

DYER FOR HOUSE 2020 UPDATE

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Voting is Fundamental

"[T]he right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights.... [S]tatutes distributing the franchise constitute the foundation of our representative society. Any unjustified discrimination in determining who may participate in political affairs or in the selection of public officials undermines the legitimacy of representative government." *Kramer v. Union School District*, 395 U.S. 621, 626 (1969). Voting is as fundamental to representative government as breathing is to human beings. Without it, the entity in question ceases to exist. Indeed, as hinted in the quotation above, it could be argued that the right to vote, to select one's representatives, is simply the political manifestation of the fundamental right of liberty. I am free, so I can freely choose. Obstacles to that freedom then should be strictly scrutinized and tightly drawn. To that end, the Connecticut Constitution gives the legislature the power to prescribe and regulate elections. Any laws made in furtherance of that power "shall be made to further the privilege of free suffrage." Conn. Const. Art. Sixth, Section 4.



Litchfield Courthouse

It is curious, then, to watch the current uproar over mail-in balloting during the

COVID-19 pandemic. It seems that we are looking at the voting issue completely backwards. Rather than discussing whether photo ID is too onerous, or whether mail-in balloting is not the historical preference, we should ask instead whether there are any reasons why photo ID or mail-in balloting are essential to functional voting (strict scrutiny)? Any impediments to making sure every person votes should be viewed skeptically and eliminated, rather than justified as “no big deal”. There is nothing that prohibits the Connecticut legislature from simply permitting mail-in balloting, either for just this electoral cycle or for eternity. Permitting mail-in balloting ensures the efficient and orderly voting process recognized in both the state and federal constitutions. More to the point, it ensures that as many people as possible can vote to choose their representatives—the privilege of *free* suffrage. Opponents of mail-in balloting claim that mail-in ballots are more susceptible to fraud. Even if true, the burden is on those opponents to bring data and evidence to support their fraud hypothesis and show that mail-in balloting undercuts the integrity of individual elections—fraud is not to be presumed. But if fraud is the concern, then we as a people, legislatively, judicially, and at the grassroots of each community, should work to find mechanisms that prevent any fraud while still permitting off-site voting. These mechanisms could include mail-in ballots or online voting via secure server and two-factor authentication. Each of these methods may pose problems but there is no reason as we being the second fifth of the 21st century that waiting in line at the local firehouse or elementary school must be the *only* way to exercise our right to choose. COVID-19 has revealed that we as a people need to find efficient and simple means to vote to ensure that *everyone’s* voice is considered and can exercise their most fundamental right fully, efficiently, and freely.

*Paid for by Dyer for House 2020, Kristen Mostowy,
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Photos by Lindsey Victoria Photography.

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