

# DEMOCRACY DOWN UNDER: A COMPARATIVE LOOK AT AUSTRALIAN AND AMERICAN ELECTORAL SYSTEMS

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## I. INTRODUCTION

One of the challenges that every democracy faces is determining how to structure its electoral system. It is an intense subject of debate, with political theorists grappling with what electoral system is ideal from a normative context.<sup>1</sup> Electoral design is an important issue because scholars have described elections as “the key hallmark to democracy.”<sup>2</sup> The social science literature at both the aggregate and micro levels has indicated that “[d]ifferent electoral systems produce different outcomes.”<sup>3</sup> In describing his ideal electoral system, the British political theorist John Stuart Mill once said that adopting the single-transferable vote (STV) would be “among the very greatest improvements yet made in the theory and practice of government.”<sup>4</sup> While originally designed by Thomas Hare of England in 1857, the goal of this system is for legislatures to be composed politically to precisely reflect each political group’s strength in the electorate.<sup>5</sup> For instance, if the United States’ electorate was 40 percent Democratic, 40 percent Republican, and 20 percent independent, the objective of an STV system would be for Congress to have 40 percent of its representatives be Democrats, 40 percent of its representatives be Republicans, with nearly 20 percent of its representatives elected as independents.

While the United States is a nation divided politically, the current Congress is by no means reflective of the electorate’s political views. For instance, even though President Obama was comfortably re-elected and the House Democrats

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1. See DAVID M. FARRELL & IAN MCALLISTER, *THE AUSTRALIAN ELECTORAL SYSTEM: ORIGINS, VARIATIONS, AND CONSEQUENCES* 148-149 (UNSW Press 2006) (noting various studies and disagreements by academics on an electoral system’s effects on democratic stability, proportionality, and voter satisfaction).

2. Shaun Bowler & Bernard Grofman, *Introduction to ELECTIONS IN AUSTRALIA, IRELAND, AND MALTA UNDER THE SINGLE TRANSFERABLE VOTE* 4 (Shaun Bowler & Bernard Grofman eds., 2000).

3. *Id.* at 4-5.

4. Kevin Reyes, Note, *Redistricting or Rethinking? Why Proportional Representation May Be a Better Solution Than California Independent Redistricting Commission*, 20 S. CAL. INTERDIS. L.J. 655, 672 (2011) (quoting John Stuart Mill, explaining that the Hare model is his favorite type of proportional representation system).

5. Alexander Athan Yanos, Note, *Reconciling the Right to Vote with the Voting Rights Act*, 92 COLUM. L. REV. 1810, 1859 (1992).

received a million more votes nationwide than their Republican counterparts in 2012, Republicans retained a 234 to 201 majority.<sup>6</sup> While there are always multiple causes behind the results of a given election, the 2012 presidential election demonstrates how the clustering of individuals with certain political views in particular geographic areas leads to an inefficient distribution of votes, especially in large urban areas where Democrats are more heavily concentrated.<sup>7</sup>

This democratic distortion is only the beginning of the shortcomings associated with the United States' winner-take-all or first-past-the-post electoral system. For instance, at the approach of the 2014 midterm elections, political handicappers estimated only 29 of the 435 House races were even somewhat competitive going into the general election.<sup>8</sup> As a consequence of this lack of competition, voting participation rates in congressional elections have been abysmal. Out of the twenty-one democracies in Western Europe and North America, the U.S. placed twentieth in terms of voter participation rates.<sup>9</sup> The voting participation rates are even lower for U.S. citizens in non-presidential years such as 2014, where a mere 36.4 percent of eligible voters cast a ballot, a seventy-two year low.<sup>10</sup> As only 15.2 percent of Americans approve of Congress,<sup>11</sup> and 25 percent approves of the direction the country is going,<sup>12</sup> voters are frustrated with the current political process and institutions.

If Americans want to rekindle participation in the democratic process, a comparative understanding of how other electoral systems operate would be beneficial. In Europe, Britain and France are the only countries that do not use some form of proportional representation (PR) to elect their national legislatures.<sup>13</sup> The United States is now one of the very few long-established

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6. Rob Richie & Andrew Spencer, *The Right Choice for Elections: How Choice Voting Will End Gerrymandering and Expand Minority Voting Rights, From City Councils to Congress*, 47 U. RICH. L. REV. 959, 976 (2013).

7. *Id.* at 977.

8. Jessica Taylor, *Few House Seats Up for Grabs in 2014*, MSNBC (citing the non-partisan Cook Political Report, which listed seven House seats as pure tossups and twenty-two in the lean Republican or Democrat categories), <http://www.msnbc.com/the-daily-rundown/few-house-seats-grabs-2014> (last updated Sept. 12, 2013, 9:02 AM) [<https://perma.cc/9SGM-M5L4>].

9. Michael A. McCann, *A Vote Cast; A Vote Counted: Quantifying Voting Rights Through Proportional Representation in Congressional Elections*, 12 KAN. J.L. & PUB. POL'Y 191, 193 (2002).

10. Domenico Montanaro, et. al., *2014 Midterm Election Turnout Lowest in 70 Years*, PBS NEWS (Nov. 10, 2014, 9:06 AM), <http://www.pbs.org/newshour/updates/2014-midterm-election-turnout-lowest-in-70-years/> [<https://perma.cc/Q9RA-VVJD>].

11. *Congressional Job Approval*, REAL CLEAR POLITICS, [http://www.realclearpolitics.com/epolls/other/congressional\\_job\\_approval-903.html](http://www.realclearpolitics.com/epolls/other/congressional_job_approval-903.html) (last visited Sept. 25, 2015, 12:09 am).

12. *Right Direction or Wrong Track: 25% Say U.S. Heading in Right Direction*, RASMUSSEN REPORTS (Sept. 21, 2015), [http://www.rasmussenreports.com/public\\_content/politics/mood\\_of\\_america/right\\_direction\\_or\\_wrong\\_track](http://www.rasmussenreports.com/public_content/politics/mood_of_america/right_direction_or_wrong_track).

13. Paul L. McKaskle, *Of Wasted Votes and No Influence: An Essay on Voting Systems in*

democracies in the world to still use a single-member, first-past-the-post system in national elections.<sup>14</sup> The fact that many European democracies later switched to a PR system would imply that the winner-take-all model has failed to live up to the democratic ideal and modern notions of political equality.

This Note will examine the electoral system of Australia, a democratic nation that successfully transitioned their Federal Senate from single-member, winner-take-all to multi-member districts using Hare's single-transferable vote model and compare this electoral system to the American winner-take-all model.<sup>15</sup> Section II of this Note explains the mechanics of the single-transferable vote system, including how ballots are counted and where this system is currently being utilized. In Section III, this Note explores America's past experimentation with proportional representation electoral systems and how a modern approach to such a system may work. Section IV describes the current shortcomings of America's winner-take-all-system, including its effects on political participation, uncompetitive elections, and the lack of a meaningful choice at the ballot box. Section V provides a historical context to Australia's experiences under this form of proportional representation, highlighting both the successes and shortcomings of their electoral system. Given how Australia's lower house still utilizes single-member districts, the ability to study the differences between the House and Senate provides a useful comparison for the purposes of the United States, which is also a bicameral body.<sup>16</sup> Finally, this Note addresses scholarly concerns that have stated particular obstacles to the United States adopting the STV model, such as effects on political stability. This Note will conclude by recommending an alternative voting system as the antidote to the nation's current political gridlock and a potential solution to creating a more moderate and ideologically balanced Congress.

## II. THE SINGLE-TRANSFERABLE VOTE

The single-transferable vote (STV) is currently employed in electing the national legislatures in Ireland and Malta, the upper house in Australia, local government and European Union Parliament positions in Northern Ireland, as well as several local bodies in Cambridge, Massachusetts and New York City,

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*the United States*, 35 HOUS. L. REV. 1119, 1123 (1998). The term "choice voting" will be used throughout this Note and is a type of proportional electoral system in which voters rank each candidate by number of preference. STV is a type of choice voting.

14. *Id.*; Bernard Grofman, *Criteria for Districting: A Social Science Perspective*, 33 UCLA L. REV. 77, 161 (1985) (noting that proportional and semi-proportional systems are the standards for electoral systems in every democratic country besides Great Britain and former colonies of Great Britain, including the United States).

15. Amanda Kelley Myers, Comment, *Importing Democracy: Can Lessons Learned from Germany, India, and Australia Help Reform the American Electoral System?* 37 PEPP. L. REV. 1113, 1148 (2010) (noting that Australia's Federal Senate switched to the STV system in 1948).

16. *Id.*

New York in the United States.<sup>17</sup> Under the STV, voters rank each candidate on the ballot by number, with the lowest number, “1,” being the candidate they most prefer.<sup>18</sup> After all the votes have been cast, the election administrators establish an electoral quota, which is based on the total number of votes cast and determines what is the minimum threshold required to win a seat.<sup>19</sup> Once a voter’s first choice is either elected or eliminated, their surplus votes are then transferred to their second choice candidate and so on until all the seats are filled.<sup>20</sup> In each round of tabulating the votes, either a candidate is elected or the lowest vote getter is eliminated, in the event that no one meets the electoral quota.<sup>21</sup> When someone is elected, only his or her surplus votes are transferred to someone’s second choice candidate.<sup>22</sup> When someone is eliminated by receiving the lowest votes of all candidates, all of his or her votes are transferred to the remaining candidates in the respective ranked order.<sup>23</sup> Very few votes are wasted under such a system, because when candidates are either elected or eliminated, their additional votes will transfer to voter’s secondary selections.<sup>24</sup> Thus, the secondary and tertiary choices of voters could make a significant difference in a crowded election when one or few candidates get elected in the first round of voting. Like limited voting systems, it is important to note that despite ranking the ballots, each person’s vote will only count once, either for their first choice candidate or a secondary choice in the event that their vote is transferred.<sup>25</sup>

### III. HISTORY OF STV IN THE UNITED STATES

The United States is no stranger to the use of the single-transferable vote. Cambridge, Massachusetts, New York City, New York, and Minneapolis, Minnesota still use STV to an extent in their local elections.<sup>26</sup> San Francisco, California also has a form of STV, “known as instant run-off voting,” for elections to its Board of Supervisors.<sup>27</sup> In addition, choice voting was formerly utilized in Cincinnati, Ohio.<sup>28</sup> STV and other proportional representation schemes

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17. McKaskle, *supra* note 13, at 1160.

18. *Id.* at 1161.

19. *Id.* at 1162.

20. McCann, *supra* note 9, at 193.

21. McKaskle, *supra* note 13, at 1162.

22. *Id.*

23. *Id.* at 1162-1163.

24. *Id.* at 1162.

25. Jeffrey O’Neill, *Everything That Can Be Counted Does Not Necessarily Count: The Right to Vote and the Choice of a Voting System*, MICH. ST. L. REV. 327, 336 (2006).

26. McKaskle, *supra* note 13, at 1160; Richie, *supra* note 6, at 983.

27. Richard Briffault, *Electing Delegates to a State Constitutional Convention: Some Legal and Policy Issues*, 36 RUTGERS L.J. 1125, 1152 (2005).

28. Nicholas O. Stephanopoulos, *Our Electoral Exceptionalism*, 80 U. CHI. L. REV. 769, 835 (2013). The term “choice voting” is interchangeable with alternative electoral systems that allow voters to select several candidates for the same position and will be used throughout this Note.

were utilized in some congressional elections until 1967, when Congress blocked states from considering any other election method besides single-member, winner-take-all under the Voting Rights Act's "one person, one vote" requirement.<sup>29</sup>

Before that time in the early twentieth century, around twenty-four cities had adopted some form of choice voting, including Cleveland, Ohio and Sacramento, California.<sup>30</sup> The cities that adopted STV demonstrated greater political and racial diversity in their electoral systems. In addition, the system more accurately reflected the citizen's wishes instead of a narrow majority of a given political jurisdiction. These experimentations with the single-transferable vote in city council elections mainly occurred during the 1920s and 1940s as part of a broader set of local government reforms.<sup>31</sup> STV was initially used in order to take power away from the political party machines and to correct the democratic distortions of winner-take-all, in which many groups were underrepresented in elected office.<sup>32</sup>

Prior to the Voting Rights Act, many localities had abolished choice voting for a combination of reasons, including unease about the success of political and racial minorities under the system, political parties' lack of control over the nominations process, and various state court legal challenges.<sup>33</sup> In the 1940s and 1950s, the increased chances of minorities holding elected office under STV played a key role for the public backlash against the electoral system.<sup>34</sup> This is especially true in Cincinnati, Ohio, where the election of an African American to the city council sparked fears from some whites that such a system would enable an African American to become mayor of their city.<sup>35</sup> In addition to racism, anti-communism fervor led New Yorkers to abandon STV in the selection of their city council members, reverting New York City Council elections back to the winner-take-all model.<sup>36</sup> Since many STV systems originated through the progressive movement's use of local referenda, many of the STV systems subsequently were undone in the same manner during the middle of the twentieth century.<sup>37</sup>

However, the reality that many cities no longer use the single-transferable vote in their elections should not speak negatively about its potential utility for the United States in the modern era. Instead of STV not yielding positive results in making local leaders more representative of the broader populations, some political analysts believe that the system worked too well in ensuring that minorities received a seat at the table.<sup>38</sup> In the thirty years that Cincinnati had the

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29. Richie, *supra* note 6, at 960.

30. *Id.* at 1010.

31. Grofman, *supra* note 14, at 163-65.

32. Reyes, *supra* note 4, at 674; Grofman, *supra* note 14, at 169.

33. Richie, *supra* note 6, at 1010.

34. Reyes, *supra* note 4, at 675.

35. *Id.*

36. *Id.*

37. *Id.* at 674.

38. *Id.*

system for its city council elections, the number of African Americans on the council was roughly proportionate to their makeup in the general population.<sup>39</sup> Many political leaders called for the demise of STV when their narrow political interests were not being properly served.<sup>40</sup>

Cincinnati's experience with STV provides a context for how the electoral system operated with considerable success to earn it the ire of political leaders. In one election in the early twentieth century, before switching to a PR system, Republicans captured 97 percent of the seats on the city council despite only earning 55 percent of the vote.<sup>41</sup> The impetus for the city adopting the electoral system for its city council elections was to wrest control away from the "partisan and corrupt machine politics" of the party bosses.<sup>42</sup> During the thirty-year period that STV was utilized, the city was managed effectively and offered competition to the two main political parties.<sup>43</sup> Both during this period and shortly thereafter, the city had three political parties represented on the council, offering greater choices for voters.<sup>44</sup> In 1956, Cincinnati citizens voted to rescind the STV system in favor of an at-large electoral scheme.<sup>45</sup> In general, it appears that the localities that used STV had more proportional election results, especially in respect to minority populations, than electoral systems that used single-member districts or at-large plurality voting.<sup>46</sup>

#### IV. THE SHORTCOMINGS OF WINNER-TAKE-ALL ELECTIONS

##### *A. Gerrymandering Hinders Political Competition*

Aside from the power of incumbency, gerrymandering is one of the leading reasons for the lack of competition in congressional elections.<sup>47</sup> Gerrymandering can greatly vary in technique, such as the creation of strangely shaped districts, drawing an incumbent or challenger out of their political boundaries, or packing a high concentration of voters into a district based on their race or political party affiliation.<sup>48</sup> However, the underlying goal is the same: to create legislative districts with the intention of favoring a particular political party.<sup>49</sup> Recent examples of gerrymandering include Republican lawmakers in North Carolina

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39. Yanos, *supra* note 5, at 1862-63.

40. Reyes, *supra* note 4, at 676.

41. *Id.* at 672.

42. Grofman, *supra* note 14, at 168.

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. See Richie, *supra* note 6, at 977 (explaining how state legislative manipulation of district boundaries led Republicans to retain the House in 2012 despite Democrats winning a majority of the vote at both the presidential and congressional levels).

48. *Id.* at 979.

49. *Id.*

making ten of their thirteen congressional districts heavily Republican, despite the partisan breakdown of the state being roughly 53-47 Republican to Democrat, as well as Democratic lawmakers in Maryland drawing the maps to favor their party in seven out of eight districts, despite the fact that voters in the state are divided 59 to 41 by their respective partisan affiliation.<sup>50</sup>

This intentional manipulation of maps is problematic, since it enables politicians to choose their voters instead of the voters having a meaningful choice at the ballot box.<sup>51</sup> Single-member, winner-take-all election systems are especially susceptible to gerrymandering, as their districts are smaller and more homogenous.<sup>52</sup> Therefore, skewed political maps distort the true political divide of states and districts and deprive certain voters of any influence in these areas.<sup>53</sup> Slight changes to district boundaries may make a district lean toward a particular political party in such a way that a district becomes permanently out of reach for the other party.<sup>54</sup> Single-member districts, with their low district magnitude, are considerably easier for line drawers to make less competitive and turn into politically safe seats.<sup>55</sup> This lack of competition among single-member districts further discourages democratic participation, since voting is seen as a “mere formality.”<sup>56</sup> Congressional and state legislative districts have become so partisan that many seats are often not even contested. In 2012, 40 percent of state legislative seats nationally were not contested by the other major party.<sup>57</sup> The gerrymandering in single-member, winner-take-all elections not only leads to decreased democratic participation but also hinders any sort of political accountability for the occupants of safe seats. Gerrymandering is problematic, since it also encourages occupants of these safe seats to run far to the left or right of the political mainstream in order to placate their base, as these incumbents are much more threatened in a primary election than by a general election challenger.<sup>58</sup> This increased polarization caused by gerrymandered house districts

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50. *Id.* at 979-80.

51. McKaskle, *supra* note 13, at 1146; Yen-Tu Su, *Beyond Nightmare and Hope: Engineering Electoral Proportionality in Presidential Democracies*, 30 J. LEGIS. 205, 215 (2004).

52. *See* McKaskle, *supra* note 13, at 1147 (noting that certain regions of the country are so heavily concentrated with a certain political party that they may be packed into a certain district by lawmakers to maximize a party’s strength elsewhere).

53. *Id.* at 1146.

54. Richie, *supra* note 6, at 972.

55. Shaun Bowler & Bernard Grofman, *Conclusion: STV’s Place in the Family of Electoral Systems*, in *ELECTIONS IN AUSTRALIA, IRELAND AND MALTA UNDER THE SINGLE TRANSFERABLE VOTE* 269 (Shaun Bowler & Bernard Grofman eds., 2000).

56. Richie, *supra* note 6, at 972.

57. *Id.* at 973.

58. Sean Trende, *Gerrymandering and the Republican House*, REALCLEAR POLITICS (July 1, 2013) (noting how the safe districts created by Republican-controlled state legislatures has caused the Republican House Conference to drift rightward, increasing political polarization on Capitol Hill), [http://www.realclearpolitics.com/articles/2013/07/01/gerrymandering\\_isnt\\_the\\_real\\_cause\\_of\\_polarization.html](http://www.realclearpolitics.com/articles/2013/07/01/gerrymandering_isnt_the_real_cause_of_polarization.html) [https://perma.cc/8HYK-8732].

further complicates governing in Congress.

STV has been said to “eliminate the evils of gerrymandering.”<sup>59</sup> By enlarging the size of a territory to encompass several congressional districts, a new multi-member district would be large enough to capture a more diverse electorate, thus allowing political and racial minorities to exert greater influence over the election results.<sup>60</sup> This is even true for states with racially homogenous populations, such as Arkansas, which is 70 percent white.<sup>61</sup> Gerrymandering is considerably more difficult to implement in a congressional district that is three to five times as large as a single-member district, due to the way that second and subsequent votes may be distributed and the unpredictability of the system.<sup>62</sup> Furthermore, even if the districts are drawn in such a way to guarantee one political party a majority of the seats in the multi-member district or one seat greater than their proportional share of the electorate, it is highly unlikely that one party would be able to sweep all of the seats in a given district.<sup>63</sup> In a three-member STV district, since the candidates would most likely be on an ideological continuum from liberal to moderate to conservative, it is likely that voters will be dispersed in the larger district in such a way to result in the election of one member from the minority party and two members from the majority faction in the STV district, with one of the representatives being more of a centrist.<sup>64</sup> An STV district with a larger number of seats, such as four or five, would be even more difficult to gerrymander.<sup>65</sup> District magnitude has been considered by scholars to be the most important feature for determining the proportionality of an electoral system, with five seats within an STV district considered to be the ideal number for the best proportional electoral results.<sup>66</sup>

### *B. Voters Must Choose Strategic Voting over Principle*

Under the STV, voters are free to vote for the candidate that best expresses their views instead of strategic voting, as their second choice candidate will receive their votes in the event that their first choice candidate does not meet the threshold of exclusion.<sup>67</sup> Therefore, there is less disincentive to vote for a third party and worry about the spoiler effect, as the votes are distributed in such a way that there is less worry that a voter’s principle vote will lead to the election of his

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59. McKaskle, *supra* note 13, at 1126.

60. Richie, *supra* note 6, at 1007.

61. *Id.*

62. McKaskle, *supra* note 13, at 1169.

63. *Id.* at 1171-72.

64. *Id.* at 1173.

65. *Id.* at 1176.

66. FARRELL, *supra* note 1, at 59.

67. Carol Nackenoff, *The Maryland Constitutional Law Schmooze: Constitutional Reforms to Enhance Democratic Participation and Deliberation: Not All Clearly Trigger The Article V Amendment Process*, 67 MD. L. REV. 62, 83 (2007).

or her least favored candidate.<sup>68</sup> Rob Richie, the Executive Director of FairVote, describes the benefits of such an approach by stating that, “choice voting minimizes incentives for tactical voting and for limiting voter choice to avoid vote-splitting, thereby allowing minority viewpoints a fair level of representation without the downsides associated with both winner-take-all and less effective, non-winner-take-all methods.”<sup>69</sup> One of the reasons there is less incentive to vote strategically is that the electoral rules of STV are so complex that voters often lack the knowledge and “computational skills” to make a strategic calculation at the ballot box.<sup>70</sup> Under the current system, tactical voters often feel forced to vote for the candidate who has the best odds at winning instead of their favorite candidate.<sup>71</sup>

Choice voting is therefore appealing, since voters are no longer faced with the dilemma of having to choose between the lesser of two evils. Instead, they may vote for their favored candidate, knowing that that in the event that their candidate does not win, their second choice could play a decisive role in the election. However, this is not to say that strategic voting does not occur under STV electoral systems. Strategic voting is instead exercised more subtly with lower-order ballot preferences, as individuals vote with a focus towards potential coalition partners for their desired party and members from small parties seek to prevent the larger parties from obtaining majorities.<sup>72</sup>

### *C. The Notion of an Equally Effective Vote Is Elusive*

Equality is one of the key pillars to most democratic systems.<sup>73</sup> Inherent in political equality is the notion that each citizen should have an equally weighted vote and “an equal opportunity to elect the representative of her choice.”<sup>74</sup> One of the limitations of winner-take-all systems is how it creates districts in which many groups have no influence on the election outcome due to the partisan nature of the district and how votes are distributed.<sup>75</sup> Due to the high chances that one’s vote will be wasted, the disincentive to vote is substantial.<sup>76</sup> The wasted vote phenomenon is said to be a leading reason for low voter turnout in winner-take-

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68. *Id.* (noting how many supporters of Ralph Nader may have selected Al Gore as their second choice if voters had been able to rank preferences in the tightly contested 2000 presidential election).

69. Richie, *supra* note 6, at 985.

70. FARRELL, *supra* note 1, at 12.

71. McCann, *supra* note 9, at 192.

72. Bowler, *supra* note 2, at 13.

73. HELENA CATT, *DEMOCRACY IN PRACTICE*, 9 (Routledge, 1999) (mentioning that Aristotle and Plato considered equality to be foundational to Athenian democracy).

74. Yanos, *supra* note 5, at 1820 (summarizing the U.S. Supreme Court decision in *Reynolds v. Sims*, 377 U.S. 533 (1964)).

75. McKaskle, *supra* note 13, at 1146.

76. McCann, *supra* note 9, at 192.

all systems around the world.<sup>77</sup> Voter turnout is 8.9 percent higher in PR systems compared to non-PR systems, thus proving electoral design matters.<sup>78</sup>

The extreme majoritarian nature of such a system is especially poignant in a swing district where a candidate who wins 51 percent of the votes becomes the representative for the entire district, despite the fact that 49 percent of the voters chose another candidate.<sup>79</sup> This leads to nearly half of the votes in a given district being wasted.<sup>80</sup> Given the fact that many states do not have run-off elections, it is even possible that a race with multiple candidates will result in a candidate being elected by plurality vote, against the wishes of a majority of the electorate.<sup>81</sup> Under the current system, political minorities often feel “that their interests are overlooked by the government because they are ‘permanent losers’ under the current electoral system.”<sup>82</sup> Winner-take-all systems ultimately fall short of the democratic ideal, since they do not take into account diverse interests, raising serious questions of overall fairness and political legitimacy.<sup>83</sup> Voters are understandably frustrated with such systems, since they are a zero-sum game: your preferred voice in Congress either wins or loses.<sup>84</sup>

Out of thirty-six democracies whose electoral systems were measured by the proportionality between share of a party’s percentage of the popular vote and number of seats gained in their federal legislatures in elections from 1945-1996, the United States ranked thirty-first, with a disproportionality percentage of 14.91 percent.<sup>85</sup> There is a reason why a 19.4 percent difference exists in satisfaction with democracy between PR and majoritarian democracies.<sup>86</sup> Part of it has to do with the fact that one’s vote is not as effective under first-past-the-post systems as it is under PR systems.

Single-transferable vote systems seek to correct these representational deficiencies by ensuring that all groups and interests have a seat at the table. STV allows for the representation of more diverse interests, as political minorities must

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77. Yen-Tu Su, *supra* note 51, at 216.

78. Arend Lijphart, *Australian Democracy: Modifying Majoritarianism?*, 34 AUSTRALIAN JOURNAL OF POLITICAL SCIENCE 313, 324 (1999).

79. Mary. A. Inman, Comment, *C.P.R. (Change through Proportional Representation): Resuscitating a Federal Election System*, 141 U. PA. L. REV. 1991, 1993 (1993).

80. *Id.* at 1993.

81. *Id.* at 1994.

82. Yen-Tu Su, *supra* note 51, at 215.

83. *Id.*

84. McCann, *supra* note 9, at 192 (describing how many voters are represented by someone under a winner-take-all system that they do not support and how many voters are repeatedly denied a real choice in electing their preferred representative under the current design of congressional districts).

85. Lijphart, *supra* note 78, at 317 (stating that the only other democracies surpassing the United States in its disproportionality rate were the Bahamas, Barbados, Mauritius, Jamaica, and France).

86. *Id.* at 325.

meet a considerably lower electoral threshold to win a seat.<sup>87</sup> Due to the increased choices available under a multi-member system, STV systems are said to encourage higher turnout in elections.<sup>88</sup> By expanding access to geographically dispersed groups, “STV proportional representation will increase the legitimacy of the electoral system.”<sup>89</sup> New York City provides a telling example of how a difference in voting systems can expand the ability of minority candidates to prevail:

African Americans, Hispanics, and Asian Americans made up 37 percent to 46 percent of New York City’s population during the three decades in which it used preferential voting for its school board elections. The minority groups won 35 to 57 percent of these positions, compared to only 5 percent to 25 percent of seats on the city council, which were elected using single-member districts.<sup>90</sup>

Under the preferential model, New York City’s School Board more closely mirrored the demographic composition of the broader electorate. Depending on the election year, this system yielded anywhere from two to ten times greater representation for minorities than the single-member system did on the city council. Preferential voting is especially advantageous because it increases the diversity of legislative bodies in proportion to their population without directly requiring the use of race in the design of districts.<sup>91</sup> STV systems accommodate minority candidates and avoids the possibility of a split vote by allowing such groups to indicate backups in their second and tertiary choices.<sup>92</sup>

Even within the United States, there is evidence that women have had greater success under PR systems than under single-member plurality systems.<sup>93</sup> Studies have shown that more women run for office and ultimately get elected in multi-member districts.<sup>94</sup> For instance, in states that use multi-member districts to elect their state legislatures, such as in Arizona, Maryland, New Jersey, and Washington, more than half of the population has a female representative.<sup>95</sup> In addition, of the fifteen states that use multi-member districts, 21.8 percent of its state legislators are women compared to 12.4 percent of the legislature in the thirty-five states that use single-member districts to elect their state lawmakers.<sup>96</sup> These stark differences in representation demonstrate that women and other

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87. Yen-Tu Su, *supra* note 51, at 211-12.

88. McCann, *supra* note 9, at 201.

89. Inman, *supra* note 79, at 2003.

90. Stephanopoulos, *supra* note 28, at 849.

91. *Id.* at 848-49.

92. Richie, *supra* note 6, at 987-88.

93. *Id.* at 1007 (noting that women have less political success in single-member districts compared to multi-member districts).

94. *Id.*

95. *Id.* at 970.

96. KENNETH R. MAYER & DAVID CANON, *THE DYSFUNCTIONAL CONGRESS: THE INDIVIDUAL ROOTS OF AN INSTITUTIONAL DILEMMA* 125 (Westview Press, 1999).

minority groups have been greatly underrepresented in single-member plurality systems. PR electoral systems are fairer and more inclusive than plurality systems, promoting power sharing and giving greater voice to ethnic, racial, and political minorities.<sup>97</sup>

*D. More Moderate Candidates Will Prevail, Reducing Gridlock*

Adopting a multi-member STV system for congressional elections would enhance the making of public policy in the United States and reduce political gridlock in legislative bodies. Due to the fact that legislators will be representing larger and more diverse districts, “it will be more likely that with proportional representation a larger number of representatives in a legislature will be closer to the political center of the electorate than the representatives in a legislature chosen from single-member districts.”<sup>98</sup> STV allows for the possibility of “coalition building” between otherwise different groups since the electoral system is less constrained by geography and territory than single-member districts.<sup>99</sup>

A system that encourages coalition building could benefit moderate candidates, encouraging the election of socially conservative Democrats or socially liberal Republicans who often are excluded from the current single-member system, because their views do not align neatly with party orthodoxy.<sup>100</sup> In addition, with a lower threshold necessary to win a seat, a switch to a proportional multi-member system may also give centrist independents a more plausible path to victory.<sup>101</sup> STV, by creating a more ideological diverse allocation of voters across districts, “may improve voter efficacy, as more interests would be served with candidates reaching out to voters of different characteristics across the state (or the multi-seat district). In that respect, coalition building would serve the interests of moderate voters of all racial and ethnic groups.”<sup>102</sup> The gerrymandered and heavily partisan single-member districts are currently dominated by conservatives and liberals, who have little incentive to reach out to diverse political groups in their districts.<sup>103</sup> With the way votes are distributed under the STV system, it may be more logical for conservatives and liberals to select moderates as their second choice or just run one or two of their ideological cohorts in order to minimize the number of seats gained by those with polar opposite views, thus aiding moderates in various regions of the country.<sup>104</sup>

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97. *Id.* at 124.

98. McKaskle, *supra* note 13, at 1188.

99. McCann, *supra* note 9, at 196.

100. *Id.*

101. *Id.*

102. *Id.* at 197.

103. See Jennifer Steinhauer, *Weighing the Effect of an Exit of Centrists*, N.Y. TIMES (Oct. 8, 2012) (describing how the threat of primary challengers and redistricting has led to a decline of moderates in Congress), [http://www.nytimes.com/2012/10/09/us/politics/pool-of-moderates-in-congress-is-shrinking.html?\\_r=0](http://www.nytimes.com/2012/10/09/us/politics/pool-of-moderates-in-congress-is-shrinking.html?_r=0). [<https://perma.cc/XE2S-TEHH>].

104. McKaskle, *supra* note 13, at 1166.

Studies of state legislatures that have utilized alternative voting systems have demonstrated that adopting multi-member districts can lead to a greater variety in the policy views of members of both political parties.<sup>105</sup> After experiencing years of stalemate and partisan divisions between Republicans in the north and Democrats in the southern part of the state, Illinois' 1870 constitutional convention changed their House of Representatives into three-member districts with election by cumulative voting.<sup>106</sup> Illinois' experimentation with this alternative multi-member system for nearly a century indicates that not having to win over the average voter in a single-member district allowed lawmakers from both parties freedom "to adopt wider ranges of policy positions. These wider ranges unsurprisingly overlapped to a substantial degree, leading to a lower level of legislative polarization."<sup>107</sup> A later study of the legislature during this period indicated that this change in the electoral system resulted in "more proportional representation by party, more candidate independence from party leaders, and better efforts at statewide consensus."<sup>108</sup> Instead of electing extremists or third parties to the legislature, the division of the Illinois legislature into three-member districts enabled both political parties to be more "ideologically diverse," enabling them to find more common ground and work together more effectively.<sup>109</sup> This ideological diversity is significant, since studies have shown that the differences between government policy views and individual policy preferences are smaller in PR than they are under majoritarian electoral systems.<sup>110</sup> The experience of Illinois and other states and cities that have experimented with alternative electoral systems proves that PR electoral systems are better able to provide "steady, centrist policy-making" than democracies with a strong majoritarian nature.<sup>111</sup>

Comparative studies have indicated that there are no significant differences in economic growth, inflation, and unemployment between PR and non-PR systems among industrialized countries.<sup>112</sup> In fact, when the levels of economic development and population size are controlled for, the data reveal that countries with PR systems have less inflation, lower unemployment, lower budget deficits, and higher economic growth than countries with non-proportional representation systems.<sup>113</sup> Contrary to the current functioning of Congress under the single-member, winner-take-all system, switching to a multi-member STV system could pay dividends in increasing the number of moderates in both political parties and

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105. Stephanopoulos, *supra* note 28, at 855.

106. Richie, *supra* note 6, at 1003-04.

107. Stephanopoulos, *supra* note 28, at 854-55.

108. Richie, *supra* note 6, at 1004 (citing Illinois Assembly on Political Representation and Alternative Electoral Systems: Executive Summary 15 (2001)), <http://archive.fairvote.org/op-ed/sexecsum.pdf>.

109. Stephanopoulos, *supra* note 28, at 855.

110. Lijphart, *supra* note 78, at 325.

111. *Id.* at 320.

112. *Id.*

113. *Id.* at 322.

encouraging a sense of bipartisanship and collaboration that has been sorely missing.

#### V. AUSTRALIA'S EXPERIENCE WITH STV

Australia adopted the use of the single-transferable vote in 1948 for its Federal Senate.<sup>114</sup> The system is also used for its state legislatures in Tasmania, the Australian Capital Territory ("ACT"), and the upper houses in New South Wales, South Australia, and Western Australia.<sup>115</sup> Australia's lower house continues to use an alternative vote single-member system.<sup>116</sup> Australia's upper house made the switch to STV largely due to their single-member districts producing lopsided results, such as one political party obtaining a 19-0 majority in the Senate in 1943.<sup>117</sup>

The Federal Senate is divided into twelve-member districts in each of the six states, with the ACT and Northern Territory each divided into two-member districts, for a total of seventy-six Senators.<sup>118</sup> Similar to the United States, Senators serve staggered terms, with half of the Senate seats up for election every three years.<sup>119</sup> Therefore, in each state, only six Senators are on the ballot at one time.<sup>120</sup> The Australian Senate website makes sure to carefully distinguish its electoral system from that of the House by stating that the "Senate is elected by a system of proportional representation which ensures that the composition of the Senate more accurately reflects the votes of the electors than the method used to elect members of the House of Representatives."<sup>121</sup>

Under traditional elections, in which six Senators are voted for in each state, a successful candidate must generally win at least 14.3 percent of the vote in order to meet the electoral quota, or prevail in the first round of preferences.<sup>122</sup> However, most Senators are not selected in the first round. In most STV elections in Australia, 31.5 percent of Senators are elected on the first round of preferences, 52.3 percent are elected after receiving surplus votes from the top of the ticket, and 16.1 percent were later selected after the exclusion of unsuccessful candidates in round three.<sup>123</sup> Minor parties are typically most successful after the elimination

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114. Myers, *supra* note 15, at 1148.

115. McKaskle, *supra* note 13, at 1159-60; Colin A. Hughes, *STV in Australia, in ELECTIONS IN AUSTRALIA, IRELAND, AND MALTA UNDER THE SINGLE TRANSFERABLE VOTE 155* (Shaun Bowler & Bernard Grofman eds., 2000).

116. Myers, *supra* note 15, at 1148.

117. Reyes, *supra* note 4, at 679.

118. *About the Senate*, PARLIAMENT OF AUSTL., [http://www.aph.gov.au/About\\_Parliament/Senate/About\\_the\\_Senate](http://www.aph.gov.au/About_Parliament/Senate/About_the_Senate) (last visited Sept. 30, 2015) [<https://perma.cc/WPL2-MVLS>].

119. *Id.*

120. *Id.*

121. *Id.*

122. C. Sharman et al., *Trading Party Preferences: The Australian Experience of Preferential Voting*, 21 *ELECTORAL STUDIES* 543, 550 (2002).

123. Hughes, *supra* note 115, at 175.

of unsuccessful minor and large party candidates, normally winning with around 7 percent of all votes, or half of a quota.<sup>124</sup> In the event of a vacancy, the Senate has allowed the occupant's party to fill the seat.<sup>125</sup> In other Australian jurisdictions, such as in the ACT, Tasmania, and Western Australia, vacancies are filled by going back to the original ballots and awarding the seat to the next best-placed candidate, in what is known as a count-back.<sup>126</sup>

Despite STV's longtime use for Federal Senate elections, lawmakers have made significant changes to the electoral method since that time. Most significantly, in 1984, voters were given the ability to select a preference for a single political party instead of being required to rank every candidate on the ballot.<sup>127</sup> This is commonly known as 'above the line voting' or 'ticket voting.'<sup>128</sup> With voters seeing the method as both a tactical shortcut and a way to avoid a spoiled ballot, 95.8 percent of Australians voted above the line in 2004.<sup>129</sup> However, the introduction of ticket voting has significantly transformed how votes are distributed and who holds the real power over the election results. The rank-ordering of candidates is now largely controlled by the political parties instead of the voters.<sup>130</sup> Australian party leaders control voter preferences for their candidates and determine the direction of inter-party preferences for everyone who votes above the line.<sup>131</sup>

In terms of how surplus votes are transferred above the line, the parties give the Australian Electoral Commission a list of their preferred order in allotting preferences among candidates in each electoral district.<sup>132</sup> Both small and large parties negotiate how preferences are transferred.<sup>133</sup> The small parties have an incentive to make transfer deals with one of the major parties in order to be a possible coalition partner, while the major parties have an incentive to make agreements with smaller parties that are most likely to take votes away from the other major parties.<sup>134</sup> There is a fixed date in which the bargaining over preference allocation between parties must be completed, which eliminates the prospect of last minute deals.<sup>135</sup> Parties bargain with one another in an effort for second and subsequent preferences to flow favorably to each other, with parties

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124. Sharman, *supra* note 122, at 553.

125. FARRELL, *supra* note 1, at 67.

126. *Id.*

127. Hughes, *supra* note 115, at 162.

128. FARRELL, *supra* note 1, at 129.

129. *Id.*; see also Sharman, *supra* note 122, at 552 (noting that around 95 percent of voters vote above the line in each Australian Federal Senate election).

130. FARRELL, *supra* note 1, at 44.

131. *Id.* at 145-46.

132. Sharman, *supra* note 122, at 552.

133. *Id.*

134. Michael Laver, *STV and the Politics of Coalition*, in *ELECTIONS IN AUSTRALIA, IRELAND, AND MALTA UNDER THE SINGLE TRANSFERABLE VOTE 142* (Shaun Bowler & Bernard Grofman eds., 2000).

135. Sharman, *supra* note 122, at 555.

often making agreements based on similar ideological views or to thwart one of their top competitors.<sup>136</sup> Since minor parties are rarely elected based on first preferences, preference bargaining has significantly increased the leverage of minor parties and helped put small and large parties on a more level playing field.<sup>137</sup> However, it is significant to note that only three minor parties at the federal level in Australia have ever been large enough to partake in preference trading.<sup>138</sup>

The 1980s also brought several other changes to the way that Federal Senators are elected. First, the rules for preference voting were slightly relaxed, with Australians now being only required to rank-order 90 percent of the preferences on the ballot in order for the ballot to be considered valid, replacing the previous full preference requirement.<sup>139</sup> In addition, candidates are now grouped under actual party names instead of abbreviations, making it easier for voters to figure out the political party affiliation of each candidate.<sup>140</sup> The rank-ordering of candidates is also determined by the party organizations, giving them additional influence over the process.<sup>141</sup> Finally, the method of transferring surplus votes was changed, adopting the inclusive Gregory method, in which all the ballot papers for surplus votes are transferred at fractional value.<sup>142</sup>

As with any electoral system, STV also has its quirks. For instance, a relatively obscure minor party known as "A Better Future for Our Children" won the twenty-fifth seat in the New South Wales legislature in the 1995 election on the eighty-fifth ballot, becoming the only successful candidate that started with less than half a quota during the first preference vote.<sup>143</sup> It has been speculated that this anomaly occurred due to the positive connotations associated with the name "Children" in the party label.<sup>144</sup> However, this surprising election result is also evidence of how crucial tertiary preferences can be in deciding who wins a legislative race. The Tasmanian legislature's experiences with the electoral system also demonstrates how candidates with more first preferences can later be defeated by candidates with fewer initial votes—a clear departure from first-past-the-post methods.<sup>145</sup> When the Tasmanian House had thirty members from 1909-1956, an average of 12 percent of successful candidates won seats that they would not have won under a majoritarian electoral system.<sup>146</sup> Even after the legislature

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136. *Id.* at 554.

137. *Id.* at 553.

138. *Id.* at 554 (stating that the Democratic Labor Party, Australian Democrats, and the Australian Greens have been the three minor parties that have earned enough votes to have consistently been a part of preference trading).

139. FARRELL, *supra* note 1, at 44.

140. *Id.*

141. *Id.* at 61.

142. *Id.* at 63-64.

143. Hughes, *supra* note 115, at 168.

144. *Id.* at 169-70

145. *Id.* at 170.

146. *Id.*

was expanded to include thirty-five members, around 12 percent of successful candidates from 1959 to 1996 won despite falling short of other candidates in the earning of first preference votes.<sup>147</sup>

*A. A More Diverse Body with Greater Proportionality*

Since adopting the single-transferable vote and using multi-member districts, the Australian Senate has become a more diverse body that is more proportional to the electorate. For instance, the Senate has elected both more Aborigines and candidates from third parties than its House counterpart.<sup>148</sup> The House meanwhile has only elected one Aborigine in the institution's history.<sup>149</sup> The Senate has allowed for members of small parties such as the Democratic Labor Party, Liberal Movement, Australian Democrats, and the Australian Greens to receive representation in the last four decades.<sup>150</sup> From 1949 to 1998, the Australian Labor Party and the coalition (Liberal and National Parties) secured 99.7 percent of the seats in Australia's lower house with 90.9 percent of the vote, while gaining 92.3 percent of seats in Australia's upper house with 86.7 percent of the vote.<sup>151</sup> While the minor parties were still underrepresented in the Senate after the 1998, 2001, 2004, 2007, and 2010 elections, they were still more accurately represented in the Senate than in the House.<sup>152</sup>

Upon analyzing recent parliamentary elections, it becomes clear that the Senate is considerably more proportionate in its allocation of seats to political parties based upon their percentages of the vote. For instance, in the 2010 parliamentary elections, the Australian Labor Party (ALP) clinched 35.13 percent of the vote in the Senate and was rewarded 37.5 percent of the seats, while it earned a slightly higher 37.99 percent of the overall vote in the House and was subsequently awarded 48 percent of the seats in that chamber.<sup>153</sup> As the party who performed the strongest in that election, the ALP's results were more exaggerated in the House. Meanwhile, the Australian Greens captured 1.05 percent of the Senate vote and earned 15 percent in that chamber.<sup>154</sup> Despite performing better in the House by capturing 11.76 percent of the vote, they received only 0.67 percent of the seats, consisting of one seat total.<sup>155</sup> As of 2015, the Liberal Party has 80,000 members,<sup>156</sup> the Labor Party has around 53,000 members,<sup>157</sup> the

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147. *Id.*

148. Stephanopoulos, *supra* note 28, at 840; *About the Senate*, *supra* note 118.

149. Stephanopoulos, *supra* note 28, at 836.

150. *Ogders' Australian Senate Practice Thirteenth Edition*, PARLIAMENT OF AUSTL., [http://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/odgers13?file=chapter01&section=05](http://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/odgers13?file=chapter01&section=05) (last visited Sept. 30, 2015) [<https://perma.cc/F43B-AEMN>].

151. Hughes, *supra* note 115, at 166.

152. Ogders', *supra* note 150.

153. *Id.*

154. *Id.*

155. *Id.*

156. *Our Structure*, LIBERAL.ORG, <http://www.liberal.org.au/our-structure>

National Party has members in the ‘tens of thousands,’<sup>158</sup> while the Australian Greens have 9,500 members.<sup>159</sup> Through comparing the House and Senate election results, one can see how the House results both skew the distribution towards the majority party and shortchange the minor parties. PR systems range from 1.30 percent to 8.15 percent in disproportionality in modern democracies.<sup>160</sup> The average disproportionality in Australia is 4.15 percent, which is well below the midpoint.<sup>161</sup> For every additional Senator elected under an STV electoral district, disproportionality decreases by 0.35 percent.<sup>162</sup> Due to its electoral system, the Senate more accurately reflects the proportion of these political parties in the overall Australian population.

In addition to greater political diversity, the use of STV has enhanced the chances of women getting elected to legislatures. Out of twenty-seven long-established democracies, the nine with the greatest proportion of women all utilize a form of proportional representation in their electoral systems.<sup>163</sup> The mean percentage of female members of parliaments in PR systems was 18.4 percent, compared with 10.4 percent of members of parliament in systems that use single-member districts.<sup>164</sup> Overall, women have an average of 5.8 percent more seats in parliaments in PR systems than under majoritarian electoral systems.<sup>165</sup> Australia in particular demonstrates the stark differences that electoral design can have on women’s political clout in legislative bodies. For example, while around 25 percent of the Australian Senate seats are occupied by women, 7 percent of women hold seats in the Australian House.<sup>166</sup> The greater proportion of women in the STV-elected Senate compared to the single-member district House reveals that PR systems are more egalitarian than the more majoritarian electoral models.<sup>167</sup>

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[<https://perma.cc/T4L9-H9HL>] (last visited Dec. 28, 2015).

157. Louise Yaxley, *ALP Conference: Bill Shorten to Challenge Tony Abbott on Climate Change in Election Lead-Up*, ABCNEWS (July 23, 2015, 8:32 PM), <http://www.abc.net.au/news/2015-07-24/bill-shorten-to-challenge-abbott-on-climate-change/6644446>.

158. Cathy Alexander, *The Party’s Over: Which Clubs Have the Most Members?*, THE MANDARIN (July 18, 2013, 12:41 PM), <http://www.crikey.com.au/2013/07/18/the-partys-over-which-clubs-have-the-most-members/>.

159. *Id.*

160. Lijphart, *supra* note 78, at 316.

161. *Id.*

162. *Id.* at 318.

163. MAYER, *supra* note 96, at 125.

164. *Id.*

165. Lijphart, *supra* note 78, at 324.

166. MAYER, *supra* note 96, at 125.

167. Lijphart, *supra* note 78, at 324.

*B. Greater Democratic Participation and Satisfaction*

With voter turnout ranging from 94 to 96 percent in recent elections, democratic participation in Australia is arguably high.<sup>168</sup> However, an important caveat is that voting is mandatory, with fines and criminal penalties imposed for failure to do so.<sup>169</sup> If voting was compulsory in America, surely there would be higher voter turnout as well. Therefore, the analysis should turn to other factors, such as voter satisfaction, government confidence, and other forms of political engagement. However, it is significant to note that 81 percent of the voting-age population was registered to vote in Australia in 2004.<sup>170</sup> Compliance with compulsory voting is overall quite high, with citizens rarely fined for not engaging in their civic duty.<sup>171</sup> Around 70 percent of Australians favored compulsory voting in a 2004 poll.<sup>172</sup> Even more significant is that around two-thirds of voters stated in 2004 that they “definitely would have voted” even if voting was voluntary.<sup>173</sup> For the most part, Australia’s electoral system is supported across political parties throughout the federation.<sup>174</sup>

In terms of non-compulsory political participation methods, telephone surveys of Australians have indicated that 37.3 percent of citizens had contacted a minister or MP in the last year.<sup>175</sup> In addition, 16 percent of participants stated that they had a personal meeting with a politician, which could be either a state or national elected representative.<sup>176</sup> Perhaps most striking is that 49 percent of those surveyed expressed trust in their government.<sup>177</sup> As indicated in the previous section of this Note, that number is certainly higher than in the United States.

Compared to other democracies, Australia also has relatively high levels of voter satisfaction. Out of twenty-nine countries measured on a scale of one (dissatisfied) to ten (satisfied), Australia scaled an eight in voter satisfaction with the democratic process.<sup>178</sup> In this same study, the United States earned around a six.<sup>179</sup>

Comparative studies have demonstrated that there is a significant correlation

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168. Myers, *supra* note 15, at 1148.

169. *Id.*

170. FARRELL, *supra* note 1, at 123.

171. *Id.* at 126.

172. *Id.* at 143.

173. *Id.* at 140.

174. Katie Beck, *Australia election: Why is voting compulsory?*, BBC NEWS (Sydney) (Aug. 27, 2013), <http://www.bbc.com/news/world-asia-23810381>.

175. Shaun Goldfinch et al., *The Participation Divide? Political Participation, Trust in Government, and E-Government in Australia and New Zealand*, 68 AUSTRALIAN JOURNAL OF PUB. ADMIN. 333, 340 (2009).

176. *Id.* at 341.

177. *Id.*

178. FARRELL, *supra* note 1, at 156.

179. *Id.*

between how an electoral system is designed and how voters perceive the democratic system in its entirety.<sup>180</sup> Voters in more candidate-centered systems such as STV are likely to believe that elections have been administered honestly.<sup>181</sup> Consequently, the greater disproportion there is in the electoral system, the more negative the voter's perceptions are on how the democratic system operates.<sup>182</sup> In one Tasmanian STV election, 69.9 percent of the voters saw the election of the candidate that they gave their first preference to, while 89.9 percent witnessed the election in their own districts of candidates from the same political party that they supported.<sup>183</sup> The election results from Tasmania help demonstrate how effective one's vote is under an STV system. STV furthers the notion of one's vote being more effective by the fact that around 20 percent of Members of Parliament were unseated on average in STV elections from 1909 to 1996 in Tasmania.<sup>184</sup> Contrary to the high rates of incumbency under the United States Congress' gerrymandered single-member districts, STV elections bring considerably greater political accountability to incumbent lawmakers. This in turn improves satisfaction with the democratic process.

Overall, preferential voting systems promote a greater perception of fairness among citizens about election results, which bolsters the public approval of the democratic process.<sup>185</sup> Through feeling "greater empowerment over the political system, compared to voters in other electoral systems," it is logical that Australians would have greater democratic participation than democracies that use non-proportional electoral methods.<sup>186</sup> Australia has one of the highest levels of satisfaction with democracy in the world due to its preferential voting system, absence of corruption, and innovative political culture.<sup>187</sup>

### C. Less Gridlock

Like in the United States, divided government is a common political phenomenon in Australia. The different modes of election between the House and the Senate have often resulted in different party balances in the two chambers.<sup>188</sup> Before the 1948 electoral reforms, there were only two brief times where the government did not have an outright majority or coalition control of both the House and Senate.<sup>189</sup> However, after the advent of STV in the Senate, the House and Senate were controlled by the same party in only thirteen years in the period

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180. *Id.* at 158-59.

181. *Id.* at 161.

182. *Id.*

183. Hughes, *supra* note 115, at 167-68.

184. *Id.* at 171.

185. FARRELL, *supra* note 1, at 160.

186. *Id.* at 161.

187. *Id.* at 165.

188. *The Electoral and Party Systems*, PARLIAMENT OF AUSTRALIA, [http://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/platpar/c03](http://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/platpar/c03) (last visited Oct. 1, 2015).

189. *Id.*

from 1949 to 2001.<sup>190</sup> While it is true that the government has failed to control an outright majority in twenty of the twenty-three elections since that time, the Senate has traditionally not been controlled by the opposition party but by a coalition government that hinged on the support of several independent or minor party Senators.<sup>191</sup>

In describing the political relations between the two bodies, it was said that “[t]he working of parliamentary and cabinet government has not been substantially affected by its federal setting. The fact is that the element of responsible cabinet government has prevailed over the federal principle for the most part....”<sup>192</sup> The Australian political system has several structural mechanisms in place in the event that the House and Senate do not concur on legislation. For example, the Constitution allows for a dissolving of both Houses that could be triggered in the event that a bill passed twice by the House is rejected twice by the Senate.<sup>193</sup> While the prospect of a double dissolution may appear dramatic, it is worth noting that a government has not been dismissed due to a House-Senate stalemate since 1975.<sup>194</sup>

Australia’s political system is far from perfect, however. Proposals to reduce gridlock have been made by an Independent South Australian Senator to reduce the amount of influence small parties have in obstructing legislation.<sup>195</sup> Because business and political leaders expressed concern over inaction by the Senate on economic legislation dealing with falling commodity prices, Senator Xenophon plans to introduce a measure to either eliminate or regulate the practice of preference trading between parties.<sup>196</sup> When someone casts votes above the line for a losing party, those votes are distributed differently, becoming bargaining chips for parties to exchange in complex backroom deals.<sup>197</sup> In addition, the credit rating agency Standard and Poor’s threatened to downgrade Australia’s AAA credit rating if “parliamentary gridlock on the budget” did not improve.<sup>198</sup> While there are structural mechanisms in place to deal with disputes between the House and the Senate, Australia clearly deals with stark differences between the two

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190. *Id.*

191. *Id.*

192. *Id.*

193. Andrew Herskovich, *Senate can still block supply*, SYDNEY MORNING HERALD (Apr. 2, 2012), <http://www.smh.com.au/federal-politics/political-opinion/senate-can-still-block-supply-20120331-1w606.html>.

194. *Id.*

195. Matt Siegel, *Momentum builds in Australia to iron out voting quirks, end gridlock*, REUTERS (Jan. 8, 2015), <http://www.reuters.com/article/2015/01/09/us-australia-politics-election-idUSKBN0KI08H20150109>.

196. *Id.*

197. *Id.*

198. Peter Martin, *Parliamentary gridlock could cost Australia its AAA credit rating: Standard and Poor’s*, SYDNEY MORNING HERALD (July 24, 2015), <http://www.smh.com.au/federal-politics/political-news/parliamentary-gridlock-could-cost-australia-its-aaa-credit-rating-standard-and-poors-20150724-gjxqb.html>.

chambers.

## VI. RECOMMENDATION

Given America's past experiences with the single-transferable vote as well as Australia's over a sixty-five year experience with such a system, this Note recommends that the United States Congress give each state the latitude to adopt the single-transferable vote using multi-member districts for electing its state legislatures and members of Congress. This is in recognition of the fact that the system may be more appropriate for certain states based on their geographic size, number of congressional districts, racial demographics, and political realities. In our federalist system, states have generally been in charge of administering elections and establishing election district boundaries.<sup>199</sup> As the laboratories for democracy, individual states should be the entities to experiment with these types of electoral changes before such a big change is implemented nationwide.

In making the determination to switch over to an STV system, several caveats should be made. First of all, since STV involves the ranking of candidates in which there are multiple seats to be filled, STV would not be applicable in several states since they have only been allocated one congressional seat due to their small population size.<sup>200</sup> In addition, it is ideal that STV districts do not contain an even number of representatives, as there is the possibility that a political party who receives 40 percent of the votes distorts the vote and takes half of the seats.<sup>201</sup> Furthermore, states that select an STV system should be consistent in applying the approach throughout the state. For instance, a state should not be allowed to implement STV for its northern part and use single-member districts for the remainder of the state. While states with an odd number of districts understandably cannot always allocate an equal number of congressional representatives to each of their multi-member districts, even-numbered district states should be required to allot their members of Congress into equal-sized STV districts. Efforts should also be made in states with an odd number of congressional districts to not deviate too much in the division of each state into STV districts. States that divide their congressional delegations equally into STV districts are less likely to create maps that are susceptible to gerrymandering.<sup>202</sup>

The greatest potential for intentional gerrymandering under an STV system would be for the line drawers to establish a smaller STV district with fewer seats in areas of a state where their partisan strength is weaker and create a larger STV

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199. *Elections*, CORNELL UNIVERSITY LAW SCHOOL, <https://www.law.cornell.edu/wex/elections> (last visited Oct. 1, 2015).

200. UNITED STATES CENSUS BUREAU, *Congressional Apportionment: 2010 Census Briefs*, Nov. 2011, <https://www.census.gov/prod/cen2010/briefs/c2010br-08.pdf> (last visited Oct. 1, 2015) (demonstrating that Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont, and Wyoming each contain only one congressional district).

201. McKaskle, *supra* note 13, at 1176.

202. *Id.* at 1176-77.

district with more seats in areas of the state where they are politically stronger.<sup>203</sup> This could be problematic, since having different combinations of STV districts in a given state would mean that the threshold of exclusion or quota necessary to win election would be different in each STV district.<sup>204</sup> Since the ratio of constituents to members of Congress must be the same according to the Supreme Court's "one man, one vote" principle under the Equal Protection Clause of the Fourteenth Amendment, an STV system should ideally have the same number of members in every STV district within a given state in order to give each citizen an "equally weighted vote."<sup>205</sup>

Any single-transferable vote system must also recognize the realities that Americans value their contact with their representatives and that the nation has long been accustomed to a two-party system. With those considerations in mind, this Note is recommending that states that adopt the STV model keep their districts to three to five representatives, with exceptions made for states with two congressional districts.<sup>206</sup> Three to five representatives would better fit the American model than Australia's concept for several reasons. First of all, three to five representatives allows for a more proportional legislative body but still keeps the electoral threshold of exclusion high enough to avoid the rise of fringe parties. Second, three to five representatives would allow for subdistricting in large states such as California, keeping a regional emphasis on representation intact. The districts would not be so large as to make fundraising and travelling across the district impracticable. Third, an STV district of three to five representatives is large enough to almost always allow for the possibility that a conservative, moderate, and liberal each could win, with representation from both major political parties, ensuring the representation of a broad swath of the electorate.<sup>207</sup> While congressional districts under this scenario would undoubtedly become larger, the reality is that districts are large enough already that contact between constituents and their representatives is already somewhat minimal and that any such changes making a representative further removed from the people would most likely go unnoticed.<sup>208</sup> What will likely become appealing to constituents is that they now will have multiple representatives that answer to them, giving each individual citizen larger sway over the decisions of a greater percentage of members of the House of Representatives. If the citizens of every state elect two U.S. Senators to represent them, there is no reason that citizens could not also be charged with electing multiple members of the U.S. House to

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203. *Id.*

204. *Id.*

205. Yanos, *supra* note 5, at 1820.

206. See McKaskle, *supra* note 5, at 1167-68 (recommending three to seven representatives in an STV district due to large congressional districts potentially making campaigning and fundraising more difficult and contact with representatives less personal).

207. Richie, *supra* note 6, at 1004 (citing a simulation of the likely results of congressional races across the U.S. done by the organization FairVote).

208. McKaskle, *supra* note 13, at 1200-01.

represent their regional and local interests.<sup>209</sup>

Finally, the United States should not adopt Australia's above the line method of counting votes. Allowing citizens to merely cast their ballot for a political party has unintended consequences, such as allowing for the exchange of votes between unsuccessful political parties and creating a complex system for determining how those votes are allocated. Instead, the United States should only allow below the line voting, in which candidates must rank each candidate according to preference. Below the line voting is simpler to calculate, less prone to backroom dealing, and causes voters to thoughtfully contemplate the candidates for office instead of their mere party label. As a presidential system, the U.S. is also traditionally less partisan, tending to vote for the person instead of the political party.<sup>210</sup> Below the line voting in the U.S. will not likely lead to as many candidates on the ballot as the Australian system has had.<sup>211</sup>

However, a balance will need to be struck in terms of the minimum number of preferences required for voters to complete. In order for STV to remain a truly meaningful, preference-based system and not a form of cumulative voting, there should be a minimum number of preferences that voters must complete in order for their ballot to be considered valid. However, requiring voters to rank every candidate on the ballot is unrealistic and would likely lead to many spoiled ballots or even less people voting. Instead, voters should be required to rank as many candidates as there are seats to be filled, which is the current practice for STV elections in Tasmania and the ACT.<sup>212</sup> Under an STV system that would most likely have multi-member districts of three to five seats in most elections for the House of Representatives, this would be a reasonable approach for the American voter.

Conversely, there are obvious comparative limitations to this proposal. For instance, a key difference between Australia and the United States is the countries' governmental structures. Australia is a parliamentary democracy, while the United States is a presidential democracy. This is worth noting, since there are currently no presidential democracies that utilize STV for their national legislatures.<sup>213</sup> In addition, this Note has described the use of STV in electing Australian Senators and recommending a similar system be employed for electing members of the United States House of Representatives. However, an important distinction to make is that the Australian Senate STV electoral system is only

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209. UNITED STATES SENATE, *The Senate and the United States Constitution*, [http://www.senate.gov/artandhistory/history/common/briefing/Constitution\\_Senate.htm](http://www.senate.gov/artandhistory/history/common/briefing/Constitution_Senate.htm) (last visited Nov. 15, 2015).

210. See Yen Tu-Su, *supra* note 51, at 217 (noting how Americans do not like political parties and how elections in presidential systems are more personality than issue-driven).

211. See Siegel, *supra* note 195 (stating that an Australian ballot sometimes has up to 100 candidates to mark and choose between).

212. FARRELL, *supra* note 1, at 179.

213. CENTRAL INTELLIGENCE AGENCY, *The World FactBook*, <https://www.cia.gov/library/publications/the-world-factbook/fields/2128.html> (last visited Dec. 29, 2015) (describing Ireland and Malta as democracies with parliamentary governments).

partly proportional due to the population disparities between the various states and territories, while the U.S. House of Representatives consists of districts with largely equal populations.<sup>214</sup> While the comparisons between Australia's upper house and America's lower house are not entirely parallel due to differences in apportionment, this in no way weakens the case for adopting STV for the U.S. House. With districts that are largely equal in population size, the adoption of STV for the U.S. House should yield even more proportional results nationally than what the Australian Senate has been able to accomplish.

Another key difference is that Australia has a multiparty system, while the United States has long been a two-party system.<sup>215</sup> Since 1980, the Australian Senate has had roughly 2.5 parties, ranging between 2.4 to 2.68 effective parties.<sup>216</sup> However, despite common criticisms that STV promotes more unstable governments due to its tendency to encourage the development of multiple parties, the reality is that most presidential democracies elect their legislatures through non-majoritarian methods.<sup>217</sup> As mentioned previously, there are various mechanisms to reduce the prevalence of third parties if two main parties are seen as more desirable. For example, nations can avoid political fragmentation through "imposing a higher electoral threshold, lowering the district magnitude, or simply choosing a semi-proportional system."<sup>218</sup> Judge Posner has defended the current majoritarian model on the grounds that a first-past-the-post system produces "more moderate, more centrist, and less passionate politics" than proportional representation schemes.<sup>219</sup> However, with a Congress constantly mired in gridlock and with record levels of polarization, the current winner-take-all model is not serving America's interests well. This further emphasizes how proportional electoral systems can create representatives whose political views are closer to the median voter and how proportional systems can create more ideologically cohesive parties with more centrist policy-making.<sup>220</sup>

The Australian experience suggests that stability is indeed possible under an STV system, although it comes with other consequences. For the most part, Australia has had a uniform and stable two-party system.<sup>221</sup> From 1901 to 2004,

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214. Lijphart, *supra* note 78, at 317.

215. THE HISTORY LEARNING SITE, *Party Systems*, <http://www.historylearningsite.co.uk/british-politics/party-systems/> (last visited Dec. 29, 2015) (noting that the United States has two main political parties and how parliamentary democracies tend to have multiple political parties in elected national office).

216. Lijphart, *supra* note 78, at 318 (noting that due to the long-standing alliance between the Liberal and National parties, they are often counted as 1.5 parties, while the Australian Labor Party is counted as its own full party).

217. Yen-Tu Su, *supra* note 51, at 223, 214 (noting that the Phillipines, Russia, South Korea, and Taiwan use semi-proportional systems and that most presidential democracies in Latin America elect their lawmakers through a system of proportional representation).

218. *Id.* at 228.

219. *Id.* at 241.

220. See Lijphart, *supra* note 78, at 320, 325.

221. Hughes, *supra* note 115, at 156.

in only seven elections did a non-major party earn more than 10 percent of the first preference vote.<sup>222</sup> Australia is known for its strong political parties, with the “enforcement of rigid party discipline among elected representatives.”<sup>223</sup> Among voters, party loyalty is strong, with the top candidate in the New South Wales 1977 legislative election receiving more than 77 percent of the party total.<sup>224</sup> While the Australian House has a reputation for being a very voter-oriented body, the Senate has become more of a party-oriented body.<sup>225</sup> This party emphasis has shaped how candidates spend their time campaigning, how they view their representative role, and how they are recruited to run for Parliament.<sup>226</sup>

The changes in electoral rules have been a key reason for why the Senate has become so marked by party discipline. For example, it has been shown that a candidate’s placement on a ballot is crucial to their re-election hopes.<sup>227</sup> Candidates of major parties that are in the first or second position on the ballot are nearly guaranteed to win, while candidates in lower spots have a marginal chance of prevailing.<sup>228</sup> Since the parties themselves determine the order in which their candidates appear on the ballot, Senate candidates are more inclined to party loyalty than House candidates.<sup>229</sup> Above the line voting also gives the party elite a high degree of control over individual candidates and voters due to the allocation of preferences.<sup>230</sup> The high degree of influence that parties have in Australia’s STV Senate elections demonstrates how political parties have utilized electoral system designs to further their own ends.<sup>231</sup> Generally speaking, STV encourages intraparty competition and fractionalization of the party system.<sup>232</sup> However, in reality, there is less fractionalization of the party system, as the parties are “much stronger and more resilient institutions” that actively develop strategies to counteract the electoral system’s tendencies to weaken the party system.<sup>233</sup> The fact that the 1980s reforms to the Senate STV system shifted a considerable amount of power in elections from the voters to the party bosses demonstrates how “small deviations in institutional design can have profound implications for how an institution operates.”<sup>234</sup> The strong party discipline of the two major parties has helped bring stability to the political system, though rebutting a common critique of proportional electoral models.

However, this is also a key difference between the United States and

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222. FARRELL, *supra* note 1, at 14.

223. *Id.* at 165.

224. Hughes, *supra* note 115, at 167.

225. FARRELL, *supra* note 1, at 68.

226. *Id.* at 119.

227. *Id.* at 62.

228. *Id.*

229. Sharman, *supra* note 122, at 552.

230. FARRELL, *supra* note 1, at 133.

231. *Id.* at 76.

232. Bowler, *supra* note 2, at 9.

233. *Id.* at 10.

234. FARRELL, *supra* note 1, at 18.

Australia, as Americans generally do not like political parties and make decisions based on the individual candidates.<sup>235</sup> Therefore, it is essential that an STV system for the U.S. House of Representatives be more candidate-centered, including not allowing above the line voting and allowing election administrators to determine ballot placement. This could be accomplished by randomly selecting the order candidates appear on the ballot, going by alphabetical order, or rotating the ballots to ensure the most fairness. In both the ACT and Tasmania, the candidate and party names are randomly rotated, reducing party leadership's influence over ballot placement.<sup>236</sup> While strong party control and discipline are not critical to the stability of the political system, a moderate level of party discipline is encouraged to maintain stable coalitions.<sup>237</sup>

It is important to also address the questions of whether the American people would be willing to accept such a radical departure from their long use of the single-member, winner-take-all model of electing members of Congress and whether switching to STV would yield substantial changes in how Congress functions. As previously mentioned, many Americans already live in states that currently use multi-member districts for electing their state legislators and many municipalities previously experimented with proportional electoral methods.<sup>238</sup> Despite its occasional quirks and flaws, STV appears to be popular with Australian voters.<sup>239</sup> Of course, there is always the risk that the complexity of the ballot may confuse voters or lead to long delays in counting ballots.<sup>240</sup> However, it is also likely that STV would “enhance descriptive representation” and “make legislatures more responsive to a broader range of issues that are in the collective interests of their constituents.”<sup>241</sup> A switch to a system that provides a stronger voice for minority interests and women would certainly be a welcome change for many Americans who feel excluded from electoral politics at the federal level.<sup>242</sup>

While proportional representation could bring many positive benefits to American political culture and bolster democratic participation, it is important to note that past institutional reforms did not improve Congress' image with the American people.<sup>243</sup> Procedural reforms alone will not offer a guaranteed solution to the many problems confronting Congress.<sup>244</sup> While Congress has had low public approval for many years, Congress has been “operating in a constant state of crisis and gridlock” more recently, unable to solve a myriad of “pressing national problems.”<sup>245</sup> Following the 2014-midterm elections, exit polls indicated

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235. Yen-Tu Su, *supra* note 51, at 217.

236. FARRELL, *supra* note 1, at 62.

237. Yen-Tu Su, *supra* note 51, at 210.

238. See examples cited, *infra* notes 26-28 & 95.

239. See *infra* notes 178 & 187.

240. FARRELL, *supra* note 1, at 121.

241. MAYER, *supra* note 96, at 126.

242. *Id.* at 123.

243. *Id.* at 119.

244. *Id.* at 136.

245. *Id.* at 2.

that 80 percent of the American people disapproved of the branch's performance, with the main reason being the institution's inability to pass legislation.<sup>246</sup> One of the main explanations for Congress' difficulty passing legislation is the institution's inability of overcoming the collective dilemma, which is the tension between the national interest and parochial concerns.<sup>247</sup> The collective dilemma has significant policy implications, as an increased focus on local issues and representing the interests of constituents comes at the cost of Congress being able to forge a national consensus on the major issues of the day.<sup>248</sup> Indeed, one of the main reasons the Founding Fathers established the system of American bicameralism was to "strike a balance, with the House of Representatives closely attuned to public opinion and the Senate more insulated from popular passions."<sup>249</sup> Today, the House of Representatives has gone too far in being closely attuned to public opinion at the risk of neglecting policies that would advance the common good. The House of Representatives should take a more Burkean approach to governance by exercising independent political judgment instead of subjecting itself to the fickle "whims of the electorate."<sup>250</sup>

For individuals concerned about staying true to the nation's original constitutional principles, there are indications that multi-member districts would be compatible with the republican ideals expressed by the Founding Fathers. In designing the original structure of the federal government, the Framers were concerned about the influence of factions and "local prejudices" overcoming what was in the national interest.<sup>251</sup> This is why in *Federalist 10*, Madison expressed his belief that a "greater number of citizens and extent of territory which may be brought into the compass of republican than of a democratic government... the less probable that a majority of the whole will have a common motive to invade the rights of other citizens."<sup>252</sup> *Federalist 10* speaks to Madison's belief that the best way to control the effects of factions is to establish representative districts that are large enough to encompass a diverse array of interest groups that would cancel each other out.<sup>253</sup>

In keeping with *Federalist 10*, expanding the size of congressional districts to encompass a three to five seat STV district would better control for the effects of factions and enable lawmakers to focus more on national issues. *The Federalist Papers* likewise warn about the dangers of "overbearing majorities" and state that a republican form of government is a way to "refine and enlarge the public views

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246. Evan C. Zoldan, *Congressional Dysfunction, Public Opinion, and the Battle over the Keystone XL Pipeline*, 47 LOY. U. CHI. L.J. 617, 620 (2015).

247. MAYER, *supra* note 96, at 8.

248. *Id.* at 36.

249. *Id.* at 9.

250. Thomas Molnar Fisher, Note, *Republican Constitutional Skepticism and Congressional Reform*, 69 IND. L.J. 1215, 1232-1233 (1994) (referencing the 18th century British Member of Parliament Edmund Burke).

251. MAYER, *supra* note 96, at 44.

252. THE FEDERALIST NO. 10 (James Madison).

253. MAYER, *supra* note 96, at 44.

by passing them through the medium of a chosen body of citizens.”<sup>254</sup> The United States Congress has drifted from its republican form of government to being more like a democracy, becoming consumed with popular opinion polls and narrow special interests at the expense of viewing problems through the broader national lens. Members of Congress that represent a greater number of constituents that are responsible for a larger, more diverse district will most likely think more broadly about the various political issues and problems that are grappling the nation.

While procedural reforms to Congress are unlikely to completely eliminate the collective dilemma, dissatisfaction with Congress has been linked with the qualities of the institution.<sup>255</sup> By changing how Americans elect their members of Congress through expanding voter choice and making elections more competitive, citizens will feel greater influence over the democratic process. This may not only spur increased turnout in elections but also bring about greater involvement in influencing the policy decisions of Congress. There have been a variety of other proposed reforms to change how Congress operates, such as a balanced budget amendment, term limits for members, giving the president line-item veto power, reducing committee staff, campaign finance reform, and establishing bipartisan commissions.<sup>256</sup> Other more conservative thinkers have suggested that stronger political parties would lead to greater deliberation on policy issues and make legislators less captive to the influence of special interests groups.<sup>257</sup>

However, many of those policy items cannot be accomplished unless members of Congress are either subject to greater political accountability or are replaced by the people, as many of those policy changes would run contrary to their individual interests. Electoral systems have been described as the “most specific manipulative instrument of politics.”<sup>258</sup> The specific rules behind how candidates are elected have both political and substantive consequences. The most important check and balance on a broken system should be the ballot box. Through eliminating single-member districts and switching to an STV system for the House of Representatives, Congress will experience the ripple effect of a more empowered electorate.

## VII. CONCLUSION

There are many electoral systems to choose from, each with their advantages and shortcomings. Given the United States’ political, cultural, and historical underpinnings, the nation is best equipped to adopt a multi-member, Hare single-transferable vote model than the other available alternative voting systems. STV

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254. *Id.* at 6 (quoting from THE FEDERALIST NOS. 10, 57 (James Madison)).

255. *Id.* at 10, 55.

256. *See generally* MAYER, *supra* note 96.

257. Fisher, *supra* note 248, at 1235-37 (quoting columnist David Broder as saying that “[t]he governmental system is not working because the parties are not working”).

258. FARRELL, *supra* note 1, at 148.

will correct the shortcomings of the single-member, winner-take-all system by improving voter turnout, minimizing gerrymandering, creating more competitive congressional elections, improving democratic satisfaction, and reducing the gridlock that has paralyzed federal political institutions. America's past experimentation with STV in various states and municipalities demonstrates that the electoral model is effective in increasing the racial, gender, and political diversity of governing bodies. While there have been concerns about a proportional system giving rise to third parties, a system with only three to five representatives would likely allay such fears. Past experience has shown that such a system would encourage more moderation and a greater diversity of views within each political party, going a long way in fostering bipartisan cooperation and reducing political gridlock. The focus would shift from a personality-driven politics to a more issue-oriented approach to governance.

Australia has used STV for their Federal Senate since 1948 and has demonstrated both the advantages and disadvantages to such an approach. Comparisons between the Federal Senate and some of the other Australian states and territories that use STV for their state legislative elections signal how STV can vary in practice. However, it is undisputed that its adoption has made the Senate more politically and racially diverse than its House counterpart. Despite somewhat increasing gridlock in the Senate, the benefits far outweigh the drawbacks, as the Senate is now a much more proportional body. This is an important conversation to have because "the ultimate authority and accountability in a representative democracy resides in the voting booth... [w]ithout electoral accountability, nothing else matters."<sup>259</sup> As with any electoral system, lessons can be learned from its application. For instance, United States citizens would not likely support the strong role that parties play in the electoral process in Australia. Therefore, with the recommendations laid out in this Note, the states that choose to adopt an STV system for electing members of the House of Representatives will see a system that more accurately serves as a mirror of the people, renewing the promises of political equality and democratic engagement that have long been keystones of this nation's constitutional order.

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259. *MAYER, supra* note 96, at 156.