



February 4, 2021

Dear Representative:

Democracy 21 is writing to respond to [a letter](#) sent to Representatives on January 29, 2021 by counsel to the ACLU regarding H.R. 1, the For the People Act.

Democracy 21 strongly supports H.R. 1 and urges the House to pass this legislation quickly. Swift action on H.R. 1 is essential if the legislation is to reach the Senate on a timely basis and become effective for the 2022 congressional elections.

It is extremely important for the reforms in H.R. 1 to take effect in time for the 2022 congressional elections. The 2020 elections resulted in historic voter turnout with no evidence of any meaningful voter fraud. Currently, however, a number of state legislatures are [pursuing new laws](#) that would reduce voter turnout, [suppress the right to vote](#) and disenfranchise vast numbers of voters, particularly voters of color.

These undemocratic efforts to suppress voting will be overridden by the voting rights reforms in H.R. 1 if the reforms are in effect for the 2022 congressional races.

H.R. 1 is pro-voter, anti-corruption, pro-ethics, anti-partisan gerrymandering reform legislation that will repair our broken political system and revitalize our democracy. Virtually the same legislation passed the House in the last Congress by a vote of 234-193.

The ACLU in its letter acknowledges that “it is more important than ever for Congress to pass legislation to restore and expand voting rights and strengthen our democracy,” and that H.R. 1 “seeks to serve those goals. . .”

But the ACLU also expresses “constitutional concerns” about the legislation and would slow down House consideration of the bill in calling for additional hearings and markups to be scheduled.

Such additional hearings are unnecessary. H.R. 1 was the subject of extensive hearings by five House Committees prior to its passage by the House in the last Congress.

In January and February 2019, the House Administration Committee, the House Judiciary Committee, the House Oversight and Reform Committee, the House Homeland Security Committee and the House Ways and Means Committee all held hearings on H.R. 1. These five committees received testimony from a total of 27 witnesses, both in support of and in opposition to the legislation.

The House Administration Committee marked up the legislation and considered a number of amendments in Committee. More than 70 amendments were then offered on the House floor prior to passage of H.R. 1 in March 2019.

The For the People Act of 2021, with a handful of revisions, is basically the same bill that passed the House in 2019. It is unnecessary to repeat the same multicommittee hearings and House Administration Committee markup that occurred in the last Congress. Doing so would also be counterproductive to the goal of having the voting rights reforms of H.R. 1 in effect for the 2022 congressional elections.

The “constitutional concerns” raised by the ACLU again center, as they did in the last Congress, on the campaign finance disclosure provisions of the DISCLOSE Act, which is incorporated into H.R. 1.

The DISCLOSE Act is essential to closing a gaping loophole in the disclosure laws that has resulted in [more than a billion dollars](#) in unlimited, secret contributions being given to and spent by nonprofit groups to influence recent federal elections. Unlimited, secret contributions, also known as dark money, are the most dangerous contributions in American politics since there is no way to hold the donor and officeholder accountable for corrupt practices.

[In a letter](#) we sent to Representatives on March 7, 2019, Democracy 21 rebutted the same constitutional claims made in its recent letter that the ACLU made in a letter sent to the House in 2019.

Since *Buckley v. Valeo*, 424 U.S. 1 (1976), and as reaffirmed in *Citizens United v. FEC*, 130 S.Ct. 876 (2010), the Supreme Court has consistently upheld the constitutionality of campaign finance disclosure requirements because they serve the important governmental interests of “providing the electorate with information about the sources of election-related spending” in order to help citizens “make informed choices in the political marketplace.” *Citizens United*, 130 S.Ct. at 914.

The ACLU raised concerns in its letter about whether the disclosure provisions in H.R. 1 would “restrict” or “deter” non-profit groups from engaging in speech and advocacy, particularly regarding “progressive” issues. The ACLU ignores the *Citizens United* decision, where in an 8 to 1 vote, the Supreme Court said that disclosure requirements for campaign-related communications by nonprofit groups “impose no ceiling on campaign-related activities” and “do not prevent anyone from speaking.” *Id.*

The ACLU also raised a concern about whether disclosure of the large donors to non-profit groups could subject those donors “to harassment and threats of violence.” The ACLU ignores the fact that H.R. 1 has an explicit safe harbor provision that exempts from disclosure any donor who may be subject to “serious threats, harassment or reprisals.”

This exemption is based on Supreme Court jurisprudence that requires such a disclosure exception. But the Court also stated in *Citizens United* that disclosure requirements are not invalid because of a generalized or theoretical concern about “public harassment.” The Court

said that disclosure provisions are invalid *only* in specific cases where a group can show a “reasonable probability” that disclosing the names of its contributors would “subject them to threats, harassment, or reprisals from either Government officials or private parties.”

The House two years ago considered virtually the same H.R. 1 legislation in five Committees, engaged in a Committee markup with amendments, considered more than 70 amendments on the House floor, and passed the legislation.

It is essential for this legislation to be effective for the 2022 congressional elections to protect the right of every eligible citizen to vote and to ensure a fair, safe, and secure electoral process in 2022.

Democracy 21 strongly urges Representatives to move swiftly to pass H.R. 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Wertheimer", with a long horizontal line extending to the right.

Fred Wertheimer
President