



Avoiding the “Lesser of Two Evils”

by Dr. Don Racheter

In America we hold frequent elections to “let the people decide” about a host of candidates at the local, state, and national levels. This system results in the election of many fine public servants and a feeling of pride by citizens who believe they have “done their civic duty” by participating. However, many citizens don’t bother to show up, and even those who do often complain about the quality of the choice they are presented with by the current system. When an unchallenged, or mere plurality, “winner” claims a “mandate” to act in the name of the people, disgruntlement and cynicism mount.

One way to alleviate this problem would be to include for each race on all election ballots an additional choice: “None of the Above” (NOTA) with the proviso that if NOTA gets the most votes, another election would automatically be called in a set number of days and none of the candidates who appeared on the previous ballot would be allowed to run again.

With so many elections today turning on “who can bring home the bacon” incumbency has become such an obstacle that powerful Legislators often run unopposed because the political class of possible opponents sees trying to “take them out” as a futile cause. However, because of their seniority and power, such Legislators often lose touch with the folks back home, and resentment builds among constituents. If voters could create a vacancy with NOTA, then the ambitious would jump into the second round election that does not have an incumbency bias.

NOTA has been tried in several jurisdictions, but never with the mandatory second election or disbarment of previous candidates, so the person coming in second still “is elected,” just with even less legitimacy!¹ There is an active campaign to adopt a mandatory NOTA system on a state by state basis here in the United States.² As one can imagine, the two major parties that currently dominate elections are opposed to such a change in the choices offered to voters. Election officials are opposed as well, since it would mean more work.

Taxpayer groups are often prompted to oppose NOTA systems as well, given the increased costs of conducting additional elections in the short run. However, it is likely that in the long run taxpayers would benefit because it could result in the defeat of big-spending unchallenged incumbents. Since studies by the National Taxpayers Union Foundation have shown that the longer politicians are in Washington, the more taxpayer money they want to spend, this new voting system could break into this pathology.³

Because incumbents of both parties would stand to lose the most from implementation of a mandatory NOTA system, it is unrealistic to imagine it being adopted by Legislatures. Hope

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lies, however, in states that possess the initiative process⁴ and in the hope that we would ever adopt initiative on a national basis.⁵

Even those candidates who have an opponent and those who win big would secure additional legitimacy from winning with NOTA on the ballot. Our system works through “consent of the governed,” but true consent includes having the option of saying “no” as well as that of saying “yes.” When voters are presented with a bond issue or a referendum instead of a candidate election, they can vote “yes” or “no.” However, with candidate elections under the current system they can only vote “for” a candidate or abstain from voting; they can’t vote “no” as they would be able to do with NOTA on the ballot. Having that option and not using it in a given election would cause people to believe the results were more reflective of actual public opinion rather than just a “rigged choice,” a “lesser of two evils,” or a systemic artifact.

There are two other potential positive side effects of adopting a mandatory NOTA system. First, it would be a “backdoor method” of bringing term limits to our Congressional candidate elections. The people overwhelmingly voted for them (twenty-two of twenty-two initiatives!), yet the U. S. Supreme Court, on a 5-4 vote, voided them.⁶ Since we don’t yet have a national initiative system to get around this Court-Congress collusion, and both ways to amend the Constitution can be blocked by Congress, which has a vested interest in the current system, this could be a very big plus for the citizens and taxpayers of our nation.

Second, adoption of a mandatory NOTA system should reduce the negative campaigning that seems to have become the norm as candidates denigrate their opponents rather than giving the voters a positive reason to support themselves. If candidates’ mudslinging created disgust and a “pox on both your houses” reaction that caused voters to select NOTA rather than one of them, they would both lose, rather than the way the current system is set up which creates a “lesser of two evils” winner.

Endnotes:

¹The state of Nevada uses this system, <http://en.wikipedia.org/wiki/None_of_the_above> (August 4, 2007).

²Voters for None of the Above, <<http://www.nota.org>> (August 4, 2007).

³National Taxpayer’s Union press release, Oct. 14, 2004, <http://www.ntu.org/main/press_release_printable.php?PressID=656&org_name=NTUF> ((August 4, 2007).

⁴The Constitution Society provides a list of states with initiative processes, <<http://www.constitution.org/pol/us/uss-tinit.htm>> (August 4, 2007).

⁵More information about the national initiative proposal is available at <<http://www.ni4d.us>> (August 4, 2007).

⁶Cato Handbook for Congress, 105th Congress, <<http://www.cato.org/pubs/handbook/hb105-5.html>> (August 4, 2007).

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