

THE BROOKINGS INSTITUTION  
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DEMOCRACY AT RISK:  
SOLVING CRITICAL PROBLEMS THREATENING U.S. ELECTIONS

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## P R O C E E D I N G S

MR. EISEN: All right, I'm going to mute my cellphone and ask everybody else to do the same. Good morning, everyone, and welcome to Brookings Governance Studies for our panel today on "Democracy at risk: Solving critical problems threatening U.S. elections."

I'm so delighted to have my extraordinarily distinguished colleagues with us today. We always say that our panels are distinguished here at Brookings, but today's panel really is a remarkable one to talk about these problems.

I was discussing our event today, which will focus on two of the most critical challenges that are facing our democracy: the campaign finance system that has run amok, since Citizens United the floodgates of big money have opened up and are drowning American democracy; and we'll talk about the partisan gerrymandering epidemic that has squeezed our congressional districts into unrecognizable contortions and that insulate our members of Congress from true democratic accountability.

I was discussing all of this with a journalist yesterday in the run-up to the event and he asked me a very good question. He said, come on, Norm, do you really believe that in today's political climate there's any chance of getting solutions to these problems? And today we are going to relentlessly focus not just on complaining about the problems, but on the solutions to the problems.

And I told my friend in the fourth estate that the genius of the American experiment, now for almost three centuries, is that every time we confront a challenge, major existential challenges, which I believe the campaign finance crisis and the gerrymandering abuse constitute -- they attack the fundamental American idea of one person, one vote, on the one hand by using money as a megaphone to exalt the voices of the rich and powerful over the rest of us; and, on the other hand, by diluting the votes of some Americans at the expense of others -- every time we face one of those existential crisis, we've risen to the occasion and we've solved it. And the secret ingredient of American genius that has made that possible is our optimism as a country.

And as you're hear today, that is not just a matter of faith. It's not an unfounded optimism because the policy solutions are there and they're already taking hold around the country. The American people want their democracy to function well, and so you'll hear much, much more today about the

content of the solutions to this crisis, about how there's already evidence that they're working around the country in the states and localities, the little labs of democracy as Brandeis put it, and why we believe that change for the better is coming.

I want to begin the panel by inviting Richard Painter to join us by videoconference.

Richard will be our first speaker. There he is. Hello, Richard.

MR. PAINTER: Hello.

MR. EISEN: We can see all your class materials. Richard is joining us from his office at the University of Minnesota Law School. Richard received his B.A. summa cum laude in history from Harvard and his J.D. from Yale. He clerked for Judge John Noonan on the ninth circuit and was a practitioner, including at the storied firm of Sullivan & Cromwell in New York City.

He has been a tenured member of the law faculty at the University of Oregon and the University of Illinois. And he has been the J. Walter Ritchie professor of corporate law at the University of Minnesota Law School since 2007. Most saliently for today's discussion, Richard was associate counsel to President George W. Bush from 2005 to 2007, serving as the chief ethics lawyer for the President, for White House employees, and senior nominees to Senate-confirmed positions. In the executive branch he's a member of the American Law Institute, a reporter for the new ALI Principles of Government Ethics.

And with me serves on the board of CREW, Citizens for Responsibility and Ethics in Washington. I'm very proud to say that ethics has no party and that Richard and I worked together on issues like those confronting us today without respect to the different places on the political spectrum and our disagreement on so many other policies.

He's an authority on campaign finance reform. His book, "Getting the Government America Deserves: How Ethics Reform Can Make a Difference," was published by Oxford in 2009. And his additional volume, "Taxation Only With Representation: The Conservative Conscious and Campaign Finance Reform," was put out by Take Back Our Republic in 2016. He's a frequent writer, sometimes sharing a byline with yours truly. You can see him on television constantly and he's a Twitter ethics force to be reckoned with.

Let me remind everyone that you can Tweet questions to us today at my Twitter account.

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Richard, sorry for plugging mine and not yours, @normeisen. And you can follow us on Twitter at #MoneyInPolitics. So as you listen to Richard, Tweet us your questions.

And without further ado, I give you my colleague and my friend, Richard Painter. Thank you.

MR. PAINTER: Thank you very much, Norm. I am pleased to be with you this morning, if only virtually here. I'm teaching a class in about an hour and a half on government ethics.

And the problem I wanted to discuss with you today is the great danger of foreign infiltration of our democratic system through money in politics. And I wrote about this in my book that was published in January 2016, "Taxation Only With Representation." In that book I only mention Russia a few times. I don't know if mentioned Donald Trump at all. I could not imagine that things would have turned out the way they did by November of 2016.

But the danger of foreign infiltration of our democratic system is alive and well. The founders feared it, as I discussed in that book, once again without ever mentioning Donald Trump. The founders tried to protect us from foreign government infiltration of our democratic system through the emoluments clause of the Constitution prohibiting a United States government official from accepting profits and benefits from dealings with foreign governments. But the founders did not envision the great danger that could arise because of our campaign finance system.

And after Citizens United we must be particularly vigilant with respect to foreign government and foreign nationals infiltrating our system. In my book I go through in detail the extended holdings of Chinese, Middle Eastern, and other companies inside the United States. And I discuss the law, of course. The law is that it is illegal for a foreign national, a foreign government, a foreign corporation to make any contribution to a United States federal election. It's illegal under federal law. It's also illegal to drink under the age of 21, and I can assure you it's a lot easier to get foreign government money into a U.S. political campaign than it is to get alcohol into the freshman yard at a typical college campus. And I discuss in detail in my book exactly how that could be done.

I have to say I missed the boat. I didn't figure out that the Russians would be busy buying up Facebook pages and hacking computer systems and the rest of it. So there are plenty of other

tricks that foreign governments have and foreign nationals to dominate our system.

But the message is really very clear. We want to be an independent country. We're Americans who choose American leaders. We have to fix our system of campaign finance. We need much more disclosure about where money's coming from, who's buying the Facebook pages, who's funding the 501(c)(4) organizations, and the rest of it. We need more transparency.

We also need to support small-dollar donors. And the solution I suggest in my book is a \$200 tax credit for every American to support a candidate of his or her choice. This is critically important. I think it would actually help reduce federal spending and be good for the budget because at this point too many elected leaders, Democrat and Republican, are dependent upon large campaign contributors. These include companies with contracts with the United States government that overcharge the United States government.

If we want to have small government, government accountable to the people, we're going to fix our campaign finance system. And that's why I suggest in the book "Taxation Only With Representation" that every American should have that right. And indeed, through statute or constitutional amendment, either way, we could provide that the government has no right to tax anyone, any American, who has not been given the chance to have the first \$200 of his or her tax money go to selecting the candidate of his or her choice.

And that's critically important so that we as Americans have a voice in selecting the people who are spending our money, that we have a right to participate in the primary system, the so-called "green primary," a money-driven primary, as Lawrence Lessig has called it. We have a right to participate, we as Americans.

And it's critically important that Congress address this issue of campaign finance and recognize that this is a threat to our national security, the current state of affairs. And in 2016, it was Russia with the Trump campaign. In 2018, 2020, going forward, it could be a different foreign adversary collaborating with a different campaign to undermine the American system of democracy.

The founders intended to protect in the Constitution as best they could at the time. It is our obligation as Americans to defend our own country and to fix our campaign finance system in order to

do so. Thank you very much.

MR. EISEN: Thank you, Richard. We appreciate it and we appreciate your leadership, a leading voice among conservatives, more and more of whom are outraged about the abuses we're discussing today.

It is a suitable day for this panel and for Richard's remarks because when I read my newspaper this morning I saw that Special Counsel Mueller is investigating donations that were made to Mr. Trump and aligned organizations and activities by those who may have current or prior connections to Russia.

I remember, Senator Udall, when I had the privilege of working with President Obama on his State of the Union speech discussing the immediate aftermath of Citizens United. And he warned that the floodgates were going to open, including foreign money, and people scoffed, including some in the distinguished individuals in the audience, as I recall. And yet, here we are in reading about that in the newspaper.

It's my pleasure next to introduce Senator Udall. He has earned a reputation as a principled leader who has the integrity to do what is right. And you're going to hear about that leadership and some of the policies that he is so vigorously advocating for.

He began service as a United States senator in 2009, after two decades of public life that included a stint as U.S. representative and also as New Mexico's state attorney general. The attorneys general are a critically important bulwark in our American checks and balances system. He was reelected to the United States Senate in 2014, and he is now New Mexico's senior senator.

He had a distinguished law career before taking public office. He is a graduate of the University of New Mexico Law School. He was a law clerk to Chief Justice Oliver of the U.S. Tenth Circuit. He was a federal prosecutor in the U.S. attorney's Criminal Division. And he was the chief counsel to the New Mexico Department of Health and the Environment.

He is a true leader on these issues and I'm very pleased to welcome him to the Brookings state. Welcome, Senator.

SENATOR UDALL: Thank you, Norm, for that just glowing introduction. You almost feel

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like you shouldn't say anything after that. And also, I wish my mom was here to hear all those great things that you said about me. (Laughter)

But this is an issue for me that I had a passion for. I was elected attorney general back in 1990 and I remember one of the first things we did was as attorneys general, write to the Supreme Court and tell them that we were headed in the wrong direction in terms of Buckley v. Valeo. I think this is a very appropriate setting and this title, "Democracy at risk." I mean, I really do believe our democracy is threatened and we need to retool our institutions and move in a new direction.

Look at some of the things that are undermining our democracy. The big money and the dark money that you've all heard about, they have a corrupting influence. Gerrymandering of the system, which Norm and Richard have mentioned, which is a big part of what's happening today; voter suppression and voting rights.

And let me just talk a little bit about Buckley because I think that's one of the cores to what we're talking about here. Buckley talked about money equaling speech. As soon as they headed down that road, you were going down a road of no limits, something that I believe is a very, very dangerous road for democracy. And you're also going down a road where the big money ends up dominating.

And why do we worry so much about the money? Well, you know, it takes us away from our jobs, first of all. David, I've heard that -- and the same thing's true in the Senate -- some of these marginal House members are spending 40 hours a week doing fundraising, you know. And you all elected folks, the same thing happens in the Senate, but you all elected folks to come back here, meet with each other, legislate, and try to move issues forward. So it takes us away from our jobs. It prevents Congress from acting on the important issues that our nation is involved with. It distorts the marketplace of ideas, totally in favor of the wealthy and the special interests rather than the average citizen.

But the hopeful thing is that there are solutions out there. David Price and many others in the Congress have worked on these for years. I'm proud to stand up and be for public financing, where we talk about small contributions to match public money; disclosure, full and complete. We could do this now with the Internet and our connectivity very quickly, disclose those kinds of things. As you know,

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many of the dark money contributions aren't disclosed at all and there's hundreds of millions of dollars of that sloshing around the system today.

And independent commissions to draw gerrymandering -- to prevent gerrymandering, these independent commissions, which I have tried to do everything I can to push for, those kinds of commissions rather than legislatures drawing the congressional lines.

And the most encouraging thing to me because, as Norm said and I think this is important to repeat, our states in many ways are laboratories of democracy. They come up with ideas. They come up with new ways of doing things. They create new models. And we're seeing on all of these fronts very, very strong, active movements in the states to reform the system. And I believe it's only so long before we pick up many of those reforms and put them in place at the federal level.

So a real honor to be here with you today, look forward to the question-and-answer. And, Norm, in particular, look forward to the audience participating here. Thank you very much.

MR. EISEN: Thanks, Senator. It's now my privilege to introduce Congressman David Price. Just as Senator Udall has been so important to this effort on the Senate side of the Capitol, Congressman Prices has been a leader in the House. He represents North Carolina's Fourth District. He received his undergraduate degree at UNC Chapel Hill and went on to Yale University to earn a bachelor of divinity and a Ph.D. in political science. Although as someone who's studied political science myself decades ago, I would have cross-bred it with abnormal psychology to understand our situation today, Congressman. (Laughter)

Before he began serving in Congress he was a professor of political science and public policy at Duke. And he has written four books on Congress and the American political system. I don't usually have the pleasure of welcoming members of Congress to the stage who would be overqualified for a Brookings job and might take mine, if they were available, but in the case of Congressman Price, I do.

CONGRESSMAN PRICE: Thank you very much. It's great to be back at Brookings and to be with all of you. And Norm, thank you. Thanks, Tom, and all the friends here on the panel. It's great to be with everyone and to have this discussion because I do think as grim as things may look in certain



aspects, we do have a chance here to focus on exactly what has gone wrong, how it's gone wrong, and how we can fix it in terms of the integrity of our democracy. And there's really nothing more basis than that.

This is, of course, a longstanding battle. My own involvement goes back to the attempt to amend the McCain-Feingold legislation. Remember that? Bipartisan, serious campaign reform measures. Shays-Meehan was the counterpart in the House. And I think this is an old enough audience to know what I'm talking about when we called my amendment "Stand By Your Ad," with apologies to Tammy Wynette. (Laughter) Not every audience gets that these days. But that's what we called it, "Stand By Your Ad." And sure enough, "Stand By Your Ad" is federal law.

President Obama told the story of being approached by a voter and her daughter in the campaign season and the mother apparently said to the daughter, pointing to the President, do you know what he does? And the daughter said, yes, he approved this message. (Laughter) So it might not be our favorite kind of repetitive bit of political advertising, but it does pin responsibility, I approve this message, it is on me.

And I believe that folks who are paying for robocalls or folks who are paying for various kinds of paid Internet advertisements ought to also -- and the funders of super PACS also ought to be required to say this is on me, this is my responsibility. And that is, of course, one avenue for reform among many others.

Anyway, we got "Stand By Your Ad" adopted. Later I worked with Fred and others in trying to make sure we didn't lose the main post-Watergate reform, namely presidential public financing, an immensely successful reform effort for 30 years after Watergate, one that now is slipping away before our eyes.

And of course, as others have said, Citizens United expanded the fight dramatically, an avalanche of spending by so-called independent groups, mega donors, corporations. Malicious foreign actors have seen their influence grow considerably. These entities have taken advantage of weakened or nonexistent contributions limits, lax disclosure rules. They've poured incredible sums of money into the political system. And in the process they've further marginalized the voices of average citizens.

And we hear a lot in this debate about free speech rights. In my opinion, the real basic free speech right here is the danger of being drowned out. That's really the speech we should be most worried about, the voice of ordinary citizens.

Unfortunately, when it comes to our campaign finance system the Supreme Court has aided and abetted the big money donors. Congress has become an accessory. We've got to demand more of Congress and the courts.

Numerous states have enacted voter ID laws. I regret to say my own state has been one of them, one of the worst, although we have gone to court and have managed to roll back some of the rollbacks, and we are still fighting much of this. But we've had same-day voter registration, the question of provisional ballots, early voting, even Sunday voting has been ruled out in the name of voter integrity. We feel like we're Ground Zero in North Carolina for these efforts.

We know that these restrictions disproportionately impact minority populations, college students, low-income people, seniors, other vulnerable communities. They are not random efforts nor are they designed to be random efforts at reducing the vote. They do reduce turnout. A GAO study in 2014 found that strict photo ID laws reduce turnout by 2 to 3 percentage points. That'll translate into tens of thousands of lost votes in a single state. What are we doing, in a participatory democracy, making it harder, not easier, to vote? Something's very wrong.

We need to also reject hyper partisan gerrymandering that allows politicians to choose their constituents rather than the other way around. We see the effects of this all over the place. In the House of Representatives, exhibit a, people rejecting fair compromises, people rejecting even the thought of working together, not on a policy grounds, but because of a primary threat that they feel or the prospect of an outside special interest spending millions on attack ads in their district.

For Republican especially the resolve that nobody will ever get to the right of me. How many times have we heard that? It's seen by many as the ticket to political survival because of these bubbles of congressional districts that we have, because of the threat not from the other side, not from a fair debate somewhere near the political spectrum, but by a far right or in some cases far left primary challenge.

We've fought over this in North Carolina for years, over state and federal district maps. We're still fighting over it. It takes forever. The decade's over before you have these questions resolved. Several districts, including the one I occupied for four years, have been declared unconstitutional racial gerrymanders and additional challenges are making their way through the courts.

The real game-changers we need here are a Wisconsin decision, a Wisconsin case decision, that provides fuller protections against purely political gerrymanders and/or I believe federal legislation that'll move us along in the states toward nonpartisan commissions to draw the districts. We already have that in a number of states; that needs to be done in all the states.

So it's clear our democratic system is facing threats on multiple fronts: campaign finance, voter participation, gerrymandering chief among them. If there's a silver lining it's that people are figuring this out. More and more Americans are beginning to realize that special interest are subverting our democratic system. And we have some clear policy prescriptions to overcome our current challenges.

For years now, like-minded colleagues, including Tom Udall and myself, have worked together putting forth concrete proposals to update and strengthen our system: small donor public financing for presidential and congressional races; updated disclosure and coordination rules for super PACs and other outside entities; enhanced disclaimers for new forms of paid political communication; nonpartisan redistricting reform; automatic voter registration; and on and on. It's a long list, but it isn't too complicated really when you think about the history of reform and the kind of prescriptions that we can, I believe, honestly make for how to make things better.

We do have this sense of urgency now and we've got to act on that. We can't let our politics descend even further into mindless polarization, allow public cynicism to turn further into disengagement. It's a recipe for disaster. It's dangerous for our democracy.

So what we're doing this morning, what we're focusing on is extremely important and I appreciate all of you for your engagement. Thank you.

MR. EISEN: Thanks, Congressman. Let me remind everybody that you can tweet question to us, @normeisen. I've gotten some great ones already. I'm going to be asking the panel

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some of them. And #MoneyInPolitics.

I'm going to now turn to two of the most distinguished leaders of civil society to begin our conversation and ask some of the hard questions that the senator and the congressman's eloquent articulations of the problems and the solutions -- I love the emphasis on the solutions -- some of the questions that are raised.

I'm going to begin with Fred Wertheimer from Democracy 21, a nonpartisan, nonprofit organization that works to strengthen our democracy and to empower citizens in the political process. Fred is a recognized national leader and spokesman on these issues. He has served as a lawyer in numerous Supreme Court campaign finance cases and in developing campaign finance policy.

For decades now he's been named by the *Legal Times* as among the "100 Greatest Lawyers in Washington" over the past 30 years. I would certainly agree because he's my mentor in these issues. So if there's anybody in the room or watching on Facebook live who's vexed by my perpetual harping on these questions, you can blame Fred.

He's been deeply immersed in the process of finding solutions to these problems and working with the senator and the congressman and others, including myself and Richard, on really leading the policy development for this new set of solutions to campaign finance and gerrymandering abuses. I know that because his office is a couple blocks from here and I frequently visit. And whenever I do, he's got a pile of policy proposals on his desk.

I'm pleased to turn to him now. Fred, you've been doing this for more than four decades and here we are today with a dysfunctional political system on our hands, perhaps even worse than during the Watergate crisis that stimulated the first great wave of modern reforms. What makes you believe that there is any chance to effectively repair the democracy problems our country is facing? Is it a lost cause and why do you think any of the things we're talking about can actually happen and work?

MR. WERTHEIMER: Thanks, Norm, and thanks to you and Brookings for doing this event. Thanks to my colleagues for being here. Thanks to the members of Congress who are true leaders on these issues. And unlike Senator Udall, I am pleased that my wife was here to hear Norm's introduction. (Laughter)

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Let me start off by trying to put this in a little perspective, where we are today.

Representative Price talked about going back to 2002 and his efforts on the McCain-Feingold bill. I want to go back a little, too. Some of you may have been around when this statement was made. I'm make the statement and then you tell me whether you were here.

The statement is, the abuse of buying and selling votes crept in and money began to play an important part in determining the elections. Later on this process of corruption spread in the law courts.

Now, that was Plutarch writing in the 1st century A.D. about the Roman republic. So I guess most of you probably were not there at the time. (Laughter)

MR. EISEN: Fred actually began his career as an advisor to Plutarch. (Laughter)

MR. WERTHEIMER: I drafted some legislation to deal with that.

Look, the issues we're dealing with are cyclical and they always have been. You have scandals, you have reforms, reforms work. People start to press against the reforms, the reforms break down. You have new scandals, you have new reforms. It's a continuum. We can't ever entirely solve the problems, but we can contain the problems and we can reduce them to manageable low levels. We've done it in the past.

We are currently in the scandal stage. When you have 100 individuals give a billion dollars to super PACs in the last election, you're in the scandal stage. That's an average of \$10 million per donor.

When you have a President who, unlike his predecessors, insists on continuing to profit from a worldwide business while he is representing the interests of all Americans and has inherent conflicts of interest, you're in the scandal stage. These scandals will grow and they will create opportunities for reform.

Now, Norm says why isn't this hopeless? I think there are a number of reasons, but I always start off and live by what Nelson Mandela once said. He said it always seems impossible until it happens, and that has been our experience with these issues. We have passed effective reforms in the past. For most of my career in working on this they've been bipartisan. We had bipartisan leaders and

bipartisan supporters. We are in a hyper partisan period right now and that's a problem and we're going to have to get out of it.

Our task on issues like campaign finance reform have been made much more difficult by a hostile Supreme Court, who is also all but destroyed our bribery laws. We have bribery convictions being overturned now because of a Supreme Court ruling that, in my view, had no idea or no concern in the end about what they were doing.

These are long-term battles. They always have been. The Watergate reforms happened over a two-and-a-half-year period. The effort to pass the McCain-Feingold law took 12 years in Congress. So we have to prepare for longer term battles and be ready to be in it for the long haul.

In terms of hopelessness, the American people have never, never accepted influence buying and corruption. And one of the things that makes this not hopeless is a poll that was taken by the *New York Times* during the last election cycle. Eighty-five percent of the American people -- 85 percent -- said they wanted fundamental changes or a complete overhaul of the way our campaigns are financed. You never know when the opportunities will come, but they have come before and they will come again. We can provide alternative ways to finance our elections so that our officeholders have the opportunity to serve in office without facing influence-seeking funders who have bought their ounce of flesh from them.

We can eliminate barriers to voting. People have talked about this. We can eliminate rigged elections through partisan gerrymandering. We can win these battles. We can repair our democracy. It doesn't take the invention of new reforms. We have the reforms. It takes the political will of the American people transformed into demand for change from their elected officials.

Now we just watched the congressional Republicans spend eight years attacking Obamacare, and when their opportunity came, they were not ready. They didn't have a reform proposal. They still don't really have a reform proposal. When the opportunity comes to repair our democracy and political system, we will be ready and we will take advantage of that opportunity as we have in the past.

MR. EISEN: Thank you, Fred, and thanks for getting us ready. You've spent so many hours working with Senator Udall and Congressman Price and so many other leaders, both on the Hill and in NGOs and really everywhere on developing those policy solutions so that we are ready.

Now I'd like to turn to Karen Hobert Flynn, who is going to share some evidence with us to show that Fred's faith that the words of Nelson Mandela are not idle, but that change is happening. Karen is a democracy reform activist and leader, and has been for more than three decades, including over a quarter of a century on staff and in state and national leadership positions with Common Cause. Today she serves as the organization's ninth president.

Before that, she was the senior VP for programs and strategy from 2012 to 2016. She's overseen strategy and planning for the organization. She raised significant resources to support its national and state efforts to curb the outside influence of big money in politics and to protect voting rights.

From 2013 to 2014, Karen served as interim president of Common Cause after the sudden passing of my friend and a dear friend of all of us here on the panel, Bob Edgar. We miss him terribly. Karen guided the organization through that unexpected transition for which we're all very grateful.

Under her leadership Common Cause at the state level has secured strong state campaign finance laws; comprehensive small-dollar public financing grants; programs banning state contractor political giving; strict limits on such giving by lobbyists; ethics laws, including gifts and meals limit bills; promotional advertising limits; and strong disclosure and coordination measures. She's a frequent commentator in print and on radio and television on all of these issues. And we're very fortunate to have her here today to tell us all why we're not smoking something when we believe that this is going to happen. (Laughter) Karen.

MS. FLYNN: Thank you, Norm, for the opportunity to join this panel and also for hosting this important conversation. And also thank you to the leadership of the folks that are joining me on this panel.

You know, here's what I know as someone who's worked at the state level and worked with our leaders across the country on reform measures. The solutions that we talked here today not only move and are passing, but also with bipartisan support. And I know that that can seem strange to people even with an administration, the new election of an administration that promised to drain the swamp, but instead has backfilled the swamp; that has created challenges to our democratic norms and values and

institutions, including the rule of law; where there are ethics challenges and challenges around emoluments, conflicts of interest.

Even with that election in 2016, we saw 14 measures move on the ballot in 2016 that focused on redistricting reform, an independent commission on redistricting, automatic voter registration, small-donor public financing contribution limits, and many more. And even in the last year or two, we've seen many measures move that deal with some of the solutions that we've talked about. We do see polarization in states, but the truth is that many of these measures move with Republican and Democratic support.

So if you look at automatic voter registration just as an example, there has been incredible momentum around that reform. And for those that don't know what automatic voter registration is, it shifts voter registration burdens onto states so that they use lists, like the Department of Motor Vehicle list, to register the people to vote and they can opt out if they so choose. Oregon was the first state that moved that reform and they saw a dramatic increase in the last election in people who were not only registered, but also voted as a result of that reform.

And since then, we have seen that reform move in many other states, in part because it increases the number of registered voters, it improves list maintenance, and it saves states money. So we have 10 states or jurisdictions that have automatic voter registration on the books just in the last few years, red states, blue states, and purple states, and with strong bipartisan support.

For example, we saw places like Vermont, West Virginia, Rhode Island legislatures pass these measures with that strong support, and Rhode Island was just in the last month or two. I should also mention in Illinois there is automatic voter registration that passed with strong bipartisan support and the Republican governor signed it into law just a few weeks ago. We also see reform measures like online voter registration that's moved in some 39 states, including in the last year in Ohio and Rhode Island.

There are also bipartisan support for laws in states that are dealing with disclosure measures like we've heard the senator and congressman speak about to shine the light on the hundreds of millions of dollars in money that are spent in independent expenditures in states. When *Citizens*



*United* came down, we saw a flurry of states in 2010 and 2011 try and move reforms to deal with disclosure, and we saw that move in more than two dozen states.

As we started to see special interest money funnel its way through shell corporations and other entities, we recognized we needed something stronger. And the disclosure reform policy at the federal level that's been in discussion and we've been trying to get a vote on for many years has had trouble moving, but it's moved at the state level. Massachusetts, a couple of years ago, passed a disclose-like reform, as did Rhode Island. And California's legislature also moved solutions like disclosure just in the last week.

Redistricting reform is another challenge, talking about nonpartisan independent commissions to draw the district lines instead of having legislatures do that has been in place in places like California and Arizona and several other states for many years. But we are also seeing real interest in moving that at the state and local level with Ohio being the most recent state to move redistricting reform with broad bipartisan support that puts in place a commission of leaders and also standards about how they would draw the district lines. And they're doing that for legislative districts, but are looking to do it for congressional districts, as well. We even saw in 2016 in Sacramento, and we're seeing other local jurisdictions, look at moving measures to draw district lines for city council seats with an independent commission.

We've also seen strong bipartisan support moving many ethics laws. Just last year Maryland passed a bill to require a uniformed set of conflict of interest measures for local government. They also passed a package of reform just a few years ago on state oversight of local compliance. We saw Rhode Island restored the jurisdiction of the state Ethics Commission over members of the General Assembly, so that they can help police what members of the General Assembly do in the realm of ethics. And having independent commissions do that kind of work is very important and is one of the many solutions we're looking at at the federal level with the really flawed FEC.

We've also seen progress moving small-donor public financing measures. And, you know, like these other issues we're talking about, these are issues that fundamentally shift power. What we're talking about is putting money into the hands of challengers that take on incumbents, and so it is

very difficult to move. I know because I worked at the state level of many years and moved public financing for statewide and legislative districts in Connecticut many years ago, and that program is still -- has had five election cycles under its belt and is still working with 74 percent participation, Republicans and Democrats.

But we've also seen reforms move in Seattle most recently, using Democracy Vouchers where four \$25 vouchers are given to residents in Seattle to give to candidates of their choice. And that is just getting off the ground and it will be really interesting to see how this new tactic using the voucher system can work in Seattle.

We've had reform measures move in Montgomery County and Howard County, Maryland, within the last year. And many other states are looking at these kinds of reforms.

And I think one of the things that we are learning is that the states really are innovating and learning from each other, so states that were looking at automatic registration in Oregon, looking that they use DMV lists, are also trying to find other ways to bring in other voters. So, for example, in California, as they implement automatic registration they are looking at social service agencies and actually public universities, so that if you register for a class, you could be registered to vote and then have the chance to opt out.

So we believe that even in a polarized political climate, states and localities are really eager to embrace these reforms. And as an organization that works in this space, we have seen tremendous growth in activists wanting to engage both in pushing back about the things they see at the federal level that they're concerned about around conflicts of interest and emoluments, but also they want to engage in these concrete democracy measures, these reforms that are moving at the state and local level. And that's one of the things that gives me hope. Thank you.

MR. EISEN: Thank you, Karen. I had prepared a very long list of questions to cross-examine the panel, but I'm going to dispense with those. We're going to take a round of three questions from the audience. We're going to go a little long, assuming I hear no objection from the panelists.

So please keep your questions concise. There are two of my very nice Brookings colleagues with microphones. And I'll do one question from the Internet, as well, from Twitter. So why

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don't we do two questions from the audience and then I'll check my Twitter feed and take one from Twitter?

All right. We have a lady sitting right here and a gentleman right here.

SPEAKER: Thank you very much. I'd like to -- I agree on voter suppression, the problem with money, all of the election interference, but I want to ask you all a question, including Mr. Painter if he's still there, about personal citizen responsibility. Because there is a tendency to only vote if you're 30-something in presidential elections. And so my question relates to not just voting in local, state, and off-year elections, but also the responsibility to engage with people that you didn't vote for, that you just don't like not show up, and you burrow in, and the need for that kind of personal responsibility for 20-somethings, 30-somethings, rural, urban.

MR. EISEN: Thank you. Good question, personal responsibility. This gentleman here.

SPEAKER: My question is to the Honorable Senator Tom. Representative democracy in a big state, it is involved party and activities. So in monetary system, money is a very crucial factor. And with the growth of popular son, say, this senator system of 100 members was introduced. A senator has 1.5 million people, but now it's 6 million people. So many activities, many (inaudible) is met by money. Money is necessary. So if you put any restriction, then it is a missed freedom. So each depends on the institution that controls the ethics of the people. What use have they for this? And do you think a general parliament is a very effective institution for controlling this in less developed countries?

MR. EISEN: So one question on the personal responsibility, and I won't require only the senator to answer this, we'll go around. And one question on how we can possibly cope with the -- controlling this flow of money when money is so necessary.

Okay, panelists, pick a question and then while you do that, I'll ask everybody to answer one of those questions or the other. We'll got right down the panel. I'll impose upon you to be brief in the question and the answer you select. And then I'll give you one from Twitter.

SENATOR UDALL: You bet. Thank you for your question. And one of the things we need to do on the personal responsibility front is do a lot better in terms of education and civics education and what it means to be a citizen in a democracy.

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You know, a lot of people I think get the impression in the modern era where you watch it on television and our democracy is a spectator sport. Well, it's not. It's a participatory activity. We need everybody involved. And you're right that younger people have kind of a fall-off in terms of participation.

But the other thing that is incredibly hopeful is that whenever there's a candidate, especially at the presidential level, that excites people with real policy solutions to big problems the country faces, the youth participation goes up.

And let me just say to the gentleman on the money, obviously as we get to be a bigger society and communicating, you know, money is important for congressional candidates and others to do -- to carry on their activity. What we're trying to do in all of the reforms we've been working on is to lessen the impact of money on its result through the system. When you have super PACs, when you have dark money, when you have money taking so much time in terms of individuals, carrying out their activities, their official activities. All of those things need to be reformed so you lessen the impact of money. Thank you.

MR. EISEN: Congressman?

CONGRESSMAN PRICE: Certainly you're right to stress the responsibility all players have in the system, and that includes voters at all levels. At all levels that includes voters. There is a kind of responsibility that one has as citizens of a democracy to take some responsibility for the common good and to take that suffrage, that ballot, very, very seriously. That needs to be part of our education, part of our moral education as to what it means to live in a democracy.

I also think what you began to stress right at the end, the responsibility of candidates and of elected officials is important, as well. One of the negative trends I see is for candidates and elected officials these days to figure all they need to do is cultivate their base. I mean, that's the new way. You cultivate your base.

I can't tell you how often people come into my congressional office and say you're the first member I've seen all day. You know, it's like members don't feel the same obligation to talk to whoever is wanting to talk to them. People refuse to have town meetings. People refuse to deal with anyone who makes the uncomfortable. And unfortunately, they sometimes get away with it because of

some of the things we've discussed here today.

So there are some obligations all around. There's some obligations all around as to how a democracy should operate, whom we should be talking to, and the kind of way we see ourselves as representatives. We're not just representing our own voters or our own voter base.

On the necessity of well-funded campaigns, you know, in my view the problem is not just money in politics. In fact, politics requires money. We want campaigns that reach the entire community. I remember campaigning for a full year, every church supper, every barbeque, every gathering I could find, a full year when I was first running for Congress. And I thought I was pretty well-known when I started. I had been state party chairman. My name recognition after a year of that was 10 percent. And a little home movie quality ad saying into the camera we got to straighten out our politics -- this was after the Hunt Helms race, so it was a good message -- we got to straighten out our politics. A home movie quality ad tripled that name recognition. And I never did anything as hard in my life as to try to raise the money to get that ad on the air.

So yes, we have to have money in politics because of the requirements of modern communication, and we don't want to fail to engage the entire community. The issue, I think, is money from where, money with what kind of strings attached, and money that dominates, that drowns out voices rather than creates a full campaign dialogue.

MR. EISEN: That's why it's so important to fight dirty, secret money with clean, democratic money. And one of the policy proposals that you can find in this interlocked set, because it's a very complicated set of problems, and it has a very complicated set of solutions, but you'll find a handout as you go. I think that's right. Somewhere there's our -- I'll ask my Brookings colleagues, we had a pile of them there on the way out as you go; I'm seeing nods from my colleague -- enumerating the policy solutions that Fred has worked so hard to develop, worked closely with the senator and the congressman, that Common Cause and Painter and myself are endorsing these policies. So please do have a look at that when you go.

I'm going to ask now the Twitter question to Fred and Karen. And it's not just one question, but it's the dominant question in the Twitter thread.

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There's a new threat, Twitter is saying, in the campaign finance and electioneering space, and that is the threat posed by technology and the operation of social media platforms and the use of foreign government-funded, allegedly, ad buys and Twitter bots and other devices. And so the question, it takes different forms, but I'll take the one from Alex Howard, our colleague at the Sunlight Foundation, and a great champion, also, on these issues. "Should technology companies that operate social media platforms have to disclose public ad files to the FCC?" Fred and Karen.

MR. WERTHEIMER: Yeah, I would say that would be part of the solution, but we need a much broader solution. The Internet, as always, creates great opportunities and great dangers in many fields. I happen to believe that if we can ever figure out how to use the Internet to make major breakthroughs in small contributions, we have the chance of flooding the system with small contributions and diluting and weakening the role of big money.

What has been revealed in recent weeks is an enormous danger: the capacity for foreign interests to manipulate our elections through ads and other communications on the Internet. And this is going to require before we're done legislative solutions. And organizations like Facebook cannot simply sit there and say, well, we'll figure out our own private rules to solve this problem.

The technology companies are going to have to help, but Congress will have to figure out how to get a handle on this to prevent the manipulation of our elections. We know from long experience in the campaign finance area that once people find loopholes, everyone who is in the business starts trying to run a truck, a tank, a column through those loopholes. (Laughter) So what we have seen or appear to have seen in 2016 is just the beginning of what is going to be an enormous effort.

So yes, we can get the Internet companies to undertake some of their own disclosure rules and create platforms, but we have to make sure that we can figure out when foreign interests are trying to spend money in our elections. Certain activities, as was pointed out earlier, are already illegal. It's illegal for a foreign interest to spend money on campaign ads to influence any election in this country. That appears to have already happened.

So the campaign ads are one aspect, but there are a larger questions here. There appeared to be efforts to manipulate through communications that never mentioned the candidate. It's a

tough, tough job, but we better solve it or else we're going to see this grow exponentially.

MR. EISEN: Karen, we have gone a little long. I'd like to go even longer, but I'm getting some audience attrition. However, we will give you the last word to wrap up today.

MS. FLYNN: You know, I agree with Fred in terms of foreign interference. There have to be broader solutions. It's terrific that Facebook has come forward with some measures. I think we have to go further. And not just foreign interference, but people want to know who is spending money on ads. It's not, you know, a \$25 buy, but large sums of money. They want to know; disclosure is important.

And we have seen more people embrace looking at structural reforms, not just groups like Common Cause that focus on democracy reforms, groups that work on environmental issues, labor groups, business groups, and others believe that we need to be moving structural reforms to strengthen our democracy. And that is a very hopeful sign in my book to move these kinds of solutions.

MR. EISEN: Always good to end on an optimistic note. I invite all of you back for the celebration when these policies are put into place. (Laughter) I am confident in the wisdom of our country. It sometimes takes a little while, but we always, always do the right thing.

Thanks to all of you for joining us and I thank our panel for a great conversation. Thank you. (Applause)

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