

News & Insights

Damren Co-Authors Article for *The Journal of Law in Society*

Uses Corporate Compliance Measures to Assess How Well Federal Congressional Elections Match Founders' Original Goals
July 19, 2012

Samuel Damren, a member in Dykema's Litigation practice, co-authored an article with his son, Nathaniel (an attorney in private practice in Chicago) that appeared in *The Journal of Law in Society*, a bi-annual publication of Wayne State University Law School, that provides "scholarly discourse on the intersection of law and society." The article, "Utilizing Corporate Compliance Methodology to Assess the Effectiveness of Elections," applies contemporary corporate compliance measures to evaluate how faithful federal congressional elections have been to the Founders' original intentions.

Using U.S. Census data and drawing upon congressional election results from the earliest days of our nation, the authors call attention to how the federal legislative process is dramatically different from what the Founders intended:

In 1790, U.S. Senators who represented 21.3 percent of the country's population could start a filibuster; today, Senators who represent roughly half that figure (11.3 percent of the nation's citizenry) can stop proceedings. In 2030, that percentage is projected to drop to 10.5 percent.

Over the first eighty four national elections to the House of Representatives (a period from 1789 to 1960), partisan control of the House changed twenty five times. Since 1960, however, partisan control shifts have all but vanished, having occurred just three times. The authors note this is chiefly a function of gerrymandering (redistricting to confer advantage upon a party), producing a "duopoly" that prevents fair competition.

Damren and son conclude that the operation and structure of current congressional elections have fallen "out of compliance" with the Founders' original design of a democratic state. They argue that, unlike enterprises in the private sector and not-for-profit world, America has failed to apply "best practices" of risk management to the electoral process, negatively altering our Founding Fathers' core principles of representative democracy.

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