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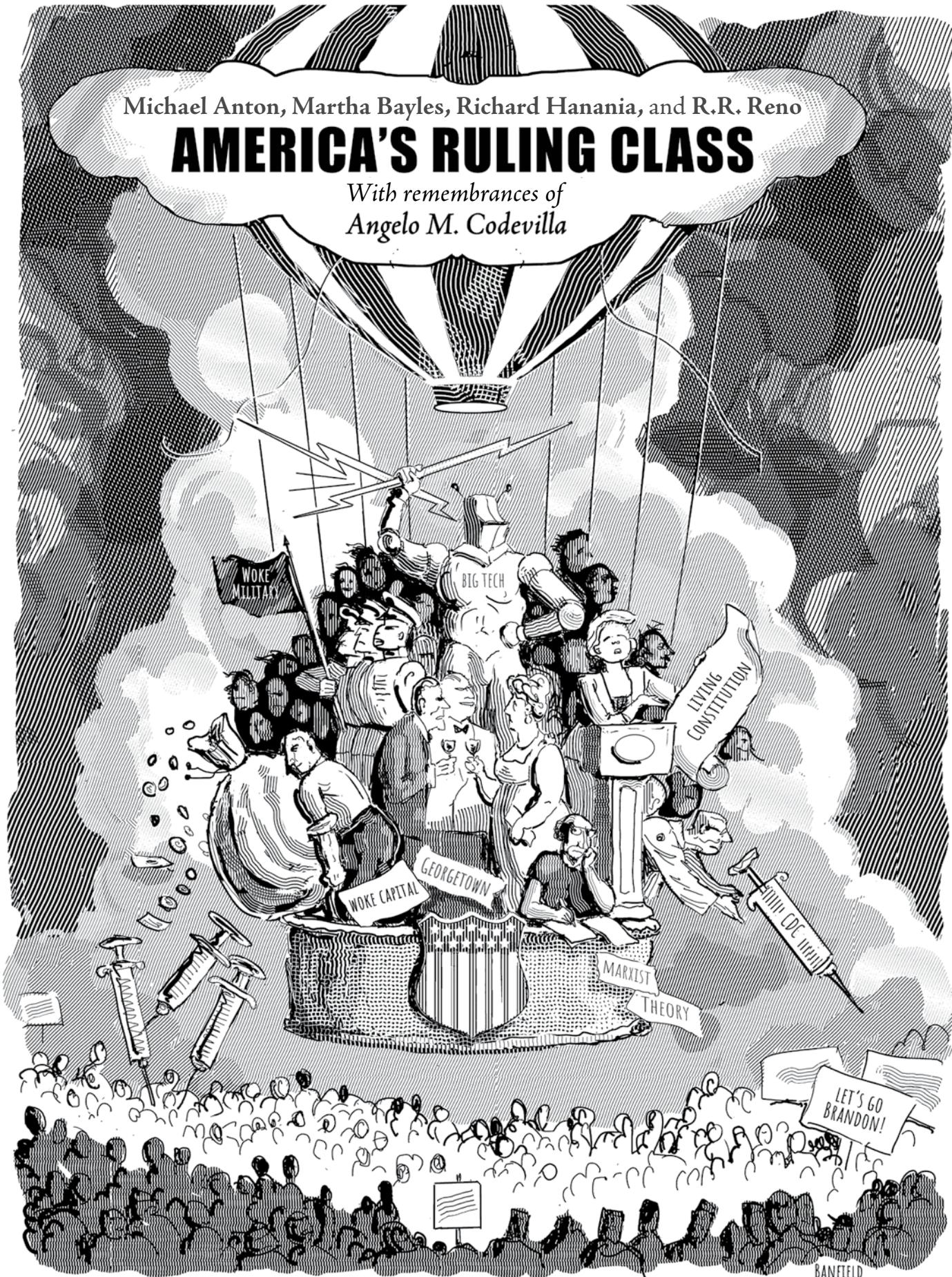
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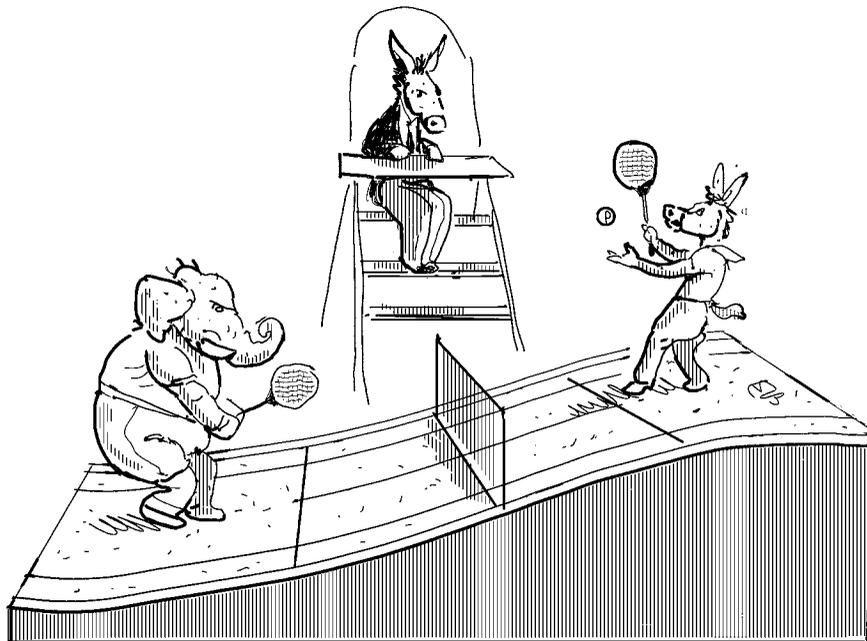
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Book Review by Andrew E. Busch

ARE FAIR ELECTIONS POSSIBLE?

Rigged: How the Media, Big Tech, and the Democrats Seized Our Elections, by Mollie Hemingway.
Regnery Publishing, 448 pages, \$29.99

Our Broken Elections: How the Left Changed the Way You Vote, by John Fund and Hans von Spakovsky.
Encounter Books, 288 pages, \$28.99



THE 2020 ELECTIONS RAISED SERIOUS questions about foul play in the American voting process. Many observers voiced concerns about election integrity in both a narrower sense—the processes and administration of elections—and a broader sense—the overall context in which elections play out. Mollie Hemingway’s *Rigged* and John Fund and Hans von Spakovsky’s *Our Broken Elections: How the Left Changed the Way You Vote* address these issues in distinctive but overlapping ways. Hemingway, a senior editor of the *Federalist* blog and senior journalism fellow at Hillsdale College who earlier this year won the prestigious Bradley Prize for her writing, examines the broader context of the 2020 election and concludes: “The powers that be did whatever it took to prevent Trump from winning his re-election bid in 2020.” Her subtitle discloses who those powers are: *How the Media, Big Tech, and the Democrats Seized Our Elections*. Fund is a journalist and von Spakovsky a legal scholar who served a stint in the U.S. Department of Justice, both with a longstanding interest in studying and preventing election fraud. Their focus is on election integrity more narrowly defined, both in 2020 and before.

Hemingway provides a very good overview of the forces working against Donald Trump’s presidency and re-election: an unhinged Left, a seemingly interminable Russiagate investigation based largely on cooked information, a coronavirus pandemic, race riots welcomed (if not fomented) by Trump’s adversaries, a mainstream media that acted as an adjunct of the Democratic Party, social media curators who picked favorites and censored conservative opinions, biased debate organizers and moderators, a massive get-out-the-vote drive funded by Facebook CEO Mark Zuckerberg and aimed at Democratic voters, and an unprecedented legal push by Democrats and their allies to revise election rules radically in their own favor. Republicans, Hemingway argues, saw themselves as “victims of an election that was rigged from the day Trump won the presidential election in November 2016.”

She carefully describes and documents many of these factors, providing example after example of “a media complex that moved from extreme partisan to unabashed propaganda in the defense of the Democratic Party.” The press accused Trump of everything from standing by while Russia paid the Taliban to kill American soldiers to pleading with Georgia Secretary of

State Brad Raffensperger to conjure up 11,780 new votes. The “Russian bounties” claim proved bogus, and Hemingway argues that Trump was really asking Raffensperger to identify ineligible voters who voted, not fabricate votes where there were none. She also exposes the hypocrisies of many of Trump’s critics, starting with Democratic challenges to the legitimacy of Republican election victories in 2000, 2004, and 2016. As she notes in her first paragraph, “the last time Democrats fully accepted the legitimacy of a presidential election they lost was in 1988.” And there are many other instances of “situational thinking.” Democrats downplayed the danger of the novel coronavirus prior to March 2020, at which point it served their political interests to reverse course and become COVID hawks. They also shared concerns about Dominion electronic voting systems with Republicans until November 2020, when they suddenly abandoned those concerns.

OUR BROKEN ELECTIONS, LIKE RIGGED, is well-written, easy to read, and worthwhile. Fund and von Spakovsky focus on a narrower range of issues over a longer period of time. They amply demonstrate that American politicians have strug-



gled for decades to balance the conflicting priorities of ballot access and ballot security. They conclude that “[c]ontrary to the claims of many on the left, election fraud is a very real problem.” From the 1997 Miami mayoral race to the 2018 election in the 9th Congressional District of North Carolina to the 2020 mayoral contest in Paterson, New Jersey, elections have been vacated (by courts or state election board) and re-run when demonstrable fraud occurred in large enough amounts to exceed the original margin in the race. In each case, one of the campaigns made coordinated efforts at widespread election fraud.

Armed with examples and studies estimating the frequency of such fraud, the authors outline multiple ways in which fraud can infect the electoral system, including petition fraud, fraudulent voter registration, vote count alteration, vote buying, repeat voting, illegal assistance, voter impersonation, and voting by ineligible individuals such as felons, non-citizens, and those under 18 years of age. The “tool of choice for vote thieves,” however, is the absentee ballot or mail-in ballot, the power of which is magnified when activist groups or “ballot brokers” collect and deliver large numbers of ballots at once. The standard name for this practice is “ballot harvesting,” though today, activists consider “ballot harvesting” a term of opprobrium and prefer “ballot collection.” But the new euphemism makes little difference: there is no term attached to the practice that will not quickly become a pejorative once people understand what it is referring to. Most of the recent large-scale vote fraud schemes that populate the pages of *Our Broken Elections* involved harvesting mail-in ballots.

FUND AND VON SPAKOVSKY NOTE SEVERAL other shortcomings of American elections which call out for a remedy. Voter registration lists often contain a large number of moved, deceased, or otherwise ineligible voters. Similarly, it is probable that a large number of non-citizens vote in every election: a 2014 study led by Old Dominion University’s Jesse Richman indicated that as many as 1.2 million non-citizens may have voted in the 2008 presidential contest. And election officials are frequently too nonchalant about ineligible people voting. Around 1,000 people voted twice in the 2020 Georgia primary election, but none was prosecuted. When 63 undercover agents from the New York City Department of Investigations (DOI) tried to pass themselves off as someone else in a 2013 election, 61 of them got away with it. The New York Board of Elections responded by attacking the DOI for running

the operation. Fund and von Spakovsky offer a set of proposals for strengthening election integrity, many of which have found their way into recent state election law reforms.

RIGGED AND OUR BROKEN ELECTIONS both devote considerable space to two topics crucial for understanding the 2020 election: the Left’s use of lawfare to force “emergency” changes in election law and their use of private funds to control and direct election administration. Some of the legal gambits were turned aside by state or federal courts, but many were not. Insidiously, Democrats accomplished much of what they wanted through so-called “collusive lawsuits” or “sue-and-settle” tactics. They would sue a state or local election office and the Democratic secretary of state or county clerk would obligingly reach a settlement, giving the plaintiffs almost anything they wanted rather than defending the existing law in court. This collusive wave of sue-and-settle was Democrats’ payoff for working to elect their preferred secretaries of state over the past decade. In some cases (including Georgia), Republican election officials also settled, perhaps not fully realizing the implications. And President Trump’s own legal strategy was chaotic and ineffective from beginning to end: as Hemingway notes, insiders now recognize that the campaign “should have been heavily involved in the legal effort long before March [2020].” Instead they mostly stood by as a rash of states, including some of the most crucial ones, massively expanded mail-in voting, reduced or eliminated signature verification or witness requirements, required or allowed use of insecure ballot return methods such as unsupervised drop-boxes and ballot harvesting, and expanded the window of time following the election that mail-in ballots had to be accepted. The number of voters who utilized mail-in ballots surged in 2020, and they were disproportionately Democrats.

Also boosting turnout, especially among Democrats, was the \$400 million in grants given through Mark Zuckerberg’s Center for Tech and Civic Life (CTCL), ostensibly for the purpose of facilitating neutral election administration. There was little fanfare about the “Zuck Buck” grants at the time, and important facts have dribbled out only gradually. To assuage concerns about this privatization of elections, Americans were initially told that Democratic- and Republican-leaning jurisdictions were equally likely to receive a CTCL grant. This left out two central features of the program. First, as Hemingway notes, “Democratic areas regularly received massively more funding than

Republican counties, whether in terms of total dollar amounts or per capita”—Biden states received 88.4% of the funding. Second, the grants typically came with strings attached, such as requiring the election office to partner with particular “approved” organizations, invariably left-wing activist groups. In some cases, representatives of these organizations actually became the de facto heads of the election office, illegally taking over responsibilities and decision-making authority. Fund and von Spakovsky conclude that “[i]n essence, Democrats were using local government as their get-out-the-vote program for the presidential election.” The outcome?

For the Republicans, the funded counties’ votes increased by 46 percent more than the rate at which votes in the unfunded counties increased. For the Democrats, the funded counties’ votes skyrocketed upward 81 percent more than they rose in the unfunded counties.

At the end of the day, Arizona, Georgia, Michigan, and Pennsylvania—four key states that flipped from Trump to Biden—received more than half of all the funds. “This privatization of election administration,” writes Hemingway, “tainted the entire election.”

BOTH BOOKS ALSO CONTAIN DETAILED analysis of other alleged irregularities during the election. Hemingway focuses particularly on Wisconsin, Pennsylvania, and Georgia. Fund and von Spakovsky zero in on Wisconsin and Georgia. Between them, they document a large number of deviations between what election law requires and what actually happened in those states on or before election day. Some election observers were denied access to counting centers, for example, and ballot collection boxes were illegally placed in parks. These and other irregularities were widely reported at the time. Wisely, however, the authors do not dilate on the more fantastical and extreme claims about fraud in 2020 that emanated from the president and some of his legal advisors. Fund and von Spakovsky explain in detail why the much-ballyhooed computer problems in Antrim County, Michigan were not evidence of widespread Dominion-based fraud, as some Trump supporters claimed. They also show how Trump’s original claim that more than 144,000 ineligible people illegally voted in Georgia was whittled down by early 2021 to 12,547, a number not much larger than Biden’s margin of victory. If that figure was correct—and, given ongoing dispute about the numbers, it was far from clear that this too was not an exaggeration—Biden would have



had to win 12 of every 13 illegal votes to owe them his victory. Hemingway also dismisses the Dominion conspiracy and, like Fund and von Spakovsky, affirms that extravagant accusations of fraud discredited more plausible legal claims. After the election, attorneys such as Rudy Giuliani, Sidney Powell, and Lin Wood consistently mishandled matters, focusing on fraud charges for which they had insufficient (or no) evidence rather than pursuing less dramatic legal arguments that nevertheless held more promise.

THE CLEAR IMPLICATION FROM BOTH accounts is that, while fraud occurs in the United States, and while Democrats went out of their way to create conditions favorable to more fraud in 2020, the greatest threat to Trump lay in legal votes resulting from changed election laws and the CTCL voter turnout program. Hardball politics, to be sure—unethical, even. And in some instances illegal (when activists usurped elected officials' duties) or unconstitutional (when courts changed election law without approval of the state legislature). But all these changes were also facilitated by the fact that Republicans and the Trump campaign did not effectively oppose them and in some respects did not even understand them. What happened months before the election made more difference than what may or may not have happened in Georgia's State Farm Arena on election night.

Although *Our Broken Elections* furnishes skillful refutations of some media myths about election integrity, the rationale behind the book's organization is not always clear. It is at times repetitive, and certain chapters—such as one on Democratic super-lawyer Marc Elias—seem plopped down at random. A penultimate chapter on the long-term history of voter fraud in the United States would have been more helpful as an introduction.

A loose interpretation of Hemingway's title—*Rigged*—would simply imply that the playing field was tilted against President Trump. Although Hemingway easily makes that case, her title promises more than it delivers. Taken literally, it might mean that things were arranged so Trump could not possibly win under any circumstances. That claim is not defensible unless one argues that a widespread and coordinated fraud campaign was in place to make sure Trump lost even if he won. But Hemingway declines to make that

argument, and Trump—who did make it—did not come close to proving it.

More generally, *Rigged* could have benefited from a less forgiving approach to Trump. For example, a substantial section early in the book covers the Trump campaign's successful effort to change the Republican Party's rules for selecting delegates, choosing state party leadership, and scheduling primaries so as to gain the upper hand against any potential intraparty challenge. Hemingway clearly admires this strategic acumen, but she never asks: Doesn't this mean Trump rigged the primaries? And why is that any better than Democrats rigging the general election? Hemingway uses substantial material from personal interviews with the former president, a coup for any journalist. This material often provides interesting insights and occasionally reveals a bit of self-reflection by Trump, such as when he acknowledges that he was overly belligerent in the first presidential debate. On some occasions, however, Trump's pronouncements call out for a challenge that never comes. At one point, Trump declares, "I was winning by so much prior to the Chinese virus that George Washington with a running mate of Abraham Lincoln couldn't have [beaten me]." Although this claim was amusing and typical of Trump's incessant salesmanship, it was also not even close to being true. Yet Hemingway simply uses it to buttress the (improbable) view that the election was Trump's to lose in February 2020.

PERHAPS THE BIGGEST SHORTCOMING of *Rigged* is its failure to come to grips with Donald Trump's contribution to his own defeat. One has to read to the 333rd page before the author admits, "That's not to say that Trump didn't say or do unwise things, about the coronavirus and many other things." This tardy and perfunctory concession doesn't do justice to the problem. In reality, Trump made a very large number of unforced errors throughout his presidency and was so offensive to so many Americans that his average job approval rating as measured by RealClearPolitics never exceeded 47%. He was "underwater," his average approval outweighed by disapproval, every single day of his presidency after January 27, 2017—that is, after exactly one week as president. From day one, his personal favorability ratings were underwater and usually worse than his job approval ratings, with an election-day average of 41%. And at no point during his

presidency did the percentage of Americans who thought the country was on the "right track" approach the percentage who thought it was on the "wrong track." On Election Day, poll respondents said that the country was on the "wrong track" rather than the "right track" by nearly a two to one margin.

Exit polls showed that while Trump led narrowly among voters who said issues were most important to their vote selection, he lost two to one among the quarter of voters who said personal qualities were most important. From 2016 to 2020, Trump went from leading independents by four percentage points to losing them by 13 and from leading suburbanites by four to losing them by two. He also suffered serious deterioration among his natural constituencies: though he still led among rural voters and military veterans in 2020, his margins in these key demographics declined, respectively, from 27% to 15% and from 26% to 10%. Hemingway glides over all of this. She notes that Joe Biden treated the election as a referendum on Trump, but she infers nothing from this fact except that Democrats were united only by their hatred of the president. She argues that, following his first impeachment acquittal, "Trump was back on track for victory in November" and "Trump's opponents would need a miracle to stop him." Actually, the president trailed Biden in head-to-head polls from mid-2019 on. He was never "on track for victory." Biden's referendum strategy was one any challenger would adopt when facing an incumbent with Trump's unimpressive record of public support. As we saw in 2016, none of that meant that Trump couldn't pull a rabbit out of his hat and win the electoral vote anyway. But it would never have been a landslide, and no one should have been surprised that he lost.

Of course, one should not expect *Rigged* to offer a full exposition of Trump's self-inflicted wounds alongside a full exposition of the way the game was tilted against him. Then the book would have had twice as many pages and no clear theme. It is impossible, however, to weigh the importance of the factors outlined in *Rigged* without taking into account a realistic assessment of Trump's weaknesses. Of all the factors working against the president, the most intractable was himself.

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