



The

# Phyllis Schlafly Report



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## How Do They Come Up With So Many Bad Ideas?

### *National Popular Vote — One of the Worst*

Moving quietly under cover of presidential debates and the enormous publicity given to the race for the Republican nomination is a plan to change how U.S. Presidents are elected. It would bypass the procedure spelled out in the U.S. Constitution which has been used successfully for over two centuries.

The Constitution prescribes how we elect our Presidents. It is a mirror image of the Great Compromise designed by the Constitutional Convention of 1787, which brought together the large and small states by means of a national Congress, with the House based on population and the Senate based on state sovereignty.

Likewise, when the presidential electors meet in gatherings known as the Electoral College, each state's vote is equal to the sum of its House and Senate representation in Congress. Our Founding Fathers understood that America is a nation of both "we the people" and a federal system of states, so it allows all states, regardless of size, to be players in electing our President.

The plan to change this system is called National Popular Vote (NPV). It obviously has a lot of money behind it because it is sending highly-paid lobbyists around the country to persuade state legislatures to adopt the NPV plan. NPV is an attempt to achieve the longtime liberal goal of getting rid of the Electoral College. Instead of proposing an amendment that would first need to be passed by Congress and then ratified by three-fourths of the states (38), NPV is a scheme to deviously bypass the grand design of our U.S. Constitution.

NPV lobbyists are trying to get state legislatures to enact identical bills requiring their own state's presidential electors to ignore the winner of their own state's presidential election, and instead cast all their state's votes for the candidate whom the politicians estimate received the most popular votes nationwide. That candidate would not be required to have received a majority or any certain threshold — just more votes than any other candidate (*i.e.*, a plurality).

The NPV campaign lets people believe that NPV will elect Presidents who win the majority of popular votes, but that is

false. Because of third parties, we've had many elections (including three of the last five) when no presidential candidate received a popular-vote majority. Abraham Lincoln won with less than 40% of the popular vote and only our Electoral College system elected him President.

If the NPV lobbyists can get enough states whose votes in the Electoral College total at least 270, they will be able to steal votes away from some candidates, transfer those votes to another candidate, and thereby construct a fake majority in the Electoral College. Eight states and the District of Columbia (with 132 electoral votes; half of the 270 needed) have already joined this NPV "compact" to "activate" NPV: Vermont, Maryland, Washington, Illinois, New Jersey, District of Columbia, Massachusetts, California, and Hawaii.

The NPV slogan "Every Vote Equal" is dishonest because the NPV proposal is based on legalizing vote-stealing. For example, Texas or Louisiana could be forced to cast its votes for a candidate who won more votes in other states, such as New York. If NPV had been in effect in the year 2000, Al Gore would have become President instead of George W. Bush because Gore received more votes than Bush.

Remember our national trauma as we suffered through recounts in Florida where the margin between Bush and Gore was only about 500 votes? If the election is based on the national popular vote and it's close, NPV would induce recounts in many or most of the 50 states.

Remember Iowa just a few weeks ago? Iowa announced on January 3 that Mitt Romney had won that state's caucuses by 8 votes. Then Iowa announced on January 18 that Rick Santorum had won by 34 votes, and that 8 precincts would never be certified because of inaccuracies. Now I ask you. If Iowa Republicans can't count votes any better than that, what can we expect from the Democrats running the elections in Chicago, New York, Philadelphia and Los Angeles?

Mexico uses a national popular vote system, and it's a good illustration of why we don't want it here. In Mexico's last presidential election, the candidate with the "most votes" received 35.89% while his closest rival got 35.31%, a margin of just one-half of one percent. In the months that followed,

Mexico was on the verge of civil war as the runner-up held mass rallies attracting millions of his angry supporters.

People who pretend that the Electoral College system is undemocratic are not only ignorant of the history and purposes of the U.S. Constitution, but they probably don't even understand baseball. Basing the election on a plurality of the popular vote while ignoring the states would be like the New York Yankees claiming they won the 1960 World Series because they outscored the Pirates in runs 55-27 and in hits 91-60. Yet, the Pirates fairly won that World Series, 4 games to 3, and no one challenges their victory.

### ***Unconstitutional Recess Appointments***

Barack Obama's latest unconstitutional action is his attempt to make four so-called recess appointments to high-level, well-paying jobs in the federal bureaucracy when the Senate was **not** in recess. He appointed three people to the National Labor Relations Board (NLRB), plus Richard Cordray to head the newly created Consumer Financial Protection Bureau even though the Senate had declined to confirm his nomination.

Article II gives the President power "by and with the advice and consent of the Senate" to appoint public officials and judges, and also "to fill up all vacancies that may happen during the recess of the Senate." That provision was written to cover the long recesses that were common during the horse-and-buggy days, and was certainly not written to enable the President to defy the Senate and appoint persons whom the Senate would not confirm.

Obama's action is clearly an attempt to circumvent the U.S. Constitution because the Senate was not in recess when he made these appointments. According to the Constitution, the Senate could not have been in recess when the appointments were made because Article I of the Constitution states that neither House can "adjourn for more than three days without the consent" of the other House, and the House did not consent to a Senate recess.

It seems reasonable that the Senate should have the authority to say whether or not it is in recess. Apparently, President Obama wants to make that a presidential decision.

Obama claims he can call it a recess because the Senate is merely conducting pro forma sessions (*i.e.*, having brief meetings and not doing anything important). In fact, the Senate did pass a bill on December 23 during one of those brief sessions and the President signed it into law, so it must have been important business.

The four positions that Obama filled with recess appointments are important and powerful jobs that should require Senate confirmation. Obama's actions should be struck down by the courts as unconstitutional when presented with legal challenges, and Speaker John Boehner (R-OH) is considering whether the House should pursue its own legal action.

Mark Levin summed up the Obama Administration when

he told CNSNews, "I believe to a great extent we now live in a post-constitutional country, where much of the Constitution is ignored or evaded." It's no wonder Gallup reports that the majority of Americans believe our country is moving in the wrong direction.

### ***Schools Building Databases on Kids***

The Tea Partiers are demanding that Congress not raise the debt ceiling but instead avoid default by cutting spending dramatically. Federal spending on education emerges as the discretionary item in the federal budget most available for the knife, and a House bill is being introduced by Rep. Duncan Hunter (R-CA) that lists 43 education programs to be cut.

We've spent \$2 trillion on education since federal aid began in 1965. The specified goals were to improve student achievement, eliminate or narrow the gap between upper-income and low-income students, and increase graduation rates from high school and college.

We have little or nothing to show for the taxpayers' generosity. Even Education Secretary Arne Duncan admitted that 82% of public schools should be ranked as failing.

So how will the army of educrats, whose jobs depend on billions of dollars of federal handouts, save their jobs? They've come up with an audacious plan that pretends to be useful in enabling them to discover what works and what doesn't, but it is so large and complicated that it would take years and require a huge computer-savvy payroll and billions of taxpayers' dollars. And incidentally, it would be illegal because it's based on using executive-branch regulations to override federal statutes.

This plan calls for a computerized system to track all Americans from cradle to grave by cross-linking all their school and college academic and extracurricular records, including tests and appraisals by supervisors and peers, with health, welfare, employment, and income data. The data gatherers used to talk about collecting K-12 data, and then they moved to PreK-16, and now their lingo is pre-birth to entry into the workforce.

States already collect a lot of data that have nothing to do with students' academic achievement, including Social Security numbers, family income, medical exams, and criminal and administrative penalties. Now the plan is to enter additional data on preschool experience, including pre-natal care, daycare, early childhood education, and after-school activities.

This plan would computerize information not only from the Department of Education, but also from the Department of Health and Human Services (which would include Head Start, WIC (Women, Infants, and Children), Parents as Teachers, and after-school programs), and from the Department of Labor. The goal is to give the government access to a giant computer data warehouse with personal information on all children.

This data-gathering plan is another example of the over-reaching dictatorial bureaucracy trying to restrict parents' rights over the care and upbringing of their own children. The liberals really mean it when they say they want the village (*i.e.*, the government) to raise and teach children, control their school curriculum, and ultimately decide what adult job they can get.

The people who seek to control the lives and education of our children should be restrained from implementing this plan by the Family Educational Rights and Privacy Act (FERPA), formerly known as the Buckley Amendment, passed in 1974. FERPA states that school and college records cannot be disclosed, or transferred to other agencies, without consent of the parents of kids under age 18 or the student if over 18, unless the information is not personally identifiable, or other exceptions apply.

Both the No Child Left Behind law, which applies to elementary and secondary schools, and the Higher Education Act, which applies to colleges, reaffirmed FERPA's prohibition on the government developing a national or inter-agency database of personal information on students. But the Obama Administration is trying to get around FERPA by the subterfuge of having the states build the databases and assign each child a different ID number. States are bribed to participate in this vast data collection by grants from a pot of federal money and by the threat to withhold other federal grants if states don't comply.

The Obama Administration looks upon schools and colleges as giant reservoirs of young people who can be indoctrinated with "social justice" (*i.e.*, America is somehow an oppressive, unjust society), multiculturalism instead of patriotism, and diversity in moral and immoral behaviors.

The people and groups working to achieve national control of education curriculum view the collection of enormous amounts of personal information about every student on a longitudinal basis, with tracking from "pre-birth" and preschool through post-graduate experience and into the labor force, as the essential path to achieve control of school curriculum and to guide kids' opinions about America.

This type of collection of personal information on all children is the mark of a totalitarian state, not a free America. It is reminiscent of the notorious "dangan" or dossier that Communist China maintains on every citizen (in folders stacked in giant warehouses in the pre-computer age), with complete information on every child through his years of school, and then available to his employer when the kid goes into the labor force.

### ***Day of Reckoning for VAWA***

The reauthorization of the Violence Against Women Act (VAWA) passed out of the Senate Judiciary Committee on February 2 on a straight party-line vote. That proves again that the feminists control the Democratic Party, and also is a refreshing indication that Republicans are no longer intimidated by feminist demands.

VAWA was originally passed by Congress in 1994, with Bill Clinton pushing the law as a payoff to the feminists for supporting his election as President. Joe Biden claims credit as a major sponsor and likes to say it is the legislation of which he is most proud.

In its 17 years of operation, it has done little or no good for real victims of domestic violence, while its funds have been used to fill feminist coffers and to lobby for feminist objectives and laws. Although every spending bill should be subject to rigorous auditing procedures in order to curb waste and fraud, VAWA has somehow ducked accountability for the nearly a billion dollars a year it doles out to radical feminist organizations.

Despite rigid feminist dogma that there are no gender differences, VAWA is totally grounded in feminist-created gender stereotypes. Starting with its title, Violence Against Women, its fundamental assumption is that men are naturally batterers and women are naturally victims.

In other words, men are always guilty, and women must always be believed without fear of being punished for perjury. VAWA assumes there is no violence against men, and VAWA doesn't provide services for men who are victims of domestic violence.

The feminists have so broadened the definition of domestic violence that it doesn't have to be violent and can be whatever a woman alleges. Definitions of domestic violence include vague and overbroad concepts such as emotional distress, harassment, annoyance, or merely unpleasant speech.

Feminist recipients of VAWA's handouts use the money to train legislators, judges and prosecutors in feminist ideology and goals. This has resulted in dozens of state laws calling for mandatory arrest (*i.e.*, the police must arrest someone, no guess who), and no-drop prosecution (*i.e.*, the man must be prosecuted even in the large percentage of cases where the woman has withdrawn her accusation or refuses to testify).

Instead of promoting divorce, breakup of marriage, and hatred of men, VAWA should be revised to encourage counseling when appropriate and voluntary. Some VAWA money should be used for programs to help couples terminate use of illegal drugs and reduce the use of alcohol.

Any man who is accused of domestic violence effectively loses a long list of constitutional rights accorded to ordinary criminals. These include due process, presumption that he is innocent until proven guilty, equal treatment under the law, right to a fair trial, right to confront his accusers, freedom of speech, right to privacy in family matters, custody or visitation with his own children, and even the right to bear arms. The woman is provided with legal representation even though she has not presented any evidence of injury or harm. The man gets no such help.

About a fourth of divorces involve an allegation of domestic violence, which in many cases is false or without any

evidence. Those allegations usually result in the issuance of restraining orders which the Illinois Bar Association has referred to as "part of the gamesmanship of divorce."

It's no surprise that VAWA is often referred to as the hate-men law. The attitude of many judges and prosecutors who have been trained by the feminists with VAWA funds was expressed by one New Jersey judge whose extravagant statement was even reported in the New Jersey Law Journal: "Your job is not to become concerned about all the constitutional rights of the man that you're violating as you grant a restraining order. Throw him out on the street, give him the clothes on his back, and tell him, 'See ya' around.'"

Judges are required to consider allegations of domestic violence in awarding child custody, even though no evidence of abuse is presented. This usually results in the complete severing of child's relationship with his father.

VAWA should be completely revised to provide meaningful definitions of domestic violence that are specific enough to identify real victims, to stop the over-criminalization of minor partner discord, to emphasize counseling rather than incarceration, to assure that training programs for prosecutors and judges are objective, to assure accountability by tracking the large flow of taxpayers' money, to respect fathers' rights, to inspect shelters to evaluate success and fairness, and to develop programs to address the common problem of mutual partner abuse.

If VAWA is not reformed to respect constitutional rights, it will turn out to be a major embarrassment to all Members of Congress who vote for it.

### ***Jan Brewer's Photo With Obama***

The now-famous picture of Arizona Governor Jan Brewer shaking her finger at President Barack Obama is both appropriate and deserved. In America, we don't have rulers entitled to the deference and obsequiousness other countries show to their kings; our elected officials are ordinary citizens whom we are free to criticize.

Obama apparently took offense at the way Governor Brewer described her meeting with the President in the Oval Office. She said he had been "condescending," "patronizing," just wanted to lecture her instead of showing any willingness to hear Arizona's concerns about border problems, and didn't answer the Governor's five letters.

Her description sounds authentic because that's exactly how he treated her when they met on the tarmac as he was campaigning for reelection. The background of this meeting is the insulting way Obama is treating Arizona by suing that state for trying to enforce the laws against illegal aliens, withdrawing National Guardsmen from the Mexican border, initiating a civil rights investigation of Maricopa



County Sheriff Joe Arpaio, and the scandal of the Fast and Furious gun-sale operation.

"Fast and Furious" was a secret Obama Administration program to sell guns to Mexican gangs so the Democrats could later make a political case for gun control. It backfired when some of those guns were found at the scene of the murder of a U.S. Border Patrol agent.

The U.S. Supreme Court has affirmed the power of states to take steps to enforce laws against illegal immigration. The Legal Arizona Workers Act of 2007, which requires Arizona employers to use the internet-based E-Verify system to confirm that a new employee is lawfully in the U.S., was upheld by the Supreme Court last year.

Obama is now having his Justice Department sue Arizona to try to get the court to strike down another Arizona law. It authorizes police to question people about their immigration status if the police have reason to believe the person is an illegal alien. There are many other ways that Obama is trying to frustrate state and citizen efforts to stop the tide of illegal aliens crossing our southern border. He shows no respect for the financial burden this puts on states from problems of crime, illegal drugs, public schools and hospital care.

Illegal aliens from Mexico are believed responsible for more than a third of deliberately ignited wildfires in Arizona over the last five years, according to a report from the Government Accountability Office. Illegal aliens are believed to have started 30 of 77 fires from 2006 through 2010 that were investigated, and that figure doesn't include 2011, the worst fire year in Arizona history, when two fires destroyed more than 60 homes.

In December 2010, Obama's Homeland Security Secretary Janet Napolitano flew to Mexico City to sign a "trusted traveler" agreement. This allows pre-screened Mexican airline passengers to bypass lengthy airport security checkpoints, a plan for which Mexico's Interior Ministry Secretary said 84 million Mexicans are expected to qualify.

Barack Obama wasn't interested in accepting Governor Brewer's invitation to visit the border himself. He just wants to use executive-branch powers to stop Arizona from doing anything to defend itself.

Obama picked a fight with a female Governor and she didn't roll over. Three cheers for Jan Brewer.

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<http://www.eagleforum.org>

[eagle@eagleforum.org](mailto:eagle@eagleforum.org)