

IRV Must Be Stopped

By Andy Cilek and Matt Marchetti

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It's being billed as a "new" idea in elections which will save Democracy. Its advocates vociferously declare its ability to empower voters, provide more choices and make elections fair. So what is this "new" idea that will bring "fairness" to our elections?

It's a preferential voting system called Instant Runoff Voting (IRV). This "new" system has been around over one hundred years. It comes in various forms, but it is merely a vote-ranking system in which voters rank candidates in order of preference rather than picking just one. If no candidate gets more than 50% of first choices, the candidate with the least first choice votes is eliminated and the secondary choices from those ballots are transferred to the remaining candidates, and a new count is tallied. This process is repeated until a winner emerges.

The people pushing this idea are generally Left of Center activists, primarily "FairVote Minnesota," and others who are upset with the so-called "third party spoiler effect." This happens when nobody gets a majority. The real objection is that minor candidates draw votes from favored candidates - such as Ralph Nader siphoning votes from John Kerry. But Ralph Nader, Ross Perot, or anyone else, has a right to run for office, and the so-called "spoiler effect" is a legitimate form of political speech, known as a "protest vote," which voters have a constitutional right to use in expressing their will.

The "majority" issue is a major bugaboo for the pro-IRV crowd, but it's completely unfounded. A plurality winner, i.e. a candidate with less than 50% of the vote but more votes than anyone else, is perfectly acceptable in a representative constitutional republic. After all,

we are not electing dictators. In fact, the tendency for majorities to tyrannize the minority is a primary reason our Founders specifically avoided creating a majority-rule Democracy.

However, if people demand majority election winners, they can have traditional runoff elections, where the top two vote getters square off and another vote is taken. But this method has its own problems, including that of getting voters to participate in a runoff if their favorite candidate is not in it. IRV is offered as a magical solution to this problem: Combine the general election and the runoff into one election, and voila! Unfortunately, any time a runoff is warranted it means nobody got more than 50% of the original vote, so any majority created by IRV is merely contrived, thus is not a genuine majority at all!

IRV advocates tout its many supposed advantages, such as the claim that it will reduce election costs by eliminating primaries. Ramsey County elections manager Joe Mansky has repeatedly stated that IRV will be no less expensive than the current system, and possibly more expensive. And the logistics of counts, re-counts and more recounts will lead to chaos, confusion and an erosion of voter interest, as has already happened in San Francisco .

Proponents also claim IRV will invigorate debate. Yet by eliminating primaries, IRV actually shuts off debate. Also, the confusing array of multiple candidates will reduce elections to popularity contests in which issues are virtually irrelevant. If they truly cared about debate, would FairVote have bragged in their 501c3 documentation: "*neutralizing any opposition: By getting out early... we headed off criticism of the system...*"? Apparently they hope to implement their scheme without having to debate it.

They probably wanted to "head off criticism" because they know IRV has already been ruled unconstitutional by the Minnesota Supreme Court. They claim the 1915 *Brown v. Smallwood* ruling doesn't apply because it was

specific to the Bucklin Method, the method in question at the time. This argument won't wash. The Court did NOT specify any particular method, but rather said, "*The preferential system directly diminishes the right of an elector to give an effective vote for the candidate of his choice.*"

The Court also said the Constitution implicitly forbids any elector to cast more than a "*single expression of opinion or choice.*" Proponents argue that IRV passes this test because of the multiple votes cast, only one is actually counted - the one applied to the voter's highest preferred candidate eligible to receive it - utterly laughable rhetorical trickery! The issue is NOT how votes are counted, transferred or otherwise manipulated, but how many votes (choices) each voter may cast. Since IRV allows voters to rank multiple candidates, it does indeed "share this fatal flaw."

IRV has another fatal flaw; it does not allow for all votes to be counted equally. The only secondary choices counted in IRV are the votes taken from the ballots of 'defeated' candidates. This means that some voters have their 2nd choice while others do not.

But IRV's deadliest flaw is that the effect of one voters' ranking order is altered by the ranking orders of other voters in an unknown and unknowable way. Voters can even hurt their favorite candidate with a higher ranking. This is known as the 'nonmonotonicity' paradox, which prompted the Court to say "*the mathematical possibilities are infinite.*"

The Court further defended their ruling by stating, "...we do right in upholding the right of the citizen to cast a vote for the candidate of his choice **unimpaired by the second and additional choice votes cast by others.**" In a one-person, one-vote system, voters know they are helping their candidate by voting for him, not so with IRV.

Preferential voting violates the principles of representative constitutional government. In any form, it is an undemocratic and unconstitutional

scheme which, if successfully foisted upon an unsuspecting public, will minimize the power of the voters by diluting their votes and removing them further from the electoral process.

It must be noted also that prior to IRV being placed on the 2006 MPLS ballot, City Attorney Burt Osborne warned against placing IRV on the ballot citing the Brown decision. The City Council and Mayor failed to heed this warning and pushed it through anyway. If we value true "government of the people..." IRV must be stopped.

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Co-founders, Minnesota Voters Alliance: a citizens' group (501c4) formed in the interest of liberty, transparency in government and a well-informed electorate.

You may visit the Minnesota Voters Alliance website at www.mnvoters.org for an in-depth discussion of this and other related topics.