

Opinion

Does unbridled democracy really work?

Today is election day, the day that lies at the heart of our democracy. Today, citizens express their wishes at the polls, voting for the men and women they think will best represent them and their interests. This supposedly ensures the health of our "government of the people, by the people, and for the people."



Brian Frederick

For centuries people have struggled to gain a greater voice in government. They have held that all people are equal and consequently that all should have an equal say in government. We believe that democracy is the best way to achieve this. While we admit to shortcomings in our system, we believe that a little more democracy will solve them.

But we ought to pause a moment to consider how well our system really works and whether unbridled democracy is as beneficial as we are led to believe.

We all believe in the citizen's right to participate in the political process. How many of you exercised that right today?

If you voted, did you discharge your duty as a citizen to know the candidates and issues well before voting, or did you vote with only a vague knowledge? If you did not vote, was it because you didn't think it was important or because you realized you did not know enough to make an informed choice?

If this election is typical of an off year, 20 percent of the electorate might vote. State elections for governor and Congress in non-presidential election years are lucky to get 40 percent turnout. In presidential elections, our best turnout since 1932 was 62.8 percent in 1960, while the low was 51.1 percent in 1948. A good presidential turnout is about 60 percent of the electorate. One could say we treasure our right to vote.

Even if everyone were to vote, it would be almost impossible to achieve informed voting as our system now stands. Voting without full information on a candidate is like buying a used car after glancing at its exterior. It may look good on the outside, but unless you look under the hood to determine how it will run, you are likely to be cheated.

In our national elections, we vote with about as much information on the candidates as the naive car buyer. In state and local elections, we have less information — and often none. Did you

know anything valuable about the last judge you voted for other than his party affiliation?

If a candidate looks good and says the right things, we vote for him. Even if we know where he stands on more than a few issues (very unlikely), it is difficult for us to gauge his character accurately. Character is more important than "stands" on a few issues, for character determines a man's habitual actions. "Stands" will not get him through the crisis for which he does not have a predetermined course of action to guide him.

It was once believed that if a man was unable to govern himself or his family, he certainly would be incapable of exercising authority in more important matters, regardless of the fine words he could speak. We have many politicians who make fine promises and take the right "stands" on the issues but whose actions reveal them to be corrupt. They are not fit to govern our country because they lack the character to do what is right.

We are hindered from choosing good officials in part by our system. The federal government exercises most of the power that matters in our country. State and local government, over which citizens would be able to exercise the most

control, is ignored. Attention is focused on national government, where it is difficult to know the merit of candidates. They are a name, a face, and maybe a vague platform, nothing more.

This could be corrected by returning responsibility for most domestic concerns to the states. The issues that affect most voters would be close to home where voters could be intelligently involved. National government would then be free to concentrate on foreign policy, its proper primary concern. Perhaps a coherent foreign policy would emerge from the present shambles.

To help ensure that good men are elected to national posts, state legislatures should once again elect Senators while the electoral college alone elects the president. Most voters lack the time and inclination to properly evaluate these candidates. The choice of national leaders should be made by those whose work and associations give them the ability to choose more wisely.

We have sacrificed the notion of the common good to pursue a purer democracy. Since voters discovered they could organize to get politicians to vote them benefits at public expense, special interest groups lobbying for special privileges have multiplied.

We now have special interest groups

based on race, gender, sexual preference, business, and labor among many others. All of them want legislation benefiting themselves while not giving damn about the general welfare of the nation.

Thus, honest men upholding the general welfare can no longer be elected. Constituents expect their representatives to vote them benefits from the public coffers. Almost everyone wants something for nothing, and politicians must humor them to be elected.

Our problem then lies as much with corrupt voters as with politicians in the system. A populace that views government as an unlimited source of wealth and expects to profit from it is sadly depraved. Because it has come to believe that whatever the majority wants is right, it no longer sees any wrong in such a view.

We need virtuous citizens and leaders who will put the nation's good over their own interests, for virtue alone can secure us good government. Today's election is clearly not sufficient in itself to secure it.

Brian Frederick is a senior history and Russian major and a columnist for The Battalion.

Voters should give state right of appeal in courts

Texas citizens today have the opportunity to give the state a limited right to appeal in criminal cases by voting for constitutional Amendment 14. This is one of the most important criminal justice issues ever presented to the voters of Texas. Since 1973, Texas has been the only state in the country in which the prosecution and victims have no right to appeal erroneous trial court legal rulings.

Cathleen Herasimchuk
Guest Columnist

Under current law, the following scenario easily could occur — but only in Texas: Assume that Charles Manson is paroled and comes to Texas. He breaks into a home and kills an entire family. He is arrested and freely confesses to the police. He then leads them to the weapon and the property stolen from the murder scene.

If a trial judge wrongly decided that the police made a legal error in either arresting Manson or taking his confession, that confession and all of the evidence obtained as a "fruit" of the "illegal" arrest or confession would be inadmissible at trial. If the state had little or no other evidence of Manson's guilt, it would be forced to dismiss the case and let the murderer walk free because of one man's wrong ruling. The state, under current law, is powerless to challenge that judge's incorrect ruling.

No matter how egregious or mistaken a trial judge's ruling, only the defendant has the right to appeal that judge's ruling to a higher court in Texas. This is not fair to either the victim of the crime or Texans at large. Texas now stands as the last bastion of unreviewable trial error when that error favors the defendant.

This year, the Texas Legislature enacted a law, sponsored by Sen. John Montford of Lubbock and Rep. James Hury of Galveston, that allows the state to appeal certain pre-trial and post-trial legal rulings. This bill received widespread support from both Republicans and Democrats as well as law enforcement groups across the state.

But it will become law only if the voters approve a constitutional amendment to give the citizens and victims of crime in Texas the same rights they have everywhere else in the country.

The amendment allows the state to appeal legal rulings, not factual findings. For example, if a judge decided, at a pretrial hearing, that the defendant's confession could not be admitted at trial because of a technical error by the police, his legal ruling could be appealed by the state to a higher court before

trial. If the appellate court concluded that the trial judge had wrongly interpreted the law, it could reverse the trial judge.

If it concluded that the trial judge was correct, then the state would quite properly be unable to use that evidence. This is as it should be. It is only right to make sure that trial judges are correctly interpreting the law before the case is dismissed for lack of admissible evidence. That is what this amendment assures.

A judge's or jury's verdict that the defendant is not guilty is a factual ruling and therefore would not be appealable under this amendment.

There are many reasons — moral, philosophical, and practical — why the state ought to have a right to appeal issues of law. First, the erroneous exclusion of admissible evidence prevents citizens from getting a fair trial. The citizens are endangered by criminals who are wrongly released.

Second, the constitutional ban on prosecution appeals permits the legal issues that have been wrongly decided by trial courts against the state to stand forever as the law of the land.

Further, the lack of an equal right to judicial review creates inconsistent interpretations and application of the same law in different courtrooms. Inconsistency promotes "judge shopping" and gives law enforcement agents, attorneys, and the public mixed messages on what is the law.

Some might question whether Texas can afford the costs of equal access to appellate courts at a time of state budgetary crisis. The answer is a resounding yes. First, the societal cost in wrongly releasing culpable criminals is greater than any possible financial burden upon the state budget. Secondly, in dollars and cents, it may very well be less expensive than the current system.

Once an appeals court has litigated a controversial area, that law is less likely to be inconsistently applied, and both state and defendant less likely to appeal the same issue. If a legal ruling is appealed by the state before trial and the defendant wins, both he and the state save the cost of a full trial.

In sum, it is long past time for Texas to join the rest of the nation in providing the state with equal access to appellate review of criminal trial court legal rulings. The citizens of this state should take advantage of their opportunity to vote for judicial evenhandedness and accountability. A "yes" vote on Amendment 14 is a vote for fairness in the Texas criminal justice system.

Cathleen Herasimchuk is on the staff of the Harris County District Attorney's Office.



MARGULIES
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Mail Call

Vote yes for Proposition 19

EDITOR:

Today the voters of Texas will go to the polls to consider several amendments to the Texas Constitution. One of the most important is Proposition 19, which will help Texas get the federal superconducting supercollider project.

This \$4.4 billion project will create a research lab that would put Texas and the nation at the forefront of physics research. Proposition 19 will authorize the sale of \$500 million in general obligation bonds to entice Washington into considering Texas as the location of the project.

The opportunities for improving the state's education system and economy are great. The research universities of the state would benefit by drawing the world's best scientists and researchers to work on the project. The economy would see an extra \$20 billion pumped into it during the project's life.

A vote in favor of Proposition 19 is a vote for economic growth, jobs, and research for our universities.

Mark Browning
member, Texas A&M Legislative Study Group

MOB no match for A&M

EDITOR:

On Oct. 24 I attended my first Aggie football game. I also had the privilege of seeing the Aggie Band for the first time. The Rice Marching Owl Band (the MOB) was entertaining enough and cute, with their gimmicks and their domino act, their bubbles and balloons. But nothing could compare — or compete — with our cadets.

Incidentally, is anyone else offended by the Owls' "Sig

Heil" arm signals while our band plays? Granted, Aggies mock the Owls' hand gestures, but Nazi salutes hardly seem amusing or appropriate.

Jerri Sosville
grad student

Bork rejection isn't bad news

EDITOR:

I have allowed Brian Frederick's past neo-Nazi rantings to pass without comment. But his distorted eulogy to the rejection of Robert Bork's nomination to the Supreme Court requires clarification. Particularly repugnant because of its Doublethink approach (did Mr. Frederick study this method under President Reagan?) is his statement that Bork's rejection "bodes ill for the future of our liberties."

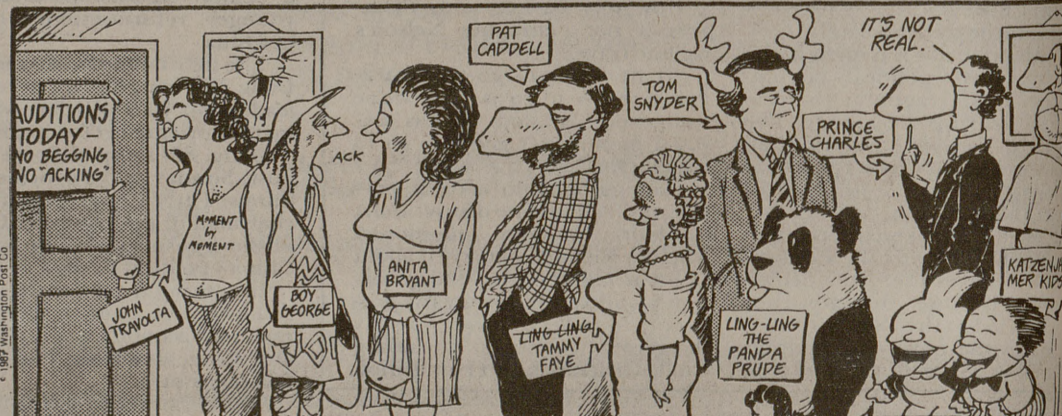
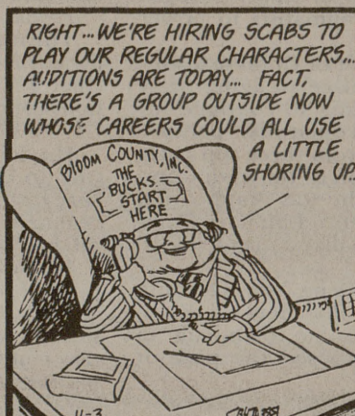
Well, I hardly think that *not* having a man on our Supreme Court who said that a poll tax intended to keep blacks away from voting polls wasn't so bad because it was "just a small tax" is a threat to our liberty.

Come on, Mr. Frederick. Fascism should have gone out of style and lost any semblance of respectability long before either you or I were even born. You need to get your nose out of *Mein Kampf* and realize your breezy right-wing philosophy might not seem so correct in a situation where you are no longer protected by majority-aligned clout!

Ramsey Sealy
grad student

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BLOOM COUNTY



by Berke Breathed

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