

Enough is Enough: Banning Third-Party Voter Registration

July 15, 2009

BACKGROUND: The following papers on election-related topics were a product of a 2009 summer internship program of the El Paso County Clerk & Recorder's office. Extensive research and writing of these articles was performed by Brian Brown, under the direction of Robert Balink, El Paso County Clerk & Recorder, and with support of the election department staff. Brian served as an intern in the office from June through early September 2009. Brian was a 2007 graduate of Princeton University and in December 2007 also a graduate of the John Jay Institute for Faith, Society and Law, in Colorado Springs, Colorado. He then served at The Heritage Foundation in Washington, D.C. prior to becoming a summer intern at the El Paso County Clerk & Recorder's Office. Brian Brown is currently serving as a fellow at the El Pomar Foundation in Colorado Springs, Colorado.

The 2008 election saw ACORN (the Association of Community Organizations for Reform Now) featured prominently in the news, because it was repeatedly charged with voter registration fraud. ACORN, like many organizations on both sides of the political aisle, pays employees to register people to vote (these efforts are known as "third-party" registration drives). In such drives, employees stake out an area or go door to door, trying to convince residents to fill out voter registration forms, and then return the forms (usually en masse) to the election office. Third-party registration drives are commonly credited with raising awareness and turnout. However, third-party drive employees have increasingly come under scrutiny for making mistakes on the forms, or even filling out forms for imaginary people. The problems these actions cause for election officials can range from extra hassle and risk of mistakes (thousands of forms turned in at the last minute) to illegal voting and tampering with elections.

The Argument against Third-Party Voter Registration

Serious thinkers on both sides of the issue agree: third-party registration leads to mistakes and fraud. The argument is usually about whether we should regulate it. Some states have regulated it, causing groups like the National Campaign for Fair Elections to complain about the burden such regulations cause to independent registration efforts.¹

But there is another solution: ban third-party registration entirely. The practice opens up all kinds of legal problems, calls into question the legitimacy of elections, and does nothing that local election offices can't do better. Let's get rid of it.

An Outdated Practice. Independent voter registration efforts date back only a hundred years or so.² They were a response to poll taxes and literacy tests that no longer exist. Proponents insist that the efforts still lead to slightly higher turnout, because registered voters are more likely to vote, but this is debatable—registered voters tend to be wealthier, better-educated, and more civically involved, which could also explain their high turnout levels.³ North Dakota does not require registration at all, and its turnout lags well behind the turnout of registered voters in the rest of the country.⁴ And those who

choose not to register often do so because they don't want to perform civic responsibilities like jury duty—not because they don't know they need to register.⁵

Mistakes and Fraud. The few people who do actually vote because of third-party registration are far outweighed by the problems the drives cause. The system depends on millions of loose paper applications, which are first passed out by untrained employees and volunteers who know nothing about them, and then returned in huge stacks to swamp election offices right before the deadline.⁶ These forms are often only half-completed, include mistakes, or have been filled out by the employees themselves with fake names so as to meet the quota that earns their paycheck. Employees of ACORN alone have been charged with mass voter registration fraud in dozens of cases across the country.⁷ And contrary to some claims, there is usually very little local officials can do to find all the fakes and mistakes.

Why are we letting random people off the streets handle such sensitive material when they don't even know how? In answer to that question, some states (Florida for example) have passed or are considering laws that regulate the activities of these third-party organizations—often by requiring that the employees be trained, or mandating that the forms be numbered. The response of some of these organizations, such as the League of Women Voters, has ranged from loud complaints to lawsuits.

Leave the Paperwork to the Professionals. Perhaps there's a better idea. We don't allow random people to register others for welfare, social security, or driver's licenses. Why not? Because it would lead to mistakes, fraud, and a truly messy system. We should treat voter registration the same way. Many changes can be made to make it easier and more accessible, but ultimately (under current law) registering to vote is the responsibility of the would-be voter. They go to the grocery store every week. They can go to the DMV once.

This does not mean third parties can't organize “get out the vote” drives, alerting people to upcoming elections, current issues, and how to register (the main advantages proponents claim for third-party registration drives). They can and should. They can even drive people to county offices to register if they wish. But they shouldn't handle the actual paperwork—would you really want a total stranger off the street walking away with your personal information? The actual act of registering to vote has to be performed directly between the individual and trained, supervised election officials.

If we take seriously the right to vote, we will ban third-party registration. In doing so, we will dramatically increase efficiency and accuracy, allowing officials to streamline the process to make registration quicker and easier. Most importantly, we will go a long way toward protecting citizens from having their identities, their votes, and their elections stolen.

The Argument for Third-Party Voter Registration

It may sound like an obvious solution, but banning all third-party registration is nonsensical. Do you rip out your sink when a pipe is leaking? No, you patch up the leak. We can prosecute registration fraud and find innovative ways to reduce mistakes without putting the burden on the organizations and the voters. If we don't, we risk preventing

citizens from exercising their basic right to assemble, reducing voter turnout, and reducing civic knowledge and power.

Citizens Have Rights to Vote and Assemble. The First Amendment of the Constitution guarantees citizens the right to organize political rallies, and banning third-party registration takes the teeth out of its purpose—political action. What use is it to get together a crowd of people who care about an issue, and then tell them they have to go somewhere else to actually register? Even tough regulations on third-party drives tend to quash them, so what will banning registration do?⁸

Certainly, some forms will be turned in with mistakes or even lies on them, but when “Mickey Mouse” registers to vote, election officials can presumably tell—he doesn’t necessarily end up on the voter roll. Laws can be passed to discourage even such insignificant fraud (for example, paying the employees by the hour and not by the form), but the problem of occasional fraud is not worth disenfranchising voters.

Drives Encourage Turnout. This is particularly important because even now, 30% of Americans aren’t even registered to vote—an appalling number compared to any other major democracy.⁹ It stands to reason that when unregistered voters are sought out by their fellow citizens instead of left to themselves, they are more likely to register. This is particularly true for disadvantaged voters like the homeless or the elderly, who may not have the information, enthusiasm, or ability to seek out county offices to register. Third-party drives can give them the tools with which to vote. The 2008 election, which saw unusually high turnout from these kinds of people, was marked by particularly heavy third-party registration efforts.

Leave the Power to the People. The reason third-party registration can be so effective at raising turnout is that it is carried out by local people, who can get their neighbors interested and involved.¹⁰ When the drives include actual registration, they can be powerful rallying points for political interest.¹¹ Without the drives, disadvantaged voters will often stay home—which may be good for the status quo, but not for truly representative elections.

Regardless of whether registration is more efficient when run totally by the government, the efficiency is not worth the sacrifice we would make: lower voter turnout, less interest in politics, and more government control over our ability to act like citizens. We should keep third-party registration legal, and by doing so, empower more Americans to serve as citizens.

¹ National Campaign for Fair Elections, “Barriers to Third Party Voter Registration,” p. 1, at <http://www.nationalcampaignforfairelections.org/page/-/THIRD%20PARTY%20VOTER%20REGISTRATION.pdf>

² Benjamin Highton, “Voter Registration and Turnout in the United States,” *Perspectives on Politics* (September 2004), p. 508, at http://faculty.psdomain.ucdavis.edu/bhighton/pubs-and-papers/2004_perspectives_reg.pdf

³ *Ibid.*

⁴ *Ibid.*

⁵ Wendy Weiser et al, “Voter Registration Modernization,” Brennan Center for Justice (2009), p. 9, at <http://www.brennancenter.org/page/-/publications/VRM.Proposal.2008.pdf>

⁶ *Ibid.*, p. 6

⁷ An example: Steve Friess, “Acorn Charged in Voter Registration Fraud Case in Nevada,” *The New York Times* (5 May 2009), at <http://www.nytimes.com/2009/05/05/us/05acorn.html>. A more detailed chronicling can be found at: Employment Policies Institute, “Rotten ACORN: America’s Bad Seed” (July 2006), p. 18, at www.rottenacorn.com/downloads/060728_badSeed.pdf

⁸ Wendy Weiser, “Voter Registration Modernization,” p. 4

⁹ U.S. Census Bureau, “Voting and Registration in the Election of November 2006” (June 2008), p. 1, at <http://www.census.gov/prod/2008pubs/p20-557.pdf>

¹⁰ National Campaign for Fair Elections, “Barriers to Third Party Voter Registration,” p. 1

¹¹ Wendy Weiser, “Voter Registration Modernization,” p. 5