

# Nygaard Notes

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## Step 4: Pass the Fair Representation Act

I ended the last Nygaard Notes with a call for Ranked Choice Voting, which was Step 3 in my list of Steps to Better Elections. As I was doing the research for this issue, I ran across a remarkable piece of legislation called the Fair Representation Act. If passed, the FRA would not only institute Ranked Choice Voting for election to the U.S. House of Representatives—replacing the “winner-take-all” system we currently have—but would essentially eliminate gerrymandering and virtually guarantee a more diverse and representative House. It’s such a simple and elegant proposal that I decided to make it Step 4 in my who-knows-how-many-steps list of ways we could improve elections in the USA.

I’ll offer a brief summary of the FRA here, focusing on my own state of Minnesota to illustrate the nature of the changes the FRA would bring about.

Currently Minnesota has eight Congressional Districts, and the Representatives for each district are chosen in the traditional way: we have elections every two years and whoever gets the majority of the votes in each district ends up representing everyone in that district. This seems normal to most of us. No matter if the District is diverse, with 35 percent being Trumpists, 35 percent being establishment Democrats, 15 percent being socialists, and 8 percent being what we used to call Republicans. It’s a “winner-take-all” system and, unfortunately, the almost-inevitable outcome of all Congressional elections is that one-half or more of the people in the district will remain unrepresented, no matter who wins.

### Three Big Changes

The FRA would transform all that, via three big changes. The first change is that it would replace the eight Minnesota Congressional districts with two districts. The number of representatives Minnesota sends to Congress wouldn’t change, though, because the

two districts would be “multi-winner” districts. So instead of one winner from each of eight Congressional districts, as it is now, there would be multiple winners from each of the two districts. In the case of Minnesota, we would elect three representatives from District 1 and five representatives from District 2. Thus, rather than eight individuals representing fewer than half of the state’s voters, each district would be represented by a *group* of legislators who collectively will represent a much larger percentage of the state’s residents.

The election reform group FairVote explains how many votes are needed to win in a multi-winner election:

“First, we need to know how many votes are enough to guarantee victory, which we call the election threshold. That threshold is the number of votes that mathematically guarantees that the candidate cannot lose. For example, if three candidates will be elected, the threshold is 25% of votes. That’s because if one candidate has more than 25% of the vote, it is impossible for three other candidates to get more votes than them (because that would add up to more than 100% of votes). If four candidates will be elected, the threshold is 20% of votes. If five candidates will be elected, it is about 17% of votes.”

And here’s the second big change: The multiple winners would be chosen using Ranked Choice Voting. Writing in Huffington Post last year, Drew Penrose and Dave O’Brien of FairVote explain how Ranked Choice Voting would work under the FRA:

*“For voters, the process is simple: rank the candidates in order of choice. Voters rank their favorite first, followed by their second-favorite, and so on. Every vote cast counts for its top choice. If a candidate has more votes than the election threshold, they win, with any extra votes spilling over to help their next choices. If not all seats are filled, then the candidate with the fewest*

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Greetings,

This week in the Notes I once again step back from the daily news cycle. With the mid-term election almost upon us, the news has become a bit overwhelming and dispiriting for many of us. That's precisely why I'm stepping back: to consider some changes that this big democracy of ours might make.

Long-time readers know that I rarely comment on specific elections. That's because it's too easy to get caught up in the event of an election. We forget that, whatever the outcome of this or any election, the need for mobilizing a mass movement remains. An election doesn't change that. It's true that elections are the forum in which many US Americans express their political selves, and it's true that we learn a lot from elections. But the work doesn't change.

I'm not saying that elections don't matter. What I am saying is that we need to always look down the road and think strategically about building support for real structural change. Elections help us understand the current lay of the land, but whatever the outcome our work continues. This election may mark a step forward or a step backward. But the next step, as always, depends on us. In this spirit I offer a couple more Steps—Step 4 and Step 5—that we could take to move us toward better elections.

Solidarity, as always,  
Nygaard

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*votes is eliminated, and votes cast for that candidate count for the next choice instead. This process repeats until all seats are filled. The election threshold is simply the number of votes that guarantees victory. In a 1-winner election, that is 50% + 1, a majority. In a multi-winner election, it is less. Under the Fair Representation Act, it will be between 17% and 25% in every state with at least three seats. That lower threshold is what allows minority voices to reliably earn their fair share of representation."*

### **The Third Change: No Gerrymandering**

How will district boundaries be decided under the FRA? As it stands now, districts are redrawn every ten years, after the Census, to account for changes in population. In most states this is done by the legislature, allowing whichever party then in power to redraw the districts in ways that give it a built-in advantage in future elections. This self-serving manipulation of political boundaries is known as gerrymandering.

After the passage of the Fair Representation Act, the very structure of the new districts—with their larger and more diverse populations and multi-winner elections—will make gerrymandering virtually impossible. But, just to be sure, the FRA mandates that the redistricting process will be done in each state by independent commissions rather than partisan legislatures. How independent they actually are will be determined through political struggle, as always.

### **FRA as Anti-Racist Legislation**

The anti-racist effects of the FRA are important and worth noting. FairVote took a look at the effect of the FRA on the representation of "African Americans in the South—the region of the country where most African Americans live."

What they found was that African Americans living in Louisiana, Mississippi, Georgia, South Carolina, and North Carolina "would see an immediate and significant change in their congressional representation under the FRA. Although no one can predict outcomes with certainty, African American voters would have the power to elect more of their preferred candidates, and nearly every African American voter would be living in a district represented by at least one of their preferred candidates."

Writing about the FRA in the publication *GovTrack Insider*, staff writer Jesse Rifkin remarked that "This bill is so expansive and revolutionary that its odds of passage are zero..." That's likely true. In the short term. But, as I said before, every political action produces a reaction eventually. So it's entirely possible that the extreme neo-fascist wave building around Donald Trump will generate all sorts of anti-fascist, pro-democracy initiatives in the future. It's always darkest before the dawn. ♦

## Step 5: Free Media Access for Candidates

In the United States, anyone is free to speak in support of, or in opposition to, any candidate for public office. Until recently, that simply meant that you or I could speak to our family, our friends, our co-workers and so forth. That is, we could speak, but only a very small number of people could hear us speaking. Meanwhile, those with lots of money could use the same freedom to reach millions of people through buying advertisements in the local, state, and national media.

The rise of the Internet has changed that to some extent—now the things that we freely speak can be heard by huge numbers of people—but the change is not as great as you might think. Consider that the average audience for the evening newscasts for ABC, CBS and NBC is 5.2 million people. Meanwhile, anyone can make a video and put it on YouTube where, it's true, it *could* be seen by a billion people. But the average video on YouTube actually generates fewer than 10,000 views.

In other words, it still requires huge amounts of money and institutional power to reach a huge audience. And, in order for a candidate to become “viable” at the national level, they need to be able to reach huge numbers of people with their “message.” So it ends up that, for the most part, the viable candidates are the ones with the most money and power.

One way to chip away at this bias toward wealthy campaigns is to offer equal media access at no charge to all candidates. It's not as crazy as it sounds. Let me explain.

The Organization for Security and Co-operation in Europe (OSCE) is the world's largest security-oriented intergovernmental organization.

Nobody in this country thinks much about the OSCE, I'm guessing. Although some may recall when the OSCE sent election observers to monitor the U.S. presidential election in 2012. Civil rights groups in the U.S. asked them to pay particular attention to states where official efforts had been made to suppress voting. Despite the fact that the U.S. had signed the Copenhagen Agreement—in which the U.S. officially agrees that “the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place”—the Texas Attorney General threatened to arrest any observers who came within 100 feet of a Texas voter suppression center. (Also known as “polling places.”) Such Texas-like behavior is now being normalized at the national level, but I still thought the organization—with its 57 member countries representing more than a billion people, and of which the U.S. is a charter member—might be worth listening to for a moment.

I'm referring to a 2017 study commissioned by the OSCE Mission to Montenegro. Those who think that the idea of offering free media access to all candidates for office is a radical idea may want to consider what the report said:

“It is a practice in many countries for political parties to access, at no cost, the public service broadcast media to deliver their electoral messages. This is what is generally called ‘free airtime’ or ‘free political advertising’. It is a direct form of communication between politicians and voters, without any intermediary role by the media. One of the main advantages of giving free airtime to political parties is that it can compensate the risk of unfair and biased coverage of the campaign by certain media. In addition, unlike paid political advertising, the lack of financial strength of a party is not an obstacle to access the electorate.”

### The Principles of No-Cost Media Access

The OSCE study explains that “the determination of which candidates and/or parties should be given free political advertising time, and the amount of time or the number of slots allocated to each candidate/party may be based either on the formal Equality Principle or on the Proportionality Principle...”

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The Equality Principle says that “each candidate and/or party (irrespective of their power base or popular support) is allocated the same amount of airtime,” with the advantage being that “it may give a chance to new and small parties.” It can also be a bit overwhelming and confusing, they note.

The Principle of Proportionality is a little different, as “candidates and/or parties are allocated time according to certain objective criteria, e.g. the results of the previous elections; the number of seats currently held in the Parliament; the number of candidates standing; the number of seats contested; the support in current opinion polls.” The study notes that this approach “may work towards the status quo by ensuring that the main parties are heard, while smaller and newer parties are marginalised.”

Combining the Equality Principle with the Principle of Proportionality gives us the “Principle of Mixed Access,” in which “a minimum amount of time is allocated to all contenders; supplementary time is allocated on a proportional or other basis.” The point here is that there are other ways to allocate valuable airtime to candidates than the current “Wealth Wins” method to which we are so accustomed.

So there is my fourth step to better elections: Provide Free Media Access for All Candidates. By itself this wouldn’t do much, but as a part of a “Better Elections” package it could play a role. ♦

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## “Quote” of the Week: *“Still Fighting this Original Sin”*

*The lack of an affirmative right to vote in the U.S. Constitution is inextricably tied to the history of racism in America, as the founders compromised on this right to accommodate slave states.*

*Hundreds of years after the founding of the United States, we are still fighting this original sin.*

If you are concerned about voting rights—and I hope you are—visit Advancement Project, from which this week’s “Quote” of the Week is taken. Find them here: <https://advancementproject.org/issues/voting-rights/>

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