The recent *Greene County Record* editorial, “Can Republicans stop an election?”, modified from the *Roanoke Times*, unfortunately contains numerous false assertions and will mislead readers if left unchallenged.

The title and opening paragraphs illustrate the problem clearly. Implied is there may be no election if there is no primary. Truth is both parties each election cycle may choose the state run open primary, a convention, mass meetings, or party canvasses to select their candidates. There are candidates and an election in every possible scenario.

The writer asserts the Republican Party is challenging a law “it’s calling the Incumbent Protection Act” (IPA). Truth is this law has been widely known by that title for decades, including in court cases. Fundamentally, the IPA says an incumbent seeking reelection may select between the four possible methods of nomination and impose his/her preference on the Party. The law itself states that it does not apply if there is no incumbent running. You see it is drafted entirely to benefit only an incumbent, hence the name, Incumbent Protection Act.

The writer implies that the current legal case results strictly from animus against Senator Hanger. Truth is the law was previously challenged in federal court in 2007. The 4th Circuit Court of Appeals, in *Miller v. Brown*, found the IPA was unconstitutional in the case where an incumbent chose an open primary over the objections of the Party on the grounds that the Party’s 1st Amendments rights of free association would be violated; people whose political creed was opposed to the Party’s creed would be able to interfere with the Party’s right to select a candidate of its choosing. The Court did not entirely strike down the IPA in 2007 because of the limited scope of that case. A subsequent ruling is needed tofinally invalidate the law as unconstitutional.

Supreme Court of the United States has ruled that the candidate nominating process of a political party, a private organization, warrants special protections with regard to 1st Amendment rights of free association. To be constitutional such a law must meet all of the following tests:

1. It must not substantially burden a Party’s associative rights
2. It must be justified by a compelling state interest.
3. It must be narrowly tailored to meet the compelling state interest.

The question before the court is: Does the IPA, which empowers a single individual, the incumbent, and only an incumbent, to overrule the Party in the candidate selection process, meet those tests?

The writer finally asks, “Is it the Republican Party’s fault if the people there (in the 24th District) always vote for the GOP nominee?” One would hope so. It would be strange to vote Republican in support of the Democrat agenda.

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