

AMERICAN HOMEOWNERSHIP AND
ECONOMIC OPPORTUNITY ACT OF
2000

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 2000

Mrs. MINK of Hawaii. Mr. Speaker, I rise in support of H.R. 5640, especially subtitle B of title V. The title expands housing assistance for native Hawaiians by extending to them the same types of Federal housing programs available to American Indians and Alaska Natives. The provision authorizes appropriations for block grants for affordable housing activities and for loan guarantees for mortgages for owner- and renter-occupied housing. It authorizes technical assistance in cases where administrative capacity is lacking. The block grants would be provided by the Department of Housing and Urban Development to the Department of Hawaiian Home Lands of the government of the State of Hawaii.

This is the fourth time this year that the House will consider a bill containing these important provisions for Native Hawaiian housing.

I thank the chairman of the Banking Committee [Mr. LEACH], ranking member [Mr. LAFALCE], the chairman of the Housing Subcommittee [Mr. LAZIO], and the ranking member of subcommittee [Mr. FRANK] and the gentleman from Indiana [Mr. BEREUTER] for their assistance in incorporating the provisions for native Hawaiian housing in the bill. They have worked tirelessly to craft a bill that both Houses can support so that Congress will be able to enact a housing bill this year.

Passage of this bill is critical because within the last several years, three studies have documented the housing conditions that confront native Hawaiians who reside on the Hawaiian home lands or who are eligible to reside on the home lands.

In 1992, the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing issued its final report to Congress, "Building the Future: A Blueprint for Change." In its study, the Commission found that Native Hawaiians had the worst housing conditions in the State of Hawaii and the highest percentage of hopelessness, representing over 30 percent of the State's homeless population.

In 1995, the U.S. Department of Housing and Urban Development issued a report entitled, "Housing Problems and Needs of Native Hawaiians." This report contained the alarming conclusion that Native Hawaiians experience the highest percentage of housing problems in the Nation—49 percent—higher than that of American Indians and Alaska Natives residing on reservations (44 percent) and substantially higher than that of all U.S. households (27 percent). The report also concluded that the percentage of overcrowding within the Native Hawaiian population is 36 percent compared to 3 percent for all other U.S. households.

Also, in 1995, the Hawaii State Department of Hawaiian Home Lands published a Beneficiary Needs Study as a result of research conducted by an independent research group. This study found that among the Native Hawaiian population the needs of Native Hawai-

ians eligible to reside on the Hawaiian home lands are the most severe. 95 percent of home lands applicants (16,000) were in need of housing, with one-half of those applicant households facing overcrowding, and one-third paying more than 30 percent of their income for shelter.

H.R. 5640 will provide eligible low-income Native Hawaiians access to Federal housing programs that provide assistance to low-income families. Currently, those Native Hawaiians who are eligible to reside on Hawaiian home lands but who do not qualify for private mortgage loans, are unable to access such Federal assistance.

I look forward to enactment of the bill because it is so important to the native people of Hawaii.

BUSH VERSUS GORE IN THE U.S.
SUPREME COURT**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 11, 2000

Mr. CONYERS. Mr. Speaker, I submit the following articles, which appeared in the New York Times on December 11, 2000 and the Washington Post on December 9, 2000, into the CONGRESSIONAL RECORD.

[From the New York Times, Dec. 11, 2000]
TO ANY LENGTHS
(By Bob Herbert)

And so the Supreme Court intervened, not with wisdom and grace but with a clumsily wielded hammer, to protect the interests of George W. Bush and the Republicans by thwarting any further movement in the Florida vote toward Al Gore.

Mr. Bush and his party have made it clear to the country and the world that their greatest fear—the scenario they dread above all others—is that somehow, somehow, all of the votes legally cast in Florida would actually be counted.

They have demonstrated their willingness to go to almost any lengths to prevent that from happening. And that resolve was given the unfortunate imprimatur of the nation's highest court on Saturday when, in a 5- to-4 decision, the court ordered the hand recounts in Florida to stop.

But the Bush team's appeal to the U.S. Supreme Court, which will hear oral arguments this morning, is just one prong of the G.O.P.'s dangerous assault on the spirit of democracy that has served this nation so well for so long. The truth is that while Mr. Bush and the Republicans will be more than happy to accept a final Supreme Court ruling in their favor, they are already prepared to take extraordinary steps to circumvent a ruling that goes against them.

In short, they are not willing to accept any set of circumstances that would result in Al Gore winning the White House.

Former Secretary of State James Baker was asked on "Meet the Press" yesterday if the Bush campaign would accept the results of a recount in Florida if, after hearing the arguments today, the Supreme Court ordered the recount to resume.

Mr. Baker told the moderator, Tim Russert, "Of course we'll begin the recount again if that's the ruling of the United States Supreme Court."

Mr. Russert said, "And will you abide by the result?"

Mr. Baker, clearly uncomfortable with the question, said "Well, I'm not sure I under-

stand what you mean, 'Will we abide by the result?' The result will be there."

Mr. Baker knows as well as anyone that the Republican-controlled Florida Legislature is poised to trash any semblance of justice and fair play by designating its own slate of 25 presidential electors committed to Mr. Bush if, under any scenario, Al Gore wins the popular vote in Florida.

Mr. Baker said of the Legislature, "They have an interest here that is a constitutional interest granted to them under Article 2 of the Constitution, and it is not up to me or anybody else to rule that out or rule it in."

Mr. Russert said: "But your campaign has been working in concert with them, giving them legal advice. Both sides admit it."

"Uh, Tim, we may have indeed," said Mr. Baker. "Some of our people have been talking to them, there's no doubt about that, because it is a constitutional remedy set forth in Article 2 of the Constitution."

In the eyes of the Republicans, the Supreme Court ruling is the final word only if it goes against Mr. Gore.

The game is rigged. And the Democrats, who all along have been more willing than the Republicans to adhere to standards of fair play, are openly talking about folding their tents and conceding the White House to Mr. Bush.

American democracy suffered a grievous wound this year in Florida. The conservative majority on the U.S. Supreme Court that has ranted ad nauseam about activist courts and the infringement of states' rights turned its own philosophy on its head by rushing in on Saturday and gratuitously stopping a recount of votes legally cast by American citizens.

It is not unreasonable to believe that had those votes been counted, Al Gore, who won the popular vote nationwide, would also have won Florida and a majority in the electoral college.

A former colleague of mine called yesterday and said: "All the Supreme Court of Florida wanted to do was have the vote counted. What was so wrong with that?"

The good news, of course, is that American-style democracy is resilient enough to rebound from the Florida fiasco. Eventually the full truth will emerge about the extent to which the voices of voters in Florida went unheard. And the role of the U.S. Supreme Court and the Republican Party in silencing those voters will be a matter of public and historical record.

[From the New York Times, Dec. 11, 2000]

RAISING THE STAKES

(By Anthony Lewis)

WASHINGTON.—Whether Al Gore or George W. Bush becomes president will make a difference, but it has never been a cosmic question. Whoever wins, the country will survive.

But now a truly profound interest is at stake in the election controversy. That is the public's acceptance of the great power exercised by the Supreme Court of the United States.

Justice Robert H. Jackson, in lectures published in 1955 after his death, pointed out the curiosity of the role played by the justices in our democracy. The court has often been in controversy, he said, and "the public has more than once repudiated particular decisions."

"Public opinion, however," Justice Jackson said, "seems always to sustain the power of the court. . . . The people have seemed to feel that the Supreme Court, whatever its defects, is still the most detached, dispassionate and trustworthy custodian that our system affords for the translation of abstract into concrete constitutional commands."

That is what has now been thrown into question: the public belief that the court is "detached, dispassionate and trustworthy." The court's order stopping the recount of ballots in Florida—a 5-to-4 decision along ideological lines—looked to many Americans like a partisan intervention to save the day for Governor Bush.

The Bush forces had worked for a month to prevent a manual recount of doubtful ballots, evidently in the belief that counting them would put Mr. Gore ahead. Now, just after recounts had begun, the five more conservative members of the Supreme Court stopped the process.

Lawyers and others who watch the court closely are saying they are bewildered, even shaken, by what it did in stopping the recount. The one guide we have to the reasons for the intervention was the opinion by Justice Antonin Scalia, concurring with the majority's order. And it made the action, if anything, more troubling.

To recount those Florida votes, Justice Scalia said, might cast "a cloud" on what Governor Bush "claims to be the legitimacy of his election." To count them first and then rule on their legality "is not a recipe for producing election results that have the public acceptance democratic stability requires."

If the Supreme Court now permanently stops the recounts, will that promote "public acceptance" and "democratic stability"? Hardly. Half the country will be even more outraged at what was done to Gore voters in Florida. Justice Scalia's proposition seems to make sense only on the assumption that Governor Bush really won Florida—which is the very issue to be decided in the recounts.

Justice Scalia said the court must decide whether the ballots that were ordered to be recounted—ones that on machines showed no vote for president—were legally cast votes "under a reasonable interpretation of Florida law." That comment raised an extraordinary legal question.

It is basic constitutional law that the Supreme Court has no power to consider state court decisions on the meaning of state laws. The Florida Supreme Court's decision ordering the recount was just that: an application of state statutes. Was Justice Scalia saying that the Supreme Court will decide whether the Florida court was "reasonable"? That could open an endless prospect of enlarged Supreme Court jurisdiction.

The puzzle is what federal question exists here, of the kind the Supreme Court has power to decide. The Bush brief argues that manual recounts, with no precise rules binding all counties in Florida, would be so inconsistent as to deny "the equal protection of the laws" guaranteed by the 14th Amendment. But there have been manual recounts all over this country from the beginning of our history. Is every one of them now going to raise a potential federal constitutional question?

The level of partisanship in our politics is already dangerously high. The Bush people, in particular, have taken a nasty, hateful tone in Florida and elsewhere. It would be terrible for the court to exacerbate the division—and become part of it.

In this vast, diverse country, we depend on the Supreme Court as the final voice. Perhaps some of the justices believe they can bring finality to the election contest. But if they over-reach, acting as what Judge Learned Hand called "Platonic Guardians," they will inflict a grave wound on their own legitimacy.

[From the New York Times, Dec. 11, 2000]

BITING THE BALLOT

(By William Safire)

WASHINGTON.—You cannot spit in the eye of the nation's highest court without suffering consequences.

The Florida Supreme Court ignored the U.S. Supreme Court's order nullifying its deadline-breaking action and in effect told the nation's final judicial tribunal to mind its own business.

Florida's four-judge majority, not content with taking over the lawmaking function of its state's Legislature, and brushing aside the dire warning of creating an unnecessary crisis from its own chief justice, arrogated to itself the power to pursue its political course—despite direction to the contrary a few days before from the top of the nation's court system.

Not in living memory have Americans seen such judicial chutzpah. Our political process was almost subverted by the runaway court.

Perhaps the U.S. Supreme Court invited Florida's disrespect. In its eagerness to preserve its own unanimity and to show undue deference to a state court's interference in a federal election, the high court in Washington had temporized in its first opinion. Rather than cleanly reversing the Tallahassee jurists, the Rehnquist court acquiesced in its liberal members' suggestion to learn the legal reasoning behind the Florida decision to ignore the U.S. Constitution's delegation of electoral power to state legislatures.

The Tallahassee majority read that deference as weakness. Rather than answer the high court's questions, it took constitutional law into its own hands and extended the agony of the Gore campaign by ordering a count of votes whose legality is in dispute.

Bush partisans mistakenly made much of the narrow split in the Florida court, as if a 4-to-3 decision was somehow less than decisive. But in our judicial system, the narrowest majority carries the full power of the entire court. That runaway court's order to start counting was promptly, and rightly, obeyed—until a majority of the highest court, recognizing its deference had been misplaced and its authority was being challenged, stayed the counting fingers.

In our presidential elections, the constitutional majority rules. That means the majority of electors of all the states. When the votes of the people in a state amount to a virtual tie, the nation's choice of a president cannot suitably be made by one state's executive branch (in this case, for Bush) or that state's judicial branch (for Gore). Rather, the state's vote must be decided in the manner the U.S. Constitution specifically directs—by its legislature (for Bush) or if the contest goes all the way, by the newly elected House of Representatives (voting by states, 29 of which have Republican majorities that would elect Bush).

But do we need to go all the way to that bitter end? No; with the House vote certain for Bush, it serves nobody's purpose to prolong the interregnum. We have an institution in place that a majority of the people trusts to decide what is the most constitutionally defensible solution. That is the U.S. Supreme Court.

So what if the justices are internally divided on this election issue? They were far from unanimous on *Roe v. Wade*, and yet even those who disagree with that majority's decision recognize it as the law of the land. Unanimity is a consummation devoutly to be wished, but the high court's majority rules, and its decision cannot be overridden except by a future high court or by amending the Constitution.

Now we are at a point where the highest court can no longer delay its decision in

hopes that an inferior court will act responsibly. By its coming decision on the late count, the Supreme Court will be deciding (a) to validate for our time Article II's unambiguous assignment of electoral power to elected state legislatures, with its enabling statutes passed long ago by Congress; (b) to restore order to the judicial system by curbing the runaway state court; and (c) to lend some of its own legitimacy to the political victor in an election where there can be neither a statistical winner or loser.

All during the campaign of 2000, Al Gore kept saying that this election was about the Supreme Court. Turns out he was right. It is fitting that we now call on the nine justices to bite the ballot and call on the contestants to abide by the majority's judgment.

[From the Washington Post, Dec. 9, 2000]

GHOSTS IN FLORIDA

(By Colbert I. King)

The ghosts of Campaign 2000 in the form of Florida's controversial presidential vote will trail the next president into the White House. If it is George W. Bush, his first year will be haunted by a decision reached this week in Washington. If it is Al Gore, he can sit back and watch the fun.

After several daily meetings with FBI and Civil Rights Division staff to review intelligence concerning alleged voting irregularities, senior Justice Department officials concluded that there were sufficient grounds to send federal lawyers to Florida last Monday. The decision was a long time coming.

Since Election Day, civil rights groups have demanded that the Justice Department probe numerous complaints of improprieties, minority vote dilution and violation of federal civil rights laws in Florida voting precincts. This week, the federal government finally agreed to act—with too little and too late, critics say. Maybe not.

The introduction of Justice Department lawyers certainly won't change the election results or alter court decisions reached yesterday. But the current information gathering effort may get converted into a formal Justice Department investigation. If that happens, the civil rights probe could reach out and touch Florida Bush backers in a way that street protests, demonstrations and heated cyberspace traffic never could.

By Jan. 20, the judicial jousting and Florida's Supreme Court justices will be a memory. Not so the charges of African American voters being denied the right to vote due to discrimination, intimidation and fraud. There's no such thing as the clock's running out on the fight against racism.

If the Justice Department finds that voters of color were disenfranchised and left unprotected by the Florida state government—that U.S. laws indeed were broken—the issue will be alive and squarely in the lap of the next administration. And the problem will come with a twist that is sure to make a Bush White House squirm.

Simply put, a George W. Bush appointed attorney general could not be entrusted to investigate and prosecute illegal voter suppression activities in the state that gave Bush the presidency and in which his brother Jeb is governor. A civil rights probe in Florida, on the other hand, would be no problem for a president Gore.

Faced with a formal Justice Department investigation, the Bush administration would have no choice but to seek the appointment of a special counsel to conduct an independent inquiry into possible federal violations in Florida. Only an impartial outsider, not beholden to Bush or his attorney general, can be expected to serve the interest of justice. Nothing short of an independent

team of lawyers and investigators interviewing witnesses and probing the nooks and crannies of the likes of Volusia, Broward and Miami-Dade counties, will reassure the public that politics and special preference won't rule the day in a Bush White House.

Investigating voting irregularities in Florida will not be a game of trivial pursuit. Some troubling allegations have already surfaced, such as:

The names of law-abiding voters, disproportionately African American, wrongly removed from the rolls or identified for purging.

Registered African American voters banished from the polls because their names couldn't be found on voter registration lists.

Voting sites in African American precincts switched without timely notice or any notification at all.

African American voters harassed and intimidated near the polling places.

Ballot boxes in African American precincts not collected, predominantly minority polls understaffed, language assistance sought but denied, old and unreliable voting machinery.

And the list of alleged irregularities does not include the disproportionate number of ballots in predominantly minority precincts that were thrown out.

For those of you tempted to dismiss these complaints as the predictable whining of blacks who find themselves on the losing side, I say not so fast. Experience, old and new, has been a great teacher.

I commend to you the observations of Hugh Price, president of the National Urban League, on National Public Radio's "Talk of the Nation" show. Price backs calls for the Justice Department to get into the Florida situation in a strong way. He told listeners: "I'm reminded of what happened in the case of racial profiling in New Jersey when the

first response to the allegation was, 'We don't do this,' a staunch denial.

"Then we discovered there were some correlations between race and who was being stopped, but there was still a lot of denial. . . . And then it turned out that it was happenstance. And now that the New York Times has dug into and received mounds of paper they have found that it was an outright, point-blank, in-your-face conspiracy on the part of the New Jersey troopers to stop people of color."

All the media attention today is on Florida courts, the presidential contenders and the potential winning candidate's thrill of victory. Come next year, the limelight shifts to Washington—and maybe to another scene—an all-too familiar tale about the uphill struggle of a people who tried in vain to live out the American Dream on Election Day.