

**THEY**  
— **DON'T REPRESENT** —  
**US**

*Reclaiming Our Democracy*

**LAWRENCE LESSIG**

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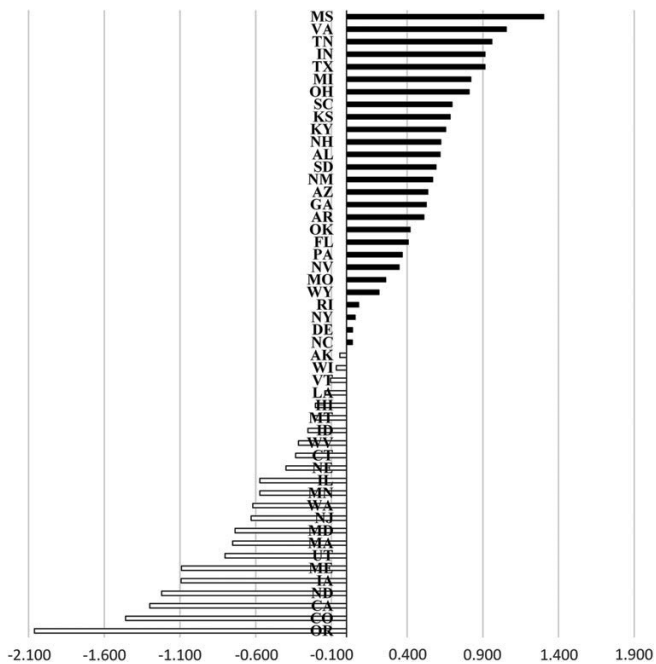
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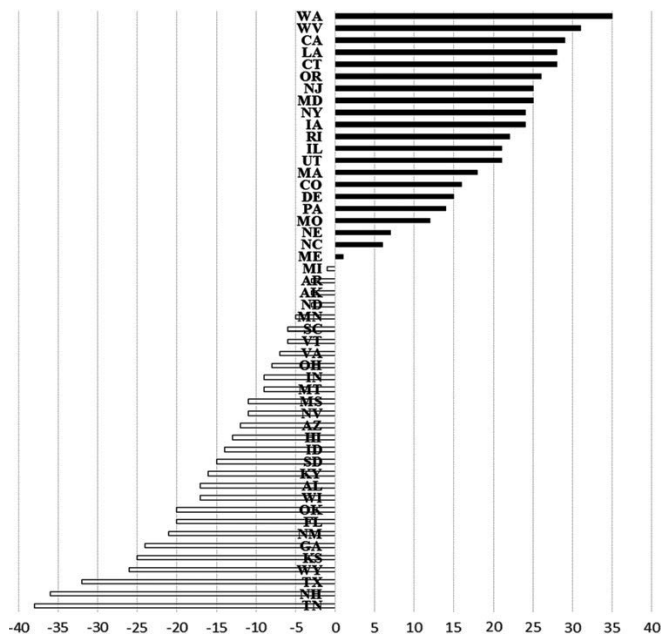
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**FIGURE 1**  
 Cost of Voting Index  
 values for all 50  
 American states in 2016  
*Li et al., Cost of Voting*



**FIGURE 2**  
 Change in state rank  
 on the Cost of Voting  
 Index from 1996 to 2016.  
 Negative values indicate  
 a drop in state rank.  
*Li et al., Cost of Voting.*

# The Choices of Gerrymanderers

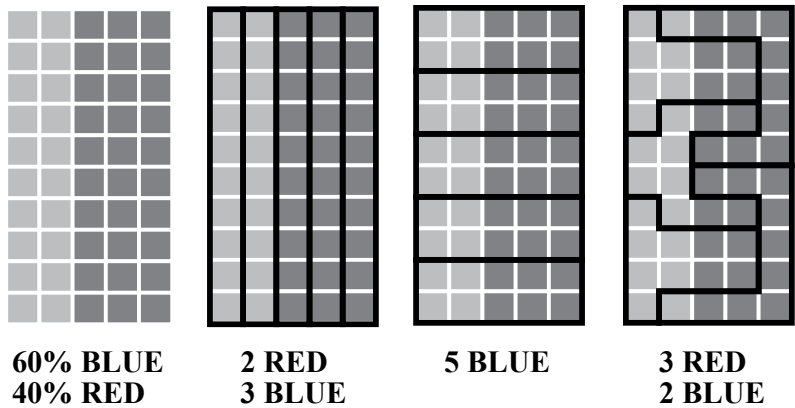
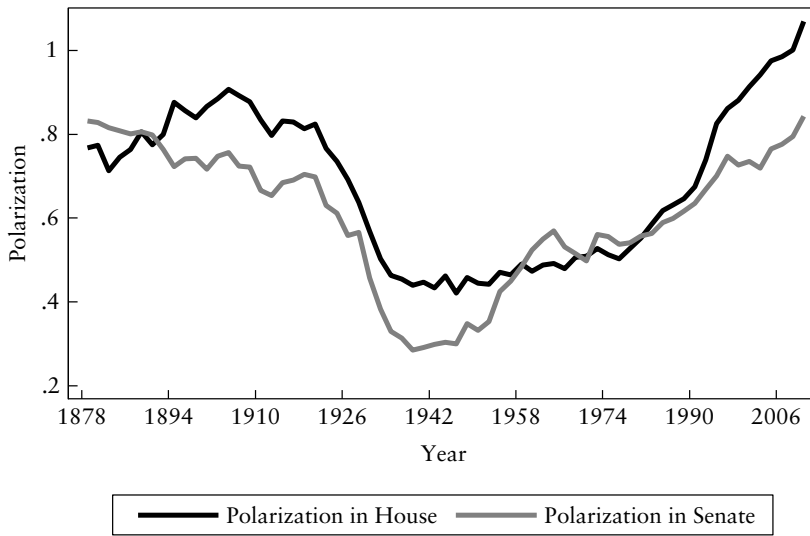


FIGURE 3

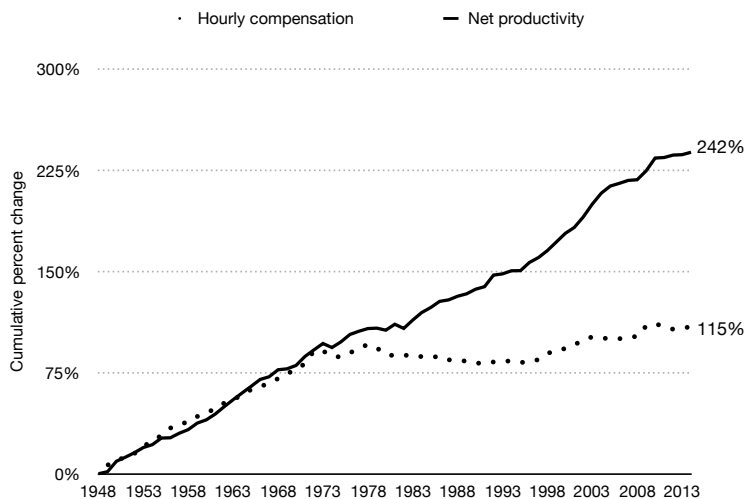
*Lawrence Lessig, CC-BY-SA, derived from Steve Nass, CC-BY-SA.*



**FIGURE 4**

Average distance between positions across parties. The y-axis shows the difference in mean positions between the two parties in both the House of Representatives and Senate from 1879 to 2011 using the DW-NOMINATE measures.

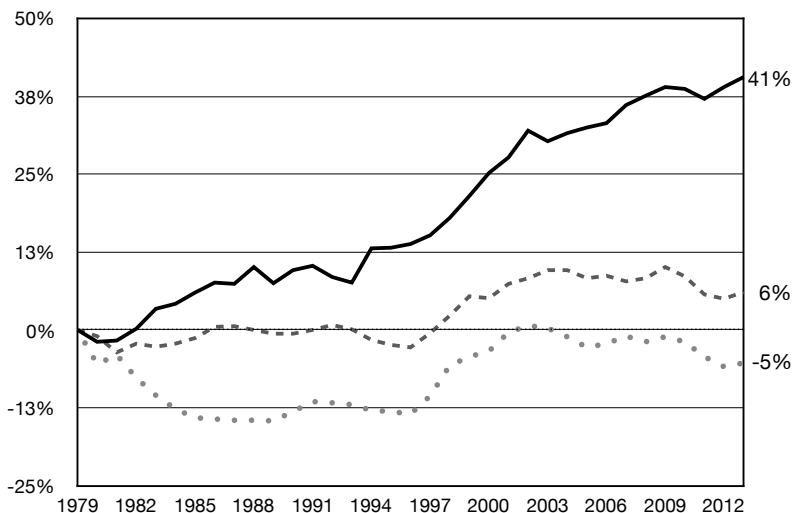
*Barber & McCarty, Causes and Consequences of Polarization.*



**FIGURE 5**

#### Wage Gap

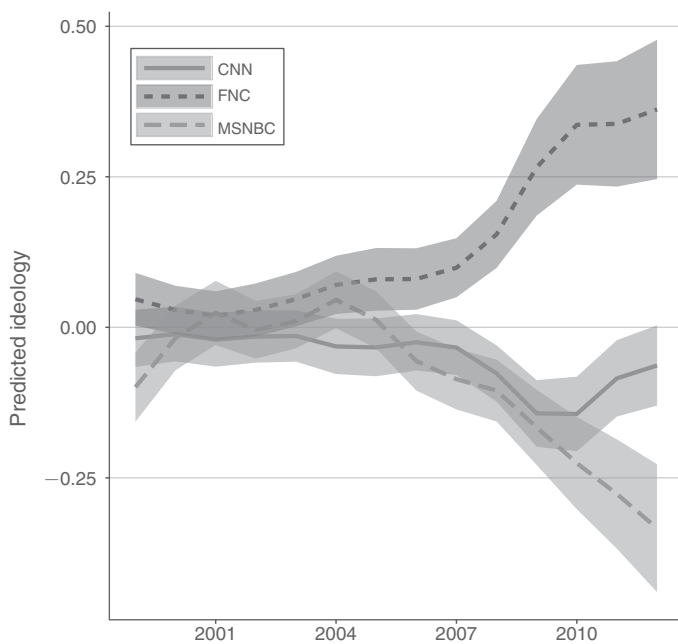
*Lawrence Lessig, CC-BY, derived from Economic Policy Institute analysis of data from Bureau of Labor Statistics (BLS) Labor Productivity and Costs program, BLS Current Employment Statistics public data series, BLS Employer Costs for Employee Compensation, and Bureau of Economic Analysis National Income and Product Accounts.*



**FIGURE 6**

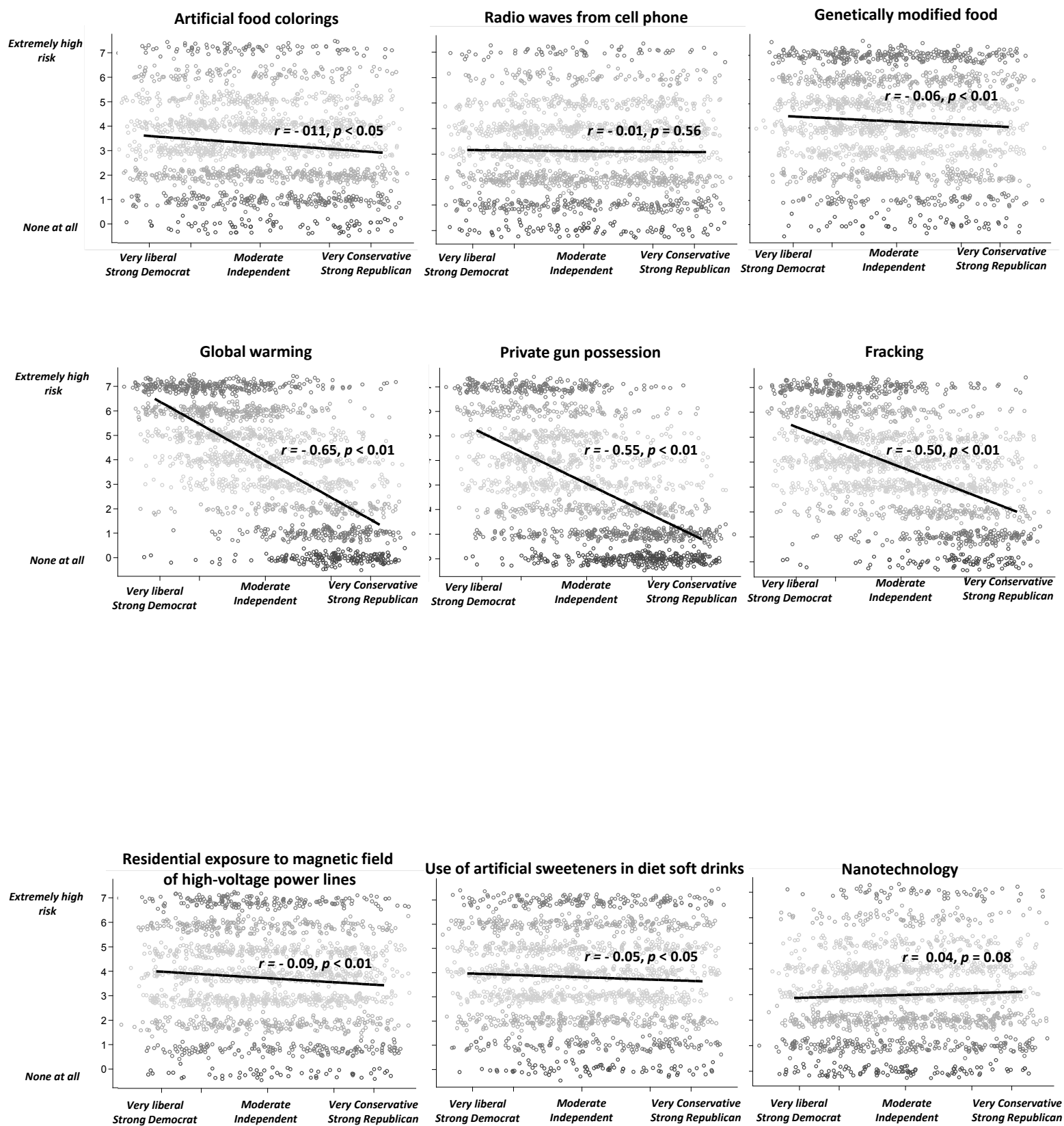
#### Different Growth by Class

*Lawrence Lessig, CC-BY, derived from Economic Policy Institute analysis of Current Population Survey Outgoing Rotation Group microdata.*



**FIGURE 7**  
**Estimated ideology**  
**by channel year. Each**  
**point corresponds to**  
**the estimated ideology**  
**of the news channels**  
**based on phrase usage**  
**as described in the**  
**text, with 95 percent**  
**confidence bounds**  
**shaded.**

*Martin & Yurukoglu,*  
*Bias in Cable News.*

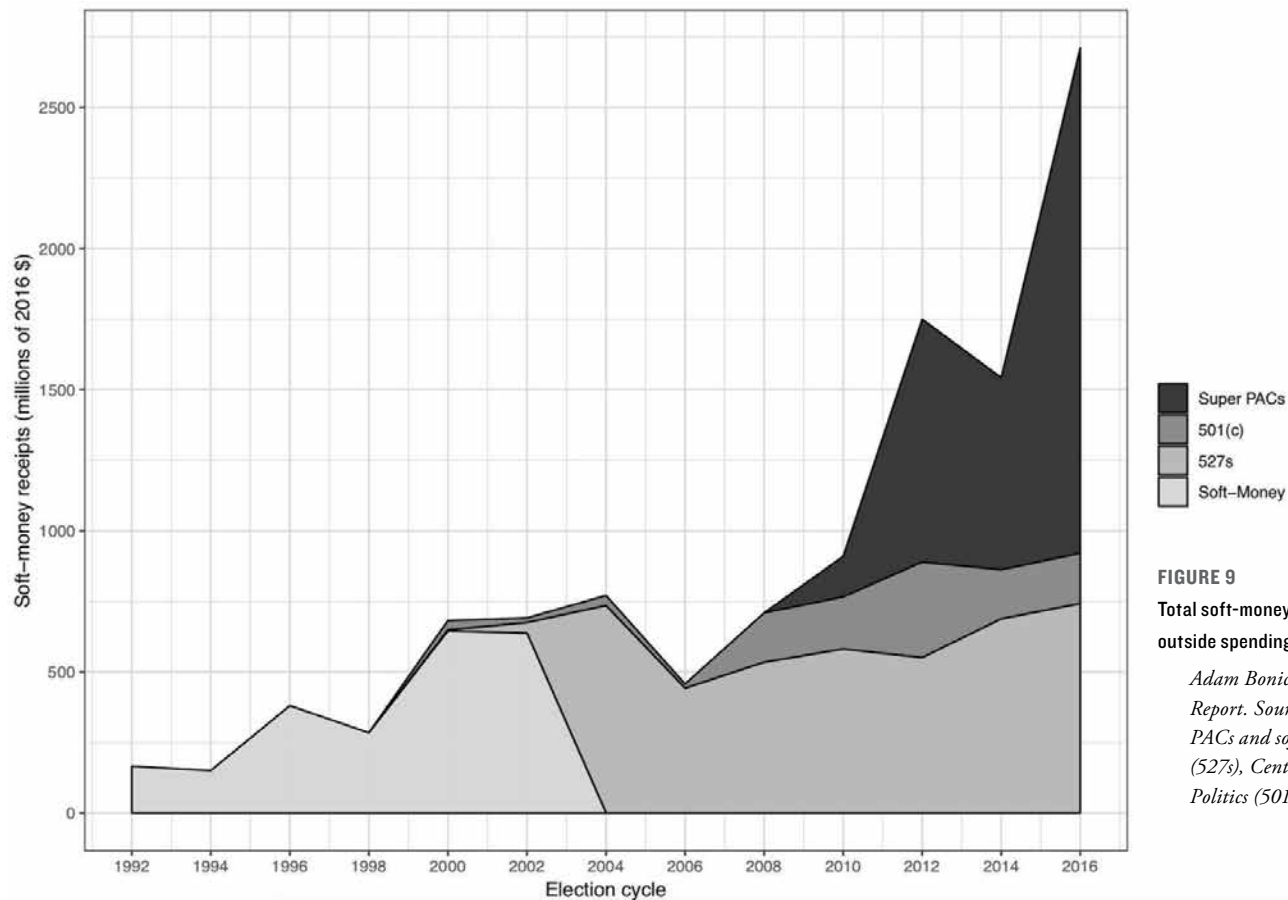


**FIGURE 8**

"Polarized" vs. "unpolarized" risk perceptions. Scatterplots relate risk perceptions to political outlooks for members of nationally representative sample (N = 1800).

*Dan Kahan, What is the "Science of Communication"?*





**FIGURE 9**  
Total soft-money receipts to  
outside spending groups.

*Adam Bonica, Expert  
Report. Sources: FEC (Super  
PACs and soft-money), IRS  
(527s), Center for Responsive  
Politics (501(c)).*

	<b>BENEFITS SOCIETY</b>	<b>HARMS SOCIETY</b>
<b>BENEFITS USER</b>	Amazon books	Ad-driven news feeds
<b>HARMS USER</b>	Identifying predators	Exploiting addicts

## Appendix: Reformers

Unlike the other books I have written about democracy, this book does not make strategy a core part of its argument. The world has worked hard to convince me I don't understand politics. The world might be right. But in this brief appendix, I point to a range of organizations and movements that I believe could well work. I point not to lead. If the world has learned anything in the last decade, it is that many leaders are needed, not a very few, and certainly not just leaders like me.

### FROM THE STATES, UP

There are many great reformers who have left Washington, D.C. Not just, or necessarily, literally, but figuratively. These are leaders who think we're in this for the long haul—that we need to build a movement at the level of the states, first. Once we win there, they believe we can then take on the corruption that is Washington.

I have long admired the work of these reformers. I only fear we don't have the time for that plan to work. But while nothing has been moved effectively at the federal level, reformers at the state level have made enormous progress.

*Represent.us* is among the most impactful in this space. They've

pushed corruption reform across the country, as well as gerrymandering reform and RCV. They live in an insanely beautiful office in an incredibly beautiful town in the middle of Massachusetts. Their leaders have inspired an extraordinary number of talented young people to move to the sticks to help leverage the energy for reform that is everywhere in America.

As well as *Represent.us*, there are others doing the same hard work at the state level. *AmericanPromise.Net* is working state by state to build a movement to support an amendment to the federal constitution that would establish (finally!) political equality. Yet they are building that movement not with top-down diktats, but through an extraordinary process of collaboration to identify what an amendment actually should be. The group has thousands of volunteers across the nation who are building the recognition and support such change will require. They too have adopted the core principle of each of the successes I described in the Conclusion—militantly nonpartisan, grassroots, and engaged.

Finally, there many single-state organizations across the country, working with these national organizations and others (my favorites among the others include the *League of Women Voters* and *Common Cause*). In New Hampshire, for example, *OpenDemocracyNH.org* grew out of the work of Doris Haddock (aka Granny D); it inspired *NH-Rebellion.org*, which rallies attention to reform during the presidential election cycle. All of these organizations (and many more) do the work of platform politics from the state first.

## CAPTURING CONGRESS

When I write version 2.0 of this book, the Conclusion will no doubt include a fourth story of success, led by another extraordinary woman, Daniella Ballou-Aares. A Harvard MBA and former staffer in the Clinton State Department, Daniella has launched an inspirational network committed to the fundamental reform of Congress, *Leadership-*

*NowProject.org*. “Network” here is the key word, because as she and her friends recognized, they could assemble in their friends, and friends of friends, the power it would take to make reform possible. Not from billionaires, but from people with some means and endless motive to save this democracy in time for their kids.

One idea that they are percolating is the election of a “Reform Caucus” in Congress. That caucus—as every story in the Conclusion evinces—must be cross-partisan. It must have leaders who stand above politics, at least for the purpose of reform. But given the close division in Congress, that caucus need not be huge. Thirty members of the House of Representatives would guarantee who could control Congress; those thirty members could then partner with whatever party would agree to their demands: that they would vote for a reform Speaker; that reform Speaker would control the House until Congress passed reform; once the president signs the reform package, the Speaker would resign, and members of the caucus would return to their regular parties.

This idea leverages a quirk in the Constitution. Anyone can be chosen to be Speaker. Literally, anyone. The queen of England. Jennifer Lawrence. Jimmy Carter. Anyone. The requirement to be Speaker is simply that the House votes to select you. There is no requirement for whom the members of the House can vote for.

So imagine a leader—preferably someone above politics, or beyond politics—took up the charge to elect a Reform Caucus in Congress. She would rally the funds to make it a national campaign. Her team would recruit the candidates. Those candidates would run in safe-seat primaries—half Republican and half Democrat, because running in the primary, by the middle of the year of any election cycle, would make it clear whether there will be a Reform Caucus, and if there will be, what kind of changes it would effect.

This is a kind of hack for a political system that does not allow for one-party governance. In Britain, change like this could happen whenever one party gains control of government. But in America, we are too divided for one party to gain the supermajority it would take to

withstand the resistance of the other. And with the right leader (think a female Republican with the notoriety and affection of a Tom Hanks), rallying sufficient support (imagine fifty billionaires pledging up to \$20 million each to make this happen), it is possible that this hack would work.

“Fifty billionaires?” I am as skeptical as any about the role of billionaires in our democracy. But notice what these fifty would be working for: If the plan wins, then they will have achieved a radical reduction in their own power over our democracy. They would be spending their money to *reduce* their influence. If there’s one context in which their money could do good, it is that.

*LeadershipNowProject.org* is not the only group doing powerful work in Washington. *IssueOne.org* is building a thick collaboration among both Republicans and Democrats, to craft a package of reform that could make Congress work. That work is aided critically by the most important conservative organization fighting for congressional reform, Take Back Our Republic (*TakeBack.org*). It is supported as well by many other critical reform groups, including *Demos.org* and the Brennan Center for Justice. I helped launch one of the most exciting activist organizations pushing for the reform of Congress, *Mayday.US*. Along with *EndCitizensUnited.org*, they are working hard to build recognition for what an uncorrupted democracy could be.

## SAVED BY THE THIRTEEN

I believe we need amendments to our Constitution. But more important than the specifics is that we affirm again the idea that we the people—not the judges, and not the politicians—ultimately rule.

As I described in chapter 4, there is an Article V movement to convene a convention to propose amendments to the Constitution. It’s never happened before. That fact terrifies people today. As I described then, I don’t think those fears are justified. I support that movement.

I've recorded a whole season of a podcast, *Another Way*, season 2, hosted by *Wolf-PAC.com*, to explain why.

But what's obvious about a convention is that if it were partisan, it would fail. Either side would use the threat of a convention by the other side to whip up its base and raise money against fear. That's happening right now within the Democratic Party. It is the right that is close to having enough states to demand a convention. The left is using that fact to terrify its base (and then ask them to donate generously to stop the right).

The issue that is closest to having enough states supporting it is a convention to address a "Balanced Budget Amendment." This idea is supported by many on the right, but not exclusively. Yet regardless of the precise mix, the movement is viewed as *from* the right. If it succeeded in getting thirty-four states behind it, it would be perceived as a right-wing convention. That perception would guarantee that any proposal the convention adopts would be quickly rejected by at least thirteen non-right states.

Put most charitably, the Balanced Budget Amendment seeks to add *fiscal integrity* into our constitutional system. The movement that would grow out of the reforms in this book would add *representational integrity*. These reforms, though supported by people on the right and left, would likely read to the left. If a movement to call a convention to address them were to reach thirty-four states, the right would rally against them, just as we are seeing the left rally against the *fiscal integrity* reforms.

The only convention that could avoid this dynamic—and not certainly, but possibly—would be one that could consider issues from both the right and the left. And given how close the right is, there may be a way to leverage that fact to get a convention that could consider more than just *fiscal integrity*.

To see how, let's first be clear on the numbers. The Constitution says that two-thirds of the states can call a convention. That's thirty-four states. It says that three-fourths of the states must ratify any

proposed amendment before it can become part of the Constitution. That's thirty-eight states. That ratification can either be by state legislature or by state convention. Congress gets to choose which. But either way, if thirteen states failed to ratify any proposed amendment, that amendment would be dead.

So imagine leveraging these numbers to a critical end: imagine thirteen states passed the following resolution:

**We, the Legislature of \_\_\_\_\_, exercising power granted to us under Article V of the Constitution, do hereby preemptively reject any amendment proposed by a convention that was not free to consider issues of representational integrity.**

The strategy here is clear, if uncertain. By uniting thirteen states against a politically polarized convention, these states could change the calculation of those pushing for such a convention. No one knows whether such a preemptive rejection would work. But it might. And if it did, then the work of the convention would have been for naught. Congress could evade this hack by sending the ratification to state conventions. That has happened once, with the amendment to repeal Prohibition. But that, too, is a risky strategy, especially after the states have passed this resolution.

So rather than risking the outcome, the proponents of a *fiscal integrity* convention might well become open to the idea of a dual convention, or one just after another, that could consider both fiscal and representational integrity issues.

And if it considered both, then each side would have a reason to give the convention a try. At the most, the convention can make just a proposal. That's it. And if the proposal is not supported overwhelmingly (for, again, just thirteen states could stop it), then it won't become part of our Constitution. The worst case then is that nothing happens. The best case is that we get a shot at doing something that will



not otherwise happen: proposing amendments to our constitution that will ensure, *finally*, a constitution that protects the political equality of citizens.

## EQUAL CITIZENS

None of the organizations I have just described are mine. I've supported all of them, but except for Mayday.US, they were begun and built by others. The last on my list is an organization that I did begin—*EqualCitizens.US*.

Equal Citizens aims to practice the lesson this book wants to teach. By taking on cases and causes that show a commitment to political equality, we want to build a movement of political egalitarians. Our initial strategy was through litigation. Our first cases aimed to reform the Electoral College, by challenging winner-take-all. We have a case pressing the courts to adopt the original meaning of “corruption” so as to allow the regulation of SuperPACs. And we have been pushing the cause of RCV in both presidential primary and general elections.

Equal Citizens should be a model, not just an organization. Ideally there would be a thousand organizations across the country that took its aim and replicated it. In every context in which the insiders have erected walls to block citizen equality, we need people to fight it. I have no desire (or capacity) to build EqualCitizens.US into a huge organization. I want it to remain small and agile. But it will succeed only if there are many others within its network—which there well could be, if you began one where you are. Like, today. Or maybe tomorrow.