

The “Notwithstanding” Gambit

"A STEALTH DAGGER TO THE HEART OF FAIR ELECTIONS"

by [Joseph DeMaio](#), ©2021

Calendar No. 125

117TH CONGRESS
1ST SESSION

S. 2747

To expand Americans' access to the ballot box and reduce the influence of big money in politics, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2021

Ms. KLOBUCHAR (for herself, Mr. KAINO, Mr. KING, Mr. MANCHIN, Mr. MURKLEY, Mr. PADILLA, Mr. TESTER, and Mr. WARNOCK) introduced the following bill;
which was read the first time

SEPTEMBER 15, 2021

Read the second time and placed on the calendar

A BILL

To expand Americans' access to the ballot box and reduce the influence of big money in politics, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

(Dec. 31, 2021) — Now that the Goofball’s multi-trillion-dollar “Bankrupt America by Sundown” bill has itself been “sun-setted,” thanks to the rational statesmanship of Sen. Joe Manchin (D. VA), the Democrat radicals in Congress must focus attention elsewhere.

That “elsewhere,” facilitated by a sycophantic mass media, appears to be S.2747, the so-called “[Freedom to Vote Act](#).” The stated purpose of the bill is to “expand Americans’ access to the ballot box and reduce the influence of big money in politics, and for other purposes.” Two points to keep in mind: (1) the bill purports to foster the expansion of ballot box access for “Americans;” and (2) the bill seeks to legislate “for other purposes.”

As with most federal proposals, the bill is a hyper-byzantine labyrinth of interdependent definitions, prohibitions, authorizations, exceptions, provisos, exceptions to exceptions and – significantly for purposes of this offering – “notwithstanding.”

The term “notwithstanding” is for general purposes [defined](#) as meaning “despite,” “nevertheless” or “although” and usually connotes an exception from an otherwise applicable policy or protocol. In the case of S.2747, in the version appearing on the Congress.gov website, there are (at present) twenty-two (22) appearances of the term. However, on the .pdf version of the proposed legislation – which is accompanied by the statement that the “PDF provides a complete and accurate display of this text” – there are only sixteen (16) appearances in the relatively-short 594-page proposal.

Really? Did 6 occurrences of the term disappear by ellipsis? Does [Jack Maskell](#) now work at the Government Printing Office?

That unexplained anomaly aside – yes, Virginia, a shocking revelation in a document prepared by the Congress and the Government Printing Office – the use of “notwithstanding” throughout the bill allows the proposed legislation to accomplish results “notwithstanding” other, previously-enacted laws forbidding such things. In effect, the “notwithstanding” gimmick allows the enactment of laws without the overt “red flag” needed to “repeal” previously-enacted laws which evince a contrary legislative intent. It is a shortcut mechanism to articulate that we are to “never mind” the other laws without going so far as to formally repeal them.

Your humble servant has not (yet) completed a word-search survey of S.2747 to determine whether, for but one example, the bill proposes that foreign non-U.S. citizen aliens – both lawfully or unlawfully present here – would be allowed to vote for president and other federal officeholders “notwithstanding” the contrary provisions of [18 U.S.C. § 611\(a\)](#).

Subject to a raft of exceptions, provisos and “reasonable beliefs” – whatever that means – 18 U.S.C. § 611(a) makes it a crime for persons other than U.S. citizens “to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner....” Subsection (b) of the statute provides for punishment on conviction of a fine, imprisonment for up to one year, or both.

Interestingly, the “Statement of Policy” in § 1000(b) of the bill states that “It is the policy of the United States that “(1) the ability of all eligible *citizens* of the United States to access and exercise their constitutional right to vote in a free, fair, and timely manner must be vigilantly enhanced, protected, and maintained....” (Emphasis added)

This suggests, at least, that the bill recognizes that it is the right of “eligible citizens,” rather than “ineligible foreigners,” to have their constitutional voting rights protected and maintained. Lamentably, S.2747 does just the opposite, particularly with regard to voter registration via the Internet (§ 1021), mail-in ballots (§ 1304) and requirements for voter identification (§ 1801).

With the Goofball’s eradication of the nation’s southern border and his invitation to millions of illegal aliens to cross into the United States prior to the November 2022 mid-term elections, would it surprise any sentient person that the Goof – as well as those advocating for the expansion of voting “rights” to any and all persons merely present here, regardless of their citizenship status – would favor a provision in S.2747 stating that “notwithstanding” any contrary provisions of 18 U.S.C. § 611, aliens should be allowed to vote for the persons identified in that statute? That would seem to be a more stealthy way to authorize aliens to vote in the 2022 mid-terms instead of outright bestowing U.S. citizenship on them, which would likely generate substantial opposition and blowback from those who adhere to the Constitution.

Given that the Goof has recently done yet another 180° reversal on his prior position as to preserving the [Senate filibuster](#), seeking a “carve-out” for “voting rights legislation,” it would appear that the “notwithstanding” gambit is alive and well in S.2747.

The clown now occupying the Oval Office is, without serious question, the worst excuse for a chief executive in the history of the Republic. And yet, blinded by the intoxication of unrestrained power and mendacity, the Democrats in Congress, led by their Goof, are prepared to do whatever it takes to further the erosion of the pillars supporting the Republic.

Stated otherwise, S.2747 is a stealth dagger to the heart of fair elections for federal officeholders..., notwithstanding arguments to the contrary.