

# THE LEGAL EAGLE

SPECIAL VOTING EDITION

A LEGAL NEWSPAPER FOR KIDS

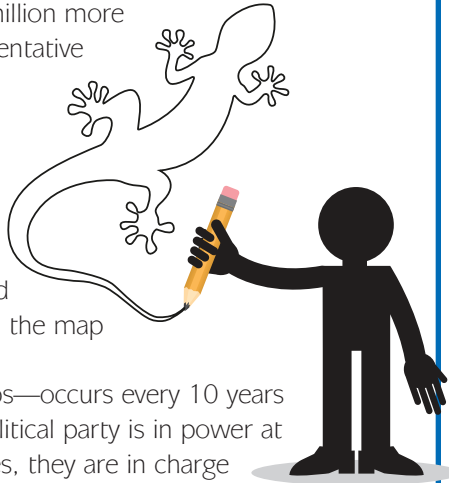
## When Politicians Pick Their Voters

by Phyllis Raybin Emert

In 2012, Democratic candidates in Wisconsin received 174,000 more votes than Republican candidates. However, Republicans, with only 48 percent of the statewide vote, ended up with a 60-39 seat majority in the Wisconsin State Legislature. On a federal level, in 2012 Democrats received 1.4 million more votes than Republicans in U.S. House of Representative races. Despite that disparity, Republicans hold a 234-201 majority in the House.

How can that happen? The answer is via gerrymandering and both political parties use it when in power. The term gerrymander dates back to the 1800s when it was used to mock Massachusetts Governor Elbridge Gerry who had manipulated congressional lines in his state until the map of one district looked like a salamander.

Redistricting—the re-drawing of district maps—occurs every 10 years after the U.S. Census takes place. Whichever political party is in power at that time has the advantage since, in most states, they are in charge of drawing the maps.



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## Securing U.S. Elections Against Foreign Influence

by Cheryl Baisden

There is little doubt that Russia meddled in the 2016 presidential election, according to all 17 U.S. intelligence agencies, as well as politicians on both sides of the political aisle. The threat that it could happen again, national security experts agree, remains a serious concern.

“Frankly, the United States is under attack by entities that are using cyber to penetrate virtually every major action that takes place in the United States,” Daniel Coats, director of National Intelligence, told the Senate Intelligence Committee at a February 2018 hearing, where heads of five U.S. intelligence agencies warned of future attacks. “There should be no doubt that Russia perceives its past efforts as successful and views the 2018 U.S.

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## Vote Locally If You Want to Make a Difference

by Jodi L. Miller

This November voters will again exercise their right and responsibility to vote in the mid-term elections—at least some of them will. Voter participation usually goes down when the election of a president is not at stake.

The United States ranks at the bottom for voter turnout among developed nations, 31 out of 35 according to the Pew Research Center. In the last presidential election, 102 million eligible voters stayed home. In 2014, the last mid-term election, only 36 percent of eligible voters turned out to cast a ballot, the lowest number in 70 years.

### Why so low?

In the past, according to Kirsten Nussbaumer, associate director of the Center for State Constitutional Studies and an assistant professor in the Political Science Department at Rutgers, voters were as mobilized for a mayoral or gubernatorial race as for a presidential election. So, what changed?

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# Is Repealing *Citizens United* the Answer?

by Alice Popovici

In the trailer for the newly-released documentary “Dark Money,” investigative reporter John Adams draws dollar signs on a diagram to show how money from large corporations is used to influence the outcome of elections.

“Corporation funnels money to a dark money group. They send out postcards attacking the opponent. When that candidate gets elected, they support the agenda of the corporation,” Adams says in the trailer for the 2018 film that documents his investigation of campaign financing in Montana. “I can’t pick up the phone and say, ‘Hey, what’s your interest in candidate X?’—Because I don’t know who they are.”

As the documentary points out, “dark money groups”—or political nonprofits which are not required to reveal their donors—are not unique to Montana. Ever since 2010, when

the U.S. Supreme Court ruled in *Citizens United vs. the Federal Election Commission* that organizations could fund advertising calling for the election or defeat of a candidate, anonymous sources on both Republican and Democrat sides have funneled money into political campaigns nationwide.

Research shows most Americans want to rein in the influence of large campaign donors. A nationwide voter survey released this spring by the University of Maryland and the **nonpartisan** group Voice for the People revealed that three-fourths of respondents (including 66 percent of Republicans and 85 percent of Democrats) support a constitutional amendment outlawing *Citizens United*, according to the Center for Public Integrity, a nonprofit news organization. This includes limiting the power of political action committees, called super PACs, which can accept unlimited contributions from individual or corporate donors.

So far, 19 states—New Jersey among them—have called for a 28th Amendment to the U.S. Constitution, which would repeal the *Citizens United* decision. Experts say this is unlikely to happen due to the complicated process of passing a constitutional amendment (two-thirds support in both the Senate and House of Representatives and ratification by three-fourths of state legislatures).

## So, what is *Citizens United*?

The U.S. Supreme Court decision in *Citizens United* was framed as a free speech issue. The case involved a controversial 90-minute film about Hillary Clinton, produced by a conservative group opposing her 2008 presidential run. A lower court had ruled that federal law forbade corporations and other special interest groups from using money from their general accounts for “broadcast, cable or satellite communications” about a candidate for federal office 30 days

before a primary election and 60 days before a general election.

In the majority opinion for the Court, Justice Anthony Kennedy wrote: “When government seeks to use its full power, including the criminal law, to command where a person may get his or her information or what distrusted source he or she may not hear, it uses censorship to control thought. This is unlawful. The First Amendment confirms the freedom to think for ourselves.”

As a matter of First Amendment doctrine, *Citizens United* is consistent with the belief that “money is politics” and we should not discriminate against the identity of the speaker, says Eugene Mazo, a professor at Rutgers Law School. “I’m somebody who thinks that people should decide elections. And the problem with all this money in politics is, even though people are pulling the levers, their vote is being influenced by TV ads that are being backed by special interests.”

In 1974, the Federal Elections Campaign Act was established to limit the amount of money that individuals and corporations could contribute to a candidate. But in a 1976 case called *Buckley vs. Valeo*, the U.S. Supreme Court ruled that political contributions to campaigns were protected under the First Amendment, but they could be capped to prevent corruption.

“Lots of cases from 1976 until 2010 defined and redefined what was meant by corruption,” Professor Mazo says, and corporations tried to circumvent the limits in different ways. Although the limit prevented “express advocacy,” corporations might run ads about issues the candidate supported without mentioning his or her name. In 2010, the Supreme Court ruled that the First Amendment’s free speech provision could not discriminate against the identity of a particular speaker—such as a corporation.

“What *Citizens United* did is it allowed corporations to spend money



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on independent expenditures,” Professor Mazo says. “So, if my friend is running for Congress, I can give him \$2,700 [the donation limit] or I could just not talk to him [because a candidate cannot have contact with his or her super PAC] and I can go spend millions running ads to support him.”

### A 28th amendment?

Across the country, momentum is building for a so-called 28th Amendment that would repeal *Citizens United*. But what would that amendment look like?

In a forthcoming book titled *Democracy by the People: Reforming Campaign Finance in America*, which is co-edited by Professor Mazo, Ronald Fein writes that the amendment “would establish political equality as a legitimate public goal for campaign finance reforms, and allow federal, state, and local governments to set limits on fundraising and spending in elections.” Fein, legal director of Free Speech for People, a national, nonpartisan organization dedicated to advocating for the 28th amendment, wrote a chapter in the book titled “Fixing the Supreme Court’s Mistake: The Case for the Twenty-Eighth Amendment.”

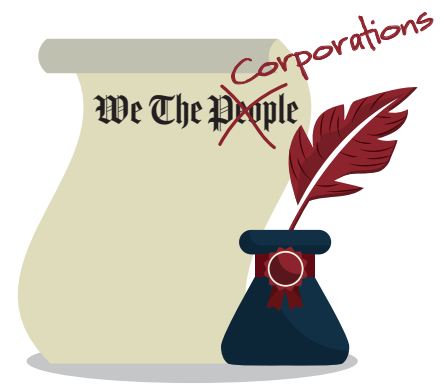
“The first key question is whether the amendment should focus only on

money in politics, or address other issues as well,” Fein writes. “The *Citizens United* case brought together two sets of issues: campaign finance, and the constitutional status of corporations... Of those who support both goals, some argue that both must be accomplished in a single amendment, while others believe that passing an amendment on campaign finance alone will be more expedient than passing a combined amendment, and may indeed accelerate passage and ratification of a later corporate rights amendment.”

### The question of free speech

Not everyone supports repealing *Citizens United*. The American Civil Liberties Union, for instance, would not support any measure that could be interpreted as “banning political speech.”

“Despite the bombastic rhetoric and dire predictions, corporations and their vast treasuries have not dominated elections post-*Citizens United*,” Eric Peterson, then-senior policy analyst at Americans for Prosperity, a right-wing political advocacy group, wrote in a *Washington Examiner* op-ed last year. “While the *New York Times* or other media outlets would be quick to point out that the First Amendment specifically mentions freedom of the press, the lines between corporations



have always been and continue to be blurred.”

Meanwhile, Nicholas Almendares, a professor at Seton Hall Law School, proposes “a downstream approach,” which focuses on mitigating the effects of the *Citizens United* decision, rather than its repeal.

In a 2016 article titled “Beyond *Citizens United*,” published in *Fordham Law Review*, Professor Almendares and co-author Catherine Hafer, a professor at New York University argue in the article’s introduction, “*Citizens United* leaves open the possibility of managing the pernicious effects of money in politics... While conventional campaign finance regulation tries to mute the policy influence of money by reducing the amount used in campaigns, the approach we advocate here focuses on the policymaking process that follows the election. Because our ‘downstream’ approach to these issues entails no restriction on political speech, it is permissible under *Citizens United*.”

## Foreign Influence CONTINUED FROM PAGE 1

midterm elections as a potential target for Russian influence operations.”

Continued interference, experts say, can pose a threat to the future of the nation’s democracy.

“Democracy simply doesn’t work if elections are tainted by outside interference,” explains Frank Corrado, a constitutional lawyer practicing in Wildwood. “By definition, a democracy presupposes that the people’s opinions, expressed by their vote, are accurately and impartially recorded and implemented.”

That basic principle of democracy, intelligence experts say, was directly tampered with beginning as early as 2014, in anticipation of the 2016 presidential election. Since the investigation into Russian meddling is still underway, some aspects of the foreign government’s election meddling

activities remain unclear. The basics, however, have been disclosed to the public.

### How it started

In 2014, 80 people operating out of St. Petersburg, Russia began creating online groups focused on emotionally charged issues like immigration and religion, and began drawing in American followers. By 2016, some of these groups had hundreds of thousands of followers, who were then unwittingly used to share fake messages, mostly through Facebook and Instagram, that promoted anti-Hillary Clinton sentiments and bolstered her opponents, including then candidate Donald Trump. The Russians also began buying ads on social media targeting



# Falling Victim to the Purge

by Michael Barbella

Three amendments to the U.S. Constitution expanded the right to vote; proclaiming the privilege “shall not be denied or abridged” based on race, gender or age (those 18 or over). It can, however, be denied on the basis of participation, thanks to a recent U.S. Supreme Court ruling.

In June 2018, the Court upheld Ohio’s voter purge efforts, considered the most aggressive in the nation. In a 5-4 decision, the justices ruled that voters could be removed from registration rolls if they skip several elections and fail to respond to state election officials. Opponents argued that Ohio’s approach violates a federal law designed to enhance voting opportunities for U.S. citizens, but the court disagreed.

“This case presents a question of statutory interpretation, not a question of policy,” Justice Samuel A. Alito Jr. wrote in the Court’s **majority opinion**. “We have no authority to second-guess Congress or to decide whether Ohio’s supplemental process is the ideal method for keeping its voting rolls up to date. The only question before us is whether it violates federal law. It does not.”

A federal appeals court in Cincinnati thought otherwise, ruling in 2016 that Ohio’s **electorate** cleanup process—adopted 24 years ago—violated the National Voter Registration Act of 1993 (NVRA) because it targets residents who miss just one election cycle. The NVRA prevents states from removing people with spotty voting histories, but allows election officials to affirm residency through confirmation notices.

Ohio sends out such notices to anyone who skips just one federal election cycle. Those who fail to respond to the notice and do not cast a ballot in the next four years are removed from the state’s voter registration list. Lawmakers estimate the Buckeye State purged more than two million voters from registration lists between 2011 and 2016, with 1.2 million of those removed for infrequent voting.

## Cast aside

One of those outcasts was Larry Harmon, a software engineer and U.S. Navy veteran whose legal challenge triggered the Supreme Court decision. The Akron, Ohio, resident voted in 2004 and 2008 but sat out the next three federal elections (2010, 2012, and 2014). In 2015, Harmon attempted to cast a ballot against a marijuana legalization initiative, but learned he had been removed from his district’s voter registration list. State officials claim they sent Harmon a residency confirmation notice in 2011; he contends he never received it.

“I don’t remember getting that, and I don’t know why they sent it in the mail,” Harmon told *The New York Times*. “I’m out in a rural area, and sometimes I

get other people’s mail. Sometimes, other people get my mail. I’ve been living in Ohio my whole life. I pay property taxes and income taxes. I register my car. They obviously had all the data to know that I was a resident. They could have looked it up, but they were too cheap.”

## Failing to vote

Money, actually, had no bearing on the case—at issue was whether Ohio could legitimately target infrequent voters. The federal appeals court said no, since the practice could unjustifiably remove eligible voters from registration rolls and is unlawfully based solely on a person’s failure to vote. The court’s decision essentially restored the votes of more than 7,500 previously ineligible Ohio residents in the November 2016 election.

“The clause would have no teeth at all if states could circumvent it by simply including ‘voting’ in a disjunctive list of activities in which a registrant must fail to engage in order to ‘trigger’ the confirmation notice procedure,” a divided appellate court panel wrote in its decision. “In more concrete terms, a state cannot avoid the conclusion that its process results in removal ‘solely by reason of a failure to vote,’ by providing that the confirmation notice procedure is triggered by a registrant’s failure either to vote or to climb Mt. Everest or to hit a hole-in-one.”

The Supreme Court agreed with that assessment, but overturned the lower court’s ruling because it determined that Ohio removes registrants only if they fail to vote *and* do not respond to a confirmation notice. Justice Alito wrote, “A state violates the [NVRA] Failure-to-Vote Clause only if it removes registrants for no reason other than their failure to vote.”

Clashing mainly over language, the Court’s ruling hinged on its interpretation of the NVRA. The majority, for example, built its case around the term “solely,” arguing that removing voter registrations was dependent upon other factors like consistent non-voting, failure to return a confirmation notice, and failure to update a residential address. The four opposing judges, meanwhile, insisted that Ohio’s Confirmation Procedure is triggered only by a registrant’s failure to vote.

In his **dissenting opinion**, Justice Stephen Breyer pointed out that the national average of people moving from one county to another within a state is about four percent, but the percentage of citizens who do not vote is much higher, more than 40 percent.

“More often than not, the state fails to receive anything back from the registrant, and the fact that the state hears nothing from the registrant essentially proves nothing at all,” Justice Breyer wrote.



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specific groups, and stealing the identities of actual Americans to create fake accounts on those networks.

Over time, some of those fake groups began urging their followers to help organize political rallies across the country. For example, in May 2016 the Russian-created group Heart of Texas, which had about 250,000 Facebook followers, promoted a Houston rally to “Stop the Islamization of Texas.” In response, another fake Russian group, United Muslims of America, announced its own “Save Islamic Knowledge” rally in the same place. About a dozen Heart of Texas members turned out, some carrying rifles, Confederate flags and a “White Lives Matter” banner, and were confronted by a much larger United Muslims of America crowd. Facebook estimated close to 340,000 people saw the rally announcements and 62,500 had indicated they planned to attend one of them.

Facebook has disclosed that nearly 130 rallies related to race, immigration, gun control and other hotly debated issues, were promoted by 13 Russian-created pages, reaching 126 million Americans.

### The investigation

At press time, the investigation into Russia’s election activities is still ongoing. In February 2018, Robert Mueller, the former FBI chief who is serving as special counsel overseeing the investigation, took the first step in unraveling the operation by filing an indictment against 13 Russians and three companies in connection with the 2016 election meddling. The indictment says the operation was designed to provoke division among Americans and vilify Clinton while supporting her rivals, as evidenced by the hashtags the Russians used, including #Trump2016, #TrumpTrain and #Hillary4Prison.

In July 2018, the special counsel issued another indictment against 12 Russian intelligence officers in connection with the hacking of the Democratic National Committee and the Clinton presidential campaign. The 29-page indictment outlined the efforts of the Russian military, which included attempts to break into state election boards. The indictment also cited a January 2017 report issued from American intelligence agencies, which concluded that “Putin and the Russian government aspired to help President-elect Trump’s election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him.”

### What is being done

Experts agree action needs to be taken on several fronts, including shoring up opportunities for meddling through social media networks, improving security surrounding the nation’s election systems, and establishing stronger punishments for those found guilty of meddling.

Coats cautioned in July 2018, “The warning lights are blinking red again. Today, the digital infrastructure that serves this country is literally under attack.”

Facebook has taken some steps toward preventing a repeat of the 2016 election interference by changing some aspects of how the network works, hiring thousands of employees to help monitor content, and agreeing to work with Mueller. In July, Facebook revealed that it had detected 32 pages, created between March 2017 and May 2018 with fake accounts, which were being used to embark on a political influence campaign, sowing the seeds of discourse on many social issues. The pages were removed and while it is not clear whether there is a Russian link, the same tactics employed in 2016 were used. According to Facebook, more than 290,000 legitimate accounts followed one or more of these fake pages.

Early this year, Congress appropriated \$380 million for distribution to states to help them reconfigure or replace outdated, difficult to secure election systems, train election workers to spot questionable activities, and address other election security matters. Critics say the money is a drop in the bucket as far as what is needed to secure state systems; that upgrades will take years; and that since how the money is actually used is left up to the individual states, and each has its own election system, there will be inconsistencies in how successful and how aggressive efforts will be. Despite criticism that Congress is not doing enough to ensure the integrity of the upcoming election, in August 2018, an appropriations bill that would have allotted another \$250 million for election security was voted down in the Senate.

“There’s no finish line in election security,” David J. Becker, the director of the Center for Election Innovation and Research, a non-profit Washington-based organization devoted to building voter trust, told *The New York Times*. “There needs to be a consistent funding stream—probably in all critical areas, but particularly in elections—to secure those systems from attack.”

In April 2018, a group of former state election experts, intelligence officials and voting rights advocates sent a letter to election officials in every state suggesting how they could best use the congressional funds. Among the suggestions were securing election websites, voter registration systems and election night reporting systems, and prohibiting wireless connectivity in voting machines.

The latest efforts to protect against outside meddling came in August, when a bipartisan group of senators proposed a bill that would impose stronger sanctions on Russia if it continues to interfere with U.S. elections. At press time, no action had been taken on the measure.

With the November mid-term elections on the horizon, partisanship seems likely to continue when it comes to combating Russian and possibly other forms of cyberattacks. “I suspect legislators are waiting for the Mueller investigation to play out before anyone undertakes to propose changes,” says Corrado. “The principal challenge, I think, is the hyper-partisan divide in Congress.”

### Interpreting NVRA


"The Supreme Court divided most clearly on the interpretation of the NVRA—more specifically, on whether the Ohio policy that begins a process to remove voters after their failure to vote in one federal election is compliant with federal law," explained Myrna Perez, deputy director of the Democracy Program at NYU's Brennan Center for Justice and leader of its Voting Rights and Elections project. "In general, cases that go to the Supreme Court often center on how to interpret language found in laws. The majority opinion found the Ohio policy is lawful because the state sends a mailed notice and waits for the voter to miss two more federal elections before the voter is purged. The dissenting justices found the Ohio policy noncompliant under NVRA because the state still bases removal on a person's failure to vote without any other reason to think the voter is ineligible. In many elections, the majority of people do not vote, so not voting is not very good evidence that someone has moved."

Voting rights advocates claim the Supreme Court decision could impact thousands of Ohio voters this fall and Perez fears

the ruling could inspire more **"draconian"** purges nationwide.

Six other states currently have voter registration cleanup programs similar to Ohio (Georgia, Montana, Oklahoma, Oregon, Pennsylvania, and West Virginia), though none are as strict. Still, the ruling could remove several hundred thousand voters from Georgia's registration rolls this fall, as challengers to that state's voter maintenance efforts withdrew their federal lawsuit the day after the Supreme Court decision.

The Supreme Court's ruling...suggests that states with similar policies are not legally prohibited from following a similar practice," Perez said.

The League of Women Voters expressed a similar concern. "The Supreme Court got this one wrong. The right to vote is not 'use it or lose it,'" Chris Carson, president of the League of Women Voters of the U.S., said in a statement. "The public trust in the fairness of our elections is badly shaken. This decision will fuel the fire of voter suppressors across the country who want to make sure their chosen candidates win reelection—no matter what the voters say." 

## Picking Voters CONTINUED FROM PAGE 1

### What's going on here?

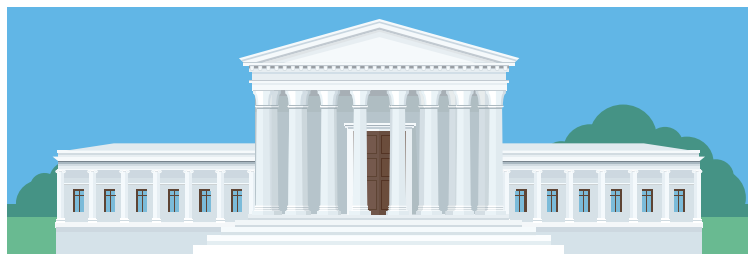
**"Partisan** gerrymandering refers to the practice of politicians drawing voting districts for their own political advantage," according to Eugene D. Mazo, a professor at Rutgers Law School—Newark and an expert on election law and the voting process. Professor Mazo explains that politicians use what they call "packing" and "cracking" to move voters around state districts, giving the edge to one political party with the use of advanced computer technology.

"Politicians can 'pack' like-minded voters into a single district, thus wasting the strength of their votes in other districts," Professor Mazo says. For example, a district can be redrawn to reflect great numbers of Democrats, taking them away from neighboring districts, which would now be more likely to vote Republican.

"Cracking works by dividing voters in a single district into two or more districts," explains Professor Mazo. "Say that 60 percent of voters in a given district are Republicans and consistently elect a Republican to represent them in Congress. Politicians can 'crack' that district to spread these Republican voters into two different districts." The method would essentially, in this scenario, prevent a Republican from being elected in those districts.

### Is gerrymandering constitutional?

The constitutionality of gerrymandering has



been debated for years. Professor Mazo says there are two issues to be considered in gerrymandering cases.

"The first is whether partisan gerrymandering is a **'justiciable'** issue for the courts meaning whether this is a topic that courts could resolve in the first place," Professor Mazo explains. "The second issue is what test the courts should use to resolve partisan gerrymandering claims."

In October 2017, the U.S. Supreme Court heard oral arguments in the Wisconsin case of *Gill v. Whitford*. Three lower-court federal judges determined that the legislative districts drawn by the Republican-controlled legislature of 2011 were unconstitutional because they violated the equal protection clause of the Fourteenth Amendment and the freedom of association clause of the First Amendment. Wisconsin Republicans disagreed that the district maps were biased and **appealed** the decision to the Supreme Court.

In June 2018, all nine Supreme Court justices dismissed the Wisconsin case for "lack of standing." In other words, the plaintiffs in the case could not prove they had been harmed. The Court **remanded** the case back to the lower court to determine if individual injury could be proven in each district. The ruling was interpreted as the Court leaving the door open for a future decision.

In a Maryland case, *Benisek v. Lamone*, Democrats targeted Republicans in what the GOP considered a partisan

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gerrymander of the state's sixth congressional district. In that case, decided the same day as *Whitford*, the Supreme Court did not comment on the merits of the gerrymander but upheld the district court's decision not to put a hold on the way the district map was drawn, ruling it was not an "abuse of discretion."

In both cases, the Supreme Court avoided saying whether partisan gerrymandering was unconstitutional and provided no guidance to when a gerrymander goes too far.

In 2018, a panel of federal judges ruled that North Carolina's congressional map was unconstitutional, the first time that a federal court blocked a congressional map because of partisan gerrymandering.

"I think electing Republicans is better than electing Democrats. So I drew this map to help foster what I think is better for the country," Rep. David Lewis, a Republican member of the North Carolina General Assembly, told *The Washington Post*. "I propose that we draw the maps to give a partisan advantage to 10 Republicans and 3 Democrats because I do not believe it's possible to draw a map with 11 Republicans and 2 Democrats."

Professor Mazo explains, "In 2016, Republicans won 53 percent of the statewide vote [in North Carolina], but they won 10 of the state's 13 seats in Congress. Democrats sued and a federal trial court blocked the district maps, finding they had been drawn with extreme partisanship. Republicans appealed to the Supreme Court...But after the Supreme Court kicked the can down the road by failing to rule on the merits [in the Wisconsin and Maryland cases], it also passed on the opportunity to hear the partisan gerrymandering case from North Carolina."

As with the other two cases, the Court sent the North Carolina case back to the lower court to determine legal standing.

### What to do

There has been a recent public opinion shift among Americans, who want their districts drawn fairly by the voters, not politicians. Many states, including Michigan, Missouri, Utah and Colorado, are using ballot initiatives to let the voters decide the gerrymandering issue in the upcoming November election. An Ohio proposal to stop gerrymandering was overwhelmingly approved by state voters in May.

Some have suggested turning over the mapping of political boundaries exclusively to **bipartisan** independent redistricting commissions. Currently, 21 states, including New Jersey, use an independent redistricting commission in some form. The U.S. Supreme Court, however, has been divided on the constitutionality of these commissions. In 2015, the Court issued a 5-4 ruling that Arizona's independent redistricting commission does not violate the elections clause in the U.S. Constitution.

### A threat to democracy?

"Partisan gerrymandering can lead to a situation where a minority of voters elect a majority of the legislature, and then, after further partisan gerrymandering, that legislature can entrench itself so that a majority of voters can never remove it from power thereafter," Professor Mazo says. "It is important to note that Democrats and Republicans are equally at fault here. Both parties gerrymander to their own advantage when they can and have done so consistently throughout American history."

Despite the fact that scholars have discussed tests to determine fairness, Professor Mazo says, "only the Supreme Court can make the decision of which of these tests should be used, and it has been reluctant to wade into these waters."

In a **concurring opinion**, Justice Elena Kagan wrote, "Courts—and in particular this court—will again be called on to redress extreme partisan gerrymanders. I am hopeful we will then step up to our responsibility to vindicate the Constitution against a contrary law." 

## Vote Locally CONTINUED FROM PAGE 1

Political scientists cite many factors to explain the drop-off in voter turnout during non-presidential years, according to Professor Nussbaumer. Among them are: the higher name recognition of presidential candidates; national politics tend to monopolize media coverage; state and local media outlets have been shrinking, therefore shrinking coverage of local candidates and elections as well. In addition, political parties tend to put more resources behind voter participation during a presidential

election year because that is when their donors give the most money.

### Voting close to home

All elections have consequences and it is just as important to vote in state and local elections, as it is to cast your vote for president of the United States. The reality is, however, that the outcome of local elections has a greater affect on citizens.

"Almost half of all government spending in the U.S. is by local

and state governments," Professor Nussbaumer says. "Despite the great expansion of the role of the federal government in the 20th Century, far more of our laws about crime, housing, public health and safety, education, transportation, family law and commerce are still made and administered at the state and local level."

While presidential elections hog most of the spotlight, the

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average citizen will be more affected by local lawmakers (those running for state legislatures, town council, etc.) rather than the president. Local lawmakers create the laws that you will be required to follow on a daily basis.

“Before a law is passed it must be voted on at your state Senate and state House of Representatives before your governor decides to approve it, veto it or allow it to pass into law,” Becky Kip, CEO of Hear My Voice, a civic engagement platform, wrote in an opinion piece for *The Hill*. “Local politics influence all of the decisions that have a direct influence on our day-to-day lives, from the laws we’re most worried about abiding by, to the streets we drive on and whether or not they’re riddled with potholes, to whether or not we’ll have to pay for plastic bags at the grocery store, and more.”

The stakes of a local election are high, Professor Nussbaumer says, pointing out that local officials can impact students’ lives as well.

“Your local city council, school board, sheriff or mayor may make decisions that could make or break [for example] a high school student’s career prospects, such as the line-drawing and resource allocation between school districts, or the question of whether to punish a student who is acting up as a mere school discipline problem or as a serious crime requiring incarceration,” she says.

Professor Nussbaumer also points out that lower turnout and interest by voters and the media at the local and state level creates an “increasing accountability gap.”

“When local politicians do not need to worry about voters and journalists, evidence suggests that the rate of government corruption goes up,” she says.

Preferring to focus on hope, Professor Nussbaumer touts the potential that can come if citizens recognize the high stakes of local and state elections and the fact that you have a greater chance of making a difference in local elections.

It’s a matter of math, she says. “One voter is worth more in determining a local election outcome than a

federal one, thanks both to the much smaller size of the eligible **electorate** and the smaller turnout. This is quite unlike when your vote is one among millions in a presidential election.”

In addition, Professor Nussbaumer says, “If you extend your participation beyond voting to more active measures like knocking on doors to encourage other voters to turn out, which is still one of the most effective campaign tactics around, you have all the higher chance of making a difference in local outcomes.”

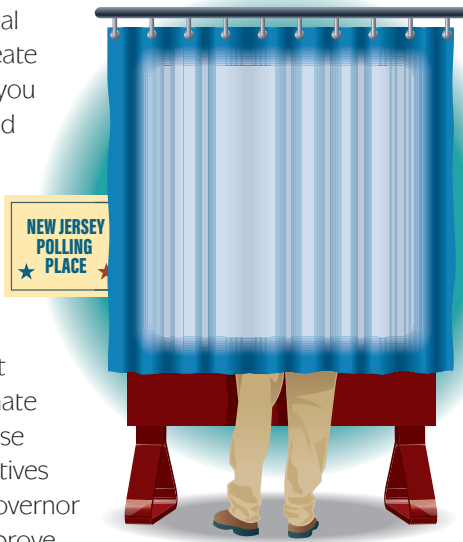
### Make it a habit

Young voters—ages 18 to 35—make up 31 percent of the electorate, but have the lowest turnout rate, according to the Pew Research Center. An article in *The Economist* stated: “Young people’s disenchantment with the ballot box matters because voting is a habit: those who do not take to it young may never start.”

Let America Vote, a political action organization founded in February 2017, launched a national initiative in partnership with mayors across the country, called Cap, Gown, Vote! (CGV). The initiative aims to increase voter registration among high school students. Research has shown that if

young people learn the voting process and vote, they are more likely to continue to do so throughout their lives.

“High schoolers today have proven they can lead political movements, so we should give them the tools to be civically engaged,” Jason Kander, President of Let America Vote said in a press statement. “Our goal is to bring eligible students into the electorate and show them the power of using your vote as your voice.”



## GLOSSARY

**appealed**— when a decision from a lower court is reviewed by a higher court.

**bipartisan** — supported by two political parties.

**concurring opinion** — a separate opinion delivered by one or more justices or judges that agrees with the decision of the court but not for the same reasons.

**dissenting opinion** — a statement written by a judge or justice that disagrees with the opinion reached by the majority of his or her colleagues.

**draconian** —excessively harsh.

**electorate** —everyone in a country or area who are entitled to vote.

**justiciable** —subject to trial in a court of law.

**majority opinion** — a statement written by a judge or justice that reflects the opinion reached by the majority of his or her colleagues.

**nonpartisan** — not adhering to any established political group or party.

**partisan** — someone who supports a particular political party or cause with great devotion.

**remand** — to send a case back to a lower court.