform at Wagner College. J.D. from Columbia Law School. Public relations executive. ) Forbes, “Don't Repeal The 17th Amendment” April 2, 2010 <http://www.forbes.com/2010/04/02/seventeenth-amendment-repeal-louie-gohmert-opinions-contributors-joshua-spivak.html>

Repealing the 17th Amendment would not remove this pervasive influence of money in the process. Candidates would still spend a ton of it (both personal and fundraised) to win office–only this time it would be directed at one specific interest group: state legislators. The senators and assembly representatives would be showered with campaign funds and other potential benefits (after all, many of the part-time legislators hold outside jobs). Avoiding bribery and corruption in the selection process was one of the stated impetuses for the 17th Amendment in the first place. Despite a century of campaign finance reform debates and better investigative techniques, nothing has really changed with the state legislature. We may quickly find that enough legislators are still susceptible to financial inducements.

2. Increased federal expansion

Link: States Legislators are becoming more reliant on the federal government. Abolishing the 17th amendment would likely increase reliance on the federal government.

Prof. Ilya Somin 2011. (Professor of Law, George Mason University School of Law. M.A. in Political Science from Harvard University, and J.D. from Yale Law School. Research expertise includes constitutional law.) “Why Repealing the 17th Amendment Won’t Curb Federal Power” Sep. 2011. Pg. 91 <http://www.fed-soc.org/doclib/20110912_ZywickiSominEngage12.2.pdf>

State governments routinely lobby for grants of federal money. In recent years, state dependence on federal funding has increased enormously, as a result of the fiscal crisis some states have found themselves in during the present recession. In 2009, federal grants-in-aid accounted for 24.2% of all state government revenue, up greatly from 19.8% in 2007.10 State governments are anxious to get as much federal grant money as possible. This reality is unlikely to change if the Seventeenth Amendment were repealed and legislative selection of senators reinstated. To the contrary, senators chosen by state legislators would face even stronger incentives to lobby for additional federal grants than popularly-elected senators do. The political survival of the former would be completely at the mercy of the very state governments that benefit from federal grants.

Link: Senators elected by state legislatures are MORE likely to support expanded federal power

Prof. Ilya Somin 2011. (Professor of Law, George Mason University School of Law. M.A. in Political Science from Harvard University, and J.D. from Yale Law School. Research expertise includes constitutional law.) “Why Repealing the 17th Amendment Won’t Curb Federal Power” Sep. 2011. Pg. 91 <http://www.fed-soc.org/doclib/20110912_ZywickiSominEngage12.2.pdf> (brackets in original)

Even if a constitutional amendment could effectively eliminate popular election of senators and replace it with selection by state legislatures, it is far from clear that federal power would contract. The claim that senators chosen by state legislatures would act to curb the feds relies on the assumption that state governments oppose federal power. Professor Todd Zywicki argues that, before the Seventeenth Amendment, “senators had strong incentives to protect federalism [because] [t]hey recognized that their reelection depended on pleasing state legislators who preferred that power be kept close to home.” 8 Whatever was the case before 1913, under modern conditions senators chosen by state legislatures often have strong incentives to support expanded federal power. Those incentives arise precisely because senators’ reelection depends on “pleasing state legislators.” The state legislators in question are often heavily dependent on federal subsidies and regulations. They are unlikely to do anything to overturn the federal trough at which they themselves regularly feed.

Impact: Turn Affirmative harms of expanded federal power. Federalism protects individual liberty & economic growth

Art Macomber 2001. (attorney; J.D. from University of California Hastings College of the Law) “Federalism: Guardian of Individual Liberty”  27 Oct 2001 <http://macomberlaw.com/index.php/home/writin/federalism-guardian/>

Individual liberty is safeguarded under Federalism because when power is decentralized individuals can escape unfavorable policies by moving to a more preferable jurisdiction. Thus the monopoly governmental entities must meet real needs or people and capital flee. This is true consumer sovereignty. Moreover, mobility of people and capital are significant checks on centralized power. As experimentation flowers, choices for the mobility increase. Freedom of mobility for capital means government has a harder job expropriating wealth and thereby undermining economic growth. The smaller the political entity, right down to the individual, the more the threat of exit can cause changes in governmental policy.

3. No Representation - Vacant Senate Seats

Uniqueness: 17th amendment has provisions against vacant seats.

Prof. Jerry H. Goldfeder 2009. (election lawyer with over thirty years of experience; Former Special Counsel to New York State Attorney General. Teaches Election Law at Univ of Pennsylvania Law School. Adjunct Professor at Fordham Law School. Chairs the Election Law and Government Affairs Committee of the General Practice Section of the New York State Bar Association.) The New York Law journal. “THE 17TH AMENDMENT AND VACANT SENATE SEATS” Volume 241, NO. 38 Feb. 27 2009. <http://www.stroock.com/SiteFiles/Pub723.PDF>

It is also likely that most New York lawyers have not thought about the 17th Amendment to the Constitution since 1968, the year Senator Robert Kennedy was assassinated. This amendment requires direct election of U.S. Senators, and includes a provision for replacing senators when vacancies occur.

Link: Empty Senate seats occurred 14 times pre-17th because Legislatures could not agree on a candidate

Thomas H. Neale 2013. (Specialist in American National Government, Congressional Research Service) 16 July 2013 Filling U.S. Senate Vacancies: Perspectives and Contemporary Developments <http://www.fas.org/sgp/crs/misc/R40421.pdf> (brackets and ellipses in original)

During the last third of the 19th century, indirect election of Senators by state legislatures came under growing criticism, while proposals for an amendment to establish direct election began to gain support. The decades following the Civil War witnessed increasing instances of both protracted elections, in which senatorial contests were drawn out over lengthy periods, and deadlocked elections, in which the state legislature proved unable to settle on a candidate by the time its session ended. In the most extreme instances, protracted and deadlocked elections resulted in unfilled Senate vacancies for sometimes lengthy periods. According to Haynes, 14 seats were left unfilled in the Senate for protracted periods, and while “[t]he duration of these vacancies varied somewhat ... in most cases, it amounted to the loss of a Senator for the entire term of a Congress.”

Pre-17th, states deadlocked over Senate elections, or tied up the legislature for months and got nothing done

Prof. Jay S. Bybee 1997. (Associate Professor of Law, Louisiana State Univ.) ULYSSES AT THE MAST: DEMOCRACY, FEDERALISM, AND THE SIRENS' SONG OF THE SEVENTEENTH AMENDMENT, Northwestern University Law Review, Vol 91 No. 2 <http://scholars.law.unlv.edu/cgi/viewcontent.cgi?article=1365&context=facpub>

In some extreme cases, states proved so intransigent they failed to send anyone at all. As support for direct election swelled, state legislatures proved particularly inept. Between 1891 and 1905, eight state legislatures failed to elect senators and were without full representation from periods of ten months to four years. Delaware presented the most extreme case, failing to send senators in 1895, 1899, 1901, and 1905. One of Delaware's seats went unfilled from March 1899 to March 1903, and between 1901 and 1903, Delaware failed to send any senators to Washington. In 1895 the Delaware legislature deadlocked for 114 days, recording some 217 ballots, and still failed to elect a senator. In 1897, apparently in anticipation of a dispute over an open senate seat, one-third of the Oregon legislature refused to take the oath of office. The legislature met for some 53 days without convening; it disbanded having failed to elect a senator, or to take legislative action of any kind.

Historical example: Disputes in the Legislature left Delaware without Senators - led to 17th Amendment

Prof. William W. Boyer and Prof. Edward C. Ratledge 2009. (Boyer - Charles Polk Messick Professor Emeritus in the Dept of Political Science and International Relations at the Univ of Delaware. Ratledge - associate professor at the School of Urban Affairs and Public Policy and the director of the Center for Applied Demography and Survey Research at the Univ of Delaware ) Delaware Politics and Government <http://books.google.fr/books?id=tyvEF0CWc5oC&pg=PA55&lpg=PA55&dq=legislature+senate+seats+vacant+delaware&source=bl&ots=dsG8Rka2Pa&sig=RpFq3gdnD8m6L1lG5ID_guCTiPY&hl=en&sa=X&ei=bPIMUqbwG6io4gTkqoDwDw&redir_esc=y#v=onepage&q=legislature%20senate%20seats%20vacant%20delaware&f=false>

Bitter disputes in the state legislature over electing a U.S. senator caused one or both of Delaware’s U.S. Senate seats to remain empty for many years. Remarkably, Delaware’s state legislature failed to elect a senator in 1895, 1899, 1901, and 1905, and between 1901 and 1903 both U.S. Senate seats remained vacant, which meant Delaware had no representation at all in that body. Delaware became notorious for these repeated failures, and the story of Addicks became widely covered in the national press. The Seventeenth Amendment of the United States Constitution, adopted in 1913, ended the election of U.S. senators by state legislatures by providing for their direct election by the voters. “The revelation of rampant bribery and corruption made Delaware an illustrative case for Progressive reformers’ objective of direct election of United States senators.”

Impact: Losing representation in the Senate means democracy is harmed. And state legislatures tied up for months not resolving State business also deprives the voters of effective representation at the State level, another blow to democracy.

4. One man/one vote violation

Link: 17th Amendment upholds one person/one vote.

Prof. Akhil Reed Amar 2005. (Professor of Law at Yale Law School, where he teaches constitutional law, criminal procedure, and federal jurisdiction. He is among the most frequently cited scholars of constitutional law. A Legal Affairs poll placed Amar among the top 20 contemporary US legal thinkers. BA, Yale JD, Yale School of law.) Published by Cato Unbound. “Notes on the 17th Amendment and States’ Rights” 15, Dec. 2005. <http://www.cato-unbound.org/2005/12/15/akhil-reed-amar/notes-17th-amendment-states-rights> [Brackets in original]

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Impact: 1 person / 1 vote is essential to upholding Constitutional rights

Supreme Court Chief Justice Earl Warren 1964. Majority opinion of the Court in the case of Reynolds v. Sims - 377 U.S. 533,15 June 1964 <http://supreme.justia.com/cases/federal/us/377/533/case.html> (brackets in original

The idea that every voter is equal to every other voter in his State, when he casts his ballot in favor of one of several competing candidates, underlies many of our decisions. [Footnote 34]" Continuing, we stated that "there is no indication in the Constitution that homesite or occupation affords a permissible basis for distinguishing between qualified voters within the State." And, finally, we concluded: "The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing -- one person, one vote.

5. Political backlash.

Link: Repealing the 17th would associate “less democracy” (by abolishing popular Senate elections) with the movement for respecting federalism/states’ rights, thus damaging the reputation of the movement to reduce expansion of federal power.

Impact: Turn AFF’s harms of creeping federal power – the public will turn against the AFF position, making it harder to fulfill long-term.

Prof. Ilya Somin 2011. (Professor of Law, George Mason University School of Law. M.A. in Political Science from Harvard University, and J.D. from Yale Law School. Research expertise includes constitutional law.) “Why Repealing the 17th Amendment Won’t Curb Federal Power” Sep. 2011. Pg. 91 <http://www.fed-soc.org/doclib/20110912_ZywickiSominEngage12.2.pdf>

Repeal of the Seventeenth Amendment is not a cause likely to attract much political support outside of a hard core of conservative and libertarian activists. If the Tea Party movement or other conservatives choose to make repeal a major focus of their political efforts, the attempt could even backfire. Associating federalism with an “anti-democratic” amendment could help turn moderate public opinion against federalism more generally. Those who believe that repeal of the Seventeenth Amendment is the key to a revival of federalism in the United States are barking up the wrong tree. They would do well to invest their limited political resources elsewhere.

6. Poor representation. Pre-17th Amendment Senators listened to party leaders and corporate sponsors instead of constituents

Thomas H. Neale 2013. (Specialist in American National Government, Congressional Research Service) 16 July 2013 Filling U.S. Senate Vacancies: Perspectives and Contemporary Developments <http://www.fas.org/sgp/crs/misc/R40421.pdf> (brackets and ellipses in original)

During the same period, the Senate election process was increasingly regarded as seriously compromised by corruption. Corporations, trusts, and wealthy individuals were often perceived as having bribed state legislators in order to secure the election of favored candidates. Once in office, the Senators so elected were said to “keep their positions by heeding the wishes of party leaders and corporate sponsors rather than constituents.”

7. Less accountability. Turnover within state legislatures is high – so the legislators who voted for the Senator are no longer around to hold him accountable after a couple years. Popular election solves.

Prof. Wendy J. Schiller and Prof. Charles Stewart III 2013. ( Schiller - Associate Professor of Political Science and Public Policy at Brown Univ. Stewart - Kenan Sahin Distinguished Professor of Political Science at Massachusetts Institute of Technology) May 2013 The 100th Anniversary of the 17th Amendment: A Promise Unfulfilled? [www.brookings.edu/~/media/research/files/papers/2013/05/24%20seventeenth%20amendment%20annivesary%20schiller%20stewart/schiller\_17th%20amendment\_v7.pdf](http://www.brookings.edu/~/media/research/files/papers/2013/05/24%20seventeenth%20amendment%20annivesary%20schiller%20stewart/schiller_17th%20amendment_v7.pdf)

We also amassed rosters for each state legislature over time, producing information on the approximately 106,000 state legislators who served during those years. In the indirect election period, we found that there was tremendous turnover among legislators; more than two-thirds of legislators held office for only one term, which was typically two years. These de facto term limits made it more difficult to hold U.S. senators accountable for past campaign pledges because when a senator sought reelection, most of the state legislators who voted in his previous election were gone. In one way, the direct election system solves this problem because without redistricting, the vast majority of voters in one Senate election are still available to judge the U.S. senator in his or her next election.

NEGATIVE: REVERSING CITIZENS UNITED

(Most of the evidence in this brief was researched by Simon Sefzik.)

PHILOSOPHY / OVERVIEW / BACKGROUND

NEG Philosophy: Limiting political spending by corporations is about controlling people and their lives.

David Applegate 2013. (Trial lawyer and partner at the law firm of Williams Montgomery & John Ltd., policy advisor for legal affairs for The Heartland Institute; law degree from Univ of Chicago) Published by the Heartland Institute. “Poppycock! – 10 Reasons Why Opponents of Citizens United Are Wrong” May 31 2013. <http://news.heartland.org/editorial/2013/05/31/poppycock-10-reasons-why-opponents-citizens-united-are-wrong>

Like gun control, national health insurance, and the recently-revealed politically-motivated investigations by the IRS, a proposed amendment to ban or to limit political spending by corporations is ultimately about controlling people, their lives, and their ideas and not about providing essential government services, which are the only legitimate objects of government spending.

Background: Banning corporate contributions to campaigns did not start in Citizens United, the first federal law placing restrictions was in 1907.

Prof. Bradley A. Smith 2010. (The Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

The first federal law in this arena, passed in 1907, was also a ban on corporate contributions to campaigns. The law was dubbed the Tillman Act, after its sponsor, South Carolina senator "Pitchfork Ben" Tillman. Tillman wrote and said little of his motives for sponsoring the ban on corporate contributions, but he hated President ­Theodore Roosevelt and appears to have wanted to embarrass the president (who had relied heavily on corporate funding in his 1904 election campaign).

Background: *Citizens United* is misunderstood and misrepresented.

Prof. Ilya Shapiro 2012. (senior fellow in constitutional studies at the Cato Institute ; adjunct professor at the George Washington University Law School. M.Sc. from the London School of Economics; J.D. from Univ of Chicago Law School.) Cato Institute. “Citizens United and the 2012 Campaign” Oct. 2012 <http://www.cato.org/publications/commentary/citizens-united-2012-campaign>

Citizens United is one of the most misunderstood Supreme Court decisions ever. It doesn’t stand for what many people say it does. Take, for example, President Obama’s famous statement that the decision “reversed a century of law that I believe will open the floodgates for special interests — including foreign corporations — to spend without limit in our elections.” In one sentence, the former law professor made four errors of law. First, Citizens United didn’t reverse a century of law. The president was referring to the Tillman Act of 1907, which prohibited corporate donations to candidates and parties. Citizens United didn’t touch that. Instead, the overturned precedent was a 1990 case that, for the first and only time, allowed a restriction on political speech based on something other than the appearance of corruption.

COUNTERPLAN / ALTERNATIVE / MINOR REPAIR

Remove restrictions on individual contributions, and require disclosure for large donations

Prof. Ilya Shapiro 2012. (senior fellow in constitutional studies at the Cato Institute ; adjunct professor at the George Washington University Law School. M.Sc. from the London School of Economics; J.D. from Univ of Chicago Law School.) Cato Institute. “Citizens United and the 2012 Campaign” Oct. 2012 <http://www.cato.org/publications/commentary/citizens-united-2012-campaign>

The solution is obvious: Liberalize rather than restrict the system. Get rid of limits on individual contributions, and then require disclosures for those who donate amounts big enough for the interest in preventing corruption to outweigh the potential harassment. Then the big boys will have to put their reputations on the line, but not the average person. Let voters weigh what a donation’s source means to them, rather than allowing politicians to write rules benefiting themselves.

INHERENCY

“Political donations from foreigners” Response: Still illegal in Status Quo even after Citizens United

Prof. Ilya Shapiro 2012. (senior fellow in constitutional studies at the Cato Institute ; adjunct professor at the George Washington University Law School. M.Sc. from the London School of Economics; J.D. from Univ of Chicago Law School.) Cato Institute. “Citizens United and the 2012 Campaign” Oct. 2012 <http://www.cato.org/publications/commentary/citizens-united-2012-campaign>

Third, the rights of foreigners — corporate or otherwise — is another issue about which Citizens United said nothing. Indeed, just this year, the Supreme Court summarily upheld the restriction on foreign spending in political campaigns.

SIGNIFICANCE / HARMS

“Independent expenditures” (the kind regulated by BCRA and now unregulated by Citizens United) are not corrupting

Supreme Court Justice Anthony Kennedy 2010. Majority opinion of the Court in Citizens United v. FEC, 21 Jan 2010 <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>

The Buckley Court explained that the potential for quid pro quo corruption distinguished direct contributions to candidates from independent expenditures. The Court emphasized that “the independent expenditure ceiling . . . fails to serve any substantial governmental interest in stemming the reality or appearance of corruption in the electoral process,” id., at 47–48, because “[t]he absence of prearrangement and coordination . . . alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate,” id., at 47. Buckley invalidated §608(e)’s restrictions on independent expenditures, with only one Justice dissenting.

Independent expenditures have no harmful effect on democracy

Supreme Court Justice Anthony Kennedy 2010. Majority opinion of the Court in Citizens United v. FEC, 21 Jan 2010 <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>

The appearance of influence or access, furthermore, will not cause the electorate to lose faith in our democracy. By definition, an independent expenditure is political speech presented to the electorate that is not coordinated with a candidate. See Buckley, supra, at 46. The fact that a corporation, or any other speaker, is willing to spend money to try to persuade voters presupposes that the people have the ultimate influence over elected officials. This is inconsistent with any suggestion that the electorate will refuse “‘to take part in democratic governance’” because of additional political speech made by a corporation or any other speaker. McConnell, supra, at 144 (quoting Nixon v. Shrink Missouri Government PAC, 528 U. S. 377, 390 (2000)).

No evidence that campaign spending causes corruption

Prof. Bradley A. Smith 2010. (Professor of Law at Capital Univ Law School, and chairman of the Center for Competitive Politics; served on the Federal Election Commission from 2000-2005.) NATIONAL AFFAIRS “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform> (the typographical error and the ellipses were in the original)

By insisting that campaign contributions corrupt members of Congress and the legislative process despite the repeated failure of dozens of systematic studies to find any evidence of such corruption, reform advocatesâ€…ask us to set aside important speech rights without proving the need for doing so. Their assumption that the sheer scope of campaign spending somehow proves that our system is corrupted simply has no basis in evidence — and fails entirely to keep political spending in ­perspective. Total political spending in the U.S. in 2008 — for state, local, and federal races — amounted to approximately $4.5 billion. By comparison, the nation's largest single commercial advertiser, Proctor & Gamble, spent about $5 billion on advertising in the same year.

MIT Study: Contributions don’t corrupt politicians

Prof. Bradley A. Smith 2010. (The Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform> (Brackets in original.)

Campaign-finance reform has not managed either to promote political equality or prevent corruption. And data show that one reason campaign-­finance regulations are of little value in attacking corruption is that contributions simply don't corrupt politicians. In a 2003 article in the Journal of Economic Perspectives, three MIT scholars — ­Stephen ­Ansolabehere, James Snyder, Jr., and John de Figueiredo — surveyed nearly 40 peer-reviewed studies published between 1976 and 2002. "­[I]­n three out of four instances," they found, "campaign contributions had no statistically significant effects on legislation or had the ‘wrong' sign — ­suggesting that more contributions lead to less support." Given the difficulty of publishing "non-results" in academic journals, the authors suggested in another paper, "the true incidence of papers written showing campaign contributions influence votes is even smaller." ­Ansolabehere and his colleagues then performed their own detailed study, which also found that "legislators' votes depend almost entirely on their own beliefs and the preferences of their voters and their party," and that "contributions have no detectable effects on legislative behavior."

Corrupt legislators are corrupted by money & gifts directly to them, NOT by funds for pamphlets and ads.

Prof. Bradley A. Smith 2010. (The Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

Truly corrupt legislators will, after all, be lured by the prospect of personal financial benefits, not merely holding office (since most ­legislators, at least at the congressional level, could make more money doing other things). Those on the recent who's-who list of corrupt politicians were all brought down by their love of money: Louisiana Democratic congressman William Jefferson was caught with $90,000 in bribe money stashed in his freezer; Ohio's Bob Ney enjoyed an all-expenses-paid golf outing in Scotland on the dime of disgraced lobbyist Jack Abramoff, and accepted thousands of dollars in gambling chips from a foreign businessman; California's Duke Cunningham solicited bribes and bought, among other things, a yacht; and Illinois governor Rod Blagojevich sought lucrative positions on corporate boards for himself and his wife. These politicians were corrupted by money and gifts given directly to them, not by funds provided to pay for pamphlets and ads.

Most “big corporations” don’t even spend much money on political advertising.

Prof. Ilya Shapiro 2012. (senior fellow in constitutional studies at the Cato Institute ; adjunct professor at the George Washington University Law School. M.Sc. from the London School of Economics; J.D. from Univ of Chicago Law School.) Cato Institute. “Citizens United and the 2012 Campaign” Oct. 2012 <http://www.cato.org/publications/commentary/citizens-united-2012-campaign>

And so, if you’re concerned about the money spend on elections — though Americans spend more on chewing gum and Easter candy — the problem isn’t with big corporate players. That is another misapprehension: Exxon, Halliburton and all these “evil” companies (or even the good ones) are not suddenly dominating the political conversation.. The spend little money on political advertising, partly because it’s more effective to lobby, but mostly because they wouldn’t want to alienate half their customers. As Michael Jordan famously said, “Republicans buy shoes, too.”

SOLVENCY

1. Endless chase after the next loophole.   
  
The more restrictive we get with campaign finance reform – the more restrictions will follow, because it never works

Prof. Bradley A. Smith 2010. (The Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

Preventing this type of "circumvention" of the law has been a fixation of the "reform community" from the outset. Yet each effort has led to laws more restrictive of basic rights, more convoluted, and more detached from Madison's insights. Each effort also appears to be self-defeating, since the circumvention argument knows no bounds. As Madison would have appreciated, every time we close off one avenue of political participation, politically active Americans will turn to the next most effective legal means of carrying on their activity. That next most effective means will then become the loophole that must be closed.

Solvency impossible: political money is like water, it will flow somewhere.

Prof. Ilya Shapiro 2012. (senior fellow in constitutional studies at the Cato Institute; adjunct professor at the George Washington Univ. Law School; M.Sc. from the London School of Economics; J.D. from Univ of Chicago Law School) Cato Institute. “Citizens United Doesn’t Mean What Campaign Finance ‘Reformers’ Think It Does” July 24 2012. <http://www.cato.org/blog/citizens-united-doesnt-mean-what-campaign-finance-reformers-think-it-does>

The underlying problem, however, is not the under-regulation of independent speech but the attempt to manage political speech in the first place. Political money is a moving target that, like water, will flow somewhere. If it’s not to candidates, it’s to parties, and if not there, then to independent groups or unincorporated individuals acting together. Because what the government does matters and people want to speak about the issues that concern them.

2. Other corporate spending mechanisms. If corporate spending is bad, even before Citizens United decision, there were multiple legal channels enabling corporations to deploy considerable amounts of money in elections.

Prof. Richard Briffault 2011. (Joseph Chamberlin Prof. of Legislation at Columbia Law School.) CORNELL JOURNAL OF LAW AND PUBLIC POLICY. “SYMPOSIUM: CITIZENS UNITED V. FEDERAL ELECTION COMMISSION: IMPLICATIONS FOR THE AMERICAN ELECTORAL PROCESS CORPORATIONS, CORRUPTION, AND COMPLEXITY: CAMPAIGN FINANCE AFTER CITIZENS UNITED” <http://www.lawschool.cornell.edu/research/JLPP/upload/Briffault-final.pdf>

But the fact that a law prohibits corporate campaign spending does not mean that a corporation may not legally spend money in support of or opposition to a candidate. Rather, even before Citizens United there were multiple legal channels enabling a corporation to deploy considerable amounts of money in elections.

3. Missing the root cause. The solution isn’t regulation – it would be to shrink government spending.

Prof. Ilya Shapiro 2012. (senior fellow in constitutional studies at the Cato Institute; adjunct professor at the George Washington Univ. Law School; M.Sc. from the London School of Economics; J.D. from Univ of Chicago Law School) Cato Institute. “Citizens United Doesn’t Mean What Campaign Finance ‘Reformers’ Think It Does” July 24 2012. <http://www.cato.org/blog/citizens-united-doesnt-mean-what-campaign-finance-reformers-think-it-does>

To the extent that “money in politics” is a problem, the solution isn’t to try to reduce the money—that’s a utopian goal—but to reduce the scope of political activity the money tries to influence. Shrink the size of government and its intrusions in people’s lives and you’ll shrink the amount people will spend trying to get their piece of the pie or, more likely, trying to avert ruinous public policies.

4. Empirically denied.

Experience in the States shows campaign finance restrictions don’t improve government.

Prof. Bradley A. Smith 2010. (The Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

Given these circumstances, it is almost impossible to argue that campaign-finance reform has improved government. Governing ­magazine — in connection with the (pro-campaign finance reform) Pew Charitable Trusts — regularly ranks state governments on the quality of their management. In both of Governing's last two studies, in 2005 and 2008, Utah and Virginia were ranked the best-governed states in the nation. Utah and Virginia also tied for first place in the first Governing survey, from 1999, and Utah ranked first in the second study in 2001. What do these two states have in common? Among other things, they appear on the short list of states that have no limits on campaign spending and contributions. Meanwhile, states such as Arizona and Maine — which have enacted full taxpayer financing of their state races — score unimpressive marks. In terms of management, Governing ranked Arizona in the middle of the pack, tied for 14th with 17 other states. Maine was ranked next to last — ahead of only New Hampshire. This alone does not prove an inverse relationship between campaign-finance laws and good governance, of course, but it does help to show the absence of a direct relationship. At the very least, campaign-finance restrictions do not seem to improve government.

No more corruption in states without campaign finance laws than states that have restrictive laws.

Dr. Roger Pilon 2010. (director of Cato’s Center for Constitutional Studies; adjunct professor of government at Georgetown University; held five senior posts in the Reagan administration, including at State and Justice ; M.A. and a Ph.D. from the Univ of Chicago; J.D. from the George Washington Univ School of Law.) Cato. “Democracy Will Survive Citizens United” Jan. 21 2010. <http://www.cato.org/blog/democracy-will-survive-citizens-united>

Relax. Half of our states, states like Virginia, have minimal campaign finance laws, and there’s no more corruption in those states than in states that strictly regulate. And that’s because the real reason we have this campaign finance law is not, and never has been, to prevent corruption. The dirty little secret – the real impetus for this law – in incumbency protection. How else to explain the so-called Millionaire’s Amendment, which the Court struck down in 2008. That little gem in the McCain-Feingold “reform” package exempted candidates (read: incumbents) from the law’s strictures if they were running against a self-financed “millionaire,” who could not be prohibited from spending his own money campaigning.

5. “Super-PAC” alternative. Super-PACS provide an alternative to any reversal of Citizens United

“SpeechNow” ruling removed limits on political action committees (PACs) - more important than C.U.

Prof. Ilya Shapiro 2012. (senior fellow in constitutional studies at the Cato Institute ; adjunct professor at the George Washington University Law School. M.Sc. from the London School of Economics; J.D. from Univ of Chicago Law School.) Cato Institute. “Citizens United and the 2012 Campaign” Oct. 2012 <http://www.cato.org/publications/commentary/citizens-united-2012-campaign>

More important than Citizens United was SpeechNow.org v. FEC, decided two months later in the D.C. Circuit. That ruling removed limits on donations to political action committees, thus making these PACs “super” and freeing people to pool money the same way one rich person can alone.

DISADVANTAGES

1. Special interests.   
  
Link: Effect of campaign-finance regulations has been to promote special interest – not reduce corruption.

Prof. Bradley A. Smith 2010. (The Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

The effect of campaign-finance regulations has therefore been to help the people who passed them and to strengthen special interests, rather than to cleanse American politics of the influence of self-­interested ­factions. Even the well-meaning reformers, it appears, have failed at their stated goals.

Link: Allowing more contributions = more access for people to participate in the system.

Prof. Bradley A. Smith 2010. (Professor of Law at Capital University Law School, and chairman of the Center for Competitive Politics; served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

Easing the restrictions on campaign contributions would not ­constrain any of these other forms of political support. Rather, allowing more contributions simply permits more people to participate in the ­system — thus diffusing influence, rather than concentrating it. Campaign­-finance reform, then, actually undermines the effort to ­promote equal access to the political arena.

Impact: Legislation for special interests hurts the interests of society at large. A minority benefit at the expense of the majority.

Chris Edwards 2010. (director of tax policy studies at Cato; former senior economist on the congressional Joint Economic Committee; M.A. in economics; was a member of the Fiscal Future Commission of the National Academy of Sciences) 3 Mar 2010 Six Reasons to Downsize the Federal Government <http://www.cato.org/blog/six-reasons-downsize-federal-government>

**Federal programs often benefit special interest groups while harming the broader interests of the general public**. How is that possible in a democracy? The answer is that logrolling or horse-trading in Congress allows programs to be enacted even though they are only favored by minorities of legislators and voters.

2. Reduced political discourse.   
  
Link: Political spending helps voters learn about candidates - restrictions hurt political discourse.

Prof. Bradley A. Smith 2010. (Professor of Law at Capital Univ Law School; served on the Federal Election Commission 2000- 2005.) NATIONAL AFFAIRS “The Myth of Campaign Finance Reform” Winter 2010. [www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform](http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform)

As campaign-finance reform has failed to achieve its goals, it has also exacted serious costs. Studies have shown that political spending helps voters to learn about candidates, to locate them on the ideological ­spectrum, and to be better informed about issues and contests. Reducing the amount that may be spent, and constraining the ways it may be used, can thus hurt the quality of political discourse. More ­important, the laws involve serious restrictions on the exercise of fundamental rights.

Link: Open discourse is key to holding elected leaders accountable

Prof. Bradley A. Smith 2010. (Professor of Law at Capital Univ Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. (ellipses in original) <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

But the First Amendment guarantees of free speech, assembly, and press were not seen purely as protections against government encroachment on natural rights. Rather, as political scientist John Samples notes, the founders believed that "the liberty to speak would force government officials to be open and accountable." During the crisis over the Alien and Sedition Acts in the early years of the new republic, Madison himself noted that the "right of freely examining public characters and measures, and of communication...is the only effectual guardian of every other right." As Samples argues, these founders realized that for "knowledge to inform politics and decision making, it must be publicly available. If the government suppresses freedom of speech, it prevents such knowledge from becoming public."

Impact: Net benefits voting issue. Informed discourse is so essential to self-government that it must prevail against laws suppressing it

Supreme Court Justice Anthony Kennedy 2010. Majority opinion of the Court in Citizens United v. FEC, 21 Jan 2010 <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>

Speech is an essential mechanism of democracy, for it is the means to hold officials accountable to the people. See Buckley, supra, at 14–15 (“In a republic where the people are sovereign, the ability of the citizenry to make informed choices among candidates for office is essential”). The right of citizens to inquire, to hear, to speak, and to use information to reach consensus is a precondition to enlightened self-government and a necessary means to protect it. The First Amendment “‘has its fullest and most urgent application’ to speech uttered during a campaign for political office.” Eu v. San Francisco County Democratic Central Comm., 489 U. S. 214, 223 (1989) (quoting Monitor Patriot Co. v. Roy, 401 U. S. 265, 272 (1971)); see Buckley, supra, at 14 (“Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution”). For these reasons, political speech must prevail against laws that would suppress it, whether by design or inadvertence.

3. First Amendment Violation

Link: Limiting political spending affects core 1st Amendment rights

Prof. Bradley A. Smith 2010. (Professor of Law at Capital Univ Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

Restrictions on campaign contributions and spending affect core First Amendment freedoms of speech, press, and assembly. While the Supreme Court has quite correctly never held that "money is speech," it has recognized, equally correctly, that limiting political spending serves to limit speech (by restricting citizens' ability to deliver their political messages). In fact, only one of the 19 Supreme Court justices to serve in the past 30 years — John Paul Stevens — has ever argued that political campaign and expenditure limits should not be treated as First Amendment concerns.

Link: Curbing spending = curbing speech.

David Applegate 2013. (Trial lawyer and partner at the law firm of Williams Montgomery & John Ltd., policy advisor for legal affairs for The Heartland Institute; law degree from Univ of Chicago) Published by the Heartland Institute. “Poppycock! – 10 Reasons Why Opponents of Citizens United Are Wrong” May 31 2013. <http://news.heartland.org/editorial/2013/05/31/poppycock-10-reasons-why-opponents-citizens-united-are-wrong>

“Nude dancing” notwithstanding, political speech is at the core of the First Amendment. The current administration in Washington may disparage those who “**cling to their guns and religion**,” but if the First Amendment means anything it means that the government may not silence, inhibit, or even “chill” political speech. As the Supreme Court majority rightly recognized in **Citizens United v. Federal Election Commission**, curbing spending means curbing speech.

Link: Restricting the ways elections are funded undermines 1st Amendment

Prof. Bradley A. Smith 2010. (The Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

The century-old effort to constrict the ways our elections are funded has, from the outset, put itself at odds with our constitutional tradition. It seeks to undermine not only the protections of political expression in the First Amendment, but also the limits on government in the Constitution itself — as well as the understanding of human nature, factions and interests, and political liberty that moved the document's framers.

Link: Campaign finance restrictions lead to yet more regulation, including open censorship of the press.

Prof. Bradley A. Smith 2010. (Professor of Law at Capital University Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics; served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform> (Brackets in original.)

As the Supreme Court ponders whether campaign-finance ­restrictions assault Americans' First Amendment rights, academic champions of such "reform" efforts are laying the groundwork for yet more ­regulation. Legal scholars such as Harvard's Mark Tushnet, Ohio State's Ned Foley, and Loyola Law School's Richard Hasen — publisher of the "Election Law Blog" — have all argued that true reform will require open censorship of the press in order to assure political equality. Yale law professor Owen Fiss has argued that "we may sometimes find it necessary to ‘restrict the speech of some elements of our society in order to enhance the relative voice of others,' and that unless the [Supreme] Court allows, and sometimes even requires the state to do so, we as a people will never truly be free."

Link & Impact: McCain-Feingold campaign restrictions undermine the 1st Amendment

Prof. Bradley A. Smith 2010. (The Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

To anyone following the evolution of the campaign-finance reform movement, it should have been obvious that book-banning was a straightforward implication of the McCain-Feingold law (and the long line of statutes and cases that preceded it). The century-old effort to constrict the ways our elections are funded has, from the outset, put itself at odds with our constitutional tradition. It seeks to undermine not only the protections of political expression in the First Amendment, but also the limits on government in the Constitution itself — as well as the understanding of human nature, factions and interests, and political liberty that moved the document's framers.

Impacts of a violated constitution or constitutional principles. 3 Sub-points:

Impact: Success and viablity of our country depends on fidelity to the Constitution.

Prof. Edwin Meese III 2009. (Distinguished Fellow in Public Policy and Chairman of the Center for Legal and Judicial Studies at The Heritage Foundation. Law professor at the University of San Diego, where he also directed the Center for Criminal Justice Policy and Management. He served as chairman of the Domestic Policy Council and the National Drug Policy Board. Former Attorney General with Regan. Visiting Fellow at Stanford and hoover. Law Degree from Yale. ) The Heritage foundation . “The Meaning Of The Constitution” 16 Sep. 2009. <http://www.heritage.org/research/reports/2009/09/the-meaning-of-the-constitution>

The Constitution--the original document of 1787 plus its amendments--is and must be understood to be the standard against which all laws, policies, and interpretations should be measured. It is our fundamental law because it represents the settled and deliberate will of the people, against which the actions of government officials must be squared. In the end, the continued success and viability of our democratic Republic depends on our fidelity to, and the faithful exposition and interpretation of, this Constitution, our great charter of liberty.

Impact: Damages the people. Constitution is in place to protect the people’s rights.

Prof. Frederic Jesup Stimson 1907. (professor of Comparative Law at Harvard University, former U.S. Ambassador to Argentina), Lowell Institute lectures, "The American Constitution: the national powers, the rights of the states, the liberties of the people", 1907, <http://books.google.com/books?id=7M0_AAAAYAAJ>

The one end and aim, therefore, of a constitution is to protect the people's rights, both the rights of the whole people, or any part of the people, or even of one man as against the people, in such cardinal rights as by our constitutions he is declared not to have given away; to protect them against either king or legislature. This is constitutional government. The object of republican government is to enforce the will of the majority; the object of constitutional government is also to protect the rights of the minority; to guarantee to each and every man, to every class, the essential rights that he must never part with.

Impact: 1st amendment is key to our democracy. We’re stronger because of Citizens United.

Dr. Roger Pilon 2010. (director of Cato’s Center for Constitutional Studies; adjunct professor of government at Georgetown University; held five senior posts in the Reagan administration, including at State and Justice; M.A. and a Ph.D. from the Univ of Chicago; J.D. from the George Washington Univ School of Law.) Cato. “Democracy Will Survive Citizens United” Jan. 21 2010. <http://www.cato.org/blog/democracy-will-survive-citizens-united>

Thus, the nominal rationale for the incomprehensible edifice we call “campaign finance law” – to prohibit corruption – suddenly disappeared if you were running against a millionaire. Well, the Court, fortunately, saw right through that. And a majority on the Court saw the light in today’s decision, too. The First Amendment is not a “loophole.” It’s the very foundation of our democracy, and we are the stronger today for this decision.

4. Limiting corporations’ speech is like “Taxation without representation”, a sign of tyranny.

David Applegate 2013. (Trial lawyer and partner at the law firm of Williams Montgomery & John Ltd., policy advisor for legal affairs for The Heartland Institute. Graduate of Yale College, his law degree from The University of Chicago) Published by the Heartland Institute. “Poppycock! – 10 Reasons Why Opponents of Citizens United Are Wrong” May 31 2013. <http://news.heartland.org/editorial/2013/05/31/poppycock-10-reasons-why-opponents-citizens-united-are-wrong>

“Taxation without representation” was one of the early grievances that led to the American Revolution and one of the first signs of tyranny anywhere. As long as government chooses to tax corporate entities separately from their owners, employees, and customers, then corporations have a right to speak — and to speak out — particularly for political purposes and especially regarding taxation.

5. Justice violation. It is not moral or just to ban “corporations” from spending on political campaigns.

David Applegate 2013. (Trial lawyer and partner at the law firm of Williams Montgomery & John Ltd., policy advisor for legal affairs for The Heartland Institute; law degree from Univ of Chicago) Published by the Heartland Institute. “Poppycock! – 10 Reasons Why Opponents of Citizens United Are Wrong” May 31 2013. <http://news.heartland.org/editorial/2013/05/31/poppycock-10-reasons-why-opponents-citizens-united-are-wrong>

Citizens United’s fallout rains on the just and the unjust alike. It is no more just nor moral to ban “corporations” or not-for-profits from spending on political campaigns than it would be to ban Hollywood from producing the recently-rumored (and presumably favorable) movie about the young Hillary Clinton, Rob Reiner from having produced his 1995 love letter to Bill Clinton, “The American President,” or Steven Spielberg from having released 2012’s “Lincoln,” a clear (and favorable) allegory for President Barack Obama. Neither Congress nor the Supreme Court nor the states nor the Constitution should be able to ban speech — or spending on speech — because they don’t favor the political message being espoused.

6. Entrenched incumbents

Link: Incumbent politicians favor limiting outside spending because it can knock them out of positions of power.

David Applegate 2013. (Trial lawyer and partner at the law firm of Williams Montgomery & John Ltd., policy advisor for legal affairs for The Heartland Institute; law degree from Univ of Chicago) Published by the Heartland Institute. “Poppycock! – 10 Reasons Why Opponents of Citizens United Are Wrong” May 31 2013. <http://news.heartland.org/editorial/2013/05/31/poppycock-10-reasons-why-opponents-citizens-united-are-wrong>

The biggest threat to entrenched power anywhere is the power of independent spending. As every politician and newspaper publisher knows, getting your message out requires money. Incumbent politicians typically favor limiting outside spending precisely because it can knock them out of positions of power. That’s reason enough to favor more political speech and spending, not to restrict it.

Link: Campaign finance laws protect incumbents

Prof. Bradley A. Smith 2010. (Professor of Law at Capital Univ Law School, and chairman of the Center for Competitive Politics; served on the Federal Election Commission from 2000-2005.) NATIONAL AFFAIRS “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

Samples points out that "the decline in ­electoral competition and the new era of campaign finance regulation are virtually conterminous." This is no accident. Since the passage of the FECA, the average incumbent spending advantage over challengers in U.S. House races has soared from approximately 1.5-to-1 to nearly 4-to-1. Incumbents begin each cycle with higher name recognition and a database of past contributors, making it easier to raise more money through small contributions from more people. They also typically make the decision to run earlier than challengers do — since a challenger often waits to see if the incumbent will run before making his choice — so they have more time to raise small contributions. And because campaign-finance regulations essentially require that candidates fill their coffers in small increments, the law clearly advantages the incumbents who passed it.

Impact: Hurts democracy. Safe incumbents have no reason to respond to public concerns

Dr. Jeremy D. Mayer 2005. (PhD in government; Visiting Assistant Professor in the Department of Government at Georgetown Univ.) 22 March 2005 The Looming Structural Problems in American Elections: Lessons from 2004 <http://www.ipri.pt/publicacoes/revista_ri/artigo_rri.php?ida=59>

In classic democratic theory, the residents of a district would choose their representative. In modern America, representatives increasingly choose their districts, and are almost invincible once in office. This type of calcification of democracy has obvious baleful effects on public policy as well as on voter turnout. In many districts, the incumbent advantage is so great that the opposition party fails to run a challenger at all, leaving the voters entirely without choices. American academics in the 1970s began to worry about the “vanishing marginals” or the declining number of House seats in which a marginal shift in the district vote would have changed the outcome. If the vast majority of seats are safe ones, representatives have very little incentive to respond to public concerns.

7. Book banning

Link: During the oral arguments before the Supreme Court in the Citizens United case, the attorney advocating the Affirmative position, United States Deputy Solicitor General Malcolm Stewart , said he was upholding the government’s right to ban books that name political candidates.

Prof. Bradley A. Smith 2010. (Professor of Law at Capital Univ Law School, and chairman of the Center for Competitive Politics; served on the Federal Election Commission from 2000-2005.) NATIONAL AFFAIRS “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform> (brackets in original)

The case addressed the question of whether federal campaign-finance law limits the right of the activist group Citizens United to distribute a hackneyed political documentary entitled *Hillary: The Movie*. The details involved an arcane provision of the law, and most observers expected a limited decision that would make little news and not much practical difference in how campaigns are run. But in the course of the ­argument, Justice Samuel Alito interrupted Stewart and inquired: "What's your answer to [the] point that there isn't any constitutional difference between the distribution of this movie on video [on] demand and providing access on the internet, providing DVDs, either through a commercial service or maybe in a public library, [or] providing the same thing in a book? Would the Constitution permit the restriction of all of those as well?" Stewart, an experienced litigator who had represented the government in campaign-finance cases at the Supreme Court before, responded that the provisions of McCain-Feingold could in fact be constitutionally applied to limit all those forms of speech. The law, he ­contended, would even require banning a book that made the same points as the Citizens United video. There was an audible gasp in the courtroom. Then Justice Alito spoke, it seemed, for the entire audience: "That's pretty incredible." By the time Stewart's turn at the podium was over, he had told Justice Anthony ­Kennedy that the government could restrict the distribution of books through Amazon's digital book reader, Kindle; responded to Justice David Souter that the government could prevent a union from hiring a writer to author a political book; and conceded to Chief Justice John Roberts that a corporate publisher could be prohibited from publishing a 500-page book if it contained even one line of candidate advocacy.

Not merely hypothetical: George Soros was investigated for publishing a political book, and he could have been prosecuted

Prof. Bradley A. Smith 2010. (Professor of Law at Capital Univ Law School, and chairman of the Center for Competitive Politics; served on the Federal Election Commission from 2000-2005.) NATIONAL AFFAIRS “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

This is how the Citizens United case found its way to the Supreme Court. When the case was reargued in September, solicitor general Elena Kagan — taking poor Malcolm Stewart's place at the podium — assured the Court that the government had never taken action against a book, and presumably never would. But in fact, after the election of 2004, the Federal Election Commission had conducted a two-year ­investigation of George Soros for failing to report as campaign expenditures the costs of distributing an anti-Bush book. The agency ultimately voted not to ­prosecute, but its authority to do so was never in question. And Kagan did not back away from the government's position that it had the authority to ban books should they, at some point, become a problem.

Impact: Book banning is a disgusting violation of human rights

Prof. Bradley A. Smith 2010. (Professor of Law at Capital Univ Law School, and chairman of the Center for Competitive Politics; served on the Federal Election Commission from 2000-2005.) NATIONAL AFFAIRS “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform>

This is why the unexpected turn in the oral argument of the ­Citizens United case caused such a stir (and such concern among campaign-finance-reform advocates). Americans, like most free people, react with visceral disgust to the notion of banning books. It is seen as a fundamental violation of the freedom of speech and the open exchange of ideas. To equate campaign-finance reform with book-banning is to threaten the moral high ground of the case for campaign-finance limits. Ceding that high ground would be very costly for reformers, since their efforts have produced so little in the way of demonstrable results. But there is simply no question that restricting the freedoms guaranteed in the Bill of Rights — no less than side-stepping the limits on government power established by the Constitution itself — is inseparable from the movement's goals.

NEGATIVE: DISCLOSE ACT

(Most of the evidence in this brief was researched by Simon Sefzik.)

IMPORTANT NOTE: Also check out the NEG on Citizens United, some of the evidence cross applies

OVERVIEW / CRITERION / BACKGROUND / PHILOSOPHY / OPENERS

Overview: DISCLOSE Act benefits are few, costs are substantial

Prof. John Samples 2010. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University. served eight years as director of Georgetown University Press, and before that, as vice president of the Twentieth Century Fund. Ph.D. in political science from Rutgers University.) Cato Institute “The DISCLOSE Act, Deliberation, and the First Amendment” June 25 2010. <http://www.cato.org/publications/policy-analysis/disclose-act-deliberation-first-amendment>

The benefits of such disclosure for voters are likely less than assumed, while the costs are paid in chilled speech and in less rational public deliberation. DISCLOSE also prohibits speech by government contractors, TARP recipients, and companies managed by foreign nationals. The case for prohibiting speech by each of these groups seems flawed. In general, DISCLOSE exploits loopholes in Citizens United limits on government control of speech to contravene the spirit of that decision and the letter of the First Amendment.

REVERSE ADVOCACY

DISCLOSE violates the constitution, it’s unfair and unequal.

United States Chamber of Commerce 2010. (US governmental body, representing the world’s largest business federation, including 3 million businesses.) “U.S. Chamber Calls Passage of DISCLOSE Act an Assault on Freedom of Speech” Jun. 24 2010. <http://www.uschamber.com/press/releases/2010/june/us-chamber-calls-passage-disclose-act-assault-freedom-speech>

WASHINGTON, D.C.—U.S. Chamber of Commerce President and CEO Thomas J. Donohue issued the following statement on House passage of the DISCLOSE Act: “The Democratic majority in the House jammed through a piece of legislation that clearly violates the Constitution, as well as basic principles of fairness and equity. The Supreme Court calls it ‘viewpoint discrimination,’ and every first-year law student knows that it’s illegal. “They only achieved passage of this bill by making backroom deals and exempting some of the most powerful special interest groups in the country—and specifically allowing unions to mask the movement of their political money. “Citizens are appalled that with a faltering economy, massive unemployment, and an unfolding environmental disaster, Congress is focusing on protecting their own jobs first. A wide array of organizations from across the political spectrum are rightly lining up to oppose this offensive piece of legislation. We trust that the Senate will do the right thing and dismiss it out-of-hand.” The U.S. Chamber of Commerce is the world’s largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations.

DISCLOSE is unnecessary & damages free speech rights and privacy.

The American Civil Liberties Union 2010. (ACLU, one of the world’s leading civil rights activist group, they are comprised of mostly democrats.) “ACLU Urges No Vote On DISCLOSE ACT” June 26 2010, <http://www.aclu.org/free-speech/aclu-urges-no-vote-disclose-act>

"The ACLU supports the disclosure of large contributions to candidates as long as it does not have a chilling effect on political participation, but the DISCLOSE Act would inflict unnecessary damage to free speech rights and does not include the proper safeguards to protect Americans’ privacy. The bill would severely impact donor anonymity, especially those donors who give to smaller and more controversial organizations.”

TOPICALITY

Not “significantly” reforming. The Affirmative is making a minor repair to federal election law, not the significant reform they agreed to affirm.

Definition of Significant is:

“2 a **:** having or likely to have influence or effect **:** important <a significant piece of legislation>;” *(Merriam Webster Online Dictionary 2013.* <http://www.merriam-webster.com/dictionary/significant?show=0&t=1376506958>*)*

“Common man” usage in the literature: DISCLOSE ACT is a “minor” piece of legislation

Ezra Klein, Washington Post 2012. (News reporter with the Washington Post, Focusing on domestic and economic policymaking.) Published by the Washington Post. “The DISCLOSE Act won’t fix campaign finance” July 27, 2012 <http://www.washingtonpost.com/blogs/wonkblog/wp/2012/07/27/the-disclose-act-wont-fix-campaign-finance/>

The Disclose Act was ultimately a minor piece of legislation. Recall those numbers above? It wouldn’t have changed any of them. Nor could the act truly force full disclosure. As Lessig argued in his testimony, the Disclose Act wouldn’t force disclosure of money that hadn’t been spent. In today’s world of unlimited super-PAC expenditures, that may be the most influential money of all.

Definition of “MINOR” : The first definition in Merriam-Webster’s Online Dictionary 2013 for “Minor” is:

“1 : inferior in importance, size, or degree : comparatively unimportant” (Merriam-Webster Online Dictionary 2013 <http://www.merriam-webster.com/dictionary/minor>)

The Obvious Violation: The common man usage and the dictionary converge here to show that the DISCLOSE act is a comparatively unimportant piece of legislation, and does not represent the “significantly reform” criterion given in the resolution.

Impacts:   
1. Reduced educational value. Allowing Affirmatives to do tiny changes opens the debate season to an infinite number of Affirmative plans and makes it impossible to ensure that debating this year is done in an educational manner. The competition, purpose, and educational value of debate is undermined.  
2. No Affirmative team. We have one team advocating a minor reform of the status quo and another team advocating no reform. But there’s nobody in this room today affirming the resolution. No matter who wins, you should vote Negative, since there is no Affirmative team in this room.

HARMS / SIGNIFICANCE

DISCLOSE Act deals with spending that cannot possibly be corrupting

Prof. John Samples 2010. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University. served eight years as director of Georgetown University Press, and before that, as vice president of the Twentieth Century Fund. Ph.D. in political science from Rutgers University.) Cato Institute. “DISCLOSE Will Chill Speech” April 27 2010. <http://www.cato.org/publications/commentary/disclose-will-chill-speech>

But the DISCLOSE Act does not involve campaign contributions. Instead, it prohibits spending on speech done independently of candidates and campaigns. The Supreme Court has said such “independent spending” poses no threat of corruption and thus cannot be prohibited. How can I corrupt you if I don’t give you anything of value?

“Benefits going to TARP recipients”- Response: TARP programs to support banks are closed.

Prof. John Samples 2010. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University. served eight years as director of Georgetown University Press, and before that, as vice president of the Twentieth Century Fund. Ph.D. in political science from Rutgers University.) Cato Institute “The DISCLOSE Act, Deliberation, and the First Amendment” June 28 2010. <http://www.cato.org/sites/cato.org/files/pubs/pdf/pa664.pdf> (Brackets in original)

It might be thought DISCLOSE would prevent further benefits from going to TARP recipients. However, the Department of Treasury reports, “The major [TARP] programs to support banks are closed” and overall spending under that law has all but ended.

“Big corporations corrupt elections” Response: Empirics prove that contributions DON’T corrupt politicians

Prof. Bradley A. Smith 2010. (The Josiah H. Blackmore II/Shirley M. Nault Designated Professor of Law at Capital University Law School in Columbus, Ohio, and chairman of the Center for Competitive Politics. He served on the Federal Election Commission from 2000 to 2005.) Published in National Affairs. “The Myth of Campaign Finance Reform” Winter 2010. <http://www.nationalaffairs.com/publications/detail/the-myth-of-campaign-finance-reform> (Brackets in Original)

Campaign-finance reform has not managed either to promote political equality or prevent corruption. And data show that one reason campaign-­finance regulations are of little value in attacking corruption is that contributions simply don't corrupt politicians. In a 2003 article in the Journal of Economic Perspectives, three MIT scholars — ­Stephen ­Ansolabehere, James Snyder, Jr., and John de Figueiredo — surveyed nearly 40 peer-reviewed studies published between 1976 and 2002. "­[I]­n three out of four instances," they found, "campaign contributions had no statistically significant effects on legislation or had the ‘wrong' sign — ­suggesting that more contributions lead to less support." Given the difficulty of publishing "non-results" in academic journals, the authors suggested in another paper, "the true incidence of papers written showing campaign contributions influence votes is even smaller." ­Ansolabehere and his colleagues then performed their own detailed study, which also found that "legislators' votes depend almost entirely on their own beliefs and the preferences of their voters and their party," and that "contributions have no detectable effects on legislative behavior."

INHERENCY

Shareholders finding out what corporations are doing: Markets solve. Don’t need DISCLOSE

Prof. John Samples 2010. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University. served eight years as director of Georgetown University Press, and before that, as vice president of the Twentieth Century Fund. Ph.D. in political science from Rutgers University.) Cato Institute “The DISCLOSE Act, Deliberation, and the First Amendment” June 25 2010. <http://www.cato.org/publications/policy-analysis/disclose-act-deliberation-first-amendment>

DISCLOSE mandates disclosure of corporate sources of independent spending on speech, putatively in the interest of shareholders and voters. However, it is unlikely that either shareholders or voters would be made better off by this legislation. Shareholders could demand and receive such disclosure without government mandates, given the efficiency of capital markets.

SOLVENCY

Alternate causality – DISCLOSE is addressing the wrong problem

Deeper problem that DISCLOSE ACT does not address – shooting the already dead body won’t fix a problem

Ezra Klein, Washington Post 2012. (News reporter with the Washington Post, Focusing on domestic and economic policymaking.) Published by the Washington Post. “The DISCLOSE Act won’t fix campaign finance” July 27, 2012 <http://www.washingtonpost.com/blogs/wonkblog/wp/2012/07/27/the-disclose-act-wont-fix-campaign-finance/>

The deeper problem is that the Disclose Act is addressing the wrong problem. Citizens United focused attention on the failures of our system of campaign finance. But it did not create them. As Lessig puts it, “On Jan. 20, 2010, the day before Citizens United was decided, our democracy was already broken. Citizens United may have shot the body, but the body was already cold.”

Alternate Cause: 1976 case Buckley v. Valeo. Court Ruled: Congress can’t limit spending by campaigns. [Note: This paragraph comes right after the card above.]

Ezra Klein, Washington Post 2012. (News reporter with the Washington Post, Focusing on domestic and economic policymaking.) Published by the Washington Post. “The DISCLOSE Act won’t fix campaign finance” July 27, 2012 <http://www.washingtonpost.com/blogs/wonkblog/wp/2012/07/27/the-disclose-act-wont-fix-campaign-finance/>

The real culprit is arguably the 1976 case Buckley v. Valeo, in which the Supreme Court held that political money is tantamount to political speech. As a result, Congress can’t limit spending by campaigns. Citizens United and related court decisions made it harder to regulate spending by outside groups, which further eroded the legitimacy of the system. It is all but impossible to break politicians’ dependence on big funders so long as their opponents can benefit from moneyed interests spending unlimited amounts of cash on an election.

Political money is impossible to effectively manage – we should stop trying

Prof. Ilya Shapiro 2012. (senior fellow in constitutional studies at the Cato Institute; adjunct professor at the George Washington University Law School; M.Sc. from the London School of Economics, and a J.D. from Univ of Chicago Law School.) Cato Institute. “Citizens United Doesn’t Mean What Campaign Finance ‘Reformers’ Think It Does” July 24 2012. <http://www.cato.org/blog/citizens-united-doesnt-mean-what-campaign-finance-reformers-think-it-does>

The underlying problem, however, is not the under-regulation of independent speech but the attempt to manage political speech in the first place. Political money is a moving target that, like water, will flow somewhere. If it’s not to candidates, it’s to parties, and if not there, then to independent groups or unincorporated individuals acting together. Because what the government does matters and people want to speak about the issues that concern them.

Not solving SUPER PACS: they influence before any money is spent by threatening to buy airtime

Ezra Klein 2012. (News reporter with the Washington Post, Focusing on domestic and economic policymaking.) Published by the Washington Post. “The DISCLOSE Act won’t fix campaign finance” July 27, 2012 <http://www.washingtonpost.com/blogs/wonkblog/wp/2012/07/27/the-disclose-act-wont-fix-campaign-finance/>

The power of super-PACs is not restricted to their ability to buy airtime for television ads. That’s what attracts all the news coverage, but the more insidious function of super-PACs may be influencing legislation before a single dollar is spent — by threatening to buy future airtime.

“Gives voters more information”

Response 1: Net benefits outweigh. Even if true, benefits don’t outweigh freedom lost, although Justice John Paul Stevens generally would agree with the Affirmative’s position regarding disclosure for campaign speech, he admitted in 1995:

Supreme Court Justice John Paul Stevens 1995. Majority opinion of the Court in the case of McIntyre v. Ohio Elections Commission (93-986), 514 U.S. 334 19 Apr 1995 <http://www.law.cornell.edu/supct/html/93-986.ZO.html>

Insofar as the interest in informing the electorate means nothing more than the provision of additional information that may either buttress or undermine the argument in a document, we think the identity of the speaker is no different from other components of the document's content that the author is free to include or exclude. [n.11] We have already held that the State may not compel a newspaper that prints editorials critical of a particular candidate to provide space for a reply by the candidate. Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241 (1974). The simple interest in providing voters with additional relevant information does not justify a state requirement that a writer make statements or disclosures she would otherwise omit.

Response 2: No enlightenment. The required disclosure information is only intended to appeal to bias

Dr. John Samples 2010. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University. served eight years as director of Georgetown University Press, and before that, as vice president of the Twentieth Century Fund. Ph.D. in political science from Rutgers University.) Cato Institute “The DISCLOSE Act, Deliberation, and the First Amendment” June 28 2010. <http://www.cato.org/sites/cato.org/files/pubs/pdf/pa664.pdf>

DISCLOSE focuses on forcing disclosure by businesses and labor unions, both of which are distrusted institutions. Indeed, as noted earlier, the people forced to issue disclaimers at the end of a message will be of value to voters as a heuristic only because they are associated with these institutions. Presumably Congress expects voters to react to the disclosed information by rejecting the message of the distrusted source. Voters are likely to use information from mandated disclosure to decide whom to vote against. They will reject a message because of their prior beliefs about the disclosed source.

DISADVANTAGES

1. Reduced political deliberation by appeal to biases. DISCLOSE reduces public discourse, because it merely appeals to prejudices rather than adding information or arguments.

Prof. John Samples 2010. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University; Ph.D. in political science from Rutgers Univ.) Cato Institute “The DISCLOSE Act, Deliberation, and the First Amendment” June 28 2010. <http://www.cato.org/sites/cato.org/files/pubs/pdf/pa664.pdf>

Disclosure hardly encourages rational voting. It directs attention away from the content of an ad and toward the source of funding for the message. It tells voters that they need not evaluate the content of a message. Instead, voters need only recall what they believe about the disclosed source. Disclosure prompts voters to act on prior beliefs that have not been updated by new information or arguments. Those prior beliefs concern widely unpopular groups whose disdain may or may not have been justified; disclosure may be little more than an acceptance of popular prejudice. DISCLOSE claims that voters are better off if their votes are guided by untested prior beliefs and prejudice against unpopular groups. At the margin, DISCLOSE fosters a political rather than a rational vote. It lessens the deliberative value of freedom of speech.

Impact: Turn the benefits of informed voters in the 1AC – voters actually work with less information and reach conclusions without the benefit of enlightened discourse (they hear “This ad was sponsored by Corporation X” or “sponsored by the ABC Workers Union,” so they ignore its content, thus missing the arguments and not engaging in genuine political debate). Speech and argumentation in the US suffer as a result, instead of improving as AFF promised.

2. Living in Fear of the government.

Link: DISCLOSE is a politically-driven effort to silence & dissuade voices.

The Center for Competitive Politics updated 2010. (CCP, largest international organization dedicated solely to protecting the first amendment. It is well respected by journalist, research institutions, & policy analyst.) “‘DISCLOSE Act’: H.R. 5175 and S. 3628” Updated July 22, 2010, <http://www.campaignfreedom.org/doclib/20100527_DISCLOSEpolicybriefing.pdf>

The DISCLOSE Act is a politically-driven effort to silence and dissuade certain voices in the political process that some find troubling or damaging. As such, the bill represents nothing less than a violation of the fundamental tenets of the First Amendment, and a rejection of the constitutional framework that citizens, rather than Congress, are the best judges and interpreters of the varied political voices in our Republic.

Impact: DISCLOSE Act confusion would have everyone afraid their political speech will be illegal.

The Center for Competitive Politics updated 2010. (CCP, largest international organization dedicated solely to protecting the first amendment. It is well respected by journalist, research institutions, & policy analyst.) “‘DISCLOSE Act’: H.R. 5175 and S. 3628” Updated July 22, 2010, <http://www.campaignfreedom.org/doclib/20100527_DISCLOSEpolicybriefing.pdf>

The DISCLOSE Act would impose new prohibitions on political speech, place substantial burdens on speech that is not directly prohibited, and create significant uncertainty and confusion among those who wish to speak—deterring the political voices of Americans who cannot be sure whether their political speech would lead to investigation and possibly even fines and imprisonment.

3. Violation of the 1st amendment .

Link: Campaign contributions are protected speech.

Prof. Roger Pilon 1997. (director of Cato’s Center for Constitutional Studies, adjunct professor of government at Georgetown Univ.; M.A. and Ph.D. from the Univ of Chicago; J.D. from the George Washington Univ School of Law.) Cato Institute “Federal Election Campaign Finance Reform: Constitutional Implications” September 25, 1997. <http://www.cato.org/publications/congressional-testimony/federal-election-campaign-finance-reform-constitutional-implications>

Plainly, in Article I, section 4, and Article II, section 1, the Constitution authorizes Congress to regulate federal elections. But, just as plainly, that regulation must conform to restraints imposed by the First Amendment to the Constitution. And here, the Supreme Court has said repeatedly that, under the First Amendment, campaign contributions and expenditures are protected speech.

Link: 1st Amendment doesn’t allow speech restrictions based on a speaker’s corporate identity

Supreme Court Justice Anthony Kennedy 2010. Majority opinion of the Court in Citizens United v. FEC, 21 Jan 2010 <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>

“In the realm of protected speech, the legislature is constitutionally disqualified from dictating the subjects about which persons may speak and the speakers who may address a public issue.” Id., at 784–785. It is important to note that the reasoning and holding of Bellotti did not rest on the existence of a viewpoint discriminatory statute. It rested on the principle that the Government lacks the power to ban corporations from speaking. Bellotti did not address the constitutionality of the State’s ban on corporate independent expenditures to support candidates. In our view, however, that restriction would have been unconstitutional under Bellotti’s central principle: that the First Amendment does not allow political speech restrictions based on a speaker’s corporate identity.

Advocates for DISCLOSE Act admit: It’s purpose is to stop speech

Conn Carroll 2010. (Assistant Director for The Heritage Foundation's Strategic Communications) 11 Oct 2010 “Morning Bell: If You Cant Beat Them, Silence Them” <http://blog.heritage.org/2010/10/11/morning-bell-if-you-cant-beat-them-silence-them/> (brackets in original)

The President may say he is only interested in disclosure, but his policy prescription does not accomplish that. When Sen. Chuck Schumer (D-NY) introduced the DISCLOSE Act to the Senate he gave away the real aim of the bill. “The deterrent effect should not be underestimated,” Schumer said. And just what does the left want to deter Americans from doing? At the House committee DISCLOSE Act markup, Rep. Michael Capuano (D-MA) said: “I have no problem whatsoever keeping everybody out [of elections]. If I could keep all outside entities out, I would.”

The President may say he is only interested in disclosure, but his policy prescription does not accomplish that. When Sen. Chuck Schumer (D-NY) introduced the DISCLOSE Act to the Senate he gave away the real aim of the bill. “The deterrent effect should not be underestimated,” Schumer said. And just what does the left want to deter Americans from doing? At the House committee DISCLOSE Act markup, Rep. Michael Capuano (D-MA) said: “I have no problem whatsoever keeping everybody out [of elections]. If I could keep all outside entities out, I would.”

Link: Disclosure requirements prevent exercise of 1st Amendment rights

Supreme Court Justice Clarence Thomas 2010. Opinion concurring in part and dissenting in part in the case of Citizens United v. FEC 21 Jan 2010 <http://www.law.cornell.edu/supct/html/08-205.ZX1.html> (brackets in original)

My point is not to express any view on the merits of the political controversies I describe. Rather, it is to demonstrate—using real-world, recent examples—the fallacy in the Court’s conclusion that “[d]isclaimer and disclosure requirements … impose no ceiling on campaign-related activities, and do not prevent anyone from speaking.” Ante , at 51 (internal quotation marks and citations omitted). Of course they do. Disclaimer and disclosure requirements enable private citizens and elected officials to implement political strategies specifically calculatedto curtail campaign-related activity and prevent the lawful, peaceful exercise of First Amendment rights.

Link: DISCLOSE is unconstitutional, while also providing no benefit to society.

Prof. John Samples 2010. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University. served eight years as director of Georgetown University Press, and before that, as vice president of the Twentieth Century Fund. Ph.D. in political science from Rutgers University.) Cato Institute “The DISCLOSE Act, Deliberation, and the First Amendment” June 28 2010. <http://www.cato.org/sites/cato.org/files/pubs/pdf/pa664.pdf>

Invidious distinctions aside, DISCLOSE seems constitutionally off track. It prohibits independent expenditures on campaigns, not campaign contributions. Once again, the bill runs up against the missing justification for a prohibition—the anti-corruption rationale. The proposed law thus impinges on First Amendment rights without serving any government interest or providing a benefit to society. The premises of Citizens United should lead the courts to invalidate the spread of the federal “pay-to-play” prohibition to independent expenditures.

Impact: Requiring government permission to speak deprives society of the benefits of open exchange of ideas

Supreme Court Justice Anthony Kennedy 2010. Majority opinion of the Court in Citizens United v. FEC, 21 Jan 2010 <http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>

As a practical matter, however, given the complexity of the regulations and the deference courts show to administrative determinations, a speaker who wants to avoid threats of criminal liability and the heavy costs of defending against FEC enforcement must ask a governmental agency for prior permission to speak. See 2 U. S. C. §437f; 11 CFR §112.1. These onerous restrictions thus function as the equivalent of prior restraint by giving the FEC power analogous to licensing laws implemented in 16th- and 17th-century England, laws and governmental practices of the sort that the First Amendment was drawn to prohibit. See Thomas v. Chicago Park Dist., 534 U. S. 316, 320 (2002); Lovell v. City of Griffin, 303 U. S. 444, 451–452 (1938); Near, supra, at 713–714. Because the FEC’s “business is to censor, there inheres the danger that [it] may well be less responsive than a court—part of an independent branch of government—to the constitutionally protected interests in free expression.” Freedman v. Maryland, 380 U. S. 51, 57–58 (1965). When the FEC issues advisory opinions that prohibit speech, “[m]any persons, rather than undertake the considerable burden (and sometimes risk) of vindicating their rights through case-by-case litigation, will choose simply to abstain from protected speech—harming not only themselves but society as a whole, which is deprived of an uninhibited marketplace of ideas.” Virginia v. Hicks, 539 U. S. 113, 119 (2003) (citation omitted). Consequently, “the censor’s determination may in practice be final.” Freedman, supra, at 58.

Impact: Net Benefits Voting Issue. 1st Amendment “outweighs any public interest in requiring disclosure”. Although Justice John Paul Stevens generally would agree with the Affirmative’s position regarding disclosure for campaign speech, he admitted in 1995:

Supreme Court Justice John Paul Stevens 1995. Majority opinion of the Court in the case of McIntyre v. Ohio Elections Commission (93-986), 514 U.S. 334 19 Apr 1995 <http://www.law.cornell.edu/supct/html/93-986.ZO.html>

"Anonymous pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind." Talley v.California, 362 U.S. 60, 64 (1960). Great works of literature have frequently been produced by authors writing under assumed names. [n.4] Despite readers' curiosity and the public's interest in identifying the creator of a work of art, an author generally is free to decide whether or not to disclose her true identity. The decision in favor of anonymity may be motivated by fear of economic or official retaliation, by concern about social ostracism, or merely by a desire to preserve as much of one's privacy as possible. Whatever the motivation may be, at least in the field of literary endeavor, the interest in having anonymous works enter the marketplace of ideas unquestionably outweighs any public interest in requiring disclosure as a condition of entry. [n.5] Accordingly, an author's decision to remain anonymous, like other decisions concerning omissions or additions to the content of a publication, is an aspect of the freedom of speech protected by the First Amendment.

4. Living in fear of retaliation

Link: “Voter information” doesn’t justify disclosure : Big risk of retaliation when names are disclosed

Supreme Court Justice Clarence Thomas 2010. Opinion concurring in part and dissenting in part in the case of Citizens United v. FEC 21 Jan 2010 <http://www.law.cornell.edu/supct/html/08-205.ZX1.html>

Congress may not abridge the “right to anonymous speech” based on the “ ‘simple interest in providing voters with additional relevant information,’ ” id. , at 276 (quoting McIntyre v. Ohio Elections Comm’n , 514 U. S. 334, 348 (1995) ). In continuing to hold otherwise, the Court misapprehends the import of “recent events” that some amici describe “in which donors to certain causes were blacklisted, threatened, or otherwise targeted for retaliation.”

Impact 1: Threats and violence. Example: California

Supreme Court Justice Clarence Thomas 2010. Opinion concurring in part and dissenting in part in the case of Citizens United v. FEC 21 Jan 2010 <http://www.law.cornell.edu/supct/html/08-205.ZX1.html> (brackets in original)

Proposition 8 amended California’s constitution to provide that “[o]nly marriage between a man and a woman is valid or recognized in California.” Cal. Const., Art. I, §7.5. Any donor who gave more than $100 to any committee supporting or opposing Proposition 8 was required to disclose his full name, street address, occupation, employer’s name (or business name, if self-employed), and the total amount of his contributions. 1See Cal. Govt. Code Ann. §84211(f) (West 2005). The California Secretary of State was then required to post this information on the Internet. See §§84600–84601; §§84602–84602.1 (West Supp. 2010); §§84602.5–84604 (West 2005); §85605 (West Supp. 2010); §§84606–84609 (West 2005). Some opponents of Proposition 8 compiled this information and created Web sites with maps showing the locations of homes or businesses of Proposition 8 supporters. Many supporters (or their customers) suffered property damage, or threats of physical violence or death, as a result.

Impact 2: Retaliation hurts freedom of speech and blocks 1st Amendment rights. Example: 2008 election

Supreme Court Justice Clarence Thomas 2010. Opinion concurring in part and dissenting in part in the case of Citizens United v. FEC 21 Jan 2010 <http://www.law.cornell.edu/supct/html/08-205.ZX1.html> (brackets and ellipses in original)

The success of such intimidation tactics has apparently spawned a cottage industry that uses forcibly disclosed donor information to pre-empt citizens’ exercise of their First Amendment rights. Before the 2008 Presidential election, a “newly formed nonprofit group … plann[ed] to confront donors to conservative groups, hoping to create a chilling effect that will dry up contributions.” Luo, Group Plans Campaign Against G.O.P. Donors, N. Y. Times, Aug. 8, 2008, p. A15. Its leader, “who described his effort as ‘going for the jugular,’ ” detailed the group’s plan to send a “warning letter … alerting donors who might be considering giving to right-wing groups to a variety of potential dangers, including legal trouble, public exposure and watchdog groups digging through their lives.” Ibid. These instances of retaliation sufficiently demonstrate why this Court should invalidate mandatory disclosure and reporting requirements.

5. Partisan bias. It’s bad enough that DISCLOSE Act chills 1st Amendment speech. But another troubling aspect is that it is specifically designed to block speech by certain ideologies, while allowing exemptions for others of a different ideology. Regardless of your particular ideology, you ought to vote against any law that seeks to restrict speech for certain ideological groups.

Link: DISCLOSE Act blocks speech by certain viewpoints, with exemptions for other viewpoints

Hans von Spakovsky 2010. (law degree from Vanderbilt Univ.; formerly served on the Board of Advisors of the U.S. Election Assistance Commission and on the Fulton County (Ga.) Board of Registrations and Elections; Senior Legal Fellow / Manager, Civil Justice Reform Initiative Edwin Meese III Center for Legal and Judicial Studies, Heritage Foundation) DISCLOSing Contempt for Liberty and the Constitution 17 June 2010 <http://blog.heritage.org/2010/06/17/disclosing-contempt-for-liberty-and-the-constitution/>

Of course, the “deterrent” and “chilling” effect is meant to hit corporations — including nonprofit associations like Citizens United, the conservative advocacy organization that brought the original lawsuit — but not unions, which are exempted from most of the provisions of the bill. No surprise there, since unions support Democrats almost exclusively, with huge amounts of money. And the majority party is moving this bill at a breakneck pace through Congress to have it in place for the November elections, because Democrats fear November will be their election Waterloo. The DISCLOSE Act would ban certain government contractors from engaging in any political speech, yet unions that represent government employees, and organizations like Planned Parenthood that receive large amounts of federal grants, would not be affected. American companies with American workers and American officers could be banned from speaking if a small minority of their shareholders are foreigners, yet unions with foreign officers and foreign members could spend as much money on political advocacy as they want. And many of the new disclosure provisions imposed by the act were made onerous and burdensome for the specific purpose of deterring political speech.

Impact: Shutting down groups you oppose means someday they will shut you down as well.

Martin Niemöller in the 1940s. (Niemoller, born 1892- died 1984, was a German Protestant pastor who spoke against Adolf Hitler and spent the last seven years of Nazi rule in concentration camps. He gave this speech numerous times after World War 2 ended, so there is no one specific date for when it was published), quoted by the UNITED STATES HOLOCAUST MEMORIAL MUSEUM, <http://www.ushmm.org/wlc/en/article.php?ModuleId=10007392>

First they came for the Socialists, and I did not speak out--   
Because I was not a Socialist.  
Then they came for the Trade Unionists, and I did not speak out--   
Because I was not a Trade Unionist.  
Then they came for the Jews, and I did not speak out--   
Because I was not a Jew.  
Then they came for me--and there was no one left to speak for me.

NEGATIVE: D.C. REPRESENTATION

(Most of the evidence in this brief was researched by Simon Sefzik.)

OVERVIEW / CRITERION / BACKGROUND / PHILOSOPHY

Philosophy: Representation is unconstitutional – and would damage DC interest (see DA 2)

Prof. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant professor of political science at Univ of Colorado. Former assistant director of Heritage’s B. Kenneth Simon Center for Principles and Politics; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) Heritage Foundation. “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

Congress's latest attempt to grant representation to the District of Columbia by legislative fiat is not only unconstitutional but potentially contrary to the District's interests. If the city's unique status were changed by the addition of such representation, the nation's capital could be deprived of the congressional patronage on which it has for so long depended. And finally, it is always to be remembered that residents of the District are not compelled to live in the federal city, even if they work in the District.

TOPICALITY

Not changing “election law”.

Standard: Election Law definition – it means “how voters choose a candidate”

Oklahoma City University Law School, last updated 26 June 2013. LAW LIBRARY LIBGUIDES “Election Law” <http://law.okcu.libguides.com/content.php?pid=114175>

“Election law is defined as the body of law that controls how voters choose a candidate on the local, state, or national level. This includes all of the statutes, regulations, and case law cover who can run for office, who can vote, where and why elections are held, and how electoral campaigns are financed. “

**Violation**: **DC already has a non-voting Delegate in the US House of Representatives. AFF plan does not change how DC voters choose their Representative, it changes what powers the representative will have in the future. She’ll get a full vote in the House of Representatives. That’s nice, but it’s not Election Law.**

COUNTERPLAN / ALTERNATIVES

Option 1: End Federal Taxation – Abolish federal income tax on DC residents. Congress can do it

Andrew M. Grossman & Nathaniel Ward 2009. (Grossman - visiting legal fellow in The Heritage Foundation’s Center for Legal and Judicial Studies; Testified numerous times before both the House and Senate judiciary committees. J.D. from George Mason Univ School of Law; Master's degree in government from the Univ. of Pennsylvania. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown University’s McDonough School of Business.) “Voting Representation for the District of Columbia: Violating the Framers' Vision and Constitutional Commands” Feb. 19 2009. <http://www.heritage.org/research/reports/2009/02/voting-representation-for-the-district-of-columbia-violating-the-framers-vision-and-constitutional-commands>

End Federal Taxation. Given its exclusive power over the District, Congress could abolish federal income taxes on District residents, providing a powerful solution to the city's "taxation without representation" complaint. This compromise is fully within Congress's powers, and indeed, Congress has enacted special tax policies for the District in the past, something that it cannot do concerning states. There are also strong policy arguments in favor of this approach.

Option 1 Advocacy: Ending Taxation has many advantages

Dr. Robert A. Book 2009. (Health economist, and Senior Research Director at Health Systems Innovation Network, LLC, Ph.D. in economics and an M.B.A. from the University of Chicago, Booth School of Business, an M.A. in computational and applied mathematics from Rice University, and a B.S. in mathematics and history from Duke University. Served as Senior Research Fellow in Health Economics at the Heritage Foundation.) Published by The Heritage Foundation “D.C. Voting Rights: No Representation? No Taxation!” March 11 2009. <http://www.heritage.org/research/reports/2009/03/dc-voting-rights-no-representation-no-taxation>

The obvious play on the famous Revolutionary War slogan was designed to call attention to the fact that D.C. residents pay federal income taxes but have no voting representation in Congress. The intent is to rectify this by making D.C. a state and giving it representation. But the slogan also, perhaps unintentionally, suggests another solution: Exempt D.C. residents from federal income tax. The solution has so many advantages it is surprising it hasn't been implemented already, and it has recently been taken up by Rep. Louie Gohmert (R-TX). For one thing, the logic is unassailable: Though they have ready access to the government in ways that citizens of faraway states do not, D.C. residents have no direct voting representation and can reasonably claim that no one they vote for votes on the legislation that taxes them. There is also precedent for the idea--residents of Puerto Rico and Guam are U.S. citizens who do not vote in federal elections, and they pay no federal income taxes.

Option 1 Advocacy: It would be constitutional – and it would help DC

Dr. Robert A. Book 2009. (Health economist, and Senior Research Director at Health Systems Innovation Network, LLC, Ph.D. in economics and an M.B.A. from the University of Chicago, Booth School of Business, an M.A. in computational and applied mathematics from Rice University, and a B.S. in mathematics and history from Duke University. Served as Senior Research Fellow in Health Economics at the Heritage Foundation.) Published by The Heritage Foundation “D.C. Voting Rights: No Representation? No Taxation!” March 11 2009. <http://www.heritage.org/research/reports/2009/03/dc-voting-rights-no-representation-no-taxation>

D.C. residents complain that they are forced to pay federal income tax despite not having a voting representative in Congress. But the remedy for this problem is not a constitutionally dubious plan to make the District into a quasi-state by adding a Member of Congress to represent it (cynically trying to buy off Republican votes in the process). Rather, simply exempting D.C. residents from federal taxes would help revitalize the District--and do so in a way consistent with what the Founders had in mind for the "federal city."

Option 2: Grant DC statehood

Andrew M. Grossman & Nathaniel Ward 2009. (Grossman - visiting legal fellow in The Heritage Foundation’s Center for Legal and Judicial Studies; Testified numerous times before both the House and Senate judiciary committees. J.D. from George Mason Univ School of Law; Master's degree in government from the Univ. of Pennsylvania. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown University’s McDonough School of Business.) “Voting Representation for the District of Columbia: Violating the Framers' Vision and Constitutional Commands” Feb. 19 2009. <http://www.heritage.org/research/reports/2009/02/voting-representation-for-the-district-of-columbia-violating-the-framers-vision-and-constitutional-commands>

Grant Statehood. It is highly unlikely that Congress could simply grant statehood to the District upon its application. More likely, doing so would require a constitutional amendment, because the Constitution grants Congress, not any state body, "exclusive legislation" over the nation's capital. Such a plan would also run counter to the Framers' still reasonable intent to have a national capital outside the influence of state politics. Granting statehood would also automatically provide the District with a representative and two senators, more representation than it would receive under current legislative proposals, possibly shifting the balance of power in that smaller chamber.

Option 3: Retrocession to Maryland. Return almost all of the territory in DC except for certain key federal properties, back to Maryland. DC residents become Maryland residents and vote in Maryland elections.

Counterplan: A constitutional amendment is enacted that redraws the boundaries of DC and agrees that Maryland will take the territory and the people back as Maryland residents. They then get counted in the census for apportionment and they are represented by a new Maryland Congressman and the existing 2 Senators from Maryland.

Strategy Note: This would be probably impossible to run as an AFF plan because it requires lots of extra-topical changes in addition to election law (like the boundaries of DC, abolishing or changing courts, police departments, etc. within the former District). However, as a Counterplan it would involve doing “the resolution plus more.” While election law in Maryland would not change (a new district with a new Congressman would be established, but that’s following existing law), it would require repeal of the 23rd Amendment, which gives 3 electoral votes to DC. If no one is living in DC, one person in a tent could move there, cast the sole ballot, and get 3 electoral votes all to himself. Since repealing the 23rd Amendment would be a significant change in federal election law, the Counterplan would uphold the resolution, which could cause some problems.

Ilya Shapiro 2009. (resident of D.C. and is a senior fellow in constitutional studies at the Cato Institute) No Taxation without Representation? I’ll Take No Taxation 5 Mar 2009 <http://www.cato.org/publications/commentary/no-taxation-without-representation-ill-take-no-taxation>

Retrocession to Maryland. Akin to the part of the original District that was returned to Virginia in 1846, all but the land under the Capitol, White House, and Supreme Court (and perhaps the Mall and adjacent memorials) could revert to its ceding state. District residents would then be counted toward Maryland’s congressional delegation and be represented by two senators, unlike the current proposal. Given that the historical reasons for a “federal town” have long disappeared - states lack authority over federal property, and the federal government has a large security force independent of the states - this would seem to be the best solution (while maintaining the non-residential “carve out” as a symbol of the equality of all states).

HARMS / SIGNIFICANCE

“DC residents had voting rights and then they were accidentally taken away” – Response: DC residents never had voting rights in the District. Those 1790-1799 voters were Maryland or Virginia citizens.

Prof. Mark S. Scarberry 2009. (Professor of Law, Pepperdine University School of Law) ALABAMA LAW REVIEW, Vol 60 No. 4, “HISTORICAL CONSIDERATIONS AND CONGRESSIONAL REPRESENTATION FOR THE DISTRICT OF COLUMBIA: CONSTITUTIONALITY OF THE D.C. HOUSE VOTING RIGHTS BILL IN LIGHT OF SECTION TWO OF THE FOURTEENTH AMENDMENT AND THE HISTORY OF THE CREATION OF THE DISTRICT“ <http://www.law.ua.edu/pubs/lrarticles/Volume%2060/Issue%204/scarberry.pdf> (brackets in original)

Of course Congress’s power “[t]o exercise exclusive Legislation in all Cases whatsoever, over [the] District” allows Congress to create laws for the District that may in many cases treat the District the same as the states, but that does not mean the District is being treated as if it were a state for purposes of constitutional provisions. In both of the cases in which Congress has, according to Professor Dinh, authorized citizens who are not residents of states to vote in congressional elections, the members of Congress for whom they voted were members apportioned to states, not to some other entity like the District. And although it is true that from 1790 to 1799 citizens who were residents in what was to become the District voted in congressional elections in Maryland and Virginia, Professor Dinh’s claim that when they did so they were not residents of a state appears to be simply wrong, at least as the courts have viewed the matter. The citizens who resided in the area that was being ceded appear to have retained their Maryland or Virginia citizenship through that entire time.

No historical accident: the Founders knew about the option of representation of non-states in the House. They gave the Northwest Territory a non-voting delegate in the Continental Congress

Prof. Mark S. Scarberry 2009. (Professor of Law, Pepperdine University School of Law) ALABAMA LAW REVIEW, Vol 60 No. 4, “HISTORICAL CONSIDERATIONS AND CONGRESSIONAL REPRESENTATION FOR THE DISTRICT OF COLUMBIA: CONSTITUTIONALITY OF THE D.C. HOUSE VOTING RIGHTS BILL IN LIGHT OF SECTION TWO OF THE FOURTEENTH AMENDMENT AND THE HISTORY OF THE CREATION OF THE DISTRICT“ <http://www.law.ua.edu/pubs/lrarticles/Volume%2060/Issue%204/scarberry.pdf>

The text of the new Constitution certainly could have provided for entities other than states to have voting representation in the Congress under the new Constitution. In fact, on July 13, 1787, three days before the Philadelphia Convention delegates approved the Great Compromise, the Continental Congress passed the Northwest Ordinance. The Northwest Ordinance provided for creation of a territorial government for the Northwest Territory and for the territorial legislature to elect a nonvoting delegate to the Continental Congress. The members of the state conventions who voted to ratify the Constitution would not generally have known that these events occurred so close together in time, but they would have known that the Continental Congress had passed the Northwest Ordinance as the Philadelphia Convention was meeting. Members of the ratifying conventions would have been aware of the possibility of providing entities other than states with some sort of representation in Congress, and it would have been obvious that the new Constitution provided voting representation—“Members”—only to the states.

No historical accident: Authors of 14th Amendment knew DC was not represented, and they left it that way

Prof. Mark S. Scarberry 2009. (Professor of Law, Pepperdine University School of Law) ALABAMA LAW REVIEW, Vol 60 No. 4, “HISTORICAL CONSIDERATIONS AND CONGRESSIONAL REPRESENTATION FOR THE DISTRICT OF COLUMBIA: CONSTITUTIONALITY OF THE D.C. HOUSE VOTING RIGHTS BILL IN LIGHT OF SECTION TWO OF THE FOURTEENTH AMENDMENT AND THE HISTORY OF THE CREATION OF THE DISTRICT“ <http://www.law.ua.edu/pubs/lrarticles/Volume%2060/Issue%204/scarberry.pdf> (ellipses in original)

It was clearly understood that the District was not a “State” as that term is used in Article I of the Constitution, just as the Supreme Court had established sixty-one years before. It was also clearly understood, and stated by members of Congress, that the people of the District were not entitled to voting representation in Congress and were in fact subject to taxation without representation. Of course, Congress was sitting in the District, which had a larger population than some states. And yet the 39th Congress proposed, and the states ratified, an amendment to the Constitution providing—in Section Two—only for House seats to be “apportioned among the several States . . . counting the whole number of persons in each State,” and not providing for representation to be given to the District. In this historical context, the notion that there was an inadvertent failure to provide representation for the District is beyond belief. That conclusion, demonstrated in Part II of this Article, is fatal to the constitutionality of the D.C. House Voting Rights Act because the only somewhat plausible argument that the District Clause allows Congress to grant the District voting representation depends on the supposed inadvertent nature of the Constitution’s failure to provide such representation to the District. Because the Constitution’s failure to provide such representation was not inadvertent, the D.C House Voting Rights Act could not be sustained under the District Clause without putting the District Clause in conflict with Section Two of the Fourteenth Amendment (and, as shown below, also in conflict with Article I).

Congress promotes development in DC (See DA 2 for more evidence). Example: Congress has acted to develop the city – they funded projects for the national mall, etc.

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

From early in the District's history, Congress has acted to develop the city, which had previously been largely undeveloped forest and swampland. In the 19th century, lawmakers helped fund development of Pierre L'Enfant's plan for the city. In the early 20th century, a congressional commission shepherded an extensive beautification project that included the development of the National Mall and the addition of new monuments to improve the grandeur of the city.[8]

Absence of congressional representation was understood as a prominent characteristic of a federal district. Rep John Dennis: “Their voice would be heard”

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

The absence of a vote in Congress was clearly understood as a prominent characteristic of a federal district. Moreover, being a resident of the new capital city was viewed as compensation for this limitation. The fact that members would work, and generally reside, in the District gave the city sufficient attention in Congress.[4] Early American leaders understood this argument well. Turley cites Maryland Representative John Dennis, who maintained in 1801 that though District residents "might not be represented in the national body, their voice would be heard."[5] Thus, while the Founders adhered strongly to the twin principles of government by consent and representation when it came to the federal city, they accepted this lack of formal representation because the District's unique status.

“DC interest are neglected” – Response: DC residents are enveloped in lawmakers – Founders avoided problem by placing Congress in DC.

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

One of the arguments in favor of granting the District of Columbia representation in the House is that without representation, the interests of the District will be neglected. This argument dates back to the debates over ratifying the Constitution. During the New York debates, delegate Thomas Tredwell, who later served in the U.S. Congress, declared that "[t]he plan of the federal city ... departs from every principle of freedom." He added that the lack of voting representation could lead to "as complete a tyranny as can be found in the Eastern world," because the residents would have no formal control over the makers of public policy.[6] Tredwell's fear reflects the practical argument for government by consent. Under strict application of this principle, governments not based on consent through formal political representation can potentially ignore the legitimate concerns of the governed more easily. But the Founders avoided this problem by placing the seat of government in this special capital district, so that the enlightened self-interest of the lawmakers who live and work there for much of the year would advance the city's interests. The D.C. Circuit Court made essentially this point in deciding United States v. Cohen: "It is, in any event, fanciful to consider as 'politically powerless' a city whose residents include a high proportion of the officers of all three branches of the federal government, and their staffs."[7]

Fear of legislative tyranny of DC has not been realized – DC interest have been protected and advanced as much as, or more than any other state or district.

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

The facts have demonstrated that such enlightened self-interest is indeed at work, and, consequently, Tredwell's fear of legislative tyranny over the District has not been realized. Even though the District has never enjoyed a full voting Representative in Congress, its interests have been protected and advanced as much as, or more than, any other state or district in our national legislative branch.

INHERENCY

DC has representation – they have three electoral votes –power to elect the president.

23rd Amendment to the Constitution, Section 1. <http://www.law.cornell.edu/constitution/amendmentxxiii>

The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a state, but in no event more than the least populous state; they shall be in addition to those appointed by the states, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a state; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

DISADVANTAGES

1. Constitutional violation / Founders’ intent

Link: It wasn’t a mistake – Founders’ intent (and authors of the 14th Amendment) was that DC would not be represented

Prof. Mark S. Scarberry 2009. (Professor of Law, Pepperdine University School of Law) ALABAMA LAW REVIEW, Vol 60 No. 4, “HISTORICAL CONSIDERATIONS AND CONGRESSIONAL REPRESENTATION FOR THE DISTRICT OF COLUMBIA: CONSTITUTIONALITY OF THE D.C. HOUSE VOTING RIGHTS BILL IN LIGHT OF SECTION TWO OF THE FOURTEENTH AMENDMENT AND THE HISTORY OF THE CREATION OF THE DISTRICT“ <http://www.law.ua.edu/pubs/lrarticles/Volume%2060/Issue%204/scarberry.pdf> (brackets in original)

In any event, the argument from inadvertence suffers from a basic flaw: its premise simply is not true. The failure of the original text of the Constitution to provide for congressional representation for the District was not the result of inadvertence. And it is perfectly clear that there was no inadvertence when, after the Civil War, the 39th Congress proposed, and the states ratified, the Fourteenth Amendment, which provided in Section Two that “Representatives shall be apportioned among the several States.” For reasons that will be discussed at length, it was quite obvious to all involved that the District was not included in the allocation of House members.

Brink: DC congressional representation would undermine DC’s constitutional status.

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

Pending legislation in the Senate to grant the District of Columbia a representative in Congress would undermine the District's unique constitutional status as a city under the responsibility of the U.S. Congress.

Impact: Constitutional Principles are the anchor of national stability, greatness and prosperity

Joe Postell 2008. (Assistant Director of the B. Kenneth Simon Center for American Studies at The Heritage Foundation) 16 Sept 2008, "How to Celebrate Constitution Day," <http://blog.heritage.org/2008/09/16/how-to-celebrate-constitution-day/>

The United States has the longest-lasting written Constitution in human history. Our Constitution is responsible for our greatness and prosperity, and the remarkable stability we experience in our political life. Where other nations are vulnerable to radical movements which undermine liberty and self-government, our Constitution has been the anchor and ballast by which we have maintained a stable regime. But if our Constitution is to continue to provide these blessings, we must seize these opportunities to recur to our Constitution’s principles.

Impact: DC congressional representation would be unfair, and DC is already protected.

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

The "District of Columbia House Voting Rights Act of 2009" (S. 160) would grant the District a voting representative in Congress. Such legislation would undermine the Founders' vision of the "federal town" as a unique enclave that would receive substantial benefits from its appointment as the seat of government. Because the seat of government would be located in the federal city, the Founders anticipated that the interests of residents in the District would be protected and advanced by the Congress as a whole--a scenario that has proven to be substantially true throughout American history.

Impact: DC representation would run afoul of common sense and an understanding of the constitution, the intentions of the founders, and more than two centuries of court precedent.

Andrew M. Grossman & Nathaniel Ward 2009. (Grossman - visiting legal fellow in The Heritage Foundation’s Center for Legal and Judicial Studies; Testified numerous times before both the House and Senate judiciary committees. J.D. from George Mason Univ School of Law; Master's degree in government from the Univ. of Pennsylvania. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown University’s McDonough School of Business.) “Voting Representation for the District of Columbia: Violating the Framers' Vision and Constitutional Commands” Feb. 19 2009. <http://www.heritage.org/research/reports/2009/02/voting-representation-for-the-district-of-columbia-violating-the-framers-vision-and-constitutional-commands>

Under the Constitution, lawmakers must reject any legislative proposal granting the residents of the District of Columbia a separate, voting representative in Congress. Providing such a representative would run afoul of a commonsense understanding of the Constitution, the intentions of the Founders, and more than two centuries of interpretation by legislators and the courts. If Congress seeks to shift the means of congressional representation for District residents and their concerns, it should instead examine proposals that do justice to principles of republican governance and the Constitution.

Impact: If it’s unconstitutional – oppose it

Andrew M. Grossman & Nathaniel Ward 2009. (Grossman - visiting legal fellow in The Heritage Foundation’s Center for Legal and Judicial Studies; Testified numerous times before both the House and Senate judiciary committees. J.D. from George Mason Univ School of Law; Master's degree in government from the Univ. of Pennsylvania. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown University’s McDonough School of Business.) “Voting Representation for the District of Columbia: Violating the Framers' Vision and Constitutional Commands” Feb. 19 2009. <http://www.heritage.org/research/reports/2009/02/voting-representation-for-the-district-of-columbia-violating-the-framers-vision-and-constitutional-commands>

In sum, if legislating representation for District residents is unconstitutional, as it most surely is, then it is the duty of Members of Congress to oppose it. The courts will be unable, and perhaps unwilling, to provide the searching constitutional analysis that Members themselves are duty-bound to perform.

Impact: If it’s unconstitutional oppose it- supporting an unconstitutional amendment is unconstitutional

Andrew M. Grossman & Nathaniel Ward 2009. (Grossman - visiting legal fellow in The Heritage Foundation’s Center for Legal and Judicial Studies; Testified numerous times before both the House and Senate judiciary committees. J.D. from George Mason Univ School of Law; Master's degree in government from the Univ. of Pennsylvania. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown University’s McDonough School of Business.) “Voting Representation for the District of Columbia: Violating the Framers' Vision and Constitutional Commands” Feb. 19 2009. <http://www.heritage.org/research/reports/2009/02/voting-representation-for-the-district-of-columbia-violating-the-framers-vision-and-constitutional-commands>

Members of Congress who doubt the constitutionality of legislation to provide the District with representation have a duty to oppose it, rather than pass the buck to the courts. This duty flows directly from the Constitution and the oath of office that it requires all Members of Congress to take.[18] In that oath, Members swear to "support and defend the Constitution," not to assist in its evisceration.

Backup: “Facially unconstitutional” – representation is limited to STATES ONLY

Prof. Ilya Shapiro 2009. (senior fellow in constitutional studies at the Cato Institute; adjunct professor at the George Washington University Law School; M.Sc. from the London School of Economics, and a J.D. from the University of Chicago Law School.) Cato Institute. “No Taxation without Representation? I’ll Take No Taxation” March 5 2009. <http://www.cato.org/publications/commentary/no-taxation-without-representation-ill-take-no-taxation>

The problem is that the legislation is facially unconstitutional. The plain text of Article I, section 2 limits House representation to voters residing in “states”—a species of jurisdiction the District of Columbia is decidedly not.

2. DC budget cuts

Link/Impact turn: Representing DC in Congress may actually reduce DC Influence

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

In fact, by diminishing lawmakers' attention to the city, the creation of a voting Representative for the District may actually reduce the influence D.C. residents enjoy in Congress. Those who value the true interests of the District should defend the existing arrangement, which promotes the collective responsibility of Congress to preserve the welfare of the federal city.

Link & Brink: Congressional representation would eliminate special support for DC

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

The rationale for the District's special treatment is that it is the collective responsibility to promote the interests of the federal city--a rationale that would be largely eliminated if the District has its own Representative to look after its particular interests.

Link: New act gives DC special funding – better financial support than seven states

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

Additionally, the District is also set to receive a great deal of extra funding from the recently passed American Recovery and Reinvestment Act. In fact, Eleanor Holmes Norton, the District's non-voting delegate to Congress, boasts on her website that the city will receive greater financial support from this "stimulus" legislation than seven states.

Link & Backup: Status quo promotes development. With these funds, Congress helped fund the national mall, & new monuments.

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

From early in the District's history, Congress has acted to develop the city, which had previously been largely undeveloped forest and swampland. In the 19th century, lawmakers helped fund development of Pierre L'Enfant's plan for the city. In the early 20th century, a congressional commission shepherded an extensive beautification project that included the development of the National Mall and the addition of new monuments to improve the grandeur of the city.

Link: Congress spends a lot on DC - 20% of the city operating budget

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

Lawmakers continue to spare little expense on the nation's capital. Congress today funds more than 20 percent of the city's operating budget[9] and provides substantial funding for local amenities like the construction and operation of its subway system. In fact, in 2005, the city received more than $5.50 in federal spending for every dollar paid in federal taxes, more than double what any state receives.[10]Even on the budgetary level, the District is given special treatment: The city receives federal funds under a separate appropriations bill instead of the general appropriations measure passed by Congress.

Link: 20% = $2 billion lost = the size of the Children’s Budget (health programs, including mental health services)

The District of Columbia Office of the Chief Financial Officer 2013. (Its mission is fiscal and financial stability, accountability and integrity of the Government of the District of Columbia.), “2014 Children's Budget”, May 3 2013, <http://cfo.dc.gov/publication/2014-childrens-budget>

Mayor Vincent C. Gray's FY 2014 Children’s Budget Report shows a significant investment in children, youth and their families. The operating budget contains $2.1 billion for children, youth, and families, comprising nearly 21% of the total FY 2014 budget proposal of $10.1 billion. In addition, the capital budget includes more than $579 million for children, youth, and their families. This is 42% of the total FY 2014 capital budget of $1.4 billion. The annual Children’s Budget Report identifies funding for children, youth and families and presents Mayor Gray’s plans to help the nearly 190,000 young people ages birth to 24 who live in this city succeed. In addition to the expected inclusion of education, health, and mental-health services, this report includes funding for community-based service provision for specific populations, automobile safety, and victim services.

Link: Mental health programs likely to be cut in current political climate in DC

Art Levine 2011. (journalist) HUFFINGTON POST 17 May2011 As GOP-Style Democrats Slash DC Budget, Activists Ask: Why Is The Plight of Poor Kids, Homeless Largely Ignored? <http://www.huffingtonpost.com/art-levine/gop-budget-clones-take-ov_b_860365.html>

Some council members may seek to restore a portion of the $20 million to be cut in homeless services, but are doing relatively little to fight for $110 million in other vital services on the chopping blok, including mental health and other programs for the nearly one-third of District children who are poor. Prospects for protecting these programs are even worse than in the fights over social programs at the national level, because local safety-net advocacy groups are mostly under-funded, poorly organized and have no media savvy, making it even easier for the mainstream media to largely ignore the devastation these cuts would cause.

Brink: Mental Health services are in high-demand, new reforms are increasing demand.

DC Behavioral Health Association 2011. “Budget Cuts Mean Shrinking Access to Mental Health Services for DC’s Children”, Published by the DC Fiscal Policy Institute, June 6th 2011, <http://www.dcfpi.org/budget-cuts-mean-shrinking-access-to-mental-health-services-for-dc%E2%80%99s-children>

The shrinking number of mental health providers has profound implications for the District of Columbia. First, because of budget cuts, it is not clear whether providers have sufficient capacity to absorb a high volume of new clients. Second, recent reforms may exacerbate the city’s existing shortage of mental health providers. In 2010, D.C. expanded mental health benefits for adults, increasing by 30 percent the number of adults eligible for Medicaid-covered mental health treatment. Yesterday, D.C. Council held a hearing on proposed legislation to expand the number of children referred for mental health services. If enacted, the bill could increase the demand for mental health services – without ensuring that there are a sufficient number of providers. The city’s efforts to expand coverage and identification of mental health needs are laudable and desperately needed. If these efforts are going to be effective, the city must also address access to treatment by ensuring that there are an adequate number of mental health providers.

Impact: Mental health is the foundation for wellbeing and effective functioning

A Report of the World Health Organization, Department of Mental Health and Substance Abuse in collaboration with the Victorian Health Promotion Foundation and The University of Melbourne 2005. “Promoting Mental Health” <http://www.who.int/mental_health/evidence/MH_Promotion_Book.pdf>

In this positive sense mental health is the foundation for well-being and effective functioning for an individual and for a community. This core concept of mental health is consistent with its wide and varied interpretation across cultures.

Impact: Those with mental illnesses are increasingly victim to human rights violations, & discrimination

The Department of Mental Health and Substance Dependence, Noncommunicable Diseases and Mental Health, & The World Health Organization, 2003. (international health bodies), Published by The United Nations World Health Organization, “Investing in MENTAL HEALTH”, <http://www.who.int/mental_health/media/investing_mnh.pdf>

In addition to the health and social costs, those suffering from mental illnesses are also victims of human rights violations, stigma and discrimination, both inside and outside psychiatric institutions.

Impact: Mental Health disorders hurt the economy

The Department of Mental Health and Substance Dependence, Noncommunicable Diseases and Mental Health, & The World Health Organization, 2003. (international health bodies), Published by The United Nations World Health Organization, “Investing in MENTAL HEALTH”, <http://www.who.int/mental_health/media/investing_mnh.pdf>

Given the prevalence of mental health and substance-dependence problems in adults and children, it is not surprising that there is an enormous emotional as well as ﬁnancial burden on individuals, their families and society as a whole. The economic impacts of mental illness affect personal income, the ability of ill persons – and often their caregivers – to work, productivity in the workplace and contributions to the national economy, as well as the utilization of treatment and support services. The cost of mental health problems in developed countries is estimated to be between 3% and 4% of GNP. However, mental disorders cost national economies several billion dollars, both in terms of expenditures incurred and loss of productivity. The average annual costs, including medical, pharmaceutical and disability costs, for employees with depression may be 4.2 times higher than those incurred by a typical beneﬁciary. However, the cost of treatment is often completely offset by a reduction in the number of days of absenteeism and productivity lost while at work.

BACKUP / EXTENSIONS

Backup: Status quo promotes DC agenda. DC interest are being upheld currently, more than any other state

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

The facts have demonstrated that such enlightened self-interest is indeed at work, and, consequently, Tredwell's fear of legislative tyranny over the District has not been realized. Even though the District has never enjoyed a full voting Representative in Congress, its interests have been protected and advanced as much as, or more than, any other state or district in our national legislative branch.

Background: Studies prove that mental health services are inadequate in DC

DC Behavioral Health Association 2011. “Budget Cuts Mean Shrinking Access to Mental Health Services for DC’s Children”, Published by the DC Fiscal Policy Institute, June 6th 2011, <http://www.dcfpi.org/budget-cuts-mean-shrinking-access-to-mental-health-services-for-dc%E2%80%99s-children>

Eight recent studies have found that the number of Medicaid-funded mental health practitioners is inadequate.  Yet the District has exacerbated this problem by cutting the amount it pays mental health providers to serve DC residents. Lower reimbursements mean that fewer providers will choose to participate in Medicaid. This suggests that DC’s mental health provider shortfall will grow worse.

Link: Uncertain if core agencies of government were to still be held in DC.

Dr. Joe Postell, & Nathaniel Ward 2009. (POSTELL - assistant prof. of political science at Univ of Colorado; PhD in political thought and political philosophy from Univ of Dallas, master’s degree in politics. WARD - Associate Manager of Online Membership Programs, Manager of The Heritage Foundation; graduate of Dartmouth College, Georgetown Univ McDonough School of Business.) “D.C. Representation: How Congress Promotes the Interests of the District of Columbia” Feb. 20 2009. <http://www.heritage.org/research/reports/2009/02/dc-representation-how-congress-promotes-the-interests-of-the-district-of-columbia>

It is unclear whether Congress would continue to provide such generous federal funding to the District--as it currently does through a special appropriations process--were the city to secure representation in Congress. While the core agencies of government would likely remain in Washington for the foreseeable future, lawmakers might question why one congressional district receives so large a share of federal largesse and over time eliminate the capital's favored status.

NEGATIVE: ABOLISHING THE ELECTORAL COLLEGE

(Most of the evidence in this brief was researched by Simon Sefzik.)

NEGATIVE PHILOSOPHY

Respect for the Constitution

Christopher Demuth 2006. (president of the American Enterprise Institute ) Doing Too Much, Badly – Unlimited Government, THE INSIDER Summer/Fall 2006, originally published in THE AMERICAN ENTERPRISE in Jan/Feb 2006 <http://www.insideronline.org/archives/2006/summer/summer.pdf>

First, the American political order is very old and very successful, and tolerable Constitutional adherence has already seen us through many epochs and crises. Have you heard the joke about the student who went to the reference librarian and asked for a copy of the French Constitution? “I’m sorry,” the librarian replied, “we don’t keep periodicals here.”

Don’t abolish the Electoral College – the founders knew what they were doing

Prof. Lawrence W. Reed 2001 (President of the Foundation for Economic Education, Reed holds a B.A. degree in Economics from Grove City College and an M.A. degree in History from Slippery Rock State University, professor of economics at Midland's Northwood University and chaired the Department of Economics. Elected to the Board of Trustees of the Foundation for Economic Education (FEE). Visiting Senior Fellow with the Heritage Foundation.) “Keep the Electoral College!” Mackinac center for public policy. March 6, 2001. <http://www.mackinac.org/3353>

Should the Electoral College be abolished? Last year's presidential election raised the question once again but it also answered it with an emphatic NO. The Framers of the Constitution knew precisely what they were doing when they established the system for electing presidents, which is more than anyone can say about the people who spent weeks last fall counting those celebrated "dimples" and "pregnant chads" in Florida.

HARMS / SIGNIFICANCE

“Status Quo too focused on swing states” – Response: Not a problem, it proves the system is working

Tara Ross 2004. (Texas attorney) Published by the Heritage Foundation. “The Electoral College: Enlightened Democracy” November 1 2004. <http://www.heritage.org/research/reports/2004/11/the-electoral-college-enlightened-democracy>

Many critics dispute this description of the two types of elections. They contend that the current system does not encourage presidential candidates to tour the nation, but instead encourages a focus on mid-sized "swing" states. "Safe" states and small states, they allege, do not receive nearly as much attention on this national tour.There is an element of truth in this observation. Yet to the degree that safe states do not receive a proportionate amount of attention during campaigns, the logical conclusion is that those states, by and large, must already feel that one of the two presidential candidates represents their interests fairly well. When a candidate ceases to adequately understand and represent one of "his" state's interests, the discontent in that state is usually expressed pretty quickly.

“Too focused on swing states” – Response: Problem gets worse without the Electoral College – candidates would become too focused on highly populated areas

Tara Ross 2004. (Texas attorney) Published by the Heritage Foundation. “The Electoral College: Enlightened Democracy” November 1 2004. <http://www.heritage.org/research/reports/2004/11/the-electoral-college-enlightened-democracy>

A second argument made by critics is similarly flawed. Although the winner-take-all system causes large states (especially large swing states) to elicit more attention than small states, these critics erroneously compare the amount of campaigning in small versus large states under the current system. They should instead compare the treatment of small states under the current system against the treatment they would receive under a new one. Today, small states undoubtedly receive less attention than large states (unless, of course, the large state is considered a safe state). However, a direct vote system would magnify, not improve, this problem because it would encourage a focus on highly populated areas. Small states would likely never receive as much attention as their larger neighbors. The goal is not to eliminate this disparity, but to minimize its severity. Under the Electoral College system, the states are as evenly represented as possible, given that they are not all the same size.

“Wasted Votes” – Response: Votes are not “wasted” in the E.C. any more than they are in popular vote

Tara Ross 2004. (Texas attorney) Published by the Heritage Foundation. “The Electoral College: Enlightened Democracy” November 1 2004. <http://www.heritage.org/research/reports/2004/11/the-electoral-college-enlightened-democracy>

Critics of the Electoral College allege that the country's presidential election process does more to trample the rights of individuals than to protect federalism. In this context, they often cite the "winner-take-all" method employed by most states, claiming that it causes the votes of some individuals to be "wasted." As this argument goes, a Texan who voted for Al Gore in the 2000 election wasted his vote because George W. Bush was awarded the state's entire slate of electors under the winner-take-all method. Gore did not win so much as one electoral vote from Texas, despite winning nearly 2.5 million of that state's popular votes during the election.  In a direct popular election, critics note, these votes would not have been "wasted" -- they could have instead been included in the final national tally for Gore. Such arguments, however, are a bit disingenuous. These votes were not wasted. They were simply cast on the losing side of a popular vote within the state. If the 2000 election had been conducted based on nationwide popular vote totals only, would people claim that any vote for George W. Bush was "wasted" because Al Gore won the popular vote? Of course not. The votes for Bush were cast in an effort to win. In the event of a loss, they would simply have been votes for the losing candidate -- just as in any other election (such as an election for Governor or Senator).

Electoral College works well: preserves federalism, prevents chaos, prevents tyranny

Tara Ross 2004. (Texas attorney) Published by the Heritage Foundation. “The Electoral College: Enlightened Democracy” November 1 2004. <http://www.heritage.org/research/reports/2004/11/the-electoral-college-enlightened-democracy>

America's election systems have operated smoothly for more than 200 years because the Electoral College accomplishes its intended purposes. America's presidential election process preserves federalism, prevents chaos, grants definitive electoral outcomes, and prevents tyrannical or unreasonable rule. The Founding Fathers created a stable, well-planned and carefully designed system -- and it works. Past elections, even the elections of Presidents who lost the popular vote, are testaments to the ingenuity of the Founding Fathers. In each case, the victor was able to succeed only because his opponent did not build the national coalition that is required by the Electoral College. In each case, smaller states were protected from their larger neighbors. In each case, the presidential election system functioned effectively to give the country a President with broad-based support.

With the Electoral college, if there is a recount – you can recount the state NOT the entire country, if there are allegations of fraud – the investigation is luckily limited to the state.

Prof. Ronald D. Rotunda 2000 (Distinguished Professor of Jurisprudence, at Chapman University;Professor of Law at George Mason Univ School of Law. Graduate of Harvard College and a magna cum laude graduate of Harvard Law School) “How the Electoral College Works — And Why It Works Well” The Cato Institute. November 13, 2000 <http://www.cato.org/publications/commentary/how-electoral-college-works-why-it-works-well>

Some of Vice President Gore’s supporters claim he won a majority of the votes and that should make him president. Actually, he has won 49 percent of the votes cast, which is greater than the 43 percent President Clinton won in 1992, but may be less than Gov. Bush’s total once all absentee votes have been counted. Of course, if the total vote is what matters, we would have to recount the entire nation, not just Florida. The Electoral College system saves us from that. If there are allegations of fraud, the investigation is limited to states where the electoral votes matter and the race is close.

AT: “Electoral College ignores the peoples will/its undemocratic” - The Electoral College & Popular vote rarely disagree. In only four instances, have they disagreed

Abou Amara Jr. 2012. (master of public policy degree from the University of Minnesota's Humphrey School of Public Affairs.) November 13 2012. Published by Minnesota Public Radio news. “Electoral College remains the best way to pick a president” <http://minnesota.publicradio.org/display/web/2012/11/13/amara>

Finally, there's no need for a national popular vote because, with a few exceptions, the Electoral College essentially is one right now. It's extremely rare for a presidential candidate to win the Electoral College and lose the popular vote. In the 54 presidential elections in American history, only four people have won the Electoral College while losing the popular vote: John Quincy Adams in 1824, Rutherford B. Hayes in 1876, Benjamin Harrison in 1888 and George W. Bush in 2000.

The Electoral College is profoundly democratic, using a direct popular vote would only corrupt American politics.

Trent England 2012. (Vice president of policy at the Freedom Foundation. Former legal policy analyst at The Heritage Foundation. Law degree from The George Mason University School of Law and a bachelor of arts in government from Claremont McKenna College.) October 1, 2012. “Eliminating the Electoral College Would Corrupt Our Elections” Published by US news. <http://www.usnews.com/opinion/articles/2012/10/01/eliminating-the-electoral-college-would-corrupt-our-elections>

The Electoral College is a profoundly democratic and appropriate way to elect the president. Changing to a national popular vote would make American politics more radical, regional, and corrupt. In the final days of the Constitutional Convention, the Founders created a two-step, state-based election process known as the Electoral College. Democratic processes need rules, and that's exactly what the Electoral College is for presidential elections. It requires more than any simple majority of votes to win the White House. It forces presidential candidates and their political parties to build broad national coalitions.

Unlikely for the Electoral vote & popular vote to disagree.

Prof. Lawrence W. Reed 2001 (President of the Foundation for Economic Education, Reed holds a B.A. degree in Economics from Grove City College and an M.A. degree in History from Slippery Rock State University, professor of economics at Midland's Northwood University and chaired the Department of Economics. Elected to the Board of Trustees of the Foundation for Economic Education (FEE). Visiting Senior Fellow with the Heritage Foundation.) “Keep the Electoral College!” Mackinac center for public policy. March 6, 2001. <http://www.mackinac.org/3353>

Some say that it is inherently unfair for a candidate to win in the Electoral College and become president if another candidate actually has more popular votes. It should be noted at the outset that it is extremely unlikely this could ever happen when the popular vote margin is wide. A narrow margin in the popular vote—narrow enough to be wiped out with a few vote-rigging recounts—cries out for a decisive conclusion, and that's what the Electoral College offers.

DISADVANTAGES

1. Lost federalism. Federalism is the division of power that allows the States to be important actors in government rather than having all power centralized at the national level.

Link: Only the Electoral College preserves federalism

Tara Ross 2004. (lawyer in Texas and the author of Enlightened Democracy: The Case for the Electoral College) Published by the Heritage Foundation. “The Electoral College: Enlightened Democracy” November 1 2004. <http://www.heritage.org/research/reports/2004/11/the-electoral-college-enlightened-democracy>

In sum, the nation conducts democratic, popular elections -- but they are conducted at the state level, rather than the national level. Professor Charles R. Kesler of Claremont McKenna College explains: "In truth, the issue is democracy with federalism (the Electoral College) versus democracy without federalism (a national popular vote). Either is democratic. Only the Electoral College preserves federalism, moderates ideological differences, and promotes national consensus in our choice of a chief executive."

Impact: Federalism preserves individual liberty and economic growth

Art Macomber 2001. (attorney; J.D. from Univ of California Hastings College of the Law) Federalism: Guardian of Individual Liberty 27 Oct 2001 <http://macomberlaw.com/index.php/home/writin/federalism-guardian/>

Individual liberty is safeguarded under Federalism because when power is decentralized individuals can escape unfavorable policies by moving to a more preferable jurisdiction. Thus the monopoly governmental entities must meet real needs or people and capital flee. This is true consumer sovereignty. Moreover, mobility of people and capital are significant checks on centralized power. As experimentation flowers, choices for the mobility increase. Freedom of mobility for capital means government has a harder job expropriating wealth and thereby undermining economic growth. The smaller the political entity, right down to the individual, the more the threat of exit can cause changes in governmental policy.

2. Biased Regionalism

Link: Without the electoral college – we would see elections dominated by the most highly populated regions.

Prof. John Samples 2000. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University. Served eight years as director of Georgetown Univ. Press, and before that, as vice president of the Twentieth Century Fund. Ph.D. in political science from Rutgers University.) “In Defense of the Electoral College”The Cato Institute November 2000 <http://www.cato.org/publications/commentary/defense-electoral-college>

Nonetheless, such fidelity will strike some as blind adherence to the past. For those skeptics, I would point out two other advantages the Electoral College offers. First, we must keep in mind the likely effects of direct popular election of the president. We would probably see elections dominated by the most populous regions of the country or by several large metropolitan areas. In the 2000 election, for example, Vice President Gore could have put together a plurality or majority in the Northeast, parts of the Midwest, and California.

Link: National Popular vote eliminates any need for geographic balance. Now candidates could win based on intense support for a narrow region.

Trent England 2012. (Vice president of policy at the Freedom Foundation. Former legal policy analyst at The Heritage Foundation. Law degree from The George Mason University School of Law and a bachelor of arts in government from Claremont McKenna College.) October 1, 2012. “Eliminating the Electoral College Would Corrupt Our Elections” Published by US news. <http://www.usnews.com/opinion/articles/2012/10/01/eliminating-the-electoral-college-would-corrupt-our-elections>

“A national popular vote would eliminate any need for geographic balance. A candidate could win based on intense support from a narrow region. It's happened before. In 1888, incumbent President Grover Cleveland won the most popular votes with huge margins in the Deep South, but lost the Electoral College and thus the presidency. Neither the nation nor the Democratic Party would have been better off with a popular vote system that rewarded and encouraged radical, regional politics.”

Link: Electoral College forces moderation and forces Candidates to appeal to a wider variety of voters

Abou Amara Jr. 2012. (Master of public policy degree from the University of Minnesota's Humphrey School of Public Affairs.) November 13. Published by Minnesota Public Radio (news). “Electoral College remains the best way to pick a president” <http://minnesota.publicradio.org/display/web/2012/11/13/amara>

“Third, the Electoral College promotes moderation and forces candidates to appeal to a variety of groups, including minority groups; no candidate can win with support from just one region of the country. One reason Mitt Romney failed to do well in swing states was that he was not able to appeal to Latinos, African-Americans or Asian-Americans. If a national popular vote were in place, Romney could have focused more of his efforts on turning out the vote in solidly conservative states such as Alabama and Mississippi, rather than focusing on moderate and independent voters in swing states. The Electoral College forces candidates to appeal to a wider swath of voters.”

Link: Electoral college prevents biased regionalism – it forces us to make sure no state is left behind

Prof. John Samples 2000. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University. Served eight years as director of Georgetown Univ. Press, and before that, as vice president of the Twentieth Century Fund. Ph.D. in political science from Rutgers University.) “In Defense of the Electoral College” The Cato Institute November 2000 <http://www.cato.org/publications/commentary/defense-electoral-college>

The victims in such elections would be those regions too sparsely populated to merit the attention of presidential candidates. Pure democrats would hardly regret that diminished status, but I wonder if a large and diverse nation should write off whole parts of its territory. We should keep in mind the regional conflicts that have plagued large and diverse nations like India, China, and Russia. The Electoral College is a good antidote to the poison of regionalism because it forces presidential candidates to seek support throughout the nation. By making sure no state will be left behind, it provides a measure of coherence to our nation.

Impact: Since the electoral college forces nationwide outreach – it ends up being better for the country

Prof. Ronald D. Rotunda 2000 (Distinguished Professor of Jurisprudence, at Chapman University. University Professor and Professor of Law at George Mason University School of Law. Graduate of Harvard College and a magna cum laude graduate of Harvard Law School, where he was a member of Harvard Law Review. He was the Constitutional Law Adviser to the Supreme National Council of Cambodia and assisted that country in writing its first democratic constitution.) “How the Electoral College Works — And Why It Works Well” The Cato Institute. November 13, 2000 <http://www.cato.org/publications/commentary/how-electoral-college-works-why-it-works-well>

The Electoral College system prevents candidates with only regional appeal from winning. Statistically, having to prevail in a number of sub-elections produces a better result for the country. For the same reason we count the number of games won in the World Series (rather than the total number of runs, which would be heavily influenced by one anomalous game). If team A wins the first game 11 runs to zero, and team B wins the next four games one run to zero, we all know that team B has won the World Series. After all, if Bush won 100 percent of the popular vote in his home state of Texas, thereby prevailing in the nationwide popular vote, those extra votes would not show he had more support nationwide, only that he is a candidate popular in one very populous state.

**3. Big states take over**

Link: The reason we haven’t amended the Constitution up until now to abolish the Electoral College is because small states oppose it – it would shift the focus of elections to big states

Prof. Lawrence W. Reed 2001 (President of the Foundation for Economic Education, M.A. in History from Slippery Rock State University, professor of economics at Midland's Northwood University and chaired the Department of Economics.. Visiting Senior Fellow with the Heritage Foundation.) “Keep the Electoral College!” Mackinac center for public policy. March 6, 2001. <http://www.mackinac.org/3353>

Thankfully, the question of abolishing the Electoral College is moot because the hurdles a constitutional amendment would have to jump to accomplish that end are simply too high. Too many small states would block it, as they have successfully done on numerous previous occasions. They understand that doing away with the Electoral College would shift the focus of presidential elections to a handful of large, populous states.

Impact: Small states & rural areas would suffer significantly with little voice in the Presidential election process

Tara Ross 2004. (Texas attorney) Published by the Heritage Foundation. “The Electoral College: Enlightened Democracy” November 1 2004. <http://www.heritage.org/research/reports/2004/11/the-electoral-college-enlightened-democracy>

As the system stands today, presidential candidates have no incentive to poll large margins in any one state. Winning 50.1 percent of the votes in a state is as effective as winning 100 percent of the votes. Presidential candidates therefore tour the nation, campaigning in all states and seeking to build a national coalition that will enable them to win a majority of states' electoral votes. Direct popular elections, by contrast, would present different incentives. Suddenly, winning 100 percent of the votes is better than winning 50.1 percent of the votes. In fact, it may be easier to rack up votes in a friendly state than to gain 50.1 percent of votes in each of two states of similar size, although the payoff would be essentially the same. The result? Democrats would almost certainly spend most of their time in the large population centers in California and New York. Republicans would campaign in the South and Midwest. Large cities would be focused on almost exclusively as the candidates seek to turn out as many votes as possible in "their" region of the country. Small states, rural areas, and sparsely populated regions would find themselves with little to no voice in presidential selection. In this scenario, a handful of states (or heavily populated cities) win, while the remaining states and less-populated areas suffer significantly

Example: Wyoming has a small population, but because of the Electoral College it has weight

Judge Richard A. Posner 2012. (A judge, U.S. Court of Appeals for the 7th Circuit, and a senior lecturer at the University of Chicago Law School. )“In Defense of the Electoral College” November 12 2012 <http://www.slate.com/articles/news_and_politics/view_from_chicago/2012/11/defending_the_electoral_college.html>

The Electoral College restores some of the weight in the political balance that large states (by population) lose by virtue of the mal-apportionment of the Senate decreed in the Constitution. This may seem paradoxical, given that electoral votes are weighted in favor of less populous states. Wyoming, the least populous state, contains only about one-sixth of 1 percent of the U.S. population, but its three electors (of whom two are awarded only because Wyoming has two senators like every other state) give it slightly more than one-half of 1 percent of total electoral votes. But winner-take-all makes a slight increase in the popular vote have a much bigger electoral-vote payoff in a large state than in a small one.

4. Fairness violation. Different voting procedures among states mean that votes in different states are only counted within the state to determine a state winner in the Electoral College. When you start measuring votes across the states, it’s unfair because different states have different voting laws. We shouldn’t compare votes in one state to votes in another state.

Abou Amara Jr. 2012. (Master of public policy degree from the University of Minnesota's Humphrey School of Public Affairs.) November 13. Published by Minnesota Public Radio (news). “Electoral College remains the best way to pick a president” <http://minnesota.publicradio.org/display/web/2012/11/13/amara>

“First, the Electoral College compares apples-to-apples votes. Right now, each state decides who is eligible to vote. The rules vary widely in areas such as allowing felons to vote and requiring a photo ID. States also differ in their methods of voting. For example, in Washington state, every voter casts his ballot by mail. Compare that to the system in Minnesota, where we have multiple methods of casting ballots. Having multiple voting laws in place would make a national popular vote unfair.”

5. Increased Risk of Voting Fraud

Link: National popular vote makes fraud easier

Abou Amara Jr. 2012. (master of public policy degree from the University of Minnesota's Humphrey School of Public Affairs.) November 13 2012. Published by Minnesota Public Radio news. “Electoral College remains the best way to pick a president” <http://minnesota.publicradio.org/display/web/2012/11/13/amara>

Second, the Electoral College quarantines litigation and election disputes to a particular state. Imagine another Bush v. Gore election, in which votes cast were contested. That type of scenario would cast doubt on the integrity of the whole election system, rather than just the integrity of a particular state. A national popular vote system would make massive voter fraud much easier. The Electoral College helps maintain integrity in our election system.

Link: Electoral College is better at preventing fraud than popular vote: 1) harder to predict where stolen votes would make a difference; 2) easier to investigate only in one state if there is suspicion

Tara Ross 2004. (Texas attorney) Published by the Heritage Foundation. “The Electoral College: Enlightened Democracy” November 1 2004. <http://www.heritage.org/research/reports/2004/11/the-electoral-college-enlightened-democracy>

The Electoral College provides yet another benefit: It reduces the incidence of fraud and error. Obviously, no system can completely eliminate the element of human error. Neither can any system eradicate the tendency of some dishonest individuals to cheat. An election system can, however, minimize the extent to which these factors affect elections.The Electoral College defends against fraudulent behavior and human error in two ways: First, the system makes it difficult to predict where stolen votes will make a difference. Second, to the degree that fraud and errors do occur, the Electoral College makes it possible to isolate the problem to one state or a handful of states. The country is given a clear set of problems to resolve one way or another before moving on to a definitive election outcome -- much as it knew in 2000 that the election would be certain once Florida's disputes were resolved.

Popular vote would encourage fraud

Prof. Hans A. von Spakovsky 2011. (Senior Legal Fellow at The Heritage Foundation's Center for Legal and Judicial Studies;served on the Board of Advisors of the U.S. Election Assistance Commission and on the Fulton County (Ga.) Board of Registrations and Elections. Vice chairman of the Fairfax County (Va.) Electoral Board; professor at George Mason Univ School of Law. JD from Vanderbilt Univ School of Law) 27 Oct 2011“Destroying the Electoral College: The Anti-Federalist National Popular Vote Scheme” <http://www.heritage.org/research/reports/2011/10/destroying-the-electoral-college-the-anti-federalist-national-popular-vote-scheme>

Since the 2000 U.S. presidential election, there have been many ill-informed calls to abolish the Electoral College. Even before that contentious election, there had been more than 700 proposals introduced in Congress to amend the Constitution to change the Electoral College—more than on any other topic.[2] The latest scheme, the National Popular Vote (NPV) plan, is bad public policy. The NPV plan would: Diminish the influence of smaller states and rural areas of the country; Lead to more recounts and contentious conflicts about the results of presidential elections; and Encourage voter fraud.

Impact: Voter Fraud risk is real & it affects close elections

Prof. Hans A. von Spakovsky 2013. (Senior Legal Fellow at The Heritage Foundation's Center for Legal and Judicial Studies;served on the Board of Advisors of the U.S. Election Assistance Commission and on the Fulton County (Ga.) Board of Registrations and Elections. Vice chairman of the Fairfax County (Va.) Electoral Board; professor at George Mason Univ School of Law. JD from Vanderbilt Univ School of Law)) June 17, 2013 “Voter Fraud in Missouri: Wrong Candidate Was Elected” <http://blog.heritage.org/2013/05/17/voter-fraud-in-missouri-wrong-candidate-was-elected/> [Brackets and ellipses in original]

A guilty plea in a Kansas City, Missouri, voter fraud case this week illustrates something the U.S. Supreme Court pointed out when it upheld Indiana’s voter ID law in 2008: [F]lagrant examples of [voter] fraud…have been documented throughout this Nation’s history [and] occasional examples have surfaced in recent years that…demonstrate that not only is the risk of voter fraud real but that it could affect the outcome of a close election.

Impact: National Popular vote would increase corruption, voter fraud, end in disaster. Full disclosure: The plan Spakovsky is talking about in this context is the “NPV” agreement among the States, where enough states may agree that they will each give their electoral votes to whoever wins the national popular vote (without waiting for a Constitutional amendment). If that’s the AFF plan, then this card directly applies. Spakovsky thinks it’s unconstitutional for states to do that and he opposes it. He opposes replacing the Electoral College, with or without the NPV state plan, and we quote here his reasons for that, which apply to all cases to abolish the E.C., not just the NPV State Compact plan.

Prof. Hans A. von Spakovsky 2011. (Senior Legal Fellow at The Heritage Foundation's Center for Legal and Judicial Studies;served on the Board of Advisors of the U.S. Election Assistance Commission and on the Fulton County (Ga.) Board of Registrations and Elections. Vice chairman of the Fairfax County (Va.) Electoral Board; professor at George Mason Univ School of Law. JD from Vanderbilt Univ School of Law) 27 Oct 2011“Destroying the Electoral College: The Anti-Federalist National Popular Vote Scheme” <http://www.heritage.org/research/reports/2011/10/destroying-the-electoral-college-the-anti-federalist-national-popular-vote-scheme>

The National Popular Vote (NPV) plan is the latest in a long line of schemes designed to replace the Electoral College. Imbued with the ideals of this nation’s Founders, the Electoral College has proved itself to be both effective in providing orderly elections for President and resilient in allowing a stable transfer of power of the leadership of the world’s greatest democracy. Therefore, while it would be a mistake to replace the Electoral College, replacing this system with the NPV would be a disaster. The NPV would devalue the minority interests that the Founders sought to protect, create electoral administrative problems, encourage voter fraud, and radicalize the U.S. political system. It also would likely violate the U.S. Constitution’s Compact Clause while directly contravening the Founders’ view of federalism and a representative republic. In an age of perceived political dysfunction, effective policies already in place—especially successful policies established by this nation’s Founders, such as the Electoral College—should be preserved.

Example: Democrat in Missouri elected because of voter fraud

Prof. Hans A. von Spakovsky 2013. (Senior Legal Fellow at The Heritage Foundation's Center for Legal and Judicial Studies, where he manages the Civil Justice Reform Initiative. Served on the Board of Advisors of the U.S. Election Assistance Commission and on the Fulton County (Ga.) Board of Registrations and Elections. Vice chairman of the Fairfax County (Va.) Electoral Board and a former member of the Virginia Advisory Board to the U.S. Commission on Civil Rights. professor at the George Mason University School of Law. Vanderbilt University School of Law, bachelor's degree from the Massachusetts Institute of Technology.) June 17, 2013. The Heritage foundation “Voter Fraud in Missouri: Wrong Candidate Was Elected” <http://blog.heritage.org/2013/05/17/voter-fraud-in-missouri-wrong-candidate-was-elected/>

On Monday, John C. Moretina pleaded guilty to a federal felony count of voter fraud in the August 2010 Democratic primary in Missouri’s 40th legislative district. Moretina falsely claimed he was living in the 40th district just so he could vote in the primary. This is a Democratic district where the winner of the primary, John J. Rizzo, was highly likely to become the district representative in the state house and, in fact, was elected. But Rizzo beat his Democratic opponent, Will Royster, by only one vote: 664 to 663.

6. State Voting gimmicks

Example: States could lower the voting age to 16 or 17 in order to have higher influence

Prof. Ronald D. Rotunda 2000 (Distinguished Professor of Jurisprudence, at Chapman University;Professor of Law at George Mason University School of Law. Graduate of Harvard College and a magna cum laude graduate of Harvard Law School; former Constitutional Law Adviser to the Supreme National Council of Cambodia and assisted that country in writing its first democratic constitution.) “How the Electoral College Works — And Why It Works Well” The Cato Institute. November 13, 2000 <http://www.cato.org/publications/commentary/how-electoral-college-works-why-it-works-well>

A purely popular vote would encourage some states (particularly one-party states) to change their voting requirements to increase that state’s influence nationwide. For example, a state could drop the voting age to 17 or 16, because more people voting would allow that state affect the national vote, not just the electoral vote. Indeed, if a simple majority governed, both the candidates and the voters would have acted differently. Gov. Bush would have spent more time in Texas, racking up huge majorities, because an extra vote in Texas would counterbalance a Gore vote in California.

Impact: Run Disadvantages 2, 3, 5 and 6 of the “Voting Age 16” negative brief in Blue Book.

7. Extremism

The Electoral College promotes a two party system; prevents the rise of extremist groups

Tara Ross 2004. (lawyer in Texas and the author of Enlightened Democracy: The Case for the Electoral College) Published by the Heritage Foundation. “The Electoral College: Enlightened Democracy” November 1 2004. <http://www.heritage.org/research/reports/2004/11/the-electoral-college-enlightened-democracy>

Presidential candidates must build a national base among the states before they can be elected. They cannot target any one interest group or regional minority. Instead, they must achieve a consensus among enough groups, spread out over many states, to create a broad-based following among the voters. Any other course of action will prevent a candidate from gaining the strong base needed to win the election. The necessity of building such a national base has led to moderation and a strong two-party system in American politics. Some see this trend toward moderation and a two-party system as a liability. They argue that certain points of view on the far left or far right do not have representation. Some voters do identify with a third party more than they identify with one of the two major parties. Democratic theories try to satisfy the choices of all voters, but not to the point of destabilizing democratic majorities and democratic government itself. A system that favors a stable two-party system, but allows minority parties to vie for control, has a definite benefit over a system that favors many minority parties: Hand in hand with the Electoral College, it tends to prevent the rise to power of extremist groups and radical minorities. Instead, American public policy tends to remain in the middle -- not too far left, not too far right.

8. Leaving Constitutional principles. It’s not about whether the AFF passes a constitutional amendment, making it legal. It’s about the principles that we’re leaving behind when we abandon the framework of the Constitution, even if done through legal means.

Link: Electoral College affirms the American republic - abolishing it would breach the spirit of the constitution.

Prof. John Samples 2000. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University. served eight years as director of Georgetown University Press, and before that, as vice president of the Twentieth Century Fund. Ph.D. in political science from Rutgers University.) The Cato Institute November “In Defense of the Electoral College” <http://www.cato.org/publications/commentary/defense-electoral-college>

The filtering of the popular will through the Electoral College is an affirmation, rather than a betrayal, of the American republic. Doing away with the Electoral College would breach our fidelity to the spirit of the Constitution, a document expressly written to thwart the excesses of majoritarianism. Nonetheless, such fidelity will strike some as blind adherence to the past. For those skeptics, I would point out two other advantages the Electoral College offers.

Link: Abolishing the Electoral College will take America away from its roots as a constitutional republic

Prof. John Samples 2000. (Directs Cato’s Center for Representative Government, professor at Johns Hopkins University. served eight years as director of Georgetown University Press, and before that, as vice president of the Twentieth Century Fund. Ph.D. in political science from Rutgers University.) The Cato Institute November “In Defense of the Electoral College” <http://www.cato.org/publications/commentary/defense-electoral-college>

If the Founders had wished to create a pure democracy, they would have done so. Those who now wish to do away with the Electoral College are welcome to amend the Constitution, but if they succeed, they will be taking America further away from its roots as a constitutional republic.

Link: Founding principles are all we have to hold us together as a nation

Dr Matthew Spalding 2010. (Vice President, American Studies and Director, B. Kenneth Simon Center for Principles and Politics at Heritage Foundation; taught American government at George Mason University, the Catholic University of America and Claremont McKenna College. He is an adjunct fellow at the Kirby Center for Constitutional Studies and Citizenship at Hillsdale College; PhD government from Claremont College) 1 Oct 2010 Why is America Exceptional? <http://www.heritage.org/research/reports/2010/09/why-is-america-exceptional>

Every nation derives meaning and purpose from some unifying quality—an ethnic character, a common religion, a shared history. The United States is different. America was founded at a particular time, by a particular people, on the basis of particular principles about man, liberty, and constitutional government.

Link: Losing constitutional principles – and the view that they are permanent – means there will be no limits on the power of government

Prof. John Marini 2012. ( professor of political science at the University of Nevada-Reno and a senior fellow of the Claremont Institute) Abandoning the Constitution, 25 June 2012 http://www.claremont.org/publications/crb/id.1945/article\_detail.asp

America has a problem, not because of our Constitution but because constitutionalism as a theoretical doctrine is no longer meaningful in our politics. A constitution is meaningful only if its principles, which authorize government, are understood to be permanent and unchangeable, in contrast to the statute laws made by government that alter with circumstances and changing political requirements of each generation. If a written constitution is to have any meaning, it must have a rational or theoretical ground that distinguishes it from government. When the principles that establish the legitimacy of the constitution are understood to be changeable, are forgotten, or denied, the constitution can no longer impose limits on the power of government. In that case, government itself will determine the conditions of the social compact and become the arbiter of the rights of individuals.

Brink: Today, with widespread lack of respect for the Constitution, we need more people to care about it in order to spark a revival

*Prof. Gary Lawson 2009. (*professor of law at Boston University ) 27 Jan 2009 Limited Government, Unlimited Administration: Is it Possible to Restore Constitutionalism? <http://www.heritage.org/research/reports/2009/01/limited-government-unlimited-administration-is-it-possible-to-restore-constitutionalism> (“James Landis” was an advocate for Pres. Roosevelt’s “New Deal” policies during the Depression)

The third element is the most critical of all, and here is where it becomes important to understand why the Constitution is so much out of favor these days. James Landis displayed open contempt for the Constitution, but in order for Landis and his associates to gain power, a lot of people had to agree with him. Indeed, in a metaphorical sense, James Landis soundly beat James Madison in the election of 1936. A similar election today would yield a similar, or even more dramatic, result. There just are not a great many people who care very much about the Constitution. Politicians, in turn, will not care about the Constitution until and unless enough people care about it to make a difference. Right now, the Constitution has no constituency. It needs one large enough to compete in the political marketplace with other interest groups.

Impact: Limiting government is key to government effectiveness and preventing coercion

Christopher Demuth 2006. (president of the American Enterprise Institute ) Doing Too Much, Badly – Unlimited Government, THE INSIDER Summer/Fall 2006, originally published in THE AMERICAN ENTERPRISE in Jan/Feb 2006 <http://www.insideronline.org/archives/2006/summer/summer.pdf>

Even business firms and other private associations have constitutions of their own, in the form of articles of incorporation, bylaws, and mission statements that specify what they should and should not do. The purpose of such boundaries is not to make an organization cumbersome but to make it effective, not to hold its members back but to make them free and productive. Formal limitations are all the more important in the case of government—which possesses a monopoly on the use of coercion and is less constrained than other institutions by competitive pressures.

Impact: Constitutional Principles are the anchor of national stability, greatness and prosperity

Joe Postell 2008. (Assistant Director of the B. Kenneth Simon Center for American Studies at The Heritage Foundation) 16 Sept 2008, "How to Celebrate Constitution Day," <http://blog.heritage.org/2008/09/16/how-to-celebrate-constitution-day/>

The United States has the longest-lasting written Constitution in human history. Our Constitution is responsible for our greatness and prosperity, and the remarkable stability we experience in our political life. Where other nations are vulnerable to radical movements which undermine liberty and self-government, our Constitution has been the anchor and ballast by which we have maintained a stable regime. But if our Constitution is to continue to provide these blessings, we must seize these opportunities to recur to our Constitution’s principles.

“Constitution written by dead white slave owners” – Response: But they were wise men, nonetheless

*Prof. Gary Lawson 2009. (*professor of law at Boston University ) 27 Jan 2009 Limited Government, Unlimited Administration: Is it Possible to Restore Constitutionalism? <http://www.heritage.org/research/reports/2009/01/limited-government-unlimited-administration-is-it-possible-to-restore-constitutionalism>

Right now, if you mention the Founders in the general culture, the response is likely to be something like "dead white male slaveowners." The administrative state will steamroll the Constitution until that response is something like "dead white male slave­owners who were really smart people wise in the ways of human nature."

NEGATIVE: FAIR AND ACCURATE REPRESENTATION ACT (FARA)

**HARMS/SIGNIFICANCE**

**Turn: Immigrant communities are UNDER-counted. Big immigrant states LOST congressional seats**

Lydia Camarillo 2007 (Vice President, Southwest Voter Registration Education Project), 9 July 2007, "2010 Census: Reducing the Undercount in the Hispanic Community Subcommittee Congressional Hearing," testimony before the United States Congressional House Committee on Oversight and Government Reform's Subcommittee on Information Policy, Census, and National Archives, <http://www.gpo.gov/fdsys/pkg/CHRG-110hhrg42899/html/CHRG-110hhrg42899.htm>

In the last census enumeration, over 3.3 million individuals were left uncounted. The Census Bureau estimated that at least 1 million Latinos were not counted in 2000, in spite of the numerous partnerships with the Latino community. Bureau efforts to count every person and the statistical adjustment of the census count, the undercount resulted in the loss of at least three congressional seats during the redistricting process in States like Texas, California, and Florida. Moreover, Latinos also came up short during the redistricting process of States and local municipalities including school districts and other political subdivisions.

**No Constitutional violation or Founders’ intent violation: Every Census since 1790 has been conducted the same way – with no distinction on immigrant status**

Donald B. Verrilli Jr, Solicitor General of the United States, along with 7 other attorneys 2012. (The “Solicitor General” is the attorney who represents the presidential Administration whenever they are in a case before the Supreme Court. The other attorneys were: Tony West, Assistant Attorney General; Edwin S. Kneedler, Deputy Solicitor General; William M. Jay, Assistant to the Solicitor General; Michael S. Raab and Henry C. Whitaker, attorneys; Cameron Kerry, General Counsel for the Dept of Commerce; Barry K. Robinson, Chief Counsel for Economic Affairs, Dept of Commerce) BRIEF FOR THE SECRETARY OF COMMERCE AND THE DIRECTOR OF THE CENSUS IN OPPOSITION in the case of Louisiana v. Bryson, Feb 2012 <http://www.justice.gov/osg/briefs/2011/1original/140,Original.resp.pdf>

Plaintiffs contend that every apportionment of Representatives in the Nation’s history, from 1790 to 2010, has rested on an unconstitutional miscalculation of the population, because every decennial census has sought to include in the apportionment count all individuals who live in the United States, without seeking to determine individuals’ alienage or legal status. But that practice follows directly from the Constitution, which mandates that the apportionment be based on the “whole number of persons in each State.” U.S. Const. Amend. XIV, § 2. The Framers intended apportionment to be based on population, without regard to the right to vote, country of origin, or legal status. That is how the first actual enumeration under the Constitution was conducted, and the Secretary did not violate the Constitution by following the same path.

No violation of “one person one vote” – relative size of Louisiana/California districts doesn’t matter

Donald B. Verrilli Jr, Solicitor General of the United States, along with 7 other attorneys 2012. (The “Solicitor General” is the attorney who represents the presidential Administration whenever they are in a case before the Supreme Court. The other attorneys were: Tony West, Assistant Attorney General; Edwin S. Kneedler, Deputy Solicitor General; William M. Jay, Assistant to the Solicitor General; Michael S. Raab and Henry C. Whitaker, attorneys; Cameron Kerry, General Counsel for the Dept of Commerce; Barry K. Robinson, Chief Counsel for Economic Affairs, Dept of Commerce) BRIEF FOR THE SECRETARY OF COMMERCE AND THE DIRECTOR OF THE CENSUS IN OPPOSITION in the case of Louisiana v. Bryson, Feb 2012 <http://www.justice.gov/osg/briefs/2011/1original/140,Original.resp.pdf>

This Court has repeatedly rebuffed attempts to use the “one person, one vote” principle to review the Secretary’s conduct of the decennial census and the apportionment of Representatives, as opposed to intra-state redistricting. See Wisconsin, 517 U.S. at 17-20. Deviations from that ideal are inevitable when apportioning seats among the States. See Montana, 503 U.S. at 463­464; see also Br. in Supp. of Compl. Ex. 3. Consistent with those holdings, this Court recently held nonjusticiable a claim that one-person-one-vote principles required increasing the size of the House of Representatives to reduce deviations between districts in different States. See Clemons v. Department of Commerce, 131 S. Ct. 821 (2010) (No. 10-291). Caldwell thus has suffered no cognizable one-person-one-vote injury so long as Louisiana’s congressional districts are equipopulous—whether Louisiana has six or seven districts, and whether those districts have more or fewer people than districts in California. There has never been any constitutional requirement that district population be “equal from one State to the next,” as plaintiffs contend, Br. in Supp. of Compl. 36.

One person/One Vote has no bearing on apportionment: We count lots of others who cannot vote (like children and felons)

Donald B. Verrilli Jr, Solicitor General of the United States, along with 7 other attorneys 2012. (The “Solicitor General” is the attorney who represents the presidential Administration whenever they are in a case before the Supreme Court. The other attorneys were: Tony West, Assistant Attorney General; Edwin S. Kneedler, Deputy Solicitor General; William M. Jay, Assistant to the Solicitor General; Michael S. Raab and Henry C. Whitaker, attorneys; Cameron Kerry, General Counsel for the Dept of Commerce; Barry K. Robinson, Chief Counsel for Economic Affairs, Dept of Commerce) BRIEF FOR THE SECRETARY OF COMMERCE AND THE DIRECTOR OF THE CENSUS IN OPPOSITION in the case of Louisiana v. Bryson, Feb 2012 <http://www.justice.gov/osg/briefs/2011/1original/140,Original.resp.pdf>

In any event, the one-person-one-vote principle has no bearing on who can vote for members of the House of Representatives, contra Br. in Supp. of Compl. 34. Congressional districts are drawn with the goal of equalizing the “population” in each district, not the number of voters. Reynolds v. Sims, 377 U.S. 533, 577 (1964); see also Wesberry, 376 U.S. at 13 (Framers intended to apportion Representatives based on “the number of the State’s inhabitants”). Indeed, the Framers of the Fourteenth Amendment specifically rejected proposals to base representation on the number of voters in each State and instead rested representation on population. See Cong. Globe, 39th Cong., 1st Sess. 1256. Thus, children, felons, and lawful permanent residents who cannot vote are counted for apportionment and redistricting purposes, and women were counted even in States where they lacked the franchise before the Nineteenth Amendment. Plaintiffs offer no principled reason why counting nonimmigrant aliens who cannot vote is impermissible, while counting other individuals who likewise cannot vote is not.

Fairness turn: Government has to provide services for all residents, so they need the political clout to do it

Eunice Moscoso 2007 (journalist), 22 Oct 2007, Cox News Service, "Should the Census Bureau count illegal immigrants?" <http://www.lufkindailynews.net/topic/?q=undocumented%20immigrant&t=&l=25&d=&d1=&d2=&f=html&s=&sd=desc&s=start_time> (brackets added)

In addition, he [William H. Frey, a demographer with the Brookings Institution] said congressional districts should be based on total number of people, not just U.S. citizens. "As long as congressional districts and states have to provide services for people who are living there, whether they're legal or illegal, then the people representing them should have that kind of clout," he said.

Congressmen don't just represent citizens, they represent everybody in the district

Michael Regan 2007. (journalist), 30 Sept 2007, HARTFORD COURANT (Connecticut newspaper), "2010 Census: Who Should Count?" <http://articles.courant.com/2007-09-30/news/0709300709_1_illegal-immigrants-census-tally-seats> (brackets in original)

"You can win election [to Congress] in California with less than 50,000 votes," Camarota said. But that's beside the point, said Arturo Vargas, executive director of the National Association of Latino Elected and Appointed Officials. The size of the electorate has nothing to do with representation in Congress. Members of Congress "are elected to represent constituents. They don't just represent citizens," Vargas said. "They don't just represent the people who vote for them. They represent everybody in that congressional district."

INHERENCY

Not counted already: Difficult to count illegals because they are hiding from immigration enforcement

Analysis: Minor Repair -- Step up enforcement of existing law - illegals will avoid the census and the problem will be solved

Stephen Ohlemacher 2007. (journalist), 17 Aug 2007, Associated Press, "Official: No immigration raids for ‘10 census" <http://usatoday30.usatoday.com/news/washington/2007-08-16-census-immigration_N.htm>

Census workers know it will be difficult counting illegal immigrants for the 2010 population tally and even tougher if those immigrants are hiding from enforcement agents. “If you have federal officials going door to door trying to count people, and federal officials going door to door trying to deport people, it doesn’t work,” said Arturo Vargas, executive director of the National Association of Latino Elected and Appointed Officials.

**SOLVENCY**

**Excluding illegals is administratively impractical  
Minor Repair Advocacy: We should better enforce immigration law instead of worrying about apportionment**

Prof. Dudley L. Poston, Jr., Steven Camarota, and Amanda K. Baumle 2003. (Poston - Professor of Sociology at Texas A&M University and teaches classes in demography and statistics. Camarota - Director of Research at the Center for Immigration Studies. Baumle - doctoral student in Sociology at Texas A&M Univ and J.D. from the Univ of Texas.) Oct 2003, "Remaking the Political Landscape - The Impact of Illegal and Legal Immigration on Congressional Apportionment," CENTER FOR IMMIGRATION STUDIES, <http://www.cis.org/ImmigrationEffectCongressionalApportionment>

While some may be tempted to suggest excluding illegals or other non-citizens from apportionment, doing so is administratively impractical and would likely encounter fierce opposition from high-immigration states. It would also require years of litigation to determine its constitutionality. Alternatively, enforcing immigration law and reducing legal immigration would significantly lessen the problem of U.S. citizens losing political representation.

Asking the question on the Census would not accurately measure illegal aliens

Donald B. Verrilli Jr, Solicitor General of the United States, along with 7 other attorneys 2012. (The “Solicitor General” is the attorney who represents the presidential Administration whenever they are in a case before the Supreme Court. The other attorneys were: Tony West, Assistant Attorney General; Edwin S. Kneedler, Deputy Solicitor General; William M. Jay, Assistant to the Solicitor General; Michael S. Raab and Henry C. Whitaker, attorneys; Cameron Kerry, General Counsel for the Dept of Commerce; Barry K. Robinson, Chief Counsel for Economic Affairs, Dept of Commerce) BRIEF FOR THE SECRETARY OF COMMERCE AND THE DIRECTOR OF THE CENSUS IN OPPOSITION in the case of Louisiana v. Bryson, Feb 2012 <http://www.justice.gov/osg/briefs/2011/1original/140,Original.resp.pdf> (brackets added)

Indeed, plaintiffs would face substantial redressability problems even if they sought a purely prospective remedy—which they do not, unlike the plaintiffs in FAIR and Ridge. As the evidence in Ridge showed, even if a citizenship question were added to the decennial census, the Secretary [of Commerce] would still face the difficulty of separating lawful resident aliens from other aliens with sufficient accuracy, because neither asking directly about lawful status on the census nor estimating the unlawful population statistically would be adequate.

No one knows how many illegals there are  
Analysis/Impact: Can't accurately apportion House seats if you don't know the population numbers

Edward Hegstrom 2005 (journalist), 2005, "Shadows cloaking immigrants prevent accurate count," HOUSTON CHRONICLE, <http://www.chron.com/disp/story.mpl/metropolitan/3500074.html>

The Census Bureau does not ask about immigration status, and the federal government has not issued an estimate of the undocumented population for the past few years. That has left the issue open for debate in the private sector, where counts of the illegal population range from 7 million to 20 million.

Census Bureau has shortcomings in its methods for counting illegal immigrants

Robert Justich and Betty Ng 2005(Certified Financial Analysts), 3 Jan 2005, BEAR STEARNS (leading global investment banking, securities trading and brokerage firm), "The Underground Labor Force is Rising to the Surface," <http://www.lacusveris.com/Underground/> (brackets added)

The Census Bureau's counting process for the migrant population has some shortcomings. According to our discussions with illegal immigrants, they avoid responding to census questionaires. For this reason, the official estimates do not fully capture this group. The CPS [Current Population Survey, a federal statistical estimate], the Census Bureau, the Urban Institute, and the former INS (now part of the Department of Homeland Security) all use similar processes to determine the total number of immigrants, and which immigrants should be categorized as legal and illegal. In essence, this has created a circular equation that relies on a singular source of inaccurate statistics that gives the impression of independent, multiple verifications.

Studies show: There is no good method for measuring illegal residents

Robert Justich and Betty Ng 2005(Certified Financial Analysts), 3 Jan 2005, BEAR STEARNS (leading global investment banking, securities trading and brokerage firm), "The Underground Labor Force is Rising to the Surface," <http://www.lacusveris.com/Underground/>

According to a recent study by the Migration Research Unit, University College London, a wide range of methods have been used to measure immigration flows, which by definition eludes registration and statistical coverage. "Estimating the numbers of illegal resident persons in a country is a task made extremely difficult by the unrecorded nature of the phenomenon, by the problems of the data that are recorded and the different definitiosn, data sources, collection methods and legislative differences between countries. The dynamism and fluctuation in the size of the illegal population is as much related to the intricacies of the immigration law as to the movements of the migrants themselves." Studies of methods used to calculate the illegal population have concluded that no existing method "provides a well-founded or rigorous method by which to measure the illegal population."

“Pew Hispanic Center” estimates are not precise enough to be reliable  
We can’t use imprecise numbers for apportionment

Donald B. Verrilli Jr, Solicitor General of the United States, along with 7 other attorneys 2012. (The “Solicitor General” is the attorney who represents the presidential Administration whenever they are in a case before the Supreme Court. The other attorneys were: Tony West, Assistant Attorney General; Edwin S. Kneedler, Deputy Solicitor General; William M. Jay, Assistant to the Solicitor General; Michael S. Raab and Henry C. Whitaker, attorneys; Cameron Kerry, General Counsel for the Dept of Commerce; Barry K. Robinson, Chief Counsel for Economic Affairs, Dept of Commerce) BRIEF FOR THE SECRETARY OF COMMERCE AND THE DIRECTOR OF THE CENSUS IN OPPOSITION in the case of Louisiana v. Bryson, Feb 2012 <http://www.justice.gov/osg/briefs/2011/1original/140,Original.resp.pdf>

For all of those reasons, the Pew Center estimates do not have—and do not purport to have—the degree of State-by-State precision that would be necessary before this Court could rely on them for the purposes of this case. The formula used for apportionment is sensitive to even very small population shifts, see Wisconsin v. City of New York, 517 U.S. 1, 11-12 (1996) (citing reasons why the Secretary decided not to statistically adjust the 1990 census); Ridge, 715 F. Supp. at 1320; FAIR, 486 F. Supp. at 570 n.10, and hence would be sensitive to small inaccuracies in estimates as well. Even at the pleading stage, plaintiffs cannot demonstrate with the requisite degree of confidence that Louisiana would gain an additional Representative if plaintiffs’ constitutional theory prevailed.

DISADVANTAGES

Constitutional violation / Founders’ intent

Link: Drafters of the 14th Amendment specifically discussed this issue and decided that all residents should be counted regardless of immigration status

Donald B. Verrilli Jr, Solicitor General of the United States, along with 7 other attorneys 2012. (The “Solicitor General” is the attorney who represents the presidential Administration whenever they are in a case before the Supreme Court. The other attorneys were: Tony West, Assistant Attorney General; Edwin S. Kneedler, Deputy Solicitor General; William M. Jay, Assistant to the Solicitor General; Michael S. Raab and Henry C. Whitaker, attorneys; Cameron Kerry, General Counsel for the Dept of Commerce; Barry K. Robinson, Chief Counsel for Economic Affairs, Dept of Commerce) BRIEF FOR THE SECRETARY OF COMMERCE AND THE DIRECTOR OF THE CENSUS IN OPPOSITION in the case of Louisiana v. Bryson, Feb 2012 (brackets and ellipses in original) <http://www.justice.gov/osg/briefs/2011/1original/140,Original.resp.pdf>

The drafters of the Fourteenth Amendment continued the original Constitution’s focus on population, and they considered and rejected proposals to exclude aliens and nonvoters from the apportionment count. See Cong. Globe, 39th Cong., 1st Sess. 359 (1866) (observing that the exclusion of aliens from the apportionment base would “cause considerable inequalities \* \* \* because the number of aliens in some States is very large”); id. at 9-10, 141, 535, 2804. As Representative Bingham observed, “[u]nder the Constitution as it now is and as it always has been, the entire immigrant population of this country is included in the basis of representation.”

Link: Constitutional text says we should count everyone

Donald B. Verrilli Jr, Solicitor General of the United States, along with 7 other attorneys 2012. (The “Solicitor General” is the attorney who represents the presidential Administration whenever they are in a case before the Supreme Court. The other attorneys were: Tony West, Assistant Attorney General; Edwin S. Kneedler, Deputy Solicitor General; William M. Jay, Assistant to the Solicitor General; Michael S. Raab and Henry C. Whitaker, attorneys; Cameron Kerry, General Counsel for the Dept of Commerce; Barry K. Robinson, Chief Counsel for Economic Affairs, Dept of Commerce) BRIEF FOR THE SECRETARY OF COMMERCE AND THE DIRECTOR OF THE CENSUS IN OPPOSITION in the case of Louisiana v. Bryson, Feb 2012 <http://www.justice.gov/osg/briefs/2011/1original/140,Original.resp.pdf>

After the abolition of slavery, Section 2 of the Fourteenth Amendment has since provided that the apportionment count would include “the whole number of persons in each State,” again “excluding Indians not taxed.” The broadly inclusive wording of both references to “the whole number of persons,” along with the fact that the Framers expressly excepted particular groups from the count, strongly supports that all other “persons” living in each State should be included, without regard to citizenship or legal status. This Court has held that aliens, even those unlawfully present in the country, are “persons” covered by the Due Process and Equal Protection Clauses in Section 1 of the Fourteenth Amendment. See Plyler v. Doe, 457 U.S. 202, 210-216 (1982). There is no basis for giving “persons” a narrower meaning in the next section of the same Amendment. That conclusion is strongly supported by constitutional history.

Impact: Constitution / Constitutional Principles are the anchor of national stability, greatness and prosperity

Joe Postell 2008. (Assistant Director of the B. Kenneth Simon Center for American Studies at The Heritage Foundation) 16 Sept 2008, "How to Celebrate Constitution Day," <http://blog.heritage.org/2008/09/16/how-to-celebrate-constitution-day/>

The United States has the longest-lasting written Constitution in human history. Our Constitution is responsible for our greatness and prosperity, and the remarkable stability we experience in our political life. Where other nations are vulnerable to radical movements which undermine liberty and self-government, our Constitution has been the anchor and ballast by which we have maintained a stable regime. But if our Constitution is to continue to provide these blessings, we must seize these opportunities to recur to our Constitution’s principles.

2. Human Dignity: Not counting "persons" = throwback to slaves being treated as less than human

Michael Regan 2007. (journalist), 30 Sept 2007, HARTFORD COURANT (Connecticut newspaper), "2010 Census: Who Should Count?" <http://www.hartfordinfo.org/issues/documents/people/htfd_courant_093007.asp> (brackets added)

[Arturo] Vargas [executive director of the National Association of Latino Elected and Appointed Officials] said the framers of the Constitution drew distinctions among various classes of residents at various points. When it came to apportioning seats in Congress, he said, everyone was counted - although slaves were only counted as three-fifths of a person. "Would we go back to a time when we considered a person here to be less than human, less than a whole person?" he said.

3. Undercounting deprives resources needed to solve public policy problems

Lydia Camarillo 2007 (Vice President, Southwest Voter Registration Education Project), 9 July 2007, "2010 Census: Reducing the Undercount in the Hispanic Community Subcommittee Congressional Hearing," testimony before the United States Congressional House Committee on Oversight and Government Reform's Subcommittee on Information Policy, Census, and National Archives, <http://www.gpo.gov/fdsys/pkg/CHRG-110hhrg42899/html/CHRG-110hhrg42899.htm>

Historically, an incomplete and inaccurate census count denies Latinos and other communities of color their constitutional right to fair representation at all levels of government. An inaccurate count also deprive Latinos of the proper allocation of federal resources which are needed to assist such communities to form sound public policy to solve or alleviate issues faced in federal, state, and local governments, including counties, cities, school districts boards, water boards and so forth. An under count of the Latino and other ethnic communities must be prevented, cannot be justified or excused in this, the world's wealthiest nation. Undercounts often foster further distrust of the federal government in our community.

SOURCE INDICTMENT

**Orlando Rodriguez/Univ. of Connecticut Study**

Erica Jacobson 2007 (journalist), 30 Sept 2007, NORWICH BULLETIN (Connecticut newspaper), "Census to change Congress" <http://www.norwichbulletin.com/news/x1429058089/index.html?printview=true> (brackets added)

“Nobody really knows for sure, anybody who tells you they do doesn’t really know,” said Kimball Brace, president of the Washington, D.C.-based Election Data Services that works with state and local governments on redistricting issues. Census enumerators visit dwellings that do not return short form questionnaires, he said. If they cannot find anyone at the dwelling, they often talk to neighbors about how many people live at the address and calculate average family size in the neighborhood. “It’s not whether the census counts them,” Brace said, “it’s how well they estimate them,” He said he was interested by the study but wondered just how [Univ. of Connecticut reearcher Orlando] Rodriguez was able to compile non-citizen data. “I haven’t been able to find any number,” Brace said.

Louisiana – they were going to lose a seat regardless of immigration, because of hurricane Katrina

Michael Regan 2007. (journalist), 30 Sept 2007, HARTFORD COURANT (Connecticut newspaper), "2010 Census: Who Should Count?" <http://articles.courant.com/2007-09-30/news/0709300709_1_illegal-immigrants-census-tally-seats>

In part, the shift expected in 2010 is the result of a long-term population trend that has states in the South and West growing far faster than states in the Northeast and Midwest. In the 1960s, the Northeast and Midwest had 233 seats in the House, the South and West 202. The numbers roughly reversed two decades later, and now stand at 183 to 252. The new CSDC report projects that the South and West will have 262 seats to 173 for the Northeast and Midwest after 2010. The winners and losers don't fall strictly along regional lines. New Jersey, for example, with the highest proportion of undocumented workers in the Northeast, would lose one seat if illegal residents were not counted, according to the CSDC projection. Montana would gain a seat if they weren't counted. Louisiana, in the wake of Hurricane Katrina, is expected to lose a seat regardless.

NEGATIVE: FELON RE-ENFRANCHISEMENT

(Much of the evidence in this brief was researched by Simon Sefzik.)

NEGATIVE PHILOSOPHY

If you can’t follow the law, you can’t make the laws

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations; JD - Yale University Law School) Testimony on the "Democracy Restoration Act" Engage Volume 13, Issue 2, July 2012 <http://www.fed-soc.org/publications/detail/testimony-on-the-democracy-restoration-act>)

“Those who are not willing to follow the law cannot claim a right to make the law for everyone else. And when you vote, you are indeed making the law—either directly, in a ballot initiative or referendum, or indirectly, by choosing lawmakers.”

Those who break laws should not be able to make laws for others

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations, worked in the second highest position with the U.S. Justice Department, JD - Yale University Law School.) “Felon Disenfranchisement Is Constitutional, And Justified,” The National Constitution Center, 2012, <http://web.mead.k12.wa.us/dstedman/class_web/GoPo/4Cmpg_Elections/Felon_Disenfranchisement.pdf>

People who are not willing to follow the law should not be allowed to make the law for everyone else. When you vote, you make law, either directly or indirectly. Someone who has committed a serious crime against society -- the definition of a felon -- should not be given this power over the rest of us.

What this debate is really about: Certain political groups want to win close elections. It’s not really about “restoring rights”

Prof. Hans A. von Spakovsky 2010. (senior Legal Fellow, Heritage Foundation; former member of the Federal Election Commission; formerly at the Justice Department as counsel to the assistant attorney general for civil rights; served on the Board of Advisors of the U.S. Election Assistance Commission and on the Fulton County (Ga.) Board of Registrations and Elections. Professor - George Mason Univ School of Law. JD from Vanderbilt Univ School of Law) testimony before the House Judiciary Committee’s Subcommittee on the Constitution, Civil Rights and Civil Liberties, HR 3335 – Democracy Restoration Act, 16 Mar 2010 <http://judiciary.house.gov/hearings/pdf/Spakovsky100316.pdf>

State and federal laws also prohibit felons from owning a gun (see e.g., 18 U.S.C. 922(g)). If public safety will be enhanced by providing felons with the ability to vote as the legislation claims, why does this bill not also amend federal law to allow them to once again own a gun? Are we to believe that they can be trusted to vote but not to own a handgun? Are we to believe that the sponsors of this legislation think that a convicted child molester can be trusted to vote but cannot be trusted to be a teacher in a public school? Are we to believe a convicted drug dealer can be trusted to vote but cannot be trusted to be a police officer? Or is the true motivation here based more on the fact that their vote is important to winning close elections?

INHERENCY

Most states allow felons to get voting rights back after they complete parole or probation

Prof. Gennaro Vito, Prof. J. Eagle Shutt & Prof. Richard Tewksbury 2009. (Vito - Professor of Justice Administration, Univ of Louisville. Ph.D.; Shutt - Assistant Professor of Justice Administration, Univ of Louisville. Ph.D., J.D.; Tewksbury – Prof. of Justice Administration, Univ of Louisville. Ph.D.) Estimating the Impact of Kentucky's Felon Disenfranchisement Policy on 2008 Presidential and Senatorial Elections , FEDERAL PROBATION Vol 73 Number 1 <http://findarticles.com/p/articles/mi_qa4144/is_200906/ai_n32423488/> (brackets added)

As a practice, felon disenfranchisement has ancient roots. Both ancient Greece and Rome excluded offenders from voting and owning property (Harvard Law Review, 1989; Johnson-Parris, 2003; Manza 8c Uggen, 2004). These practices were carried over into Great Britain and then to die [the] American colonies. Felon disenfranchisement expanded in die [the] period following the Civil War (Behrens et al., 2003). Most states now allow felon reenfranchisement upon completion of probation/ parole supervision.

State reforms widespread: 800,000 felons had voting rights restored in the last decade

Krissah Thompson 2010. (journalist)“Felon voting rights expanded in 23 states” WASHINGTON POST 19 Oct 2010 <http://www.washingtonpost.com/wp-dyn/content/article/2010/10/19/AR2010101904133.html>

A study of felony disenfranchisement laws has found that 800,000 former felons have been returned to the voter rolls in the past decade. A push by criminal justice advocates and civil rights groups to rewrite state laws that sometimes place lifetime voting bans on felons has resulted in 23 states amending their policies since 1997 to expand voter eligibility, according to a report out by the Sentencing Project.

Trend is increasing: States are on a “restore the vote craze”!

Emily Bazelon 2007. (journalist) “The Secret Weapon of 2008” SLATE News, <http://www.slate.com/articles/news_and_politics/jurisprudence/2007/04/the_secret_weapon_of_2008.html>

And yet Florida is in good company. You could almost say the country is facing a restore-the-vote craze—and that for some reason no one much seems to be opposing it. This week, Maryland gave back the vote to more than 50,000 former felons who have completed their prison sentences and finished with probation and parole. Democratic Gov. Martin O'Malley signed that bill over calls for a veto from Republicans. In November, Rhode Island voters approved the first state referendum to restore the vote to felons. The margin was slim—51 percent to 49 percent—but so were the resources spent by the vote-restoration side: only $300,000. In the last several years, other states have removed lifetime ballot bans or waiting periods for ex-offenders: New Mexico (more than 68,000 regained the vote in 2001); Connecticut (33,000 people on probation regained the vote in 2002); Delaware (switched from lifetime ban to five-year waiting period in 2000); and Texas (eliminated two-year waiting period in 1998, allowing more than 300,000 former felons to join the rolls).

Racially discriminatory felon disenfranchisement laws have already been removed

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations; JD - Yale University Law School) Testimony on the "Democracy Restoration Act" Engage Volume 13, Issue 2, July 2012 <http://www.fed-soc.org/publications/detail/testimony-on-the-democracy-restoration-act>

It is true that, between 1890 and 1910, five Southern states (Alabama, Louisiana, Mississippi, South Carolina, and Virginia) tailored their criminal disenfranchisement laws to increase their effect on black citizens. But these states have all changed their laws to one degree or another, and in any event, the judiciary has been willing to strike such laws down when it is shown that they were intended to discriminate on the basis of race.

HARMS

Disenfranchisement is an appropriate punishment for felons

Dr. Edward Feser 2005. (PhD- Philosophy, Univ. of California; Associate Professor of Philosophy at Pasadena City College.) “Should Felons Vote?” City Journal, Spring 2005 <http://www.city-journal.org/html/15_2_felons.html>

Seen in this light, disenfranchisement seems a particularly appropriate punishment for felons. The murderer, rapist, or thief has expressed contempt for his fellow citizens and broken the rules of society in the most unmistakable way. It’s fitting that society should deprive him of his role in determining the content of those rules or electing the magistrate who enforces them.

Disenfranchisement is a long established punishment for committing a crime

Roger Clegg, George T. Conway III, and Kenneth K. Lee 2008. (Clegg - president and general counsel of the Center for Equal Opportunity in Sterling, Virginia; Conway is a partner and Lee is an attorney at the law firm of Wachtell, Lipton, Rosen & Katz in New York City) “The Case Against Felons Voting,” UNIV. OF ST. THOMAS JOURNAL OF LAW &PUBLIC POLICY, Vol II   
<http://www.wcl.american.edu/journal/genderlaw/14/clegg1.pdf>

Second, disenfranchisement has traditionally been deemed a part of punishment for committing a crime. Criminal punishment can be meted out in various ways, including imprisonment, fines, probation and the withdrawal of certain rights and privileges. In the American system, it has long been established that “the States possess primary authority for defining and enforcing the criminal law.”

No racial discrimination: Felon disenfranchisement started before the Civil War, when blacks couldn’t vote anyway

Prof. Hans A. von Spakovsky 2010. (senior Legal Fellow, Heritage Foundation; former member of the Federal Election Commission; formerly worked at the Justice Department as counsel to the assistant attorney general for civil; served on the Board of Advisors of the U.S. Election Assistance Commission and on the Fulton County (Ga.) Board of Registrations and Elections. Professor - George Mason Univ School of Law. JD from Vanderbilt Univ School of Law) 1 Apr 2010 “Debate: States Must Decide on Felon Voting Rights” <http://www.aolnews.com/2010/04/01/debate-states-must-decide-on-felon-voting-rights/>

The claim that these felon voting laws are rooted in racial discrimination is also historical fiction. Even before the Civil War, when most blacks were slaves and could not vote, a majority of states had such laws aimed at preventing white felons from voting. Overall these laws affect more whites than blacks.

“Racially disproportionate impact” isn’t enough to prove racial discrimination

Supreme Court Justice Lewis Powell 1977. Majority opinion of the court, case of Village of Arlington Heights v. Metropolitan Housing Development Corp., 11 Jan 1977, <http://www.law.cornell.edu/supct/html/historics/USSC_CR_0429_0252_ZS.html>

Proof of a racially discriminatory intent or purpose is required to show a violation of the Equal Protection Clause of the Fourteenth Amendment, and respondents failed to carry their burden of proving that such an intent or purpose was a motivating factor in the Village's rezoning decision. Pp. 264-271. (a) Official action will not be held unconstitutional solely because it results in a racially disproportionate impact. "[Such] impact is not irrelevant, but it is not the sole touchstone of an invidious racial discrimination." *Washington v. Davis,* 426 U.S. 229, 242. A racially discriminatory intent, as evidenced by such factors as disproportionate impact, the historical background of the challenged decision, the specific antecedent events, departures from normal procedures, and contemporary statements of the decisionmakers, must be shown. Pp. 264-268.

Disparate racial impact does not prove racial discrimination: You have to prove intent to discriminate

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations; JD - Yale University Law School) Testimony on the "Democracy Restoration Act" Engage Volume 13, Issue 2, July 2012 <http://www.fed-soc.org/publications/detail/testimony-on-the-democracy-restoration-act> (brackets and ellipses in original)

Laws that have a mere disparate impact but no discriminatory intent do not violate the Fourteenth and Fifteenth Amendments. The Supreme Court has so held repeatedly with respect to the Fourteenth Amendment. A plurality has so held with respect to the Fifteenth Amendment, and it is hard to see how the standard could be different for one Reconstruction amendment than for another. When the Supreme Court in Hunter v. Underwood considered a claim that a state law denying the franchise to those convicted of crimes “involving moral turpitude” was unconstitutional race discrimination, it said: “‘[O]fficial action will not be held unconstitutional solely because it results in a racially disproportionate impact. . . . Proof of racially discriminatory intent or purpose is required to show a violation of the Equal Protection Clause.’” Accordingly, Congress cannot credibly assert its enforcement authority if it can point to nothing but disparate impact.

“Non-Violent Offenders” Response: But they’re still serious crimes: drug lords, public corruption, treason, voter fraud, etc.

Roger Clegg 2013. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations, worked in the second highest position with the U.S. Justice Department, JD - Yale University Law School.) National Review Online, Felon Re-Enfranchisement Should Not Be Automatic, May 29 2013 <http://www.nationalreview.com/corner/349528/felon-re-enfranchisement-should-not-be-automatic>

Apparently Virginia governor Bob McDonnell plans today to announce that he will more or less automatically restore the voting rights of “nonviolent” felons once they have fully served their sentences. But there is no reason not to consider the circumstances on a case-by-case basis before doing so – particularly by looking at the severity of the offense, how recently it was committed, and whether it was part of a series of offenses. And it makes no sense to lump all “nonviolent” offenses together, as if they were all relatively trivial. Nonviolent offenses would include being a major drug lord, treason, public corruption, voter fraud, and so forth.

“Debt to society has been repaid” Response: Society should not forget about a person’s criminal record – that’s why they are not allowed to carry firearms. Preventing felon voting tells society that committing a serious crime has serious consequences.

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations; JD - Yale Univ Law School.) “Felon Disenfranchisement Is Constitutional, And Justified,” The National Constitution Center, 2012, <http://web.mead.k12.wa.us/dstedman/class_web/GoPo/4Cmpg_Elections/Felon_Disenfranchisement.pdf>

Those who want to give felons the right to vote argue that after prison, the criminal's debt to society has been paid. But many leading activists, such as the Sentencing Project, want the right restored even for those still in prison. Society should not ignore people's criminal records, even after a sentence has been served. We don't allow felons to carry firearms or serve on federal juries. Barring felons from voting is one way society sends the message that committing a serious crime has serious consequences.

“Debt to society repaid” Response: it’s not unreasonable to assume that those who have committed crimes may lack trustworthiness & loyalty.

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations, worked in the second highest position with the U.S. Justice Department, JD - Yale University Law School.) “Felon Disenfranchisement Is Constitutional, And Justified,” The National Constitution Center, 2012, <http://web.mead.k12.wa.us/dstedman/class_web/GoPo/4Cmpg_Elections/Felon_Disenfranchisement.pdf>

It is not unreasonable to suppose that those who have committed serious crimes may be presumed to lack this trustworthiness and loyalty. Criminals are, in the aggregate, less likely to be trustworthy, good citizens. This doesn't mean that someone who, for instance, wrote a bad check 50 years ago shouldn't have his or her right to vote restored. But those decisions should be made on a case-by-case basis.

“Debt to society has been paid” – Response: There are lots of justified ongoing consequences to a felony conviction

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations; JD - Yale University Law School) Testimony on the "Democracy Restoration Act" Engage Volume 13, Issue 2, July 2012 <http://www.fed-soc.org/publications/detail/testimony-on-the-democracy-restoration-act>

“Once released from prison, a felon has paid his debt to society and is entitled to the full rights of citizenship.” This rationale would apply only to felons no longer in prison, of course, and might not apply with respect to felons on parole or probation. Even for these “former” felons, the argument is not persuasive. While serving a sentence discharges a felon’s “debt to society” in the sense that his basic right to live in society is restored, serving a sentence does not require society to forget what he has done or bar society from making judgments based on his past crimes. For example, federal law prohibits felons from possessing firearms or serving on juries, which does not seem unreasonable. Here is a more dramatic example: Most would agree that a public school ought to be able to refuse to hire a convicted child molester, even after he has been released from prison. In fact, there are a whole range of “civil disabilities” for felons after prison release that apply as a result of federal and state law, listed in a 144-page binder (plus two appendices) published by the U.S. Justice Department’s Office of the Pardon Attorney. Society is simply not required, nor should it be required, to ignore someone’s criminal record once he gets out of prison.

“Americans have a right to vote” Response: Voting is a privilege granted by state governments

Jeff Milchen 2005. (co-founder of the American Independent Business Alliance (AMIBA), where he is the organization's most frequent public speaker. Executive director of Reclaim Democracy, And co-founder of the Citizens' Debate Commission. From the University of Vermont & Delta State University.) “Beyond the Voting Rights Act: Why We Need a Constitutional Right to Vote” August 2005 accessed 6/26/13 <http://reclaimdemocracy.org/right_to_vote/>

In its 2000 ruling, Alexander v Mineta, the Court decided the 600,000 or so (mostly black) residents of Washington D.C. have no legal recourse for their complete lack of voting representation in Congress (they have one “representative” in the House who can speak, but cannot vote). The Court affirmed the district court’s interpretation that our Constitution “does not protect the right of all citizens to vote, but rather the right of all qualified citizens to vote.” And it’s state legislatures that wield the power to decide who is “qualified.” As a result, voting is not a right, but a privilege granted or withheld at the discretion of local and state governments.

“Right to vote” Response: Voting is for the trustworthy – criminals are less likely to be trustworthy.

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations, worked in the second highest position with the U.S. Justice Department, JD - Yale University Law School.) “Felon Disenfranchisement Is Constitutional, And Justified,” The National Constitution Center, 2012, <http://web.mead.k12.wa.us/dstedman/class_web/GoPo/4Cmpg_Elections/Felon_Disenfranchisement.pdf>

Voting is a right, but it is also a privilege. Not everyone in the United States may vote. As a general matter, only those who have reached a certain age, are mentally competent, and are American citizens, are allowed to vote. This is because we do not want people voting who are not trustworthy and loyal to our republic. It is not unreasonable to suppose that those who have committed serious crimes may be presumed to lack this trustworthiness and loyalty. Criminals are, in the aggregate, less likely to be trustworthy, good citizens.

“Racially targeting” Response: Not a justification. It’s not the law’s fault that some are more likely to commit crimes

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations, worked in the second highest position with the U.S. Justice Department, JD - Yale University Law School.) “Felon Disenfranchisement Is Constitutional, And Justified,” The National Constitution Center, 2012, <http://web.mead.k12.wa.us/dstedman/class_web/GoPo/4Cmpg_Elections/Felon_Disenfranchisement.pdf>

Others support felon re-enfranchisement because a disproportionate number of felons are black. But calculations of racial winners and losers should not influence lawmaking. If a voting qualification makes sense, then we should let the chips fall where they may, even if some groups (men, for example, or African-Americans) are statistically more likely to be affected. Besides, since law-abiding African-Americans are more frequently the victims of crime and live disproportionately in areas with high felon populations, they have the most to lose if their voting rights are unfairly diluted by allowing criminals to vote.

“Racism” Response: Race irrelevant. Men are also more likely to be felons, but the laws are not discriminatory against men

Dr. Edward Feser 2005. (PhD- Philosophy, Univ. of California; Associate Professor of Philosophy at Pasadena City College.) “Should Felons Vote?” City Journal, Spring 2005 <http://www.city-journal.org/html/15_2_felons.html>

The most frequently heard charge is that disenfranchising felons is racist because the felon population is disproportionately black. But the mere fact that blacks make up a lopsided percentage of the nation’s prison population doesn’t prove that racism is to blame. Is the mostly male population of the prisons evidence of reverse sexism? Of course not: men commit the vast majority of serious crimes—a fact no one would dispute—and that’s why there are lots more of them than women behind bars. Regrettably, blacks also commit a disproportionate number of felonies, as victim surveys show. In any case, a felon either deserves his punishment or not, whatever his race. If he does, it may also be that he deserves disenfranchisement. His race, in both cases, is irrelevant.

“Punished double for the same crime” Response: It’s one punishment with two components.

Dr. Edward Feser 2005. (PhD- Philosophy, Univ. of California; Associate Professor of Philosophy at Pasadena City College.) “Should Felons Vote?” City Journal, Spring 2005 <http://www.city-journal.org/html/15_2_felons.html>

Felon advocates also argue that to prevent felons from voting, especially after their release from prison, unfairly punishes them twice for the same crime. On this view, the ex-con pays his debt to society by doing time and should suffer no further punishment. But this begs the question at issue: should a felon lose his vote as well as spend time behind bars? Few people would say that the drunk driver sentenced by a judge to lose his driver’s license and to pay a hefty fine is punished twice. Most would agree that, given the crime, this one punishment with two components is perfectly apt. Similarly, those who support disenfranchising felons do not believe in punishing criminals twice for the same misdeed; they believe in punishing them once, with the penalty including both jail time and the loss of the vote. A punishment of incarceration without disenfranchisement, they plausibly maintain, would be too lenient.

Supreme Court says felon disenfranchisement doesn’t violate the Constitution

Roger Clegg 2010. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations; JD - Yale University Law School.) “TESTIMONY OF ROGER CLEGG, PRESIDENT AND GENERAL COUNSEL, CENTER FOR EQUAL OPPORTUNITY BEFORE THE HOUSE JUDICIARY COMMITTEE’S SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES REGARDING H.R. 3335, THE “DEMOCRACY RESTORATION ACT”,” United States House of Representatives’ Committee on the Judiciary, March 16, 2010, judiciary.house.gov/hearings/pdf/Clegg100316.pdf

Do these laws violate the Constitution and the Voting Rights Act? No. The Supreme Court has ruled that they do not violate the Constitution, and indeed the Constitution itself contains language approving of felon disenfranchisement. Similarly, the history of the Voting Rights Act makes clear that it was not intended to require letting criminals vote.

“Need to welcome felons back to the community” – Response: Yes, AFTER they have rehabilitated themselves, not before

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations; JD - Yale University Law School) Testimony on the "Democracy Restoration Act" Engage Volume 13, Issue 2, July 2012 <http://www.fed-soc.org/publications/detail/testimony-on-the-democracy-restoration-act>

“We should welcome felons back into the community.” The bill suggests that re-enfranchising felons is a good way to reintegrate them into society. I am sympathetic to this, but it should not be done automatically, but carefully and on a case-by-case basis, once it is shown that the felon has in fact turned over a new leaf. When that has been shown, then holding a ceremony—rather like a naturalization ceremony—in which the felon’s voting rights are fully restored would be moving and meaningful. But the restoration should not be automatic, because the change of heart cannot be presumed.

DISADVANTAGES

1. Legitimizing crime. We’re sending the wrong message: Crime isn’t so bad.

Link: Re-enfranchisement sends a message: committing a crime is not serious enough to be denied the ability to keep them outside of a circle of responsible citizens.

Roger Clegg 2010. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations, worked in the second highest position with the U.S. Justice Department, JD - Yale University Law School.) “TESTIMONY OF ROGER CLEGG, PRESIDENT AND GENERAL COUNSEL, CENTER FOR EQUAL OPPORTUNITY BEFORE THE HOUSE JUDICIARY COMMITTEE’S SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES REGARDING H.R. 3335, THE “DEMOCRACY RESTORATION ACT”,” United States House of Representatives’ Committee on the Judiciary, March 16, 2010, <http://judiciary.house.gov/hearings/pdf/Clegg100316.pdf>

Felon re-enfranchisement sends a bad message: We do not consider criminal behavior such a serious matter that the right to vote should be denied because of it. Alternatively, consider that not allowing criminals to vote is one form of punishment and a method of stigmatization that tells criminals that committing a serious crime puts them outside the circle of responsible citizens. Being readmitted to the circle is not automatic. It is true that a disproportionate number of African Americans are being disenfranchised for committing serious crimes, but their victims are disproportionately black, too. Perhaps the logical focus of an organization like the NAACP should be on discouraging the commission of such crimes, rather than minimizing their consequence.

Impact: Shame sanctions reduce misbehavior

Sandeep Gopalan 2007. (D Phil (Oxford University), Associate Professor of Law, Sandra Day O'Connor College of Law, Arizona State Univ) DELAWARE JOURNAL OF CORPORATE LAW, SHAME SANCTIONS AND EXCESSIVE CEO PAY <http://eprints.nuim.ie/2435/1/SG_Shame_sanctions.pdf>

If shaming is used as punishment, disclosure becomes even more potent, and rational actors will ensure they conform to the expressed social norm to avoid being shamed. If a shame sanction has been imposed, but conformity is not possible, the offender is likely to try to lessen the impact by being cooperative and expressing remorse. It is also likely to yield to norm-internalization and acceptance of the sanction, resulting in offenders becoming "good types" in the future. Norm-internalization in this context is not limited to the offender. Observers who would have been disposed to violate the norm in the future, might decide that the costs imposed on violators are not worth incurring and might embrace the norm, or at least conform to it.

2. Minority communities harmed.

Link: Re-enfranchisement creates anti-law enforcement voting bloc in minority communities

Roger Clegg 2010. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations, worked in the second highest position with the U.S. Justice Department, JD - Yale University Law School.) “TESTIMONY OF ROGER CLEGG, PRESIDENT AND GENERAL COUNSEL, CENTER FOR EQUAL OPPORTUNITY BEFORE THE HOUSE JUDICIARY COMMITTEE’S SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES REGARDING H.R. 3335, THE “DEMOCRACY RESTORATION ACT”,” United States House of Representatives’ Committee on the Judiciary, March 16, 2010, <http://judiciary.house.gov/hearings/pdf/Clegg100316.pdf>

Much has been made of the high percentage of criminals--and, thus, disenfranchised people--in some communities. But the fact that the effects of disenfranchisement may be concentrated in particular neighborhoods is actually an argument in the law's favor. If these laws did not exist there would be a real danger of creating an anti–law enforcement voting bloc in local municipal elections, for example, which is hardly in the interests of a neighborhood's law-abiding citizens. Indeed, the people whose votes will be diluted the most if criminals are allowed to vote will be law-abiding people in high-crime areas – people who are themselves disproportionately poor and minority. Somehow, the liberal civil-rights groups often forget them.

Impact: Mandatory re-enfranchisement would hurt communities’ ability to reduce crime

Prof. Hans A. von Spakovsky 2010. (senior Legal Fellow, Heritage Foundation; former member of the Federal Election Commission; formerly at the Justice Department as counsel to the assistant attorney general for civil rights; served on the Board of Advisors of the U.S. Election Assistance Commission and on the Fulton County (Ga.) Board of Registrations and Elections. Professor - George Mason Univ School of Law. JD from Vanderbilt Univ School of Law) testimony before the House Judiciary Committee’s Subcommittee on the Constitution, Civil Rights and Civil Liberties, HR 3335 – Democracy Restoration Act, 16 Mar 2010 <http://judiciary.house.gov/hearings/pdf/Spakovsky100316.pdf>

The loss of civil rights is part of the sanction that our society has determined should be applied to criminals. Many black communities unfortunately suffer from high rates of c rime, yet this bill would have a pernicious effect on the ability of law-abiding citizens to reduce crime in their own communities. These laws are overwhelmingly supported by the public, a clear sign that they do not want their ability to influence the decisions made by elected officials on controlling crime diluted by convicted felons or individuals on parole.

3. Federalism violation. Affirmative weakens the States by removing their power to manage their own affairs and empowering the federal government at states’ expense.

Link: AFF takes the issue out of the hands of the states by mandating a single national standard

Link: Supreme Court says re-enfranchisement of felons should be debated & decided at the state level

US Supreme Court Justice William Rehnquist 1974. Majority opinion of the Court in the case of RICHARDSON, COUNTY CLERK AND REGISTRAR OF VOTERS OF MENDOCINO COUNTY v. RAMIREZ ET AL., 24 June 1974 <http://felonvoting.procon.org/sourcefiles/RichardsonvRamirez.pdf>

Pressed upon us by the respondents, and by amici curiae, are contentions that these notions are outmoded, and that the more modern view is that it is essential to the process of rehabilitating the ex-felon that he be returned to his role in society as a fully participating citizen when he has completed the serving of his term. We would by no means discount these arguments if addressed to the legislative forum which may properly weigh and balance them against those advanced in support of California's present constitutional provisions. But it is not for us to choose one set of values over the other. If respondents are correct, and the view which they advocate is indeed the more enlightened and sensible one, presumably the people of the State of California will ultimately come around to that view. And if they do not do so, their failure is some evidence, at least, of the fact that there are two sides to the argument.

Link: Constitution gives States responsibility for elections – they should experiment to find the best ways

Jim Harper 2008. (A founding member of the Department of Homeland Security’s Data Privacy and Integrity Advisory Committee, Author of the book Identity Crisis: How Identification Is Overused and Misunderstood. J.D. from UC Hastings College of Law.) Cato Institute, “Voter ID: A Tempest in a Teapot That Could Burn Us All” Jan. 7 2008, <http://www.cato.org/publications/techknowledge/voter-id-tempest-teapot-could-burn-us-all>

The Constitution gives Congress power to regulate the elections that select its members and, to a lesser degree, the president. But Congress does not have to use that power to its fullest extent. States recognize their own interests in fair elections, and they should experiment among themselves with ways to secure elections while making sure the vote is available to all qualified people.

Impact 1: Decentralized power, left to the states, preserves individual liberty and economic growth

Art Macomber 2001. (attorney; J.D. from Univ of California Hastings College of the Law) Federalism: Guardian of Individual Liberty 27 Oct 2001 <http://macomberlaw.com/index.php/home/writin/federalism-guardian/>

Individual liberty is safeguarded under Federalism because when power is decentralized individuals can escape unfavorable policies by moving to a more preferable jurisdiction. Thus the monopoly governmental entities must meet real needs or people and capital flee. This is true consumer sovereignty. Moreover, mobility of people and capital are significant checks on centralized power. As experimentation flowers, choices for the mobility increase. Freedom of mobility for capital means government has a harder job expropriating wealth and thereby undermining economic growth. The smaller the political entity, right down to the individual, the more the threat of exit can cause changes in governmental policy.

Impact 2: Better designed policy. States can design the right punishments to fit the crimes

Roger Clegg 2012. (president and general counsel of the Center for Equal Opportunity. Former deputy assistant attorney general in the Reagan and Bush administrations; JD - Yale University Law School) Testimony on the "Democracy Restoration Act" Engage Volume 13, Issue 2, July 2012 <http://www.fed-soc.org/publications/detail/testimony-on-the-democracy-restoration-act>

At one extreme, it is hard to see why a man who wrote a bad check in 1933 and has a spotless record since then should not be entrusted with the franchise. At the other extreme, however, it is hard to see why a man just released after serving time for espionage and treason, and after earlier convictions for murder, rape, and voter fraud, should be permitted to vote. Yes, not all crimes are equal, even among felons, and one cannot presume that all felons are equally to be mistrusted with the ballot. But it does not follow that therefore all felons should be allowed to vote. Rather, it would be more prudent to distinguish among various crimes, such as serious crimes like murder, rape, treason, and espionage on the one hand, versus marijuana possession on the other; and between crimes recently committed and crimes committed in the distant past; and among those who have committed many crimes and those who have committed only one. But this line-drawing is precisely why the matter should be left to the states, and why it should be addressed on a case-by-case basis.

NEGATIVE: PRESIDENTIAL PRIMARY REFORM

(Some of the evidence in this brief was researched by Simon Sefzik.)

OVERVIEW / BACKGROUND / PHILOSOPHY / REVERSE ADVOCACY

Despite problems, status quo is desirable & is a better system than national primary

Terry Shumaker 2012. (attorney; former Executive Director & General Counsel of the National Education Association of New Hampshire; former United States Ambassador; served on New Hampshire Ballot Law Commission which decides election disputes. JD, Boston Univ School of Law) US News, “Tough Primary Battles Forge More Resilient Nominees” 9 Mar 2012 [www.usnews.com/debate-club/is-a-national-primary-a-good-idea/tough-primary-battles-forge-more-resilient-nominees](http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/tough-primary-battles-forge-more-resilient-nominees)

I agree with former first lady Barbara Bush that we are probably witnessing the worst presidential primary campaign ever, but that is no reason to embrace a national primary. Our traditional caucus/primary process is often messy and unpredictable, but there is no question it produces stronger nominees. Almost 200 years ago, Andrew Jackson engineered the first national convention to take selection of nominees away from Washington insiders. A national primary would give it back to them, weakening the role of ordinary voters and the states.

Reverse Advocacy: National primary is a bad idea & would present several significant problems

Secretary Beth Chapman 2012. (Alabama secretary of state and president of the National Association of Secretaries of State. B.S. from the University of Montevallo, and a Master's degree from the University of Alabama at Birmingham.) US News “A National Primary Wouldn't Work” March 9th 2012 <http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/a-national-primary-wouldnt-work>

Americans want and deserve a more rational system for selecting our president, but a national primary with every state participating on the same day is a bad idea. Proponents like to argue that under this scenario, more voters would have a chance to participate in the process, and all states would have the opportunity to be relevant to the selection of presidential nominees. However, a national primary day would present several significant problems.

National primary offers no significant benefits: we should stick with Status Quo

*Prof. David P. Redlawsk 2012. (prof. of polit. Sci., Univ of Iowa)* RESOLVED, Political Parties Should Nominate Candidates for President in a National Primary (ethical disclosure about the date: The article bears a copyright date of 2014, but since it was online in August 2013, that is obviously not the correct date. It references internally events being current as of 2012 and we used that date for this citation.) <http://www.cqpress.com/docs/college/Ellis%20Debating%20Reform%202e.pdf>

Putting aside the question of whether Congress actually has the constitutional power to mandate a national primary, it is interesting that, despite a long list of complaints about the current system, a national primary has not come to pass. And, in fact, it never should. While the current system may not be perfect—few if any human institutions are—the law of unintended consequences should be carefully noted. A national primary of any type—forcing all states to hold nominating events on the same day—simply does not offer significant improvement over the sequential nomination process we have today, which has served us reasonably well despite the complaints that have been lodged against it.

No Net Benefits: National Primary proposal would create as many problems it’s trying to solve

Gov. Frank Keating 2000. (Former 25th Governor of Oklahoma, Bachelor of Arts from Georgetown university, JD from the University of Oklahoma College of Law. Former special agent with the FBI, District Attorney, Ronald Regan appointed him Assistant Secretary of the Treasury and later elevated him to United States Associate Attorney General, the third ranking official within the United States Department of Justice.) Republican National Committee, “NOMINATING FUTURE PRESIDENTS” 2000 <http://pweb.jps.net/~md-r/ps/brockreport.pdf>

The potential problems are detailed in the report, but they can be summarized in one sentence: The way we currently choose our presidential nominees is not the best way to conduct this important aspect of the public's business. I also concur fully in the Commission's belief that a national primary would NOT be a welcome replacement for the current system, since it would create as many problems as it might solve. The Commission's report contains a number of excellent ideas which, if implemented, would make the nominating process more fair and more conducive to an open, ongoing public debate among the candidates. These recommendations would increase voter participation, reduce the undue impact of media and funding on the process, and give a voice to all voters in all states in the selection of the nominee.

HARMS/SIGNIFICANCE

Starting in a small state like Iowa is good for democracy

*Prof. David P. Redlawsk 2012. (prof. of polit. Sci., Univ of Iowa)* RESOLVED, Political Parties Should Nominate Candidates for President in a National Primary (ethical disclosure about the date: The article bears a copyright date of 2014, but since it was online in August 2013, that is obviously not the correct date. It references internally events being current as of 2012 and we used that date for this citation.) <http://www.cqpress.com/docs/college/Ellis%20Debating%20Reform%202e.pdf>

A properly spaced sequential process enhances voter participation in ways a national primary cannot. Voters are encouraged to participate when candidates can build an organization and are discouraged when candidates rely primarily on media campaigns. Political operative Dan Leistikow, who worked for both John Edwards and Obama, made this point in talking about Iowa:  
In Iowa, regular people can look candidates in the eyes, size them up, and ask tough questions. Changing the schedule to favor larger states where TV commercials matter more than face to face contact with voters might be good for the frontrunner, but it isn’t good for our democracy

Both early and late voters benefit from Status Quo primary system

*Prof. David P. Redlawsk 2012. (prof. of polit. Sci., Univ of Iowa)* RESOLVED, Political Parties Should Nominate Candidates for President in a National Primary (ethical disclosure about the date: The article bears a copyright date of 2014, but since it was online in August 2013, that is obviously not the correct date. It references internally events being current as of 2012 and we used that date for this citation.) <http://www.cqpress.com/docs/college/Ellis%20Debating%20Reform%202e.pdf>

Just as candidates can learn from campaigning from one state to the next, so too do voters learn over time. One major advantage and unique feature of sequential voting is that voters later in the process have more information about candidates, including information on election outcomes, delegate totals, candidate traits, ideology, and policy positions. This may give later voters the opportunity to make more informed decisions than they would otherwise, while earlier voters may actually be slightly disadvantaged. But early states make up for this by the greater amounts of attention they get from the candidates and the media, enhancing their voters’ political interest and knowledge. Examination of the 2008 campaign finds exactly that. Early nominating events shaped perceptions of whether candidates could win the nomination and presidency (viability and electability) and in turn shaped candidate choice in later primaries and caucuses. Early voters were mobilized and later voters became more aware and involved as long as the campaign remained competitive.

Current system does a better job testing candidates than a single national primary would

*Prof. David P. Redlawsk 2012. (prof. of polit. Sci., Univ of Iowa)* RESOLVED, Political Parties Should Nominate Candidates for President in a National Primary (ethical disclosure about the date: The article bears a copyright date of 2014, but since it was online in August 2013, that is obviously not the correct date. It references internally events being current as of 2012 and we used that date for this citation.) <http://www.cqpress.com/docs/college/Ellis%20Debating%20Reform%202e.pdf>

Moreover, and much more important, the sequential nature of the current system tests candidate campaigns in complex ways that would not happen otherwise. Caucuses, for example, require extensive organization. It is harder for candidates to reach caucus participants because there are fewer of them. Lower turnout in caucuses means that grassroots mobilization (“retail politics”) is critical, in contrast to the mass-media campaigns that would prevail in a national primary. And grassroots campaigning tests a candidate’s ability to build an organization, to create something that directly connects with voters. This ability to build, manage, and connect is an important skill for any would-be president, and one that would not be well tested in a national primary.

“Frontloading” has no impact on outcomes: Front-runners win regardless

Prof. Mark J. Wattier 2005. (Professor of Political Science, Dept of Government, Law, and International Affairs Murray State University) Presidential Primaries and Frontloading: An Empirical Polemic Oct 2005 <http://www.uakron.edu/bliss/docs/state-of-the-parties-documents/Wattier.pdf>

How has frontloading affected the outcome of the nomination contest? Although contests have been more or less frontloaded, as illustrated in Figure 1, the outcome has been relatively constant—the front runner has won all but one contest from 1980 to 2004 (Adkins, Dowdle, and Steger 2002). Between 1980 and 2004 frontloading did not seem to affect the outcome of the contest. The dynamics associated with becoming the front runner seemed to matter most.

“Contests are decided early” – Response: Misplaced worry – recent election results prove otherwise

*Prof. David P. Redlawsk 2012. (prof. of polit. Sci., Univ of Iowa)* RESOLVED, Political Parties Should Nominate Candidates for President in a National Primary (ethical disclosure about the date: The article bears a copyright date of 2014, but since it was online in August 2013, that is obviously not the correct date. It references internally events being current as of 2012 and we used that date for this citation.) <http://www.cqpress.com/docs/college/Ellis%20Debating%20Reform%202e.pdf>

Beyond this front-loading problem, the other problem that gets the most complaints is that nominees are usually decided well before the end of the primary season, resulting in some (maybe many) states becoming irrelevant. Obviously, this was not a problem for the Democrats in 2008, when the contest came down to the very last primary. In 2012, Romney did not lose his last major challenger until late April, after more than thirty contests had been held. Even in 2008, when McCain wrapped up the nomination by the end of February, more than 60 percent of states had voted, owing to massive frontloading that year. Recent contests suggest that worries that a candidate will win long before most states have their chance to vote are misplaced.

Current system (sequential primaries) produces better quality candidates

*Prof. David P. Redlawsk 2012. (prof. of polit. Sci., Univ of Iowa)* RESOLVED, Political Parties Should Nominate Candidates for President in a National Primary (ethical disclosure about the date: The article bears a copyright date of 2014, but since it was online in August 2013, that is obviously not the correct date. It references internally events being current as of 2012 and we used that date for this citation.) <http://www.cqpress.com/docs/college/Ellis%20Debating%20Reform%202e.pdf>

Candidates learn from a sequential process; they take lessons learned in one state and apply them to the campaign in the next. Few, if any, candidates really know how to run a national campaign before they start. Few, if any, have had experience that would qualify them to head a massive bureaucracy and to lead the nation. Building what amounts to a half-billion-dollar business from the ground up is not easy, and our current system allows candidates to learn how to do this over time. This means the quality of candidates can be improved by the nature of the sequential campaign season.

Status Quo allows wider variety of candidates, gives underdogs a fighting chance

*Prof. David P. Redlawsk 2012. (prof. of polit. Sci., Univ of Iowa)* RESOLVED, Political Parties Should Nominate Candidates for President in a National Primary (ethical disclosure about the date: The article bears a copyright date of 2014, but since it was online in August 2013, that is obviously not the correct date. It references internally events being current as of 2012 and we used that date for this citation.) <http://www.cqpress.com/docs/college/Ellis%20Debating%20Reform%202e.pdf>

It is already quite difficult for underdogs to come out on top, but at least they have a fighting chance. In 2008, had a national primary been in place, it is likely that the largest money raisers of 2007 would have been the leading candidates—Mitt Romney and Hillary Clinton. Barack Obama and John McCain might have remained afterthoughts. And while in 2012 Romney secured the Republican nomination after a bruising primary fight in which he was again the early money leader, a national primary would have squelched the voices of the many conservative Republicans who harbored doubts about Romney. The sequential process allowed a host of challengers to contest Romney’s position, forcing him to address issues that many Republicans felt were important.

“Money plays too large of a role in politics” Response & turn: National primary increases cost.

Secretary Beth Chapman 2012. (Alabama secretary of state and president of the National Association of Secretaries of State. B.S. from the University of Montevallo, and a Master's degree from the University of Alabama at Birmingham.) US News “A National Primary Wouldn't Work” March 9th 2012 <http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/a-national-primary-wouldnt-work>

However, a national primary day is a recipe for failure. It would only make it harder and more expensive for all candidates to have a fair shot at competing. Voters in small and mid-size states would largely be ignored. If anything, it would limit the number of viable candidates and severely reduce choices for the American electorate. If you think money plays too much of a role in our political process now, I urge you to consider the ways in which regional primaries would be superior to a national primary day.

“Iowa & New Hampshire” Response: Public financing changes prove this is no longer a problem

David Miller 2009.(Journalist & policy analyst with CBS news.) CBS news, “National Primary Day? It's Getting Closer” Feb 11 2009, <http://www.cbsnews.com/2100-250_162-2481908.html>

Former President George H.W. Bush once spoke of the "Big Mo'" — the idea that a presidential candidate could ride momentum from early victories in Iowa and New Hampshire all the way to his party's nomination, even to the White House.But an increasingly compact primary season and the growing number of candidates choosing to opt out of public financing — freeing them from spending restrictions — may mean that Big Mo' is no more.

“Iowa & New Hampshire” don’t matter as much: Money overcomes

David Miller 2009.(Journalist & policy analyst with CBS news.) CBS news, “National Primary Day? It's Getting Closer” Feb 11 2009, <http://www.cbsnews.com/2100-250_162-2481908.html>

While wins in New Hampshire and Iowa can give a candidate plenty of free media, these days that may not be enough to overcome a well-prepared, well-moneyed campaign that has had ads and organization in place for months in all the states with Feb. 5 contests. The wave that Big Mo' requires would not have time to build. "Once again the money primary becomes more important than virtually anything else," said Mike Collins, a Republican strategist who is not affiliated with any candidate. "It remains to be seen whether it's possible for an insurgent campaign to gain any traction under this schedule. It becomes more and more doubtful."

SOLVENCY

Already tried and failed: “Super Tuesday” primary day became “Tsunami Tuesday” in 2008 and everyone now wants to avoid it

Secretary Beth Chapman 2012. (Alabama secretary of state and president of the National Association of Secretaries of State. B.S. from the University of Montevallo, and a Master's degree from the University of Alabama at Birmingham.) US News “A National Primary Wouldn't Work” March 9th 2012 <http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/a-national-primary-wouldnt-work>

If you want evidence of why a national primary won't work, just take a look at 2008. At least 24 states held a primary or caucus on February 5, resulting in what was essentially a de facto national primary. Super Tuesday became Tsunami Tuesday. The situation was so bad for overwhelmed campaigns, party leaders, and election officials that the two parties worked together to ensure their rules for 2012 would help avoid a repeat.

National primary won’t solve for “states being ignored”: Majority of states would be ignored, since focus would shift to big states

Prof. David P. Redlawsk 2012. (prof. of polit. Sci., Univ of Iowa) RESOLVED, Political Parties Should Nominate Candidates for President in a National Primary (ethical disclosure about the date: The article bears a copyright date of 2014, but since it was online in August 2013, that is obviously not the correct date. It references internally events being current as of 2012 and we used that date for this citation.) <http://www.cqpress.com/docs/college/Ellis%20Debating%20Reform%202e.pdf>

Finally, the fact that some states seem less important and others more important in a sequential system is hard to overlook. Obviously, some state must go first. And because we generally know the dates of our elections in advance, both candidates and the media will flock to the earliest states as early as they can. This is unavoidable in a sequential system and certainly one area where a national primary might fix a perceived problem. But why should we expect that candidates will treat all states equally in a national primary? Treatment of states in a national primary will depend heavily on how the votes are aggregated. If the system proposes simply counting votes nationally and awarding each party’s nomination to the candidate with the most votes, then candidates will focus on the largest vote-rich states, to the detriment of the majority of states.

Single national primary would make frontloading exponentially worse

Prof. William G. Mayer and Prof. Andrew E. Busch 2004. (Mayer - assoc. professor of political science, Northeastern Univ. Busch - Professor of Government at Claremont McKenna College) THE FRONT-LOADING PROBLEM IN PRESIDENTIAL NOMINATIONS <http://books.google.co.vi/books?id=hUB_BV90wLAC&printsec=frontcover&hl=fr&source=gbs_atb#v=onepage&q&f=false>

In particular, it would guarantee that no state had the kind of outsized, disproportionate role now played by Iowa and New Hampshire and that no state would hold its primary after the effective nomination decision had already been made. In exchange, however, a national primary suffers from a long list of maladies that make it a highly questionable option. Above all, it would take most of the problems associated with front-loading – all except the disenfranchisement of late-voting states – and make them exponentially worse. Indeed, an often-repeated complaint about front-loading is precisely that it makes the existing system too much like a national primary. If voters have little opportunity for reflection and second thoughts in the current system, they would have far less in a national primary.

National primary would boost power of front-runners and reduce discussion of local issues

Prof. William G. Mayer and Prof. Andrew E. Busch 2004. (Mayer - assoc. professor of political science, Northeastern Univ. Busch - Professor of Government at Claremont McKenna College) THE FRONT-LOADING PROBLEM IN PRESIDENTIAL NOMINATIONS <http://books.google.co.vi/books?id=hUB_BV90wLAC&printsec=frontcover&hl=fr&source=gbs_atb#v=onepage&q&f=false>

If front-runners have a disproportionate advantage now, that advantage would only grow as candidates struggled to campaign in fifty states at once. If campaigns meet a low standard of quality today because of the need to shift so quickly into wholesale politics, one can only imagine how little opportunity there would be for retail campaigning or discussion of local issues in a national primary

National primary magnifies front-loading

Prof. William G. Mayer and Prof. Andrew E. Busch 2004. (Mayer - assoc. professor of political science, Northeastern Univ. Busch - Professor of Government at Claremont McKenna College) THE FRONT-LOADING PROBLEM IN PRESIDENTIAL NOMINATIONS <http://books.google.co.vi/books?id=hUB_BV90wLAC&printsec=frontcover&hl=fr&source=gbs_atb#v=onepage&q&f=false>

These problems should hardly be surprising, because a national primary represents, in a sense, the most thoroughgoing front-loading and compression possible, with delegate selection in all states being moved, in effect, to the very first date on the calendar. In short, though the national primary might satisfy a primordial urge for order and rationality, it would almost certainly not resolve or even alleviate most of the difficulties created by front-loading.

Later primary / eliminating frontloading - won’t produce better discussion of the issues

Prof. Mark J. Wattier 2005. (Professor of Political Science, Dept of Government, Law, and International Affairs Murray State University) Presidential Primaries and Frontloading: An Empirical Polemic Oct 2005 <http://www.uakron.edu/bliss/docs/state-of-the-parties-documents/Wattier.pdf>

Would more position issues emerge if only nomination contests were longer? Would primary voters also cast issue votes? Studies of nomination contests suggest that candidates are not likely to campaign on position issues (Kendall 2000) and that primary voters are not likely to cast votes on position issues (Abramowitz 1989; Geer 1989; Gopoian 1982; Keeter and Zukin 1983; Williams et al. 1976). The 1980 nomination contests were competitive to the end and the schedules were relatively back loaded (see Figure 1). Studies of the 1980 Democratic and Republican contests found that position issues had a minimal effect on whom primary voters supported (Keeter and Zukin 1983; Marshall 1984; Norrander 1986; Wattier 1983a; Wattier 1983b). It, therefore, seems very unlikely that a back-loaded nomination season, favored by critics of frontloading (Patterson 2002; Witcover 1999), would alter the primary context enough to make policy issues the decisive factors in nomination contests.

DISADVANTAGES

1. Gives the wealthy an advantage

Link: National primary system would kill the American dream by only allowing wealthy candidates

Terry Shumaker 2012. (attorney; former Executive Director & General Counsel of the National Education Association of New Hampshire; former United States Ambassador; served on New Hampshire Ballot Law Commission which decides election disputes. JD, Boston Univ School of Law) US News, “Tough Primary Battles Forge More Resilient Nominees” 9 Mar 2012 [www.usnews.com/debate-club/is-a-national-primary-a-good-idea/tough-primary-battles-forge-more-resilient-nominees](http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/tough-primary-battles-forge-more-resilient-nominees)

A national primary, no matter how structured or scheduled, would kill the American dream that any boy or girl can grow up to be president. Only well-known, wealthy candidates would ever get on the ballot, dooming us to a never-ending line of anointed nominees. A primary calendar spanning months gives lesser-known, underfunded candidates a chance to grow their campaigns and hone their messages. As Jimmy Carter proved, one can start in a couple of states and end up in the White House. In the current process, the presidential aspirants must interact with voters and elected officials from coast to coast, learning invaluable things about our country, and themselves.

Impact: Rich officials won’t bring better representation

Sheila Krumholz 2013.(Center for Responsive Politics' executive director, serving as the organization's chief administrator, served for eight years as the Center's research director, degree in international relations and political science from the University of Minnesota.) New York Times, “Rich Candidates Are Not the Solution” April 3 2013 <http://www.nytimes.com/roomfordebate/2013/04/03/are-rich-politicians-less-corruptible/rich-political-candidates-are-not-the-solution>

The latest corruption scandal unfolding in New York, involving the usual cash-filled envelopes, may make people wonder whether we couldn't avoid disappointment by just electing rich people in the first place. But make no mistake: attempting to heal the democratic process by elevating wealthy candidates is a bad tradeoff. Yes, rich candidates may be less susceptible to corruption -- or they may not -- but how much do we know about how they amassed their resources in the first place? What are their networks of friends, family and colleagues? What world view will they advocate for? Our political system's increasing reliance on people of means -- both as financiers of candidates, like Sheldon Adelson, or candidates themselves, like Mayor Michael Bloomberg -- has a direct impact on policy choices. The orientation of the uber-wealthy makes them different from the 99 percent in important ways. Given the disparities, rich officials won't necessarily bring better representation to average -- to say nothing of poor -- Americans.

2. Less competition

Link: National primary Reduces competition – and only allows the wealthy to get elected

Former Ambassador Terry Shumaker 2012. (Was Executive Director & General Counsel of the National Education Association of New Hampshire. Served as a United States Ambassador, was appointed by the Governor to the New Hampshire Ballot Law Commission which decides election disputes. Attorney admitted to the College of Labor and Employment Lawyers. Co- founder of the Labor and Employment Law Section of the New Hampshire Bar Association. Member of the National Association of Distinguished Neutrals. JD, Boston University School of Law, AB, Dartmouth College.) US News, “Tough Primary Battles Forge More Resilient Nominees” March 9th 2012 <http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/tough-primary-battles-forge-more-resilient-nominees>

The Iowa and New Hampshire political landscapes are littered with the wreckage of candidates past who looked great on paper but were never able to get off the ground (John Glenn in 1984, Phil Gram in 1996, and Fred Thompson in 2008). Without the winnowing process of the early states followed by the later, delegate-rich big state contests, a party could easily select a nominee based on name recognition, good looks, and great ads who then flops on the national stage in the general election. With a national primary, a lesser-known candidate with a powerful message like anti-Vietnam War crusader Gene McCarthy, who upended a sitting President Lyndon Johnson in 1968, would simply not be possible.

Impact: Competition enhances democratic accountability

Dr. Philip Edward Jones 2012. (Assistant professor, PhD - Harvard University, Department of Political Science and International Relations, University of Delaware.) “THE EFFECT OF POLITICAL COMPETITION ON DEMOCRATIC ACCOUNTABILITY” June 1 2012 <http://udel.edu/~pejones/research_files/pejones_competition.pdf>

Representing uncompetitive, homogeneous constituencies is increasingly the norm for American legislators. Extensive research has investigated how competition affects the way representatives respond to their constituents’ policy preferences. This paper explores competition’s effect on the other side of representation, how constituents respond to their legislators’ policy record. Combining multiple measures of state competitiveness with large-N survey data, I demonstrate that competition enhances democratic accountability. Voters in competitive states are more interested in politics, more aware of the policy positions their U.S. senators have taken, and more likely to hold them accountable for those positions at election time. Robustness checks show that these effects are not due to the intensity of campaigning in a state: general competition, not particular campaign activities, drives citizens’ response. The recent increase in uncompetitive constituencies has likely lessened the degree to which legislators are held accountable for their actions in ofﬁce.

3.National Primary is unfair

*Prof. David P. Redlawsk 2012. (prof. of polit. Sci., Univ of Iowa)* RESOLVED, Political Parties Should Nominate Candidates for President in a National Primary (ethical disclosure about the date: The article bears a copyright date of 2014, but since it was online in August 2013, that is obviously not the correct date. It references internally events being current as of 2012 and we used that date for this citation.) <http://www.cqpress.com/docs/college/Ellis%20Debating%20Reform%202e.pdf>

It is clear, however, that a national primary would advantage certain types of candidates at the expense of others. Those with ready access to very large sums of money very early—certainly at least in the year before the primary—would be able to buy the advertising time needed to contest the whole country at the same time, while others who might also be good candidates but cannot initially raise large sums would be locked out. The simple math of a national primary is that money would speak even more loudly than it does today. And it would speak through massive media campaigns rather than personalized grassroots campaigns.

Link & Brink: National Primary would give a huge advantage to better known – better funded candidates

Secretary Beth Chapman 2012. (Alabama secretary of state and president of the National Association of Secretaries of State. B.S. from the University of Montevallo, and a Master's degree from the University of Alabama at Birmingham.) US News “A National Primary Wouldn't Work” March 9th 2012 <http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/a-national-primary-wouldnt-work>

First, a national primary would give a huge advantage to better-known, better-funded candidates since only they would be able to finance the expensive advertising and large campaign operation needed to run a national "get out the vote" effort in all states. Lesser-known candidates without extensive campaign operations would not have an opportunity to reach out to voters in retail-style fashion and build support. Moreover, densely populated states with higher delegate counts would become the dominant focus of the campaigns and the media. In addition, political parties would have little control over the selection of their eventual nominee, and state party leaders would no longer have the flexibility to set their primary or caucus dates according to state-specific considerations, such as redistricting issues, state holidays, or other state and local elections.

Impact: Studies prove that when people think a system is fair – it helps democracy & they are more efficient

Prof. Danny Oppenheimer 2012. (associate professor at UCLA Anderson School of Management. P Ph.D. from Stanford University, B.A. from Rice University.) And Mike Edwards (master’s degree in political science from UC San Diego, and a B.A. from Rice University.) “Eliminate the Electoral College” November 27 2012 accessed June 26, 2013, <http://www.huffingtonpost.com/mike-edwards/electoral-college-votes_b_1917826.html>

“And that is exactly why the Electoral College is so dangerous. Social scientists have demonstrated that people are happier and more efficient when they believe that they are living and working under a fair set of rules. In addition, people are more likely to follow the laws or rules voluntarily when they believe that their voices are being heard, which can reduce corruption and helps society run more smoothly. Studies have even shown that people will voluntarily conserve scarce resources when they feel that they have input into the way policy is created. This so-called procedural justice is a huge boon to democracy; our active participation in the political process encourages us all to be productive and law-abiding citizens. In short, one of the most important catalysts for successful democracy is our communal belief that we can all make a difference by participating in the system--our belief that every vote matters. And the Electoral College actively violates that belief. The Electoral College ensures that some votes matter more than others. It is past time that we got rid it.”

Backup Link: National primary would in theory benefit candidates with more money & greater name recognition

Ralph Z. Hallow 2009.(Washington times Chief political writer,was Ford Foundation Fellow in Urban Journalism at Northwestern University, Columbia University.) The Washington times, “Republicans reconsider primary schedule” 2 Aug. 2009 <http://www.washingtontimes.com/news/2009/aug/02/rnc-reconsiders-primary-schedule/?source=newsletter_must-read-stories-today_photo_feature>

“Any change we make will have to be approved by two-thirds of the RNC members, so there will have to be a solid consensus that satisfies big and small states,” said former Michigan GOP Chairman Saul Anuzis, who is a member of the ad hoc “delegate selection committee” that will continue hashing over ways to head off the perceived slide toward a one-day national primary that would, in theory, benefit candidates with more money and greater name recognition.

Backup Impact: Democracy itself is at risk if citizens do not perceive the system as fair

Brian O'Neal 1993. (with the Political and Social Affairs Division of the Canadian Library of Parliament) May 1993 ELECTORAL SYSTEMS, <http://www.parl.gc.ca/Content/LOP/researchpublications/bp334-e.htm#1>

More importantly, the way in which an electoral system translates votes into seats in elected assemblies may influence the degree of public support for the democratic system itself. If, for example, citizens do not perceive that their preferences are adequately reflected in the legislature following an election, their support for the system in general is likely to decline. Turnout during elections will drop off, respect for politicians and elected representatives will fall, and laws enacted by government will not be seen as fully legitimate.Democracy is an ideal, an abstraction which often assumes concrete dimensions for the vast majority of people through the electoral system. For many, an election marks the only occasion of any form of political participation --- it is the only tangible evidence of what it means to be a citizen in a democratic society. It is therefore of utmost importance that electoral systems be seen as fair and as fulfilling public expectations; if not, democracy itself is put at risk.

4.Less deliberation. We don’t get as long to consider the candidates and hear the issues debated

Link: Status quo promotes deliberation better than a national primary

Dr. John C. Fortier 2012. (Bipartisan Policy Center (BPC), political scientist who focuses on governmental and electoral institutions; former research fellow at the American Enterprise Institute; Ph.D. in political science - Boston College; taught at Kenyon College, Univ of Pennsylvania, Univ of Delaware, Harvard, and Boston College.) US news, THE CURRENT PRIMARY SYSTEM PROMOTES DELIBERATION 9 Mar 2012 <http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/the-current-primary-system-promotes-deliberation>

Our current system seems messy compared to a single-day national primary, but it also promotes candidate engagement with real people and a longer sustained national look at the candidates. Chaotic perhaps, but ultimately a system that promotes deliberation.

Link: National Primary would ensure little to no deliberation on such an important decision.

Sen. Spencer Abraham 2000. (US senator from Michigan, United States Secretary of Energy, serving under President George W. Bush. co-founder of Harvard Journal of Law and Public Policy. JD from Harvard & Honors from Michigan state university, former law professor at Thomas M. Cooley Law School.)Republican National Committee, “NOMINATING FUTURE PRESIDENTS” 2000 <http://pweb.jps.net/~md-r/ps/brockreport.pdf>

The trend of frontloading, which will, in the not too distant future, produce a single national primary day is a disturbing trend that needs attention. To have the selection process essentially come down to a single day of dozens of primaries ensures little to no deliberation on this extremely important decision. It would result in minimal give-and-take on issues such that the succeeding candidate would not be the product of a thoughtful issue discussion. For this reason, I strongly support reforms in this report which would make the process a more deliberative one.

Link& Brink: Status quo superior to national primary because it allows candidates to get a message out.

Dr. John C. Fortier 2012.(Bipartisan Policy Center (BPC), political scientist who focuses on governmental and electoral institutions. Was a research fellow at the American Enterprise Institute, served as the principal contributor to the AEI-Brookings Election Reform Project, the executive director of the Continuity of Government Commission, and the project manager of the Transition to Governing Project. Ph.D. in political science - Boston College and a B.A. from Georgetown University. Has taught at Kenyon College, University of Pennsylvania, University of Delaware, Harvard University and Boston College.) US news, THE CURRENT PRIMARY SYSTEM PROMOTES DELIBERATION March 9 2012 <http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/the-current-primary-system-promotes-deliberation>

And the current system is also superior to a national primary in that it allows the party out of the White House to get its message out. In most other countries, the out party has an identifiable opposition leader. In America, there is no official out party leader for most of the four years of a presidential term, and it is hard for the out party message to compete with the media coverage of a sitting president. A longer, drawn-out, state-by-state race with many debates may annoy some, but it keeps the potential nominees in the news and allows their messages to be heard.

Link: Campaign turns into a series of all 6 second sound bites

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One can only imagine the results if all fifty states (and the District of Columbia and territories) held their nominating events on the same day. Candidates would be unable to focus in any one place, media would be stretched thin trying to cover all of the states, and voters would likely end up seeing superficial media campaigns focused on six-second television news sound bites or perhaps thirty-second YouTube videos.

Impact: National primary would fail at all the criteria of a good election system (candidate quality, voter information, voter participation, and state equality)

Prof. David P. Redlawsk 2012. (prof. of polit. Sci., Univ of Iowa) RESOLVED, Political Parties Should Nominate Candidates for President in a National Primary (ethical disclosure about the date: The article bears a copyright date of 2014, but since it was online in August 2013, that is obviously not the correct date. It references internally events being current as of 2012 and we used that date for this citation.) <http://www.cqpress.com/docs/college/Ellis%20Debating%20Reform%202e.pdf>

Let’s consider what a desirable system would look like. We should evaluate reform on its ability to promote four goals: candidate quality, voter information, voter participation, and state equality. A presidential nomination system should choose quality candidates, not simply those who are the most well known or the best financed. The system should allow voters to learn by providing them with appropriate information. Moreover, the nomination system should encourage voter participation, so that voters become interested and involved. Finally, it should strive for equality among the states in terms of allowing all Americans to cast meaningful votes. A true national primary—a system in which all states’ primaries are held on one day—is likely to fail these tests. We can already see this in what happens during the general election. Candidates focus on a few “swing” states, pouring resources into them while ignoring most states as uncompetitive. Candidates spend much of their money on thirty-second television ads that seem designed to confuse rather than to explain. And few voters ever actually see a candidate in person, unless it is for fifteen minutes on an airport tarmac as the candidate flies in, gives a canned stump speech, and flies out to the next stop. This country is simply too large to allow candidates to campaign effectively across all states if the states’ primary elections are all held on the same day.

Impact: Poorer quality candidates

Prof. Merlyn J. Clarke 2007.(professor emeritus of political science at East Stroudsburg University for 35 years.Chairman of the Political Science Department.) Pocono record “Careening toward national primary” 15 March 2007 <http://www.poconorecord.com/apps/pbcs.dll/article?AID=/20070315/NEWS04/70315001>

A national primary, though, is a virtual impossibility for long-shot candidates who have neither the money nor the name recognition to mount a national campaign. The nation’s political dialogue, to say nothing of the quality of the candidates, say some experts, is poorer for it. Party leaders’ influence would almost certainly be reduced, and the chances of run-off primaries, with possibly contested outcomes — Florida 2000, writ large — dampens support for a national primary among political professionals.

5. More corruption

Link: National Primary would give a huge advantage to candidates with more money. This means that elections become “all about the money”, according to Alabama Secretary Beth Chapman in 2012 QUOTE:

Secretary Beth Chapman 2012. (Alabama secretary of state and president of the National Association of Secretaries of State. B.S. from the University of Montevallo, and a Master's degree from the University of Alabama at Birmingham.) US News “A National Primary Wouldn't Work” March 9th 2012 <http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/a-national-primary-wouldnt-work>

First, a national primary would give a huge advantage to better-known, better-funded candidates since only they would be able to finance the expensive advertising and large campaign operation needed to run a national "get out the vote" effort in all states. Lesser-known candidates without extensive campaign operations would not have an opportunity to reach out to voters in retail-style fashion and build support. Moreover, densely populated states with higher delegate counts would become the dominant focus of the campaigns and the media.

Brink: Campaigns need money to survive.

Ezra Klein 2012. (columnist and writer at The Washington Post and a policy analyst for MSNBC. Writer with the Sidney Hillman foundation, an associate editor at The American Prospect and a columnist at Newsweek.) Bloomberg News “Money Corrupts Politics Even More Than You Thought” June 25 2012 <http://www.bloomberg.com/news/2012-07-25/money-corrupts-politics-even-more-than-you-thought.html>

Campaigns need votes to win. But they need money simply to survive. They get that money from a vanishingly small percentage of Americans.According to Harvard law professor Lawrence Lessig, only 0.26 percent of Americans give more than $200 to congressional campaigns. Only 0.05 percent give the maximum amount to any congressional candidate. Only 0.01 percent -- 1 percent of 1 percent -- give more than $10,000 in an election cycle. And in the current presidential election, 0.000063 percent of Americans -- fewer than 200 of the country’s 310 million residents -- have contributed 80 percent of all super-PAC donations.

Impact: Money corrupts elections

Prof. Lawrence Lessig 2012. (Professor of Law and Leadership at Harvard Law School) 24 July 2012 testimony before the SENATE JUDICIARY COMMITTEE, SUBCOMMITTEE ON THE CONSTITUTION,CIVIL RIGHTS AND HUMAN RIGHTS <http://www.judiciary.senate.gov/pdf/12-7-24LessigTestimony.pdf>

And so has the demand for Super PAC spending soared: As the Sunlight Foundation reports, in the 2011-12 cycle so far, more than a quarter of a billion dollars has been raised by Super PACs. Of the $142 million spent so far, negative spending has outstripped positive spending 2 to 1. OpenSecrets.org reports that through April, “outside spending in all its forms has doubled since 2008, but independent expenditures have more than tripled.” And while there are questions about whether that growth was truly caused by Citizens United, there can be no question that changes in the concentration of funding have been driven by changes caused by Citizens United. Whether there was a comparable amount of money in 2008 or not, the number of large funders has grown. In my view, it is this concentration that defines the corruption, for it is this concentration that creates the corrupting dependence.

6.Exclusivity & discrimination

Link: National primary renders minorities less important

Former Ambassador Terry Shumaker 2012. (Was Executive Director & General Counsel of the National Education Association of New Hampshire. Served as a United States Ambassador, was appointed by the Governor to the New Hampshire Ballot Law Commission which decides election disputes. Attorney admitted to the College of Labor and Employment Lawyers. Co- founder of the Labor and Employment Law Section of the New Hampshire Bar Association. Member of the National Association of Distinguished Neutrals. JD, Boston University School of Law, AB, Dartmouth College.) US News, “Tough Primary Battles Forge More Resilient Nominees” March 9th 2012 <http://www.usnews.com/debate-club/is-a-national-primary-a-good-idea/tough-primary-battles-forge-more-resilient-nominees>

A national primary would render minority voters, interest groups, and regional concerns less important while elevating the status of political consultants, advertising gurus, and super PACs. Does a tarmac rally in Atlanta look any different from one in Seattle? Forget about candidates actually meeting voters in diners or factories, as big events are all you would see.

Impact: Discrimination violates human rights

Council of Europe after 2007. (international body with 47 countries.), “Discrimination contradicts a fundamental principle of human rights.”, last date mentioned is 2007, <http://www.eycb.coe.int/compasito/chapter_5/pdf/3.pdf>

To discriminate against someone is to exclude that person from the full enjoyment of their political, civic, economic, social or cultural rights and freedoms. Discrimination contradicts a basic principle of human rights: that all people are equal in dignity and entitled to the same fundamental rights. This principle is repeated in every fundamental human rights document (e.g. UDHR Article 2, CRC Article 2, ECHR Article 14 and Article 1 of Protocol No. 12). Most national Constitutions also include provisions against discrimination.

NEGATIVE: PROPORTIONAL REPRESENTATION

(Simon Sefzik researched most of the evidence in this brief.)

OVERVIEW / BACKGROUND / PHILOSOPHY / REVERSE ADVOCACY

Proportionality is not a valid way to decide public policy

John Pepall 2011. (Degrees in philosophy and politics at Trent University and law at York University. Practiced civil litigation in Toronto. Analyst with the policy think tank Macdonald-Laurier Institute.) Published by Troy Media, “The case against proportional representation” Oct. 13 2011, <http://www.troymedia.com/2011/10/13/the-case-against-proportional-representation/>

If proportionality and making every citizen’s vote count is the goal, why should we not apply it to policies? If 50 per cent of the people oppose capital punishment, 40 per cent support it, and 10 per cent are undecided, why should we not give five out of ten murderers a life sentence, hang four, and keep one on death row until the undecided make up their minds? Of course the suggestion is absurd. No one could defend such a result where murderers would hang randomly depending on the order of their convictions.

Electoral systems focused on Proportionality can lead to fatal weaknesses – example – Weimar republic

Jeremy Coldrey 2009.  Political science journal, University of Leeds, THE RISE OF FASCISM: ASSESSING THE CONSTITUTION OF THE WEIMAR REPUBLIC <http://www.polis.leeds.ac.uk/assets/files/students/studentjournal/jeremy-coldrey-summer-09.pdf>

However, adopting an electoral system that achieved almost one hundred percent proportionality brought with it significant implications which some authors have described as the fatal weakness that caused the destruction of the Weimar Republic.

Circular Reasoning: PR is better only if you believe proportional representation is better

John Pepall 2011. (Degrees in philosophy and politics at Trent University and law at York University. Practiced civil litigation in Toronto. Analyst with the policy think tank Macdonald-Laurier Institute.) Published by Troy Media, “The case against proportional representation” Oct. 13 2011, <http://www.troymedia.com/2011/10/13/the-case-against-proportional-representation/>

The idea that parties should get seats in proportion to their popular vote has become a dogma beyond argument for the believers. They wrongly claim that most of the ills of our politics would be cured by proportional representation and the interest of small parties too weak ever to hope to win a majority is obvious. But chiefly they assume what is in issue, that proportional representation is ‘fair’ and ‘democratic.’ The most notorious cases of the disproportion between votes and seats are trotted out – New Brunswick in 1987 when the Progressive Conservatives got 28.59 per cent of the votes and no seats, British Columbia in 2001 when the Liberals took 77 of 79 seats with 57.62 per cent of the votes – as if they were arguments for proportional representation. They mean nothing, unless you already believe elections should produce proportional representation.

SIGNIFICANCE / HARMS

“Wasted votes” Response: Elections do what they are supposed to: produce a decision, there will always be winners and losers – under PR advocates pretend everyone is a winner, but there is no decision.

John Pepall 2011, Huffington Post. (Degrees in philosophy and politics at Trent University and law at York University. Practiced civil litigation in Toronto. Analyst with the policy think tank Macdonald-Laurier Institute.) Published by the Huffington Post, “Proportional Representation Is a Waste of a Vote” 10/18 2011, <http://www.huffingtonpost.ca/john-pepall/proportional-representation_b_1010954.html>

PR's advocates invented the concept of the wasted vote, claiming that votes for losing candidates, or surplus votes for winning candidates, are wasted, and that under PR "every vote counts." "Wasted votes" are the direct result of elections doing what they are supposed to do: producing a decision. There are winners and losers. Under PR, its advocates pretend, everyone is a winner. But there is no decision. And that surely is a waste of voting.

SOLVENCY

Too complicated. Some PR systems are more complicated than non-PR systems, and may require more voter education and training in order to work successfully.

The Electoral Knowledge Network 2005. (Public Policy institute specifically dedicated to the electoral system, it has over 1.3 million readers, ACE is a collaborative effort between nine organizations: IDEA, EISA, Elections Canada, the Federal Electoral Institute of Mexico (IFE), IFES, UNDESA, UNDP and the UNEAD. The European Commission is an ex-officio member.) “Disadvantages of PR systems” (Note: When they refer to “PR” they are referring to proportional representation.)  <http://aceproject.org/aceen/topics/es/esd/esd02/esd02b>

Difficulties either for voters to understand or for the electoral administration to implement the sometimes complex rules of the system. Some PR systems are considered to be more difficult than non-PR systems and may require more voter education and training of poll workers to work successfully.

Strategic Voting. This means voting for some other party than the one you really support, in order to get the outcome you really wanted

Link: PR promotes strategic voting

Indridi H. Indridason 2009. (PhD in political science; associate professor of political science, Univ of Calif. Riverside) 2 Aug 2009 Proportional Representation, MajoritarianLegislatures & Coalitional Voting [www.academia.edu/2988502/Proportional\_Representation\_Majoritarian\_Legislatures\_and\_Coalitional\_Voting](http://www.academia.edu/2988502/Proportional_Representation_Majoritarian_Legislatures_and_Coalitional_Voting)

Recent research has gone some way towards overturning that view voters don’t vote strategically in proportional representation elections. Aldrich et al. (2004) and Blais et al.(2006) ﬁnd that a substantial proportion of voters don’t vote for their most preferred party and, more importantly, that preferences over coalitions and potential formateurs influence vote choice. Kedar (2005) ﬁnds that voters engage in policy balancing by voting for parties that take more extreme positions than their most preferred party. Bargsted&Kedar (2009) also show that expectations about who will form coalition influence vote choice.

Link / Example: Germany 2005 – many voters did exactly that

Indridi H. Indridason 2009. (PhD in political science; associate professor of political science, Univ of Calif. Riverside) 2 Aug 2009 Proportional Representation, MajoritarianLegislatures & Coalitional Voting [www.academia.edu/2988502/Proportional\_Representation\_Majoritarian\_Legislatures\_and\_Coalitional\_Voting](http://www.academia.edu/2988502/Proportional_Representation_Majoritarian_Legislatures_and_Coalitional_Voting)

While the possibility of inﬂuencing who becomes the formateur has straightforward implications for the voters’ decisions, the latter incentive results in somewhat counterintuitive actions by the voters. Generally, a non-formateur party becomes less attractive as a coalition partner the more votes it receives. Thus, in order to obtain a favorable policy outcome a voter may have an incentive to vote for a party that they do not want in the governing coalition because it provides the formateur with an incentive to form the voter’s preferred coalition. In this sense, a vote for an opposition party is not necessarily a wasted vote. Indeed, the impact on the policy outcome, for sets of voters that are pivotal in this respect, will generally be substantially larger than if they cast their votes for one of the coalition parties. While such consideration would seem to require a lot of voters, Meﬀert et al. (2008) ﬁnd evidence that voters that supported the SPD/CDU grand coalition nevertheless voted for the left party for this reason in the 2005 German legislative election.

Impact: If strategic voting occurs, then PR loses its claim of fairness based on group representation

Indridi H. Indridason 2009. (PhD in political science; associate professor of political science, Univ of Calif. Riverside) 2 Aug 2009 Proportional Representation, MajoritarianLegislatures & Coalitional Voting [www.academia.edu/2988502/Proportional\_Representation\_Majoritarian\_Legislatures\_and\_Coalitional\_Voting](http://www.academia.edu/2988502/Proportional_Representation_Majoritarian_Legislatures_and_Coalitional_Voting)

The presence of strategic voting in proportional representation systems raises important questions about the perceived advantages and disadvantages of proportional representation. First, proportional representation is often regarded fair in normative termsas each group’s representation in the legislature is proportional to its size. If strategicvoting is prevalent this claim loses much of its force.

“Everyone’s doing it” – Responses

Canadian provinces voted to reject PR

John Pepall 2011. (Degrees in philosophy and politics at Trent University and law at York University. Practiced civil litigation in Toronto. Analyst with the policy think tank Macdonald-Laurier Institute.) Published by Troy Media, “The case against proportional representation” Oct. 13 2011, <http://www.troymedia.com/2011/10/13/the-case-against-proportional-representation/>

The appeal of proportional representation is persistent.And yet, elaborately prepared and promoted proposals for proportional representation were roundly rejected by voters in referendums in Prince Edward Island in November 2005, in Ontario in October 2007, and in British Columbia in May 2009.

Argument that PR is prevalent is worthless

John Pepall 2011, Huffington Post. (Degrees in philosophy and politics at Trent University and law at York University. Practiced civil litigation in Toronto. Analyst with the policy think tank Macdonald-Laurier Institute.) Published by the Huffington Post, “Proportional Representation Is a Waste of a Vote” 10/18 2011, <http://www.huffingtonpost.ca/john-pepall/proportional-representation_b_1010954.html>

The argument that PR is prevalent and so should be adopted is worthless. Only in recent times have most countries been any kind of democracy. Even in 2010, according to the Economist Intelligence Unit, the commonest form of government was authoritarian. And whatever the electoral system, the quality of democracy varies. PR is used by Norway and Russia.

“Better representation” Response: End result does not produce governments closer to the voters’ positions

Prof. André Blais & Marc André Bodet 2006.(BLAIS- Professor - department of political science at the Université de Montréal, research fellow at the Centre interuniversitaire de recherche en économie quantitative (CIREQ) and at the Center for Interuniversity Research and Analysis on Organizations (CIRANO), and a fellow of the Royal Society of Canada. BODET - Associate researcher at the Canada Research Chair in Electoral Studies. M.Sc. in Economics from the Université de Montréal.)“Does Proportional Representation Foster Closer Congruence Between Citizens and Policymakers?” 2006 <http://www.upf.edu/dcpis/_pdf/ablais.pdf>

We have shown that proportional representation does contribute to a greater range of choice for voters, that is, voters can choose among parties that are more ideologically dispersed. But we have also shown that PR does not bring about a better representation of citizens’ overall ideological orientations, that is, the ideological position of the government is not closer, on average, to voters’ positions.

DISADVANTAGES

1. Extremism

Link: Proportional Representation can allow tiny minority parties to gain a hold. Example: Israel.

The Electoral Knowledge Network 2005. (Public Policy institute specifically dedicated to the electoral system, it has over 1.3 million readers, ACE is a collaborative effort between nine organizations: IDEA, EISA, Elections Canada, the Federal Electoral Institute of Mexico (IFE), IFES, UNDESA, UNDP and the UNEAD. The European Commission is an ex-officio member.) “Disadvantages of PR systems” (Note: When they refer to “PR” they are referring to proportional representation.)  <http://aceproject.org/aceen/topics/es/esd/esd02/esd02b>

PR can reflect and facilitate a fragmentation of the party system. It is possible that extreme pluralism can allow tiny minority parties to hold larger parties to ransom in coalition negotiations. In this respect, the inclusiveness of PR is cited as a drawback of the system. In Israel, for example, extremist religious parties are often crucial to the formation of a government, while Italy endured many years of unstable shifting coalition governments. Democratizing countries are often fearful that PR will allow personality-based and ethnic-cleavage parties to proliferate in their undeveloped party systems.

Link: PR systems create a platform of extremist parties.

The Electoral Knowledge Network 2005. (Public Policy institute specifically dedicated to the electoral system, it has over 1.3 million readers, ACE is a collaborative effort between nine organizations: IDEA, EISA, Elections Canada, the Federal Electoral Institute of Mexico (IFE), IFES, UNDESA, UNDP and the UNEAD. The European Commission is an ex-officio member.) “Disadvantages of PR systems” (Note: When they refer to “PR” they are referring to proportional representation.)  <http://aceproject.org/aceen/topics/es/esd/esd02/esd02b>

A platform for extremist parties. In a related argument, PR systems are often criticized for giving a stage in the legislature to extremist parties of the left or the right. It has been argued that the collapse of Weimar Germany was in part due to the way in which its PR electoral system gave a toehold to extremist groups of the extreme left and right.

Impact: Historical example: Germany’s proportional representative system was instrumental in bringing Hitler to power

Fuad Aleskerov, , Manfred J. Holler, and Rita Kamalova 2011. (Aleskerov & Kamalova are with National Research University Higher School of Economics, Russia. Holler is with Institute of SocioEconomics,, University of Hamburg, Germany ) Power Distribution in the Weimar Reichstagin 1919-1933 <http://www.lse.ac.uk/cpnss/projects/vpp/vpppdf/vpppdf_symposium2011/aleskerov.pdf>

The Weimar Republic during 1919-1933 represents an example of a parliamentary system based on proportional representation. It was an essential component of the political environment among others that brought Adolf Hitler into power and it is not exaggerated to claim that it thereby was of outstanding relevance for the course of world history. Therefore, to analyze its power structure is more than just another theoretical exercise. However, our work will focus on the theoretical, and not the historical dimension of the problem.

Impact: Possible extremist takeover. Proportional representation in Germany opened the way for Hitler

Jeremy Coldrey 2009.  Political science journal, University of Leeds, THE RISE OF FASCISM: ASSESSING THE CONSTITUTION OF THE WEIMAR REPUBLIC <http://www.polis.leeds.ac.uk/assets/files/students/studentjournal/jeremy-coldrey-summer-09.pdf>

It will be further argued that proportional representation was particularly useful for the Nazi party in organisational terms, in the way that voters were asked to vote for party lists rather than individual candidates. This was of great benefit to a party that was built around the Fuhrer principle. And finally it will be demonstrated that the ensuing breakdown of the parliamentary system, due to an inability to make consolidated majority coalition governments, gave Hitler and the Nazi party substantial ammunition for agitation against the Weimar system.

Proportional representation offered the Nazi party the ability to present candidates on large scale

Jeremy Coldrey 2009. (Univ. of Leeds – POLITICAL SCIENCE JOURNAL Research Executive at Fleishman Hillard.) Political science journal, University of Leeds, THE RISE OF FASCISM: ASSESSING THE CONSTITUTION OF THE WEIMAR REPUBLIC <http://www.polis.leeds.ac.uk/assets/files/students/student-journal/jeremy-coldrey-summer-09.pdf>

Moreover, the manner of proportional representation voting system offered the Nazi party the ability to present candidates on a large scale, and therefore greater opportunity to campaign both for its own electoral purposes and against the existing Weimar system. Hermens (1972, p.228) notes that; “as long as the NSDAP was a serious factor in elections, the other parties, and their press, had to take them into account. The result was that this little extremist group could not be “ignored to death.” Hitler himself advocated the National Socialist party’s requirement for publicity in his book, Mein Kampf: “In the early days, when our movement was only just beginning, we suffered from nothing so much as the fact that our names meant nothing – that we weren’t even known. This fact was enough all by itself to make our success doubtful. If in those days people had attacked us, if they had even taken the trouble just to laugh at us, we would have been glad either way” (Hermens, 1972, p.228 quoting Hitler, 1935, p.388).The direct proportionality of the voting system was therefore exploited by the National Socialist movement to raise their status, and in this way facilitated their early development.

2. Legislative Gridlock.

Link: PR systems make it hard to actually go anywhere – fueling disagreements.

Dr. Azeem Ibrahim 2010. (PhD from the University of Cambridge and served as a Research Fellow at the International Security Program at the Kennedy School of Government at Harvard University, a World Fellow at Yale University, Fellow and member of the Board of Directors at the Institute of Social Policy Understanding and Executive Chairman of The Scotland Institute. Adjunct Professor.) The Huffington Post, “Proportional Representation Is Like a Box of Chocolates : You Never Know What You're Going to Get” May 14 2010, <http://www.huffingtonpost.com/azeem-ibrahim/proportional-representati_b_574596.html>

Proportional representation is the system that the Liberal Democrats have long supported. Us opponents of PR would be foolish to deny that it would be more representative than first past the post, in the sense that it would send to Westminster MPs who better represented the choice of the country.The problem is that because there would normally be coalitions, the laws and decisions they make would normally end up being less representative of the choice of the country. Whereas first past is like letting the electorate choose a driver who will choose where to drive, PR is like letting the electorate choose the passengers who will sit in the car, fighting over the destination. It would not be able to actually go anywhere until and unless they manage to agree.

Link: Proportional government is impossible – even contradictory.

John Pepall 2011. (Degrees in philosophy and politics at Trent University and law at York University. Practiced civil litigation in Toronto. Analyst with the policy think tank Macdonald-Laurier Institute.) Published by Troy Media, “The case against proportional representation” Oct. 13 2011, <http://www.troymedia.com/2011/10/13/the-case-against-proportional-representation/>

The point of such an absurd example is simply to confirm the old adage: To govern is to choose, to decide. In a democracy there are always winners and losers, whatever the electoral system, and even when direct democracy through referendums is practiced. No electoral system can get round that fact and what results from it, that is, that most people, most of the time, will be unhappy with much of what governments do. Decisions must and will be made, and by voting the people can decide who will make them, and hold them accountable.Government is not a jumble of discreet choices where some people can decide some things, and others, with different ideas and interests, can decide others. The choices must fit together. This is most obvious in a budget. We cannot cut taxes, raise spending and reduce debt, all at the same time. And we cannot have a right-wing foreign policy and a left-wing defence policy. Nor can we lurch back and forth through the year with the New Democrats in power for four months, the Tories for five, the Liberals for two etc., cutting taxes in February and raising them in July.Proportional government is impossible. However, proportional representation can give parties disproportionate shares in government and power.

Link: PR blocks decision-making, resulting in government immobility.

Dr. Azeem Ibrahim 2010. (PhD from the University of Cambridge and served as a Research Fellow at the International Security Program at the Kennedy School of Government at Harvard University, a World Fellow at Yale University, Fellow and member of the Board of Directors at the Institute of Social Policy Understanding and Executive Chairman of The Scotland Institute. Adjunct Professor.) The Huffington Post, “Proportional Representation Is Like a Box of Chocolates : You Never Know What You're Going to Get” May 14 2010, <http://www.huffingtonpost.com/azeem-ibrahim/proportional-representati_b_574596.html>

The second problem with PR is that coalitions would seriously impinge on the government's ability simply to make a decision. This often results in governmental immobility. PR advocates must accept that sometimes, strong leadership is necessary. Now is one of those times. There are tough decisions to be made on Afghanistan and painful cuts to be made. Coalitions inevitably focus on what governments can do at the expense of what needs doing.

Impact: Gridlock and special interests prevent Congress from solving serious problems

Adam Skaggs and Fred Wertheimer 2012. (Skaggs – Attorney; Senior Counsel in the Brennan Center’s Democracy program; former litigator at Paul, Weiss, Rifkind, Wharton & Garrison. Wertheimer – attorney; Founder and President of Democracy 21; served as a Fellow at Harvard University’s Shorenstein Center on the Press, Politics and Public Policy, as the J. Skelly Wright Fellow and Visiting Lecturer at Yale Law School) EMPOWERING SMALL DONORS IN FEDERAL ELECTIONS <http://www.brennancenter.org/sites/default/files/legacy/publications/Small_donor_report_FINAL.pdf>

Our government is broken. Partisan gridlock and armies of special interest lobbyists prevent Congress from acting to solve the serious problems facing the nation. On the issues that matter most to Americans, Congress often does nothing. And when Congress does act, it is all too often on issues that favor narrow interest groups that funnel millions of dollars to elect our representatives.

3. Political Fragmentation, or “Too Many Parties”

Link: PR leads to increase in the number of political parties

Prof. Barry Eichengreen 1992. (Professor of Economics and Political Science at the University of California, Berkeley ) GOLDEN FETTERS - THE GOLD STANDARD AND THE GREAT DPRESSION 1919-1939 <http://books.google.fr/books?id=Qk1flhynCD8C&pg=PA94&lpg=PA94&dq=%22political+parties%22+%2B+%22proportional+representation%22+%2B+proliferate&source=bl&ots=OO-V05mk5R&sig=sIdmvehySLNiM-X0FwjmuukyZf4&hl=en&sa=X&ei=yQnsUZnFHcy2PZa4gdAN&redir_esc=y#v=onepage&q=%22political%20parties%22%20%2B%20%22proportional%20representation%22%20%2B%20proliferate&f=false>

In contrast, under multi-member proportional representation, six or more members are elected per district and the allocation of seats in proportion to the vote gives legislative voice to smaller parties. Proportionality, by making it easier for smaller parties to compete, thereby encourages the proliferation of political parties.

Link &Example: In Italy PR resulted in fragmentation with 39 political parties, plus lots of corruption

TOBIAS JONES 2010. (Journalist with Daily Mail, Lives & reports in Italy, policy news analyst.) Daily Mail “In favour of a hung parliament? Read this damning account of Italian politics - and be very, very afraid” 28 April 2010 <http://www.dailymail.co.uk/debate/article-1269043/In-favour-hung-parliament-Read-damning-account-Italian-politics.html>

Italian politics have been in a state of permanent crisis ever since World War II, precisely because of their bizarre structure, which places far more emphasis on representativeness than on effective government.In a reaction against Mussolini's fascism, the 1948 constitution introduced a purist form of proportional representation to elect the two chambers of the new parliament: the 630 members of the Chamber of Deputies and the 315 members of the upper house or senate.For all the good intentions, the result of this system was fragmentation and a near paralysis of government. Over the past four decades, Italy has had no fewer than 28 different governments and in 1992 the whole political establishment was brought down by a massive corruption scandal.Since then, there have been various attempts to reform Italy's chaotic political structure. None has been effective. Italy's system still remains the object of derision, prone to crisis and corruption.The multiplicity of parties continues to prevail, with no fewer than 39 different groups currently represented in the parliament. Furthermore, these tiny parties can hold the government to ransom simply by withdrawing their support.

Link: If we tried it in the US, it would create political fragmentation. Dr. Nawaf Salam, who favors proportional representation in Lebanon, says it would not work in the US. In 2004 he said QUOTE:

Dr. Nawaf Salam 2004. (visiting professor of political science at American University of Beirut) “Reforming the Electoral system – A comparative perspective” April 2004 <http://books.google.fr/books?id=7PKdjHUjKQIC&pg=PA15&lpg=PA15&dq=%22political+parties%22+%2B+%22proportional+representation%22+%2B+proliferate&source=bl&ots=tLkD1hC998&sig=qEOLPrw7ZAYyPWPxdkII7_GwAuo&hl=en&sa=X&ei=yQnsUZnFHcy2PZa4gdAN&redir_esc=y#v=onepage&q=%22political%20parties%22%20%2B%20%22proportional%20representation%22%20%2B%20proliferate&f=false>

The proportional representation system is also criticized for encouraging the proliferation of parties leading to political fragmentation. It is true that if this system were to be applied in a country whose political life is predicated on the two-party system, like Britain or the United States, it would lead to political fragmentation. However, the opposite is true for Lebanon, where the implementation of the proportional representation system will contribute to hedging political fragmentation because it would particularly favour the emergence of parties and political fronts of which Lebanon is in dire need.

Link: Fragmentation affects voter participation.

Bruno Heyndels& Prof. Benny Geys 2006.(Heyndels- Faculty of Economic, Social and Political Sciences, and Solvay Business School, VrijeUniversiteitBrussel. Geys - Associate Professor at the BI Norwegian Business School, BA & MA in economics B.A. in Economics from Katholieke University Leuven, research fellow at the Department of Micro-Economics, Faculty member of the Berlin Doctoral Program in Economics and Management Science, PHD.) SOCIAL SCIENCE RESEARCH CENTER BERLIN “Disentangling the effects of political fragmentation on voter turnout: the Flemish municipal elections” June 2006 <http://www.econstor.eu/bitstream/10419/51116/1/526582162.pdf>

Political systems based on proportional representation (PR) typically lead to a fragmented political landscape with higher numbers of parties in the election compared to plurality and majoritarian two-round systems (Duverger, 1972; Taagepera and Shugart, 1989 and Lijphart, 1994). Such party system fragmentation has been shown to affect voter participation in the political process. More precisely, two distinct dimensions of political fragmentation have been identified as potential determinants of electoral turnout: (a) the number of parties that participate in the elections and (b) the size inequalities between those parties.

Impact: Democracy itself is at risk if citizens do not perceive the system as fair

Brian O'Neal 1993. (with the Political and Social Affairs Division of the Canadian Library of Parliament) May 1993 ELECTORAL SYSTEMS, <http://www.parl.gc.ca/Content/LOP/researchpublications/bp334-e.htm#1>

More importantly, the way in which an electoral system translates votes into seats in elected assemblies may influence the degree of public support for the democratic system itself. If, for example, citizens do not perceive that their preferences are adequately reflected in the legislature following an election, their support for the system in general is likely to decline. Turnout during elections will drop off, respect for politicians and elected representatives will fall, and laws enacted by government will not be seen as fully legitimate. Democracy is an ideal, an abstraction which often assumes concrete dimensions for the vast majority of people through the electoral system. For many, an election marks the only occasion of any form of political participation --- it is the only tangible evidence of what it means to be a citizen in a democratic society. It is therefore of utmost importance that electoral systems be seen as fair and as fulfilling public expectations; if not, democracy itself is put at risk.

4. “Exaggerated Influence” or “Losers Win”. This disad is about how small parties can exert influence far beyond their numbers because the larger parties need to form alliances to get anything done. To form a majority, a small party may demand concessions that give it the power to change political outcomes that far exceed the influence that rightfully should belong to a small minority. “Losers Win” because they lost the election, but they won a lot of power in the legislature anyway.

Link/Example: In Italy a party with 1% supportchanged the outcome of major legislation. In less proportional systems (like plurality) this is less likely to happen

Dr. AmedeoPiolatto2009.(PHD - Toulouse School of Economics) The Barcelona Institute of Economics “PLURALITY VERSUS PROPORTIONAL ELECTORAL RULE: WHICH IS MOST REPRESENTATIVE OF VOTERS?” 2009 <http://www.ieb.ub.edu/aplicacio/fitxers/2009/12/Doc2009-27.pdf>

The Italian example is instructive: during the 15th legislature, a party representing 1% of voters, threatening the government, managed to substantially change part of the 2008 “Finanziaria” law and this led to the government’s downfall in January 2008. Similarly, during the ﬁrst year of the 16th legislature, Lega Nord (11% of votes at the 2008 elections) strongly inﬂuenced the government’s decisions regarding controversial issues, such as reforms of the justice system, of immigration laws and of federalism. With a less proportional system (for instance, under a plurality system), the role of small parties would decrease and more decisions would be taken by parties that represent a larger fraction of the population.

Link/Example: PR system would give small Liberal Democratic party control over British government, which is neither representative or proportional.

Dr. Azeem Ibrahim 2010. (PhD from the University of Cambridge and served as a Research Fellow at the International Security Program at the Kennedy School of Government at Harvard University, a World Fellow at Yale University, Fellow and member of the Board of Directors at the Institute of Social Policy Understanding and Executive Chairman of The Scotland Institute. Adjunct Professor.) The Huffington Post, “Proportional Representation Is Like a Box of Chocolates : You Never Know What You're Going to Get” May 14 2010, <http://www.huffingtonpost.com/azeem-ibrahim/proportional-representati_b_574596.html>

A fourth problem is that PR would make the Liberal Democrats the kingmakers of British politics. This is ironic: it means that a system designed to disperse power downwards and make sure that everyone's vote counts equally would in fact give it to one man: the leader of the Liberal Democrats. Proportional Representation would give any Lib Dem leader in the foreseeable future a permanent veto over government policy. That would be neither proportional nor representative.

Link: Small Parties get a disproportionately large amount of power.

The Electoral Knowledge Network 2005. (Public Policy institute specifically dedicated to the electoral system, it has over 1.3 million readers, ACE is a collaborative effort between nine organizations: IDEA, EISA, Elections Canada, the Federal Electoral Institute of Mexico (IFE), IFES, UNDESA, UNDP and the UNEAD. The European Commission is an ex-officio member.) “Disadvantages of PR systems” (Note: When they refer to “PR” they are referring to proportional representation.)  <http://aceproject.org/aceen/topics/es/esd/esd02/esd02b>

Small parties getting a disproportionately large amount of power. Large parties may be forced to form coalitions with much smaller parties, giving a party that has the support of only a small percentage of the votes the power to veto any proposal that comes from the larger parties.

Link: Coalitions are held together by buying off smaller parties

Dr. Azeem Ibrahim 2010. (PhD from the University of Cambridge and served as a Research Fellow at the International Security Program at the Kennedy School of Government at Harvard University, a World Fellow at Yale University, Fellow and member of the Board of Directors at the Institute of Social Policy Understanding and Executive Chairman of The Scotland Institute. Adjunct Professor.) The Huffington Post, “Proportional Representation Is Like a Box of Chocolates : You Never Know What You're Going to Get” May 14 2010, <http://www.huffingtonpost.com/azeem-ibrahim/proportional-representati_b_574596.html>

Worse, coalitions are held together by leaders 'buying off' the smaller parties to prevent them splitting and triggering new elections. That inevitably results in leaders kowtowing to factional whims and offering concessions to the preoccupations of small parties, however arcane. That would be a very real risk here, where small party support has grown from 3% to 14% in the last thirteen years. In many countries this results in money for the pet projects of small parties or individuals. This is an awful idea at a time when there is such an urgent need to restrict spending.

Impact: Less representative government. Results reached when all the deals are done is less representative of the choice of the country

Dr. Azeem Ibrahim 2010. (PhD from the University of Cambridge and served as a Research Fellow at the International Security Program at the Kennedy School of Government at Harvard University, a World Fellow at Yale University, Fellow and member of the Board of Directors at the Institute of Social Policy Understanding and Executive Chairman of The Scotland Institute. Adjunct Professor.) The Huffington Post, “Proportional Representation Is Like a Box of Chocolates : You Never Know What You're Going to Get” May 14 2010, <http://www.huffingtonpost.com/azeem-ibrahim/proportional-representati_b_574596.html>

Proportional representation is the system that the Liberal Democrats have long supported. Us opponents of PR would be foolish to deny that it would be more representative than first past the post, in the sense that it would send to Westminster MPs who better represented the choice of the country.The problem is that because there would normally be coalitions, the laws and decisions they make would normally end up being less representative of the choice of the country. Whereas first past is like letting the electorate choose a driver who will choose where to drive, PR is like letting the electorate choose the passengers who will sit in the car, fighting over the destination. It would not be able to actually go anywhere until and unless they manage to agree.

5. Party Bosses

Link: Where PR is used, parties in in the government for decades, when they are thrown out it’s because of party bosses who negotiate with coalitions.

John Pepall 2011, Huffington Post. (Degrees in philosophy and politics at Trent University and law at York University. Practiced civil litigation in Toronto. Analyst with the policy think tank Macdonald-Laurier Institute.) Published by the Huffington Post, “Proportional Representation Is a Waste of a Vote” 10/18 2011, <http://www.huffingtonpost.ca/john-pepall/proportional-representation_b_1010954.html>

Where PR is used, parties are in government for decades. If they are thrown out of government, it is not generally because they are less popular with the voters, but because they are less popular with the party bosses who negotiate coalitions.

Brink: Coalition rule means endless instability

TOBIAS JONES 2010. (Journalist with Daily Mail, Lives & reports in Italy, policy news analyst.) Daily Mail “In favour of a hung parliament? Read this damning account of Italian politics - and be very, very afraid” 28 April 2010 <http://www.dailymail.co.uk/debate/article-1269043/In-favour-hung-parliament-Read-damning-account-Italian-politics.html>

Coalition rule means endless instability. Between 1996 and 2001, for example, an astonishing 158 politicians changed their allegiance. Concepts of loyalty and ideological coherence are almost non-existent as deputies glide from one grouping to another in their determination to cling on to power, a process which renders the ballot box almost meaningless, since voters cannot know what any party representative stands for

Impact: Bosses find ways to re-elect themselves which breeds corruption & disdain for Democracy.

TOBIAS JONES 2010. (Journalist with Daily Mail, Lives & reports in Italy, policy news analyst.) Daily Mail “In favour of a hung parliament? Read this damning account of Italian politics - and be very, very afraid” 28 April 2010 <http://www.dailymail.co.uk/debate/article-1269043/In-favour-hung-parliament-Read-damning-account-Italian-politics.html>

In a climate of ever-changing loyalties, hardly any parties have been in existence for more than 20 years. They are forever reinventing themselves or changing their names and their logos. But the farce is that the same old faces end up staying in power.The public can never be rid of certain leaders because these bosses simply engineer a way of getting themselves re-elected and then reach another deal with another bunch of dodgy politicians. All this breeds spectacular corruption and disdain for democracy. Elected politicians in Italy have become like feudal barons of old, looking after their 'clienti'.Back-scratching has become the central thread of Italian politics, running through everything from state contracts to the award of planning permissions.Britain's expenses scandal was nothing compared with the epic abuses that go on in Rome. There are 18 Italian Parliamentarians with criminal records, some of them pretty serious.

Impact: Politicians scheme to maintain power and the public is treated with contempt

TOBIAS JONES 2010. (Journalist with Daily Mail, Lives & reports in Italy, policy news analyst.) Daily Mail “In favour of a hung parliament? Read this damning account of Italian politics - and be very, very afraid” 28 April 2010 <http://www.dailymail.co.uk/debate/article-1269043/In-favour-hung-parliament-Read-damning-account-Italian-politics.html>

Most Italians would laugh out loud at the very idea that coalition rule and proportional representation lead to cleaner politics and better governance. Just the opposite is true. In the Italian political system, where because of proportional representation the idea of one party winning an absolute majority is unthinkable, the public is treated with contempt. Meanwhile, instead of putting the electorate's interests first, the politicians endlessly manoeuvre behind the scenes just to stay in power.

6. Special Interests

Link/Example: Israel’s religious parties are taking advantage of PR to get subsidies & privileges.

LAWRENCE MALKIN& YUVAL ELIZUR 2013. (Journalist, authors of The War Within: Israel’s Ultra-Orthodox Threat to Democracy and the Nation.) The New York Times “Israel’s Ultra-Orthodox” June 10 2013, <http://www.nytimes.com/2013/06/11/opinion/israels-ultra-orthodox.html>

Some 400 yeshiva students were also exempted from military service because the new state’s secular leaders wrongly thought that they were a vanishing historical remnant. Over the years a splinter of Israel’s religious parties pressed their claims on the secular majority by taking advantage of a system of proportional representation that rarely gives one party a parliamentary majority. No coalition has been able to survive without their support, and in recent years the ultra-Orthodox have been well rewarded for making common cause with right-wing governments that expanded settlements in the West Bank. Thus, they have traded their votes for increased privileges and government subsidies to expand a separate society that ironically answers only to its rabbis.

Impact: Legislation for special interests hurts the interests of society at large. A minority benefit at the expense of the majority. Also, turn Democracy advantages of AFF plan – if the minority benefit at the expense of the majority, that’s the reverse of Democracy.

Chris Edwards 2010. (director of tax policy studies at Cato; former senior economist on the congressional Joint Economic Committee; M.A. in economics; was a member of the Fiscal Future Commission of the National Academy of Sciences) 3 Mar 2010 Six Reasons to Downsize the Federal Government <http://www.cato.org/blog/six-reasons-downsize-federal-government>

Federal programs often benefit special interest groups while harming the broader interests of the general public. How is that possible in a democracy? The answer is that logrolling or horse-trading in Congress allows programs to be enacted even though they are only favored by minorities of legislators and voters.

NEGATIVE: PUBLIC FINANCING OF CONGRESSIONAL CAMPAIGNS

(Most of the evidence in this brief was researched by Simon Sefzik.)

**Notes**: There are a lot of different names for publicly financed elections, but the basic idea is that tax money funds the bulk of the campaign instead of candidates relying on money from big contributors, who might get unwarranted big influence with the elected official. They might be called “clean elections,” “taxpayer funded campaigns”, others call them “fair elections” or other names. Arizona, Maine and New York City have election programs similar to the AFF plan, and they may be cited as success stories by the AFF or as examples of failure by the NEG.

BACKGROUND

“Fair elections” & “Clean elections” are the same thing

Sean Parnell 2009. (president of Impact Policy Management (IPM), was president of the Center for Competitive Politics (CCP), led the lobbying effort to stop the DISCLOSE Act in Congress in 2010 was Vice President of External Affairs at The Heartland Institute, Drake University.) Center for Competitive Politics, WHAT WILL $24 MILLION IN NEW YORK CITY’S TAXPAYER-FINANCED CAMPAIGNS GET YOU? 21 April 2009 <http://www.campaignfreedom.org/2009/04/21/what-will-24-million-in-new-york-citys-taxapyer-financed-campaigns-get-you/>

Although the new euphemism is apparently “fair elections,” this is basically the same so-called “clean elections” scheme that “reformers” have been pushing around the country for the past several years, handing out taxpayer dollars to politicians to pay for their campaigns instead of relying on the private, voluntary contributions of citizens.

**NEGATIVE PHILOSOPHY / CRITERION**

Public funding programs have delivered few benefits and lots of costs.   
Negative Voting Criterion: Comparative advantages or Net Benefits

Prof. David M Primo 2010. (professor - political science at the University of Rochester and served as an expert witness in Arizona Freedom Club PAC when the case was before the federal district court. Department of Political Science, Testified to Congress on constitutional budget rules.) Institute for Justice “WHAT DOES RESEARCH SAY ABOUT PUBLIC FUNDING FOR POLITICAL CAMPAIGNS?” August 2010, <http://www.campaignfreedom.org/doclib/20110906_Primo2010TaxFinancingResearch.pdf>

Comparing the claims and promises made by public funding advocates with the actual evidence demonstrates that public funding programs have delivered few, if any, of the benefits promised by their promoters, and they have certainly not resulted in the fundamental transformation and rebirth of confidence in government the promoters sought. On the other hand, the cost of such programs—not only in terms of their negative effect on the timing and nature of political speech in the states with such programs, but also in terms of wasted public resources—has been demonstrable and real. In other words, public funding is a program that promises much, delivers little, and raises real constitutional and policy problems.

Reverse Advocacy: Public funding won’t help politics – it can only hurt

Prof. David M. Primo 2010. (professor - political science at the University of Rochester and served as an expert witness in Arizona Freedom Club PAC when the case was before the federal district court. Department of Political Science, Testified to Congress on constitutional budget rules.) Huffington post, "Clean Elections" Stifles Speech, 08/082010, <http://www.huffingtonpost.com/david-m-primo/clean-elections-stifles-s_b_686555.html>

Moreover, these harms to free speech and free elections come without any of the benefits promised by supporters. Public funding of elections is the Holy Grail of campaign finance reform, with supporters claiming that it will restore trust in government, increase the competitiveness of elections, and reduce the influence of "special interests" in politics. But the reality is at odds with the rhetoric: There is virtually no evidence that public funding has improved politics on any of these dimensions, as my research, the research of other political scientists, and research conducted by the nonpartisan U.S. General Accountability Office has established.

“Madison’s Nightmare” – The government controls the speech and political activity of the governed

Dr. John Samples 2009. (PhD in political science; directs Cato’s Center for Representative Government; adjunct professor at Johns Hopkins University) A Look at H.R. 1826 and the Public Financing of Congressional Campaigns 30 July 2009 <http://www.cato.org/publications/congressional-testimony/look-hr-1826-public-financing-congressional-campaigns>

The First Amendment was added to the Constitution to prevent those who hold power from stifling political speech. Private political efforts in tandem with elections and public arguments held out the hope of controlling government. H.R. 1826 reflects a different outlook, a Progressive vision that would substitute publicly funded politics for our current largely private system. In that world, where the government ultimately funds and thereby controls the political activity of the governed, I believe we would sooner or later live in Madison’s nightmare, a world in which the government both controls the governed who in turn have been deprived of the means to control the government.

HARMS/SIGNIFICANCE

Private campaign contributions have little influence on congressional voting

Dr. John Samples 2009. (PhD in political science; directs Cato’s Center for Representative Government; adjunct professor at Johns Hopkins University) A Look at H.R. 1826 and the Public Financing of Congressional Campaigns 30 July 2009 <http://www.cato.org/publications/congressional-testimony/look-hr-1826-public-financing-congressional-campaigns>

The influence of private campaign contributions - especially those given by PACs - have been extensively studied for several decades. Scholars can attribute little influence over congressional voting to contributions alone, once they control for factors like the party, constituency, and ideology of a legislator.3 On average, we should expect little from this bill if enacted because its harsh judgment about private contributions remains at best, unproven, and at worst, simply wrong.

Spending more doesn’t mean you win elections

Dr. Nelson W. Polsby, Dr. Aaron B. Wildavsky, David Hopkins 2008. (Polsby –PhD; professor at Univ. California-Berkely. Wildavsky – PhD; prof. of political science, Univ. California-Berkely. Hopkins – PhD in political science, Univ. of Calif.-Berkely. Polsby died in 2007; Wildavsky died in 1993. Hopkins took their work and updated it.) Presidential Elections: Strategies and Structures of American Politics <http://books.google.fr/books?id=8eZ_9mWggPgC&pg=RA1-PA1971&lpg=RA1-PA1971&dq=%22does+money+buy+elections%22&source=bl&ots=l0SEonCzTI&sig=ANoIdJCMndnvWG_lrgmdQuMe0Eg&hl=en&sa=X&ei=e3wKUoSIJNTZ0QW3qoCoCA&redir_esc=y#v=onepage&q=%22does%20money%20buy%20elections%22&f=false>

Although the Johnson forces spent more money in 1964 than Kennedy’s had in 1960, Goldwater’s losing campaign spent $17.2 million, significantly more than Johnson’s $12 million expenditure. Total spending by both parties was high in absolute terms, but outlays per voter per party were quite modest, running in the 1972 election to about $1.31 for each of the 76.02 million voters. The most obvious and most important conclusion in our view is that even in the era when the parties were free to spend whatever they could raise and were not subject to the restrictions and regulations established by FECA in 1974, money did not buy election victories. The candidate and party with the most money did not always win. Otherwise, Republicans would have won every election but one since 1932, but in fact Democrats won seven of the nine presidential elections from 1932 to 1964 and three more contests since then.

Big money doesn’t buy elections – voters are too smart.

John Munger 2010. (Former state chairman of the Arizona Republican Party, president of the Ariz. Board of Regents. Univ of Arizona ,J.D., James E. Rogers College of Law, Univ of Arizona – Master’s Degree in International Trade and Business Law. ) Inside Tucson Business. “Clean Elections is wasteful, unnecessary, unfair and must go” Sep. 24 2010. <http://www.insidetucsonbusiness.com/opinion/columnists/guest_opinion/clean-elections-is-wasteful-unnecessary-unfair-and-must-go/article_99474d13-6549-53d0-9df8-27731c55d7e3.html>

Worse, the Clean Elections program is both unnecessary and grossly unfair. It is unnecessary because it is intended to defeat the “big money” interests. Well, both Jim Pederson in his campaign for U.S. Senate in 2006 and now Buz Mills running for governor this year have proven that, despite spending millions of their own money in a campaign, they can’t “buy” an election. Voters are just too smart. Big money won’t do it. And as for candidates running “traditionally,” they can raise only a maximum of $840 from each donor; hardly enough to “buy” a candidate’s loyalty.

SOLVENCY

1. Failed in Maine. Few benefits, lots of cost

Patrick Basham & Martin Zelder 2002. (Basham - Founding director of the Democracy Institute and adjunct scholar with Cato’s Center for Representative Government. Founding director of the Social Affairs Center at the Fraser Institute, Studied political science at the Univ of Houston and Cambridge Univ. Zelder - economist and senior associate at Boston-based Analysis Group Economics.) Cato Institute “Maine’s ‘Clean’ Elections Are Not More Competitive” Oct. 17 2002. <http://www.cato.org/publications/commentary/maines-clean-elections-are-not-more-competitive>

The Maine experiment offers few benefits for a scheme largely funded by taxpayers. Maine’s lesson for other states and for national politicians is that a government trying to foster more competitive elections through taxpayer financing will be disappointed with the results while taxpayers will be discomforted by the costs.

2. No reduction in “special interests”. Didn’t work in Maine and Arizona

Prof. David M Primo 2010. (professor - political science at the University of Rochester and served as an expert witness in Arizona Freedom Club PAC when the case was before the federal district court. Department of Political Science, Testified to Congress on constitutional budget rules.) Institute for Justice “WHAT DOES RESEARCH SAY ABOUT PUBLIC FUNDING FOR POLITICAL CAMPAIGNS?” August 2010, <http://www.campaignfreedom.org/doclib/20110906_Primo2010TaxFinancingResearch.pdf>

Does public funding reduce the perception or reality of “special interest” influence in politics? What about corruption? Survey and interview evidence does not support the claim that special interest influence has been reduced in politics. The aforementioned GAO survey asked Maine and Arizona residents whether they believed Clean Elections has reduced special interest influence. About the same percentage of respondents believed that interest group influence had increased—17 percent in Maine and 24 percent in Arizona—as believed it had decreased—19 percent in Maine and 25 percent in Arizona. The GAO also interviewed 11 candidates for office in both Maine and Arizona and asked them about their perceptions of the role of interests in the wake of Clean Elections. In Maine, only four candidates believed interest group influence had decreased, and all of these were publicly funded candidates.

3. Incorrect subsidy levels. Nobody knows what the right level of campaign subsidies is, certainly not the Affirmative. That means there’s no way to prove their mandates will work. To prove this:

If the subsidy is too large: Then Government might not pay for it. If it’s too small: It’s not a competitive campaign.

*Lyle Denniston 2011. (Covering the Supreme Court for fifty-five years. Journalist of the law for sixty-five years, Taught at American University, Georgetown University, Penn State University, and Johns Hopkins University. From the University of Nebraska-Lincoln, and Georgetown University, - master's degree in political science and history. “Opinion analysis: Campaign subsidies in peril?” 27, June 2011. Brackets not added.* [*http://www.scotusblog.com/?p=123128*](http://www.scotusblog.com/?p=123128)

If the amount of subsidy available is too large, it may be too expensive for a state to pay for, given the many demands on state treasuries, she said. But, if the subsidy is too small, candidates will not be able to wage what they consider to be competitive campaigns, so they won’t sign up and will turn, instead, to private donors. If the amount is “just right,” then, supposedly more candidates will join up, the flow of large private donations into campaigns will have fewer places to go, and the threat of corrupting influence will at least be diminished.

Subsidy payments have not worked – they’re now searching for a “Goldilocks solution”

*Lyle Denniston 2011. (Covering the Supreme Court for fifty-five years. Journalist of the law for sixty-five years, Taught at American University, Georgetown University, Penn State University, and Johns Hopkins University. From the University of Nebraska-Lincoln, and Georgetown University, - master's degree in political science and history.) “Opinion analysis: Campaign subsidies in peril?” 27, June 2011.* [*http://www.scotusblog.com/?p=123128*](http://www.scotusblog.com/?p=123128)

Justice Elena Kagan, writing for the dissenters, argued that so-called “lump-sum” subsidy payments — simply passing out a set amount of money, up to a ceiling, to a candidate — simply have not worked. She said that legislators began a search for what she called “the Goldilocks solution” — devising a subsidy scheme that was “not too large, not too small, but just right.”

4. Clever Politicians.

They will take advantage of any system of reform

Jason Ferrell 2011 (Analyst for the Center for Competitive Politics. Research Fellow, Associate at Charles Koch Institute, Research Assistant at American Institutes for Research, Consultant at The Heartland Institute, Research Intern at Hudson Institute, Research Intern at Hudson Institute, Office Assistant at University of California, Berkeley, Preservation Assistant at Berkeley Law School, University of California, Berkeley) The Center for Competitive Politics "Clean Elections and Scandal: Case Studies from Maine, Arizona and New York City," September 22, 2011,   
<http://www.campaignfreedom.org/wp-content/uploads/2011/09/Clean-Elections-and-Scandal-May-62.pdf>

Politicians are particularly clever people, adept at finding unique advantages through loopholes and exploiting free money granted to them by taxpayers. As long as taxpayers agree to grant them such advantages, many political leaders will continue to work tirelessly to gain advantages through them and game any new election system they are  
confronted with.

Example: Maine - Clean Elections are being used behind to scenes to generate money by leadership PAC’s and other organizations to support other candidates.

Jason Ferrell 2011 (Analyst for the Center for Competitive Politics. Research Fellow, Associate at Charles Koch Institute, Research Assistant at American Institutes for Research, Consultant at The Heartland Institute, Research Intern at Hudson Institute, Research Intern at Hudson Institute, Office Assistant at University of California, Berkeley, Preservation Assistant at Berkeley Law School, University of California, Berkeley) The Center for Competitive Politics "Clean Elections and Scandal: Case Studies from Maine, Arizona and New York City," September 22, 2011,  
<http://www.campaignfreedom.org/wp-content/uploads/2011/09/Clean-Elections-and-Scandal-May-62.pdf>

According to Chris Cinquemani of the Maine Heritage Policy Center, Maine’s so-called “clean elections” rules actually draw more money into campaigns as legislators find creative ways around campaign limitations. “The Clean Elections law has actually resulted in a lot of behind-the-scenes money being generated by leadership PACs and by other organizations to support legislative candidates and candidates for governor.”

5. Wannabe politicians. Public financing is wasted on worthless campaigns

John Munger 2010. (Former state chairman of the Arizona Republican Party, president of the Arizona Board of Regents. Stanford University, B.A. Political Science – International Relations; University of Arizona ,J.D., James E. Rogers College of Law, University of Arizona – Master’s Degree in International Trade and Business Law. Member of the international trade committee.) Inside Tucson Business. “Clean Elections is wasteful, unnecessary, unfair and must go” Sep. 24 2010. <http://www.insidetucsonbusiness.com/opinion/columnists/guest_opinion/clean-elections-is-wasteful-unnecessary-unfair-and-must-go/article_99474d13-6549-53d0-9df8-27731c55d7e3.html>

Further, the funds spent on political candidates are also a waste. Around $25 million is budgeted to be given to wannabe politicians who have so little experience and so little base of support they cannot raise any money from supporters to run — or to those who are simply too lazy to go out and raise it. Oh good — we need more of both for sure.

6. Doesn’t increase voter participation. Studies prove Clean Elections actually decrease voter turnout slightly

Prof. David M Primo 2010. (professor - political science at the University of Rochester and served as an expert witness in Arizona Freedom Club PAC when the case was before the federal district court. Department of Political Science, Testified to Congress on constitutional budget rules.) Institute for Justice “WHAT DOES RESEARCH SAY ABOUT PUBLIC FUNDING FOR POLITICAL CAMPAIGNS?” August 2010, <http://www.campaignfreedom.org/doclib/20110906_Primo2010TaxFinancingResearch.pdf>

Does public funding affect voter participation? The strongest evidence shows that public funding has no effect on or reduces voter turnout. The most rigorous examination of this question to date studied turnout in all 50 states, controlling for a variety of factors that could affect turnout rates.[9] In a working paper, two co-authors and I find no effect of public funding (both full- and partial-funding systems) on turnout in gubernatorial elections and a modestly negative effect on turnout in legislative elections. Looking specifically at Clean Elections systems for legislative candidates, we estimate that they lead to a reduction in turnout of about two percent.

7. Doesn’t clean up politics (improve perceptions of government): The opposite is true

Prof. David M Primo 2010. (professor - political science at the University of Rochester and served as an expert witness in Arizona Freedom Club PAC when the case was before the federal district court. Department of Political Science, Testified to Congress on constitutional budget rules.) Institute for Justice “WHAT DOES RESEARCH SAY ABOUT PUBLIC FUNDING FOR POLITICAL CAMPAIGNS?” August 2010, <http://www.campaignfreedom.org/doclib/20110906_Primo2010TaxFinancingResearch.pdf>

Does public funding improve citizen perceptions of government? The only statistical study to examine the effect of state public funding laws on perceptions of government found that public funding has, in some cases, a small negative effect. Reformers often claim that replacing private voluntary donations to campaigns with public funding will “clean up” politics. If so, we would expect that citizen perceptions of government would improve as a result. However, in the only study to statistically examine the effect of state public funding laws on perceptions of government, my co-author, Jeffrey Milyo, and I demonstrate that these laws had a small, but negative, effect.[6] We examined survey questions asking citizens whether they believed that they had a say in what government does, whether public officials care about what people like them think and whether they find politics complicated. After controlling for individual- and state-level factors that could muddy the findings, we demonstrate that citizens in states with public funding programs were less likely to believe that officials care what people like them think and less likely to believe that they had a say in what government does.[7]

Won’t increase competition

GAO Empirics: Public financing has not been proven to significantly increase voter participation.

United States Government Accountability Office 2003. (U.S. GAO - Report to Congressional Committees.) United States General Accounting office. “CAMPAIGN FINANCE REFORM” May 2003 <http://www.gao.gov/new.items/d03453.pdf>

Although a goal of the public financing programs was to increase voter participation, turnout in Maine’s and Arizona’s 2000 elections did not significantly differ from prior presidential election years. While turnout can be influenced by many factors, including the level of media interest and the extent of grassroots efforts to get out the vote, public financing of candidates was probably not a major factor in the 2000 elections. Our survey of voting-age citizens in Maine and Arizona in the fall of 2002 indicated that large segments of these populations—an estimated 60 percent in Maine and an estimated 37 percent in Arizona—were still unaware of the respective state’s public financing program.

Turn: Clean elections actually make the system LESS competitive, entrenching incumbents.

Patrick Basham & Martin Zelder 2002. (Basham - Founding director of the Democracy Institute and an adjunct scholar with Cato’s Center for Representative Government. Founding director of the Social Affairs Center at the Fraser Institute, Studied political science at the University of Houston and Cambridge University. Zelder - economist and senior associate at Boston-based Analysis Group Economics.) Cato Institute “Maine’s ‘Clean’ Elections Are Not More Competitive” Oct. 17 2002. <http://www.cato.org/publications/commentary/maines-clean-elections-are-not-more-competitive>

While enhanced electoral competition has been predicted as a result of so-called “Clean Election” reforms, the evidence for Maine implies the opposite. Rather than making incumbents more vulnerable to challenge, the Maine Clean Election Act (MCEA) has helped to entrench incumbents, diminishing electoral competition. Based on these findings, other states should be extremely skeptical of the Clean Election alternative.

No significant increase of candidates in Maine and Arizona when they tried public financing.

United States Government Accountability Office 2003 (U.S. GAO - Report to Congressional Committees.) United States General Accounting office. “CAMPAIGN FINANCE REFORM” May 2003 <http://www.gao.gov/new.items/d03453.pdf>

Voter choice. While one goal of public financing was to encourage more candidates to run for office, the average numbers of state legislature candidates per district race in Maine and Arizona in the 2000 and 2002 elections were not notably different than the averages for the two previous elections, 1996 and 1998. In both states, a higher proportion of Democratic candidates participated in the public funding program, and the number of participating third-party or independent candidates generally increased from the 2000 to the 2002 primary and general elections.

Didn’t increase competitiveness in NY City elections

Sean Parnell 2009. (president of Impact Policy Management (IPM), was president of the Center for Competitive Politics (CCP), led the lobbying effort to stop the DISCLOSE Act in Congress in 2010 was Vice President of External Affairs at The Heartland Institute, Drake University.) Center for Competitive Politics, WHAT WILL $24 MILLION IN NEW YORK CITY’S TAXPAYER-FINANCED CAMPAIGNS GET YOU? 21 April 2009 <http://www.campaignfreedom.org/2009/04/21/what-will-24-million-in-new-york-citys-taxapyer-financed-campaigns-get-you/>

In the course of researching and analyzing the Fair Elections Now Act proposal, I’ve been reading up on New York’s City’s taxpayer financed campaigns program, which has some similar aspects to the Fair Elections Now Act. Specifically, New York City will match the first $175 of any contribution made to a participating candidate, provided the donor lives in the city limits or for city council races, in the district. There’s a tremendous amount of information available on New York City’s program, much of it helpfully provided by the city’s Campaign Finance Board in their official reports. For example, the report on New York City’s 2005 election reveals that the approximately $24 million in taxpayer money was distributed to candidates. So what did that $24 million buy? Out of 51 city council races, only 7 featured open seats. All but 1 incumbent won re-election, most of them by significant margins (many of them didn’t even face opponents). And the incumbent that lost? He was beaten after allegations of harassment and discrimination by his staffers, which netted him a $5,000 fine from the City Council, along with penalties imposed by the Campaign Finance Board. Needless to say, he did not have the best press during the election.

New York Specific: Push to increase “average citizens” getting elected has failed.

Sean Parnell 2009. (president of Impact Policy Management (IPM), was president of the Center for Competitive Politics (CCP), led the lobbying effort to stop the DISCLOSE Act in Congress in 2010 was Vice President of External Affairs at The Heartland Institute, Drake University.) Center for Competitive Politics, WHAT WILL $24 MILLION IN NEW YORK CITY’S TAXPAYER-FINANCED CAMPAIGNS GET YOU? 21 April 2009 (brackets in original) <http://www.campaignfreedom.org/2009/04/21/what-will-24-million-in-new-york-citys-taxapyer-financed-campaigns-get-you/>

These numbers are important because schemes like the Fair Elections Now Act promise that “average citizens” will be able to run for office and win. One of the goals of the Fair Elections Now act is, in fact, to “[create] genuine opportunities for all Americans to run for [Congress] and encouraging more competitive elections.” Apparently, it hasn’t quite worked out that way in New York City. So, $24 million in taxpayer funds shoveled into campaign coffers in New York City will, apparently, buy you (at best) one City Council seat filled by a candidate that might not have otherwise been able to raise enough money to mount a credible campaign. Maybe.

Won’t solve “congressmen spending all their time on fundraising”

Dr. John Samples 2009. (PhD in political science; directs Cato’s Center for Representative Government; adjunct professor at Johns Hopkins University) A Look at H.R. 1826 and the Public Financing of Congressional Campaigns 30 July 2009 <http://www.cato.org/publications/congressional-testimony/look-hr-1826-public-financing-congressional-campaigns>

All things being equal, I would expect that many incumbent members of Congress would face more and better funded challengers and that party control of either chamber would become marginally less certain. On the other hand, members who provide the marginal votes needed for enacting campaign finance regulation tend to be vulnerable because they serve swing districts. In such districts, I would expect both candidates to avoid the public system since the since the funding will be too low to compete with an opponent who defects to private financing. I would expect that incumbent members of Congress who now receive between 55 and 65 percent of the vote in their district will attract more challengers who have more money than in the past. In other words, I expect H.R. 1826 would harm two groups of people: taxpayers, many of whom will be forced to support candidates not of their choice and a significant number of incumbent members of Congress who now raise more money than their challengers. These members will experience a smaller gap between their campaign resources and those of a challenger. Contrary to the putative findings of the bill, these members may well be forced to allocate more time to fundraising than they do now to restore (or try to restore) their advantage.

DISADVANTAGES

1. Handicaps good candidates. We should quit handicapping candidates who raise money “traditionally” from individual contributions.

John Munger 2010. (Former state chairman of the Arizona Republican Party, president of the Arizona Board of Regents. Stanford University, B.A. Political Science – International Relations; University of Arizona ,J.D., James E. Rogers College of Law, University of Arizona – Master’s Degree in International Trade and Business Law. Member of the international trade committee.) Inside Tucson Business. “Clean Elections is wasteful, unnecessary, unfair and must go” Sep. 24 2010. <http://www.insidetucsonbusiness.com/opinion/columnists/guest_opinion/clean-elections-is-wasteful-unnecessary-unfair-and-must-go/article_99474d13-6549-53d0-9df8-27731c55d7e3.html>

Pending the elimination of Clean Elections, let’s quit handicapping candidates who raise money “traditionally” from individual contributions. Current, artificially low, limits simply exacerbate the unfairness of Clean Elections while it exists and leaves good candidates at a serious disadvantage against self-funded candidates.

2. Ripoffs & corruption

Link/Example: Publicly funded Arizona candidates bought computers, cameras and food for staffers

Alyssa Newton 2010. (Digital Reporter for ABC News, Cronkite News.) Published by Cronkite News. December 12, 2010, "Some Clean Elections money went toward laptops, hiring relatives," <http://cronkitenewsonline.com/2010/12/special-report-some-clean-elections-money-went-toward-laptops-hiring-relatives-nra-dues/>

Some of the 107 candidates who received public money to run for state Legislature this year bought computers, cameras and printers that are theirs to keep and paid relatives as campaign workers and consultants, a Cronkite News review found. Reports accounting for the $3.2 million legislative candidates received from the Arizona Citizens Clean Elections Commission also included $60 for National Rifle Association dues, $650 to have mariachis perform and $229.87 for a “post-debate discussion” with campaign staffers at T.G.I. Friday’s.

Link/Example: Candidate used public money to throw parties and reimburse his father.

Jason Ferrell 2011 (Analyst for the Center for Competitive Politics. Research Fellow, Associate at Charles Koch Institute, Research Assistant at American Institutes for Research, Consultant at The Heartland Institute, Research Intern at Hudson Institute, Research Intern at Hudson Institute, Office Assistant at University of California, Berkeley, Preservation Assistant at Berkeley Law School, University of California, Berkeley) The Center for Competitive Politics "Clean Elections and Scandal: Case Studies from Maine, Arizona and New York City," September 22, 2011,  
<http://www.campaignfreedom.org/wp-content/uploads/2011/09/Clean-Elections-and-Scandal-May-62.pdf>

A 2004 Democratic House candidate from Tempe, Arizona, Ableser was granted $7,000 too late in the campaign to spend it on actual campaigning. Rather than return the funds to the state, Ableser allegedly threw a party, using public money to reimburse his father $1,118 for party expenses, spent $287 on a “frozen drink” machine, and randomly appointed a campaign staffer as a consultant and paying her $3,628. The Arizona Clean Elections Commission investigated and fined Ableser $1,566.29 Ableser had received a total of $50,857 in public campaign money.

Link/Example: Candidate used public funded money in Arizona – to buy technology and secretly fund other candidates.

Jason Ferrell 2011 (Analyst for the Center for Competitive Politics. Research Fellow, Associate at Charles Koch Institute, Research Assistant at American Institutes for Research, Consultant at The Heartland Institute, Research Intern at Hudson Institute, Research Intern at Hudson Institute) The Center for Competitive Politics "Clean Elections and Scandal: Case Studies from Maine, Arizona and New York City," September 22, 2011,  
<http://www.campaignfreedom.org/wp-content/uploads/2011/09/Clean-Elections-and-Scandal-May-62.pdf>

Margarite Dale ran for the Arizona House of Representatives from District 10 on the Green Party ticket in the 2008 election cycle as a part of an apparent Republican tactic to fund Green Party candidates in order to siphon votes away from Democratic opponents. Dale qualified for $68,531 in public funds and was found to have given money to consultants affiliated with Republican State Rep. Jim Weiers, Sen. Linda Gray and former Rep. Douglas Quelland of the Arizona’s tenth District. Dale was assisted in meeting qualifications for matching funds by Weiers, Quelland and State Rep. Kimberly Yee and/or their families. Dale then promptly used the public funds to purchase a camera, two computers, and a full set of software totaling over $4,000, which she kept after the campaign had concluded.

Brink: Clean Elections waste millions. It’s just “welfare for politicians”

John Munger 2010. (Former state chairman of the Arizona Republican Party, president of the Arizona Board of Regents. Stanford University, B.A. Political Science – International Relations; University of Arizona ,J.D., James E. Rogers College of Law, University of Arizona – Master’s Degree in International Trade and Business Law. Member of the international trade committee.) Inside Tucson Business. “Clean Elections is wasteful, unnecessary, unfair and must go” Sep. 24 2010. <http://www.insidetucsonbusiness.com/opinion/columnists/guest_opinion/clean-elections-is-wasteful-unnecessary-unfair-and-must-go/article_99474d13-6549-53d0-9df8-27731c55d7e3.html>

In sum, Clean Elections is nothing more than “welfare for politicians,” with underlying administrative costs of 22 percent ($7 million of a total of $32 million). This is incredibly wasteful considering that most welfare and charitable programs run administrative costs of 8 to 10 percent. Meanwhile, Arizona does not have enough money to pay for teachers and other vital needs. Worse, the Clean Elections program is both unnecessary and grossly unfair.

Impact: Tax dollars wasted. Clean elections are unnecessary, wasteful, and unfair.

John Munger 2010. (Former state chairman of the Arizona Republican Party, president of the Arizona Board of Regents. Stanford University, B.A. Political Science – International Relations; University of Arizona ,J.D., James E. Rogers College of Law, University of Arizona – Master’s Degree in International Trade and Business Law. Member of the international trade committee.) Inside Tucson Business. “Clean Elections is wasteful, unnecessary, unfair and must go” Sep. 24 2010. <http://www.insidetucsonbusiness.com/opinion/columnists/guest_opinion/clean-elections-is-wasteful-unnecessary-unfair-and-must-go/article_99474d13-6549-53d0-9df8-27731c55d7e3.html>

“Clean Elections” is wasteful, unnecessary, and unfair. Another government solution with terrible unintended consequences. It must go. The Clean Elections program is ridiculously wasteful of rare state assets. Clean Elections spends around $32 million per election year. Around $7 million of that goes to a combination of administration and “voter education, “ which, believe it or not, is simply public advertising to maintain popularity of the program. Ever wonder about who is paying for all those TV ads about how wonderful Clean Elections is? You are — to the tune of $6 million.

Example: Candidates using public funding for private interest

Jason Ferrell 2011 (Analyst for the Center for Competitive Politics. Research Fellow, Associate at Charles Koch Institute, Research Assistant at American Institutes for Research, Consultant at The Heartland Institute, Research Intern at Hudson Institute, Research Intern at Hudson Institute) The Center for Competitive Politics "Clean Elections and Scandal: Case Studies from Maine, Arizona and New York City," 22 Sept 2011[brackets and ellipses in original] [www.campaignfreedom.org/wp-content/uploads/2011/09/Clean-Elections-and-Scandal-May-62.pdf](http://www.campaignfreedom.org/wp-content/uploads/2011/09/Clean-Elections-and-Scandal-May-62.pdf)

Cinquemani also noted in an interview with the Maine Public Broadcasting Network in May 2011 that spending limitations that come with public matching funds have encouraged many candidates to operate through PAC’s, to the detriment of transparency. “...[Rather] than a candidate having very detailed records of all the private funds that they were able to raise and expend, you then have these political action committees who are making those expenditures on their behalf, and that’s not nearly as transparent to the public as it would be if the candidate was making those filings on their own.”

Link & Example: New York “clean election” system is full of fraud and abuse

Sen. Michael H. Ranzenhofer 2013. (third term in the New York State senate, Attorney with Friedman and Ranzenhofer. Law firm, Doctorate of Jurisprudence from SUNY at Buffalo Law School, BA at the Univ – of Albany.) NY State Senate, Monthly Column: Albany's new wasteful spending idea: taxpayer-funded campaigns, 15 May 2013 <http://www.nysenate.gov/press-release/monthly-column-albanys-new-wasteful-spending-idea-taxpayer-funded-campaigns>

Last Tuesday, the Senate Committee on Elections held a public hearing in the State Capitol to examine the abuses within New York City’s taxpayer funded campaign finance system and the implications for taxpayers if the system were to be expanded statewide. The New York City system appears rife with fraud and abuse, and perhaps encourages more corruption than anywhere else in the State. In some instances, candidates have been accused of fabricating donors to maximize the amount of taxpayer dollars for their campaign account. In other cases, taxpayer money has been inappropriately used for expenses unrelated to a run for public office. That’s just plain wrong.

Link & Example: New York City taxpayer funded campaign model is “the worst in the nation”

NY State Senator Michael H. Ranzenhofer 2013. (third term in the New York State senate, Attorney with Friedman and Ranzenhofer. Law firm, Doctorate of Jurisprudence from SUNY at Buffalo Law School, BA at the Univ – of Albany.) Monthly Column: Albany's new wasteful spending idea: taxpayer-funded campaigns, 15 May 2013 <http://www.nysenate.gov/press-release/monthly-column-albanys-new-wasteful-spending-idea-taxpayer-funded-campaigns> (ellipses in original)

In a recent report, the Center for Competitive Politics characterized the New York City model as the worst in the nation. The report concluded: “With the sheer volume of problems in the city of New York, from slush fund abuse to union-related corruption and collusion during campaigns, proponents of New York’s system will have a tough argument to make…”

Taxpayer funded campaigns do not prevent abuse – they actually foster corruption

Sen. Michael H. Ranzenhofer 2013. (third term in the New York State senate, Attorney with Friedman and Ranzenhofer. Law firm, Doctorate of Jurisprudence from SUNY at Buffalo Law School, BA at the Univ – of Albany.) NY State Senate, Monthly Column: Albany's new wasteful spending idea: taxpayer-funded campaigns, 15 May 2013 <http://www.nysenate.gov/press-release/monthly-column-albanys-new-wasteful-spending-idea-taxpayer-funded-campaigns>

Rather than cleaning up the process, taxpayer funded elections have fostered more corruption and wrongdoing. If the New York City public campaign finance system has proved anything, it’s that taxpayer funded campaigns do not prevent abuse.

Impact/Example: Candidates don’t return funds – they are unaccountable

Jason Ferrell 2011 (Analyst for the Center for Competitive Politics. Research Fellow, Associate at Charles Koch Institute, Research Assistant at American Institutes for Research, Consultant at The Heartland Institute, Research Intern at Hudson Institute, Research Intern at Hudson Institute) The Center for Competitive Politics "Clean Elections and Scandal: Case Studies from Maine, Arizona and New York City," September 22, 2011   
<http://www.campaignfreedom.org/wp-content/uploads/2011/09/Clean-Elections-and-Scandal-May-62.pdf>

Despite the fact that candidates who face easy election seldom need the extra funds and at the close of election season may return extra money back to the taxpayers, candidates seldom show such restraint. In October 2009, the New York Post reported on a number of candidates, both successful and unsuccessful in their bids, who chose to keep the money after the campaigns were over. City Council candidate Inez Dickens, a Democrat, accepted the maximum allowable, $21,031 in matching funds to beat her Republican opponent, despite the fact that no Republican had won her Harlem district “in modern memory.” In her previous run, she had easily won re-election with 81% of the vote.76 In early 2011, Dickens was found to have owed $100,000 in back-property taxes dating to 2009 and had been “cited repeatedly for unsafe conditions in Harlem apartment buildings she owns” as well as having been “hiding assets to dodge taxes,” according to New York Daily News.

3. Fairness violation

Link: “Welfare Candidates” get millions – where as traditional candidates get small amounts of money. Normal candidates are running against the power of the state purse.

John Munger 2010. (Former state chairman of the Arizona Republican Party, president of the Arizona Board of Regents. Stanford University, B.A. Political Science – International Relations; University of Arizona ,J.D., James E. Rogers College of Law, University of Arizona – Master’s Degree in International Trade and Business Law. Member of the international trade committee.) Inside Tucson Business. “Clean Elections is wasteful, unnecessary, unfair and must go” Sep. 24 2010. <http://www.insidetucsonbusiness.com/opinion/columnists/guest_opinion/clean-elections-is-wasteful-unnecessary-unfair-and-must-go/article_99474d13-6549-53d0-9df8-27731c55d7e3.html>

Finally, Clean Elections is actually grossly unfair to candidates who run “traditionally” by raising individual contributions of no more than $840 each. Under Clean Elections, the “welfare” candidates are given the initial $707,000 (for statewide offices) regardless of how little the traditional candidates are able to raise. Then, if guys like Pederson or Mills spend millions of dollars, a Clean Elections recipient gets a match of all or most of that from the state! As a result, the normal candidate just out there raising money in small increments is now facing multiple candidates with millions of dollars. He or she is literally running against the power of the state purse supporting other candidates. Outrageous.

Link: Clean elections are able to “match funds” of privately funded campaigns.

Trevor Burrus 2011. (research fellow at the Cato Institute’s Center for Constitutional Studies. BA in Philosophy from the University of Colorado at Boulder ; JD from the University of Denver Sturm College of Law.) Cato Institute, The Arizona “Unclean for Gene” Elections Act, April 1 2011 <http://www.cato.org/publications/commentary/arizona-unclean-gene-elections-act>

If you were running for office and you knew that for every dollar you spent the government would give a matching dollar to your opponents, would this affect your decisions on how, whether and when to spend money on getting your message out? And if you had three opponents who all receive matching funds to counter your solitary speech could those matching funds keep you from speaking at all? These were the questions the Supreme Court heard on Monday in the case of McComish v. Bennett, a First Amendment challenge to Arizona’s “clean elections” act. The act gives funds, so-called “matching funds,” to publicly funded candidates whenever privately funded opponents spend above a certain threshold.

Analogy of how clean election systems are unfair

Prof. David M. Primo 2010. (professor - political science at the University of Rochester and served as an expert witness in Arizona Freedom Club PAC when the case was before the federal district court. Department of Political Science, Testified to Congress on constitutional budget rules.) Huffington post, "Clean Elections" Stifles Speech, 08/082010, <http://www.huffingtonpost.com/david-m-primo/clean-elections-stifles-s_b_686555.html>

To see how this Byzantine system works, consider a general election Arizona House race between three candidates--Alex, Bob and Carol. Bob and Carol participate in the public funding system, but Alex does not. Instead, Alex works hard and raises $20,000 more than Bob and Carol each receive from public funding initially. Meanwhile, an independent group spends $10,000 apart from Alex's campaign, urging voters to elect him. Under Arizona's system, Bob and Carol receive additional subsidies of $60,000 ($30,000 each) from the government (less a small amount to account for Alex's fundraising costs). You read that correctly. Alex's successful fundraising, exceeding an arbitrary government-mandated limit by $20,000, plus the decision of a group he has no control over to spend $10,000 supporting him, mean that his opponents receive nearly $60,000 in additional government funds.

Impact: Successful democracy and good social behavior depend on fair elections

Prof. Danny Oppenheimer 2012. (associate professor at UCLA Anderson School of Management. P Ph.D. from Stanford University, B.A. from Rice University.) And Mike Edwards (master’s degree in political science from UC San Diego, and a B.A. from Rice University.) “Eliminate the Electoral College” November 27 2012 accessed June 26, 2013, <http://www.huffingtonpost.com/mike-edwards/electoral-college-votes_b_1917826.html>

“And that is exactly why the Electoral College is so dangerous. Social scientists have demonstrated that people are happier and more efficient when they believe that they are living and working under a fair set of rules. In addition, people are more likely to follow the laws or rules voluntarily when they believe that their voices are being heard, which can reduce corruption and helps society run more smoothly. Studies have even shown that people will voluntarily conserve scarce resources when they feel that they have input into the way policy is created. This so-called procedural justice is a huge boon to democracy; our active participation in the political process encourages us all to be productive and law-abiding citizens. In short, one of the most important catalysts for successful democracy is our communal belief that we can all make a difference by participating in the system--our belief that every vote matters. And the Electoral College actively violates that belief. The Electoral College ensures that some votes matter more than others. It is past time that we got rid it.”

4. Excessive cost / federal deficits

Link: Every dollar spent on congressional election campaign funding could have been used for deficit reduction

Dr. John Samples 2009. (PhD in political science; directs Cato’s Center for Representative Government; adjunct professor at Johns Hopkins University) A Look at H.R. 1826 and the Public Financing of Congressional Campaigns 30 July 2009 <http://www.cato.org/publications/congressional-testimony/look-hr-1826-public-financing-congressional-campaigns>

Consider the incidence of these two sources of revenue. One would expect a tax on government contractors would be passed along to the federal government as a higher price for goods or services. The general taxpayer then becomes the source of this revenue for H.R. 1826. The spectrum sales involve assets owned by the government. However, H.R. 1826 incurs new spending. If the sales of those assets are used to fund public financing of congressional campaigns, it cannot be used to fund other spending or paying down the government deficit. Absent some unexpected drop in spending unrelated to this bill, the taxpayer would have to fund the federal obligations that might have been funded by the spectrum sales. Once again, the taxpayer would be the ultimate source of funding for H.R. 1826 (or similar spending elsewhere).

Link: NY City example proves - taxpayer funded elections are expensive

Sen. Michael H. Ranzenhofer 2013. (third term in the New York State senate, Attorney with Friedman and Ranzenhofer. Law firm, Doctorate of Jurisprudence from SUNY at Buffalo Law School, BA at the Univ – of Albany.) NY State Senate, Monthly Column: Albany's new wasteful spending idea: taxpayer-funded campaigns, 15 May 2013 <http://www.nysenate.gov/press-release/monthly-column-albanys-new-wasteful-spending-idea-taxpayer-funded-campaigns>

However, funding political campaigns with the tax dollars of hardworking Western New Yorkers is a bad idea. In New York City, candidates for public office pocket $6 in taxpayer funds for every $1 their campaign raises. If this system was enacted all across the State, politicians would have access to up to $221 million of your taxpayer money to fund their campaigns. There is no doubt that replicating that system all across the State would be a disaster for taxpayers. The additional costs to administer and oversee taxpayer funded elections would place an even heavier burden on taxpayers who are already struggling in a sluggish economy.

Impact: Every increase in the deficit hurts the economy  
NEG can propose a Counterplan: Cancel the AFF plan and take the money in their funding to reduce the deficit. It will do far more good that way.

Dr William Gale and Benjamin Harris 2011. (Gale - PhD in economics, Stanford Univ.; senior fellow at the Brookings Institution and co-director of the Urban-Brookings Tax Policy Center; former assistant professor in the Department of Economics at UCLA, and a senior economist for the Council of Economic Advisers under President George H.W. Bush; Harris - master’s degree in economics from Cornell University and a master’s degree in quantitative methods from Columbia University; senior research associate with the Economics Studies Program at the Brookings Institution) “A VAT for the United States: Part of the Solution” <http://www.taxanalysts.com/www/freefiles.nsf/Files/GALE-HARRIS-5.pdf/$file/GALE-HARRIS-5.pdf>

But even in the absence of a crisis, sustained deficits have deleterious effects, as they translate into lower national savings, higher interest rates, and increased indebtedness to foreign investors, all of which serve to reduce future national income. Gale and Orszag (2004a) estimate that a 1 percent of GDP increase in the deficit will raise interest rates by 25 to 35 basis points and reduce national saving by 0.5 to 0.8 percentage points of GDP.

5. Democracy violation: Forces taxpayers to give money to candidates they oppose

Dr. John Samples 2009. (PhD in political science; directs Cato’s Center for Representative Government; adjunct professor at Johns Hopkins University) A Look at H.R. 1826 and the Public Financing of Congressional Campaigns 30 July 2009 <http://www.cato.org/publications/congressional-testimony/look-hr-1826-public-financing-congressional-campaigns>

This remarkable obscurity makes political sense once you realize that Americans have long opposed public financing of campaigns. Many people find this opposition puzzling. After all, if as H.R. 1826 purports to find, private financing undermines democracy, American should support public financing. Yet surveys have long shown the opposite: a majority of Americans oppose public financing. The long decline of support for presidential public funding also speaks to this point. Most people object, I believe, to being forced to pay taxes to support campaigns and candidates they do not support and may actively dislike or oppose. Such taxation also deprives voters of the choice of not contributing to any candidate. The logic of this concern is compelling. If democracy means choosing those who govern, how can it be enhanced by forcing (i.e. depriving of choice) citizens to support candidates and campaigns they oppose or feel indifference toward.

6. Special Interest turn. Matching funds for small donations creates special interest subsidy. (Impact: Affirmative was trying to solve for special interests – if they’re bad, then turn the impact and vote NEG)

Dr. John Samples 2009. (PhD in political science; directs Cato’s Center for Representative Government; adjunct professor at Johns Hopkins University) A Look at H.R. 1826 and the Public Financing of Congressional Campaigns 30 July 2009 <http://www.cato.org/publications/congressional-testimony/look-hr-1826-public-financing-congressional-campaigns>

In a certain sense, however, the small donor in this bill is not a small donor; their contribution grows by about twenty-fold thanks to the federal subsidy triggered if their donation leads to a qualified candidancy. In other words, the “small donor” is investing other people’s money (i.e. federal revenue). They have little reason to be careful in their spending since their money is not in question. Moreover, consider how this bill differs from the usual practice of the government. The federal government sometimes identifies people to spend public money on its behalf: the Pentagon, for example, has procurement specialists. Such principal-agent relationships pose difficult questions: how can the principal be sure that the agent is acting on the interests of the principal and not the agent? In other cases, the federal government regulates the agent’s choices through rules and oversight. Here the agents spending federal money are self-appointed and free of regulation and oversight. Why would we expect these “small donors” will act on the interests of the ultimate principal here, the American people? One would expect instead these individuals will spend federal money on candidates and causes that appeal to them and have little value to the larger, taxpaying public that funds the program. In that sense, H.R. 1826 proposes a subsidy for a special interest.

NEGATIVE: VOTER ID

(Simon Sefzik researched most of the evidence in this brief.)

OVERVIEW / NEGATIVE VOTING CRITERION : Net Benefits

ID requirements would do more harm than good.

Prof. Spencer Overton 2007. (Associate Professor of Law, The George Washington University Law School. J.D. Harvard Law school, BA marketing, Hampton University. Principal Deputy Assistant Attorney General for the Office of Legal Policy in the U.S. Department of Justice.) Michigan Law Review. “VOTER IDENTIFICATION” Feb. 2007, <http://www.michiganlawreview.org/assets/pdfs/105/4/overton.pdf>

No systematic, empirical study of the magnitude of voter fraud has been conducted at either the national level or in any state to date, 13 but the best existing data suggests that a photo-identification requirement would do more harm than good. An estimated 6–11% of voting-age Americans do not possess a state-issued photo-identification card, and in states such as Wisconsin 78% of African-American men ages 18–24 lack a driver’s license. 14 By comparison, a study of 2.8 million ballots cast in 2004 in Washington State showed only 0.0009% of the ballots involved double voting or voting in the name of deceased individuals. 15 If further study confirms that photoidentification requirements would deter over 6700 legitimate votes for every single fraudulent vote prevented, a photo-identification requirement would increase the likelihood of erroneous election outcomes.

REVERSE ADVOCACY: ID requirements could disenfranchise millions – so don’t rely on false analogies & anecdotes

Prof. Spencer Overton 2007. (Associate Professor of Law, The George Washington University Law School. J.D. Harvard Law school, BA marketing, Hampton University. Principal Deputy Assistant Attorney General for the Office of Legal Policy in the U.S. Department of Justice.) Michigan Law Review. “VOTER IDENTIFICATION” Feb. 2007, <http://www.michiganlawreview.org/assets/pdfs/105/4/overton.pdf>

A photo-identification requirement could disenfranchise twenty million Americans, and policy-makers should resist the temptation to rush to adopt the proposal based solely on anecdotes, analogy, and “common sense” popular assumptions. Without hard data, many people misperceive risk.

INHERENCY

Most states already require ID at polls

Vanessa Cárdenas 2012. (Former worker with the National Immigration Forum, B.A. in government and politics and a master’s in public administration, both from George Mason University. Fellow of the National Hispana Leadership Institute Center for American progress, “Voter ID Laws Target the Most Vulnerable” Feb. 15 2012 <http://www.americanprogress.org/issues/civil-liberties/news/2012/02/15/11122/voter-id-laws-target-the-most-vulnerable/>

The fact is that most states already require voters to show ID at the polls. The Help America Vote Act of 2002 established federal voter ID requirements and requires ID at the polls from all first-time voters who register by mail who fail to provide an ID at the time of registration. There are also harsh penalties for those who, for example, try to impersonate a voter or for those who erroneously fill out voter registration cards.

Every state requires some level of proof. But ID requirements deny the right to vote to citizens

Prof. Wendy R. Weiser, Adam Skaggs, and Vishal Agraharkar in 2011 (WEISER - Founder & director of the Brennan Center’s Voting Rights and Elections Project; Adjunct Professor at NYU School of Law; J.D. from Yale Law School. SKAGGS- senior counsel for the Brennan Center’s Democracy program, J.D. from Brooklyn Law School. AGRAHARKAR- counsel for the Brennan Center’s Democracy Program ; J.D. from Columbia Law School, interned at the Department of Justice Civil Rights Division and the Texas Civil Rights Project) Published by the Brennan Center for Justice at NY Univ. School of Law, “The Cost of Voter ID Laws: What the Courts Say” Feb. 17 2011 [www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf](http://www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf)

Currently, every state in America requires voters to prove their identities before receiving a ballot; different states require different levels of proof. Legislators in states across the country are now promoting bills that would require voters to meet more stringent documentation requirements before voting—including presenting photo identification at the polls on Election Day in order to cast a ballot. While the details of the proposals vary, these bills all would deny the right to vote to some or all citizens who are unable to produce a photo ID. Studies show that as many as 11 percent of United States citizens—mostly older, low-income, and minority citizens—do not have government issued photo IDs. Under the federal and state Constitutions, states must ensure that there is an accessible and reasonable way for all citizens to vote, including the estimated 33 million citizens who do not have photo IDs.

States can use non-photo identification

Prof. Spencer Overton 2007. (Associate Professor of Law, The George Washington University Law School. J.D. Harvard Law school, BA marketing, Hampton University. Principal Deputy Assistant Attorney General for the Office of Legal Policy in the U.S. Department of Justice.) Michigan Law Review. “VOTER IDENTIFICATION” Feb. 2007, <http://www.michiganlawreview.org/assets/pdfs/105/4/overton.pdf>

Rather than making a photo-identification card an absolute requirement for voting, a state could expand acceptable documentation to include nonphoto identification, such as a utility bill or bank statement. As discussed in Part I, this is currently the law for all who vote at the polls in ten states, and for first-time voters who registered by mail in all states.

Non-photo identification advocacy: Better than photo ID

Prof. Wendy R. Weiser, Adam Skaggs, and Vishal Agraharkar in 2011 (WEISER - Founder & director of the Brennan Center’s Voting Rights and Elections Project; Adjunct Professor at NYU School of Law; J.D. from Yale Law School. SKAGGS- senior counsel for the Brennan Center’s Democracy program, J.D. from Brooklyn Law School;. M.S. in Urban Affairs from Hunter College of the City Univ of New York. AGRAHARKAR- counsel for the Brennan Center’s Democracy Program ; J.D. from Columbia Law School, interned at the Department of Justice Civil Rights Division and the Texas Civil Rights Project) Published by the Brennan Center for Justice at NY Univ. School of Law, “The Cost of Voter ID Laws: What the Courts Say” Feb. 17 2011, <http://www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf>

In a difficult fiscal environment, citizens may reasonably question whether there are more pressing needs on which to spend their tax dollars than photo ID rules, and state legislators should seriously consider whether photo ID laws are worth their considerable costs. In doing so, legislators should consider the myriad other measures already in place in their states to guard against voter fraud—which have been very effective at deterring such fraud 13—as well as less expensive measures to increase the security of elections, including voter ID laws that allow voters who do not have photo ID to demonstrate their identities at the polls by other means. Legislators who still wish to pursue photo ID requirements for voting must ensure that the laws provide for free photo IDs, ensure that IDs are reasonably accessible to all eligible voters, and include sufficient voter education and outreach programs and poll worker training.

States are already strengthening voter ID rules

Valerie Richardson 2011. (Journalist with the Washington Times), Published by the Washington Times, “Voter ID, other initiatives follow GOP’s resurgence”, Oct. 23 2011, <http://www.washingtontimes.com/news/2011/oct/23/voter-id-other-initiatives-follow-gops-resurgence/?page=all>

Voters in Maine, Mississippi and Washington will decide election-reform questions this November, joining a wave of 36 states that in 2011 moved to increase identification requirements, limit the early-voting period, or toughen up registration rules. “We’ve been seeing quite a lot of legislation to strengthen voter identification laws and create voter identification laws where they don’t exist,” said Jennie Bowser, senior analyst with the National Conference on State Legislatures.

SIGNIFICANCE / HARMS

ID laws are unnecessary. National Voter ID laws should be taken off the table entirely.

Jim Harper 2008. (A founding member of the Department of Homeland Security’s Data Privacy and Integrity Advisory Committee, Author of the book Identity Crisis: How Identification Is Overused and Misunderstood. J.D. from UC Hastings College of Law.) Cato Institute, “Voter ID: A Tempest in a Teapot That Could Burn Us All” Jan. 7 2008, <http://www.cato.org/publications/techknowledge/voter-id-tempest-teapot-could-burn-us-all>

The qualifications to vote are typically residency in the relevant jurisdiction, attainment of a certain age, sufficient mental capacity, and absence of a felony conviction. These credentials can be proven without identity cards and databases, or with tightly minimized documentation and recordkeeping. To ensure that American voters enjoy their franchise in a free country, clumsy voter ID rules should be avoided. A national voter ID system should be taken off the table entirely.

Fraud is rare – ID requirements are a solution in search of a problem

Scott Keyes, Ian Millhiser, Abraham White, & Tobin Van Ostern 2012. (KEYES - Senior Reporter for the Think Progress War Room at the Center for American Progress Action Fund. Stanford University , B.A. in Political Science and M.A. in Sociology. MILLHISER - Senior Constitutional Policy Analyst for American Progress, B.A. in philosophy from Kenyon College and a J.D., magna cum laude, from Duke University. WHITE - Communications Associate for Campus Progress. Univ of California, San Diego- B.A. economics. OSTERN - Advisor for Strategic Partnerships at Young Invincibles. Former Deputy Director of Campus Progress, a project of the Center for American Progress) “How Conservatives Are Conspiring to Disenfranchise Millions of Americans” April 4 2012 <http://www.americanprogress.org/issues/progressivemovement/report/2012/04/04/11380/voter-suppression-101/>

Defenders of these laws claim they are necessary to prevent voter fraud. In reality they are a solution in search of a problem. There’s virtually no such fraud in American elections— and it’s not even remotely close to being the epidemic that some elected officials have made it out to be. In the 2004 election, for example, about 3 million votes were cast in Wisconsin—only seven were declared invalid—all of which were cast by felons who had finished their sentences and didn’t realize they were still barred from voting. As a result, Wisconsin’s overall fraud rate came in at a whopping 0.00023 percent.

Justice Dept. Study: Improper voting is “more rare than death by lightning”

Vanessa Cárdenas 2012. (Former worker with the National Immigration Forum, B.A. in government and politics and a master’s in public administration, both from George Mason Univ. Fellow of the National Hispana Leadership) Center for American progress, “Voter ID Laws Target the Most Vulnerable” Feb. 15 2012 <http://www.americanprogress.org/issues/civil-liberties/news/2012/02/15/11122/voter-id-laws-target-the-most-vulnerable/>

For instance, a five-year investigation by the Justice Department under President George W. Bush found just 86 instances of improper voting from 2002 to 2005. A Brennan Center report released in 2007, "The Truth About Fraud," found that allegations of voting fraud are often wholly inaccurate or heavily exaggerated. According to the report’s authors, voter impersonation—the type of voter fraud targeted by current voter ID legislation—is “more rare than death by lightning.” And in Virginia, which is one of the latest states very close to passing voter ID legislation, proponents could not cite one single example of voter fraud in the state.

“Voter impersonation” is absurd and current penalties are effective at blocking it

Scott Keyes, Ian Millhiser, Abraham White, & Tobin Van Ostern 2012. (KEYES - Senior Reporter for the Think Progress War Room at the Center for American Progress Action Fund. Stanford University , B.A. in Political Science and M.A. in Sociology. MILLHISER - Senior Constitutional Policy Analyst for American Progress, B.A. in philosophy from Kenyon College and a J.D., magna cum laude, from Duke Univ. WHITE - Communications Associate for Campus Progress. Univ of Calif, San Diego - B.A. economics. OSTERN - Advisor for Strategic Partnerships at Young Invincibles. Former Deputy Director of Campus Progress, a project of the Center for American Progress) “How Conservatives Are Conspiring to Disenfranchise Millions of Americans” April 4 2012 <http://www.americanprogress.org/issues/progressivemovement/report/2012/04/04/11380/voter-suppression-101/>

The only kind of voter fraud that is supposed to be prevented by these laws is one voter impersonating another. Not only would impersonating other voters one-by-one be an absurd strategy for stealing an entire election, but the already-existing penalties—five years in prison and a $10,000 fine—are doing an effective job at preventing such fraud.

Risk of being struck by lightning is greater than voter impersonation.

Brennan Center for Justice 2006. (BCJ is part of the New York University Law school, nonpartisan law and policy institute.) “Policy Brief on Voter Identification” Sep. 12 2006. <http://www.brennancenter.org/analysis/policy-brief-voter-identification>

In Ohio, a statewide survey found four instances of ineligible persons voting or attempting to vote in 2002 and 20042C out of 9,078,728 votes cast - a rate of 0.00004%. Despite the invocation of fraud as support for the new Georgia law, Georgia Secretary of State Cathy Cox has stated that she could not recall one documented case of voter fraud relating to the impersonation of a registered voter at the polls during her ten-year tenure as an election official. Nationwide, since October 2002, 86 individuals have been convicted of federal crimes relating to election fraud (including several offenses not remedied by ID requirements), while 196,139,871 ballots have been cast in federal general elections. Statistically, Americans are more likely to be killed by a bolt of lightning.

SOLVENCY

Even if fraud exists, there is no proof stricter voter ID laws will fix the problem

Brennan Center for Justice 2006. (BCJ is part of the New York University Law school, nonpartisan law and policy institute.) “Policy Brief on Voter Identification” Sep. 12 2006. <http://www.brennancenter.org/analysis/policy-brief-voter-identification>

**ID requirements are not justified by any serious or widespread problem.** Proponents often cite fraud or the potential for fraud to justify new ID requirements. There is no question that election misconduct exists, including improper purges of eligible voters, distributing false information about when and where to vote, stuffing of ballot boxes, and tampering with registration forms. But there is no evidence that the type of fraud addressed by stricter voter ID - individual voters who misrepresent their identities at the polls - is anything but an anomaly.

Limited scope: Voter ID laws ONLY address voter impersonation, a tiny fraction of the problem

AMY BINGHAM 2012. (Journalist with ABC News), ABC news, “Voter Fraud: Non-Existent Problem or Election-Threatening Epidemic?” Sep. 12 2012, <http://abcnews.go.com/Politics/OTUS/voter-fraud-real-rare/story?id=17213376#.UeH-h_mceSo>

Over the past decade Texas has convicted 51 people of voter fraud, according the state's Attorney General Greg Abbott. Only four of those cases were for voter impersonation, the only type of voter fraud that voter ID laws prevent. Nationwide that rate of voter impersonation is even lower.

There’s no reason to believe ID requirements will solve the real problem.

Brennan Center for Justice 2006. (BCJ is part of the New York University Law school, nonpartisan law and policy institute.) “Policy Brief on Voter Identification” Sep. 12 2006. <http://www.brennancenter.org/analysis/policy-brief-voter-identification>

**Missouri.** In 2006, the Brennan Center analyzed the likely effect of a new photo ID proposal, and found hundreds of thousands of voters at risk, and no reason to believe that an ID requirement would solve any real problem. The analysis was presented to officials around the state. Although a bill containing the proposal was passed, it is now subject to attack by at least three lawsuits.

DMV offices are not sufficient

Prof. Wendy R. Weiser, Adam Skaggs, and Vishal Agraharkar in 2011 (WEISER - Founder & director of the Brennan Center’s Voting Rights and Elections Project; Adjunct Professor at NYU School of Law; J.D. from Yale Law School. SKAGGS- senior counsel for the Brennan Center’s Democracy program, J.D. from Brooklyn Law School;. M.S. in Urban Affairs from Hunter College of the City Univ of New York. AGRAHARKAR- counsel for the Brennan Center’s Democracy Program ; J.D. from Columbia Law School, interned at the Department of Justice Civil Rights Division and the Texas Civil Rights Project) Published by the Brennan Center for Justice at NY Univ. School of Law, “The Cost of Voter ID Laws: What the Courts Say” Feb. 17 2011, <http://www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf>

In many states, existing motor vehicle offices (“DMVs”) are not sufficient to ensure that voter ID cards are readily available to prospective voters, either because existing DMV offices cannot easily be reached by voters who lack private transportation or are disabled, or because they are open only for limited hours.

As many as 10% of eligible voters don’t have & will NOT get the documents required to vote - Getting the correct documents will be difficult.

Brennan Center for Justice 2006. (BCJ is part of the New York University Law school, nonpartisan law and policy institute.) “Policy Brief on Voter Identification” Sep. 12 2006. <http://www.brennancenter.org/analysis/policy-brief-voter-identification>

**As many as 10% of eligible voters do not have, and will not get, the documents required by strict voter ID laws.** Approximately ten percent of voting-age Americans today do not have driver’s licenses or state-issued non-driver’s photo ID. Based on Americans’ moving patterns, many more do not have photo ID showing their current address. And getting ID costs substantial time and money. A would-be voter must pay substantial fees both for ID cards and the backup documents needed to get them-up to $100 for a driver’s license, up to $45 for a birth certificate, $97 for a passport, and over $200 for naturalization papers. The voter may also have to take several hours off of work and travel significant distances to visit government offices open only during select daytime hours. Finally, many identifying documents cannot be issued immediately, so potential voters must allow for processing and shipping, which may take from several weeks to an entire year.

Voter ID laws address impersonation fraud, which is rare. Can’t solve absentee fraud which is 50x more common.

The Wall Street Journal 2012. (WSJ is the largest newspaper in the United States, covering News, Media & policy issues. Winner of the Pulitzer Prize over 35 times.) “Voter Fraud: Hard to Identify” August 31, 2012, <http://online.wsj.com/article/SB10000872396390443864204577621732936167586.html>

One rare point of agreement among most experts: Absentee-ballot fraud is a far bigger problem than voter-impersonation fraud—about 50 times more common, says News21—and voter-ID laws won't stop it.

DISADVANTAGES

1. Racial Discrimination

Link: Voter ID advocates admit that their legislation excludes Blacks and they think that’s good

Scott Keyes, Ian Millhiser, Abraham White, & Tobin Van Ostern 2012. (KEYES - Senior Reporter for the Think Progress War Room at the Center for American Progress Action Fund. Stanford University , B.A. in Political Science and M.A. in Sociology. MILLHISER - Senior Constitutional Policy Analyst for American Progress, B.A. in philosophy from Kenyon College and a J.D., magna cum laude, from Duke University. WHITE - Communications Associate for Campus Progress. Univ of California, San Diego- B.A. economics. OSTERN - Advisor for Strategic Partnerships at Young Invincibles. Former Deputy Director of Campus Progress, a project of the Center for American Progress) “How Conservatives Are Conspiring to Disenfranchise Millions of Americans” April 4 2012 <http://www.americanprogress.org/issues/progressivemovement/report/2012/04/04/11380/voter-suppression-101/>

Voter ID laws. The chief sponsor of Georgia’s voter ID legislation, Rep. Sue Burmeister (R-Augusta), told the Justice Department the bill would keep more African Americans from voting, which was fine with her since “if there are fewer black voters because of this bill, it will only be because there is less opportunity for fraud.”

Link: Voter ID laws unfairly affect the poor & minorities, because of cost.

Charles Savage and Manny Fernandez 2012. (SAVAGE - Journalist with The New York Times Pulitzer Prize for National Reporting, English degree, and American literature degree from Harvard College master's degree from Yale Law School. FERNANDEZ – Journalist with the NYT) Published by the New York Times, “Court Blocks Texas Voter ID Law, Citing Racial Impact” Aug. 30 2012, <http://www.nytimes.com/2012/08/31/us/court-blocks-tough-voter-id-law-in-texas.html?_r=0>

Known as Senate Bill 14, the state’s voter-identification law requires voters who show up at the polls to identify themselves with one of five forms of ID, including a driver’s license or a United States passport. Those lacking one of the five types of identification must obtain an election identification certificate, a government-issued card similar to a driver’s license. Prospective voters would need to travel to a state Department of Public Safety office to get an election ID card, and, although it is free, they would have to verify their identity to obtain one, in some cases paying $22 for a certified copy of their birth certificate. In its unanimous 56-page ruling, the federal judges found that the fees and the cost of traveling for those voters lacking one of the five forms of ID disproportionately affected the poor and minorities. “Moreover, while a 200- to 250-mile trip to and from a D.P.S. office would be a heavy burden for any prospective voter, such a journey would be especially daunting for the working poor,” the decision read, referring to the dozens of counties in Texas that do not have a D.P.S. office.

Impact: Discrimination violates human rights

Council of Europe after 2007. (international body with 47 countries.), “Discrimination contradicts a fundamental principle of human rights.”, last date mentioned is 2007, <http://www.eycb.coe.int/compasito/chapter_5/pdf/3.pdf>

To discriminate against someone is to exclude that person from the full enjoyment of their political, civic, economic, social or cultural rights and freedoms. Discrimination contradicts a basic principle of human rights: that all people are equal in dignity and entitled to the same fundamental rights. This principle is repeated in every fundamental human rights document (e.g. UDHR Article 2, CRC Article 2, ECHR Article 14 and Article 1 of Protocol No. 12). Most national Constitutions also include provisions against discrimination.

Impact: Minorities disenfranchised

Scott Keyes, Ian Millhiser, Abraham White, & Tobin Van Ostern 2012. (KEYES - Senior Reporter for the Think Progress War Room at the Center for American Progress Action Fund. Stanford University , B.A. in Political Science and M.A. in Sociology. MILLHISER - Senior Constitutional Policy Analyst for American Progress, B.A. in philosophy from Kenyon College and a J.D., magna cum laude, from Duke University. WHITE - Communications Associate for Campus Progress. Univ of California, San Diego- B.A. economics. OSTERN - Advisor for Strategic Partnerships at Young Invincibles. Former Deputy Director of Campus Progress, a project of the Center for American Progress) “How Conservatives Are Conspiring to Disenfranchise Millions of Americans” April 4 2012 <http://www.americanprogress.org/issues/progressivemovement/report/2012/04/04/11380/voter-suppression-101/>

Yet, while these laws would prevent few if any actual cases of voter fraud, they could disenfranchise millions of ID-less voters. And they are clearly illegal under longstanding voting rights law. The Voting Rights Act not only forbids laws that are passed specifically to target minority voters but also strikes down state laws that have a greater impact on minority voters than on others. Because Voter ID laws disproportionately disenfranchise minorities, they clearly fit within the Voting Rights Act’s prohibition.

Example: Historical discrimination against blacks & Asians over ID.

Brennan Center for Justice 2006. (BCJ is part of the New York University Law school, nonpartisan law and policy institute.) “Policy Brief on Voter Identification” Sep. 12 2006. <http://www.brennancenter.org/analysis/policy-brief-voter-identification>

**ID requirements fall hardest on people who have traditionally faced barriers at the polls.** The impact of ID requirements is even greater for the elderly, students, people with disabilities, low-income individuals, and people of color. Thirty-six percent of Georgians over 75 do not have a driver’s license. Fewer than 3 percent of Wisconsin students have driver’s licenses listing their current address. The same study found that African Americans have driver’s licenses at half the rate of whites, and the disparity increases among younger voters; only 22% of black men aged 18-24 had a valid driver’s license. Not only are minority voters less likely to possess photo ID, but they are also more likely than white voters to be selectively asked for ID at the polls. For example, in New York City, which has no ID requirement, a study showed that poll workers illegally asked one in six Asian Americans for ID at the polls, while white voters were permitted to vote without showing ID.

2. Widespread disenfranchisement. Even where not motivated by race, like DA1, VoterID puts a burden on voters that many cannot meet

Link: Photo ID requirement would disenfranchise 20 million

Prof. Spencer Overton 2007. (Associate Professor of Law, The George Washington University Law School. J.D. Harvard Law school, BA marketing, Hampton University. Principal Deputy Assistant Attorney General for the Office of Legal Policy in the U.S. Department of Justice.) Michigan Law Review. “VOTER IDENTIFICATION” Feb. 2007, <http://www.michiganlawreview.org/assets/pdfs/105/4/overton.pdf>

Rather than continuing to rely on unsubstantiated factual assumptions, election law scholars and policy-makers should look to empirical data to weigh the costs and benefits of various types of election regulations. Existing data suggests that a photo-identification requirement would disenfranchise twenty million Americans while deterring minimal voter fraud. Policy-makers should place a moratorium on photo-identification proposals until they obtain a better empirical understanding of the extent and nature of voter fraud and the effect of the proposals on access by legitimate voters.

Link: Requiring ID could exclude millions of voters: seniors, students, minorities, and rural residents

Scott Keyes, Ian Millhiser, Abraham White, & Tobin Van Ostern 2012. (KEYES - Senior Reporter for the Think Progress War Room at the Center for American Progress Action Fund. Stanford University , B.A. in Political Science and M.A. in Sociology. MILLHISER - Senior Constitutional Policy Analyst for American Progress, B.A. in philosophy from Kenyon College and a J.D., magna cum laude, from Duke University. WHITE - Communications Associate for Campus Progress. Univ of California, San Diego- B.A. economics. OSTERN - Advisor for Strategic Partnerships at Young Invincibles. Former Deputy Director of Campus Progress, a project of the Center for American Progress) “How Conservatives Are Conspiring to Disenfranchise Millions of Americans” April 4 2012 <http://www.americanprogress.org/issues/progressivemovement/report/2012/04/04/11380/voter-suppression-101/>

But with more than 1 in 10 voters (over 21 million Americans) currently lacking these photo IDs, it’s clear that such laws could have a disastrous effect. Voter ID laws have the potential to exclude millions of Americans, especially seniors, students, minorities, and people in rural areas. One example is Osceola, Wisconsin: A small town in the northwestern part of the state with a population of under 3,000 people. The town is 30 minutes away from the nearest DMV offices and both are rarely open.

Link: Restrictive Voter ID laws threaten to exclude millions of eligible voters

Brennan Center for Justice 2006. (BCJ is part of the New York University Law school, nonpartisan law and policy institute.) “Policy Brief on Voter Identification” Sep. 12 2006. <http://www.brennancenter.org/analysis/policy-brief-voter-identification>

Restrictive voter ID policies - especially those that require state-issued photo ID cards - threaten to exclude millions of eligible voters. There is a movement afoot to demand that eligible voters provide documentation of their identity at the polls and to restrict the documents that a voter may offer as proof. Indiana just implemented one such law; Missouri has just passed another. A recent Georgia law demands that voters show one of a limited number of forms of government-issued photo ID. The 2005 Commission on Federal Electoral Reform, known as the Carter-Baker Commission, went even further, recommending that states require a voter to present an enhanced driver’s license known as “Real ID” or a specific state-issued equivalent. If followed, this recommendation would prevent eligible citizens from voting if they appeared even with a valid U.S. passport or U.S. military photo ID.

Link: ID requirements often disenfranchise eligible voters

Brennan Center for Justice 2006. (BCJ is part of the New York University Law school, nonpartisan law and policy institute.) “Policy Brief on Voter Identification” Sep. 12 2006. <http://www.brennancenter.org/analysis/policy-brief-voter-identification>

**States should not implement burdensome ID requirements.** Although ID requirements may seem reasonable to many middle-class Americans, hard evidence shows that many citizens face extreme difficulty in obtaining certain forms of identification and that ID requirements are often discriminatorily implemented. Restrictive ID requirements are not only unnecessary, but will disenfranchise eligible voters, artificially depress turnout, and lead to administrative difficulties at the polls. Moreover, there are existing laws that address the same rare problems targeted by voter ID requirements - including procedures for cleaning the voter rolls and voter ID provisions in the Help America Vote Act (HAVA) - that have not yet been fully implemented or assessed. States without widespread evidence of actual fraud caused by individual misrepresentation at the polls should not turn to ID requirements now.

“Minority voter turnout went up in Georgia after Voter ID” – Response: Hispanic turnout went down

Keesha Gaskins 2012. (Senior Counsel in the Democracy Program at Brennan Center for Justice at NY University School of Law; experienced trial attorney; Director of the Redistricting and Representation Program at Brennan Center ) Analyzing Minority Turnout After Voter ID, 15 Mar 2012 <http://www.brennancenter.org/blog/analyzing-minority-turnout-after-voter-id>

The number of Hispanic voters was greater in the 2010 election than in the 2006 election, and in the 2008 election than in the 2004 election, as the total population of registered Hispanic voters increased by 73.9 percent and 144 percent, respectively. However, there was a slight reduction in the percentage of voter turnout for Hispanics between presidential election years 2004 and 2008 and non-presidential election years 2006 and 2010. While simple turnout numbers from a single state cannot tell us exactly what impact new voter restrictions have on voter turnout, it’s clear that in Georgia, the percentage of minority voter turnout has not increased following enactment of its strict voter ID law.Strict voter ID laws are absolutely the wrong policy direction for this country. Voter participation rates across all racial, ethnic and socio-economic are dropping each election year. Georgia has seen voter participation rates in the fastest growing ethnic population over the past decade stay flat or decline. As we consider what is best for America, increased voter participation is essential to restoring faith in our democracy and strict voter ID laws that fail to solve any real problems are wrong for America.

Kyle Dropp Study: Voter ID reduces voting among blacks, young adults and the poor – enough to influence the outcome of a close election

Kyle Dropp 2012. (Ph.D. candidate, Department of Political Science, Stanford Univ) Voter ID Laws and Voter Turnout“ (ethical disclosure about the date: The article is undated, but contains footnotes to materials published in April 2012, and references to the November 2012 election being in the future, so it must have been written during 2012) <http://politicalscience.stanford.edu/sites/default/files/workshop-materials/dropp_kyle_ap_workshop.pdf>

This paper has two principal findings. First, Voter ID statutes exert a small but politically meaningful demobilizing effect, especially among the poor, young adults, renters and African Americans. States must demonstrate that ID requirements do not pose an undue burden on voters - the results here suggest that Voter ID laws have modest effects that are substantial enough to influence election outcomes in close races. For example, a one percent reduction among African Americans in Ohio, who cast 95%+ of their ballots for Democrats, corresponds with a loss of more than 5,000 votes for Democrats in a presidential election. My research is the first to demonstrate that Voter ID laws impact the participation of a broad swath of the electorate including renters and the poor.

Kyle Dropp Study: Voter ID reduces voting among blacks, young adults and the poor

Kyle Dropp 2012. (Ph.D. candidate, Department of Political Science, Stanford Univ) Voter ID Laws and Voter Turnout“ (ethical disclosure about the date: The article is undated, but contains footnotes to materials published in April 2012, and references to the November 2012 election being in the future, so it must have been written during 2012) <http://politicalscience.stanford.edu/sites/default/files/workshop-materials/dropp_kyle_ap_workshop.pdf>

Second, Voter ID laws are more likely to reduce turnout in midterm elections rather than presidential contests. This finding suggests that widespread mobilization efforts during presidential contests or enhanced grassroots efforts attracted to states after they enact a Voter ID law can offset the impact of election laws that impose costs on voters.

Kyle Dropp Study: Methodology, in case anyone asks

Kyle Dropp 2012. (Ph.D. candidate, Department of Political Science, Stanford Univ) Voter ID Laws and Voter Turnout“ (ethical disclosure about the date: The article is undated, but contains footnotes to materials published in April 2012, and references to the November 2012 election being in the future, so it must have been written during 2012) <http://politicalscience.stanford.edu/sites/default/files/workshop-materials/dropp_kyle_ap_workshop.pdf>

In my research, I aggregate tens of millions of individual level voting records over a series of four elections (2004-2010) using a national voter database. I isolate groups with low ID ownership rates such as the working class, renters, African Americans, young adults and Hispanics using demographic information contained in the voter files. Then, I use a difference-in-differences approach to compare the turnout of these voter subgroups before and after a Voter ID law change with turnout statewide and with turnout patterns in states where election law stayed the same.

“They’re getting free ID cards if they don’t have one” – Response: Doesn’t solve the problem

Michael Waldman 2012. (President, Brennan Center for Justice at New York University School of Law) July 2012, foreword to “The Challenge of Obtaining Voter Identification” <http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/Challenge_of_Obtaining_Voter_ID.pdf>

The problem is not requiring voter ID, per se — the problem is requiring ID that many voters simply do not have. Study after study confirms that 1 in 10 eligible voters lack these specific government documents. Federal courts have previously declared that states with restrictive voter ID laws must make the necessary paperwork available for free. Problem solved? Hardly. This report conclusively demonstrates that this promise of free voter ID is a mirage. In the real world, poor voters find shuttered offices, long drives without cars or with spotty or no bus service, and sometimes prohibitive costs.

Impact: “Election Integrity” Turn - 6700 legitimate votes could be blocked for every 1 fraudulent vote prevented, leading to erroneous election outcomes. This reverses AFF advantages of election integrity

Prof. Spencer Overton 2007. (Associate Professor of Law, The George Washington University Law School. J.D. Harvard Law school, BA marketing, Hampton University. Principal Deputy Assistant Attorney General for the Office of Legal Policy in the U.S. Department of Justice.) Michigan Law Review. “VOTER IDENTIFICATION” Feb. 2007, <http://www.michiganlawreview.org/assets/pdfs/105/4/overton.pdf>

An estimated 6–11% of voting-age Americans do not possess a state-issued photo-identification card, and in states such as Wisconsin 78% of African-American men ages 18–24 lack a driver’s license. 14 By comparison, a study of 2.8 million ballots cast in 2004 in Washington State showed only 0.0009% of the ballots involved double voting or voting in the name of deceased individuals. If further study confirms that photo-identification requirements would deter over 6700 legitimate votes for every single fraudulent vote prevented, a photo-identification requirement would increase the likelihood of erroneous election outcomes.

3. Wasted funds / Increased cost. This DA can be run in parallel 2 ways, with costs to the states and the federal government. The AFF may have federal subsidies to the states to reimburse the cost of IDs. Even so, states will still have higher administrative costs to run the elections. We have general links that Voter ID is expensive, then specific Brink and Impacts for excessive cost at the State level, followed by Brink and Impact for higher spending at the Federal level. Pick either or both, whatever applies to the wording of the AFF plan.

General Link: Voter ID is a questionable way to spend money in this fiscal environment

Prof. Wendy R. Weiser, Adam Skaggs, and Vishal Agraharkar in 2011 (WEISER - Founder & director of the Brennan Center’s Voting Rights & Elections Project; Adjunct Prof. at NYU School of Law; J.D. from Yale. SKAGGS- senior counsel for the Brennan Center’s Democracy program, J.D. from Brooklyn Law School. AGRAHARKAR- counsel for the Brennan Center’s Democracy Program ; J.D. from Columbia Law School) Published by Brennan Center for Justice at NY Univ. School of Law, “The Cost of Voter ID Laws: What the Courts Say” Feb. 17 2011, <http://www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf>

In a difficult fiscal environment, citizens may reasonably question whether there are more pressing needs on which to spend their tax dollars than photo ID rules, and state legislators should seriously consider whether photo ID laws are worth their considerable costs. In doing so, legislators should consider the myriad other measures already in place in their states to guard against voter fraud—which have been very effective at deterring such fraud 13—as well as less expensive measures to increase the security of elections, including voter ID laws that allow voters who do not have photo ID to demonstrate their identities at the polls by other means.

General Link: Supreme Court ruled that photo-ID’s MUST be free

Prof. Wendy R. Weiser, Adam Skaggs, and Vishal Agraharkar in 2011 (WEISER - Founder & director of the Brennan Center’s Voting Rights and Elections Project; Adjunct Professor at NYU School of Law; J.D. from Yale Law School. SKAGGS- senior counsel for the Brennan Center’s Democracy program, J.D. from Brooklyn Law School;. M.S. in Urban Affairs from Hunter College of the City Univ of New York. AGRAHARKAR- counsel for the Brennan Center’s Democracy Program ; J.D. from Columbia Law School, interned at the Department of Justice Civil Rights Division and the Texas Civil Rights Project) Published by the Brennan Center for Justice at NY Univ. School of Law, “The Cost of Voter ID Laws: What the Courts Say” Feb. 17 2011, <http://www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf>

The U.S. Supreme Court has made clear that states seeking to impose photo ID requirements on voters must provide those IDs free of cost to those who do not have them. In upholding Indiana’s photo ID law, the Court explicitly said that the fact that most Indiana voters already had ID “would not save the statute . . . if the state required voters to pay a tax or a fee to obtain the new photo identification.”

General Link: Costly implementation. 11% of voters don’t have photo ID, and they’re costly.

Brennan Center for Justice 2012 (BCJ is part of the New York University Law school, nonpartisan law and policy institute.) “Voter ID” Oct. 15 2012. <http://www.brennancenter.org/analysis/voter-id>

Studies show that as many as 11 percent of eligible voters do not have government-issued photo ID. That percentage is even higher for seniors, people of color, people with disabilities, low-income voters, and students. Many citizens find it hard to get government photo IDs, because the underlying documentation like birth certificates (the ID one needs to get ID) is often difficult or expensive to come by. At the same time, voter ID policies are far more costly to implement than many assume. Instead, Improvements in voting technology and modernization of our voter registration system will both increase efficiency and close the door on mistakes and fraud.

State Budget Link: State budgets will be hurt by Voter ID costs

Prof. Judith Browne Dianis 2011. (civil rights litigator and experienced racial justice advocate, Managing Attorney in the Washington, D.C. office of the NAACP Legal Defense & Educational Fund, Inc. Adjunct Professor of Law - Georgetown University Law Center.) The Washington Post, “Five myths about voter fraud” Oct. 7 2011, <http://articles.washingtonpost.com/2011-10-07/opinions/35277520_1_id-laws-voter-fraud-lorraine-minnite>

The Advancement Project’s report “What’s Wrong With This Picture?” shows that taxpayers will bear the costs of these measures — more than $20 million in North Carolina, for example, to educate voters and provide free IDs to those without them, as the state’s law requires. This hurts states that are facing big budget constraints. For voters, even if an ID is free, getting the documents to obtain it can be expensive and difficult.

State Budget Link: Dramatic increase in cost of administering elections.

Prof. Wendy R. Weiser, Adam Skaggs, and Vishal Agraharkar in 2011 (WEISER - Founder & director of the Brennan Center’s Voting Rights and Elections Project; Adjunct Professor at NYU School of Law; J.D. from Yale Law School. SKAGGS- senior counsel for the Brennan Center’s Democracy program, J.D. from Brooklyn Law School. AGRAHARKAR- counsel for the Brennan Center’s Democracy Program ; J.D. from Columbia Law School, interned at the Dept of Justice Civil Rights Division) “The Cost of Voter ID Laws: What the Courts Say” Feb. 17 2011 [www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf](http://www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf)

In short, recent case law suggests that states seeking to adopt photo ID requirements for voters will have to incur substantial costs. Although the costs will vary from state to state, they will likely run into the millions of dollars per state per year and dramatically increase the cost of administering elections. Even if a state incurs these costs, its photo ID requirements may still be vulnerable to successful constitutional challenges; and a state that does not allocate sufficient funds to cover these costs will likely see its law struck down. States should therefore consider whether, in these difficult budgetary times, it is worth the dent in their budgets to introduce a new and controversial election procedure that has not been shown to improve election security.

State Budget Link: Missouri study - Revenue loss of $2.2 million

Prof. Wendy R. Weiser, Adam Skaggs, and Vishal Agraharkar in 2011 (WEISER - Founder & director of the Brennan Center’s Voting Rights and Elections Project; Adjunct Professor at NYU School of Law; J.D. from Yale Law School. SKAGGS- senior counsel for the Brennan Center’s Democracy program, J.D. from Brooklyn Law School. AGRAHARKAR- counsel for the Brennan Center’s Democracy Program ; J.D. from Columbia Law School) Published by the Brennan Center for Justice at NY Univ. School of Law, “The Cost of Voter ID Laws: What the Courts Say” Feb. 17 2011 [www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf](http://www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf)

A fiscal note prepared in conjunction with a proposed photo ID law in Missouri estimated a cost of $6 million for the first year in which the law was to be in effect, followed by recurring costs of approximately $4 million per year. 3 When Indiana estimated the costs of its photo ID law, it found that, to provide more than 168,000 IDs to voters, the “[t]otal production costs, including man-power, transaction time and manufacturing” was in excess of $1.3 million, with an additional revenue loss of nearly $2.2 million. 4 That estimate apparently did not include a variety of necessary costs, including the costs of training and voter education and outreach.

State Budget Brink: States face budget risks – revenues are uncertain, and sharp pullbacks could happen.

John Silvia, Natalie Cohen, Michael Brown and Roy Eappen 2013. (all work for Wells-Fargo Securities. Silvia – Chief Economist. Cohen – Managing Director. Brown – Economist. Eappen – Associate) 9 July 2013 “FY 2014 State Budgets and Beyond “ <https://www.wellsfargo.com/downloads/pdf/com/insights/economics/special-reports/FY2014_State_Budgets_07092013.pdf>

While the outlook continues to improve for state revenue growth, risks remain on the horizon beyond the next fiscal year. Besides the possibility of further federal budget reductions from sequestration, there is a risk that the sharp pullback in state personal income growth will continue through the end of the year and adversely affect both income and sales tax collections. Over the longer term, we expect to see periodic budget volatility in states with high unfunded pension and retiree health benefits and recalcitrant lawmakers—such as (but not exclusively) New Jersey, Illinois, and Puerto Rico—whether in reaction to the threat of a ratings downgrade or future revenue contraction.

State Budget Impact: Hurting state budgets is bad for jobs, education, health care, and the economy

Elizabeth McNichol 2012. ( Senior Fellow specializing in state fiscal issues, with Center on Budget and Policy Priorities; former staff member of the Joint Finance Committee for the State of Wisconsin Legislature specializing in property taxes and state aid to local governments; M.A. in Political Science from the Univ of Chicago) Out of Balance - Cuts in Services Have Been States’ Primary Response to Budget Gaps, Harming the Nation’s Economy 18 Apr 2012 <http://www.cbpp.org/cms/?fa=view&id=3747>

The state budget gaps of the last five years led to $290 billion in cuts to public services and $100 billion in tax and fee increases. Those actions lengthened the recession and delayed the recovery. Because spending reductions were dominant, hundreds of thousands of jobs were lost; undermining education, health care and other state priorities, which likely will cause future economic harm to states.

Federal Budget Impact: Every increase in the deficit hurts the economy

Dr William Gale and Benjamin Harris 2011. (Gale - PhD in economics, Stanford Univ.; senior fellow at the Brookings Institution and co-director of the Urban-Brookings Tax Policy Center; former assistant professor in the Department of Economics at UCLA, and a senior economist for the Council of Economic Advisers under President George H.W. Bush; Harris - master’s degree in economics from Cornell University and a master’s degree in quantitative methods from Columbia University; senior research associate with the Economics Studies Program at the Brookings Institution) “A VAT for the United States: Part of the Solution” <http://www.taxanalysts.com/www/freefiles.nsf/Files/GALE-HARRIS-5.pdf/$file/GALE-HARRIS-5.pdf>

But even in the absence of a crisis, sustained deficits have deleterious effects, as they translate into lower national savings, higher interest rates, and increased indebtedness to foreign investors, all of which serve to reduce future national income. Gale and Orszag (2004a) estimate that a 1 percent of GDP increase in the deficit will raise interest rates by 25 to 35 basis points and reduce national saving by 0.5 to 0.8 percentage points of GDP.

4. Federalism violation

Link: AFF plan takes choices away from the States with a national uniform plan

Link: Constitution gives States responsibility for elections – they should experiment to find the best ways

Jim Harper 2008. (A founding member of the Department of Homeland Security’s Data Privacy and Integrity Advisory Committee, Author of the book Identity Crisis: How Identification Is Overused and Misunderstood. J.D. from UC Hastings College of Law.) Cato Institute, “Voter ID: A Tempest in a Teapot That Could Burn Us All” Jan. 7 2008, <http://www.cato.org/publications/techknowledge/voter-id-tempest-teapot-could-burn-us-all>

The Constitution gives Congress power to regulate the elections that select its members and, to a lesser degree, the president. But Congress does not have to use that power to its fullest extent. States recognize their own interests in fair elections, and they should experiment among themselves with ways to secure elections while making sure the vote is available to all qualified people.

The Impact: Decentralized power, left to the states, preserves individual liberty and economic growth

Art Macomber 2001. (attorney; J.D. from Univ of California Hastings College of the Law) Federalism: Guardian of Individual Liberty 27 Oct 2001 <http://macomberlaw.com/index.php/home/writin/federalism-guardian/>

Individual liberty is safeguarded under Federalism because when power is decentralized individuals can escape unfavorable policies by moving to a more preferable jurisdiction. Thus the monopoly governmental entities must meet real needs or people and capital flee. This is true consumer sovereignty. Moreover, mobility of people and capital are significant checks on centralized power. As experimentation flowers, choices for the mobility increase. Freedom of mobility for capital means government has a harder job expropriating wealth and thereby undermining economic growth. The smaller the political entity, right down to the individual, the more the threat of exit can cause changes in governmental policy.

5. Partisan trickery

In a moment of honesty, a voter ID advocate admits that this is really about influencing the outcome of the election for one party

Adam Cohen 2012. (teaches at Yale Law School ) How to Solve the Voter ID Debate, TIME Magazine 6 Aug 2012http://ideas.time.com/2012/08/06/how-to-solve-the-voter-id-debate/#ixzz2bmikBMrZ

Voter ID laws have a disproportionate impact on groups that lean democratic — including blacks, hispanics and students. In honest moments, backers of voter ID laws will admit what they are up to. Last month, Pennsylvania House Majority Leader Mike Turzai said that the state’s new voter ID law would “allow Governor Romney to win Pennsylvania.”

6. Slippery slope to a National ID

Link: National registration system for voting would quickly be repurposed for regulatory control.

Jim Harper 2008. (A founding member of the Department of Homeland Security’s Data Privacy and Integrity Advisory Committee, Author of the book Identity Crisis: How Identification Is Overused and Misunderstood. J.D. from UC Hastings College of Law.) Cato Institute, “Voter ID: A Tempest in a Teapot That Could Burn Us All” Jan. 7 2008, <http://www.cato.org/publications/techknowledge/voter-id-tempest-teapot-could-burn-us-all>

A national registration system for voting would quickly be repurposed and used for many other kinds of regulatory control. There is no shortage of proposals for national registration and control of citizens. Should the voter ID tempest in a teapot boil over, the tiny specter of voter fraud could thrust a mandatory national ID into the hands of law-abiding citizens.

Impact: National ID is bad for civil rights – takes us back to Nazi Germany “Show us your papers!”

Adam Thierer 2001. (Director of Telecommunications Studies at the Cato Institute; MA in international business management and trade theory at the University of Maryland) 28 Sept 2001 “National ID Cards: New Technologies, Same Bad Idea” <http://www.cato.org/publications/techknowledge/national-id-cards-new-technologies-same-bad-idea>

The most serious problem with national ID mandates remains the troubling ramifications for civil liberties. As former California Rep. Tom Campbell, currently a Stanford University law professor, has recently argued, “If you have an ID card, it is solely for the purpose of allowing the government to compel you to produce it. This would essentially give the government the power to demand that we show our papers. It is a very dangerous thing.” Indeed it is. As David Kopel, research director for the Colorado-based Independence Institute, has similarly argued, “We beat the Germans in World War II. We don’t want to be a show-us-your-papers kind of country.”

SOURCE INDICTMENTS

Carter-Baker Commission

Prof. Spencer Overton 2007. (Associate Professor of Law, The George Washington University Law School. J.D. Harvard Law school, BA marketing, Hampton University. Principal Deputy Assistant Attorney General for the Office of Legal Policy in the U.S. Department of Justice.) Michigan Law Review. “VOTER IDENTIFICATION” Feb. 2007, <http://www.michiganlawreview.org/assets/pdfs/105/4/overton.pdf>

This Article is important because political sound bites and media reports, rather than comprehensive academic analysis, have shaped the photo identification debate. As a result, many Carter-Baker Commission members, Justice Department officials, members of Congress, governors, state legislators, newspaper columnists, and average citizens have embraced flawed assumptions by relying on a story or two about voter fraud. While anecdotes about fraud are rhetorically persuasive, the narratives often contain false information, omit critical facts, or focus on wrongdoing that a photo identification requirement would not prevent. Even when true, anecdotes do not reveal the frequency of similar instances of voter fraud.

Hans Spakovsky

**John Wasik 2012** (Author of 13 books Peter Lisagor award for journalism.) Forbes News, “Voter Fraud: A Massive, Anti-Democratic Deception”, November 6 2012, <http://www.forbes.com/sites/johnwasik/2012/11/06/voter-fraud-a-massive-anti-democratic-deception/>

The creation and propagation of the voter fraud myth, which has gained huge currency in the GOP over the past decade, has been championed by Hans von Spakovsky, a lawyer who is also a fellow at the conservative Heritage Foundation. He was recently profiled by Jane Mayer in a New Yorker piece. His work has spawned numerous new rules in states like Florida and Ohio that not only promote strict voter ID laws, but end up restricting voting in minority-dominated areas. Many of these restrictions are likely violations of the Voting Rights Act, a landmark law that Lyndon Johnson signed in 1965 to end the Jim Crow era, well, until democracy foes like Spakovsky came on the scene.

COST DISADVANTAGE EXTENSIONS

Link: Examples of cost that would be required

Prof. Wendy R. Weiser, Adam Skaggs, and Vishal Agraharkar in 2011 (WEISER - Founder & director of the Brennan Center’s Voting Rights and Elections Project; Adjunct Professor at NYU School of Law; J.D. from Yale Law School. SKAGGS- senior counsel for the Brennan Center’s Democracy program, J.D. from Brooklyn Law School;. M.S. in Urban Affairs from Hunter College of the City Univ of New York. AGRAHARKAR- counsel for the Brennan Center’s Democracy Program ; J.D. from Columbia Law School, interned at the Department of Justice Civil Rights Division and the Texas Civil Rights Project) Published by the Brennan Center for Justice at NY Univ. School of Law, “The Cost of Voter ID Laws: What the Courts Say” Feb. 17 2011, <http://www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf>

Other states looking to impose a photo ID requirement should be prepared to undertake a similarly costly effort if they want their laws to survive a court challenge. These costs are likely to include: mailings to all citizens informing them of new ID requirements and how to obtain a voter ID; production of radio and television public service announcements; purchase of airtime to broadcast these public service announcements; purchase of space in newspapers to advertise new voter ID requirements; and website modifications to publicize new voter ID requirements. These costs will be borne by state and local officials and may be similar to the costs of recent campaigns to educate voters about new voting machines.

State Budget Link: States suffer. States would have to pay 10-20 mil. & get past the legal requirements.

Vanessa Cárdenas 2012. (Former worker with the National Immigration Forum, B.A. in government and politics and a master’s in public administration, both from George Mason University. Fellow of the National Hispana Leadership Institute and an alum of the Sorensen Institute for Political Leadership at the University of Virginia and Leadership Arlington.) Center for American progress, “Voter ID Laws Target the Most Vulnerable” Feb. 15 2012 <http://www.americanprogress.org/issues/civil-liberties/news/2012/02/15/11122/voter-id-laws-target-the-most-vulnerable/>

The Advancement Project estimates that states contemplating a photo ID requirement could face up to $20 million or more in expenses. There are also many legal requirements to implement photo ID legislation. For one, voters cannot be made to spend any money in order to exercise their right to vote or else the proposal could be unconstitutional. Photo ID proposals therefore must cover costs of providing ID. Indiana, which has the strictest photo ID law in the nation, spent more than $10 million to provide IDs to voters who needed one.

State Budget Link: Increase administrative cost

Prof. Wendy R. Weiser, Adam Skaggs, and Vishal Agraharkar in 2011 (WEISER - Founder & director of the Brennan Center’s Voting Rights and Elections Project; Adjunct Professor at NYU School of Law; J.D. from Yale Law School. SKAGGS- senior counsel for the Brennan Center’s Democracy program, J.D. from Brooklyn Law School;. M.S. in Urban Affairs from Hunter College of the City Univ of New York. AGRAHARKAR- counsel for the Brennan Center’s Democracy Program ; J.D. from Columbia Law School, interned at the Department of Justice Civil Rights Division and the Texas Civil Rights Project) Published by the Brennan Center for Justice at NY Univ. School of Law, “The Cost of Voter ID Laws: What the Courts Say” Feb. 17 2011, <http://www.brennancenter.org/sites/default/files/legacy/Democracy/Voter%20ID%20Cost%20Memo%20FINAL.pdf>

Finally, states that enact voter ID laws will have to incur the administrative costs associated with training officials and poll workers to administer the new requirements, developing new materials, and expanding the use of provisional ballots. Every new election regulation entails basic administrative transition costs to develop new materials and train officials. Expanded poll worker training is particularly important for states that enact photo ID laws, which are too often enforced in a discriminatory manner. In addition to those costs, photo ID laws will require states to deal with the ongoing costs of increased provisional balloting. Even after states ensure that photo IDs are free, readily accessible to all voters, and well publicized, some voters will nevertheless fail to either obtain or bring their ID to the polls on Election Day. Under the Help America Vote Act (“HAVA”), those voters must be given provisional ballots. States with voter ID requirements will see a significant increase in the number of provisional ballots cast, which will lead to substantial additional administrative costs each election.

NEGATIVE: LOWERING THE VOTING AGE

(Simon Sefzik researched most of the evidence in this brief.)

STRATEGY NOTES

**Our view of teenagers:** You will have to portray 16 year olds as into cars, music etc. and not ready for serious life-changing events like voting. The affirmative team is acting like allowing teenagers to vote will be a great “experience” for them, but point out that voting is serious – and it can literally affect the future of everybody in America.

**Burden of proof:** You will have to shift it back to the AFF, where it belongs. Under Disadvantage 1 there is evidence saying that 16 year olds are not mature enough to make decisions. You can also use this quote: "If it is not necessary to change, it is necessary not to change”[[1]](#footnote-1)

**Plan:** There’s room to explore the tensions in society between what is legal at various ages and why we choose those points in life. Since AFF is not changing the age of a legal “adult” (that would be extra-topical), what can 16 year olds “not” do while being legally allowed to vote? Do those have any bearing on voting?

OVERVIEW / BACKGROUND / PHILOSOPHY / REVERSE ADVOCACY

Burden of proof – there’s no good reason to change the voting age. Aff needs to prove why we should

Victoria Monro 2013. (philosophy and economics undergraduate student at UCL. Journalist & News reporter, writer on the electoral system.) Back Bencher, “Votes at 16 – Unnecessary and Unhelpful” March 13 2013, <http://thebackbencher.co.uk/votes-at-16-unnecessary-and-unhelpful/>

There’s no convincing argument for the voting age being lowered to 16, unless you’re a left-wing politician, given as most young people are left-wing by instinct and will likely add to your voters. I once heard an argument that said: if you come across a field, and there’s a random fence in the field, and you look at the fence and think “Why is this there? It can’t serve any purpose. I can’t think of a single thing that it does” – you should sit down and think until you find a reason. There is never anything done without a reason. And unless there’s a pressing reason why you should change something, you shouldn’t change it. In this case the fence is the voting age. We don’t know why it has to be 18, but we can’t find a convincing argument to reduce it. “If it is not necessary to change, it is necessary not to change” – Lord Falkland was spot on with this statement, and it readily applies to voting at 16.

Voting age is a small problem

Jenny Diamond Cheng 2012. (B.A. in philosophy from Swarthmore College , J.D. from Harvard Law School, Ph.D. in political science from the University of Michigan. Visiting assistant professor of law at Brooklyn Law School and a Miller Center Fellow in Public Affairs at the University of Virginia.) New York Times, “Leave the Voting Age Alone”, June 28 2012, <http://www.nytimes.com/roomfordebate/2012/05/28/do-we-need-to-redefine-adulthood/leave-the-voting-age-alone> (also available at <http://mbcalyn.com/tag/voter-id-laws-united-states/>)

Interest in improving young adults' political participation would be better focused on attacking barriers like residency requirements that exclude college students and voter ID laws that disfavor young and mobile voters, sometimes egregiously. Tennessee's new law, for example, specifically disallows students, but not university employees, from using state university ID cards at the polls. More broadly, young Americans suffer from the same challenges to meaningful representation and governance that plague our democracy at all levels. The voting age is the least of their problems.

Overview: All the main arguments for lowering the voting age are wrong.

Victoria Monro 2013. (philosophy and economics undergraduate student at UCL. Journalist & News reporter, writer on the electoral system.) Back Bencher, “Votes at 16 – Unnecessary and Unhelpful” March 13 2013, <http://thebackbencher.co.uk/votes-at-16-unnecessary-and-unhelpful/>

It’s interesting to consider many individuals’ motive for wanting to give 16-year-olds the right to vote in Parliamentary and local elections. The conventional ones are: that many young people are politically aware, more so than many adults and deserve a say; that there should not be taxation without representation, so young people should be permitted to vote as they are indeed taxpayers; that young people are able to undertake more serious responsibilities (such as marriage, entering the army) and voting is not as serious as that, plus an assortment of other arguments that essentially suggest there’s no difference between 16-year-olds and 18-year-olds, therefore the former should be able to vote if the latter can. These arguments are all flawed. Every argument put forth has errors in its logical make-up that determine that it cannot be grounds for a constitutional change in how we apply democratic principles in our country.

16 year olds are not responsible enough to vote

Ellie Levenson 2004. (journalist and author in the United Kingdom. Lectures part-time in journalism at Goldsmiths College, University of London, and on the London Programme of Syracuse University. Undergraduate degree in English Language and Literature at Manchester University, postgraduate diploma in journalism at City University, Author of 2 award winning books.) The Independent, “The voting age should be raised, not lowered” 19 April 2004 <http://www.independent.co.uk/voices/commentators/ellie-levenson-the-voting-age-should-be-raised-not-lowered-560411.html>

But the second reason, and most important one, is that the majority of 16 year olds are just not responsible enough or mature enough to have the vote. Those who argue against this use the bundling of rights argument: the age of consent is 16, people can get married at 16, people can join the armed forces at 16, and that there should be no taxation without representation. Therefore, they think, it follows that 16-year-olds should also have the vote.

MATURITY / KNOWLEDGE CAPABILITIES – Not sufficient

Dartmouth Study: Even college students are not psychologically mature.

Ed West 2010. (author, journalist and political commentator, who is the deputy editor of the The Catholic Herald. Author of 2 books. Policy analyst the Telegraph.) “We should raise the voting age to 21, not reduce it to 16” Feb 15 1010 <http://blogs.telegraph.co.uk/news/edwest/100026061/we-should-raise-the-voting-age-to-21-not-reduce-it-to-16/>

Dr Jay N Giedd of the Child Psychiatry Branch of the National Institute of Mental Health argued that in humans the frontal lobe, the part of the brain associated with higher mental functions, only reaches maturity in the late 20s. Abigail Baird and Craig Bennett of Dartmouth College found in a 2006 study that college students were – surprise, surprise – not physiologically mature. "The brain of an 18-year-old college freshman is still far from resembling the brain of someone in their mid-twenties," Bennett said. "When do we reach adulthood? It might be much later than we traditionally think."

Not mature enough: some parts of the human brain are still developing at age 16

Prof. Laurence Steinberg PHD 2012.(distinguished university professor of psychology at Temple University, member of theMacArthur Foundation Research Network on Law and Neuroscience.. Vassar College- degree in Psychology in ,Cornell University - Ph.D. in Developmental Psychology. Past-President of the Division of Developmental Psychology of the American Psychological Association and a former President of the Society for Research on Adolescence.) New York Times, What the Brain Says About Maturity , May 29 2012, <http://www.nytimes.com/roomfordebate/2012/05/28/do-we-need-to-redefine-adulthood/adulthood-what-the-brain-says-about-maturity>

Maybe, but it’s not as straightforward as it seems, for at least two reasons. First, different brain regions and systems mature along different timetables. There is no single age at which the adolescent brain becomes an adult brain. Systems responsible for logical reasoning mature by the time people are 16, but those involved in self-regulation are still developing in young adulthood. This is why 16-year-olds are just as competent as adults when it comes to granting informed medical consent, but still immature in ways that diminish their criminal responsibility, as the Supreme Court has noted in several recent cases. Using different ages for different legal boundaries seems odd, but it would make neuroscientific sense if we did it rationally.

Some parts of the brain are still maturing at 20

Dr. Laurence Steinberg 2012. (professor of psychology at Temple Univ, member of MacArthur Foundation Research Network on Law and Neuroscience.. Vassar College- degree in Psychology in ,Cornell University - Ph.D. in Developmental Psychology. Past-President of the Division of Developmental Psychology of the American Psychological Association and a former President of the Society for Research on Adolescence.) New York Times, What the Brain Says About Maturity , May 29 2012, <http://www.nytimes.com/roomfordebate/2012/05/28/do-we-need-to-redefine-adulthood/adulthood-what-the-brain-says-about-maturity>

Neuroscientists now know that brain maturation continues far later into development than had been believed previously. Significant changes in brain anatomy and activity are still taking place during young adulthood, especially in prefrontal regions that are important for planning ahead, anticipating the future consequences of one’s decisions, controlling impulses, and comparing risk and reward. Indeed, some brain regions and systems do not reach full maturity until the early or mid-20s. Should this new knowledge prompt us to rethink where we draw legal boundaries between minors and adults?

Youth are no more politically knowledgeable today than in the past – Age 16 voting not justified.

Dr. Ian McAllister 2012. (Distinguished Professor of Political Science at The Australian National University, former Director of the Research School of Social Sciences at the ANU. Was chair of the Comparative Study of Electoral Systems project . Fellow of the Academy of the Social Sciences in Australia; PhD, BA & MSc.) Australian Electoral Commission, “The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence” Nov 20 2012, <http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf>

There is a vigorous international debate about lowering the voting age to 16, with some jurisdictions already moving in this direction. Using evidence from Australia, this paper evaluates empirically the arguments put forward by supporters of lowering the voting age. The findings suggest that there is only partial support for lowering the voting age in order to bring it into line with other government-regulated activities. There is no evidence that lowering the voting age would increase political participation; indeed, the evidence points in the opposite direction. And despite the rapid expansion of university education, young people are no more politically knowledgeable today than they were in the past. Modelling the partisan impact of extending the vote to 16 and 17 year olds suggests little, if any, change. Overall, the arguments for lowering the voting age do not stand up to empirical scrutiny.

16 year olds are not yet mature enough to vote

Ellie Levenson 2004. (journalist and author in the United Kingdom. Lectures part-time in journalism at Goldsmiths College, University of London, and on the London Programme of Syracuse University. Undergraduate degree in English Language and Literature at Manchester University, postgraduate diploma in journalism at City University, Author of 2 award winning books.) The Independent, “The voting age should be raised, not lowered” 19 April 2004 <http://www.independent.co.uk/voices/commentators/ellie-levenson-the-voting-age-should-be-raised-not-lowered-560411.html>

It is during a person's teenage years that they are most likely to be exposed to new ideas and points of view, be it through school, the new people they meet or from the media. This is the age at which people should be able to think through their political ideas and change them at will, debate and try out policies without having to act on them and without having to take responsibility for their ideas.And it is at this age that teenagers are at their most rebellious and negative stage, a time when they are more keen on making a statement than acting responsibly. Rebellion against your parents' taste in music and their rules is one thing; let's not make that part of the democratic process by which our government is elected.

“You can get married at 16 etc.” Response: Parental consent is required to marry at 16, does that mean parental consent should be necessary to vote at 16?

Ellie Levenson 2004. (journalist and author in the United Kingdom. Lectures part-time in journalism at Goldsmiths College, University of London, and on the London Programme of Syracuse University. Undergraduate degree in English Language and Literature at Manchester University, postgraduate diploma in journalism at City University, Author of 2 award winning books.) The Independent, “The voting age should be raised, not lowered” 19 April 2004 <http://www.independent.co.uk/voices/commentators/ellie-levenson-the-voting-age-should-be-raised-not-lowered-560411.html> (Note: This is talking about the UK, but the law is the same in the US when it comes to marriage.)

To get married in England and Wales people under 18 require parental consent. Do we want people to ask for parental consent to vote for a party of their choice? And how many of us really think a 16-year-old is capable of making a life-changing and legally binding decision such as marriage? Financial institutions certainly do not think so. You must be 18 to sign binding contracts or to own land in your own name. Therefore 16-year-olds, married with parental permission or not, cannot apply for a mortgage or own the house in which they live. Similarly, under 18s need parental consent to join the armed forces, and in normal circumstances are not deployed on operations until they are 18. In fact, the UN supports raising the age of joining the forces to 18.

TAXATION WITHOUT REPRESENTATION - Responses

“16 year olds pay taxes” Response: So do tourists and temporary residents.

Dr. Ian McAllister 2012. (Distinguished Professor of Political Science at The Australian National University, former Director of the Research School of Social Sciences at the ANU. Was chair of the Comparative Study of Electoral Systems project . Fellow of the Academy of the Social Sciences in Australia. PhD, BA & MSc.) Australian Electoral Commission, “The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence” Nov 20 2012, <http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf>

A related equity argument concerns taxation, and it is argued that 16 and 17 year olds pay tax so they should therefore have the right to vote under the principle of ‘no taxation without representation.’ However, this logic applies equally to those under 16, as well as to tourists and to temporary residents who also pay tax. In any event, most of those in this age category are school students who are financially dependent on their parents. They therefore may pay indirect tax on what they buy, but few will pay income tax.

“Taxation without representation” Response: A ten year old pays tax at McDonald’s.

Note: this card is specifically talking about the Value Added Tax imposed on goods sold in Britain. However, the same principle applies with sales taxes in the United States.

Ellie Levenson 2004. (journalist and author in the United Kingdom. Lectures part-time in journalism at Goldsmiths College, University of London, and on the London Programme of Syracuse University. Undergraduate degree in English Language and Literature at Manchester University, postgraduate diploma in journalism at City University, Author of 2 award winning books.) The Independent, “The voting age should be raised, not lowered” 19 April 2004 <http://www.independent.co.uk/voices/commentators/ellie-levenson-the-voting-age-should-be-raised-not-lowered-560411.html>

As for no taxation without representation, all young people pay tax if they spend money - VAT. A 10- year-old spending their pocket money on a burger in McDonald's or on a CD pays tax. Does this mean they should be given the vote? Or does this argument just refer to income tax, in which case, if tax is so inextricably tied up with voting rights. do they think the vote should be taken away from those whose incomes do not reach the threshold for paying income tax? But whether or not a taxpayer, spouse, parent or soldier, 16-year-olds should not have the vote.

“Taxation without representation” Response: This also applies to criminals, the insane, and anybody that buys anything.

Victoria Monro 2013. (philosophy and economics undergraduate student at UCL. Journalist & News reporter, writer on the electoral system.) Back Bencher, “Votes at 16 – Unnecessary and Unhelpful” March 13 2013, <http://thebackbencher.co.uk/votes-at-16-unnecessary-and-unhelpful/>

There shouldn’t be taxation without representation? Interesting argument. A 12 year old who does a newspaper round, and spends their income pays VAT – do we want them to vote? Someone who is determined to be medically insane can buy a newspaper – are we suggesting they should vote? Seems to me, this argument is “when it suits us, people who pay tax should be able to vote”. The principle doesn’t apply to most people, just this small group of politically active young people, and unless we’re changing the argument to include criminals, the insane, and 10 year olds, the argument fails to convince.

SOLVENCY

“Increase political participation “ Response: No evidence to support it, actually points the opposite way

Dr. Ian McAllister 2012. (Distinguished Professor of Political Science at The Australian National University, former Director of the Research School of Social Sciences at the ANU. Was chair of the Comparative Study of Electoral Systems project . Fellow of the Academy of the Social Sciences in Australia. PhD, BA & MSc.) Australian Electoral Commission, “The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence” Nov 20 2012, <http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf>

There is a vigorous international debate about lowering the voting age to 16, with some jurisdictions already moving in this direction. Using evidence from Australia, this paper evaluates empirically the arguments put forward by supporters of lowering the voting age. The findings suggest that there is only partial support for lowering the voting age in order to bring it into line with other government-regulated activities. There is no evidence that lowering the voting age would increase political participation; indeed, the evidence points in the opposite direction. And despite the rapid expansion of university education, young people are no more politically knowledgeable today than they were in the past. Modelling the partisan impact of extending the vote to 16 and 17 year olds suggests little, if any, change. Overall, the arguments for lowering the voting age do not stand up to empirical scrutiny.

“Enhances voter turnout/political participation” Response: Study showed lowering the voting age reduced voter turnout by 5%.

Dr. Ian McAllister 2012. (Distinguished Professor of Political Science at The Australian National University, former Director of the Research School of Social Sciences at the ANU. Was chair of the Comparative Study of Electoral Systems project . Fellow of the Academy of the Social Sciences in Australia. PhD, BA & MSc.) Australian Electoral Commission, “The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence” Nov 20 2012, <http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf>

The argument that lowering the voting age will increase turnout is not supported by the evidence. Blais (2000, 2006) and many others have shown that turnout increases with age, so that, other things being equal, turnout should be higher if the minimum voting age is 21 rather than 18. In a study of 324 national elections across 91 countries, Blais and Dobrzynska (1998: 246) found that ‘everything else being equal, turnout is reduced by almost two points when the voting age is lowered one year.’ Lowering the voting age from 21 to 18 therefore reduced turnout by about 5 percentage points. Franklin (2004), analyzing a smaller group of countries, estimated the decline in turnout due to lowering the vote age to be about 3 percentage points.

Methodology for study above

Dr. Ian McAllister 2012. (Distinguished Professor of Political Science at The Australian National University, former Director of the Research School of Social Sciences at the ANU. Was chair of the Comparative Study of Electoral Systems project . Fellow of the Academy of the Social Sciences in Australia. PhD, BA & MSc.) Australian Electoral Commission, “The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence” Nov 20 2012, <http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf>

The evidence from 14 established democracies that lowered the voting age between 1970 and 1992 suggests that in the majority of cases, turnout declined. The estimate is made by comparing the average turnout in the two national elections prior to the change with the average turnout in the two national elections following the change.13 Across the 14 countries in Table 4, turnout decreased by an average of 2.7 percent, ranging from 9.3 percent in France to 0.5 percent in Ireland. Turnout increased in only two of the 14 countries: Germany, where it increased by 4.2 percent; and Sweden, where it increased by 2.4 percent.

“Increases involvement/interest in politics” Response: The opposite is true.

Dr. Ian McAllister 2012. (Distinguished Professor of Political Science at The Australian National University, former Director of the Research School of Social Sciences at the ANU. Was chair of the Comparative Study of Electoral Systems project . Fellow of the Academy of the Social Sciences in Australia. PhD, BA & MSc.) Australian Electoral Commission, “The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence” Nov 20 2012, <http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf>

A related argument that is often used by supporters of lowering the voting age is that sooner people begin voting, the more likely they are to participate in elections in later life. The logic, then, is that if people vote at an earlier age, then the habit of voting will become more strongly entrenched. start, more likely to do it. However, as we saw earlier, the lowering of the voting age to 18 resulted in lower turnout, so the newly enfranchised 18 year olds will have learned abstention rather than voting. Franklin (2004) shows evidence to support this and points out that a small decline in turnout is magnified over successive age cohorts; he argues that the declining turnout observed across many established democracies is a consequence of lowering the voting age in the early 1970s. As he puts it, ‘the socializing experience of the act of voting (or non-voting) will have tended to lock in the lower turnout of the newly enfranchised 18 year olds’ (p.64).

“Increased political involvement” - Response: Political interest is generally lower among young people. Example: Australia – only 17% were interested in politics.

Dr. Ian McAllister 2012. (Distinguished Professor of Political Science at The Australian National University, former Director of the Research School of Social Sciences at the ANU. Was chair of the Comparative Study of Electoral Systems project . Fellow of the Academy of the Social Sciences in Australia. PhD, BA & MSc.) Australian Electoral Commission, “The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence” Nov 20 2012, <http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf>

Political interest is generally lower among young people than among their older counterparts (see, for example, Russell et al, 2002). The trends for Australia in Figure 2 for the 2007 and 2010 surveys combined confirm the importance of age in shaping political interest. Among the two youngest age groups, just 17 percent said they were interested in politics ‘a good deal’, compared to around 50 percent for those aged over 60. As with intended turnout, there is a slight decline in interest among those aged in their late 30s and early 40s, before the strong upward trend again resumes. These trends are very close to those found in Britain, which show a continuous upward trend across virtually the whole lifecycle, as is found here (Chan and Clayton, 2006: 542-3).

“Political interest/maturity” Response: Interest is still low – young people aren’t engaged in politics

Dr. Ian McAllister 2012. (Distinguished Professor of Political Science at The Australian National University, former Director of the Research School of Social Sciences at the ANU. Was chair of the Comparative Study of Electoral Systems project . Fellow of the Academy of the Social Sciences in Australia. PhD, BA & MSc.) Australian Electoral Commission, “The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence” Nov 20 2012, <http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf>

According to Chan and Clayton (2006: 542), ‘political maturity is the pivotal issue in the debate over the voting age.’ Based on the evidence presented here, the increasing prevalence of tertiary education within the electorate has not resulted in greater political maturity. Political interest remains relatively low, while it has increased across the population, and political knowledge remains significantly lower among the young than among older voters. There are, of course, limitations in these estimates. Political interest is only one measure of political involvement, and it may not measure the potential of young people to be engaged with the political process (see Dalton, 2008). Similarly, the political knowledge items reflect factual knowledge only and are also available only over a short period. Nevertheless, the results do question the assertion that young people are politically more mature now than in the past.

“Maturity will increase if they can vote” Response: No empirical evidence for this

Dr. Johannes Bergh 2013. (PHD, Master’s Degree in political science from the University of Oslo Research Fellow with the Institute for Social Research, Visiting the University of California, Berkeley) Institute for social research. “16- and 17-year-olds have a lower level of political maturity than 18-year-olds” April 25 2013 <http://www.socialresearch.no/News/View-older-news/16-and-17-year-olds-have-a-lower-level-of-political-maturity-than-18-year-olds>

- There is no evidence to indicate that adolescent maturity levels go up when the voting age is lowered. Voting rights do not affect the political maturity of 16- and 17-year-olds, says Johannes Bergh. In the article “Does Voting Rights Affect the Political Maturity of 16- and 17-year-olds? Findings from the 2011 Norwegian Voting-Age Trial.” he studies the political maturity amongst young voters.

DISADVANTAGES

1. Slippery Slope to infants voting.

“18 & 16 are practically the same” Response: This argument leads to a very slippery slope. The difference between 16 year olds & 15 year olds are also small.

Victoria Monro 2013. (philosophy and economics undergraduate student at UCL. Journalist & News reporter, writer on the electoral system.) Back Bencher, “Votes at 16 – Unnecessary and Unhelpful” March 13 2013, <http://thebackbencher.co.uk/votes-at-16-unnecessary-and-unhelpful/>

Finally, to the argument that there’s no difference between 16 year olds and 18 year olds: rather than fall into a discussion of whether there is the case, which is lengthy, complicated and arguably highly subjective, I’ll concede. The difference between a 16 and an 18 year old is not significant enough to warrant voting being a discriminatory factor. So we give 16 year olds the vote. There’s little difference between a 15 year old and a 16 year old. So do we give 15 year olds the vote? Do we keep going, every few years using this argument to lower the age? When does a collection of sand grains become a pile of sand? How many water molecules need to come together to form water? You can keep redefining it ’til you’re blue in the face; you’ll end up with 6-month-old babies voting, because they’re not much different to 7-month-old babies. This, obviously, is absurd. But people who argue that 18 is arbitrary seem to suggest 16 is not arbitrary. No; 16 is equally arbitrary.

2. Poor voting decisions

Link: Teenagers are rebellious and are at a very negative stage.

Ellie Levenson 2004. (journalist and author in the United Kingdom. Lectures part-time in journalism at Goldsmiths College, University of London, and on the London Programme of Syracuse University. Undergraduate degree in English Language and Literature at Manchester University, postgraduate diploma in journalism at City University, Author of 2 award winning books.) The Independent, “The voting age should be raised, not lowered” 19 April 2004 <http://www.independent.co.uk/voices/commentators/ellie-levenson-the-voting-age-should-be-raised-not-lowered-560411.html>

It is during a person's teenage years that they are most likely to be exposed to new ideas and points of view, be it through school, the new people they meet or from the media. This is the age at which people should be able to think through their political ideas and change them at will, debate and try out policies without having to act on them and without having to take responsibility for their ideas.And it is at this age that teenagers are at their most rebellious and negative stage, a time when they are more keen on making a statement than acting responsibly. Rebellion against your parents' taste in music and their rules is one thing; let's not make that part of the democratic process by which our government is elected.

Impact: Voting is serious – democracy is at stake

Ellie Levenson 2004. (journalist and author in the United Kingdom. Lectures part-time in journalism at Goldsmiths College, University of London, and on the London Programme of Syracuse University. Undergraduate degree in English Language and Literature at Manchester University, postgraduate diploma in journalism at City University, Author of 2 award winning books.) The Independent, “The voting age should be raised, not lowered” 19 April 2004 <http://www.independent.co.uk/voices/commentators/ellie-levenson-the-voting-age-should-be-raised-not-lowered-560411.html>

As we all know, maturity rates in teenagers differ tremendously, both in terms of the ability to think through an argument logically and in terms of the ability to understand cause and effect and to take responsibility for their own actions. Some 16-years-olds look and act as if they are in their twenties. Others are still childlike and unable to take on responsibility or act independently. Voting is a serious matter. It is what makes a democracy, and must be taken seriously by all voters. I don't think most 16-year-olds are mature enough to vote. Some will be capable of voting (and having sex, getting married and joining the armed forces) at 16 - others will not be ready at 18. As the law must be arbitrary, we need the highest common denominator, and 18 is a better line than 16.

3. Political shift towards bigger federal spending

Link: Changes in enfranchisement can affect party support.

Dr. Ian McAllister 2012. (Distinguished Professor of Political Science at The Australian National University, former Director of the Research School of Social Sciences at the ANU. Was chair of the Comparative Study of Electoral Systems project . Fellow of the Academy of the Social Sciences in Australia. PhD, BA & MSc.) Australian Electoral Commission, “The Politics of Lowering the Voting Age in Australia: Evaluating the Evidence” Nov 20 2012, <http://www.aec.gov.au/About_AEC/research/caber/files/3b.pdf> (Note: This is talking about Australian numbers – however, the principle still applies that there will be bias.) (Brackets added for clarity)

Who votes can often determine the outcome of an election, particularly in a closely fought contest. Studies of turnout show that there are often distinct partisan biases based on the level of turnout (for a review, see Blais, 2007). Equally, changes to the franchise can introduce (or in some cases, exclude) groups from the electorate, with subsequent effects on party support. Such effects can be magnified in an electoral system that has compulsory voting, such as Australia’s, since the newly enfranchised groups are required to vote. Based on Australian Bureau of Statistics data for June 2010, there were an estimated 589,000 residents aged 16 or 17 [in Australia] within the population.

Link: Youth voters will move the electorate to the left

Victoria Monro 2013. (philosophy and economics undergraduate student at UCL. Journalist & News reporter, writer on the electoral system.) Back Bencher, “Votes at 16 – Unnecessary and Unhelpful” March 13 2013, <http://thebackbencher.co.uk/votes-at-16-unnecessary-and-unhelpful/>

There’s no convincing argument for the voting age being lowered to 16, unless you’re a left-wing politician, given as most young people are left-wing by instinct and will likely add to your voters. I once heard an argument that said: if you come across a field, and there’s a random fence in the field, and you look at the fence and think “Why is this there? It can’t serve any purpose. I can’t think of a single thing that it does” – you should sit down and think until you find a reason. There is never anything done without a reason. And unless there’s a pressing reason why you should change something, you shouldn’t change it. In this case the fence is the voting age. We don’t know why it has to be 18, but we can’t find a convincing argument to reduce it. “If it is not necessary to change, it is necessary not to change” – Lord Falkland was spot on with this statement, and it readily applies to voting at 16.

Link: Young voters support bigger government more than older voters

Michael Barone 2013. (journalist) 2 July 2013 « IN U.K. BUT NOT U.S., YOUNG VOTERS TURN AGAINST BIG GOVERNMENT” HUMAN EVENTS <http://www.humanevents.com/2013/07/02/in-u-k-but-not-u-s-young-voters-turn-against-big-government/>

Americans under 30 tend to support big government policies more than their elders. They’re likely to tell pollsters that government should do more to solve problems — a position rejected by most American voters over the last 30 years. This Millennial Generation was also far more likely to support Barack Obama, who won 66 percent of their votes in 2008 and 60 percent in 2012. Obama carried older voters by only 1 percent in 2008 and lost them to Mitt Romney in 2012.

Link: Bigger government drives bigger deficits

Dr. Daniel J. Mitchell 2009. ( PhD economics, George Mason Univ.) 29 Dec 2009 Who’s To Blame for the Massive Deficit? <http://www.cato.org/publications/commentary/whos-blame-massive-deficit>

Big government won’t work any better for Obama than it did for Bush. America’s fiscal problem is excessive government spending, and deficits are merely a symptom of that underlying disease. If Obama wants to rejuvenate the economy, he should abandon the Bush policies of big government and interventionism and instead go with free market policies that actually work.  
  
**IMPACT ON NEXT PAGE**

Impact: Every increase in the deficit hurts the economy

Dr William Gale and Benjamin Harris 2011. (Gale - PhD in economics, Stanford Univ.; senior fellow at the Brookings Institution and co-director of the Urban-Brookings Tax Policy Center; former assistant professor in the Department of Economics at UCLA, and a senior economist for the Council of Economic Advisers under President George H.W. Bush; Harris - master’s degree in economics from Cornell University and a master’s degree in quantitative methods from Columbia University; senior research associate with the Economics Studies Program at the Brookings Institution) “A VAT for the United States: Part of the Solution” <http://www.taxanalysts.com/www/freefiles.nsf/Files/GALE-HARRIS-5.pdf/$file/GALE-HARRIS-5.pdf>

But even in the absence of a crisis, sustained deficits have deleterious effects, as they translate into lower national savings, higher interest rates, and increased indebtedness to foreign investors, all of which serve to reduce future national income. Gale and Orszag (2004a) estimate that a 1 percent of GDP increase in the deficit will raise interest rates by 25 to 35 basis points and reduce national saving by 0.5 to 0.8 percentage points of GDP.

4. Administrative problems at the state level

Link: Affirmative can only fiat that the voting age drops for federal elections, not state and local. Only federal election law is within the scope of the resolution, the others are extra-topical.

Link: This means there will be 2 voting ages: 16 for Representatives, Senators and President, and 18 for everything else (like governor, state representatives, school boards, county commissioners, etc.). States are going to have to print separate ballots and have extra costs to administer separate voting for federal and state elections simultaneously.

Link / Historical Example: This was a problem right before the 26th Amendment was enacted, because the voting age in federal elections was lowered to 18 in 1970, but not for state elections. This leads to massive administration costs and higher risk of voting fraud

Jenny Diamond Cheng 2008. (PhD candidate, political science, Univ. of Michigan) UNCOVERING THE TWENTY-SIXTH AMENDMENT, <http://deepblue.lib.umich.edu/bitstream/handle/2027.42/58431/jdiamond_1.pdf?sequence=1>

With the 1972 elections looming, the Supreme Court quickly agreed to hear a set of cases challenging the constitutionality of the eighteen-year-old voting provision, as well as two other provisions of the newly amended Voting Rights Act. The case was argued on October 19, 1970, and the Court rendered its decision a scant two months later, on December 21. In Oregon v. Mitchell, the Court handed down a remarkably messy collection of fractured opinions. Justice Black, writing for the majority, upheld the eighteen-year-old voting statute with respect to federal elections, but struck it down as it applied to state and local elections. However, Black was essentially writing for a majority of one: Four Justices—Douglas, Brennan, White, and Marshall—maintained that the voting age provision was a legitimate exercise of Congressional authority with respect to both federal and state elections. Chief Justice Burger and Justices Harlan, Stewart, and Blackmun asserted that Congress did not have constitutional authority to lower the voting age in either state or federal elections. Black’s position, then, that Congress had extensive power to set the qualifications for national elections but sharply limited authority to interfere in state elections, expressed the judgment of a majority on both points and therefore became the binding opinion of the Court. For the forty-seven states that had minimum voting ages over eighteen, the Supreme Court decision presented a massive administrative problem. State election officials reported that the costs of administering a dual-age voting system—with one age limit for elections of federal officials and another for elections of state and local officials—would be staggering. Many worried that the logistical complications would create serious delay and increase the possibility of election fraud.

Brink: States face budget risks – revenues are uncertain, and sharp pullbacks could happen.

John Silvia, Natalie Cohen, Michael Brown and Roy Eappen 2013. (all work for Wells-Fargo Securities. Silvia – Chief Economist. Cohen – Managing Director. Brown – Economist. Eappen – Associate) 9 July 2013 “FY 2014 State Budgets and Beyond “ <https://www.wellsfargo.com/downloads/pdf/com/insights/economics/special-reports/FY2014_State_Budgets_07092013.pdf>

While the outlook continues to improve for state revenue growth, risks remain on the horizon beyond the next fiscal year. Besides the possibility of further federal budget reductions from sequestration, there is a risk that the sharp pullback in state personal income growth will continue through the end of the year and adversely affect both income and sales tax collections. Over the longer term, we expect to see periodic budget volatility in states with high unfunded pension and retiree health benefits and recalcitrant lawmakers—such as (but not exclusively) New Jersey, Illinois, and Puerto Rico—whether in reaction to the threat of a ratings downgrade or future revenue contraction.

Impact 1: Hurting state budgets is bad for jobs, education, health care, and the economy

Elizabeth McNichol 2012. ( Senior Fellow specializing in state fiscal issues, with Center on Budget and Policy Priorities; former staff member of the Joint Finance Committee for the State of Wisconsin Legislature specializing in property taxes and state aid to local governments; M.A. in Political Science from the Univ of Chicago) Out of Balance - Cuts in Services Have Been States’ Primary Response to Budget Gaps, Harming the Nation’s Economy 18 Apr 2012 <http://www.cbpp.org/cms/?fa=view&id=3747>

The state budget gaps of the last five years led to $290 billion in cuts to public services and $100 billion in tax and fee increases. Those actions lengthened the recession and delayed the recovery. Because spending reductions were dominant, hundreds of thousands of jobs were lost; undermining education, health care and other state priorities, which likely will cause future economic harm to states.

Impact 2: Increased risk of voting fraud. (mentioned in the link card above) – Self-evidently bad, since fraudulent voting violates democracy.

5. Fairness violation. A lot of 16 year olds also don’t pay taxes – so they could vote & place greater economic burdens on taxpayers

Calvin Wolf 2013.(Political journalist, professional writer & educator with Yahoo News. Lecturer on social studies) Yahoo News, “Town Lowering Voting Age to 16 Should Think Twice” Accessed 8/19/13, May 15 2013, <http://voices.yahoo.com/town-lowering-voting-age-16-think-twice-12139283.html>

Secondly, many 16- and 17-year-olds do not pay taxes. Therefore, is it fair to let them vote on local issues that could place greater economic burdens on taxpayers? All 16- and 17-year-old voters could eagerly vote en masse for legislation that would bestow more money on schools or youth-frequented activities, programs, or businesses, not facing the economic burdens themselves. They could then go off to college, sticking the grown-ups with the recurring bill.

6. Voter intimidation. 16-17 year olds are vulnerable to intimidation in different ways than 18 year olds

Calvin Wolf 2013.(Political journalist, professional writer & educator with Yahoo News. Lecturer on social studies) Yahoo News, “Town Lowering Voting Age to 16 Should Think Twice” Accessed 8/19/13, May 15 2013, <http://voices.yahoo.com/town-lowering-voting-age-16-think-twice-12139283.html>

Third, these younger voters may be vulnerable to voter intimidation from friends and family. Voters age 18 and over have greater ability to protect themselves from coercion or intimidation. An 18-year-old "black sheep" in an overbearingly liberal or conservative family can, if the situation gets extreme enough, move out. A 16- or 17-year-old, by contrast, may be legally prevented from signing an apartment lease or leaving the family home. They cannot drop out of school without parental consent or easily secure full-time employment, either. For better or worse, 16-year-olds are often still squarely under family protection (and coercion). I worry about parents overly influencing their teens' votes.

NEGATIVE: REINSTATING THE VOTING RIGHTS ACT

**NEGATIVE PHILOSOPHY / OVERVIEW**

**Voting Rights Act was never intended to be permanent. Originally it was set to expire after 5 years**

Chief Justice John Roberts 2013. Majority opinion of the court in Shelby County v. Holder, 25 June 2013 <http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf> (brackets in original)

Shortly before enactment of the Voting Rights Act, only 19.4 percent of African-Americans of voting age were registered to vote in Alabama, only 31.8 percent in Louisiana, and only 6.4 percent in Mississippi. Id., at 313. Those figures were roughly 50 percentage points or more below the figures for whites. Ibid. In short, we concluded that “[u]nder the compulsion of these unique circumstances, Congress responded in a permissibly decisive manner.” Id., at 334, 335. We also noted then and have emphasized since that this extraordinary legislation was intended to be temporary, set to expire after five years.

AFFIRMATIVE PHILOSOPHY CRITIQUES

**“I Have A Dream” – We’re living it today. The town (Selma, Ala.) where John Lewis was beaten up in the 1960s for advocating black voting rights now has a black mayor**

Chief Justice John Roberts 2013. Majority opinion of the court in Shelby County v. Holder, 25 June 2013 <http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf>

During the “Freedom Summer” of 1964, in Philadelphia, Mississippi, three men were murdered while working in the area to register African-American voters. See United States v. Price, 383 U. S. 787, 790 (1966). On “Bloody Sunday” in 1965, in Selma, Alabama, police beat and used tear gas against hundreds marching in support of African-American enfranchisement. See Northwest Austin, supra, at 220, n. 3 (THOMAS, J., concurring in judgment in part and dissenting in part). Today both of those towns are governed by African-American mayors.

Circular reasoning about the need for VRA: No one can ever prove that conditions have improved, because AFF will say any jurisdiction with a clean record on discrimination must be because VRA is deterring them from going bad. The result is that VRA becomes immune from scrutiny – we can never question it.

Chief Justice John Roberts 2013. Majority opinion of the court in Shelby County v. Holder, 25 June 2013 <http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf>

Respondents do not deny that there have been improvements on the ground, but argue that much of this can be attributed to the deterrent effect of §5, which dissuades covered jurisdictions from engaging in discrimination that they would resume should §5 be struck down. Under this theory, however, §5 would be effectively immune from scrutiny; no matter how “clean” the record of covered jurisdictions, the argument could always be made that it was deterrence that accounted for the good behavior.

To win, AFF must argue, against the evidence, that citizens in the South are more racist than in the North

Hans von Spakovsky 2013. (JD from Vanderbilt Univ. School of Law; Manager, Civil Justice Reform Initiative and Senior Legal Fellow at Heritage Foundation; formerly with the Justice Department, where he worked on enforcing the Voting Rights Act. “Inside the Supreme Court: Arguments on the Voting Rights Act” 27 Feb 2013 (Verrilli was the attorney arguing for the Justice Department in Shelby County v. Holder <http://blog.heritage.org/2013/02/27/supreme-court-arguments-on-voting-rights-act/>

When the Chief Justice asked Verrilli whether citizens of the South are today more racist than citizens of the North (and therefore should be under special supervision by the federal government), Verrilli refused to answer the question. Verrilli was forced to admit to the Chief Justice that in 2005, the year before Section 5 was renewed because of the supposed continuing pattern of “widespread” discrimination in covered states, the Justice Department lodged only one objection to 3,700 submissions. That is hardly evidence of a continuing pattern of persistent discrimination in the covered jurisdictions.

INHERENCY

Other means of voting rights enforcement still exist: Federal lawsuits are being filed

Hans von Spakovsky 2013. (JD from Vanderbilt Univ. School of Law; Manager, Civil Justice Reform Initiative and Senior Legal Fellow at Heritage Foundation; formerly with the Justice Department as counsel to the assistant attorney general for civil rights, where he worked on enforcing the Voting Rights Act. ) 30 July 2013 More Voting-Rights Challenges from Holder <http://www.heritage.org/research/commentary/2013/7/more-voting-rights-challenges-from-holder>

The Washington Post reports that Eric Holder plans to file voting-rights challenges not only against Texas, which the DOJ did last week, but against a number of other states, too. These challenges are part of a crusade to, as Holder says, “use every tool” at the Obama administration’s disposal to continue federal oversight of the states in this area, despite the Supreme Court’s decision last month in Shelby County v. Holder.

Federal lawsuits under VRA Section 3 (status quo) are better than Congressional revival of VRA section 5

Hans von Spakovsky 2013. (JD from Vanderbilt Univ. School of Law; Manager, Civil Justice Reform Initiative and Senior Legal Fellow at Heritage Foundation; formerly with the Justice Department as counsel to the assistant attorney general for civil rights, where he worked on enforcing the Voting Rights Act. ) 30 July 2013 More Voting-Rights Challenges from Holder <http://www.heritage.org/research/commentary/2013/7/more-voting-rights-challenges-from-holder>

We hope that Texas and the other states targeted by the DOJ will put up a vigorous defense. We have to admit, however, that in one sense we are happy to see Holder’s lawsuits, as opposed to a congressional effort to revive Section 5. In all likelihood, new voting-rights laws would either curtail perfectly reasonable election-integrity laws (such as those requiring voter identification) or facilitate racially gerrymandered and segregated districts (the principal use to which Section 5 has been put). This lawsuit also shows that despite the demise of Section 5, there is no shortage of federal statutes — such as Section 3 of the VRA, which underpins Holder’s lawsuits — that can be used to combat racial discrimination in voting. The only difference now is that the government will actually have to prove that racial discrimination is occurring — just as it does in any other civil-rights lawsuit. If Holder can prove this, as he apparently believes he can, the lawsuits will undermine the administration’s own claim that the Supreme Court has made vigorous enforcement of voting rights impossible.

Dept of Justice still has powerful tools to go after voting discrimination: Section 3 of VRA, and Attorney General Holder is using it

Hans von Spakovsky 2013. (JD from Vanderbilt Univ. School of Law; Manager, Civil Justice Reform Initiative and Senior Legal Fellow at Heritage Foundation; formerly with the Justice Department as counsel to the assistant attorney general for civil rights, where he worked on enforcing the Voting Rights Act. ) 30 July 2013 More Voting-Rights Challenges from Holder <http://www.heritage.org/research/commentary/2013/7/more-voting-rights-challenges-from-holder>

So this may well be an ideologically driven lawsuit, and Holder may not have the evidence to convince a court that Section 3 ought to be invoked against these states. But it does show that, contrary to the claims of critics of the Shelby County decision, the DOJ still has powerful tools under the Voting Rights Act to go after specific jurisdictions that discriminate, rather than using the outdated coverage of Section 5 that no longer reflects modern America.

HARMS/SIGNIFICANCE

Problem is miniscule: Only 5 VRA objections for every 10,000 election changes

Judge Stephen Williams 2012. (Senior Judge, United States Court of Appeals for the District of Columbia Circuit) dissenting opinion in Shelby County v. Holder, when the case was argued before the Court of Appeals for the D.C. Circuit before being appealed to the Supreme Court, 18 May 2012 <http://www.cadc.uscourts.gov/internet/opinions.nsf/D79C82694E572B4D85257A02004EC903/$file/11-5256-1374370.pdf>

(“The legislative history on the whole supports the view that Congress intended to reach any state enactment which altered the election law of a covered State in even a minor way.”). This obvious point is underscored by the miniscule and declining share of covered jurisdictions’ applications that draw Justice Department objections—with only five objections for every ten thousand submissions between 1998 and 2002.

Size of the problem is tiny: Between 1982-2004 the rate of VRA objections to local election laws was only 0.74%, and lower than that since 1994

William S. Consovoy 2013. (attorney; partner at Wiley Rein LLP) 1 July 2013 VOTING RIGHTS AFTER SHELBY COUNTY v. HOLDER A DISCUSSION & WEBCAST ON THE SUPREME COURT’S VOTING RIGHTS ACT DECISION <http://www.brookings.edu/~/media/events/2013/7/1%20voting%20rights%20act/20130701_voting_rights_transcript_pt1.pdf>

So I thought what might be, I thought, useful is to look at the objection rate, because that would cover all changes or any kind that have been submitted. So, the objection rate between 1982 and 2004 when Congress took it up again was .74 percent. That's 752 objections, over 12,000 jurisdictions, over 25 years. That's quite low. And if it's even possible, that actually misrepresents -- it's actually lower than that. In '82, the objection rate was 2.32 percent. In 2004 and 2005, it was .06 and .02 percent in those two years. And, actually, if you look at it, as the Miller decision in 1994, which was when the Supreme Court struck down what was called in those cases the "maximization policy," the objection rate really dropped. So, the year before Miller, there were 61 objection letters issued. In the year after Miller there were 7 objection letters issued. So, this is not to say that each objection isn't a real issue, I'm just saying, if you're talking about a disagreement over redistricting versus other issues, you might want to look at the sum total of how many objections there really were, as at least some measure of how big the problem is.

Black/white voter disparity problem disappeared long ago  
[Note: In context, the author is referring to Sec. 5 of the Voting Rights Act]

Hans A. von Spakovsky and Elizabeth Slattery 2013. (Spakovsky – JD from Vanderbilt Univ. School of Law; Manager, Civil Justice Reform Initiative and Senior Legal Fellow at Heritage Foundation; formerly with the Justice Department as counsel to the assistant attorney general for civil rights, where he worked on enforcing the Voting Rights Act. Slattery – JD from George Mason Univ. School of Law; Senior Legal Policy Analyst at Heritage Foundation) A Response to Ramesh — No Deference on Section 5 of the Voting Rights Act 26 June 2013 <http://www.heritage.org/research/commentary/2013/6/a-response-to-ramesh-no-deference-on-section-5-of-the-voting-rights-act>

Congress reauthorized Section 5 in 1970, 1975, 1982, and again in 2006, extending its life for another twenty-five years using voter turnout data based on the 1964, 1968, and 1972 presidential elections. Had Congress looked at more recent election data, it would have found that the jurisdictions currently covered by Section 5 have substantially higher minority turnout rates than many noncovered jurisdictions. The turnout disparity that Section 5 was intended to correct disappeared long ago, and according to a recent Census Bureau report, in many covered states, the turnout of black voters exceeds that of whites.

Problem solved: If modern data were used, no states would qualify to be under VRA preclearance criteria

Hans von Spakovsky 2013. (JD from Vanderbilt Univ. School of Law; Manager, Civil Justice Reform Initiative and Senior Legal Fellow at Heritage Foundation; formerly with the Justice Department as counsel to the assistant attorney general for civil rights, where he worked on enforcing the Voting Rights Act ) “Strike Down Section 5” 27 Feb 2013 <http://www.heritage.org/research/commentary/2013/2/strike-down-section-5>

Because the key symptom of the official, systematic voting discrimination that was occurring against black citizens in 1965 was low registration and turnout, coverage under Section 5 was based on registration or turnout below 50 percent in the 1964, 1968, or 1972 presidential elections. When Congress renewed Section 5 in 2006 for the fourth time, it did not update the triggering formula — the formula still uses data from the 1964, 1968, and 1972 elections, and the renewal lasts for 25 years. Had it done so, in all likelihood, all of the states currently covered would have dropped out.

**SOLVENCY**

1. Wrong jurisdictions.

The “covered jurisdictions” that are suspected of discrimination under VRA actually have better records on discrimination than the non-covered jurisdictions

Judge Stephen Williams 2012. (Senior Judge, United States Court of Appeals for the District of Columbia Circuit) dissenting opinion in Shelby County v. Holder, when the case was argued before the Court of Appeals for the D.C. Circuit before being appealed to the Supreme Court, 18 May 2012 <http://www.cadc.uscourts.gov/internet/opinions.nsf/D79C82694E572B4D85257A02004EC903/$file/11-5256-1374370.pdf>

There appears to be no positive correlation between inclusion in § 4(b)’s coverage formula and low black registration or turnout. Quite the opposite. To the extent that any correlation exists, it appears to be negative— condemnation under § 4(b) is a marker of higher black registration and turnout. Most of the worst offenders—states where in 2004 whites turned out or were registered in significantly higher proportion than African-Americans—are not covered. These include, for example, the three worst— Massachusetts, Washington, and Colorado. And in Alabama and Mississippi, often thought of as two of the worst offenders, African-Americans turned out in greater proportion than whites.

2. Old information. VRA is not reactive to current needs.

The criteria for VRA jurisdiction is based on long outdated statistics

Chief Justice John Roberts 2013. Majority opinion of the court in Shelby County v. Holder, 25 June 2013 <http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf>

Coverage today is based on decades-old data and eradicated practices. The formula captures States by reference to literacy tests and low voter registration and turnout in the 1960s and early 1970s. But such tests have been banned nationwide for over 40 years. §6, 84 Stat. 315; §102, 89 Stat. 400. And voter registration and turnout numbers in the covered States have risen dramatically in the years since. H. R. Rep. No. 109–478, at 12. Racial disparity in those numbers was compelling evidence justifying the preclearance remedy and the coverage formula. See, e.g., Katzenbach, supra, at 313, 329–330. There is no longer such a disparity. In 1965, the States could be divided into two groups: those with a recent history of voting tests and low voter registration and turnout, and those without those characteristics. Congress based its coverage formula on that distinction. Today the Nation is no longer divided along those lines, yet the Voting Rights Act continues to treat it as if it were.

VRA acts like history ended in 1965, and focuses on decades-old problems rather than current needs

Chief Justice John Roberts 2013. Majority opinion of the court in Shelby County v. Holder, 25 June 2013 <http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf> (brackets in original)

But history did not end in 1965. By the time the Act was reauthorized in 2006, there had been 40 more years of it. In assessing the “current need[]” for a preclearance system that treats States differently from one another today, that history cannot be ignored. During that time, largely because of the Voting Rights Act, voting tests were abolished, disparities in voter registration and turnout due to race were erased, and African-Americans attained political office in record numbers. And yet the coverage formula that Congress reauthorized in 2006 ignores these developments, keeping the focus on decades-old data relevant to decades-old problems, rather than current data reflecting current needs.

The preclearance coverage formula from 40 years ago is irrational today

Chief Justice John Roberts 2013. Majority opinion of the court in Shelby County v. Holder, 25 June 2013 <http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf>

There is no valid reason to insulate the coverage formula from review merely because it was previously enacted 40 years ago. If Congress had started from scratch in 2006, it plainly could not have enacted the present coverage formula. It would have been irrational for Congress to distinguish between States in such a fundamental way based on 40-year-old data, when today’s statistics tell an entirely different story. And it would have been irrational to base coverage on the use of voting tests 40 years ago, when such tests have been illegal since that time. But that is exactly what Congress has done.

Claims of VRA “deterrence” are unquantifiable and work like the elephant whistle.

Judge Stephen Williams 2012. (Senior Judge, United States Court of Appeals for the District of Columbia Circuit) dissenting opinion in Shelby County v. Holder, when the case was argued before the Court of Appeals for the D.C. Circuit before being appealed to the Supreme Court, 18 May 2012 <http://www.cadc.uscourts.gov/internet/opinions.nsf/D79C82694E572B4D85257A02004EC903/$file/11-5256-1374370.pdf> (ellipses in original)

As to the imputed deterrence, it is plainly unquantifiable. If we assume that it has played a role, how much should we inflate the covered states’ figures to account for it, and which covered states? Given much weight, the supposed deterrent effect would justify continued VRA renewals out to the crack of doom. Indeed, Northwest Austin’s insistence that “current burdens . . . must be justified by current needs,” 129 S. Ct. at 2512, would mean little if § 5’s supposed deterrent effect were enough to justify the current scheme. See Tr. of Oral Arg. at 28, Northwest Austin Municipal Utility Dist. No. One v. Holder, 129 S. Ct. 2504 (2009) (No. 08-322) (statement of Chief Justice Roberts) (“Well, that’s like the old—you know, it’s the elephant whistle. You know, I have this whistle to keep away the elephants. . . . Well, there are no elephants, so it must work.”).

DISADVANTAGES

1. 14th Amendment violations

Link: Preclearance standards create situations where a redistricting plan can be required by VRA Section 5 but would also at the same time violate the 14th Amendment

Judge Stephen Williams 2012. (Senior Judge, United States Court of Appeals for the District of Columbia Circuit) dissenting opinion in Shelby County v. Holder, when the case was argued before the Court of Appeals for the D.C. Circuit before being appealed to the Supreme Court, 18 May 2012 <http://www.cadc.uscourts.gov/internet/opinions.nsf/D79C82694E572B4D85257A02004EC903/$file/11-5256-1374370.pdf> (first brackets added; other brackets and ellipses in original)

Of course the most critical features of §[VRA section] 5 are the substantive standards it applies to the covered jurisdictions. Whether a proposed voting change can be precleared turns on whether it would have a retrogressive effect on minority voters. See Beer v. United States, 425 U.S. 130, 141 (1976). In practice this standard requires a jurisdiction not only to engage in some level of race-conscious decisionmaking, but also on occasion to sacrifice principles aimed at depoliticizing redistricting. Suppose a covered jurisdiction sought to implement what we may loosely call “good government” principles. It might, for example, delegate the task of redistricting to a computer programmed to apply criteria such as compactness, contiguity, conformity to existing political boundaries, and satisfaction of one person, one vote requirements. Despite these worthy goals, the resulting plan, if it happened to reduce the number of majority-minority districts, would fail preclearance, as the government acknowledged at oral argument. See Tr. of Oral Arg. at 37-38. As Justice Kennedy cautioned in Georgia v. Ashcroft, 539 U.S. 461 (2003), “[C]onsiderations of race that would doom a redistricting plan under the Fourteenth Amendment . . . seem to be what save it under § 5.” Id. at 491 (Kennedy, J., concurring); see also Miller v. Johnson, 515 U.S. 900, 927 (1995) (noting that Justice Department’s “implicit command that States engage in presumptively unconstitutional race-based districting brings the Act . . . into tension with the Fourteenth Amendment”).

Link: Following VRA can lead to unconstitutional racial gerrymandering

Hans von Spakovsky 2013. (JD from Vanderbilt Univ. School of Law; Manager, Civil Justice Reform Initiative and Senior Legal Fellow at Heritage Foundation; formerly with the Justice Department as counsel to the assistant attorney general for civil rights, where he worked on enforcing the Voting Rights Act. ) 30 July 2013 More Voting-Rights Challenges from Holder <http://www.heritage.org/research/commentary/2013/7/more-voting-rights-challenges-from-holder>

The Justice Department and its allies will also, in particular, point to past cases in which jurisdictions have been denied preclearance for proposed redistricting or voter-ID laws. But that is no proof of actual discrimination, because preclearance can be denied on the basis of mere disproportionate effect. In the redistricting context, for example, the Justice Department has often refused to grant preclearance because there is not enough racial gerrymandering — i.e., discrimination on the basis of race. The failure to engage in sufficient racial gerrymandering is not a constitutional violation — indeed, to the contrary, such gerrymandering is itself presumptively unconstitutional.

Impact: Weaker minority representation. The impact of this is that it turns the AFF goal. If representation of minorities in government is a good thing, as AFF tells you, then you get less of it if you vote AFF.

Judge Stephen Williams 2012. (Senior Judge, United States Court of Appeals for the District of Columbia Circuit) dissenting opinion in Shelby County v. Holder, when the case was argued before the Court of Appeals for the D.C. Circuit before being appealed to the Supreme Court, 18 May 2012 <http://www.cadc.uscourts.gov/internet/opinions.nsf/D79C82694E572B4D85257A02004EC903/$file/11-5256-1374370.pdf> (first brackets added; other brackets and ellipses in original)

Unfortunately, when Congress passed the 2006 version of the VRA, it not only disregarded but flouted Justice Kennedy’s concern. New subsections (b) and (d) were added to §[section] 5 to overturn Georgia v. Ashcroft, thereby restricting the flexibility of states to experiment with different methods of maintaining (and perhaps even expanding) minority influence. The Georgia Court had prescribed a holistic approach to § 5, instructing courts confronting a proposed voting change “not [to] focus solely on the comparative ability of a minority group to elect a candidate of its choice,”2 539 U.S. at 480 (majority opinion), but also to consider the “extent to which a new plan changes the minority group’s opportunity to participate in the political process” writ large, id. at 482. Georgia thus gave covered jurisdictions an opportunity to make trade-offs between concentrating minority voters in increasingly safe districts and spreading some of those voters out into additional districts; the latter choice, the Court pointed out, might increase the “substantive representation” they enjoy and lessen the risks of “isolating minority voters from the rest of the State” and of “narrowing [their] political influence to only a fraction of political districts.” Id. at 481; see also Samuel Issacharoff, Is Section 5 of the Voting Rights Act a Victim of Its Own Success?, 104 COLUM. L. REV. 1710, 1729 (2004) (expressing concern that § 5’s “narrow focus on securing the electability of minority candidates could compromise the range of political accords available to minority voters and thereby, under conditions of mature political engagement, actually thwart minority political gains”); David Epstein & Sharyn O’Halloran, Measuring the Electoral and Policy Impact of Majority-Minority Voting Districts, 43 AM.J. POL. SCI. 367, 390-92 (1999) (noting that overreliance on majority-minority districts means that “moderate senators will likely be replaced by extremists,” undermining the ability to create “biracial coalitions [which] are a key to passing racially progressive policies”). In so doing, the Court recognized that a minority group might in fact “achieve greater overall representation . . . by increasing the number of representatives sympathetic to the interests of minority voters,” rather than merely by electing the maximum possible number of representatives dependent on securing a majority of minority votes. 539 U.S. at 483.

2. Violates states’ rights. VRA creates unjustified federal intervention in something that should be within the jurisdiction of the States

Link: VRA federal intervention in the States was justified only as a temporary emergency measure when discrimination was rampant

Hans A. von Spakovsky and Elizabeth Slattery 2013. (Spakovsky – JD from Vanderbilt Univ. School of Law; Manager, Civil Justice Reform Initiative and Senior Legal Fellow at Heritage Foundation; formerly with the Justice Department as counsel to the assistant attorney general for civil rights, where he worked on enforcing the Voting Rights Act. Slattery – JD from George Mason Univ. School of Law; Senior Legal Policy Analyst at Heritage Foundation) A Response to Ramesh — No Deference on Section 5 of the Voting Rights Act 26 June 2013 <http://www.heritage.org/research/commentary/2013/6/a-response-to-ramesh-no-deference-on-section-5-of-the-voting-rights-act>

The same is true of Section 5 of the Voting Rights Act. Passed in 1965 as a temporary, five-year emergency provision, Section 5 is an extraordinary intrusion into state sovereignty. It requires covered jurisdictions to come hat in hand to the Justice Department or a federal court in Washington, D.C., before enacting any changes to their voting laws. It is the equivalent of federal receivership. In an early challenge to Section 5, the Supreme Court upheld this law only because it was justified by the systematic and rampant discrimination present at that time in many southern states.

Link: VRA was an exceptional intervention into state policy-making, only justified by longstanding racial discrimination

Chief Justice John Roberts 2013. Majority opinion of the court in Shelby County v. Holder, 25 June 2013 <http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf>

We recognized that it “may have been an uncommon exercise of congressional power,” but concluded that “legislative measures not otherwise appropriate” could be justified by “exceptional conditions.” Id., at 334. We have since noted that the Act “authorizes federal intrusion into sensitive areas of state and local policymaking,” Lopez, 525 U. S., at 282, and represents an “extraordinary departure from the traditional course of relations between the States and the Federal Government,” Presley v. Etowah County Comm’n, 502 U. S. 491, 500–501 (1992). As we reiterated in Northwest Austin, the Act constitutes “extraordinary legislation otherwise unfamiliar to our federal system.” 557 U. S., at 211. B In 1966, we found these departures from the basic features of our system of government justified. The “blight of racial discrimination in voting” had “infected the electoral process in parts of our country for nearly a century.” Katzenbach, 383 U. S., at 308.

Link: Times have changed - the justifications no longer exist. Black political participation is good now

Chief Justice John Roberts 2013. Majority opinion of the court in Shelby County v. Holder, 25 June 2013 <http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf> (brackets in original)

Nearly 50 years later, things have changed dramatically. Shelby County contends that the preclearance requirement, even without regard to its disparate coverage, is now unconstitutional. Its arguments have a good deal of force. In the covered jurisdictions, “[v]oter turnout and registration rates now approach parity. Blatantly discriminatory evasions of federal decrees are rare. And minority candidates hold office at unprecedented levels.” Northwest Austin, 557 U. S., at 202. The tests and devices that blocked access to the ballot have been forbidden nationwide for over 40 years.

Impact: Respecting the States secures liberty for citizens

Chief Justice John Roberts 2013. Majority opinion of the court in Shelby County v. Holder, 25 June 2013 <http://www.supremecourt.gov/opinions/12pdf/12-96_6k47.pdf>

Outside the strictures of the Supremacy Clause, States retain broad autonomy in structuring their governments and pursuing legislative objectives. Indeed, the Constitution provides that all powers not specifically granted to the Federal Government are reserved to the States or citizens. Amdt. 10. This “allocation of powers in our federal system preserves the integrity, dignity, and residual sovereignty of the States.” Bond v. United States, 564 U. S. \_\_\_, \_\_\_ (2011) (slip op., at 9). But the federal balance “is not just an end in itself: Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power.”

3. Excess cost to the states.

Link: States spend a lot of money litigating VRA cases

Hans von Spakovsky 2013. (JD from Vanderbilt Univ. School of Law; Manager, Civil Justice Reform Initiative and Senior Legal Fellow at Heritage Foundation; formerly with the Justice Department as counsel to the assistant attorney general for civil rights, where he worked on enforcing the Voting Rights Act ) “Strike Down Section 5” 27 Feb 2013 <http://www.heritage.org/research/commentary/2013/2/strike-down-section-5>

Lewis also claims that Section 5 costs are minimal and consist only of “paper, postage and manpower required to send copies of legislation to the federal government for review,” which he says is “hardly a punishment.” He would have a hard time convincing South Carolina, which spent $3.5 million fighting the Holder Justice Department’s unjustified refusal to pre-clear its voter-ID law. In that litigation, a three-judge panel agreed with the state that Justice was wrong: The law did not violate Section 5 and was not discriminatory.

Brink: States face budget risks – revenues are uncertain, and sharp pullbacks could happen.

John Silvia, Natalie Cohen, Michael Brown and Roy Eappen 2013. (all work for Wells-Fargo Securities. Silvia – Chief Economist. Cohen – Managing Director. Brown – Economist. Eappen – Associate) 9 July 2013 “FY 2014 State Budgets and Beyond “ <https://www.wellsfargo.com/downloads/pdf/com/insights/economics/special-reports/FY2014_State_Budgets_07092013.pdf>

While the outlook continues to improve for state revenue growth, risks remain on the horizon beyond the next fiscal year. Besides the possibility of further federal budget reductions from sequestration, there is a risk that the sharp pullback in state personal income growth will continue through the end of the year and adversely affect both income and sales tax collections. Over the longer term, we expect to see periodic budget volatility in states with high unfunded pension and retiree health benefits and recalcitrant lawmakers—such as (but not exclusively) New Jersey, Illinois, and Puerto Rico—whether in reaction to the threat of a ratings downgrade or future revenue contraction.

Impact: Hurting state budgets is bad for jobs, education, health care, and the economy

Elizabeth McNichol 2012. ( Senior Fellow specializing in state fiscal issues, with Center on Budget and Policy Priorities; former staff member of the Joint Finance Committee for the State of Wisconsin Legislature specializing in property taxes and state aid to local governments; M.A. in Political Science from the Univ of Chicago) Out of Balance - Cuts in Services Have Been States’ Primary Response to Budget Gaps, Harming the Nation’s Economy 18 Apr 2012 <http://www.cbpp.org/cms/?fa=view&id=3747>

The state budget gaps of the last five years led to $290 billion in cuts to public services and $100 billion in tax and fee increases. Those actions lengthened the recession and delayed the recovery. Because spending reductions were dominant, hundreds of thousands of jobs were lost; undermining education, health care and other state priorities, which likely will cause future economic harm to states.

4. Stereotyping

Link: VRA unfairly biases and stereotypes against the South

Rep. Jeb Hensarling quoted by KLTV news 2013. (R-Texas ) U.S. Congressman Jeb Hensarling comments on Voting Rights Act 3 July 2013 <http://www.kltv.com/story/22748505/us-congressman-jeb-hensarling-comments-on-voting-rights-act>

"There were provisions that were based upon data that was 2 and 3 generations old. That's just not fair. Also there is a bias and a stereotype against the South, of which Texas suffers. I do believe that provision of the Voting Rights Act that required certain Southern states to have to pre-clear voting changes, I'm glad that is no longer part of law," said Hensarling.

Impact: Stereotypes of southerners are insulting

Prof. *Karen L. Cox 2011. (associate professor of history at the University of North Carolina, Charlotte) NEW YORK TIMES 17 Sept 2011 “The South Ain’t Just Whistlin’ Dixie”* <http://www.nytimes.com/2011/09/18/opinion/sunday/the-south-aint-just-whistlin-dixie.html?pagewanted=all>

IF you go by the sheer number of programs and casting calls, reality television has become thoroughly Dixiefied. Whether it’s Lifetime’s “Glamour Belles,” truTV’s “Lizard Lick Towing” or CMT’s “Sweet Home Alabama,” series purporting to show a slice of Southern life are huge, and getting bigger: more than a dozen new programs have been introduced so far this year, while others have been renewed for second or even third seasons. Such shows promise new insight into Southern culture, but what they really represent is a typecast South: a mythically rural, white, poorly educated and thickly accented region that has yet to join the 21st century. If you listen closely, you may even hear banjos. These stereotypical depictions are insulting to those who live in the region and know that a more diverse South exists. Even worse, they deny the existence of a progressive South, or even progressive Southerners.

SOURCE INDICTMENT

John Lewis

Hans von Spakovsky 2013. (JD from Vanderbilt Univ. School of Law; Manager, Civil Justice Reform Initiative and Senior Legal Fellow at Heritage Foundation; formerly with the Justice Department as counsel to the assistant attorney general for civil rights, where he worked on enforcing the Voting Rights Act ) “Strike Down Section 5” 27 Feb 2013 <http://www.heritage.org/research/commentary/2013/2/strike-down-section-5>

Representative Lewis claims that many of the covered jurisdictions have “persistent, flagrant, contemporary records of discrimination,” but there is no evidence to support such a claim. He mentions the small town of Calera in Shelby County as an example. But Shelby County has no political control over Calera, a small town that has experienced growing pains because of rapid growth, whatsoever. Calera is an anomaly. Since 2001, the Department of Justice has objected to only one submission from Alabama, a redistricting plan in Calera. But Justice has not objected to a statewide Alabama preclearance submission in almost 20 years. And in the ten years before the 2006 renewal of Section 5, Justice objected to only 0.06 percent of all of the preclearance submissions received from all levels of government in the entire state of Alabama. This is not a “persistent, flagrant, contemporary” record of discrimination. With all due respect to Lewis, his claim that such cases “are numerous” is simply not true.

1. See the link card for DA 3 for the entire quote. [↑](#footnote-ref-1)