

After a stirring introduction from the editors that frames the primary debate, albeit with a public law bent, the next three chapters provide the history and context of contracting in the United States. All three are valuable, but William Novak's chapter on the history of public-private governance in the United States will be particularly informative for those who lack the long view of government contracting and, instead, point to the latter half of the twentieth century as the dawn of public service contracting. The next three chapters form the basis of the primary critique of the current system. They examine "cases" of contracting, focusing on regulation, defense, and prisons. The cases are all well researched and provide sharp critical insights into the flaws of some contract arrangements in these service areas. On the other hand, these chapters are sometimes narrowly constructed, both in their case selection and in their analysis. The critiques occasionally cherry-pick the most egregious examples of contract failure along the public law dimensions that concern the authors—lack of transparency, diffuse accountability, insufficient due process, and so on. This is not to say that these problems do not exist in the current system. As the authors rightly point out, they do. The risk, however, of such analysis is that a few selective cases serve as the basis for reforming a system that encompasses a vast array of public agencies that deliver very different types of public services in very different ways.

Yet here is the power of the volume. Rather than distill solutions directly from these cases, the editors turn the stage over to those who offer well-thought-out explanations for the current system, sometimes even making the case for relaxing some of its current constrictions. Chapters by Steve Kelman and by Stan Soloway and Alan Chvotkin provide balance to the public law emphasis of the volume. Kelman, Soloway, and Chvotkin write from the experience of working directly with those who implement services and bring voice to the considerations of contracting's programmatic goals. Kelman's chapter, in particular, frames the trade-offs inherent in tightening accountability or enhancing transparency. As he writes, "Most importantly, I seek to remind people from the public law world that contracting has substantive goals and aims—to help government agencies meet their missions to serve the public—that should not be lost while attending to public law issues" (p. 154). No change is without cost.

In a similar vein, these chapters are followed by contributions from legal scholars who point to ways that existing tools can be used more effectively to address public law considerations while minimizing the impact on contracting's programmatic goals. The volume concludes where it started, with a public law critique of the current arrangement, telling readers that the pragmatic demands of delivering increasingly complex services via public-private service delivery networks must all take place

within the context of the U.S. Constitution and its prevailing, though often conflicting, principles. Among the final three chapters, Laura Dickinson's contribution puts the public law coda on the volume, recommending practical public law-based recommendations to improve the practice of contracting.

The scales of the book definitely tilt to the public law side, in large part through the selection of extraordinary cases of contracting's failure to attend to public law considerations. While at times the contributors perhaps unfairly elevate transparency, fairness, and accountability as "public values" over efficiency, quality, and performance as baser technical goals, in total the book signals the importance of all of these values in the delivery of public services. Ultimately, the value of *Government by Contract* is the well-structured platform it provides for framing the trade-offs among these important values in public sector contracting.

The Democracy Index: Why Our Election System is Failing and How to Fix It. By Heather K. Gerken. Princeton: Princeton University Press, 2009. 192p. \$24.95.

Bush v. Gore: Exposing the Hidden Crisis in American Democracy. By Charles L. Zelden. Lawrence, KS: University Press of Kansas, 2008. 416p. \$34.95.
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— Stephen J. Wayne, *Georgetown University*

The Constitution of the United States requires the states to conduct elections for federal officials subject to any legislation Congress may enact. The Framers gave the states the authority to determine the time, place, and manner of holding elections to avoid the issue of voter eligibility, to acknowledge the principle of federalism, and to overcome the national government's lack of personnel to administer simultaneous elections across the country, much less tabulate the vote accurately and in a timely fashion. In granting the states this power, the Framers did not anticipate the creation of political parties that would perceive the electoral system as the key to their acquisition and maintenance of power, nor did they foresee the developments in communications technology that have occurred over the years.

As a consequence of the decision, and despite the passage of laws and constitutional amendments that have limited states' discretion, the states continue to prescribe and enforce the rules by which elections are held, voter eligibility is determined, and ballot access is established. They also decide on the polling places, manner of voting, and the type of ballots, and/or they delegate some or all of these decisions to local voting districts. The result, a very decentralized electoral voting system, has produced a mish-mash of laws and procedures that undercuts the conduct of a democratic electoral process and occasionally affects election outcomes.

The Electoral College vote in Florida in 2000 is a case in point. Citizens were prevented from voting by faulty registration lists, which allegedly were administered in a discriminatory manner; confused by ballots on which the candidates' names were not listed, next to the places at which votes for them should have been entered on the ballot; and daunted by voting machines that underrecorded the vote by not counting ballots on which the precut spot (chad) had been only partially punched through. There was also a problem with absentee ballots that did not have a voter identification number and/or a proper postmark.

The election of 2000 was not the first year in which the state of Florida experienced these problems, nor was it the first state to do so; however, it was the first time in over a hundred years that a single state's voting problems could have affected the outcome of the presidential election. It took more than five weeks and a controversial Supreme Court decision to resolve the Florida election and the presidential contest.

One would have thought that the "constitutional crisis," as it was often called, would have generated public pressure for electoral reform. And it did in Florida, several other states, and to a lesser extent, in the country as a whole. The governor of Florida appointed an elections task force, and the Florida legislature accepted some of its recommendations: to eliminate punchcard balloting and vote tabulation, to allow provisional voting for those who claimed that they had registered but whose names did not appear on the voting lists, and to centralize state registration data, although local election officials remained in charge of collecting such information. A few other states also eliminated punchcard ballots and changed their rules and procedures for recounts, but comprehensive reform was not undertaken. On the national level, Congress enacted the Help America Vote Act in 2002, providing federal funds (of \$3.8 billion) for the states to systematize and computerize their registration records and to buy more modern voting machines. Provisional voting for those with registration problems, as well as identification requirements to avoid fraudulent voting, were also put in place. A new federal agency, the Election Assistance Commission, (<http://www.eac.gov>) was also established.

Problems remained, however, and were particularly evident in Ohio in 2004. Registration difficulties included a paper-weight requirement that made downloading forms from the Internet difficult due to the fact that only certain types of paper were considered valid for the forms; partisan challenges to new registration applications; the purging of people from registration lists who had not voted in the previous election; insufficient voting machines, especially in districts with lots of minority voters; and the presence of more partisan poll watchers. All of these problems raised questions about the validity of the Ohio vote, although the Democratic presidential candidate, John Kerry, decided not to challenge the results in that state.

Similar problems were evident in 2006 and 2008, but with few exceptions—the 2006 governor's race in Washington, the 2008 Senate contest in Minnesota, and a few congressional seats in both elections—the problems were not thought to be sufficient to change the outcome of the vote. The persistence of such problems, the lack of national public outrage, and the failure of government to resolve these issues motivated Heather K. Gerken and Charles L. Zelden to write books about the broken electoral system.

Gerken's title, the *Democracy Index*, is also the name of her plan for getting states and local districts to devote more time, resources, and good-governance initiatives to the improvement of their electoral processes. She sees a multitude of problems, summarized on page 1: "Ballots are discarded. Poll workers are poorly trained. Registration lists work badly. Lines can be too long. Machines malfunction. Partisan officials change the rules of the game to help themselves and hurt their enemies. Election administrators cannot agree on what constitutes best practice, or even whether there is such a thing. Authority is decentralized so it's hard to know who's to blame when a problem occurs."

For people who pride themselves on their democratic values, on free and fair elections, why would Americans put up with such undemocratic practices? Why would public officials who regularly brag about the democratic system by which they were elected not go out of their way to eliminate any aspect of the system that detracted from its democratic character?

Gerken's answer to the first question is that the public is indifferent because the electoral system's defects probably make little difference in the results. In other words, people do not view electoral problems as salient unless they contribute directly to the outcome of the election. The candidate-centric perspective of the voters, the game-oriented coverage of the media, and the lack of efficacy among those most apt to be directly affected by suffrage and voting issues account for the absence of public pressure to right these democratic wrongs.

The author answers the second question with the word, "self-interest." Partisan politicians use the electoral system to secure and maintain their positions of power. They do so through the drafting of electoral districts (gerrymandering), the appointment or election of partisan officials to administer the elections, and appeals to voters' partisan and policy positions, not to the predilections and positions of the populace as a whole. Why would those who have benefited from a system want to change it? The answer is that they would not, unless it enhanced their reelection potential. Ever wonder why 90% of the House of Representatives and 80% of the Senate have regularly been reelected since the 1970s?

There is another problem. States and localities have more pressing public concerns on which to spend their limited budgets. Schools, roads and mass transit, and social

services tend to be yearly priorities; elections are not. What is the incentive for state legislators or local officials to appropriate millions for new election machinery when most elections are not close, when most people (a majority of the voting-age population, even a majority of eligible voters) do not vote, and when most of them are more often than not uninformed and unconcerned about issues that do not affect them directly?

A specialist in elections law and a political activist (see her Afterword), Gerken is concerned about election issues and troubled that the public, even the attentive public, is not equally concerned. Her book seeks to inflame these issues by exposing the problems and the political and federal impediments to solving them. She argues for a solution based on social science data and incentivized by a democratic-based competition among electoral districts and states.

Three measurable criteria serve as the calculus for her Index: registration, balloting, and counting (p. 123). The objective should be to ensure that all voters have an opportunity to register, to vote, and to have their votes counted accurately. From the perspective of election administrators, the merits of a democratically based competitive system include improving their scores, collecting more and better data on elections, and using low scores as a vehicle for rallying public and political support for more resources to rectify the problems.

The costs of developing the Index and getting states to participate would be minimal, according to Gerken. No national legislation would be necessary although then-Senators Hillary Rodham Clinton and Barack Obama did introduce bills to facilitate the collection of critical democratic data. States would not be burdened with an additional federal mandate. Innovation and experimentation at the state and local levels would still be possible, even more probable, given the competition to be number one.

When I began reading Gerken's work, I was dubious of her project and the way she presented it. There were lots of anecdotes, little data, and a deceptively simple writing style that was too readable for most political scientists to take seriously as scholarship. Why would *Perspectives on Politics* want to review such a book? I soon found out that I was wrong on several counts: The anecdotes personalized the issue with concrete experiences from election officials and index developers; the lack of data is part of the problem, one that the book is intended to help rectify; and the author's engaging prose still builds a powerful case for the Index, an argument without a lot of legal jargon but with a wealth of up-to-date, political science citations. Gerken is well aware of the pertinent literature and uses it effectively to describe the information we have about voting and the information we lack. I found her argument compelling. I was particularly impressed by the way in which she anticipated criticisms and responded to them. The psychological underpinning upon which she bases

her case is equally impressive. This is a very good book with an important idea. I hope that it gains a wide and appreciative readership that generates a much-needed debate on election reform in the United States.

Zelden has also written an important scholarly work. Most of *Bush v. Gore* painstakingly details the politics and legal maneuvering that in occurred in Florida and Washington following the controversial presidential vote in 2000. The author presents both description and analysis. He writes very clearly and has carefully researched the controversy, producing probably the most definitive study of the 2000 Florida presidential vote to date.

Comprehensive in his approach as well as his analysis, Zelden critiques the Supreme Court's decision. He calls it a self-inflicted wound and a missed opportunity. The wound, which embroiled the Court once again in the political thicket, raised allegations of the justices' partisanship, their overreach, and the conservative majority's inconsistency with its own nonactivist jurisprudence. The missed opportunity relates to the narrowness of the decision and the Court's failure to allow the equal protection standard, upon which the majority based its opinion, to be applied broadly to other election issues. Zelden concludes that the Court not only reduced its stature in the eyes of many voters but also failed to generate a debate on the nature of democratic elections and the need to recognize the distance of the gap between the theory and practice of American democracy. That gap highlights a significant and salient issue for a country that prides itself on its democratic values and the political system that those values have produced.

Do Voters Look to the Future? Economics and Elections. By Brad Lockerbie. Albany: State University of New York Press, 2008. 170p. \$65.00 cloth, \$21.95 paper.
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— Michael H. Murakami, *Georgetown University*

The economic voting literature is vast. With a search on Google Scholar of "economic voting" yielding more than 3,000 articles, one would imagine it quite difficult for a scholar to break new ground. Yet Brad Lockerbie does so in his new book, not by providing a novel theoretical framework but by revisiting classic ones with an expansive examination of the importance of prospective evaluations for federal elections in the United States. As the title of the book reveals, he weighs in on one of the two most important and long-standing debates in the economic voting literature: Do citizens vote retrospectively, looking back rather myopically to past performances of incumbent government officials? Or do they vote prospectively by utilizing a wider array of political information to form expectations about the party that will provide better outcomes in the future? As Lockerbie notes, the answer to this question is hardly trivial but, rather, speaks