



Memo

To: Interested Parties

From: Simon Rosenberg and Corey Cantor

Date: Wednesday, December 17, 2014

Re:” The Consent of the Governed” – The Latest in Our “Renewing Our Democracy” Series

The Decline of Consent

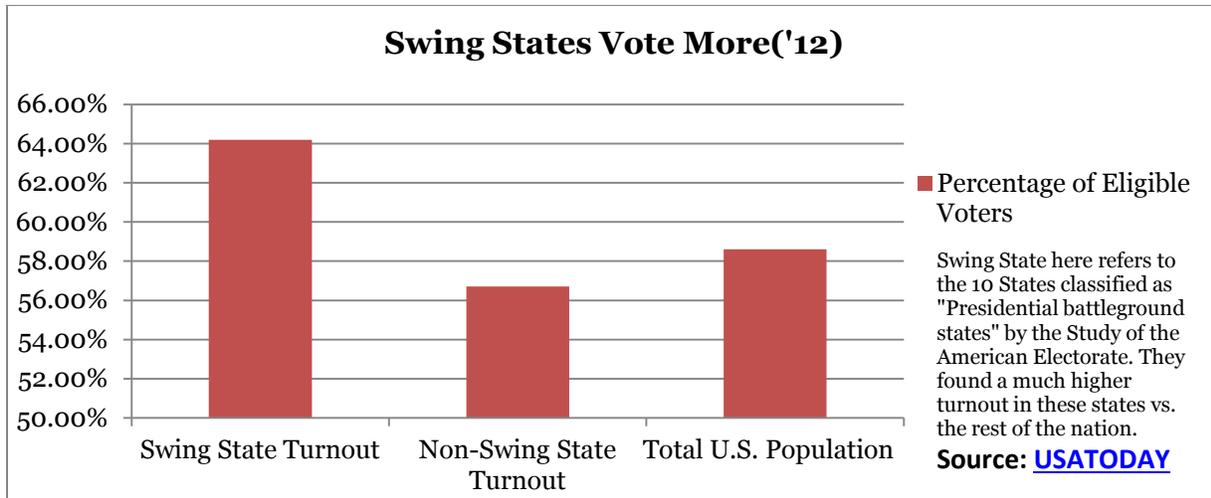
A few weeks ago, we posed the question of whether the American political system is still working as intended—whether or not our much maligned American political system is still capable for providing the most foundational of all electoral outcomes in a democracy, the “consent of the governed.”

The basic issue is that for far too many Americans their vote for Federal office simply doesn't matter. In recent years, there has been a significant decline in the number of competitive states at the Presidential level, and in competitive Senate and House races. Using one measure, in 2012 only 10.1% of eligible voters cast a meaningful vote for President, 9% for the Senate and 2.2% for the House (meaningful being a vote which could in theory alter the outcome of the election). For the purposes of this paper, we have defined a close race as one where the final vote margin was 5% or less.

Percentage of Eligible Voters Who Cast Ballots In Close Races (2012)

| Type of Race | % of Eligible Voter Population Who Took Part In Close Rates |
|-----------------|---|
| President ('12) | 10.10% |
| House ('12) | 2.17% |
| Senate ('12) | 9.03% |

Not only does this lack of competitive states and races contribute to lower voter turnout (see graph below), but it is becoming routine for three quarters of the country or more to not really be part of any Federal election every two years – the ads, the voter contact, the ubiquitous candidates – giving them far less investment in the issues at hand, the democratic process, and we fear ultimately the outcomes of these elections themselves.



Consider that in 3 of our 4 largest states, CA, NY and TX, equaling about 22% of all voters in the country, there has not been a competitive race for President, Governor or Senate since the 1980s. This means young adults in their mid 20s who have grown up and still live in these states have never experienced a close statewide election contest with all that comes with it in their entire lifetimes. As the following chart and graph show, the percentage of people participating in Federal elections has declined significantly in recent years:

| Presidential Election | # of Close States | Total Votes Cast | Voters in Close Race States | % Who Vote in Competitive Races (of all Eligible Voters) | Eligible Voters |
|--------------------------------|-------------------|------------------|-----------------------------|--|-----------------|
| 1992 (Clinton/H.W. Bush/Perot) | 17 | 104,426,611 | 39,887,599 | 22.20% | 179,655,523 |
| 1996 (Clinton/Dole) | 11 | 96,275,640 | 20,236,452 | 10.85% | 186,347,044 |
| 2000 (Bush/Gore) | 12 | 105,425,985 | 29,681,238 | 15.27% | 194,331,436 |
| 2004 (Bush/Kerry) | 11 | 122,303,590 | 29,799,788 | 14.64% | 203,483,455 |
| 2008 (Obama/McCain) | 7 | 131,473,705 | 28,833,354 | 13.52% | 213,313,508 |
| 2012 (Obama/Romney) | 4 | 129,235,558 | 22,442,970 | 10.10% | 222,381,268 |



We will readily acknowledge that our concerns about consent are in an early beta form of analysis, but we wanted to put it out there for broader discussion (and welcome collaboration from others wanting to work on this). One recent [poll](#) taken earlier this year found that only 19% of the public believes that Washington has “the consent of the governed.” And it makes sense. If you are one of those whose Presidential vote has not mattered for decades, and perhaps only once every ten years or so for the Senate or House, do we think that you are truly granting consent the way the Founding Fathers conceived it? Or is our current system in fact achieving the exact opposite – a reinforcement of distance and not proximity, of a system no longer connected to the concerns of everyday people as just far too many people are just sitting on the sidelines watching others far away experience real campaigns with real debates and where one’s vote really matters?

Given how large and diverse our democracy is, ensuring that our process provides true legitimacy and consent is particularly important. But our system now has developed an enormous bias against ease of voting; allows a candidate with fewer votes to become President; provides wealthy Americans a far greater voice in the electoral process; and gives power to political parties in Congress based on a very small fraction of the population’s vote preference. There is little wonder why average Americans would feel disconnected from politics and the outcomes of Federal elections in DC given all this.

How has this come about and what can we do about it? Both of those subjects will have to wait for a longer examination in another day. But the system is ripe for major reform, and ideas like same day registration, universal vote-by-mail, and eliminating the Electoral College should be given far more consideration. In light of all this, efforts to further restrict participation in a system without enough of it already seem particularly malevolent and pernicious.

These developments come at the same time that Americans have had a decade and a half of no wage and income growth, which many commentators believe is causing unprecedented anger at a distant Capitol now longer seen as capable of providing for everyday people. Taken together – years of reduced economic opportunity, declining ability to meaningful participate in picking one’s elected leaders – may

be leading to a significant rise in anti-establishment, anti-Washington sentiment in the American public today.

This passage from the Declaration of Independence which makes clear just how important the Founding Fathers viewed this perception of consent to our democracy and way of life:

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. - That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.”

The clear implication - it is *only* governments elected with the knowing consent of the people that are capable of being just.

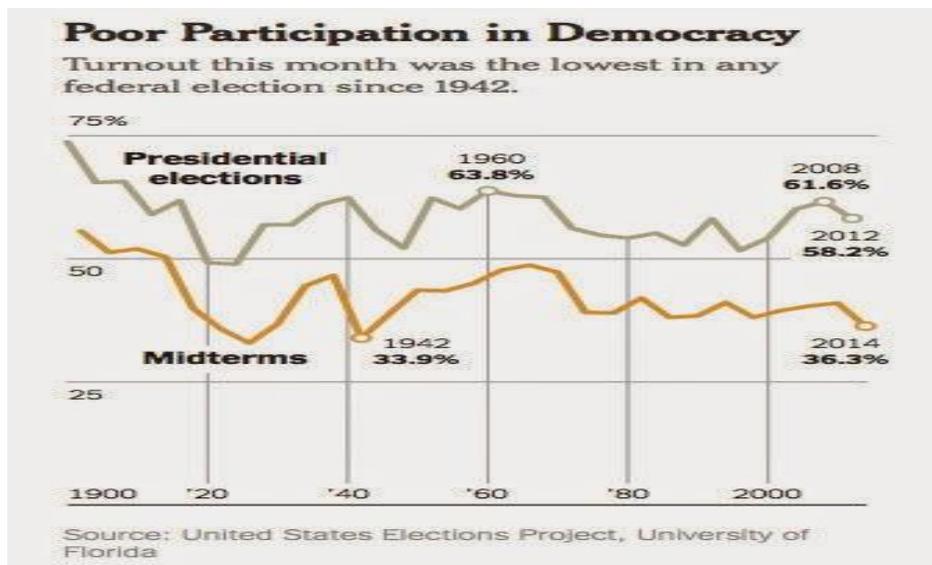
2014 Midterms Confirm These Trends

The 2014 Midterms were yet another election where a very small percentage of the US public was able to meaningful participates in the election – less than 10% by our simple measure.

Percentage of Eligible Voters Who Cast Ballots In Close Races (2014)

| Type of Race | % of Eligible Voter Population Who Took Part In Close Rates |
|--------------|---|
| House ('14) | 2.03% |
| Senate ('14) | 6.34% |

As the chart below shows, these Midterms had the lowest voter turnout in over 70 years:



One of the more intriguing data points from 2014 is that 8 of the 27 House races decided by less than 5% points took place in California. California’s current Congressional districts were drawn through a citizen led process to create more competitive districts. After years of very uncompetitive and gerrymandered

districts, this very small “d” democratic approach seemed to have paid enormous dividends for the people of California, producing a very high number of competitive House races. The California model deserves further study.

Conclusion

Whatever the causes, far too few Americans are able to meaningfully participate in our democracy today. In our Federal election, the number of competitive states and districts has plummeted to the point where less than 25% of the public is being given the ability to participate in choosing their President or representative – the ads, the door to door work, debates. In the last two elections the number may be far lower than 25% - perhaps even under 10%. Overtime that so many people are not being engaged in choosing their leaders has to have a corrosive effect, one that is creating an unhealthy distance between the people and their elected leaders. We hope this study puts on the table whether our democracy is currently delivering its most important objective – electing a government that truly has the consent of the governed.

This is an updated version of a memo that we first published on October 27th, 2014. We found a more accurate way to measure the percentage of voters able to participate in close races. Again, a disclaimer – this analysis admittedly is not as rigorous as it could be. We hope to develop a more high level data set and analysis in the months to come. We invite you to send us your thoughts to srosenberg@ndn.org and ccantor@ndn.org.

About the *Renewing Our Democracy* Series

Over our many years of work, NDN and its extended family have been at the forefront of a national conversation about how to best improve our democracy itself. While at the DNC in 1993, Simon put the first American political party on the Internet. We were early champions and supporters of Oregon’s innovative Vote By Mail program which has produced some of the highest voter turnout figures in the nation. We have promoted same day registration, early voting, and eliminating the Electoral College as ways of encouraging broader participation. We were early proponents of “internet based campaigning,” understanding that a digital age politics would make it far easier for people to participate than in the TV “couch potato” age. We have argued that a [pernicious small state](#) bias has crept into our democracy, one which is thwarting the will of the majority and a far more diverse US population. We [have marveled](#), and worried, about how the design of our democracy could give one political party its strongest levels of support in seventy years while simultaneously stripping it of control of both legislative chambers. And finally, we were the primary champion of the idea of expanding the early Presidential caucus/primary states beyond Iowa and New Hampshire, a reform which for the 1st time allowed people of color to play a truly meaningful role in picking the nominee of the Democratic Party.

It is now a universal belief in the United States that our democracy itself is now longer working as it should. We hope this analysis adds another log to that fire, and puts the issue of the lack of competitive states and races in Federal elections up there with all the more familiar diagnoses of what ails our democracy today.

Appendix - A Note on Methodology

For this analysis we used a margin of victory of 5 percentage points or less in a state or race as a "swing" race which produced a "meaningful vote." Clearly the actual number of states or races which were perceived to be competitive and thus produced a meaningful vote is higher than our simple metric. But is beyond the scope of his simple essay to do a more accurate and in-depth analysis.

Our guess is that the actual number of "meaningful votes" will not be that much higher than what we find here. The proliferation of media polls even in House races gives many voters a clear sense of where these elections are before Election Day. And we know that as races start to separate and a clear winner starts to emerge, outside money moves to other races and the losing candidates can come up short of raising what they need to close with a fully funded campaign. This means that many elections above a 5% margin don't end up seeing a full-fledged campaign all the way to the end.

So it is our belief that while our crude system is perhaps a bit low in its projections, it isn't by enough to change the analysis or its conclusions. Far too few people cast meaningful votes in our current system.

Sources:

Voter data was compiled from three main sources: 2012 voter [data](#) was taken from the [Federal Election Commission](#), 2014 Voter Data from [CNN Election Center](#), and additional data on voting over time from the [US Election Atlas](#).

Appendix

2014 House

| District | Race | Voters |
|---------------|----------------------------------|---------|
| Arizona 01 | Kirpatrick/Tobin | 175,371 |
| Arizona 02 | McSally/Barber | 210,685 |
| California 07 | Ose/Bera | 127,047 |
| California 09 | McNerney/Amador | 108,631 |
| California 16 | Tacherra/Costa | 83,657 |
| California 17 | Honda/Khanna | 100,186 |
| California 24 | Capps/Mitchum | 176,926 |
| California 26 | Brownley/Gorell | 136,680 |
| California 31 | Aguilar/Chabot | 95,322 |
| California 52 | Peters/DeMaio | 180,329 |
| Florida 02 | Graham/Southerland | 248,071 |
| Florida 26 | Curbelo/Garcia | 160,738 |
| Hawaii 01 | Takai/Djou | 179,740 |
| Iowa 01 | Blum/Murphy | 287,239 |
| Iowa 02 | Loeb sack/Miller-Meeks | 271,723 |
| Maine 02 | Poliquin/Cain | 251,182 |
| Maryland 06 | Delaney/Bongino | 180,869 |
| Minneosta 08 | Nolan/Mills | 254,146 |

| | | |
|------------------|---------------------------|------------------|
| Nebraska 02 | Ashford/Terry | 148,576 |
| Nevada 04 | Hardy/Horsford | 123,235 |
| New Hampshire 01 | Guinta/Shea-Porter | 241,947 |
| New York 18 | Maloney/Haywoth | 166,040 |
| New York 25 | Slaughter | 185,524 |
| Texas 23 | Hurd/Gallego | 113,337 |
| Utah 04 | Love/Owens | 124,555 |
| Washington | Newhouse/Didier | 144,262 |
| West Virginia | Mooney/Casey | 139,562 |
| Total | | 4,615,580 |

Senate 2014

| State | (Estimated Voters) |
|----------------|--------------------|
| Virginia | 2,200,000 |
| Colorado | 2,000,000 |
| North Carolina | 2,200,000 |
| New Hampshire | 500,000 |
| Alaska | 270,000 |
| Louisiana | 1,475,000 |
| Arkansas | 875,000 |
| Georgia | 2,300,000 |
| Iowa | 1,150,000 |
| Kentucky | 1,440,000 |
| Total | 14,410,000 |

Presidential 2012

| Name | Eligible Voting Population | Votes Cast |
|----------------|----------------------------|------------|
| Colorado | 3,635,000 | 2,569,217 |
| Florida | 13,542,000 | 8,474,179 |
| Iowa | 2,264,000 | 1,582,180 |
| New Hampshire | 1,022,000 | 710,972 |
| North Carolina | 7,030,000 | 4,505,372 |
| Ohio | 8,658,000 | 5,580,608 |
| Virginia | 5,844,000 | 3,854,489 |
| Pennsylvania | 9,677,000 | 5,742,490 |
| Wisconsin | 4,283,000 | 3,071,434 |

| | | |
|------------------------------|-------------|-------------|
| Nevada | 1,869,000 | 1,014,918 |
| Swing State Total | 57,824,000 | 37,105,859 |
| Non-Swing Total | 164,557,268 | 93,186,496 |
| Total Population | 222,381,268 | 130,292,355 |