

House Committee on Elections

House Bill 2210

TESTIMONY OF CLAYTON BARKER

Based on my experience in the 2012 primary election while serving as Executive Director of the Kansas Republican Party, I support moving the registration cut-off date to vote in the primary to an earlier date. I testify on my own behalf.

The primary election is a political party's method of choosing its candidate and I support any reasonable means to minimize interference with the process by those who do not adhere to the party's political philosophy. The Republican party has consistently fought to maintain a closed primary system, including going to court in 2004 to defeat an attempt was made to force it to use an open primary system.

Any person who registers as a member of the Republican Party in order to pervert the primary election outcome from what the real Party members would elect, is undertaking an act akin to fraudulent misrepresentation. Those encouraging voters to register Republican solely to twist the vote are equally guilty of deceitful and unethical conduct.

In the 2012 primary election, the openness by which this devious conduct was encouraged was particularly egregious.

For historical context, in the 1908 special session, when the primary system was adopted in Kansas, (Chapter 54, 1908 Session Laws), a major criticism was that non-party members would distort the outcome in particular districts. This was brushed off as conduct that no ethical person would undertake, although the Attorney General opined that any voter whose party loyalty was questioned could be forced to sign an oath attesting thereto. (I am not suggesting this course of action).

Last - a Summary of the US Supreme Court case of *California Democratic Party v. Jones*, 530 U.S. 567 (2000) at 573-574:

A state must act within constitutional limits when it regulates a political party's internal processes. Among those constitutional limits is the First Amendment right to freedom of association, which protects the freedom to join together in furtherance of common political beliefs. This right "necessarily presupposes the freedom to identify the people who constitute the association, and to limit the association to those people only." An important corollary of the right to freely associate is a right not to associate. This political freedom of association (and right to exclude) is most critically manifested in the political party's process of selecting its nominees. This process "often determines the party's positions on the most significant public policy issues of the day, and even when those positions are predetermined it is the nominee who becomes the party's ambassador to the general electorate in winning it over to the party's views." For this reason, the Supreme Court consistently "affirm[s] the special place the First Amendment reserves for, and the special protection it accords, the process by which a political party select[s] a standard bearer who best represents the party's ideologies and preferences."