

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HR 145 Individual Liberty and Democracy
SPONSOR(S): Public Integrity & Elections Committee, Fabricio and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SR 150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Public Integrity & Elections Committee	11 Y, 5 N, As CS	Rubottom	Rubottom
2) Judiciary Committee			

SUMMARY ANALYSIS

A substantive House Resolution expresses an opinion of the House of Representatives. Such opinion does not carry the force of law.

Democratic Socialism means collective ownership of the means of production with democratic governance.

Democracy means government by popular decision-making.

Constitutional democracy means a government limited by a constitution in which leaders are selected through democratic means.

Individual liberty means self-determination free of coercion.

HR 145 denounces democratic socialism in favor of individual liberty, private property and constitutional democracy.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Mayflower Puritans established the Plymouth Colony with all property communally owned and cultivated. This “communism” contributed to widespread starvation and destitution, leading some to become servants of local natives in exchange for food. Strong and able laborers considered the communal ownership unfair and unjust in that they received the same reward as others who contributed one-fourth as much. Nearing extinction, the leadership decided to allot a parcel of land to each settler, to encourage self-sufficiency and higher production. Ensuing agricultural abundance enabled a permanent settlement that prospered greatly contributing to the ultimate success of the American experiment.¹

The Declaration of Independence held it self-evident that all individuals are created equal and endowed with unalienable rights of life, liberty and the pursuit of happiness. The Declaration famously proclaimed that the purpose of government is to secure these rights. The Declaration objected to many wrongs of King George contributing to tyranny. These included:

- Limiting immigration and naturalization of new settlers and workers;
- Making it difficult for the colonists to acquire additional land;
- Blocking the dispensing of justice, and the independence of judges, essential to the rule of law and enjoyment of liberty and property;
- Multiplying officers to harass the people and consume their wealth;
- Constraining trade;
- Arbitrary taxation.²

Although the Continental Congress rejected a passage objecting to the capture and importation of slaves by the British, the entire Declaration stands against coercion and the unconsensual taking of the labor and productivity of any human person.³

James Madison was the fourth President of the United States, and a primary architect of the U.S. Constitution and the primary author of the Bill of Rights. He is quoted as saying: “Democracy is the most vile form of government”⁴, “As a man is said to have a right to his property, he may be equally said to have a property in his rights”⁵ and “The purpose of the Constitution is to restrict the majority’s ability to harm a minority”⁶.

Abraham Lincoln second inaugural address famously described slave owners as “wringing their bread from the sweat of other men’s faces”. Marx, in contrast, preached “from each according to his ability, to each according to his need”. Both systems--private property with private labor and collective property and labor--appeal to particular impulses of both justice and democracy.

One Lincoln scholar explains Mr. Lincoln’s view of the Declaration of Independence as rooted in the understanding that all human beings share a dignity far above the animal kingdom and all share humility so far below Divinity as to be equal in both dignity and subjection to God. Quoting Lincoln, “As I

¹ Michael Franc, Pilgrims Beat ‘Communism’ With Free Market (Nov. 22, 2005), available at <https://www.heritage.org/markets-and-finance/commentary/pilgrims-beat-communism-free-market> (last viewed, March 27, 2021).

² See Declaration of Independence (1776).

³ See (1776) *The Deleted Passage of the Declaration of Independence*, available at <https://www.blackpast.org/african-american-history/declaration-independence-and-debate-over-slavery/>, (last viewed, March 27, 2021)

⁴ James Madison, available at <https://madison.thefreelibrary.com/> (last viewed, March 30, 2021)

⁵ Hutchison et al. ed., *The papers of James Madison*, vol. 14, pp. 266-68 (University Press of Virginia, 1977) available at <https://press-pubs.uchicago.edu/founders/documents/v1ch16s23.html> (last viewed, March 30, 2021).

⁶ Compore, *A day to remember our Bill of Rights*, (Abilene Reporter News Dec. 13, 2020) available at <https://www.reporternews.com/story/opinion/columnists/2020/12/13/day-remember-our-bill-rights/3872175001/> (last viewed March 30, 2021).

would not be a slave, so I would not be a master. This expresses my idea of democracy. Whatever differs from this, to the extent of the difference, is not democracy."⁷

The United States was established as a democratic republic meaning that limited power is vested in officers chosen directly or indirectly by democratic means but such power and the majoritarian impulse itself are both restrained from altering fundamental rights or governmental limitations. Mirroring the principles of the limited federal government, the U. S. Constitution guarantees to every state a republican form of government.⁸ The distinguishing feature of the republican form of government is: the right of the people to choose their own officers for governmental administration, and pass their own laws in virtue of the legislative power reposed in representative bodies, whose legitimate acts may be said to be those of the people themselves; but, while the people are thus the source of political power, their governments, national and state, have been limited by written constitutions, and they have themselves thereby set bounds to their own power, as against the sudden impulses of mere majorities.⁹

Democracy means popular sovereignty expressed through popular decision-making. The word alone implies no restraint on the will of the majority.

Individual liberty means that each person, possessed of equal dignity, enjoys life and the autonomy to pursue happiness in her or his own way. IN sum, it is self-determination free of coercion. Justice Kennedy once declared: "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life."¹⁰

A constitutional democracy is a government limited by a constitution in which certain leaders are selected through democratic means. Both the UK, a constitutional monarchy, and the United States of America, a republic with a president having a fixed and limited term, are constitutional democracies.

Rule of law means that law delineates the rights of all as well as the responsibilities of every person to respect the rights of others. It is opposed to a system were the arbitrary decisions of those in power determine the rights and responsibilities of their subjects. It means that all persons are equally subject to the law. It also means that government, its officers and all institutions are also subject to the law.

Democratic Socialism has no single definition. Following is a representative sample:

- Government that is run economically and socially democratically in order to meet the public needs.¹¹
- A system whose means of production are owned by society. The system respects basic liberal rights and features democratic elections that are free and fair. It is distinguished from a society featuring private ownership of production.¹²
- A socially owned economy operated in a political democracy.¹³

The view stems from revised Marxism, that adds elements of Marxism to democracy.¹⁴ Thus, while it is democratic in governance, it precludes private ownership of the means of production. It implies that the labor of individuals is the property of all.

A House Resolution expresses the opinion of the House of Representatives and does not carry the force of law.

⁷ Harry Jaffa, *A New Birth of Freedom: Abraham Lincoln and the Coming of the Civil War*, p. 155 (Lanham, Md: Rowman and Littlefield, 2000).

⁸ S. 4, Art. IV, U.S. Const.

⁹ *Duncan v. McCall*, 11 S.Ct. 573, 139 U.S. 449 (1891).

¹⁰ *Planned Parenthood v. Casey*, 505 U.S. 833, 851 (1992).

¹¹ Democratic Socialists of America, *What is Democratic Socialism*, available at <https://www.dsausa.org/about-us/what-is-democratic-socialism/>, (last visited, March 27, 2021).

¹² Matt Bruenig, *Musings on the Meaning of Democratic Socialism*, Matt Bruenig (June 30, 2018), available at <https://www.peoplespolicyproject.org/2018/06/30/musings-on-the-meaning-of-democratic-socialism> (last visited, March 27, 2021).

¹³ Donald F. Busky, *Democratic Socialism: A Global Survey*, Chapter One, Page 7. (Jan. 2000).

¹⁴ *Id.*

Effect of proposed changes

HR 145 denounces democratic socialism in favor of individual liberty, private property and constitutional democracy.

B. SECTION DIRECTORY:

N/A

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 29, 2021, the Public Integrity & Elections Committee adopted a strike-all amendment revising portions of the resolution. The amendment added private property and constitutional democracy to the American values cited. The amendment added preamble language describing the significance of constitutional democracy.

This analysis is drafted to the committee substitute as passed by the Public Integrity & Elections Committee.