

DEROY MURDOCK: Republicans Should Demolish Democrats' Voting Schemes — Not Mimic Them

OPINION

[Deroy Murdock](#) Contributor

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The white flags are flapping in the breeze, thanks to Republicans willing to accept as permanent the “emergency” election rules that Democrats demanded during 2020’s COVID hell.

Longing for the elusive Red Wave, some GOP officials and operatives now suffer Stockholm Syndrome: They think it’s time to surrender to Democrats, swallow their dodgy vote schemes, and eventually sink them with early, mail-in and trafficked (harvested) ballots, drop boxes, ballots received and counted days and weeks after polls close, etc. [\(RELATED: DEROY MURDOCK: Election Deniers Won Big In The Midterms, But There’s A Catch\)](#)

Rather than switch, Republicans should fight. They have nothing less than federal law and the U.S. Constitution on their side. The GOP should litigate this matter all the way to the Supreme Court before yielding to Democrats’ diabolical vision of how Americans should vote.

Election Day is the Tuesday after the first Monday in November, not thanks to “The Star-Spangled Banner” or something that Thomas Jefferson quipped as he [sipped Madeira](#).

Two *federal statutes* govern this matter.

According to [2 U.S. Code § 7](#), “the Tuesday next after the 1st Monday in November, in every even numbered year,” is the date for electing members of Congress and, quadrennially, per [3 U.S. Code § 1](#), presidential delegates to the Electoral College. These laws specify November — not October or September. Neither statute allows for voting on Halloween or just after Americans leave the sand dunes on Labor Day.

According to Vote.org, Pennsylvania’s absentee congressional votes started on [Sept. 16](#). Kentucky’s two days of early voting began on Nov. 3. Connecticut allows neither in-person early votes nor no-excuse absentee ballots.

Problem:

These widely varied intervals deny voters equal protection under the 14th Amendment to the U.S. Constitution. A Pennsylvania ballot for U.S. Senate can sit around for 53 days while vulnerable to willful sabotage, unwitting misplacement, or destruction due to floods, fires, or other mishaps. A Connecticut ballot for Senate faces those risks for one day.

If Americans all voted on Election Day, as we overwhelmingly did from the days of former Presidents Andrew Johnson through Lyndon Johnson until about when former President Barack

Obama arrived, voters and their ballots would enjoy something much closer to equal protection than today's confounding collection of conflicting voting windows.

These objections aside, mass mail-in ballots, early voting and all that are odious on their merits.

Democrats should be ashamed of themselves. By seducing millions of Americans into voting at home rather than at precincts, Democrats have destroyed the sanctity of the secret ballot.

Standing alone behind a curtain and picking one's pols at the polls is totally different from voting at the kitchen table or at an office "vote party" as family, friends, co-workers, or even employers hover judgmentally. Likewise, filling a mail-in ballot beneath the gaze of a visiting party-hack trafficker torpedoed secrecy.

Early voting resembles a jury deliberating before hearing all the evidence. In Pennsylvania, [635,428 voted](#) before Democrat John Fetterman's disastrous debate against Republican Mehmet Oz. Some voted as early as 39 days before Fetterman struggled to speak — a key senatorial skill. Those who wished to change their early ballots were stuck.

Similarly, the day before a May 2017 special election, Montana Republican [Greg Gianforte body-slammed](#) and [broke the eyeglasses](#) of Ben Jacobs, staff writer for London's *Guardian* newspaper. Among the 37% of voters who already had cast ballots, many were disgusted by Gianforte's anti-press violence. Some contacted authorities and tried to change their votes.

Too late! Their ballots [already were in the pile](#), awaiting tabulation.

If early-voting Democrats had waited until Election Day, Gianforte might have suffered a bipartisan rout. Democrats could have won Montana's then-single, at-large U.S. House seat.

Instead, Democrats insisted on voting RIGHT NOW! and botched this opportunity. Gianforte entered Congress, and, in 2020, voters elected him Montana's 25th governor. Come 2024, Gianforte might challenge Democrat Jon Tester for Senate.

Impatient Democrats got precisely what they deserved.

Mail-in ballots also suffer this drawback: They're mailed in.

As the Heritage Foundation's eminent election-integrity scholar Hans Von Spakovsky wrote for the *American Spectator*, plenty of political mail, including ballots, never gets there. The U.S. Postal Service has trouble carrying election-related mail as intended. In 2018, USPS' standard for such mail — again, including ballots — was 96%.

"That means that even if the Postal Service met its goal, 4 percent of all voters would potentially not have their mailed ballots delivered on time to be counted," Von Spakovsky explained. "California, Illinois, and New Jersey only managed to deliver this very important election mail [84.2% of the time](#)." That is a 15.8% failure rate!

Prosecutors in Philadelphia [charged](#) Zachkey James, 27, with the alleged possession of stolen mail, including [15 mail-in ballots](#), KIRO 7 reported.

In every election, this disenfranchisement would be merely reprehensible. In some elections, such missing ballots are the margin of defeat.

Meanwhile, some conservatives believe the GOP should act like Democrats until Republicans get elected and repeal these rules.

Good luck with that!

It would be easier for Republicans to shrivel oak trees into acorns. Once the GOP promotes mail-in voting and ballot trafficking, it will accustom the electorate to these practices. Trying to scrap them, years hence, will be as successful as repealing ObamaCare.

Rather than cave in to Democrats' lawfare soldiers who cooked this dog's breakfast, Republicans should lawyer up and litigate with all the passion that Thurgood Marshall brought to *Brown vs. Board of Education* and others devoted to *Miranda*, *Roe*, *Kelo*, *Dobbs* and other landmark cases.

Ultimately, the U.S. Supreme Court should ponder a simple question: What part of "the Tuesday next after the 1st Monday in November" is unclear? Atop the two relevant federal statutes, the 14th Amendment argument deserves their scrutiny.

If such litigation prevails, the Democrats' infernal, increasingly permanent, "temporary" measures will wane like masks, social distancing, and Dr. Anthony Fauci.

And if such litigation fails, then — and *only* then — should Republicans discuss beating Democrats at the electoral procedures that they have sicced on America's voters.

Deroy Murdock is a Manhattan-based Fox News contributor.

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