



## H.R. 1: Blueprint for an Electoral Takeover

H.R. 1, a bill sponsored by Representative John Sarbanes (D-Md.) and Speaker Nancy Pelosi (D-Calif.) has already passed in the House of Representatives and has been read in the Senate. The title of the bill is For the People Act of 2019, but a more accurate name for the bill might be The Federal Takeover of Elections Act of 2019. This bill includes components that, while being portrayed as making voting easier on Americans, are not only going to lead to corruption but to an unconstitutional takeover of elections by the federal government.



### Is H.R. 1 Constitutional?

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



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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 bills 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

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 registrations of new voters, typically about a month prior



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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 is in Congress 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.



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