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NEWS

Either Voters' Rights are Constitutionally Sacrosanct, or They are Subject to Partisan Motives

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If the Legislature has its way— and it appears increasingly that it will — voters in 49 states will exercise a choice for President in 2020. New Jersey will not.

If Gov. Phil Murphy agrees, the name of President Trump, the likely Republican nominee, will not appear on the ballot because the Legislature is unhappy that Trump has refused to release his income tax returns for public scrutiny.

It is constitutionally dubious, fundamentally meaningless, strikingly hypocritical and remarkably juvenile. Other than that, it's a marvelous idea.

As a candidate in 2016, Trump refused to release his income tax returns, arguing the documents were undergoing an extensive audit and, when the review was complete, he would make it public. He's stonewalled ever since and has given no indication his mind will be changed simply because he's a candidate for re-election.

Make no mistake; Trump should release his returns. His steadfast refusal to do so guarantees the storyline will live on, administered oxygen by his opponents and the media.

He's been clear, though, that he will not give in and — unlike nearly all his predecessors — he simply doesn't care. He came into office as perhaps the most unorthodox candidate and president in modern history and has thumbed his nose at the established political norms ever since.

He's brushed aside criticism over keeping his returns secret, bashing the media for purveying "fake news" and for being complicit in partisan attempts to overturn the results of the 2016 election because they continue to be embarrassed and enraged at the outcome.

He believes that the issue of his tax returns doesn't cut deeply with the American people and that his refusal to disclose them is perceived to be "inside baseball" at best and typical political gamesmanship at worst.

He appears not to fear ballot box retribution and is willing to take his case to the court of public opinion, confident he can argue persuasively that his four-year record of economic expansion, low unemployment, unprecedented job creation, and tax cuts will easily overpower any voter misgivings about his Form 1040.

He's convinced he should be judged on the issues that matter to the broader segment of Americans, rather than on his assets and liabilities or profits and losses as filed with the Internal Revenue Service.

The proposal already approved by the Senate would prohibit a presidential candidate's name from appearing on the ballot unless he or she had divulged five years' worth of tax returns. It further prohibits the state's delegates to the Electoral College from casting a ballot for any candidate whose tax returns remain secret.

The United States Constitution makes no such demands, of course, in laying out the qualifications to serve as President — age (35), citizenship (born in the nation) and residency (at least 14 years). There is, further, no provision for individual states to add to or subtract from those qualifications — such as requiring the disclosure of income tax returns. If one is old enough, has lived in the U. S. for the requisite number of years and is a citizen, running for President is an option one may freely exercise.

By rebuffing Republican efforts to extend the legislation to cover gubernatorial and legislative candidates as well as presidential contenders, Senate Democrats invited accusations of hypocrisy, eager to protect their own financial histories from public scrutiny while holding others to a far higher standard.

Senate majority leader Loretta Weinberg (D-Bergen), justified the legislation as being in the higher interest of transparency in government, although the legislative investing committee she co-chairs hasn't been able so far to convince the Administration that transparency should reveal who hired Al Alvarez, the accused rapist who secured a \$140,000 a year staff appointment in the Administration.

There was no concern expressed over potentially disenfranchising hundreds of thousands of voters by denying them a ballot box choice for what is arguably the most important vote they'll ever cast.

It recalled the events of 2002 when, following the resignation of U. S. Sen. Robert Torricelli on charges of ethical misconduct, the State Supreme Court allowed a replacement to appear on the ballot despite the vacancy occurring after the statutory deadline for such candidate substitution had elapsed.

The court ruled, in effect, that guaranteeing the enfranchisement of voters outweighed the requirement set forth clearly in the law and that democracy was ill served and offended by denial of choice.

Not a perfect analogy, of course, but a valid point nonetheless: Either the rights of voters are Constitutionally sacrosanct, or they are subject to the winds of partisan motives.

It is true that the odds of Trump carrying New Jersey next year are non-existent and that, therefore, keeping his name off the ballot will exert no influence on the outcome.

The argument ignores the larger point, however; namely, that if the legislation stands, what is there to prevent future Legislatures from imposing other far more onerous and ill-conceived conditions on ballot placement.

The Legislature may have just made the slope a little more slippery.

If Trump persists in withholding his tax returns, it is he who must answer for his actions; it is he who justifies the necessity for secrecy and it is he who must convince voters that his reasons are legitimate.

That's why they're called elections and that's why the Legislature should leave it to voters to pass judgment on who is qualified and deserves their support.

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