Negative: Liberty

By Josiah Hemp

***Resolved: In a democracy, voting ought to be compulsory.***

This case takes the exact opposite interpretation of the resolution as last week’s release (“Affirmative: Democracy” by Josiah Hemp). This case rejects the idea that democracy is something that we should seek to achieve and instead stands on Liberty. Democracies are arguably created in order to defend liberty. In contrast to democracy, liberty is a fundamental value. It is something that matters because it matters. This case argues that compulsory voting both directly violates liberty and endangers liberty.
Notes on delivery: This case should be read passionately. It is arguing that compulsory voting is a violation of liberty and will lead to despotism. When pointing out severe danger, a passionate tone often helps reinforce the point. However, be careful not to over-do it. Overdoing it makes your case sound silly and unreasonable, rather than clear and concerned.

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Negative: Liberty

“The people, when they have been unchecked, have been as unjust, tyrannical, brutal, barbarous, and cruel, as any king or senate possessed of uncontrollable power. The majority has eternally, and without one exception, usurped over the rights of the minority.”—John Adams.[[1]](#footnote-1)

Democracy is a flawed system. Compulsory voting only exacerbates many of its flaws. It not only violates liberty, it also endangers liberty. Because of this, I ask you to oppose the resolution, resolved: in a democracy voting ought to be compulsory.

DEFINITIONS

Democracy

Merriam Webster’s Dictionary “Democracy.” <https://www.merriam-webster.com/dictionary/democracy> Accessed August 12, 2020.

“government by the people

“especially : rule of the majority

“b: a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections”

Compulsory voting

FindLaw.com 2020 (Created by FindLaw's team of legal writers and editors. All authors, including former authors, are attorneys or writers who specialize in legal content)“What is Compulsory Voting?” March 16, 2020. <https://www.findlaw.com/voting/how-u-s--elections-work/what-is-compulsory-voting-.html>. Accessed August 13, 2020.

“Compulsory voting occurs when a state or nation requires all of its citizens to vote. In many countries today, voting is required by law. But in most cases, the penalty for not complying is so mild that the term "compulsory" is a bit of a misnomer.”

VALUE: Liberty

“Liberty.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/liberty>. Accessed 19 Aug. 2020.

“the quality or state of being free:”

Liberty is something that we should value simply because it is good. Good governmental systems will provide liberty. Democracies are arguably created to defend liberty. Thus, liberty should be our value.

CONTENTION 1: Democracy is a flawed system

Democracy does not ensure freedom

F. A. Hayek, (Famous economist and political theorist. Doctorates in Law and Political Science from the University of Vienna. Author of the Road to Serfdom and many other works. Winner of the Nobel Memorial Prize in Economic Science in 1974.)"Friedrich August von Hayek Quotes." BrainyQuote.com. BrainyMedia Inc, 2020. <https://www.brainyquote.com/quotes/friedrich_august_von_haye_201841>. Accessed August 13, 2020.

“Perhaps the fact that we have seen millions voting themselves into complete dependence on a tyrant has made our generation understand that to choose one's government is not necessarily to secure freedom.”

The closer a democracy is to a republic, the further away it will be from despotism

"Aristotle Quotes." BrainyQuote.com. BrainyMedia Inc, 2020. 19 August 2020. <https://www.brainyquote.com/quotes/aristotle_136351>. Accessed August 13, 2020

“Republics decline into democracies and democracies degenerate into despotisms.”

CONTENTION 2: Compulsory voting violates liberty

Compulsory voting under totalitarian regimes

Joe Carter, (Joe Carter is a Senior Editor at the Acton Institute. Joe also serves as an editor at the The Gospel Coalition, a communications specialist for the Ethics and Religious Liberty Commission of the Southern Baptist Convention, and as an adjunct professor of journalism at Patrick Henry College.) 2015, “3 reasons to oppose mandatory voting” The Acton Institute <https://blog.acton.org/archives/76834-3-reasons-to-oppose-mandatory-voting.html>. MARCH 19, 2015. Accessed August 19, 2020.

“Compulsory voting violates civil liberties — The government and politicians serve the people, not the other way around. Citizens should not be obligated, by force of law and against their will, to participate in a electoral system. Padraic McGuinness [columnist with The Sydney Morning Herald] makes a powerful point about how mandatory voting is violation of liberty:

‘One of the worst features of totalitarian or oppressive regimes is that it is necessary to take an interest in politics under them, either as a result of coercion into official demonstrations and so on or in order to contest their power. Surely it is a fundamental human right to be left alone, to be allowed to live one’s own life within the law but otherwise unmolested, and to take no interest in policies at all except by choice. Compulsory voting, by imposing participation in the election of politicians and governments, infringes the right to be apolitical.’”

Compulsory voting is unconstitutional

Hans A. von Spakovsky 2015, (Election Law Reform Initiative and Senior Legal Fellow. Hans von Spakovsky is an authority on a wide range of issues – including civil rights, civil justice, the First Amendment, immigration.) “Compulsory Voting is Unconstitutional.” The Heritage Foundation, April 1, 2015. <https://www.heritage.org/political-process/commentary/compulsory-voting-unconstitutional>. Accessed August 19, 2020.

“The president apparently does not believe that the right to speak, which is protected under the First Amendment, includes the right not to speak. And there is no question that we are speaking when we make our choices in the ballot booth. When we don’t vote, we are again making a choice, a choice not to speak that also sends a political message.

“The government cannot force you to speak or to vote (or to say a prayer). While Obama may admire the small number of countries that make voting mandatory, such a requirement violates the basic constitutional rights that Americans enjoy and our most cherished liberty: the right to be left alone by the government.”

A right not to speak

Hans A. von Spakovsky 2015, (Election Law Reform Initiative and Senior Legal Fellow. Hans von Spakovsky is an authority on a wide range of issues – including civil rights, civil justice, the First Amendment, immigration.) “Compulsory Voting is Unconstitutional.” The Heritage Foundation, April 1, 2015. <https://www.heritage.org/political-process/commentary/compulsory-voting-unconstitutional>. Accessed August 19, 2020.

“It says a lot about President Obama’s political and social views that he talks about imposing a requirement that even socialist-minded countries such as Italy have rescinded. As my co-author John Fund points out, the former Italian foreign minister Antonio Martino, said that ‘there was finally a consensus that it [compulsory voting] was a basic infringement of freedom.’

“Martino understands something that Obama apparently does not. As Martino said, [Martino also said] ‘Forcing people to vote violates their freedom of speech, because the freedom to speak includes the right not to speak.’”

CONTENTION 3: Compulsory voting endangers liberty

Voter’s ignorance endangers liberty

"John F. Kennedy Quotes." BrainyQuote.com. BrainyMedia Inc, 2020. 19 August 2020. <https://www.brainyquote.com/quotes/john_f_kennedy_124805>. Accessed August 19, 2020.

“The ignorance of one voter in a democracy impairs the security of all.”

Compulsory voting and ignorance

Joe Carter, (Joe Carter is a Senior Editor at the Acton Institute. Joe also serves as an editor at the The Gospel Coalition, a communications specialist for the Ethics and Religious Liberty Commission of the Southern Baptist Convention, and as an adjunct professor of journalism at Patrick Henry College.) 2015, “3 reasons to oppose mandatory voting” The Acton Institute <https://blog.acton.org/archives/76834-3-reasons-to-oppose-mandatory-voting.html>. MARCH 19, 2015. Accessed August 19, 2020.

“Compulsory voting doesn’t change political ignorance — Just as you can force a horse to water but can’t make him drink, you can force a voter to the polls but can’t make him think. Many people choose not to vote because they are disengaged from or apathetic about politics. There is no evidence that requiring people to vote provides sufficient incentive for them to gain the information necessary to cast an informed ballot. The decision not to vote is therefore a rational one for those who have not put in the time or effort to discern which electoral choice is best for them or their country.”

Application: Betty

Jason Brennan (assistant professor of ethics, economics and public policy at Georgetown University. He is the author of The Ethics of Voting). “Mandatory Voting Would Be a Disaster.” The New York Times Opinion Pages: Room for Debate, NOVEMBER 7, 2011. <https://www.nytimes.com/roomfordebate/2011/11/07/should-voting-in-the-us-be-mandatory-14/mandatory-voting-would-be-a-disaster>. Accessed August 19, 2020.

“Imagine Betty wants to help people, but has crazy beliefs about how to help them. Betty steals food from the starving. She kicks the injured. She takes money from the poor. Betty has noble intentions, but no one needs her help.

“The best scientific studies tell us that citizens act like Betty at the voting booth. Voters have noble intentions. Yet they have systematically false beliefs about basic economics, political science and foreign policy. When We the People vote, we make bad choices, and we get what we choose.

“The median voter is incompetent at politics. The citizens who abstain are, on average, even more incompetent. If we force everyone to vote, the electorate will become even more irrational and misinformed. The result: not only will the worse [sic] candidate on the ballot get a better shot at winning, but the candidates who make it on the ballot in the first place will be worse.”

(Note: Brennan takes things quite a bit further than you need to in a debate round. He also goes farther than I would go, and further into his column he becomes very vitriolic. Be careful to generate light, rather than heat, in debate.)

In conclusion, compulsory voting both violates liberty and endangers it. Therefore we should oppose the resolution.

Affirmative Counter-Brief: Liberty

This counter-brief seeks to neutralize the negative case’s claims. The negative case is to be run with passion. But this response is to be read with a calm reasonable voice. Sound reasonable and attempt to show as well as say that the negative’s claims are overblown.
If this brief were run without mention of the Affirmative’s constructive, the round would become something of a blank slate. Therefore, it would be important to refer back to the arguments made in the constructive when running this brief. Dispute the Negative’s claims, downplay the importance of the negative’s arguments, and calmly and clearly reference back to your own constructive.

Democracy is still the best option (Churchill)

"Winston Churchill Quotes." BrainyQuote.com. BrainyMedia Inc, 2020. 21 August 2020. <https://www.brainyquote.com/quotes/winston_churchill_164161>.

“It has been said that democracy is the worst form of government except all the others that have been tried.”

Yes, democracy is a flawed system. Yes, there are problems with it. But it is the best we have, and we need to work with it and seek to defend it.

Compulsory voting and liberty

Response to “totalitarian regimes”

Just because it takes place in a tyrannical country does not make the action tyrannical.

Further, free nations have also implemented compulsory voting.

Professor Rodney Smith and Associate Professor Anika Gauja 2019, (the Department of Government and International Relations, University of Sydney.) “Hot topics: voting and elections: Compulsory enrolment and voting.” Library Council of New South Wales. <https://legalanswers.sl.nsw.gov.au/hot-topics-voting-and-elections/compulsory-enrolment-and-voting>. Accessed August 22, 2020.

“In Australia, the franchise might better be described as a duty to vote, rather than a right. Under the Commonwealth Electoral Act and the related state laws, voting is compulsory in Commonwealth, state and territory elections. Voting is also compulsory in local government elections, except in South Australia, Western Australia and Tasmania.”

The Social Contract

Some rights are surrendered for the sake of being able to live together. This principle is often called the social contract.

Thomas Hobbes (English Philosopher). LEVIATHAN: OR THE MATTER, FORME, & POWER OF A COMMON-WEALTH ECCLESIASTICAL AND CIVILL. Published by Project Gutenberg. 1651. <https://www.gutenberg.org/files/3207/3207-h/3207-h.htm>. Accessed August 22, 2020.

“The Fundamental Law of Nature: And consequently it is a precept, or generall rule of Reason, "That every man, ought to endeavour Peace, as farre as he has hope of obtaining it; and when he cannot obtain it, that he may seek, and use, all helps, and advantages of Warre." The first branch, of which Rule, containeth the first, and Fundamentall Law of Nature; which is, "To seek Peace, and follow it." The Second, the summe of the Right of Nature; which is, "By all means we can, to defend our selves."

“The Second Law Of Nature

From this Fundamentall Law of Nature, by which men are commanded to endeavour Peace, is derived this second Law; "That a man be willing, when others are so too, as farre-forth, as for Peace, and defence of himselfe he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himselfe." For as long as every man holdeth this Right, of doing any thing he liketh; so long are all men in the condition of Warre. But if other men will not lay down their Right, as well as he; then there is no Reason for any one, to devest himselfe of his: For that were to expose himselfe to Prey, (which no man is bound to) rather than to dispose himselfe to Peace. This is that Law of the Gospell; "Whatsoever you require that others should do to you, that do ye to them." And that Law of all men, "Quod tibi feiri non vis, alteri ne feceris."

Essentially, Hobbes is saying that although man in nature has a right to total liberty, in order for there to be a successful society, man can and should lay down certain rights.

 Compulsory voting is like compulsory jury duty

Amber Herrle and E.J. Dionne, Jr. “Why shouldn’t voting be mandatory?”. The Brookings Institute (a political thinktank). Friday, July 24, 2020 <https://www.brookings.edu/blog/fixgov/2020/07/24/why-shouldnt-voting-be-mandatory/> Accessed AUGUST 22, 2020.

“We argue that the United States should require citizens to participate in elections as Australia and two dozen other nations do. As it is with jury service, so it is with voting: Asserting a civic duty is the best way to guarantee the right this duty entails. Our report, “Lift Every Voice: The Urgency of Universal Civic Duty Voting,” aims to build on the achievements of the civil rights, voting rights and democracy movements by continuing to push for a series of reforms to ease access to the ballot box and make voting simpler and easier.”

Lisa Hill (professor of politics at the University of Adelaide, Australia.) “What We’ve Seen in Australia With Mandatory Voting”. The New York Times Opinion Pages: Room for Debate, NOVEMBER 7, 2011. <https://www.nytimes.com/roomfordebate/2011/11/07/should-voting-in-the-us-be-mandatory-14/what-weve-seen-in-australia-with-mandatory-voting>. Accessed August 22, 2020..

“Is being required to vote a violation of autonomy? Sure, but so is mandatory taxation, jury duty and the requirement to educate our children. Yet, these are all good ideas.”

Yes, liberty is important. But we are already required to do many different things. Being on a jury requires you to voice an opinion. Thus mandatory voting is not inherently bad because it restricts autonomy.

Compulsory voting and ignorance

Compulsory voting does not lead to more ignorance

Waleed Aly 2017, (Waleed Aly is a columnist and broadcaster and a politics lecturer at Monash University.) “Opinion: Voting Should Be Mandatory.” The New York Times, Jan. 19, 2017. <https://www.nytimes.com/2017/01/19/opinion/voting-should-be-mandatory.html>. Accessed August 22, 2020.

“Yes, there are cons. There’s the risk elections are turned by the least engaged and least informed voters. This, however, is difficult to prove, because even if less engaged voters tend to stay away when given the choice, there is also evidence that compulsory voting lifts civic engagement over all.

“It’s also clear that voluntary voting hasn’t helped the United States avoid a serious uninformed-voter problem. That might seem especially acute after a Trump campaign that offered up copious servings of fiction and conspiracy, but it is a much deeper phenomenon than that.”

Compulsory voting does not lead to more ignorance (2)

MELISSA DE WITTE, 2018, “Stanford political scientist makes the case for mandatory voting” <https://news.stanford.edu/2018/11/30/case-mandatory-voting/> NOVEMBER 30, 2018. Accessed August 22, 2020

“Some critics of mandatory voting argue that it would introduce uninformed voters into the electorate, which they say would result in election outcomes not representative of public opinion. But according to Chapman, the evidence supporting this claim is ambiguous.

“In addition, there are other challenges that may arise when only people who are interested in politics vote, said Chapman.

“’If you allow the electorate to restrict itself to only people who are already interested in politics on its own and ask them for their input, then you are only going to have people who already have a lot of power in society and are familiar with what using that power can do for them,’ Chapman said. Officials have an incentive to prioritize the concerns of likely voters over non-voters, she said. ‘And as a result, you are going to see a real difference in what interests are represented in public.’”

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3. FindLaw.com 2020 (Created by FindLaw's team of legal writers and editors. All authors, including former authors, are attorneys or writers who specialize in legal content)“What is Compulsory Voting?” March 16, 2020. <https://www.findlaw.com/voting/how-u-s--elections-work/what-is-compulsory-voting-.html>. Accessed August 13, 2020.
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