

OPED

Is Voting By Mail Coming To NY?

BY NORMAN P. GREEN
AND BRIAN C. ABRAM

We have been watching with great interest as a few states in the U.S.A. have been forced into absentee voting during the current COVID-19 outbreak. Conducting mostly low turnout and rushed implementation of vote by mail primaries, states have had to overcome more than a few pitfalls. But we've been proud how our far-flung election professionals have responded under extremely trying conditions.

New York's State Constitution is the number one stumbling block to any balloting by mail in our state and currently only allows that "...qualified voters who, on the occurrence of any election, may be unable to appear personally at the polling place because of illness or physical disability, may vote and for the return and canvass of their votes."

However, this year is different. Due to the Coronavirus Pandemic, the State Legislature has granted Gov. Cuomo unprecedented far reaching emergency powers that might possibly allow him to declare that voting by mail for the Nov. General Election is in the state's best interest to protect its citizens from the virus.

The question for our state starts with New York City with its nearly four million registered voters and it would seem to be the impossible place to roll out a new vote by mail program in normal times. Currently, many of the city election board members are sick with the COVID-19 virus and sadly several have died. Mandating voting by mail in the city would be a non-starter. Add to that the fact many election supply vendors are closed down due to the virus and that there is a national envelope shortage. Our fellow election professionals have signaled to the two of us that they are not at a point even close to making vote by mail a reality. For this and other technical and less technical reasons, voting by mail seems to be a non-starter for all of the Empire State. It's an all or none solution. A patch work of county voting processes across the state would not be fair.

Be assured that Chautauqua County is ready to convert to mail-in balloting if ever ordered by New York State. We are one of a half dozen counties that prints ballots in-house saving the county \$50,000 to \$100,000 each year and our on-demand Board of Elections run in-house print shop allows our County to turn on a dime to take on any new mandates. Our County is already heavily stocked and prepared with the various ballot envelopes needed for vote by mail or absentee voting, but stock levels are not currently enough for a full-blown November balloting by mail. We have purchased with secured federal grant money, high speed vote counting scanners known as central count machines that have allowed for a smooth in-take and counting of absentee ballots at our Mayville offices for the past several election cycles. Further, to our benefit, Chautauqua is the perfect sized mid-level county that has the resources including a top notch Information Services computer department to make a new ballot by mail procedure happen and our county is not so big that the task would be too overwhelming.

Citizen friends in the general county community have simplified vote by mail in their heads so that it should be an easy implementation and roll out. But we all need to be sympathetic to the complications of any vote by mail system particularly for extremely large and extremely small counties.

Due to the insurmountable roadblocks, voting by mail in 2020 seems to me to be an impossibility. However, COVID-19 may be the kick-start our state needs to move ahead with no excuse mail in voting. Be assured as always is the case, your Chautauqua County Board of Elections is ready with a plan if the call from the state for early voting ever comes.

Norman P. Green and Brian C. Abram are both Chautauqua County Election Commissioners.

Thanks For Staying Home

BY MAYOR EDDIE SUNDQUIST

Just over one month ago, I declared a state of emergency in the City of Jamestown over the public health pandemic known as COVID-19.

At that time, my team and I, along with our public schools, recognized the tremendous impact this public health crisis was going to have on our community. It was never a matter of if, but when the virus would come to Jamestown. We were proactive and prepared, and it shows. We closed all public spaces and offices, we stopped all non-essential projects, we

increased public safety capabilities, and we enforced executive orders to stop the spread. As a city, we sent all of our non-essential employees home, with pay, so that we both could prevent the spread and that no employee would have to worry about feeding their families during this unprecedented time.

While most of the area took a "wait and see" approach, we, as one community, refused to accept that. We heeded the public safety warnings, we listened, and we stayed home. It shows. Every day I come into work, I am briefed on the number of cases and tests completed

in the greater Jamestown area, county, and state. To see our city's active cases stay so low points to the fact that our actions are not in vain. That the steps we took while others waited, meant that we, as a community, are succeeding at slowing the spread of this virus.

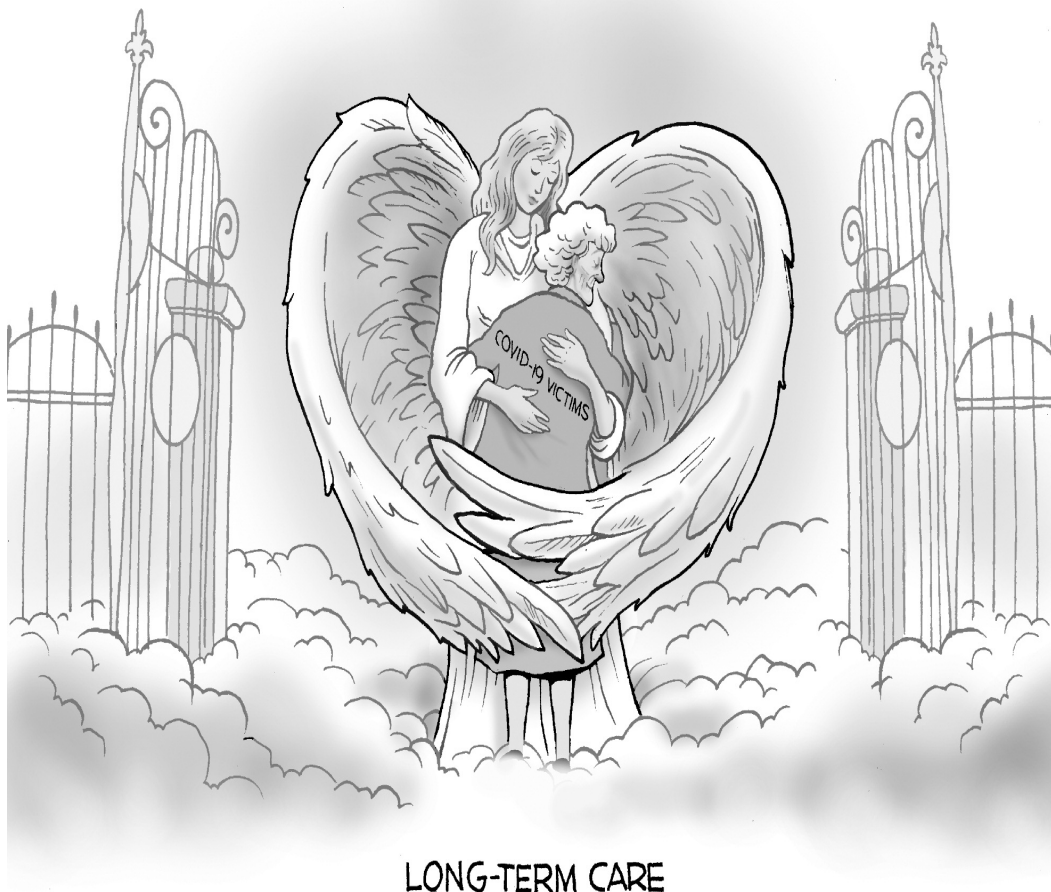
I have never been prouder of our community than I am right now. In times of crisis, you have shown me that we can overcome, that we can prevail. It gives me hope for our future. But, make no mistake, we are not out of the woods yet. Just because we have slowed the spread, doesn't mean we have

yet stopped it. We have several more weeks to go before we begin to see some normalcy back in our lives. We must continue to make the difficult decisions to act with the health and safety of our entire community and the most vulnerable in mind.

I look forward to the day I can once again come to your door or see you at an event, shake your hand, and say "thank you" for doing your part in helping protect our community during this vulnerable time. We are in this together.

Eddie Sundquist is mayor of Jamestown.

San Diego Union-Tribune © 2020
CREATORS.COM



LONG-TERM CARE

Citizens United Is Widely Misunderstood

BY RANDY ELF

Welcome to the first reader-inspired edition of this regular column.

What was the inspiration? To explain briefly what the U.S. Supreme Court's widely misunderstood decision in Citizens United v. Federal Election Commission does and doesn't do.

Let's back up. Political-speech law comes in two types.

One type bans or otherwise limits political speech.

The other regulates — that is, requires disclosure of — political speech. Disclosure may constitutionally proceed on two tracks.

Under Track 1, government may trigger political-committee burdens for organizations meeting particular criteria. Such burdens can include registration, recordkeeping, extensive reporting, and ongoing reporting.

Under Track 2, government may require less burdensome, non-political-committee disclosure for particular speech.

Citizens United has two sets of political-speech-law holdings.

One set upholds Track 2 disclosure requirements for particular speech. This doesn't change constitutional boundaries around government's power to trigger Track 1 burdens.

Why are such boundaries important?

One reason is that law triggering Track 1 burdens beyond constitutional boundaries can chill political speech.

Unless, for example, speakers can afford to hire professionals to help them comply with such law.

When that happens, such law in effect shuts little players out of — and leaves big players with less competition in — the marketplace of ideas.

As this columnist wrote in 2016, the most insidious aspect of such law is that it protects big players at little

players' expense. That's what those advocating or defending such law are in effect doing.

They're in effect protecting the 1 percent.

Although big players and little players have the same First Amendment rights, the former have no right to political-speech law protecting them at the latter's expense.

The other set of Citizens United holdings is different.

Under this set, the only constitutional justification for banning or otherwise limiting political speech by non-foreign nationals is the prevention of quid-pro corruption, or the appearance of quid-pro corruption, of candidates or officeholders.

Independent spending for political speech is independent of, and not coordinated with, candidates or officeholders, so Citizens United holds such spending can't cause such corruption or its appearance.

Thus, government may not ban or otherwise limit such spending by non-foreign nationals. Under Citizens United, the fact that a speaker is incorporated doesn't change this.

The law at issue in Citizens United bans domestic corporations and domestic unions from engaging in particular independent spending for political speech. After Citizens United, such bans are unconstitutional.

Misunderstandings of this part of Citizens United abound. For example, it doesn't:

- Address the constitutionality of law banning or otherwise limiting other independent spending for political speech by domestic corporations or domestic unions.

Such bans and such limits were unconstitutional before Citizens United. They still are.

Does Citizens United reinforce those points? Yes, but such bans and such limits were already unconstitutional.

- Support anonymous

speech.

If domestic corporations or domestic unions engage in political speech, disclosure law can apply, as it can when others engage in political speech. However, such law must be constitutional.

- Apply to foreign nationals, such as foreign corporations or foreign unions.

- Address the constitutionality of law banning or otherwise limiting contributions received from non-foreign nationals for independent spending for political speech in which the contributor and the speaker have a First Amendment right to engage.

Such bans and such limits were unconstitutional before Citizens United. They still are.

Does Citizens United reinforce those points? Again, yes, but such bans and such limits were already unconstitutional.

- Address law banning domestic corporations or domestic unions from making contributions other than for independent spending. These include, for example, contributions to candidates.

Citizens United may or may not undermine previous Supreme Court opinions upholding such bans.

Yet since Citizens United, no appellate court has held such bans unconstitutional.

Even if such bans were held unconstitutional, that wouldn't mean such corporations or such unions could make such contributions without limit.

Why? Because constitutionality limits on such contributions would still apply. Such limits can be constitutional when such bans aren't.

Randy Elf is the author of a 2016 Regent University Law Review article on the constitutionality of law regulating political speech. The article is at <http://www.regent.edu/acad/schlaw/student-life/studentorgs/lawreview/docs/issues/v29n1/10-Elf-vol-29-1.pdf>.

The Queen's Speech

BY ROLLAND KIDDER

Though we don't have a monarchy in this country, I think we have, in a subconscious way, adopted the British Royal family. In that regard, I thought the Queen's speech on April 5, 2020, was one of the most inspiring I have seen about the need to rally and support efforts to beat the coronavirus.

Americans find something magnetic and almost magical when it comes to the British Monarchy. I can still remember my mother, in 1953, fixated around our first black and white television set (which had a rather fuzzy picture resolution that faded in and out) watching for a couple of days all of the pageantry surrounding the coronation of Elizabeth II. Elizabeth was then 26 years old. Now, she is 93, and her presence and words still draw Americans in.

So, here she was, a couple of weeks ago, alone, taking precautions because of the virus, with just one cameraman in the room, dressed plainly with a matching brooch and simple pearl necklace, looking out at the world and the British people speaking plainly about a threat which she deemed to be as serious as the one she had experienced in World War II as a young girl. Just her presence had a calming yet energizing effect.

"I'm speaking to you at what I know is an increasingly challenging time, a time of disruption in the life of our country, a disruption that has brought grief to some, financial difficulties to many, and enormous changes in the daily lives of us all."

Though not a part of the operational side of government, she was stepping up, knowing that her Prime Minister had been taken to the hospital with a COVID-19 infection, and providing encouragement as she had as a young girl during World War II to reassure and provide hope for her people. I found it to be profoundly moving.

"Together, we are tackling this disease, and I want to reassure you that if we remain united and resolute, then we will overcome it.... I hope in the years to come everyone will be able to take great pride in how they responded to this challenge... that the attributes of self-discipline, of quiet, good-humored resolve, and of fellow feeling still characterize this country."

She ended with words of hope for "all nations across the globe in a common endeavor...." "We should take comfort that while we may have still more to endure, better days will return. We will be with our friends again. We will be with our families again. We will meet again. But, for now, I send my thanks and warmest good wishes to you all."

If my mother were alive, she would have been mesmerized by these words and the person saying them. She would also probably have called me or one of my siblings to find out how she could listen to the speech again and again over U-tube or some internet connection. She could never get enough of the royals.

Some of this must have rubbed off on us kids. We may not have a monarchy in this country, but, when the Queen speaks, I often feel she is speaking for me.

Rolland Kidder is a Stow resident.

READER'S FORUM

What's The Plan?

To The Reader's Forum:

In Chautauqua County we have had very few cases of coronavirus thanks in part to our low population and doing our best at staying apart. That could all change as tourism season ramps up.

Does Chautauqua Institution have a plan? Does Chautauqua health services have a plan? Do our hospitals have a plan?

If they do, great. But based on the media coverage, or lack of, I'm worried that Chautauqua County will experience its peak in cases in July. What's the plan?

David Ensminger,
Ashville