

Transcript of Forum:
“Reform Ohio Now?”
Political Scientists Look At Propositions 2, 3, 4, and 5

Ford Auditorium, Allen Medical Library
Case Western Reserve University
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Speakers: The moderator is Joseph White, Ph.D., Luxenberg Family Professor of Public Policy, Chair of the Department of Political Science, and Director of the Center for Policy Studies, Case Western Reserve University. More extensive biographies of the four speakers are provided at the end of this transcript.

After the speakers made their remarks, Professor White moderated a session of questions from the audience. We cannot identify those questioners by name.

This transcript is Professor White’s best effort at transcribing the recording of the event. All errors are his fault alone.

Professor White: Good evening.. Welcome to Ford Auditorium of Case Western Reserve University. My name is Joseph White, I direct the Center for Policy Studies, and on behalf of the Center and the University I welcome you to the forum on Propositions 2, 3, 4, and 5 that will be voted on November 8 in the statewide election.

My personal opinion is, these propositions are extremely important because they have to do with the fundamental aspect of governance in this state, which is elections, and the fairness or lack thereof; the political advantage for one side or the other, the kinds of elections that we have and the kind of democracy we have. This naturally, because of the consequences it may have as perceived by both political parties, can become a partisan issue, as the two parties try to calculate their advantage one way or the other. But it is also a set of issues that all citizens, no matter what their biases, should care about. And therefore it seemed to me a good idea to bring a group of experts together who could speak from a broad array of perspectives on the specific subject at hand, not just or even particularly from a partisan perspective, but from a perspective of understanding the substance of these issues. That is why we call it “Political Scientists look at propositions 2, 3, 4, and 5,” because we have gathered a distinguished group of political scientists to offer their views.

This is particularly interesting to me because I don’t know how it is going to turn out. When I invited all but one of the members of this panel I had no idea what they would say and I have no idea now what they are going to say: I invited them for their expertise. There are four members of this panel and the first, whose position I do know, is Professor Richard Gunther of The Ohio State University. He has been involved in the Reform Ohio Now effort, but he comes to this from a base of expertise that is highly unusual. He is a scholar of elections around the world, so when we talk about things like how we divide

the lines between districts, he can speak from a much broader array of data than the average American or even the average American scholar or the average American practitioner of politics could. So I am especially interested in hearing his perspective. Prof Gunther will speak for 15-20 minutes, explaining the main aspects of the propositions and why he supports them, and then the other members of the panel will shoot at him and at each other.

The other 3 members of the panel are also distinguished scholars. John C. Green Ph.D., to my far left, is Distinguished Professor of Political Science and Director of the Ray C. Bliss Institute of Applied Politics at the University of Akron. The Bliss Institute teaches people about campaigns and how to campaign, and therefore this issue is of particular interest to both him and all of his colleagues. Also joining us is Caroline Tolbert, who is Associate Professor of Political Science at Kent State University, whose research focuses on aspects of the democratic process such as how the internet is involved with the democratic process, and the politics of referenda and initiatives, which of course this is. And then the fourth member of our panel is somebody I'm very glad to be here because he is on our faculty at Case Western, Justin Buchler, who is Assistant Professor of Political Science at Case Western, and Justin is doing his own original research on issues such as the strategies of political action committees and on issues such as the effects of various kinds of voting machines, and has published on these issues. So you see that we have here four scholars who are particularly qualified to comment on the substance of the Reform Ohio Now propositions, Propositions 2, 3, 4 and 5, in the November 8 election. With that, I would like to turn over the podium and the powerpoint machine here to Professor Dick Gunther of Ohio State University.

Richard Gunther:

Thank you very much for inviting me to this forum. As was mentioned, my background is not in American politics. I began by studying Spanish politics under the Franco regime, and I guess by looking at an authoritarian system I deeply appreciated the values of a democracy, and that's why when I had my first experience with direct participation in an American election campaign, which was just this last year, I was rather appalled with what I saw. Indeed, one of my friends is an international election monitor, and he just returned from Kyrgyzstan, and I can say that, in some respects, Kyrgyzstan does it better.

Issues 2, 3, 4, and 5 address what I regard as some serious flaws in Ohio's electoral system. Among these are unnecessary barriers to participation, the suppression of the vote which is made possible by having a partisan oversight of the electoral process, undue influence of special interests as a result of very high levels of contributions to election campaigns, and finally and most importantly, redistricting principles that allow for the determination of election outcomes prior to the actual election itself. So the deck is stacked in favor of one party or another, the way Americans draw their electoral districts.

Let me deal with these issues one at a time, starting with Issue 2, and this is the one that first got me involved in concerns about the electoral process in this country. I was watching the voting at the Ohio Union, which is where students vote on the Ohio State campus, and I was appalled to find that in one precinct, the line to vote was never less than three and one half hours long. Now this was not the worst, as you know, at Kenyon College the last vote in the state of Ohio was cast at 3:00 a.m.. And students had to stand in line for up to ten hours. This is appalling. There is no other democracy in the world that makes its voters suffer so much and so unnecessarily. Now, American elections are unfair I think in one respect to begin with, because we force voters to go to the polls on a regular working day. Everywhere else in the world it's either on a Sunday or a holiday especially convened for the occasion. What this means, is that most people who have a regular job have to show up extra early in the morning to stand in a long line, or come home from work very very late. So even when there are not shenanigans with the placement of polling places, you have unnecessary delays that I think discourage levels of participation in the United States, making our rate of voting the lowest among established democracies in the world.

Issue 2 would address that problem by making it possible for any registered voter to request an absentee ballot, and cast that ballot anytime during the 35 days prior to the election. Some have argued that this would open up new avenues for electoral fraud. Now, first off, absentee balloting has been part of American elections for de cades and decades, and there is no evidence that these kinds of ballots are more susceptible to fraud than others. But beyond that, what we're proposing has already been adopted in 29 states in this country, and there is absolutely no evidence that it has been accompanied by an increase in fraud. What I would recommend, then, is a vote on Issue 2 that would make it possible to lower these barriers to participation.

Now, it was most interesting to find that the leader of Ohio First, Dick Feinan, published on the very same day that I published my op-ed piece calling for a vote for all four of these issues, he recommended a no vote at the same time his majority party in the state legislature decided that it was a good idea after all, and they would want to enact it by special legislation. What I can say is, if that piece of special legislation stands, we already have one victory out of our four amendments, but the bottom line is, this right to vote ought to be enshrined in constitutional principles, so that we don't unnecessarily discourage voting in the future.

Now, the worst part of the long lines in the last election, I think are related to the fact that there were long lines in some areas and not in others; and not accidentally, they tended to be in inner cities and on university campuses, where you would find preferences for one party a bit stronger than others. One of the reasons why this is possible is that we are the only democracy in the world that allows a partisan elected official to serve as the principal administrator of elections. A Secretary of State is a partisan incumbent who has political ambitions and an agenda of his own. Every other democracy that I know of has concluded that the temptation to cheat under these circumstances is too great. Therefore, every other established democracy in the world, that I know of, creates special non-

partisan or multi-party oversight boards, to make certain that the electoral process is conducted in a fair manner.

We would replace the Secretary of state as the chief overseer and administrator of the electoral process, with a board that would be balanced between four Republicans and four Democrats, with the ninth member appointed by unanimous vote of the Supreme Court, and that ninth member has to be non-partisan. The Board would then choose a strictly non-partisan, professional, State Director of Elections to preside over the way in which polling places are distributed, voting machines are allocated, and votes are tallied.

Opposition to this has taken the form of accusations that we would be creating a giant new bureaucracy with unlimited abilities to tap into the public treasury. This is simply not true. There are a grand total of nine new individuals; make that a net of eight if you take the Secretary of State out of it; and the current bureaucracy that oversees the electoral process, which is now located in the Secretary of State's office, would simply be transferred over to this new electoral board. And as now, funding for this would be voted by the General Assembly; this is not an unlimited mandate to spend money.

Issue 3 is one of the two "biggies" in my view. In December of this past year, the state legislature enacted, literally in the dark of night, literally after 11 minutes of debate on the floor of the House of Representatives, some very radical changes in campaign finance laws in this state. One of these was to rescind a 90-year ban on corporate contributions to political parties. Another was to raise the individual spending limit to \$10,000. But there is an asterisk here, and you need to read the fine print. That is \$10,000 per person prior to the primary election, \$10,000 prior to the general election – that's \$20,000 that can be contributed by an individual BUT you can also contribute on behalf of every member of your family over the age of seven. How many of you know seven-year-olds that have \$20,000 in their piggy banks and the wisdom and knowledge of American politics to intelligently allocate that to a worthy candidate? What I see here is a simple technique for money laundering.

Even worse and more frightening is the waiving of the ban, the rescinding of the ban on corporate contributions. And again you have to read the fine print. It says corporate contributions may amount to \$10,000 per party. Well, again you can contribute to two separate committees of the party, but you have to remember: there is not one Republican and one Democratic party in the state. There is one Ohio Republican Party and one Ohio Democratic party and 88 county parties of each political stripe. That means that this \$10,000 can be given again to different committees for two different parties to 89 different parties; by my rough calculation, that means that a corporation could contribute up to \$1.7 million. Effectively, this puts Ohio up for sale to the highest bidder. \$1.7 million is a lot of money. Ten corporations can contribute \$17 million; that's an even bigger pot of money; that's vastly more than will be spent on this referendum campaign by both sides combined.

What we would do in issue 3 is effectively restore the limits that had existed prior to the December changes in the electoral law. Now there were some important and positive

things in that December electoral law. For example, public disclosure was made more transparent. That will be retained. But what we would do is say, no, you can give \$2,000 for statewide races and \$1,000 for individual legislative candidates. This puts Ohio basically in the mainstream of the 50 American states and very much in accord with the \$2,100 limit which characterizes U.S. presidential election campaign contribution limits.

Now, Issue 4, I think, is without doubt the most important. It would eliminate gerrymandering.

Gerrymandering is a time-honored American practice, dating back to the early 19th century, that enables partisan incumbent politicians to draw the boundaries of their own electoral districts. No other democracy in the world allows incumbents of the majority party to draw their own legislative district boundaries. Why? Because this effectively determines the outcome of the election before the voters even show up. It does this by using two different techniques.

One of these is packing, where you take voters from one party who tend to be geographically concentrated and you pack them into useless supermajorities: 85, 90 percent in favor of one party. Well, by doing that, you deprive neighboring areas of those votes, which can be balanced to be perhaps 55 percent in favor of the other party. In essence, this in the aggregate can lead to serious representational imbalances, as you will be seeing in a few moments.

There is another technique – by the way, packing I guess is the way you’d describe the principal technique used in the Cleveland area. Those of us who live in Franklin County, the Columbus area, are victims of cracking. Now, what is cracking? Let me give you some data, concerning Franklin County, that I think you might find of some interest. The Mayor of Columbus is an afro-american Democrat. All four of the members of the Columbus City Council are Democrats. The County Commission has a majority of Democrats. Franklin County voted for John Kerry by a margin of 48,000 votes. And yet, all three of the Congressional Representatives of Franklin County are Republicans. Now how is this possible?

Lets take a look at a map of Franklin County. (Displayed)

Notice some strange ways in which district boundaries are drawn. Now, we heard a lot about maps, about funny maps. The opposition is saying that our supposed system would bring about funny maps. Does the word “funny” not come to mind when you look at this? When we take an even closer look at downtown Columbus, doesn’t that look not only funny but suspicious?

It’s quite clear that there is an almost surgical precision in the way in which district boundaries are being drawn to deny, in this particular case, Democrats of their fair share of representation.

Now I want to point out that this is not a partisan issue. Over the short term, Democrats in Ohio would benefit from doing away with gerrymandering. But that's because we would be stopping the pendulum from swinging from one extreme to the other; we would be stopping the pendulum in the middle. Let's not forget that 20 years ago, it was Democrats that were sticking it to Republicans in exactly the same way. Moreover, I should point out that last weekend I was in California, as a representative of Reform Ohio Now, endorsing Proposition 77, which is an initiative supported by prominent Republicans including Governor Arnold Schwarzenegger.

Now why is it that doing away with gerrymandering is so important? Why is it that this is such a grave threat to the quality of American democracy?

Number one and most importantly, it eliminates competitiveness from elections. By creating huge margins of victory on the basis of registration figures, it's impossible for an opposition candidate to oust an incumbent. In the case of Ohio, for example, the average margin of victory in the state Senate is 35 percentage points; the average margin of victory for the House of Representatives is 38 percentage points. In the case of California congressional districts it was 39 percentage points. Now let's deal with a real world case to show you why having that kind of advantage makes it impossible to oust an incumbent. I think you're all aware of the special election that was held this year in the Second Congressional District of Ohio, in the southwest, outside of Cincinnati. In the 2004 election, Rob Portman won that election by a margin of 72 to 28. That is a 44 percent margin. When he became the U.S. Trade Representative, a special election had to be convened. And the Democratic candidate, Paul Hackett, did such a wonderful job that he swung a net of 40 percentage points towards his candidacy from the baseline of 2004. That 40 percent swing was still not enough to win the seat. The bottom line is, these kinds of hugely unbalanced districts, intentionally drawn for partisan advantage, make politicians unaccountable. They cannot be ousted from office, regardless of how disgraceful their performance was in many cases.

Now this has a number of secondary consequences as well. The opposition in some of these districts decides, "it's not worth it. Why should I as a candidate waste my money, my time, and my effort when I know I'm going to lose by thirty or forty percentage points?" We see evidence of this in the case of the Ohio House of Representatives. In the last election, of the 99 seats that were open for election, 22 were uncontested. That is, in 22 of those 99 districts, voters went to the polls and found only one name on the ballot. That's the way they used to conduct elections in the Soviet Union, and that's not the kind of American democracy that I'd like to see.

On accountability, I guess if you take a look at California you can see even greater evidence. In the last election, there were 153 incumbents running for the General Assembly. As a result of gerrymandering, not one of those incumbents lost his seat. Now this is at the same time when the approval rating of the California General Assembly, according to the Field Poll, is around 20 percent.

Now, what we find as well is that there are grotesque distortions of representation that result from this. In Ohio, for the U.S. Congress, Republican candidates received a combined total of 51% of the vote; they got 67% of the seats. Now let's carry this out nationwide. The same gerrymander game is going on in all but two American states at present.

The net consequence – let me take a step back. How is it that we were able to tolerate gerrymandering for so many decades, if not centuries? Well, in the past gerrymandering was sort of guesswork. You had some wise politician in a smoke-filled room, making a sort of educated guess on a map. That's not the way boundaries are drawn any more. Now we have sophisticated computer software that enables incumbents to draw these districts with surgical precision, knowing exactly where every Democratic vote and every Republican vote is located. As a result, we see what the innovation of technology has done for the quality of American democracy. In 1992, 84 seats out of the 435 in the U.S. House of Representatives were competitive. In the last election, 38 seats were competitive. And, following the Texas gerrymander, it is now estimated that of the 435 seats that will be up in the next election, only 28 are competitive. And this is a loose definition of competitiveness. This basically means a margin of victory of 10 percentage points or less.

What we can find, then, is evidence that the accountability of American elected officials has been very seriously weakened by this distortion of the American electoral process. We propose to do away with gerrymandering: to take self-interested incumbent politicians out of the game of drawing their own district boundaries. We would create a 5-member non-partisan citizen commission, whose principal job would be not to draw the lines themselves, but to evaluate plans that can be submitted by any registered voter in Ohio. These are evaluated according to a mathematical formula, in which points are awarded on the basis of the number of competitive districts and especially the number of balanced competitive districts that this particular plan would create. It also has as criteria compactness and the preservation of communities of interest.

For example: We just saw a map of Franklin County, that is divided up into three congressional districts, in which the urban and suburban voters of Franklin County are simply swamped by rural voters of Madison County, Marion County, Delaware County, Licking County, Fairfield County, effectively to nullify our vote. According to our proposal, if the population of a county is large enough to have a congressional district, it will have a congressional district. This means that Columbus will have its own congressional district. Cincinnati will have two congressional districts, rather than being fragmented and having urban votes diluted by surrounding rural voters. We believe that these will dramatically improve the quality of democracy in Ohio. It will make politicians accountable. It will make elections meaningful.

Let me close by quoting from a recent article in the Chicago Tribune. This was published just a couple of days ago. "If the measures in California and Ohio pass, future voters may encounter an experience that is increasingly rare: going to the polls without knowing

the outcome in advance. That used to be the essence of democracy, and it should be again.”

(End of Remarks)

J. White: Thank you very much Professor Gunther. I'd like to now ask Professor Justin Buchler, Assistant Professor of Political Science at Case Western Reserve University, to give his remarks.

Justin Buchler: I want to start off talking a little about voter turnout, because the basic idea of Proposition 2 is that voter turnout in Ohio and in the United States in general is too low. So I want to talk a little about why that is.

First of all, why is turnout in this country so low? There is one other industrialized democracy that has comparably low turnout: that's Switzerland. The reason Switzerland and the U.S. have such low voter turnout is that in Switzerland and the U.S., voters are asked to vote on so many different things. So if you think about it, the initiative process is not the solution to low voter turnout, it is the cause of low voter turnout.

But that aside, there's a key assumption that people make when they talk about lower turnout, which is the idea that low turnout means that election results are unrepresentative. So one of the things that political scientists have looked into is this question of, hypothetically, what would happen if everyone voted? And the motivating principle is, if voter turnout is somehow biased, then election results are biased based on who turns out and who doesn't. So one of the things political scientists have done is use surveys, distinguish between voters and non-voters, and try to figure out if voters and non-voters are somehow politically different. And in fact there are two main differences between voters and non-voters. Non-voters care less and (obviously they care less, that's why they didn't vote) the other difference is that in terms of their preferences for candidates, they tend to break a little bit more for the winner, which means that if they voted nothing would change. There are some circumstances in which it might, but those are rare. So in terms of whether or not there is a problem with low voter turnout, I'm not sure it's entirely clear. That said, personally I find this initiative to be somewhat innocuous. Personally I might be somewhat annoyed by the fact that it could take me a bit longer to find out election results, but I don't expect much sympathy on that point. So I'll move on to the other propositions.

With respect to campaign finance. Those of us who study campaign finance look into the question of whether or not campaign finance influences policy decisions. Generally we find that campaign contributions have very little impact, and that the circumstances in which campaign contributions affect the behavior of elected officials are very rare. Nobody ever believes us, but, oh well. I don't expect anyone to believe me here for the moment, so I'll take this from another angle.

Which is that, if you think that this proposition is actually going to cut down on the amount of money in politics, you're wrong. One of the things that we've learned by

looking at campaign finance at the national level is, when you cut off one source of money, it flows somewhere else. When Congress set the 1974 FECA limits and didn't raise it for 30 years, what happened was the money started flowing into "soft money" to political parties. So what happened, BCRA cut off soft money to political parties, where did the money go? 527s. You cut off one source of money, it goes someplace else. And what is potentially insidious about that is, when you cut off hard money or put limits on hard money, the places the money goes can be harder to track. Which actually makes corruption more likely, not less likely. Because the main check on corruption in the campaign finance system is, nobody wants to be caught taking a campaign contribution and then changing their vote. Which means that the way we keep corruption minimized is by tracking money: finding out who gets money from whom and as a result keeping an eye on people. If we drive the money into something that is a little bit more difficult to track, as this proposition would do, we're actually increasing the risk of corruption, not decreasing it.

That said, I want to move on and talk a little bit about redistricting because I'm going to try to keep these remarks very brief. So, the redistricting proposal. This is particularly interesting, and it's based on the idea that competitive elections are inherently good. There are a couple of reasons why people might think that competitive elections are inherently good. The first is generally the idea of representativeness. People tend to think that if you have competitive congressional districts, the results are somehow going to be more representative. So, what does "representative" mean? One of our conventional measures in political science of how representative a redistricting plan is is what we call the seat-vote gap, which means the gap between the proportion of the votes a party gets and the proportion of the seats a party gets. That was alluded to in the earlier presentation. The thing is, if you look across states and frequently across countries, what you see is, where you create more competitive districts, there often is a higher seat-vote gap, which means the results are a little bit less representative. If you have non-competitive elections, which result from what we call a bipartisan gerrymander, not a partisan gerrymander; if you have a bipartisan gerrymander where the two parties divide up the districts and make every district safe for one party, what you get is a proportion of seats roughly equal to the proportion of votes.

But there are a couple of other points to address with respect to redistricting, such as the idea of accountability, the claim that if elections are not competitive, members of Congress or members of the legislature won't be held accountable. Well, what does accountability mean? If you ask people their opinions about for example members of Congress, they will say they like their members of Congress. They hate Congress as a whole, but they like their members of Congress, which means when you see movements to try to remove people from office, usually it's trying to remove people in other districts from office. So it's sort of trying to make representatives of other people accountable to you. That said, there is an open question here.

Another idea that people have mentioned with respect to redistricting is that, if you have a noncompetitive redistricting plan you might get ideological polarization. If everyone represents a safe district, then people will move more to an ideological extreme. This is

what's known as the marginality hypothesis in political science, and people have done a lot of research into it, and found that there's not a whole lot of support for it. Members of Congress and legislatures who come from less competitive districts do not tend to be more ideologically extreme, and there are a couple of reasons here. One is the primary system. You make general elections more competitive and candidates still have to run in the primaries, and since the primary electorates tend to be biased – Democratic primary electorates are more liberal, and Republican primary electorates are more conservative – because of that you still tend to get non-centrist candidates, even if you have competitive districts. So making the districts more competitive is not going to lead you to more centrist outcomes. The other factor here is that, if you have competitive elections, you're still going to have candidates who run on non-centrist positions, because the people who choose to run for office are ideologically non-centrist. They are ideologues. That's why they want to run for office, because they care a lot about politics and generally aren't particularly centrist. And a redistricting plan is not going to deal with that. So a competitive redistricting plan is not generally going to be centrist.

There's another factor here though, which is, if you choose to make elections more competitive, by drawing districts that are more competitive, what you're doing is increasing candidates' need for money. Hopefully this is going to make you a little bit nervous when I say this. When you increase someone's need for money, you run the risk of increasing their willingness to trade favors for money. Which is working directly at cross-purposes with Proposition 3. So in terms of whether or not we want elections to be competitive, and whether or not we want congressional districts, legislative districts to be competitive, I don't think the case is all that clear.

That said, in terms of the process of drawing district lines and all of that, I want to talk a little bit about the election administration process. So let's consider this question of whether or not we need “nonpartisan,” “unbiased,” appointed officials to make decisions about election administration.

I want to talk specifically about redistricting for the moment, which is the question of who should draw district lines. Should district lines be drawn by people who have a stake in how the district lines are drawn? Well, we don't have all that many examples of what happens when you change who draws the district lines, but one of our convenient examples is Texas. So, after the 2000 census, new congressional district lines had to be drawn in Texas. And because the governor and the state legislature in Texas were of different parties, they couldn't agree on a redistricting plan. So redistricting was done by the courts in Texas. Then, in 2002, the Republicans managed to get control of the Texas state legislature, which means that they finally had unified control of government, so they could redraw the district lines. We get a very clear case of what happens when nonpartisan, unelected officials draw district lines, and what happens when partisan elected officials draw lines, in the exact same state, in a very close space of time.

So let's talk about what happened. If we look at the time that was drawn by the courts in Texas, the plan that was drawn by the courts basically preserved the status quo in Texas, which was 15 seats for the Republicans, 17 seats for the Democrats. So, in that plan the

Republicans had 47 percent of the congressional seats. In the plan that Tom DeLay basically drew, the Republicans managed to win 21 of the 32 seats, which means that they had 66 percent. Now is Texas a Republican state or a Democratic state? I forget. I think that it's kind of a Republican state, and if you look at presidential election results, which is one of our convenient measures of partisanship, Bush got 61% in Texas. Well, with Tom DeLay's plan the Republicans won 66% of the seats. With the court's plan, they won 47%. So if we look at the seat/vote gap in Texas, there was a 5% Republican bias in Tom DeLay's plan, and a 14% Democratic bias in the court plan. So do we really think that the courts, or other unelected officials, are the ones who are going to draw less biased plans? The data don't seem to support that. And in fact, this plan that was done by this "evil partisan official who was trying to take partisan advantage of the circumstances" was, if we look at election results, considerably more fair than the one that was drawn by the courts.

So I want to leave with this question of who should be in charge of election administration? Should it be partisan elected officials, or non-partisan appointed officials? I'm going to try to convince the Democrats and the Republicans in this room that it should be partisan elected officials. I'm going to start with the Republicans.

So: Republicans don't like it when judges and other elected officials try to legislate from the bench, right? How much worse is it to determine who gets into the legislature from the bench? So from the Republican perspective this is probably not a good idea.

From the Democratic perspective. If you're a Democrat, and you think that election administration decisions should be made by non-partisan, unelected officials, I have three words for you: Bush versus Gore.

39:02

J. White:

Thank you very much Professor Buchler. We have now achieved my goal of having some controversy and some disputation, and I would like to turn it over now to Professor Caroline Tolbert of Kent State University.

Caroline Tolbert: One thing my colleagues sometimes criticize me for is that I can speak too loudly.

I have been studying direct democracy for the past fifteen years. I have two books that I have published on direct democracy, one with Ohio State University Press and one with the University of Michigan Press, and we know quite a bit about the process. And I want to share a little bit of what we know about the process and about these election reforms. One little follow up on the comment. I'd say that political scientists are quite divided on how we feel about whether low voter turnout is a problem or not. We know that fifty percent of Americans decide to stay home during presidential elections, and during midterm elections 70 percent of Americans stay home. What we do know is that the people who vote tend to be older, tend to be wealthier, and they tend to be more educated.

We call this the class bias of the electorate. So people who stay at home are not being represented at the same extent as the voters who vote, and people who stay home tend to be younger, they tend to be poorer, and they tend to be less educated. So, for some people, they do worry about that low voter turnout, and there is a famous political scientist named E. E. Schattschneider, who argues, what happens if we had voter turnout of 80 percent, how would representation change in America. Other countries, they have higher voter turnout and it's because they have automatic voter registration, if you are a citizen you are registered to vote. And some parties have compulsory voting, which actually means you can be fined, and it's against the law if you don't vote. So, just to let you know, that's very much of a controversy.

OK. A little bit of what we know. Elected officials and especially incumbents hate election reform. They hate it in all forms. Why? Because no matter how you change the rules, they feel that you can disadvantage their seat. And elected officials are self-interested, and they want to be re-elected. Something as benign as motor voter, which allowed citizens to register to vote when they went to the DMV to renew their drivers licenses was opposed by the Republicans in Congress, because they felt that too many Democrats would become registered to vote under that law. In reality, of new voters registered to vote under motor voter, two to one registered Republican.

So, the Plain Dealer editorialized against, in their editorial page endorsement they came out against proposition 4, the redistricting proposition, and they said, 'let the Ohio legislature come up with a plan over the next five years.' And I thought, "No way." We know more than that about the history of election reform in this country. And let me give you a little bit of background.

For the past century, for the past one hundred years, ballot propositions have been the primary mechanism for reforming and updating our election system. A hundred years ago, the direct election of U.S. Senators first came through the ballot proposition. So did the secret ballot, the long ballot, the Australian ballot, the merit system. And many times they were rolled up into whole packages of reforms that were supported by third party: the progressives, the populists, and progressive governors, such as California Governor Hiram Johnson. So if we want to change the system, if we don't like the system, it comes from outside. It doesn't come from within, and it either comes from ballot propositions, which are proposed by citizens or citizen groups or sometimes economic interest groups, or it comes from third parties, like Ross Perot and other third parties. It's very interesting that Arnold Schwarzenegger, the Republican California Governor, has endorsed this Proposition 4, the redistricting plan, as well as Proposition 77 in California – almost identical initiatives in the two states – but what's so interesting is that in California the Democrats hold control, and they gerrymandered to disadvantage the Republicans. In Ohio the Republicans hold the control, and they gerrymandered to disadvantage the Democrats, and here we have literally identical initiatives in two states, opposite sides, and who's opposed to them? The incumbent party: the Democrats in California and the Republicans in Ohio. So it's just – this is very interesting.

Let me tell you a little bit more. So, a hundred years, election reform comes from direct democracy. We know it, we can see it – in fact women’s suffrage was first proposed by the ballot. It spread on ballots and then it was adopted through state legislatures. If we look over the past one hundred years, all the initiatives and referenda that are on the ballots across the states: the number one issue is fiscal policy, tax policy. And our Secretary of State, Kenneth Blackwell, will have a tax limitation initiative on the ballot in 2006. The second most frequent topic for ballot initiatives is election reform, issues of governance. And they’ve been adopted in large majorities for a century.

Let me give you a little background before I go into the four propositions. What we know, there has been a lot of current research on direct democracy, political scientists like myself have been studying it; we analyze survey data, we use empirical analysis, we try to use statistical methods, and some of the things that we’ve found out is that voters, even on very complex issues, can make competent decisions that are consistent with their preferences. Even when they don’t understand the fine details, the things you were telling us for example – I didn’t know the fine details of some of these things myself. But how do voters make rational decisions? They rely on simple shortcuts, simple cues. They cue off from interest groups that endorse or oppose. They cue off the media, the editorials of newspapers. And they cue off from elected officials and partisans. And so voters are able to make decisions, and we should look at the surveys and the polls in Ohio, because the votes are preferences, and the vote on these initiatives may be reflective of what the citizens of Ohio actually want.

One other thing, these ballot propositions, they have no party label. They don’t say R and D, but we know that partisanship is the most important predictor of how individuals will vote on ballot propositions. So I would expect that we will see Democrats more likely to vote for these four election reform measures, and Republicans less likely to, because they are cueing from elected officials. In this state; it will be interesting in California if it’s the opposite, and they’re identical policy issues, or if it will be something else. One other thing: while voters use direct democracy, the process itself is not ideological. The policies that come through the ballot reflect conservative preferences, they reflect liberal preferences, we do know states that have direct democracy have different policies than states that don’t. A perfect example is term limits. Only one state in the nation, Louisiana, adopted term limits that didn’t have the initiative process. Every state with the initiative process has term limits – some have been ruled unconstitutional by the courts. But voters in America, public opinion polls show that 80 percent of Americans wanted term limits. And yet voters in many states in America across the country have no term limits, even though 80 percent consistently want term limits. Why? Because elected officials will never adopt term limits on themselves; they will never do that. That’s worse than possibly redistricting – well, it’s a lot like redistricting, you can lose your seat either way.

OK, so it’s a nonideological process. We had a gay marriage ban on the ballot in 2004, we have four election reform propositions now on the ballot in 2005, we will have a tax limitation initiative on the ballot in 2006. What the research has shown, a very good book by John Matsusaka (?), he is the head of the initiative and referenda institute which

is located at USC, down in the university of southern California in L.A.; he has a book that was published in 2004 with the University of Chicago Press, and he shows that states with the initiative process tend to have policies that are more representative of public opinion; i.e. the policies in those states are more like what the citizens in those states want. Citizens want lower taxes. 70 percent of Ohioans voted to ban gay marriage; they wanted to ban gay marriage. It will be interesting to see if these four ballot propositions, whether or not Ohioans want them. Because what the research has shown, is that the policies adopted in states with the initiative reflect public opinion. For example, there are more strict environmental protections in states with the initiative. States with the initiative are more likely to have abortion restrictions; they're more likely to have tax limitations that have teeth. That means they actually do something, instead of tax limitations that are adopted through the legislature, which often are veiled attempts to reduce spending or taxation but are not effective. And I mentioned term limits.

A little bit about the four ballot propositions. I would agree, I think Proposition 4 is by far the most important of the four. We already discussed the imbalances. I present this to my students, Ohio was the swing state of swing states. We were the state where 50% of us were Republicans and 50% of us were Democrats; the most competitive state, where all of the movie stars and everybody came trotting through to try to persuade us to vote one way or vote another way. How could it be that the legislature in Ohio then is over 60 percent Republican? How can it be that 12 of the 18 congressional seats for Ohio are held by Republicans and 6 are held by Democrats? If we are the swing state of swing states? I think gerrymandering is a serious problem. You already gave the statistics, 28 seats are competitive nationwide of the 435 House seats. This was adopted in Arizona, so there's evidence from Arizona that maybe you could speak to us about, about whether the Arizona initiative was effective. I would say that political scientists on the whole agree that this is one of the most serious problems that is creating noncompetitive districts and thus driving down interest in politics; it's making Americans have lower political efficacy, because we feel like our votes don't count; trust in American government is at 40 percent, and this is even after some issues that usually would have us rallying around our elected leaders. So I think this is a very important issue. I think it is very interesting that we have a Republican Governor – granted an outsider and granted someone who goes against his party – but very interesting to see Arnold Schwarzenegger support this initiative.

Issue 2 is very benign. The most benign of all four. It is in practice; the idea of no excuse absentee voting is in practice in almost 30 states. Early voting is in practice in all of the big states. California, and Florida, and Colorado. We have extremely restrictive registration requirements, 30 days before the election, in Ohio and we want to move in the direction of allowing voters to vote more easily and encourage turnout to increase above that 50 percent. 53 percent of the voting age population voted in the 2004 election, considered the most competitive election in the last fifty years. 53 percent, only a 3 percent increase from what may be our baseline. I should mention that this is the first step towards mail ballots. All-mail ballots are in practice in Oregon and in Washington. They have eliminated polling places. People vote, and many states have adopted all-mail ballots for special elections and lower level elections. This is the direction of the future.

Proposition 3, the spending limits, I didn't know all the details, but of all of them, it's the one where there are good arguments – some people make the case that we should have no spending limits, and we should have full disclosure laws. You can't stop the money; if you try to clamp it down it comes through in other ways, politics is about money; but what we should do is have full disclosure, so that people know who is spending for which. So, however, the League of Women Voters in Colorado adopted a campaign spending limits law, there's lots of good citizen groups that are sponsoring campaign spending limits.

So all three, Proposition 2, Proposition 3, Proposition 4 are in play in other states and they're experienced and tried and true, especially the early and absentee voting. The non-partisan redistricting is also in play in other states. The campaign spending limits obviously have been in play in many states and have been adopted through the initiative process. Proposition 5 is unique though. We have a very partisan Secretary of State, who was running an election while he was also the chairman of Bush's reelection campaign in the state. That was not normal practice for a Secretary of State. I think it's very interesting, when you explain in terms of comparative politics how unique we are. But Ohio would be breaking new ground if we adopted Proposition 5 instead of modeling from the other states.

So, in closing, my husband loves sports. He puts on football, he loves the college games because he doesn't know what the outcome is going to be. And it's sad that so many Americans aren't interested in politics, don't care about politics, and it may largely be because the outcome is determined, or that so many of these districts are uncompetitive. I believe that creating competitive elections, fair and competitive elections, is the number one goal in this country. I recommend to you a book, it is called *Reforming the Republic*. It is published in 2004 by Todd Donovan and Sean Boller. It talks all about ever one of these four propositions and a hundred more, in terms of how to create a system that will better reflect American preferences. Thank you.

J. White: Thank you very much Professor Tolbert. Our final speaker from the podium will be Professor John Green, Director of the Ray Bliss Center at the University of Akron.

John Green: Thank you very much, Joe, and thanks to the audience; you all have been immensely patient. I shall endeavor to be brief and I'd like to also thank my colleagues, Richard Gunther and Caroline Tolbert and Justin Buchler for doing such a good job of talking about a lot of details of these propositions.

What I'd like to do is to sort of look at this from the point of view of a voter. How would a voter decide whether they'd like to support these particular propositions or not? And of course we've heard a lot of really useful information as part of that debate, but I'd like to focus on three criteria that people might want to use in order to assess how they would vote on these propositions. And the first of these is the likely impact of the propositions on Ohio politics. The second is the risk that these might carry for politics. You know, all

change is not necessarily good, and we have a lot of history in the United States of reforms that sound very good on paper actually having very pernicious unanticipated consequences, and so when one looks at propositions, even those that carry a lot of good arguments to recommend them, a second criterion you might want to look at is the risks, the possibility that you might create bad change as opposed to good change. And finally the third criteria is the question of corruption, and to what extent these measures might help reduce corruption in Ohio politics. My colleagues here have not really talked very much about that, but it runs beneath the arguments that they've made on one side or the other, and those of you who have been paying attention to the campaign have probably noticed that this subject of corruption has come up once or twice. In fact the supporters of Reform Ohio Now, the four propositions, have essentially made their argument that these four propositions, taken together, will reduce corruption in Ohio, and the opponents are arguing that it will do no such thing; in fact it will probably make it worse.

So what I'm going to do is spend a couple of minutes evaluating each of these propositions from the point of view of impact, risk, and likely impact on corruption.

Two of the propositions: Proposition 2, that's the early voting proposition, and Proposition 5, which would create the state election board, are in my judgment likely to have very little impact on Ohio politics. As Richard Gunther pointed out, and Caroline Tolbert noted, there are lots of problems with voting in Ohio, and we saw a lot of them in our last election. But early voting, while it may help reduce some of those problems, does not address any of the major reasons that we have low voter turnout or long lines at the polls, or difficulties in people being able to vote. It might marginally help some people vote but we already have absentee voting in Ohio, and in fact the biggest reason to recommend this proposition is that it brings the law in line with existing practice. In spite of what may be written in the statute books, local election board officials don't enforce the law. Basically anyone who wants an absentee ballot can get one. So it sort of cleans up the law but it's not likely to have much effect. That doesn't mean that you shouldn't vote for it, or should vote against it, but the impact's likely to be small.

The same is true of the state board of election. This seems very unlikely that it would have much effect, in spite of the egregious activities of Secretary of State Blackwell seeking publicity in the last election, his activities had very little impact on the election in Ohio. I know this is a controversial statement in some quarters but it certainly is true. Most of the election problems we had in Ohio were not created by the Secretary of State, as obnoxious as he may have been, but rather by local election boards. In fact, almost all of the important decisions that are made about elections in Ohio are done by bipartisan boards. If our current problems with elections are created by bipartisan boards, then it hardly seems reasonable that creating another bipartisan board would improve the situation. So I don't think that Propositions 2 or 5 will have really very much impact on the outcome. They might be worth supporting for other reasons, though.

But the campaign finance provision, that's Issue 3, will have some effect. And as Richard Gunther indicated, it will essentially reinstate the status quo before the state legislature changed the campaign finance laws recently. So in that sense it brings us back

to the world we were in last year and the year before. Now the role of money in politics is enormously controversial, in fact many of the scandals that are bedeviling the state right now can be traced directly or indirectly to the way that we raise money, but Proposition 3 essentially reinstates the system that created that corruption. So it's unclear that it would have much effect. And, while it does correct some of the problem created by the state legislature's fairly egregious attempt to change the laws, it has some problems of its own. And those of you who have a handout of these propositions may want to look at page 2 of Proposition 3. In the middle of that page it has the following provision: permit labor unions and other nonprofit unincorporated membership unions to contribute funds from regular membership dues paid by the organization's individual members to a small-donor political action committee. That's actually illegal at the federal level; that's using union dues or other member dues to give contributions to candidates. It's not illegal in all states, but in most states and at the federal level. And it further says a small donor political action committee is not required to report the names of individuals that contribute in this fashion. Well, if disclosure is good for corporations, then disclosure is good for unions and it's good for membership organizations. So even a reform provision, that purports to correct some abuses in the campaign finance laws, may carry some problems of its own. So I don't think this will have a dramatic effect on politics but it will perhaps create some changes.

As my colleagues have indicated, the proposition that's likely to have the biggest effect is Proposition 4, the redistricting proposal. I think those effects could be quite profound, because it essentially changes dramatically the way that we draw district lines in the United States. Some of you may know this, the district lines were actually the invention of political parties, rather than the other way around. When political parties first arose in the 19th century they discovered that gerrymandering is a very useful thing, and perfected it to an art and a science, with many of the attributes that my colleagues have noted, many of the negative attributes. Although, as some of my other colleagues noted, not all the attributes are negative. But there's no question that if this would pass, we would see a very dramatic change in the way that district lines were drawn.

So if we look at the four propositions, 2 and 5 in my judgments are unlikely to have very much effect, 3 would have some effect, 4 might have profound effects.

So so much for impact; what about the risks? Well, since propositions 2 and 5 are unlikely to have very much impact, the risk is really very low. If one likes these propositions for symbolic reasons, then one should certainly vote for them: there's very low risk. They are very unlikely to create unintended consequences because the impact is likely to be modest.

With Proposition 3, the campaign finance provision, I think the risks are somewhat greater. And there is a longstanding debate about the role of money in politics. And the simplest way to sum up that debate is to say that nobody likes any of the ways that money is in politics, but everybody needs money to run campaigns. And what Proposition 3 would give us is one version of the way that money goes into politics which some people will like, there's no question about it, and other people will not. And you can say the

same thing about any of the campaign finance laws in the state and all of the states or at the federal level. So this proposition carries with it some risk, that you may not get the kind of role for money in politics that you would like.

Proposition 4, the redistricting commission, has the biggest risk precisely because it creates the biggest changes. And Richard Gunther I think made a very strong argument in favor of the good consequences that may flow from Proposition 4. However, there is no guarantee that those good results will flow from it. This is an untested institution. We know a lot about partisan gerrymandering because we've experienced it for almost two centuries. We know nothing about this type of drawing of district lines, and as Justin indicated, the little bit of evidence we have of nonpartisan boards is not entirely encouraging. So it may work out well but it may not. Also, in the provision there is a very complicated formula having to do with evaluating district maps according to competitiveness. Now, this would be a dramatic, if this were to pass it would be a dramatic change in the way that we draw districts, because up to this point there are no laws that mandate competitiveness as a criterion. That's what makes issue 4 so fascinating from the point of view of political scientists. But in order to create competitiveness one can create other types of problems. If you just think back to the map that Richard Gunther put up on the board of Franklin County, we can create districts with that map that are very competitive, but that have all of the same flaws that the current system has, by disenfranchising voters. The easiest way to create a competitive district is to take a highly Democratic community and put that together with a highly Republican community, and that would not necessarily produce a better representation. But it would certainly produce a more competitive election. So there are risks of Proposition 4. Just as investing in the stock market, risky investments can produce very good results, but they can also produce very big losses. So that's something you might want to consider when thinking about how to vote on that.

So what about the impact on corruption? If we pass all four of these, or several of them, what impact will it have on corruption? Well, you can think about corruption in two ways. You can think about it symbolically: producing the kind of government, the kind of rules that we can all support in terms of our ideals. And then we can look at it substantively: does it really reduce the misbehavior that public officials seem prone to in many circumstances.

Well, Propositions 2 and 5 may very well help deal with the problem of corruption from a symbolic point of view, making it easier for people to vote, having a bipartisan board. These tap into very deep-seated values that many American have. But again, because there's low risk and low impact from 2 and 5, it's probably not going to do much to change the substance of corruption, which many people are concerned about.

Proposition 3, the campaign finance bill, could reduce some types of corruption by reducing some types of money in politics, but they may allow other kinds of corruption by allowing other kinds of money into politics. So that would probably have a very mixed effect in terms of corruption.

Finally, you can see very similar mixed effects for the impact of Proposition 4. Let's just assume for the sake of this analysis that Proposition 4 passes and it works as the proponents of it say it will, that it really does create more competitive districts. Well, competitive districts can provide a check on public officials and make them look at their behavior more carefully, and less likely to be corrupt. So it's quite possible that, if Proposition 4 worked the way that is intended, that it could indeed reduce corruption. On the other hand, a lot of the corruption that you see in politics comes from electoral competition. Competitive elections are the elections where people need money, or think they need money, and often make those questionable choices about accepting donations and doing things for the donors after the election. Also, when it comes to election fraud, and to the suppression of the vote, there's no point in doing either of those things in noncompetitive elections. That only matters if the election is very close. And so, the more competitive elections are, the more temptation there is to engage in those kinds of corruption as well. So it may be that if this proposition were to pass and to work the way that is intended, that its net effect on corruption would be close to zero, because it would reduce corruption in one way but encourage it in another way. So it's unclear to me what overall effect this particular proposition would have on the question of corruption.

Now I understand very well why the proponents of Reform Ohio Now however have made an argument that these propositions will reduce corruption. To go to Caroline Tolbert's point, this provides a simple cue to voters on a set of provisions that are actually in many cases fairly complicated. Left to their own devices to consider these measures on a case-by-case basis, voters might very well divide up their preferences and vote for some and vote against others. And of course the proponents of these reforms, and in this regard I think they're behaving in an entirely appropriate way, want to see the whole package passed, because they think that the package has integrity and the whole thing will work together. We just conducted a poll at the University of Akron on attitudes towards these issues, and what we see is in fact a tremendous divergence of opinion.

Ohioans are very strongly supportive of early voting. They think that is a really good idea. They're pretty divided on the campaign finance measure, but there is some deep reservoir of concern about money in politics, so that particular measure might gain steam over the next two weeks and might very well pass. On Propositions 4 and 5, the public is divided in a very interesting way. People who told us in this survey that they knew something, they'd read something or heard something about Propositions 4 and 5, tend to like it. A majority of them tend to support it. But if you look at the broader group of likely voters, these are people who are likely to show up on November 8 but who told us they hadn't heard about these provisions, they had a much more negative view of these propositions. Partly because they're complicated and difficult and hard to understand. So, there is good reason for having this unifying theme of corruption when campaigning for these particular propositions. And of course the other side makes exactly the opposite argument. Thank you very much.

J. White: Thank you very much Professor Green. I'd like to inform the people in the audience that this is now the time for questions, but we are recording this, because this may be rebroadcast on one of the local radio stations for a wider public. So if you have questions to ask, we'd very much appreciate it if you would come down and speak into the microphone so that it can be recorded. And while you are doing that, I'm going to pose a question to Professor Gunther, who has said that no other country would allow partisan officials to draw district lines. Well, how do they do it? And how does that compare to the measures Reform Ohio Now is promoting?

R. Gunther: Single member districts are typically those in the Anglo tradition, so we look at India, Australia, Canada, Britain. All of those have nonpartisan commissions. The only one of those countries that allows any elected partisan official on the board is New Zealand, which has one representative of the opposition and one representative of the government party. All of them have been immune from any accusations of unfairness. There is not a single scandal that I can recall that grows out of the boundary commissions that have drawn, that have been involved in this.

J. White: Thank you very much. Professor Entin (questioner):

Q1: Actually I have I hope a short question about Issue 3 and a different short question about Issue 4. Issue 3 has a lot of complicated provisions, and you are putting those provisions into the state constitution. Is there any reason for us to be concerned that this is being done as a constitutional amendment as opposed to some sort of initiated legislation that might be subject to a different sort of amendment? With respect to Issue 4, are the problems with our system partly a function of having single-member, first-past-the-post elections, for legislative seats? Might there be some alternative election system that might deal with some of these problems without necessarily raising some of the concerns that the critics have suggested?

R. Gunther: With regard to, I'm sorry, the first question, can you repeat? I am a native Californian and I can see the horrific abuses of too many constitutional amendments. It is a plague in that state. But there is something fundamentally different between what has been done to excess in California and what we're proposing to do here. I think it is improper to have policy, in terms of economic policy or social policy, embedded in a constitution. That should be the subject of the to and fro of partisan competition. The basic fundamental rules of democracy are conceptually different, and they need to be enshrined in the constitution. And the misbehavior of the legislature in December is a very good reason why we need to put this in the constitution and out of the hands of politicians. I want to make one point clear, and that is, no one is pretending that we are going to be eliminating corruption. I think that would be a foolish claim to make. What we can say is that the changes in December that were enacted by the current legislature are so draconian, they open the Pandora's box to an unprecedented level of special interest money that would flow into American politics. I don't know if every single American state bans corporate contributions, but the reason why Tom DeLay is currently under indictment is because he tried to use corporate contributions to win an election. These legislators made it possible for a contribution to give \$1.7 million to a political

party. That effectively puts Ohio government up for sale. So we're not promising to eliminate all forms of corruption, but what we can say is, what happened in December ought to be absolutely terrifying to anyone who is concerned about maintaining good government in this country.

J. White: Would others like to comment? I guess Caroline first and then Justin?

C Tolbert: I was just going to say that on most of these election reforms, most citizen-initiated laws do become constitutional initiatives. Why? Because the costs are roughly the same, and if you pass a statute, the legislature can overturn the law the next two sessions. So, citizen groups that use the process and go through the very high barriers – we have a very tough process to put initiatives on the ballot in Ohio – tend to want to insulate the change from tinkering by the state legislature. And certainly in issues where we're talking about election reform rules, there would be more of an incentive for the legislature to want to tinker with it.

J. Buchler: With respect to putting campaign contributions in state constitutions, the soft money problem at the federal level, to the degree that there was a problem with soft money, was caused by putting campaign contributions on the books in 1974 and then not adjusting them for 30 years. If you put contribution limits into the constitution and make them harder to adjust, you're setting yourself up for the same kinds of problems that happened with soft money.

Q2: Two questions, mostly about Issue 5 and a little about Issue 4. One is just about any tax expense consequences of establishing the commission in Proposition 5. If anyone has done a study of the expense to the public or perhaps savings to the public of having elections administered this way. And as to both of them, if any of you have anything to say about accountability or lack of accountability of these commissions that would be established. Proposition 4 at least gives a sort of roadmap for legal challenges. I think, if I remember correctly, you would go directly to the state Supreme Court. But with Proposition 5, if somebody wants to challenge or disagree with anything that this state elections board does, I didn't see anything indicating any route for contesting them. So accountability and public expense question.

R. Gunther: Let me speak to the issue of public expense, I'll give you a number: \$90,000 period. That is the amount that each member of this 9 person commission would be given, a stipend which is at a level of \$10,000, which is stipulated in the terms of our proposal. There would be no increase in bureaucracy, because the current bureaucracy that administers the electoral process would simply be transferred out of the Secretary of State's office, and there is absolutely no truth to the assertion by the opposition that this would mean unlimited tapping of tax dollars, because in fact the General Assembly already appropriates funding for this.

With regard to accountability, we're not dealing with something that's a radical experiment here. Even in the state of Ohio, there are county boards of elections that follow precisely these formulae. That is, you don't trust one partisan official, so you

have two partisan officials to keep each other in check. And this is also the model that is used in a very large number of democracies. The best way to keep the fox out of the henhouse is to make sure that you've got more than one person that takes an opposing point of view to prevent any kind of manipulation of the electoral process.

C. Tolbert: When Oregon moved to all-mail ballots and they eliminated the actual polling places in 1988, they did that via a ballot measure, the state saved hundreds of thousands of dollars by eliminating that. So obviously we don't have that here in any of these proposals, but some things to keep in mind, with be the legal costs currently, what does the state pay in terms of legal costs in our current electoral system, and how might those increase or decrease under these reforms? (unclear...)

Questioner: And how they would change? Would it be less legal expense or more?

C. Tolbert: Well, I just know that after the 2004 elections there were legal expenses, extensive legal expenses, that were costs to Ohio taxpayers, because of the (unclear) of our election systems.

J. White: So the issue here is, as I understand it, if somebody doesn't like what either the Secretary of State or the nonpartisan election board and its staff did, one can imagine them getting sued; one can imagine them having costs. On the other hand, the argument may be that with a nonpartisan board they are less likely to do things that are blatant enough that enable lawsuits. I don't know. Justin, do you have a comment?

J. Buchler: One comment on accountability. Ask yourself where is it easier to have accountability, with a single Secretary of State who is elected and handles election administration, or with a group of people who are not elected and nobody has ever heard of?

Q3: I was going to ask a question about the nonpartisan/bipartisan commissions. It's a little bit fuzzy to me. In Issue 5 I see more balance there, but in Issue 4, where are the nonpartisan people going to come from?

J. White: So one question is, is nonpartisan the same as bipartisan: what's the difference here? And the second is the structure in Issue 4 is less clear in terms of where the people come from and who they'll be.

R. Gunther: The problem is not all that substantial with regard to the board that would be presiding over the redistricting process. The board is largely restricted to doing nothing more than tabulating the numerical points that are scored by competitive plans. And I don't know if there is a Republican version of math or a Democratic version of math

J. White: Yes

R. Gunther: but adding numbers together is pretty straightforward.

J. White: The point here is it's supposed to be a relatively automatic process driven by the formula, and therefore there's not supposed to be that much discretion – except to make districts perhaps, and even that's limited by the formula, to make districts cohesive by various standards.

Q4: Thank you for sharing your evening and expertise with us all. Both of my questions have to do with the gerrymandering issue. The first is specifically with regard to the formula. As I look at it, it seems very empirical in nature, and to my eyes it looks like it's not even written in a mathematical equation form. Could you comment on how this formula was derived, and what makes us think it's going to accomplish the goal? The second question is on the issue Professor Gunther, you mentioned that this nonpartisan commission would not have the task of determining the boundaries, but rather evaluating the boundaries. Can you comment on what will prevent political gridlock during the process? It seems like a formula for procrastination to me.

R. Gunther: I think there would be less gridlock than results in our current legislative process from entrenched interests that are basically made permanent. With regard to the mathematical formula, it's very simple mathematical principles, it's not an equation, this was basically inductive. I'm sorry, deducing from a basic principle and then coming up with common sense ways of translating that basic principle into numbers. I was part of that process, we went through 20 drafts of Issue 4 until we got it right. We started with the proposition, which apparently is not universally accepted at this table, that elections ought to be competitive. That voters ought to have some choice over who is sent into the legislature to represent them. And starting with that notion of maximizing competitiveness, we simply decided to look at the existing districts and how you would go about trying to translate that into some formula that would facilitate the creation of competitive districts.

J. Buchler: One quick comment. The idea that if you don't have competitive elections you're not giving voters a choice, one of the important things to keep in mind is that, the way districts are drawn and what you can do with redistricting is limited very much by what voters' opinions are. A congressional redistricting plan that eliminates competitive elections and achieves certain outcomes achieves that because it is constrained by voters' preferences to begin with. It doesn't take voters out of the equation, it just puts them in in a different place by constraining how district lines are drawn and what can be done, and in fact, if you get rid of competitive congressional districts, you're frequently going to wind up with electoral results over all that look much more like what voters want.

Q5: I was kind of wondering, with the example of Texas redistricting, the way the districts were organized by what I presume would be the Texas Supreme Court, what standards the court used? To maintain the previous districts? Whether it's based on the Justices' preferences – just in general what the standard was?

J. White: And to follow up on that, one could speculate that what you had in the judges in Texas is very different from what is contemplated in Issue 4, because Issue 4 provides

a set of standards as to the drawing of lines that could arguably, in Texas, have required substantial changes. Whereas one assumes that in Texas the judges just said OK, the way you draw lines if you're trying to be relatively bipartisan or nonpartisan is you just maintain the status quo as much as possible. So, Professor Gunther and others, can you speak to the question of how the Texas case applies to Issue 4 as evidence.

R. Gunther: The Texas case has absolutely nothing to do with Issue 4. Proposition 77 in California does give judges the right to draw lines. Ours does not. Lines are drawn by any registered voter in the state of Ohio. The redistricting board that would be created, which would be nonpartisan because of the way it would be appointed and – if you read very carefully there are very sharp restrictions for a period of ten years on the kind of involvement in politics that these individuals can participate in – that their role is simply to evaluate the competitive plans in accord with the degree of competitiveness of the districts that are created. It's as simple as that. Aside from the novelty of embracing Tom DeLay, I think the Texas argument is not relevant at all to the case we are discussing here.

J. White: One suspects Professor Buchler disagrees.

J. Buchler: And in fact Professor Buchler does disagree. The relevance of the Texas case is, we have an example of a redistricting plan that has been called a horrific gerrymander by its opponents; which was drawn by partisan officials for partisan reasons; which gave us election results which are much more representative of the state of Texas than what was done by supposedly independent individuals. And in fact demonstrates that you can get a very small partisan bias; the partisan bias of the Texas plan is 4 percentage points, which is very very small. Having district lines drawn by partisan elected officials does not mean that you are going to get unrepresentative results.

(Professor Gunther asks if he can step in)

J. White: I suspect you and Professor Tolbert might, and if neither of you makes my point, I'll make it.

C. Tolbert: I was only going to say that, in the south, you can't match up voting for congress members and local offices with presidential vote, because oftentimes in the south, for lower level offices and even congressional members, there might be more Democratic voting; and then you can see Presidential voting is more Republican. We saw that in Florida, for example. That state is split very close 50/50 but the vote for Bush was much higher.

R. Gunther: Just one quick point, and that is we don't have to worry about the hypothetical case of Texas, we can look at the real case of Ohio. Where, for the U.S. House of Representatives, there is a 16 point difference between what voters preferred and what eventually emerged in terms of the composition of our delegation. That's not close.

J. White: The other point I might suggest, is that to the extent that what the Supreme Court of Texas did was simply try to change as little as possible then they were confirming a previous partisan gerrymander in the other direction, and you can't view the Supreme Court's decision in Texas as entirely a nonpartisan neutral kind of thing. They were just sort of by default confirming previous partisanship.

J. Buchler: Just a response. Yes, the Ohio redistricting plan, if you look at the seat-vote gap in Ohio, it's big. However, making elections more competitive in Ohio is not necessarily going to fix it; it could make it worse.

Q6: Professor Gunther. In response to a question earlier, you said that we can't eliminate all corruption. I take from that it's desirable if not realistic to eliminate all corruption. My question then is simple: why can you justify, how can you justify, the inclusion of the provision in Issue 3 that was brought up earlier, that permits labor unions and other nonprofit unincorporated membership issues to contribute funds from membership dues and so forth?

R. Gunther: Yes, I'm very glad you raised this because this was misquoted previously. This is not restricted to labor unions. Small Donor Funds can be put together by any group of citizens. It can be done by members of a church, it can be done by employees of a business firm, it may be done by a group of neighbors. It is a means of encouraging small donations, \$50 each, which I think would be a far, far stretch to argue that having contributed \$50 to a politician will give you undue influence with that political figure. What we're really talking about is shifting from having very, very deep pockets, \$1.7 million per corporation under the current legislation in this state, to something that spreads the cost of running elections more equitably among citizens, to level the playing field. To basically state that you do not have clout in accord with how rich you are, but instead that we want to have some kind of way of influencing the electoral process that reflects a broader majority of the electorate.

Now, in my personal preferences, I would take all money out of politics. In European elections that I study, paying for television commercials is illegal, and it is the obligation of the state to provide free airtime. And guess what? There have been no scandals that I am aware of in the past decade in West European countries with the exception of Italy, where Silvio Berlusconi owns the television stations. This is not a small matter by the way. But there are no scandals comparable to what we have in Ohio. It was asserted early on that money does not determine electoral outcomes. That's absolutely true. That's not where the problem lies. Candidates need to have money in order to run election campaigns, and they feel beholden to those that have contributed. It is not accidental that Tom Noe, who was given \$50 million in an unbid contract to speculate with taxpayers' dollars in rare coins, baseball cards, Cuban cigars, and rare wine, was also the biggest contributor to the Ohio Republican Party. There is a close correspondence here between giving money to candidates and having access to corrupt influences over our legislative process.

J. White: Professor Buchler, and then we will take the three people standing to ask questions, we will take their three questions, and then we have to wrap up.

J. Buchler: The elimination of paying for campaign ads, there are those of us who actually like freedom of speech in this country, but aside from that there is another issue with the influence of campaign contributions. The Noe case is very interesting, and also, based on most of our research on the impact of campaign contributions, relatively unique. There is in general a very close association between how much money people get from interest groups and how they behave, and usually that results from having interest groups contribute to people who already ideologically agree with them.

Q7: Reading the ballot language of issues 3, 4, and 5 is like reading a small novel; and they actually use the terms “minuend” and “subtrahend” for Issue 4. I was wondering, Professor Tolbert, could you discuss the impact of ballot language on other referendums and perhaps on this referendum?

R. Gunther: Let me just deal with the complexity of the ballot language, which obviously is true. This is written by a lawyer in order to pass constitutional muster. The basic point is this. If I were to write a very detailed description of how an automobile is assembled and how it works, it would boggle your mind with complexity. Whether the description of how the thing works is simple or complex is irrelevant. The most important criteria is does it work? Does the car drive you down the street when you put your key in the ignition and step on the gas? That’s really the important criterion, and I think there is an awful lot of flimflammy in regard to how complex legal language is. When you buy a refrigerator, I guarantee that the contract that you sign is not going to be short, concise, and easily readable. Unfortunately, that’s the way the legal world operates and we simply had to work within that.

J. White: It might, however, have some effect on voters’ behavior: So, Professor Tolbert.

C. Tolbert: Most voters will never read what the people in this room have just read. And they will cast ballots all over Ohio, and they will cast them largely consistent with what they want, i.e. what their preferences are. Because they either don’t want money in politics or they do. Or, they like Arnold, and Arnold said vote for Prop 4, or they don’t like Arnold. Or, if they’re going to be cueing off – so basically what’s very important in the next two weeks is the campaign. It’s the television ads on both sides. It’s who comes out and endorses and who opposes these ballot measures, and especially when they’re high profile people, so that voters can situate themselves relative to that person.

Q8: I have one question and one comment. I have a question about the competitiveness of districts, when you were talking about how competitiveness can actually increase scandal and within the elections because people need more money and they’re going to look in other places. My understanding with these propositions was that, since they’re limiting the money to \$1,000 and \$2,000 per donation, and like \$10,000 I think for small donor PACs, I find it very hard to believe, so I would like you to argue this point, that, you know, if you get a personal donation of \$10,000 from someone, or from a corporation, you’re more likely to do favors for them when you’re in office. However, I

don't understand how a \$1,000 or \$2,000 donation can influence someone to want to do a favor for that small amount of money. So could you explain?

R. Gunther: I agree.

J. Buchler: The \$1,000 is not going to be the only money floating around, because there is going to be a lot more money floating around independently that is going to be a lot more difficult for us to track. That's what happened...

Q: Can you give some examples?

J. Buchler: Yeah. 527s. 527 is the IRS tax code designation for an organization set up for political purposes. 527s have a much easier time raising money and spending money in ways that are much more difficult to track than hard money, and no matter what reforms we pass in Ohio or anywhere else, independent groups are going to be able to raise large amounts of money and spend large amounts of money. The money isn't going to go away just because we cap hard money. The money is going to go somewhere else that is more difficult for us to track.

J. White: So the idea in this context is that, let's say you have a very competitive election, so each side wants to run ads about how bad the other side is. So rather than run it as part of their official campaign, maybe there will be some organization like MoveOn.Org or a conservative organization, that comes in and runs those ads. And maybe in raising money to run those ads, which is not "campaign contributions" -- there's a whole other set of issues about regulating that -- maybe with more competitive campaigns there would be more of a need to raise money for those kinds of ads, and therefore maybe more of a willingness to do favors for the people who gave that money indirectly. That's the argument. Now again, obviously there's arguments on both sides.

J. Green: The small limits, we're really talking about two arguments here. One is about the impact on corrupt behavior of competition, and the other is about the impact of contribution limits. They are really two different issues. They do interact, but they are two different issues. Setting limits at \$1,000 or \$2,000 is not really much of an impediment to raising money, because you can have people who have lots of rich friends who then raise their money in lots of thousand dollar contributions. So, I'm not against the kinds of limits that are in this particular provision or in other provisions, but it does not provide much of a restriction on the amount of money particular candidates raise. So, and that's part of the problem. I suspect that we would all probably agree that there ought to be some set of rules that govern the impact of money on politics, but we need to be very cautious about assuming that any one set of rules is going to really limit the impact of money, under circumstances where politicians have very strong incentives to raise large amounts of money.

Q9: Through the whole discussion, it seems that people are divided into Republicans and Democrats. But there are some other divisions, and I've been sitting here worrying about Issue 4 and Blacks and Hispanics for instance. While I was standing up here I found that

the bullet point 5 in Issue 4 says that the amendment would provide that the commission may consider whether to alter a plan to preserve communities of interest. That's kind of weak. One of the strengths of gerrymandering historically has been the creation of, nationally, some Black districts, some Hispanic districts and so forth, to make sure that groups of people have representatives, not just Democrats and Republicans. So I'm wondering how this will play up leading up to the election.

R. Gunther: You've raised a very good point. Now there are several things that are embedded in Issue 4 that deal with this. One of them is, clearly, this will be within the framework of federal law, which clearly indicated, through a number of court decisions, that there must be adequate representation of ethnic minorities. This is not changed. What is important to bear in mind is that, in the early 1990s there was a judicial philosophy that favored packing: that basically stated that the only way to allow for the election of ethnic minorities was to create 80 and 90 percent majority districts composed of that ethnic bloc. Since then, the courts have concluded, correctly in my view, that what you're doing is in the aggregate under-representing the ethnic minorities by packing them into fewer districts than they would legitimately win if they had not been packed into those supermajority districts. When I was giving my first radio talk, the first person to phone up was Senator Ray Miller, and African-American from Franklin County. And he absolutely agreed with the text and intention of Issue 4, and then raised the ante. He said, you know, I am in a district in which 62% of my voters are white. He then enumerated two others, where it was 68% and 70% respectively. And he argued that, quite frankly it verges on racism to argue that the only way you can guarantee the election of racial minorities is to pack them into super-majority districts. And that was the strategy of the Republican party in filing its friend of the court briefs in the 1990s, but federal law has turned. There have been a substantial number of court decisions that have said no, in fact, that kind of packing of minorities into supermajority districts in the aggregate leads to an under-representation of ethnic minorities. Miller added, "I would much rather have the ability to chair a committee as I used to, than to have an absolutely safe, guaranteed seat on the opposition bench for the rest of my career in the Senate. And that's exactly what issues are at stake here. Noncompetitive elections may make possible the election of ethnic minorities in safe districts, but they have no power over the passage of legislation or the control of the legislative arena.

J. White: Professor Tolbert I think gets the next to last word. I get the last – unless others have comments.

C. Tolbert: I just want to say that, in a world where we will see more ballot propositions in Ohio – Ohio is waking up to the reality of direct democracy that has been sweeping across the west – and I think that we may not all agree on what the impacts, what the risks, or the impacts on corruption of these 4 ballot propositions, and we may not all agree on whether we should adopt them or not. But in a world in direct democracy where David Broder writes a book about how corporate interests and interests with money now are corrupting direct democracy it is very nice to see a political science professor, a couple of political science professors who are here to write books, and teach their classes,

care about these broader issues in terms of society, and take the time to sponsor these, the idea of a real citizen initiative.

J. White: Thank you very much Professor Tolbert, and Professor Green, and Professor Buchler, and Professor Gunther; and thank you all in the audience for joining us today. It is my privilege as moderator both to moderate and to take the privilege to make one last observation.

Which is, you can always think about these issues in the opposite direction.

If you had absentee balloting 35 days before the election, would you vote to restrict it?

If you had something resembling the campaign rules of Proposition 3, would you vote to create the new status quo, as the Ohio legislature did?

If you had the nonpartisan redistricting procedures of Proposition 4, would you vote to replace them with the Governor and the State Legislature deciding?

If you had Proposition 5, would you vote to replace it with an elected, partisan Secretary of State supervising elections?