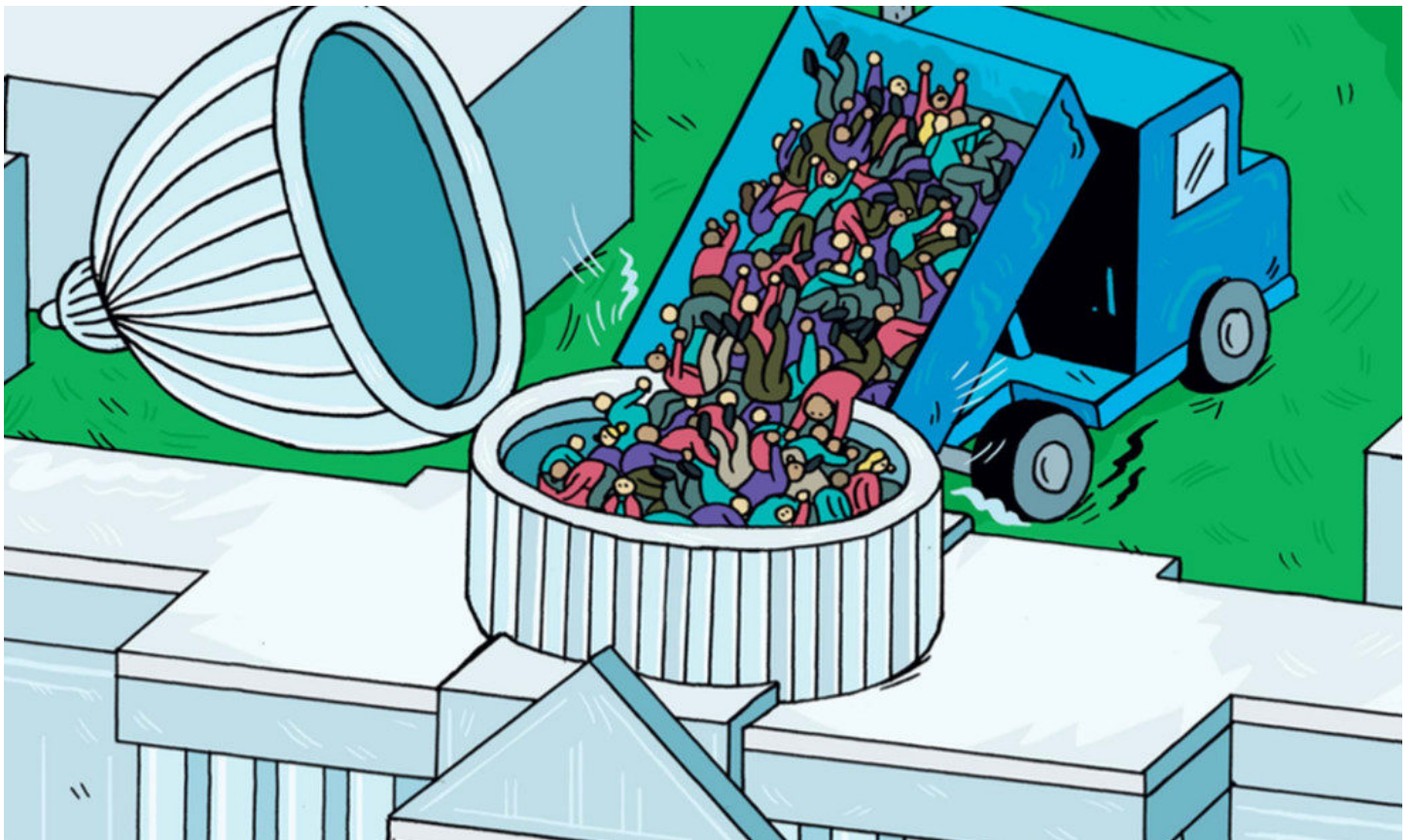


# CURRENT AFFAIRS

*A Magazine of Politics & Culture*

JUNE 26, 2017

## WHY NOT HAVE A RANDOMLY SELECTED CONGRESS?



Selecting the House and Senate like juries would not be ideal,  
but it would definitely be better.

by BRIANNA RENNIX & NATHAN J. ROBINSON

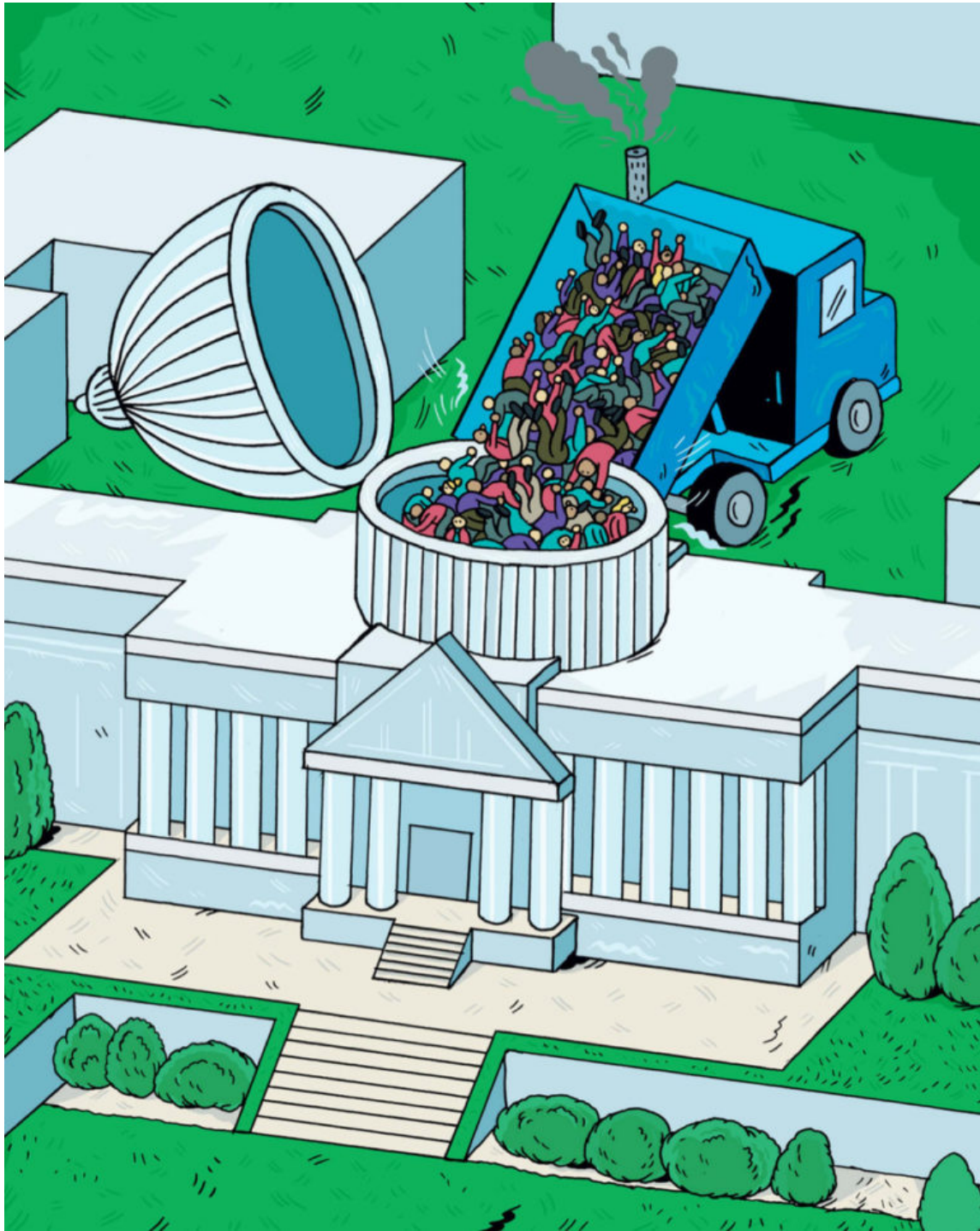
It is no secret that elected legislators are generally either inept or heinous. The data confirm that Congresspeople have a lower approval rating than marketing executives and bubonic plague. The only mystery, then, is why we keep them around. Part of the reason seems to be that we can't seem to think of an alternative way of governing ourselves that isn't far, far worse. Democracy is the worst thing in the world, so the saying goes, except for everything else in the world.

But what if it isn't? What if there is a better system of choosing our overlords? In fact, there is: *sortition* (<https://en.wikipedia.org/wiki/Sortition>), or random selection. We could do as the Athenians once did, and select our legislators like we select our jurors: by picking citizens off a list, and asking them to govern.

Instead of a legislature filled with the typical crop of ghouls, sleazes, and Small Business Owners, imagine one filled with schoolteachers, pipe-fitters, book-binders, typewriter repairmen, lifeguards, bellydancers, whaleboat captains, flight attendants, and strawberry-pickers. Yes, the occasional petty criminal or podcaster might be drawn by mistake. But such is the diversity of the nation. The randomly selected congress would display a full polychromatic cross-section of America's extraordinary populace.

As it is, our legislators are intolerable people. The fact that we elect them has failed to make them any better. Choice does not yield superior results; something has gone horribly wrong. In fact, if we had paid any attention to our Greek forebears, we would have been unsurprised. Aristotle said that elections produced oligarchies, but random selection produced democracies. It is difficult not to think he was on to something.

A fully representative congress, assigned by lot, would ensure that our governing bodies actually resembled the population for which they are supposed to enact laws. We may not like what it would look like, but at least it would look like us.



Certainly, there are arguments to be made in favor of elections. There's something that *feels* right about having a legislature elected by public vote. This is, after all, the gold standard for democracy around the world: a previously corruption-ridden state “becomes” democratic as soon as it holds free, fair elections. We have a general sense that a legislature, because elected, must therefore “represent” the people who voted for it. But in what sense does it represent them?

Demographically? We all know that isn't true. Take our current Congress, which is 80% male, 95% college-educated, and 50.8% millionaires. The population it “represents” is 50% male, 30% college-

educated, and 5% millionaires. That's not even close.

Well, you might say, the legislature doesn't need to be an exact demographic mirror of the population, so long as it matches them ideologically. If your Congressman (or Congresswoman, but probably Congressman (<http://www.cawp.rutgers.edu/women-us-congress-2017>)) puts forward the kinds of policies that you yourself would wish to see advanced, why does it matter whether you and he happen to have wildly different backgrounds? That would be an excellent argument, if Congress usually put forward policies that Americans agree with. Alas, it does not. One Princeton study ([https://scholar.princeton.edu/sites/default/files/mgilens/files/gilens\\_and\\_page\\_2014\\_-testing\\_theories\\_of\\_american\\_politics.doc.pdf](https://scholar.princeton.edu/sites/default/files/mgilens/files/gilens_and_page_2014_-testing_theories_of_american_politics.doc.pdf)) estimates that, statistically speaking, the preferences of 90% of the American electorate have a "near-zero" impact on policymaking. And a number of highly-publicized legal reforms with a broad popular mandate, such as ([http://www.slate.com/blogs/the\\_slatest/2013/01/17/gunshow\\_loophole\\_nearly\\_everyone\\_is\\_on\\_board\\_with\\_at\\_least\\_one\\_of\\_obama.html](http://www.slate.com/blogs/the_slatest/2013/01/17/gunshow_loophole_nearly_everyone_is_on_board_with_at_least_one_of_obama.html)) closing the gun show loophole, have never made it anywhere near the President's desk. How is that possible in a "representative" Congress?

The obvious answer is that Congress is not representative of the population in any meaningful sense. (Of course, many of the reasons why this is so are obvious: high educational and financial barriers to entry, out-of-control campaign spending, grossly disproportionate donor and lobbyist influence, party-controlled nominations, obsessive focus on reelection prospects, etc., etc.) But ah, you might say, that's not what's meant by "representative." A legislator isn't someone you expect to think *like* you: he's someone you empower to think *for* you, because he is specially qualified for his job.

But consider the fact that this is nonsense. First, nobody actually believes that our legislators are especially qualified people. (We might note in passing that over 40% ([http://www.abajournal.com/news/article/lawyers\\_no\\_longer\\_dominant\\_congress\\_is\\_commercialization\\_of\\_profession\\_to\\_b](http://www.abajournal.com/news/article/lawyers_no_longer_dominant_congress_is_commercialization_of_profession_to_b)) of Congress are lawyers, reportedly viewed by the public (<http://abovethelaw.com/2013/07/lawyers-the-most-despised-profession-in-america/>) as the least useful profession in America, in terms of positive contributions to societal well-being.) And the idea of outsourcing our thought processes to them is horrifying in the utmost.

Aren't elections a way to hold bad legislators accountable? No. They are not. Congress's incumbency rate is between 85% and 90% (<https://www.opensecrets.org/overview/reelect.php>). Its overall approval rating is 19% (<http://www.gallup.com/poll/201974/congress-job-approval-start-new-session.aspx>). That argument is garbage, and it was silly of you to even bring it up.

So fine, we know elections are bad. But why is sortition better? Why would it be preferable to, say, an electoral system with term limits and tighter restrictions on campaign contributions and advertising? The inherent problem of elections is twofold. The first issue is political capture. Our present system is incredibly vulnerable to manipulation by wealthy, well-organized political interests, which dictate both the initial nomination and eventual lawmaking behaviors of legislators. It's hard to see how electoral reforms could ever totally eliminate this kind of capture, even though they could conceivably make it more difficult. The second issue, however, is self-selection.

Even if you managed to remove *some* financial and institutional barriers to entry for would-be legislators, you're still left with the fundamental problem that, ultimately, 100% of the candidates you end up with are people who *actually want to be in Congress*. Inevitably, elections will disproportionately select those who most want to win them, and the people who most want to win elections are disproportionately likely to be venal and self-serving. It is an ancient cliché that those who want power are the least suited to have it. Just think about the people you know in your daily life, the ones who enjoy being the first to speak at meetings, and willingly make decisions on behalf of the group. Most of these people are awful. You might be able to think of one who's marginally less awful, but still, if you had a choice in the matter, you wouldn't want 535 clones of them making rules for the entire country.

# PROS AND CONS

## OF A RANDOMLY SELECTED CONGRESS

### PROS

- ◆ Aristotle thought it was a good idea
- ◆ Reduces the probability that Ted Cruz will be a U.S. Senator
- ◆ Limits the likelihood of Congress being dominated by rich white guys
- ◆ Fully embodies democratic principles
- ◆ Gives the Green Party the only chance it will ever have of reaching elected office
- ◆ Provides fully representative cross-section of the American people

### CONS

- ◆ Aristotle was also pretty big on slavery
- ◆ Increases the probability that Charles Manson will be a U.S. Senator
- ◆ There is no downside to this.
- ◆ Democracy often nightmarish
- ◆ Jill Stein thinks wifi signals cause autism
- ◆ Provides fully representative cross-section of the American people

Sortition has all the benefits of campaign finance reform, and then some. For starters, the great Sortition Amendment will be much simpler and easier to understand than whatever nightmarishly complicated reform scheme it would take to make elections viable. Legislators will be chosen by lot from the entire adult population. Boom, no more campaign spending: the \$1,771,368,063 that went into Congressional campaigns last year can now be donated instead to scientific research and children's hospitals and dirigible-based public transport systems and other such useful things. Without reelection campaigns hanging over legislator's heads, nobody can be honeyed or coerced into advancing particular legislative agendas, except by the kind of quid pro quo, "here's a nice sack of cash" methods that are more easily punishable as corruption. Interest groups will still lobby to

persuade legislators, of course, but they won't be able to influence their nomination or the length of their tenure.

Will the Sortition Congress actually be good at making laws? Who knows. Will they be worse at making laws than the Congress we have now? *Is that even possible?* When you average them out, a random collection of ordinary people is almost certain to be less dreadful than a self-selected group of people whose chief shared characteristic is their insane belief that they are qualified to have decision-making power over the fate of nations. Yes, you might randomly select a certain number of terrible individuals, but would they be *more* terrible than the people that are initially attracted—and then deeply, irrevocably entrained—by an electoral system? The issue is not whether this is a good idea, but whether it is a better one.

Anyway, chances are, the laws themselves will end up being largely written by people besides the legislators. This is already the case in our present system, where congressional staff and political think tanks do a significant amount of drafting. But your sortition-selected legislators still have the final yea or nay on the bills, and while they may very well cast their votes for stupid reasons, at least they won't be casting them for purely career-advancing reasons.

Let us illustrate this another way. Imagine that you have a large retinue of grateful and attentive lovers, and that you have consequently received many, many boxes of chocolates for Valentine's Day. You know that some of these chocolates are probably more or less appetizing candies: truffles and caramels and so on. However, others of them are bound to have horrifying fillings, like coconut cream and lime mousse, that no sane human being could possibly want. You can't easily tell the different kinds of chocolates apart by sight, so you buy a machine to sort them for you. The machine is incredibly complex and requires a great deal of expensive fuel, but the general idea is, you put the boxes in, and only the good candies will come out.

Now, imagine that your chocolate-sorting machine has been chugging along steadily for hours, and to your distress, most of the candies coming out the other end are *weird*. For every succulent praline, there are at least five chocolates filled with some unidentifiable pink sludge. A decent number of the chocolates, in fact, are so tongue-numbingly, bowel-wreckingly awful that you can hardly imagine they were deliberately manufactured that way: you're beginning to suspect that the machine itself is *actually making the candies worse*. Even the good candies are starting to have an unpleasant aftertaste. So what do you do? Call the manufacturer and demand elaborate modifications to the machine? Construct an entirely new machine? Or do you just say, fuck it, I'll take my chances eating my boxes of chocolates like a normal person, and hope that some of them turn out to be more or less decent?

This, in essence, is the situation of our country in choosing our legislature. An election is supposed to be an elaborate sorting mechanism to filter out the best and most sumptuous chocolates/congresspeople. Instead, it belches out a toxic slurry. Better to just fling away the choosing-machine and pick around at random. Nobody is suggesting that randomly-selected citizens would make especially capable congresspeople. (Nobody, after all, suggests that randomly-selected citizen jurors make especially capable arbiters of forensic evidence, but we let them do it anyway.) The only question is: could it possibly be worse? We posit that it could not.

*Illustration by David Alvarado* ♦

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