



Written by [Joe Wolverton, II, J.D.](#) on March 19, 2015

Obama Promotes Federal Mandatory Voter Law

During a town hall meeting in Cleveland on Wednesday, President Obama promoted the idea of a federal mandatory voting law.

“It would be transformative if everybody voted,” he said. “That would counteract money more than anything. If everybody voted, then it would completely change the political map in this country.”

Although he didn’t go so far as to commit to push for enacting federal mandatory voting legislation, the president did say that such a measure would be a “better strategy in the short term” than reducing the influence of money in the electoral process.

In support of his position, President Obama cites the example of Australia, a country with a mandatory voting law.

It is true that Australia has a mandatory voting law and it is equally true that some may not look at Australia as a particularly poor example of governance, but the same cannot be said of some of the other countries where voting is compulsory.

Of the 30 (or so) countries with compulsory voting laws on the books, only 11 actively enforce those laws: Argentina, Australia, Brazil, Cyprus, Ecuador, Lichtenstein, Luxembourg, Nauru, Peru, Singapore, and Uruguay.

Until recently, a similar statute was enforced in Libya, as well.

With few exceptions, the countries on the mandatory voting roster do not inspire confidence in the policy.

Admittedly, compulsory voting itself is not a bellwether of good or bad government, but neither is it a panacea for problems of electoral participation. The many eligible voters who do not participate may be one problem, but another problem almost never mentioned is the lack of understanding of many who do vote. Of course, each ballot cast by an uninformed voter is weighed exactly the same as a ballot cast by an informed voter, and requiring all eligible voters to vote would tend to tilt the scales in the direction of uninformed voters.

Next, the claim made by the president that mandatory suffrage will diminish the power of money in politics is not borne out by the facts, either. Writing in the *Washington Post*, George Mason University School of Law professor and Cato Institute adjunct scholar Ilya Somin points to a significant flaw in the president’s claim:

Most campaign spending represents expenditures on televised ads. For fairly obvious reasons, relatively ignorant voters are more likely to be influenced by simplistic 30 second ads than relatively well-informed ones (who, among other things, tend to have stronger preexisting views). Thus, a more ignorant electorate is likely to be one where campaign spending on television ads





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exercises more influence.

Somin points out another considerable problem with the president's idea (one zealously [advocated by former members of his administration](#)): It infringes on individual liberty. Somin writes:

In addition to its potentially harmful consequences, mandatory voting is also an unjust infringement on individual liberty. Some people choose not to vote because they find the available options so distasteful that they don't want to be in the position of supporting any of them. Even if the ballot includes some sort of "none of the above" option, choosing to vote might still be viewed as at least a partial endorsement of the status quo political system, and some citizens might prefer not to signal any such endorsement.

He adds:

Others can reasonably choose to abstain from voting because they lack the knowledge to make a well-informed choice and (quite rightly) don't want to harm the rest of society by making ignorant decisions. Given the vast size and complexity of modern government, even intelligent and conscientious people will sometimes find themselves in that position. Finally, many people might prefer not to vote simply because they have better uses for their time, including in some cases uses that create more benefit for society, as well as themselves.

Of course, President Obama (and most of his predecessors for generations) have shown they have no qualms about invading the territory of individual liberty. For him, the question is how can we get to the polls those who have no interest in voting, but if they did vote, would vote to expand the size and power of the government.

"The people who tend not to vote are young, they're lower income, they're skewed more heavily toward immigrant groups and minorities... There's a reason why some folks try to keep them away from the polls," President Obama said Wednesday.

Not surprisingly, the groups enumerated by the president historically vote for candidates who promise to lengthen the list of those eligible to government "entitlements."

The citizens of ancient Rome, for example, were all too willing to cede to emperors their right to self-government so long as the bags of free grain kept coming and there were free tickets to the festivals, games, and other entertainments.

In this question, as in many others facing our country today, there is wisdom to be found in the words of our forefathers.

Writing in *The Federalist*, James Madison says of voting, "The definition of the right of suffrage is very justly regarded as a fundamental article of republican government."

Later in that same collection, he writes:

The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of society, and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust.

In a coda to his Notes on the Convention appended sometime between 1821 and 1829, Madison, in an effort to clarify his position on suffrage, was more direct in his assessment:

The right of suffrage is a fundamental article in republican constitutions. The regulation of it is, at



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the same time, a task of peculiar delicacy. Allow the right exclusively to property, and the rights of persons may be oppressed. The feudal polity alone sufficiently proves it. Extend it equally to all, and the rights of property or the claims of justice may be overruled by a majority without property, or interested in measures of injustice.

In light of his comments, it may be that these “measures of injustice” are precisely what the president is seeking in his advocacy of mandatory voting.

Finally, the very idea that the federal government should have power over the voter rolls is anathema to the Constitution. Article I, Section 4 clearly mandates that, “The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof....”

One state — Oregon — has acted to make voting compulsory, in fact. As reported by the *Los Angeles Times* on March 17:

In front of a packed and cheering audience Monday, Gov. Kate Brown signed a first-in-the-nation bill to automatically register all eligible Oregonians to vote when they obtain or renew a driver’s license or state identification card.

Those who are registered through the new process will be notified by mail and will be given three weeks to take themselves off the voting rolls. If they do not opt out, the secretary of state’s office will mail them a ballot automatically 20 days before any election.

Whether such a law is in the best interest of Oregonians is debatable (opponents of the measure have pointed out very serious privacy concerns), but at least it would be a state policy made by a duly elected state legislature, a solution that would not violate the U.S. Constitution.

When it comes to compulsory voting, though, in this as in so many other areas, the federal government is trespassing on territory meant to be ruled over by the states.

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