



January 31, 2018

Oppose the So-Called “For the People Act,” H.R. 1

On behalf of our activist community, I urge you to contact your representative and ask him or her to oppose the so-called “For the People Act,” H.R. 1. Introduced by Rep. John Sarbanes (D-Md.), the For the People Act would deter political free speech and federalize elections. This is one of the more bold-faced assaults on the First Amendment that has come through Congress in quite some time.

H.R. 1 is an ambitious effort by House Democrats to dictate the manner and outcome of elections in the United States. Off the bat, it would steamroll federalism and dictate to the states how their elections should be run. States and localities lose any semblance of control over what machines they will use and other decisions that are normally left to them. They want to import the inefficiencies of the federal bureaucracy to the governance of our nation’s elections. This will create chaos and, in many cases, leave the fate of our democracy in the hands of the most crafty electoral lawyers, instead of the will of the people.

It also prevents states from determining the qualifications of their own voters. H.R. 1 would lift the ban on voting for convicted felons. The objection to this provision is not over its substance necessarily, but over its constitutionality. The Fourteenth Amendment allows certain individuals to be barred from voting for “participation in rebellion, and other crimes.” States have the authority to determine whether this is justified. House Democrats pay no mind to the Fourteenth Amendment, and are instead trying to ensure the national voter database favors them for years to come, and are doing so through federal fiat.

H.R. 1 is also a dire threat to the Tenth Amendment. It authorizes a three-judge panel at the U.S. District Court in the District of Columbia to redraw congressional districts. Nowhere in Article III of the Constitution, which enumerates federal judicial powers, does it authorize these courts to make decisions traditionally left to the states, let alone decision of this magnitude. A three-member panel of D.C. judges should not have that kind of power, that could determine the partisan makeup of the U.S. Congress for a full decade. That power rests with each of the 50 sovereign states.

If that wasn't bad enough, H.R. 1 authorizes federal employees at executive agencies to work as poll workers, and ensures they get paid for doing so. As Senate Majority Leader, Mitch McConnell (R-Ky.) said, House Democrats want federal bureaucrats, who have a material stake in the outcomes of these elections, "hovering around polling places while Americans cast ballots." This is not the practice of any respectable democracy, yet this bill accelerates a slide towards intimidation of voters at polling places.

This is not the only form of coercion the Democrats have baked into this atrocity. H.R. 1 would also force political organizations to reveal their donors. In the landmark civil rights case, *NAACP v. Alabama (1958)*, the Supreme Court ruled that the NAACP did not have to disclose its membership lists, as forcing them to do so would violate the due process clause of the Fourteenth Amendment. The Court knew back then that such forced disclosure amounted to intimidation, yet Democrats don't seem to have learned this crucial lesson from our nation's history.

The Supreme Court, in *Citizens United v. FEC (2010)*, upheld that political donations are protected free speech under the First Amendment. Subtitle A of Title V of H.R. 1 actually goes as far as to declare that it is the sense of Congress that this decision is "detrimental to democracy" and that the Constitution should be amended to flout it. At least the supporters of this bill recognize that they need a constitutional amendment to regulate campaign finance. Yet, they unabashedly attempt to do so throughout this unconstitutional legislation.

The Constitution guarantees the right to free speech. However, there is no mandate that such speech be public. In fact, some of the most important political writings in our nation's history were done under the cloak of anonymity. Alexander Hamilton, James Madison, and John Jay composed the *Federalist* under the pseudonym, Publius. Politician and judge, Robert Yates, defended the ratification of the Bill of Rights using the pseudonym, Brutus. Unmasking private citizens in the manner that H.R. 1 proposes could dissuade generations of Americans from making the bold stands necessary to improve our nation. It is quite fitting that Nancy Pelosi has decided to run directly counter to the precedent set by those who defended our Constitution and Bill of Rights.

H.R. 1 also broadens the definition of a "lobbyist," which means even the most basic political action could now fall under the federal definition of lobbying. It provides that anyone who provides "strategic and political counseling services" to someone who contracts or lobbies is now a lobbyist. The left is trying to create a six degrees of Kevin Bacon test to define all Americans as lobbyists and thus regulate their political speech. This definition is too broad and too vague to be acceptable under the First Amendment.

We are also fewer than five years removed from a national scandal that revealed the Internal Revenue Service (IRS) was targeting conservative groups and their members for increased scrutiny. House Democrats don't want to ensure this doesn't happen again to any American

citizen based on their beliefs. In fact, they're trying to create a world where it will happen to many more. They want to make it as painful as possible for citizens to voice their displeasure with elected officials, and to ensure they suffer consequences if they go through with it.

Another way this is accomplished is by forcing sponsors of online political ads to file duplicative, extensive reports with the Federal Elections Commission (FEC) in order to do so. This is a clear deterrent. H.R. 1 also holds tech companies liable for any ads that go up that may have been sponsored by an unauthorized person. This increases risk for these companies and will thus raise the cost of sponsoring political content online. Under these circumstances, the only people who could sponsor political ads online would be the ultra-wealthy, who have a legal team able to cut through the FEC's bureaucratic web.

As if to compound this issue, the Democrats want to turn the FEC into a partisan organization. For years, this agency was balanced evenly between Republican and Democrat appointees, so no crucial decision could be made in a way that would disadvantage one party over another. Clearly House Democrats are unsatisfied with this, and need more control. H.R. 1 proposes to turn the agency into a 5-member body with the ruling party having a three seat majority, and the ability to hand down decisions unilaterally.

Another provision in the bill would dedicate taxpayer dollars to election campaigns. It creates a brand new subsidy for campaigns, and would match six times a political donation with taxpayer money. This is another typical proposal by Democrats to line the pockets of entrenched career politicians with more taxpayer money. If, as Democrats say, big donors to campaigns have all the power, then they are issuing a clear statement that they want the federal government to have all of the power in our society. Nowhere in the Constitution is the federal government authorized to fund attack ads and bumper stickers with your money.

H.R. 1 also strikes at the heart of separation of powers. It would allow Congress to create a commission to determine a "code of conduct" for judges of the Supreme Court. Not only is this a transparent attempt to start a bogus impeachment campaign against new Justice Brett Kavanaugh, but it is blatantly unconstitutional. As a co-equal branch of government, Congress cannot set standards for the actions of another co-equal branch. Doing so would undermine the separation of powers that prevents any one body from assuming tyrannical powers over the American people.

American lawmakers all take an oath to protect the Constitution of the United States. This bill would shred numerous part of that very document. Any member voting for this bill is in clear violation of their oath of office, and have let the American people down. This act, despite its name, is not "For the People." Instead, it is for the politicians, to prevent them from critical speech. It is for the uber wealthy, making sure only those who can afford to navigate the complex Washington bureaucracy can adequately participate in the political process. And, it is

for the federal government, to make sure no civic engagement by the American public is done without the approval of the elites in Washington. It is, above all else, a farce.

For these reasons, I urge you to contact your representative and ask him or her to oppose the so-called "For the People Act," H.R. 1.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Brandon". The signature is fluid and cursive, with a long horizontal stroke at the beginning and a distinct "A." followed by "Brandon".

Adam Brandon
President, FreedomWorks