

To: Government Administrations and Elections Committee, Connecticut

Date: 2/28/2007

From: Luther G. Weeks  
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**RE: Testimony: Against the National Popular Vote  
SB-42, HB-6000, HB-6018, HJ-12**

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Chairs and members of the Committee, my name is Luther Weeks. I reside in Glastonbury, CT. I have been involved in voting issues for the past four years. I have masters degrees in Computer Science and Insurance Management. I am here today to provide testimony and documentation against the passage of the national popular election of the President in any form.

I have attached two documents totaling three pages, which I will summarize for you today. If you would like further details, I will e-mail my fully referenced 23 page paper entitled "The Case Against 'The Agreement Among The States to Elect The President by National Popular Vote'".

Permit me an analogy. The Titanic sank not just because it hit an iceberg. It sank because too many of its compartments were flooded. If the integrity of a hull is breached, if the damage can be sufficiently contained to a few compartments, a ship will not sink. The Electoral College performs the same function for our democracy as compartments perform for ships. If the integrity of an election is breached, then if the damage can be sufficiently contained to a few states, the democratic process will prevail.

Many non-profit groups dedicated to democracy have documented serious errors, voter suppression, and lack of integrity with our various state by state election systems. Bills to improve voting integrity have been introduced in Congress as well as bills in some states, including Connecticut.

The ideal of a precise national popular vote count is far from the reality of the current system.

Direct election of the President would magnify errors and distort differences among states, while offering an open invitation to voter suppression and fraud that will lead directly to voter disenfranchisement and add to voter cynicism. We can also expect an unending series of court challenges of vote counts in almost every state, in every close presidential election, leading to a tradition of the Supreme Court deciding the President.

Electing the President by popular vote sounds appealing, yet it will have unintended consequences

Thank You,

  
Luther G. Weeks

## **Why it is not the time for “The Agreement Among The States to Elect The President by National Popular Vote”**

The Titanic sank not just because it hit an iceberg. It sank because too many of its compartments were flooded. If the integrity of a hull is breached, if the damage can be sufficiently contained to a few compartments, a ship will not sink. The Electoral College performs the same function for our democracy as compartments perform for ships. If the integrity of an election is breached, then if the damage can be sufficiently contained to a few states, the democratic process will prevail.

This year “The Agreement Among The States to Elect The President by National Popular Vote” has been proposed in several states, including Connecticut. Often a topic of high school civics class discussions, replacing the antiquated Electoral College by the direct election of the President has obvious appeal. The Electoral College was intended to protect the smaller states from domination by the larger states, while protecting wealthy landowners from the uniformed, uneducated people.

Today the Electoral College protects “We The People” from our faulty and fragmented voting system. Implementing a national popular vote at this time would put at risk the integrity of the entire election process. If the votes of all states were accumulated toward the national popular vote the impact of errors, voter suppression, disenfranchisement, and fraud would be compounded; incentives for voter suppression, disenfranchisement, fraud and contesting election results would also increase.

Many prestigious groups dedicated to democracy have documented other serious problems. They have developed agendas to implement election reforms to protect the integrity of the process, prevent voter suppression, reduce voter disenfranchisement, and reduce counting errors. Groups include the Carter/Baker Commission, Common Cause, and Demos. Bills have been introduced by several Senators and Representatives in Washington. Reforms involve uniform national standards, poll worker training, oversight, enforcement, voter registration reform, paper ballots, standards for provisional ballots, and ending the conflict of interest in election administration.

Common Cause’s supports of the National Popular Vote Agreement, while well intended, risks creating unintended consequences. It is hard to understand their enthusiasm given their current Election Reform Agenda which provides clear support for all the election concerns listed previously. A recent report shows that they and several other groups that originally supported the HAVA (Help America Vote Act), subsequently became the leaders demanding paper ballots and audit reforms in an attempt to correct the unintended consequences of HAVA.

The ideal of a precise popular vote count is far from the reality of the current system. The reality is a rushed tallying of the vote to produce a winner on election night; followed by pressures to justify the initial count to avoid a time consuming, frequently embarrassing series of recounts.

The 2000 Supreme Court decision, *Gore v. Bush*, stated “The recount process, in its features here described, is inconsistent with the minimum procedures necessary to protect the fundamental right of each voter in the special instance of a statewide recount under the authority of a single state judicial officer”.

In 2006, in Sarasota, FL 18,000 votes were lost forever and never counted in a heavily Democratic area, resulting in a contested election of a Republican candidate by less than 400 votes. In Ohio two election officials were recently convicted of rigging a partial Presidential recount.

We accept approximate totals on election night but verify them and correct them later in locally close races. We have little assurance this would be done in every polling place, in every state, based on close national totals. Here in Connecticut in 2006, in the 2<sup>nd</sup> CD re-cavass, the margin changed from 167 to 91. In that same election, a hand audit of optical scan and other ballots in just the towns of East Hartford and Wethersfield, showed differences greater than 10 votes in 14 races, with the top errors being 73, 82, and 105.

Direct election of the President would magnify errors and distort differences among states, while offering an open invitation to voter suppression and fraud that will lead directly to voter disenfranchisement and add to voter cynicism. We can also expect an unending series of court challenges of vote counts in almost every state in every close presidential election, leading to a tradition of the Supreme Court deciding the President.

References to all facts are included in a detailed paper which is available upon request.

# Explanation of National Popular Vote Bill – Rebutted

*NationalPopulerVote.org is the organization leading the effort to pass the National Popular Vote Agreement between the States. In addition to a 646 page book, they provide a 1-sentence, a 3-sentence, and a 400-word descriptions of the agreement. Here are equivalent rebuttals.*

## 1-Sentence Description<sup>1</sup>

The National Popular Vote bill would guarantee that the presidential candidate who receives the most popular votes in all 50 states and the District of Columbia will win the Presidency.

## 1-Sentence Rebuttal<sup>2</sup>

**The National Popular Vote bill would magnify the distortion caused by errors, voter suppression, disenfranchisement, fraud, and court challenges to the election leaving the Supreme Court as the only nine votes that would decide presidential elections.**

## 3-Sentence Description

Under the U.S. Constitution, the states have exclusive and plenary (complete) power to allocate their electoral votes, and may change their state laws concerning the awarding of their electoral votes at any time. Under the National Popular Vote bill, all of the state's electoral votes would be awarded to the presidential candidate who receives the most popular votes in all 50 states and the District of Columbia. The bill would take effect only when enacted, in identical form, by states possessing a majority of the electoral votes—that is, enough electoral votes to elect a President (270 of 538).

## 3-Sentence Rebuttal

**Under the U.S. Constitution, the states have exclusive and plenary (complete) power to allocate their electoral votes, certify election results, monitor the process, and install partisan election officials to block attempts by the public to vote and suppress attempts to determine the actual election winner. These officials can, at any time change (as several have frequently changed), their state laws concerning eligibility to vote, the audit process, the recount process, refuse access to ballots, and destroy ballots. Under the National Popular Vote bill, all of the state's electoral votes would be awarded to the presidential candidate who receives the most popular votes in all 50 states and the District of Columbia, as certified by a variety of partisan election officials in each state.**

## 400-Word Description – with Annotated Rebuttal

The National Popular Vote bill would guarantee that the presidential candidate who receives the most votes in all 50 states will win the Presidency. **[The National Popular Vote bill would magnify the distortion caused by errors, voter suppression, disenfranchisement, fraud, and court challenges to the election, leaving the Supreme Court as only nine votes that would decide presidential elections.]**

The current system of electing the President has several shortcomings—all stemming from the winner-take-all rule that awards all of a state's electoral votes to the presidential candidate who receives the most popular votes in each state. **[The current system of electing the President has several shortcomings—many stemming from the variety of rules in each state and the partisan nature of the highest election officials and their power to suppress the vote and virtually eliminate the transparency needed to determine the integrity of the election.]**

<sup>1</sup> Explanation of National Popular Vote Bill, <http://www.nationalpopularvote.com/pages/explanation.php>, retrieved 2/20/2007

<sup>2</sup> Annotations and Rebuttal by Luther G. Weeks, NotNowNationalPopularVote@WeeksI.net, detailed references available

Under the winner-take-all rule, presidential candidates have no reason to poll, visit, advertise, organize, campaign, or worry about the concerns of voters of states that they cannot possibly win or lose. **[Under the proposed National winner-take-all rule (a.k.a. National Popular Vote), presidential candidates have no reason to poll, visit, advertise, organize, campaign, or worry about the concerns of voters of demographics, regions, cities, or states in which they cannot significantly increase their votes.]**

A major shortcoming of the current system is that voters in two thirds of the states are effectively disenfranchised in presidential elections because candidates concentrate their attention on a handful of closely divided "battleground" states. Presidential candidates concentrate over two-thirds of their advertising money and campaign visits in just five states, and over 99% of their advertising money in just 16 states. **[A major shortcoming of the proposed system is that voters in all states are effectively disenfranchised in presidential elections because of fraud, error, and suppression in other states. With the National Popular Vote fraud, error, and suppression in every state offers enhanced opportunity to have the election result vary from the intention of the majority.]**

The number of battleground states has been shrinking for many decades. The spectator states in presidential elections include 7 of the nation's 11 most populous states (California, Texas, New York, Illinois, New Jersey, North Carolina, and Georgia), 12 of the 13 least populous states (all but New Hampshire); and a majority of the medium-sized states. **[Under the National Popular Vote, the number of battleground states for fraud, suppression, and error will dramatically expand to 50 plus the District of Columbia. This will also expand the battleground for court challenges to the election.]**

Another shortcoming of the current system is that a candidate can win the Presidency without winning the most popular votes nationwide. A shift of a handful of votes in one or two states would have elected the second-place candidate in five of the last 12 presidential elections. **[Another shortcoming of the proposed system is that a candidate can win the Presidency by a simple arithmetic error, voter suppression, or fraudulent suppressed count in a single state. Several errors in the last two presidential elections might have resulted in a different winner if reasonable recount and transparency provisions were in place. A single controversy resulted in a Supreme Court election decision. Such problems and potential court challenges would be magnified with the National Popular Vote.]**

The Founding Fathers gave the states exclusive and plenary (complete) control over the manner of awarding of their electoral votes, and may change their state laws concerning the awarding of their electoral votes at any time. Forty-eight states award all of their electoral votes according to the "winner-take-all" rule, whereas Maine and Nebraska award some of their electoral votes by congressional districts. **[The Founding Fathers got many things right. Intended or not, the Electoral College now provides protection of the voters in each state from errors, suppression and fraud in other states]**

Under the National Popular Vote bill, all of the state's electoral votes would be awarded to the presidential candidate who receives the most popular votes in all 50 states and the District of Columbia. The bill would take effect only when enacted, in identical form, by states possessing a majority of the electoral votes—that is, enough electoral votes to elect a President (270 of 538). **[The National Popular Vote bill would magnify the distortion caused by errors, voter suppression, disenfranchisement fraud, and court challenges to the election leaving the Supreme Court as only vote that would decide elections. The actual bill does not say "identical form"; it says "substantially the same form". Once the bill is enacted expect court challenges in several states putting into question the issue of the actual number of electoral college votes covered.]**

70% of the public has long supported nationwide election of the president. **[The public has long trusted in the electoral process, Yet now many of the public, scientists, politicians, and leading non-partisan groups doubt the integrity of the election process, based on the partisan actions by election officials along with the implementation of new voting equipment and procedures which are not transparent and bring the integrity of the whole process into question.]**