



STOP H.R. 1: UNCONSTITUTIONAL FEDERAL TAKEOVER OF ELECTIONS

Alert Summary

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URGENT: Democrats in Congress are seeking to pass a draconian and unconstitutional election bill that would federalize American elections and decimate election integrity.

[H.R. 1](#), sponsored by John Sarbanes (D-Md.) and co-sponsored by Nancy Pelosi (D-Calif.) and Zoe Lofgren (D-Calif.), was [introduced](#) on January 4, 2021, immediately after start of the 117th

Congress. As the bill number suggests, the bill is a top priority for Congressional Democrats. Additionally, now that Democrats control the House, Senate, and White House, a possibility exists that this bill could pass and be enacted.

Unconstitutional Provisions

Is H.R. 1 Constitutional? The obvious answer for anyone familiar with the U.S. Constitution and the *Federalist Papers* is a resounding “No,” because there is no grant of power given to the federal government to simply take over elections.

This bill’s supporters would likely disagree with that claim and quote [Article I, Section 4](#) of the U.S. Constitution as justification, which says:

The times, places, and manner of holding elections, for Senators and Representatives, shall be prescribed in each State by the legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

To the casual observer, this could reasonably appear to be a general grant of power to Congress to take over and regulate elections nationwide, but it’s not.

Of course, the first clue that this isn’t a general grant of power for ongoing operations can be seen in its placement. It is not among the 18 specifically enumerated powers listed in [Article I, Section 8](#) where one can find grants of power for routine ongoing operations of the federal government, such as coining money, establishing post offices, etc.

This provision was in the U.S. Constitution primarily in case a few large states refused to hold congressional elections, thereby weakening the Congress or perhaps even depriving Congress of the ability to act for lack of a quorum. It was also possible that some states would be unable to hold elections due to invasion. While this did not happen during the War of 1812, it came close to happening in such states as Maryland, where the British attacked Fort McHenry. Had the British succeeded in their attack on Fort McHenry, it could have been possible that the State of Maryland would have become sufficiently disabled that it could not have conducted that year’s elections without support from the federal government or perhaps neighboring states.

An explanation of the intent of Article I, Section 4 can be found in the *Federalist Papers*, No. 59, written by Alexander Hamilton:

They have reserved to the national authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety.

Hamilton explained further:

Suppose an article had been introduced into the Congress empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it,

both as an unwarrantable transposition of power and as a premeditated engine for the destruction of the State governments?

This wording of Article I, Section 4 was hotly debated when the U.S. Constitution was being ratified because the Anti-Federalists saw the dangers it might lead to. The Anti-Federalists suggested an amendment to clarify the discretion with which the Congress was to restrain itself from using Article I, Section 4 as an excuse for an electoral takeover. Number 16 of their proposed amendments said:

That Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for senators and representatives, or either of them, except when the legislature of any state shall neglect, refuse, or be disabled, by invasion or rebellion, to prescribe the same.

The Anti-Federalists' Amendment 16 was never passed because the intent as explained in the *Federalist Papers*, No. 59 was considered clear and sufficient at the time, and its intent was respected by Congress until the middle 1960s. Looking back, it appears that Anti-Federalist Amendment 16 should have been passed to keep the federal government from interfering with state elections based on political whim.

Bad Provisions for Elections

Beyond the blatant unconstitutionality of H.R. 1, the bill has a number of provisions that, even if they were constitutional, which they are not, are so bad for elections that this bill should be rejected by Congress and anything like it should be rejected at the state level as well.

Section 1001 of H.R. 1 would implement Internet voter registration. American elections have already suffered severe degradation in the area of voter registration lists caused by the National Voter Registration Act of 1993, aka the Motor Voter Act — lists that were intended to be used to prevent fraudulent voting. Allowing Internet voter registration would take a bad situation and make it worse, basically providing an open door for fraudulent voting. Congress should not only defeat H.R. 1, but also repeal Motor Voter, something Republicans promised when they ran for Congress in 1994, but set aside once they were elected.

Section 1012 of H.R. 1 would implement automatic voter registration. Section 1012 of the bill ([page 48](#)) explains it clearly:

“Automatic registration” means a system that registers an individual to vote in elections for Federal office in a State, if eligible, by electronically transferring the information necessary for registration from government agencies to election officials of the State so that, unless the individual affirmatively declines to be registered, the individual will be registered to vote in such elections.

If you think Motor Voter has caused problems, just consider the dangers of automatic voter registration, especially with H.R. 1's buried requirement that it be done via electronic transfer of

data. How fast can one computer send bogus data to another computer? All that and no paper trail of the voter registration as they are processed? Section 1012 is seriously bad for honest elections.

Section 1031 of H.R. 1 would force the states to implement same-day voter registration. Most states have traditionally implemented a deadline for registering new voters, typically about a month prior to an election, in order to give election officials enough time to properly process the applications and be certain they are genuine. This important election integrity measure would be tossed out the window if H.R. 1 passes.

Section 1201 of H.R. 1 would prohibit voter caging. The term "voter caging" sounds like like a horrible act of torture, but what the bill says is:

(1) the term 'voter caging document' means—

(A) a nonforwardable document that is returned to the sender or a third party as undelivered or undeliverable despite an attempt to deliver such document to the address of a registered voter or applicant; or

(B) any document with instructions to an addressee that the document be returned to the sender or a third party but is not so returned, despite an attempt to deliver such document to the address of a registered voter or applicant, unless at least two Federal election cycles have passed since the date of the attempted delivery;

This provision in H.R. 1 would greatly reduce verification of voter registration lists. This is something done with voters every two years in Texas when voter cards, which are good for two years, are sent to the voters and those that are undeliverable are returned to the county elections office. As bad as Section 1201 is, it could be easily amended to make any form of voter registration verification illegal and that would be even worse.

Section 4201 is entitled "The Honest Ads Act." While few would argue against the concept of honesty in political advertisements, monitoring ads is not allowed as a function of the federal government. This section of the bill is short on details and probably marks just the beginning of what could be greatly expanded into an unconstitutional federal ministry of truth in political advertising that would rival Germany's Reichsministerium für Volksaufklärung und Propaganda.

The Wisdom of Alexander Hamilton

This bill, which would essentially accomplish a federal takeover of elections in this country, is quietly moving forward in Congress and public awareness needs to be raised that such a dangerous bill has already been passed by the House and that it needs to be defeated in the Senate. Alexander Hamilton put it best when he said as previously quoted in this article:

Suppose an article had been introduced into the Congress empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it,

both as an unwarrantable transposition of power and as a premeditated engine for the destruction of the State governments?

He was talking about bills such as H.R. 1.

(This alert is adapted from the article, "[HR 1: Blueprint for an Electoral Takeover](#)," at TheNewAmerican.com.)

Although we provide a way to easily email legislators ([blue box](#)), we know from long experience that it takes a lot more interaction with your legislators to get your point across than that provided by emails alone.

That's why we provide an easy way not only to email them, but to **contact them by phone**, tweet, and even video message them.

Take Action Now:

Stop H.R. 1: Unconstitutional Federal Takeover of Elections

Please phone your Senators (202-224-3121) and ask them to vote NO on H.R. 1, because it would enable an unconstitutional federal takeover of congressional elections. Use the above information for additional talking points, if desired. Then, **please use the blue box send an email to your senators with the same message.**

Contact your U.S. Representative and Senators

**Stop the Unconstitutional
Federal Takeover of Elections**

**Congress must act! Fill out this form to
contact them.**

Take Action