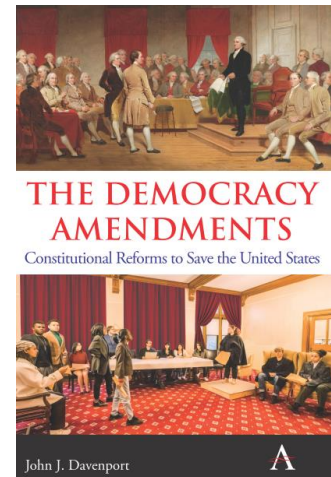


The Democracy Amendments: Constitutional Reforms to Save the United States

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Democracies around the world are under increasing threat from rising totalitarian powers, especially in China and Russia. In the face of this existential challenge, scholars and political leaders of all major parties agree that the United States needs to strengthen its own constitutional foundations. The well-being of our children and our nation's collective future are increasingly threatened by gridlock in Congress; election systems that incentivize the dominant political parties to refuse compromise in favor of ginning up hatreds; declining trust in the Supreme Court; mass propaganda on social media; and ancient gaps in a constitutional system that has not been reformed in over half a century since the Civil Rights era. Unless we come to grips with this fact, federal capacities to govern will continue to decline and the threat of widespread violence after presidential elections will increase with every new round of disputed election returns.



There is now no viable way to restore political moderation in Congress and balance federal budgets without fixing flaws in our fundamental law, which fringe extremists, scandal-monger medias, big donors, and corporate lobbyists have maximally exploited to wrench control from the sane middle of America. Our government will not be able to effectively address the daily economic and social challenges that Americans face until the rules of our political processes are restored to working order.

This book lays out a plan for such a broad bipartisan movement, detailing 25 amendments designed mainly to fix the *procedures* by which federal politicians are elected or appointed, through which laws are made and policies enforced, and that are supposed to prevent official corruption. The proposals are not about specific policies to address topics like our rapidly soaring national debt, urban crime, illegal immigration, medical and college costs, or climate change and colossal storm damage. Instead, they focus on how to make the government efficient, effective, and honest in solving such problems.

The Amendment Proposals: Main Themes. The book introduces a top-10 list of most urgently needed reforms, plus another 15 that would strengthen accountability and fill dangerous lacunas in our present constitutional text. Together, this broad centrist reform agenda synthesizes and interconnects the best ideas that have emerged from studies focused on problems in the federal structure.

Election Reforms

1. *Automatic runoff* systems for federal legislators and for the presidential election: third party candidates can run without being spoilers; moderate candidates do better; and turnout also rises.
2. A fairer primary system in which *the earliest primary elections rotate* between groups of states.
3. A requirement for open, semi-open, or *top-4 primary balloting* to increase participation and resist the domination of the most fanatical or ideologically extreme wings of each major party.
4. *A formula to end partisan gerrymandering* of congressional and statehouse districts: the proposal focuses on making elections more competitive overall, while preserving some proportion between shares of the statewide vote for each political party and the number of seats they win in that state.
5. *Sensible limits on election spending* to end the out-of-control arms race that forces members of Congress and their challengers – in both parties – to spend ever-more time courting millionaires, big business interests, lobbyists, and law firms that serve in effect as lobbyists.
6. Moderate national standards to ensure security in voter registration, a regularly updated national

registry, integrity in the voting process, higher turnout across the political spectrum, and *restored public faith in the process* – all backed by constitutional voting rights framed in a way to leave states significant latitude concerning eligibility of ex-felons and immigrants to vote.

The Structure of Congress and the Legislative Process

7. *End the filibuster* that is the main cause of gridlock in the US government: the filibuster, especially in its current routine form, is totally contrary to the founders' intentions, often worsens minority rule in the Senate, and prevents the public learning process that results when the majority's bills are enacted. This change will force Senate majorities to actually enact programs they believe the public will support, rather than merely pretending to support more radical bills.
8. *Raise the number of seats in the House of Representatives*, in accordance with the founders' intentions, to enable House members to have a closer relationship with their constituents. This reform, especially if combined with a weighted vote system, would also reduce large disproportions between state populations, their House delegation sizes, and their number of presidential electors – which compound the huge advantages that small states have in the Senate.

The Supreme Court and Education for Democratic Citizenship

9. To prevent Supreme Court justices from timing their retirements and staying into their dotage, set *an 18-year term with 9 justices*: each president appoints two justices during each four-year presidential term, with speedy Senate confirmation votes. The proposal includes a lottery among circuit court judges to fill out the remainder of their term for any justice who dies or retires early.
10. *A robust, factual, nonpartisan civics curriculum*: high school graduates will understand how our federal system works, learn about our budget deficits and the large costs of big federal programs, know basic information about tax rates and tax burdens, grasp basic economic concepts needed to assess national challenges, and learn the basic elements of sound reasoning and reliable sources.

The Presidential Election, Powers, and Representation for All Americans

11. Statehood for Puerto Rico and congressional representation for Washington D.C.
12. Direct Election of the President as the only sufficient solution to the problems of the Electoral College system (including why the “district” and “proportional” method fixes will not work).

Good Government (Anti-corruption) Reforms, Impeachment, and Emergency Powers

13. Limits to the pardon power: ban self-pardons, pardons for crimes not yet charged, and pardoning relatives, justices, or high officeholders who answer to the president; add a congressional check.
14. Eight or ten-year gaps between serving in Congress and becoming a lobbyist or working for large corporations that benefitted directly by the congressperson's work; bans on insider trading by congresspersons; members of Congress and senior officials must hold assets in blind trusts.
15. Disclosure requirements for all candidates for high federal office; limits on appointing relatives; severe and repeated breaches of honesty on the job is a felony barring one from future office.
16. The Attorney General and Director of the FBI can only be fired with Senate concurrence; Special Prosecutors' powers are constitutionally defined; job qualifications for a nonpartisan civil service.
17. Impeachment proceedings follow a criminal model, including clearer definitions of impeachable offenses, and a three step-process with a Special Prosecutor and a special Court of Impeachment to decide the case. But presidents may also be removed by Congress via a no-confidence vote.
18. Limits to Executive Privilege; more accountability for contempt of Congress; and strong penalties for foreign interference in US elections or use of stolen data by election campaigns.
19. Clear provisions for emergency powers; limits to continuation of declared states of emergency; a

system of named alternates to replace senators and House members killed in a terrorist attack.

Further Vital Improvements to Congress, the Judicial Process, and Amendment Processes

20. Lower the threshold to override a presidential veto to 60% of both chambers of Congress.
21. Make it easier for bipartisan majorities in either chamber of Congress to move popular bills that party leaders oppose; reduce the power of committee chairs to stall popular bills; allow Congress to put ballot questions on the presidential-year federal ballot; allow 2/3rds of states to put items on Congress' agenda for mandatory final votes; allow Congress to force votes in state legislatures on two bills per term; mandate timely Senate votes on confirmation of presidential appointees.
22. A four-year budget that limits borrowing (deficit spending); new budget control powers for the president; regular audits of federal programs and departments; defaulting on the federal debt is unconstitutional and the president is empowered to take drastic measures to prevent default.
23. Instruction to federal courts on judicial review; all federal laws must be intended by their authors to serve national public goods; rejection of naïve positivism in constitutional interpretation; and an option for the Supreme Court to remand a law for a mandatory revote in Congress before ruling it unconstitutional in whole or part.
24. Four options to correct the massive malapportionment of representation in the US Senate, together with limits on the Senate's power to block bills passed multiple times by the House.
25. Expand details on the amendment process to explain how a national constitutional convention should work; reduce thresholds to three-fifths of Congress and two-thirds of the states; a 20-year window for ratification; a pathway for ratifying amendments through popular ballot questions.

A National Constitutional Convention is the best way to pass these Democracy Amendments

The Article V option to call a new constitutional convention has never been used. But this approach has several key advantages as a way to get around permanent obstacles to amendments in Congress:

- a convention has an inherently open agenda, allowing it to consider multiple possible amendments at once, and forge new compromises or grand bargains to get the country out of its current rut.
- a national convention can pass amendments by a simple majority vote in one body, as opposed to two-thirds of both chambers of Congress, when sending proposed amendments to the states.
- when a new convention is planned, this prospect will inspire wide-ranging national conversations and a focus on constitutional essentials in high schools that will improve citizens' understanding.
- a convention can provide a positive way for people to channel the deep frustrations that have built up about partisanship and anger at dysfunction in the federal government as a whole.
- Congress can say that federal and state government officials cannot serve as convention delegates.
- a convention would bring some of the best political minds of our time together under a call to transcend party politics, and do an end-run around the big lobby groups that control D.C.
- convention delegates, with historical reputations at stake, would be under great pressure to come up with innovative solutions and to produce substantive results that could be ratified.
- Congress can call a new national convention at any time; but two-thirds of the states together can also force Congress to call such a convention (and arguably more than 34 states have already passed unrescinded joint resolutions calling for a convention).
- a convention cannot enact any amendment by itself; ratification by the states is still required.



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Several senior scholars have come to the same conclusion: see the work of Lawrence Lessig, Larry Sabato, and Sanford Levinson, among others. The founders expected us to call a new convention at least once a century.