the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami for which a charitable contribution deduction is allowable under section 170 of the Internal Revenue Code of 1986.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 12:55 p.m.

Accordingly (at 11 o'clock and 21 minutes a.m.), the House stood in recess until approximately 12:55 p.m.

□ 1258

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 58 minutes p.m.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

SWEARING IN OF MEMBER-ELECT

The SPEAKER. Will the gentleman from Arizona (Mr. SHADEGG) please take his place in the well of the House and take the oath of office at this time.

Mr. SHADEGG appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office upon which you are about to enter, so help you God.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the swearing in of the gentleman from Arizona, the whole number of the House is adjusted to 429.

COUNTING ELECTORAL VOTES—JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF SENATE CONCURRENT RESOLUTION 1 (HOUSE OF REPRESENTATIVES—JANUARY 6, 2005)

At 1:02 p.m., the Sergeant at Arms, Wilson Livingood, announced the Vice President and the Senate of the United States.

The Senate entered the Hall of the House of Representatives, headed by the Vice President and the Secretary of the Senate, the Members and officers of the House rising to receive them.

The Vice President took his seat as the Presiding Officer of the joint convention of the two Houses, the Speaker of the House occupying the chair on his left.

The joint session was called to order by the Vice President.

The VICE PRESIDENT. Mr. Speaker and Members of Congress, pursuant to the Constitution and laws of the United States, the Senate and House of Representatives are meeting in joint session to verify the certificates and count the votes of the electors of the several States for President and Vice President of the United States.

After ascertainment has been had that the certificates are authentic and correct in form, the tellers will count and make a list of the votes cast by the electors of the several States.

The tellers on the part of the two Houses will please take their places at the Clerk's desk.

The tellers, Mr. LOTT and Mr. JOHNSON on the part of the Senate, and Mr. NEY and Mr. LARSON of Connecticut on the part of the House, took their places at the desk.

The VICE PRESIDENT. Without objection, the tellers will dispense with reading formal portions of the certificates.

There was no objection.

The VICE PRESIDENT. After ascertaining that certificates are regular in form and authentic, the tellers will announce the votes cast by the electors for each State, beginning with Alabama.

Senator LOTT (one of the tellers). Mr. President, the certificate of the electoral vote of the State of Alabama seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 9 votes for President and DICK CHENEY of the State of Wyoming received 9 votes for Vice President.

Mr. NEY (one of the tellers). Mr. President, the certificate of the electoral vote of the State of Alaska seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 3 votes for President and DICK CHENEY of the State of Wyoming received 3 votes for Vice President.

Senator JOHNSON (one of the tellers). Mr. President, the certificate of the electoral vote of the State of Arizona seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 10 votes for President and DICK CHENEY of the State of Wyoming received 10 votes for Vice President.

Mr. LARSON of Connecticut (one of the tellers). Mr. President, the certificate of the electoral vote of the State of Arkansas seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 6 votes for President and DICK CHENEY of the State of Wyoming received 6 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the State of California seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 55 votes for President and John Edwards of the State of North Carolina received 55 votes for Vice President.

Mr. NEY. Mr. President, the certificate of the electoral vote of the State of Colorado seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 9 votes for President and DICK CHENEY of the State of Wyoming received 9 votes for Vice President.

Mr. LARSON of Connecticut. Mr. President, the certificate of the electoral vote of the great State of Connecticut seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 7 votes for President and John Edwards of the State of North Carolina received 7 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of Delaware seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 3 votes for President and John Edwards of the State of North Carolina received 3 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the District of Columbia seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 3 votes for President and John Edwards of the State of North Carolina received 3 votes for Vice President.

Mr. NEY. Mr. President, the certificate of the electoral vote of the State of Florida seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 27 votes for President and DICK CHENEY of the State of Wyoming received 27 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of Georgia seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 15 votes for President and DICK CHENEY of the State of Wyoming received 15 votes for Vice President.

Mr. LARSON of Connecticut. Mr. President, the certificate of the electoral vote of the State of Hawaii seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 4 votes for President and John Edwards of the State of North Carolina received 4 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the State of Idaho seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 4 votes for President and DICK CHENEY of the State of Wyoming received 4 votes for Vice President.

Mr. NEY. Mr. President, the certificate of the electoral vote of the State of Illinois seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 21 votes for President and John Edwards of the State of North Carolina received 21 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of Indiana seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 11 votes for President and DICK CHENEY of the State of Wyoming received 11 votes for Vice President.

Mr. LARSON of Connecticut. Mr. President, the certificate of the electoral vote of the State of Iowa seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 7 votes for President and DICK CHENEY of the State of Wyoming received 7 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the State of Kansas seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 6 votes for President and DICK CHENEY of the State of Wyoming received 6 votes for Vice President.

Mr. NEY. Mr. President, the certificate of the electoral vote of the Commonwealth of Kentucky seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 8 votes for President and DICK CHENEY of the State of Wyoming received 8 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of Louisiana seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 9 votes for President and DICK CHENEY of the State of Wyoming received 9 votes for Vice President.

Mr. LARSON of Connecticut. Mr. President, the certificate of the electoral vote of the State of Maine seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 4 votes for President and John Edwards of the State of North Carolina received 4 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the State of Maryland seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 10 votes for President and John Edwards of the State of North Carolina received 10 votes for Vice President.

□ 1315

Mr. NEY. Mr. President, the certificate of the electoral vote of the Commonwealth of Massachusetts seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 12 votes for President, and John Edwards of the State of North Carolina received 12 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of Michigan seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 17 votes for President, and John Edwards of the State of North Carolina received 17 votes for Vice President.

Mr. LARSON of Connecticut. Mr. President, the certificate of the electoral vote of the State of Minnesota seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 9 votes for President, that John Edwards of the State of North Carolina received 1 vote for President, and John Edwards of the State of North Carolina received 10 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the State of Mississippi seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 6 votes for President, and DICK CHENEY of the State of Wyoming received 6 votes for Vice President.

Mr. NEY. Mr. President, the certificate of the electoral vote of the State of Missouri seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 11 votes for President, and DICK CHENEY of the State of Wyoming received 11 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of Montana seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 3 votes for President, and DICK CHENEY of the State of Wyoming received 3 votes for Vice President.

Mr. LARSON of Connecticut. Mr. President, the certificate of the electoral vote of the State of Nebraska seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 5 votes for President, and DICK CHENEY of the State of Wyoming received 5 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the State of Nevada seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 5 votes for President, and DICK CHENEY of the State of Wyoming received 5 votes for Vice President.

Mr. NEY. Mr. President, the certificate of the electoral vote of the State of New Hampshire seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 4 votes for President, and John Edwards of the State of North Carolina received 4 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of New Jersey seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 15 votes for President, and John Edwards of the State of North Carolina received 15 votes for Vice President.

Mr. LARSON of Connecticut. Mr. President, the certificate of the electoral vote of the State of New Mexico seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 5 votes for President, and DICK CHENEY of the State of Wyoming received 5 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the State of New York seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 31 votes for President, and John Edwards of the State of North Carolina received 31 votes for Vice President.

Mr. NEY. Mr. President, the certificate of the electoral vote of the State of North Carolina seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 15 votes for President, and DICK CHENEY of the State of Wyoming received 15 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of North Dakota seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 3 votes for President, and DICK CHENEY of the State of Wyoming received 3 votes for Vice President

Mr. NEY. Mr. President, the certificate of the electoral vote of the well-known and great State of Ohio seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 20 votes for President and DICK CHENEY from the from the State of Wyoming received 20 votes for Vice President.

The VICE PRESIDENT. For what purpose does the gentlewoman from Ohio rise?

Mrs. JONES of Ohio. Mr. Vice President, I seek to object to the electoral votes of the State of Ohio on the ground that they were not, under all of the known circumstances, regularly given and have a signed objection, and I do have a Senator.

The VICE PRESIDENT. Has the Senator signed the objection?

Mrs. JONES of Ohio. Mr. Vice President, the Senator has signed the objection.

The VICE PRESIDENT. An objection presented in writing and signed by both a Representative and a Senator complies with the law, chapter 1 of title 3, United States Code.

The Clerk will report the objection.

The Clerk read the objection as follows:

We, a Member of the House of Representatives and a United States Senator, object to the counting of the electoral votes of the State of Ohio on the ground that they were not, under all of the known circumstances, regularly given.

STEPHANIE TUBBS JONES,
Representative, State of Ohio.
BARBARA BOXER,
Senator, State of California.

The VICE PRESIDENT. Are there further objections to the certificate from the State of Ohio?

The Chair hears none.

The VICE PRESIDENT. The two Houses will withdraw from joint session. Each House will deliberate separately on the pending objection and report its decision back to the joint session.

The Senate will now retire to its Chamber.

The Senate retired to its Chamber.

The SPEAKER. Pursuant to Senate Concurrent Resolution 1 and section 17 of title 3, the United States Code, when two Houses withdraw from the joint session to count the electoral vote for separate consideration of objection, a Representative may speak to the objection for 5 minutes and not more than once. Debate shall not exceed 2 hours, after which the Chair will put the question, ''Shall the objection be agreed to?''

The Clerk will report the objection made in the joint session.

The Clerk read the objection as follows:

We, a Member of the House of Representatives and a United States Senator, object to the counting of the electoral votes of the State of Ohio on the ground that they were not, under all of the known circumstances, regularly given.

STEPHANIE TUBBS JONES,
Representative, State of Ohio.
BARBARA BOXER,
Senator, State of California.

The SPEAKER. The Chair will endeavor to alternate recognition between Members speaking in support of the objection and Members speaking in opposition to the objection.

The Chair recognizes the gentlewoman from Ohio (Mrs. JONES) for 5 minutes.

Mrs. JONES of Ohio. Mr. Speaker, I, STEPHANIE TUBBS JONES, and BARBARA BOXER, a Senator from California, have objected to the counting of the electoral votes of the State of Ohio on the ground that they were not, under all of the known circumstances, regularly given.

I, thank God, have a Senator joining me in this objection, and I appreciate Senator BOXER's willingness to listen to the plight of hundreds, and even thousands of Ohio voters, that for a variety of reasons were denied the right to vote.

□ 1330

Unfortunately, objecting to the electoral votes from Ohio is the only immediate avenue to bring these issues to light. While some have called our cause foolish, I can assure you that my parents, Mary and Andrew Tubbs, did not raise any fools. They raised a lawyer, they raised a former judge, they raised a prosecutor; and thank God they live to see me serve as a Member of the House of Representatives.

I am duty bound to follow the law and apply the law to the facts as I find them, and it is on behalf of those millions of Americans who believe in and value our democratic process and the right to vote that I put forth this objection today. If they are willing to stand at polls for countless hours in the rain, as many did in Ohio, then I should surely stand up for them here in the halls of Congress.

This objection does not have at its root the hope or even the hint of overturning the victory of the President; but it is a necessary, timely, and appropriate opportunity to review and remedy the most precious process in our democracy. I raise this objection neither to put the Nation in the turmoil of a proposed overturned election nor to provide cannon fodder or partisan demagoguery for my fellow Members of Congress. I raise this objection because I am convinced that we as a body must conduct a formal and legitimate debate about election irregularities. I raise this objection to debate the process and protect the integrity of the true will of the people.

Again, I thank Senator BOXER.

There are serious allegations in two lawsuits pending in Ohio that debate the constitutionality of the denial of provisional ballots to voters: One, the Sandusky County Democratic Party v. J. Kenneth Blackwell and Ohio's vote recount, Yost v. David Cobb, et al. These legitimate questions brought forward by the lawsuits, which go to the core of our voting and democratic process, should be resolved before Ohio's electoral votes are certified.

Moreover, as you are aware, advancing legislative initiatives is more challenging when you are in the minority party in the Congress. However, this challenge is multiplied when you are in the minority in the House of Representatives because of the House rules compared to the Senate rules.

Voting irregularities were an issue after the 2000 Presidential election when the House initiatives relating to election reform were not considered. Therefore, in order to prevent our voices from being kept silent, it is imperative that we object to the counting of Ohio's electoral votes.

What happened in Ohio in Cuyahoga County. There are just over 1 million registered voters in Cuyahoga County which, of course, includes my congressional district. Registration increased approximately 10 percent. The beauty of the 2004 election was that more people were fully prepared to exercise their right to vote; however, on election day, hundreds and even thousands of individuals went to the voting polls and were denied the opportunity. In my own county where citizen volunteers put forth a Herculean effort to register, educate, mobilize and protect, there were long lines, 4- to 5-hour waits.

Election Protection Coalition testified that more than half of the complaints about long lines they received came from Columbus and Cleveland where a huge proportion of the State's Democratic voters live. One entire polling place in Cuyahoga County had to shut down at 9:25 a.m. on election day because there were no working machines. On provisional balloting, Cuyahoga County had over-all provisional ballot rejection of 32 percent. Rejection rates for provisional ballots in African American precincts and wards in Cleveland averaged 37 percent and in some as high as 51 percent.

Significant flaws in registration process and procedures. Initial research identified at least 600 individuals purged from the Cuyahoga County voting rolls without a due process. Cuyahoga County analysis of 10,900 voter applications showed that almost 3,000 were never entered; address updates received but never updated; mistakes in entering addresses.

I thank the Speaker for the opportunity to be heard, and I raise the objection on behalf of the electors of the State of Ohio.

Ms. PRYCE of Ohio. Mr. Speaker, I rise to address the House for 5 minutes.

The SPEAKER. The Chair recognizes the gentlewoman from Ohio.

Ms. PRYCE of Ohio. Mr. Speaker, on one recent, crisp autumn morning in Boston, one tired-looking Presidential hopeful took the stage in front of a large crowd of loyal, yet disappointed, faces to say the following words: ''It is now clear that even when all the provisional ballots are counted, which they will be, and which they were, there won't be enough outstanding votes for us to be able to win Ohio. And, therefore, we cannot win this election.'' And so JOHN KERRY conceded the Presidency to George W. Bush with grace and dignity.

Apparently such admirable qualities do not apply to certain extreme elements of Senator KERRY's own party. For if they did, surely this House would not be standing here today bogged down in this frivolous debate.

Mr. Speaker, on the other side of the aisle, a handful of Members will step forward and claim that they are here to contest an election of this Nation. They will claim that there was fraud

and that the result was invalid. Americans, do not be deceived. Their intentions in this whole process are merely to sow doubts and undermine public confidence in the electoral system itself. Their challenges to the legitimacy of this election are no more than another exercise in their party's primary strategy, to obstruct, to divide, and to destroy. In other words, their objection is a front for their lack of ideas. With absolutely no credible agenda for America, these Democrats have opted to try and change the past rather than work for a better future

Mr. Speaker, we just welcomed a new year and began a new Congress. Republicans are ready and eager to ask the questions and prompt the debate that will produce results for America. We want to talk about ways to reduce health care costs for families and debate ways to create more jobs for Americans. We are ready to discuss how to strengthen our schools to better educate our children.

But apparently some Democrats only want to gripe about counts, recounts, and recounts of recounts. So eager are they to abandon their job as public servants, they have cast themselves in the role of Michael Moore, concocting wild conspiracy theories to distract the American public. Such aspiring fantasy authors should note the facts before they let the ink dry on this tall tale.

For example, the request for an Ohio recount has already been fulfilled, and it verified what we already knew, what Senator JOHN KERRY knew the first day, that President Bush won Ohio by nearly 120,000 votes, an overwhelming and comfortable margin. Indeed, George W. Bush is the first Presidential candidate to win the majority of the popular vote since 1988. And, Mr. Speaker, every single major editorial board of every newspaper in Ohio has called this effort a sham.

Eighty-eight separate bipartisan election boards from every county in Ohio, even Cuyahoga, have verified and vouched for the integrity of the results. Are we to believe that the hundreds of Democrats who sit on these boards were actively working against their own party and their own Presidential candidate? No local, county, or State election officials in Ohio are contesting this election. Not one. The overwhelming majority of Ohioans are not contesting this election, so why should politicians in Washington?

Mr. Speaker, it is a shame that these Democrats have resorted to such baseless and meritless tactics to begin the 109th Congress. And it is a shame that they have placed their partisan war, disclaimed by their own candidate above what is best for the country and to use the great State of Ohio as their vehicle.

Mr. Speaker, I yield the balance of my time to my friend and colleague from the great State of Ohio (Mr. HOBSON).

Mr. HOBSON. Mr. Speaker, I rise with a heavy heart today on this issue. I think this is, in all the years I have been in politics, one of the most base, outrageous acts to take place. The Democratic State chairman in our State has not challenged, to my knowledge, the count or the outcome in any county. His name is Denny White. The Democratic chairman of no county that I know of has challenged either the count or the outcome in any county. The Democratic board of election members have not challenged the count or the outcome in any county.

This should be voted down.

Mr. Speaker, I rise today with a heavy heart on this issue. In all of the years that I have been in public service, I think this is one of the most base, outrageous acts to take place.

Ohio's State Democratic Chairman, whose name is Denny White, has not, to the best of my knowledge, challenged the count or outcome of this election.

No Ohio Democratic County Chairman has challenged the count or outcome of this election in any county.

No Ohio Democratic Board of Election member has challenged the count or outcome of this election in any county.

The people of the State of Ohio are not challenging the results of the election. The challenges we are hearing today are politically motivated by partisan politicians. They are casting aspersions on the bipartisan electing officials within the State of Ohio. This is unfair and wrong to do to those hardworking, dedicated officials.

All of the major newspapers in Ohio have editorialized against this despicable action taken by the minority.

Mr. Speaker, the American people want us to work together in a bipartisan fashion. My constituents ask me why we don't work together more often. What we are seeing here today, two days after being sworn in, is why we don't see more comity in the House. this action is setting the wrong tone for the beginning of the 109th Congress.

This debate today is not going to change the result of the election, but it will poison the atmosphere of the House of Representatives.

Mr. Speaker, this challenge should be overwhelmingly defeated.

Mr. CONYERS. Mr. Speaker, I rise to address the House.

The SPEAKER. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I include for printing in the CONGRESSIONAL RECORD the staff report of the House Judiciary Committee Democratic staff entitled, ''Preserving Democracy: What Went Wrong in Ohio.''

PRESERVING DEMOCRACY: WHAT WENT WRONG IN OHIO

EXECUTIVE SUMMARY

Representative John Conyers, Jr., the Ranking Democrat on the House Judiciary Committee, asked the Democratic staff to conduct an investigation into irregularities reported in the Ohio presidential election and to prepare a Status Report concerning the same prior to the Joint Meeting of Congress scheduled for January 6, 2005, to receive and consider the votes of the electoral college for president. The following Report includes a brief chronology of the events; summarizes the relevant background law; provides detailed findings (including factual findings and legal analysis); and describes various recommendations for acting on this Report going forward.

We have found numerous, serious election irregularities in the Ohio presidential election, which resulted in a significant disenfranchisement of voters. Cumulatively, these irregularities, which affected hundreds of thousands of votes and voters in Ohio, raise grave doubts regarding whether it can be said the Ohio electors selected on December 13, 2004, were chosen in a manner that conforms to Ohio law, let alone federal requirements and constitutional standards.

This report, therefore, makes three recommendations: (1) consistent with the requirements of the United States Constitution concerning the counting of electoral votes by Congress and Federal law implementing these requirements, there are ample grounds for challenging the electors from the State of Ohio; (2) Congress should engage in further hearings into the widespread irregularities reported in Ohio; we believe the problems are serious enough to warrant the appointment of a joint select Committee of the House and Senate to investigate and report back to the Members; and (3) Congress needs to enact election reform to restore our people's trust in our democracy. These changes should include putting in place more specific federal protections for federal elections, particularly in the areas of audit capability for electronic voting machines and casting and counting of provisional ballots, as well as other needed changes to federal and state election laws.

With regards to our factual finding, in brief, we find that there were massive and unprecedented voter irregularities and anomalies in Ohio. In many cases these irregularities were caused by intentional misconduct and illegal behavior, much of it involving Secretary of State J. Kenneth Blackwell, the co-chair of the Bush-Cheney campaign in Ohio.

First, in the run up to election day, the following actions by Mr. Blackwell, the Republican Party and election officials disenfranchised hundreds of thousands of Ohio citizens, predominantly minority and Democratic voters:

The misallocation of voting machines led to unprecedented long lines that disenfranchised scores, if not hundreds of thousands, of predominantly minority and Democratic voters. This was illustrated by the fact that the Washington Post reported that in Franklin County, ''27 of the 30 wards with the most machines per registered voter showed majorities for Bush. At the other end of the spectrum, six of the seven wards with the fewest machines delivered large margins for Kerry.'' Among other things, the conscious failure to provide sufficient voting machinery violates the Ohio Revised Code which requires the Boards of Elections to ''provide adequate facilities at each polling place for conducting the election.''

Mr. Blackwell's decision to restrict provisional ballots resulted in the disenfranchisement of tens, if not hundreds, of thousands of voters, again predominantly minority and Democratic voters. Mr. Blackwell's decision departed from past Ohio law on provisional ballots, and there is no evidence that a broader construction would have led to any significant disruption at the polling places, and did not do so in other states.

Mr. Blackwell's widely reviled decision to reject voter registration applications based on paper weight may have resulted in thousands of new voters not being registered in time for the 2004 election.

The Ohio Republican Party's decision to engage in preelection ''caging'' tactics, selectively targeting 35,000 predominantly minority voters for intimidation had a negative impact on voter turnout. The Third Circuit

found these activities to be illegal and in direct violation of consent decrees barring the Republican Party from targeting minority voters for poll challenges.

The Ohio Republican Party's decision to utilize thousands of partisan challengers concentrated in minority and Democratic areas likely disenfranchised tens of thousands of legal voters, who were not only intimidated, but became discouraged the long lines. Shockingly, these disruptions were publicly predicted and acknowledged by Republican officials: Mark Weaver, a lawyer for the Ohio Republican Party, admitted the challenges ''can't help but create chaos, longer lines and frustration.''

Mr. Blackwell's decision to prevent voters who requested absentee ballots but did not receive them on a timely basis from being able to receive provisional ballots likely disenfranchised thousands, if not tens of thousands, of voters, particularly seniors. A federal court found Mr. Blackwell's order to be illegal and in violation of HAVA.

Second, on election day, there were numerous unexplained anomalies and irregularities involving hundreds of thousands of votes that have yet to be accounted for:

There were widespread instances of intimidation and misinformation in violation of the Voting Rights Act, the Civil Rights Act of 1968, Equal Protection, Due Process and the Ohio right to vote. Mr. Blackwell's apparent failure to institute a single investigation into these many serious allegations represents a violation of his statutory duty under Ohio law to investigate election irregularities.

We learned of improper purging and other registration errors by election officials that likely disenfranchised tens of thousands of voters statewide. The Greater Cleveland Voter Registration Coalition projects that in Cuyahoga County alone over 10,000 Ohio citizens lost their right to vote as a result of official registration errors.

There were 93,000 spoiled ballots where no vote was cast for president, the vast majority of which have yet to be inspected. The problem was particularly acute in two precincts in Montgomery County which had an undervote rate of over 25% each—accounting for nearly 6,000 voters who stood in line to vote, but purportedly declined to vote for president.

There were numerous, significant unexplained irregularities in other counties throughout the state: (i) In Mahoning county at least 25 electronic machines transferred an unknown number of Kerry votes to the Bush column; (ii) Warren County locked out public observers from vote counting citing an FBI warning about a potential terrorist threat, yet the FBI states that it issued no such warning; (iii) the voting records of Perry county show significantly more votes than voters in some precincts, significantly less ballots than voters in other precincts, and voters casting more than one ballot; (iv) in Butler county a down ballot and underfunded Democratic State Supreme Court candidate implausibly received more votes than the best funded Democratic Presidential candidate in history; (v) in Cuyahoga county, poll worker error may have led to little known third party candidates receiving twenty times more votes than such candidates had ever received in otherwise reliably Democratic leaning areas; (vi) in Miami county, voter turnout was an improbable and highly suspect 98.55 percent, and after 100 percent of the precincts were reported, an additional 19,000 extra votes were recorded for President Bush.

Third, in the post-election period we learned of numerous irregularities in tallying provisional ballots and conducting and completing the recount that disenfranchised thousands of voters and call the entire recount procedure into question (as of this date the recount is still not complete):

Mr. Blackwell's failure to articulate clear and consistent standards for the counting of provisional ballots resulted in the loss of thousands of predominantly minority votes. In Cuyahoga County alone, the lack of guidance and the ultimate narrow and arbitrary review standards significantly contributed to the fact that 8,099 out of 24,472 provisional ballots were ruled invalid, the highest proportion in the state.

Mr. Blackwell's failure to issue specific standards for the recount contributed to a lack of uniformity in violation of both the Due Process Clause and the Equal Protection Clauses. We found innumerable irregularities in the recount in violation of Ohio law, including (i) counties which did not randomly select the precinct samples; (ii) counties which did not conduct a full hand court after the 3% hand and machine counts did not match; (iii) counties which allowed for irregular marking of ballots and failed to secure and store ballots and machinery; and (iv) counties which prevented witnesses for candidates from observing the various aspects of the recount.

The voting computer company Triad has essentially admitted that it engaged in a course of behavior during the recount in numerous counties to provide ''cheat sheets'' to those counting the ballots. The cheat sheets informed election officials how many votes they should find for each candidate, and how many over and under votes they should calculate to match the machine count. In that way, they could avoid doing a full countywide hand recount mandated by state law.

CHRONOLOGY OF EVENTS

The Lead Up to the 2004 Ohio Presidential Election In Ohio—In the days leading up to election day 2004, a consensus appeared to have emerged among observers that the state of Ohio would be one of the battleground states that would decide who would be elected the Forty-fourth President of the United States. Both the Democratic and Republican Presidential campaigns, as well as outside groups, had spent considerable time and resources to win the state, but the day before the election, the Democratic candidate, Senator John Kerry, appeared to have the edge. The Democratic Party also had vastly outperformed its Republican counterparts in registering voters in this key state.

Election Day—Numerous irregularities were reported throughout Ohio. In particular, in predominately Democratic and African-American areas, the voting process was chaotic, taxing and ultimately fruitless for many. The repeated and suspicious challenges of voter eligibility and a lack of inadequate number of voting machines in these areas worked in concert to slow voting to a crawl, with voting lines as long as ten hours. Voters reported bizarre ''glitches'' in voting machines where votes for Senator Kerry were registered as votes for the President. The counting process was similarly chaotic and suspect.

The Aftermath—On November 5, after receiving preliminary reports of election irregularities in the 2004 General Election, Congressman John Conyers, Jr., the Ranking Member of the House Judiciary Committee, and 14 Members of Congress wrote to the Government Accountability Office (GAO) to request an investigation of such irregularities.

On November 22, at the request of the GAO, the House Judiciary Committee Democratic staff met with GAO officials. In this meeting, GAO officials advised that, on its own authority, the GAO was prepared to move forward with a wide ranging analysis of systemic problems in the 2004 elections. GAO officials also advised Judiciary staff that they would be unable to examine each and every specific election complaint, but would look at some such complaints as exemplars of broader deficiencies.

At the same time, the offices of Democratic Staff and of Democratic Judiciary Committee Members were deluged with e-mails and complaints about the election. While such complaints are still being processed, close to 100,000 such complaints were received. As of this writing, the Judiciary Democratic office alone is receiving approximately 4,000 such e-mails a day. More than half of these complaints were from one state: Ohio. The Election Protection Coalition has testified that it received more complaints on election day concerning irregularities in Ohio than any other state.

On December 2, 2004, Members of the Judiciary Committee wrote to Ohio Secretary of State Kenneth Blackwell that these complaints appear collectively to constitute a troubled portrait of a one-two punch that may well have altered and suppressed votes, particularly minority and Democratic votes. The Members posed 36 questions to Secretary Blackwell about a combination of official actions and corresponding actions by non-official persons, whether in concert or not, worked hand-in-glove to depress the vote among constituencies deemed by Republican campaign officials to be disadvantageous.

Through his spokesman, Secretary Blackwell assured the public and the press that he would be happy ''to fill in the blanks'' for the Committee and asserted that many questions were easily answered. In fact, Secretary Blackwell belatedly replied to the letter with a refusal to answer any of the questions. Ranking Member Conyers wrote back to Blackwell the same day requesting that he remain true to his promise to answer the questions. Congressman Conyers has yet to receive a reply.

At the same time, officials from the Green Party and Libertarian Party have been investigating allegations of voter disenfranchisement in Ohio and other states. Eventually, the Presidential Candidates for those parties, David Cobb and Michael Badnarik, filed requests for recounts to all 88 Ohio Counties. However, it appears their efforts too are being stonewalled and thwarted by nonstandard and highly selective recounts, unnecessary delays, and blatant deviations from long accepted Ohio law and procedure. Recently, Senator Kerry, a party to the recount action, joined the Green Party and Libertarian Party in requesting immediate action to halt these irregularities and potential fraud in the recount. The recount is still pending before the federal court, yet to be counted.

In addition, a challenge has been filed to the Ohio results asserting, to a level of sworn proof beyond a reasonable doubt, that Senator Kerry, not President Bush, was the actual victor of the Presidential race in Ohio. Kenneth Blackwell is adamantly refusing to answer any questions under oath in regard to election irregularities or results. He is apparently counting upon Congress accepting the votes of the electors and, as an immediate consequence, the Ohio Supreme Court dismissing the citizens' election contest.

Committee Members and other interested Members have gone to substantial lengths to ascertain the facts of this matter. The investigation by Congressman Conyers and the Democratic staff of the House Judiciary Committee into the irregularities reported in the Ohio presidential election has also included the following efforts:

On November 5, 2004, Representatives Conyers, Nadler, and Wexler wrote to the GAO

Comptroller David M. Walker requesting an investigation of the voting machines and technologies used in the 2004 election;

On November 8, 2004, Representatives Conyers, Nadler, Wexler, Scott, Watt, and Holt wrote to GAO Comptroller Walker requesting that additional concerns surrounding the voting machines and technologies used in the 2004 election be investigated;

On November 15, 2004, Representatives Lee, Filner, Olver, and Meeks joined in the request for a GAO investigation;

On November 29, 2004, Representatives Weiner, Schakowsky, Farr, Sanders, and Cummings joined in the request for a GAO investigation;

On December 2–3, 2004, Congressman Conyers and other Judiciary Democratic Members wrote to Ohio Secretary of State J. Kenneth Blackwell concerning Ohio election irregularities;

On December 3, 2004, Representative Woolsey joined in the request for a GAO investigation;

On December 3, 2004, Congressman Conyers wrote to Warren Mitofsky of Mitofsky International requesting the release of exit poll raw data from the 2004 presidential election as such data may evidence instances of voting irregularities;

On December 8, 2004 in Washington, D.C., Congressman Conyers hosted a forum on voting irregularities in Ohio;

On December 13, 2004 Congressman Conyers hosted a second forum on voting irregularities in Ohio in Columbus, Ohio;

On December 13, 2004 Congressman Conyers and other Members wrote to Ohio Governor, Bob Taft, Speaker of Ohio State House, Larry Householder, and President of Ohio State Senate, Doug White, requesting a delay of the meeting of Ohio's presidential electors;

On December 14, 2004, Congressman Conyers wrote to Ohio Secretary of State J. Kenneth Blackwell in regards to the Secretary's refusal to cooperate with the Judiciary Democratic Members investigating election irregularities in Ohio;

On December 15, 2004, Congressman Conyers wrote to FBI Special Agent in Charge, Kevin R. Brock and Hocking County, Ohio Prosecutor, Larry Beal, requesting an investigation into alleged Ohio election problems;

On December 21, 2004, Congressman Conyers wrote to Ohio candidates requesting that they report any incidences of irregularities or deviations from accepted law or practices during the recount in Ohio;

On December 21, 2004, Congressman Conyers wrote to several major media outlets requesting the exit poll raw data from the 2004 presidential election;

On December 22, 2004, Congressman Conyers wrote to Triad GSI President Brett Rapp and Triad GSI Ohio Field Representative Michael Barbian, Jr. regarding the voting machine company's involvement in the Presidential election and Ohio recount and allegations that it intentionally or negligently acted to prevent validly cast ballots in the presidential election from being counted;

On December 23, 2004, as a follow-up letter to the December 22 letter, Congressman Conyers wrote to Triad's President Rapp and Ohio Field Representative Barbian upon learning that Triad had remote access to tabulating computers controlled by the Board of Elections; and

On January 3, 2004, federal and Ohio state lawmakers joined Reverend Jesse Jackson in Columbus, Ohio for a rally calling attention to the need for national election reform and the January 6th joint session of Congress where election results will be certified.

Citizen groups have played a substantial role in acquiring relevant information. Citizens Alliance for Secure Elections in Ohio has organized hearings that have provided valuable leads for this report. We have been contacted by thousands of concerned citizens: they want a full and fair count of all of the votes and confidence in the electoral system, and they find both of these to be sorely lacking in this election. Many have investigated these matters themselves and have made considerable sacrifices to do so.

The events surrounding the Presidential election in Ohio must be viewed in two important contexts. First, there is the 2000 Election debacle in Florida. In that election, advocates for a full and fair count were asked to ''move on'' after Vice President Al Gore conceded the election to then-Governor George W. Bush. Months later, it was found that a full and fair count would have resulted in Gore, not Bush, being elected the Forty-third President of the United States. Subsequent investigations also uncovered rampant disenfranchisement in Florida, particularly of African-American voters.

Second, as events have unfolded in Ohio, telling events have taken place within the United States, in the State of Washington, and across the globe, in the Ukraine. In Washington State, after the Republican Gubernatorial Candidate, Dino Rossi, declared victory after a partial recount, it was later found—after a full and fair recount—that the Democratic candidate, Christine Gregoire, was the victor. While national and state Republican leaders in Ohio have derided attempts to ascertain the Ohio Presidential election result and resolve the questions described herein, after the Washington recount, Mr. Rossi has now asked for a re-vote in the State of Washington, saying it is needed for the election to be ''legitimate.''

In the Ukraine, after the apparent defeat of the opposition leader, Viktor Yushchenko, in that nation's Presidential election, amid allegations of fraud and public protests, a new election was held, and Yushchenko won by a significant margin. In fact, in the first, seemingly flawed election, Yushchenko appeared to lose by three percentage points. However, he won by eight percentage points in the subsequent revote. United States officials called the original vote rife with ''fraud and abuse,'' largely relying on anecdotal evidence and deviations between exit polls and reported results.

A simple lesson may be drawn from these two contexts: elections are imperfect. They are subject to manipulation and mistake. It is, therefore, critical that elections be investigated and audited to assure the accuracy of results. As Senator Kerry's attorney recently noted, only with uniformity in the procedures for such an investigation and audit ''can the integrity of the entire electoral process and the election of Bush-Cheney warrant the public trust.''

Regardless of the outcome of the election, and that outcome cannot be certain as long as legitimate questions remain and valid ballots are being counted, it is imperative that we examine any and all factors that may have led to voting irregularities and any failure of votes to be properly counted.

RELEVANT BACKGROUND LAW

A. Federal Constitutional Law Safeguards

The right to vote is our most cherished democratic right and, as such, is strongly protected under the Constitution. Both the Equal Protection and Due Process Clauses of the 14th Amendment operate to protect our citizens' right to vote for the candidate of their choice.

In the seminal voting rights case of Reynolds v. Sims, the Supreme Court held that ''the right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.'' The Court observed that, ''undeniably the Constitution of the United States protects the right of all qualified citizens to vote, in state as well as in federal elections. A consistent line of decisions by this Court in cases involving attempts to deny or restrict the right of suffrage has made this indelibly clear. It has been repeatedly recognized that all qualified voters have a constitutionally protected right to vote, . . . and to have their votes counted.''

Under the Equal Protection Clause of the Fourteenth Amendment, Reynolds and its progeny require that votes that are cast must actually be counted. The Equal Protection Clause also requires that all methods the ''legislature has prescribed'' to preserve the right to vote be effected, not thwarted.

Courts have held that the Due Process Clause implemented in the context of voting rights requires ''fundamental fairness''—the idea that the state official cannot conduct an election or apply vote-counting procedures that are so flawed as to amount to a denial of voters' rights to have their voices heard and their votes count. As a result, under the Constitution, citizens have a fundamental right to vote and to have their vote counted by way of election procedures that are fundamentally fair. Where ''organic failures in a state or local election process threaten to work patent and fundamental unfairness, a . . . claim lies for a violation of substantive due process.''

Importantly, protections for the right to vote extend to and include the right to a full and fair recounting of those votes. A recount is fundamental to ensure a full and effective counting of all votes. Ohio courts have held that ''[a] recount . . . is the only fair and equitable procedure to ensure the correct tally of all the votes.'' As the Oklahoma Supreme Court recently emphasized, ''[a] timely recount is an integral part of an election.'' The West Virginia Supreme Court, construing a recount statute similar to Ohio's recount provisions, stressed the importance of an election recount to the fairness and integrity of the election itself. Indeed, courts in states which provide a statutory right to a recount uniformly have held that an election cannot be deemed over and final until a recount provided under state law has been completed.

B. Federal Statutory Election Safeguards

There are numerous federal statutes that protect the right to vote. First and foremost, the Voting Rights Act prohibits any person, whether acting under color of law or otherwise, from:

(1) failing or refusing to permit any qualified person from voting in . . . federal elections;

(2) refusing to count the vote of a qualified person; or

(3) intimidating any one attempting to vote or any one who is assisting a person in voting.

In addition, the Civil Rights Act of 1968 provides criminal penalties for violations of civil rights, including interference with the right to vote. Specifically, section 245 of title 18 makes it a crime for any person who ''by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from voting or qualifying to vote. . . .''.

In 1993, Congress enacted the National Voter Registration Act (NVRA), which requires that, for federal elections, states establish fair and expeditious procedures so that eligible citizens may register to vote. Pursuant to the NVRA, section 1974a of title 42 makes it a crime for any person to willfully steal, destroy, conceal, mutilate, or

alter any voting records, including those having to do with voter registration.

After the widespread problems that occurred in the November 2000 election, Congress enacted the Help America Vote Act (HAVA), thereby creating a new federal agency with election administration responsibilities, setting requirements for voting and voter-registration systems and certain other aspects of election administration, and providing federal funding. Perhaps the central requirement of HAVA was that, beginning January 1, 2004, any voter not listed as registered must be offered and permitted to cast a provisional ballot. HAVA included a variety of additional new requirements, including a provision that beginning January 1, 2004 (extendable to 2006), states using voter registration must employ computerized, statewide voter registration systems that are accurately maintained.

C. Ohio Election Safeguards

Ohio has enacted numerous provisions designed to protect the integrity of the voting and tabulation process.

1. The Right to Vote in Ohio

Under the Ohio Constitution, ''Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be provided by law, and has been registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote at all elections.'' This includes the right to vote directly for Presidential electors. The protection of this right is placed squarely on the Secretary of State, who has the affirmative duty to ''investigate the administration of election laws, frauds, and irregularities in elections in any county, and report violations of election laws to the attorney general or prosecuting attorney, or both, for prosecution.'' To complete this task, the legislature has given the Secretary the power to ''issue subpoenas, summon witnesses, compel the production of books, papers, records and other evidence.''

Many specific provisions in the Ohio Revised Code help protect one's right to vote:

Polls must be open from 6:30 in the morning until 7:30 at night, and everyone in line at that time must be allowed to vote.

Loitering around the polling place is barred, and no one may ''hinder or delay'' a voter from reaching the polls or casting a vote.

Alteration or destruction of ballots, machinery or election records is prohibited.

Illegal voting is a felony.

Those who cannot mark their own ballot due to illiteracy or disability are entitled to assistance.

Election officials who do not enforce these provisions are criminally liable.

2. Declaring Results

Ohio law requires that, before the Secretary of State can declare the initial results of the Presidential election in Ohio, each of the 88 county boards of elections (''county boards'') must (1) canvass the results in the county, (2) certify abstracts of those results, and (3) send the certified abstracts to the Secretary of State.'' Only after the Secretary of State receives the certified abstracts from the county boards is the Secretary able to canvass the abstracts to ''determine and declare'' the initial results of the Presidential election in Ohio.

Under Ohio law, the Secretary of State is required to fix the calendar by which the state's Presidential election results initially are declared and by which a recount of those initial results can occur. Specifically, the Secretary is to set the date by which Ohio's 88 county boards must complete their canvass of election returns and send the certified abstracts of the results to the Secretary. Any statutorily mandated recount of the votes cast in Ohio for President cannot occur before the Secretary declares the initial results.

3. Security of Ballots and Machinery

In addition, Ohio law prohibits election machinery from being serviced, modified, or altered in any way subsequent to an election, unless it is done so in the presence of the full board of elections and other observers. Any handling of ballots for a subsequent recount must be done in the presence of the entire Board and any qualified witnesses. Containers in which ballots are kept may not be opened before all of the required participants in are attendance. The Ohio Revised Code defines a ballot as ''the official election presentation of offices and candidates . . . and the means by which votes are recorded.'' Therefore, for purposes of Ohio law, electronic records stored in the Board of Election computers are to be considered ''ballots.''

Further, any modification of the election machinery may only be done after full notice to the Secretary of State. The Ohio Code and related regulations require that after the state certifies a voting system, changes that affect ''(a) the method of recording voter intent; (b) voter privacy; (c) retention of the vote; or (d) the communication of voting records,'' must be done only after full notice to the Secretary of State.

Secretary Blackwell's own directive, coupled with Ohio Revised Code §3505.32, prohibits any handling of these ballots without bipartisan witnesses present. That section of the code provides that during a period of official canvassing, all interaction with ballots must be ''in the presence of all of the members of the board and any other persons who are entitled to witness the official canvass.'' In this election, the Ohio Secretary of State has issued orders that election officials were to treat all election materials as if the State were in a period of canvassing,'' and that, ''teams of one Democrat and one Republican must be present with ballots at all times of processing.''

In addition to these provisions imposing duties on the Board of Elections, there are numerous criminal sanctions for tampering with votes and the machines that tabulate them:

''No person shall tamper or attempt to tamper with, deface impair the use of, destroy or otherwise injure in any manner any voting machine . . . No person shall tamper or attempt to tamper with, deface, impair the use of, destroy or otherwise change or injure in any manner any marking device, automatic tabulating equipment or any appurtenances or accessories thereof.''

''No person shall-destroy any property used in the conduct of elections.

''No person, from the time ballots are cast or voted until the time has expired for using them in a recount or as evidence in a contest of election, shall unlawfully destroy or attempt to destroy the ballots, or permit such ballots or a ballot box or pollbook used at an election to be destroyed; or destroy, falsify, mark, or write in a name on any such ballot that has been voted.

''No person, from the time ballots are cast or counted until the time has expired for using them as evidence in a recount or contest of election, shall willfully and with fraudulent intent make any mark or alteration on any ballot; or inscribe, write, or cause to be inscribed or written in or upon a registration form or list, pollbook, tally sheet, or list, lawfully made or kept at an election, or in or upon a book or paper purporting to be such, or upon an election return, or upon a book or paper containing such return the name of a person not entitled to vote at such election or not voting thereat, or a fictitious name, or, within such time, wrongfully change, alter, erase, or tamper with a name, word, or figure contained in such pollbook, tally sheet, list, book, or paper; or falsify, mark, or write thereon with intent to defeat, hinder, or prevent a fair expression of the will of the people at such election.

All of these are fifth degree felonies.

4. The Law of Recounts and Contests

The Secretary of State's declaration of the initial results of a Presidential election in Ohio is not final. Under Ohio law, a recount of the initial results is required where the margin of victory is one-fourth of one percent or less, or where a candidate who is not declared elected applies for a recount within five days of the Secretary of State declaring the results of the election and remits the required bond. In either instance, the Secretary of State ''shall make an amended declaration of the results'' of the Presidential election after a full and complete recount of the initial results throughout the state is completed. Therefore, the Ohio legislature has determined that, in certain statutorily-defined circumstances, the Secretary's final declaration of the results of a Presidential election in Ohio shall not occur prior to a full and complete recount of the initial results.

Once the recount applications have been filed, all affected county boards must notify the applicant and all others who received votes in the election of the time, method and place at which the recount will take place, such notice to be no later than five days prior to the start of the recounts. Nothing in Ohio law prohibits the notices from being mailed prior to the certification of results. The recount must be held no later than ten days after the day the recount application is filed or after the day the Secretary of State declares the results of the election.

At the time and place fixed for making a recount, the Board of Elections, in the presence of all witnesses who may be in attendance, shall open the sealed containers containing the ballots to be recounted and shall recount them. Each candidate may ''attend and witness the recount and may have any person whom the candidate designates attend and witness the recount.

Due to a directive issued by Secretary Blackwell, the recount does not automatically require a hand count of every vote cast in the election. Each county board of elections randomly takes a sample representing at least 3% of the votes cast and compares the machine count to a hand count. If there is a discrepancy, the entire county must be hand counted. If there is no discrepancy, the remainder of ballots may be recounted by machine.

D. Determination of Ohio's Electoral College Votes

Ohio and federal law intersect with regard to the issue of determining the extent to which Ohio's electoral votes are counted towards the election of the president through the electoral college. The 12th Amendment sets forth the requirements for casting electoral votes and counting those votes in Congress. The electors are required to meet, cast and certify their ballots and transmit them to the Vice President in his or her capacity as President of the Senate. In addition, the Electoral Count Act requires that the results be transmitted to the secretary of state of each state, the Archivist of the United States, and the federal judge in the district in which the electors met. Upon receipt of the ballots at a time designated by statute, the ''President of the Senate shall, in the

presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

Congress has specified that all controversies regarding the appointment of electors should be resolved six days prior to the meeting of electors (on December 7, 2004, for purposes of this year's presidential election) in order for a state's electors to be binding on Congress when Congress meets on January 6, 2005, to declare the results of the 2004 election.

Specifically, 3 U.S.C. §5 provides, in pertinent part:

''If any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned.''

The joint session of the Senate and House is held on January, unless Congress determines otherwise, of the year following the presidential election at 1:00 p.m. No debate is allowed during the joint session. The President of the Senate opens the electoral vote certificates in alphabetical order from each state, passes them to four tellers (required by statute to be appointed two from each House) who announce the results. The votes are then counted and those results announced by the President of the Senate. The candidates for President and Vice President receiving a majority of the electoral votes, currently set at 270 of 538, are declared to have been ''elected President and Vice President of the States.''

Section 15 of title 3, United States Code, provides that, when the results from each of the states are announced, that ''the President of the Senate shall call for objections, if any.'' Any objection must be presented in writing and ''signed by at least one Senator and one Member of the House of Representatives before the same shall be received.'' The objection must ''state clearly and concisely, and without argument, the ground thereof.'' When an objection has been properly made in writing and endorsed by a member of each body the Senate withdraws from the House chamber, and each body meets separately to consider the objection. ''No votes . . . from any other State shall be acted upon until the [pending] objection . . . [is] finally disposed of.''

Section 17 of title 3 limits debate on the objections in each body to two hours, during which time no member may speak more than once and not for more than five minutes. Both the Senate and the House must separately agree to the objection; otherwise, the challenged vote or votes are counted.

Historically, there appears to be three general grounds for objecting to the counting of electoral votes. The law suggests that an objection may be made on the grounds that (1) a vote was not ''regularly given'' by the challenged elector(s); (2) the elector(s) was not ''lawfully certified'' under state law; or (3) two slates of electors have been presented to Congress from the same State. Section 15 of title 3 specifically provides:

''[N]o electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified . . . from which but one return has been received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only shall be counted which shall have been regularly given by the electors who are shown . . . to have been appointed.''

Since the Electoral Count Act of 1887, no objection meeting the requirements of the Act has been made against an entire slate of state electors. In the 2000 election several Members of the House of Representatives attempted to challenge the electoral votes from the State of Florida. However, no Senator joined in the objection, and, therefore, the objection was not ''received.'' In addition, there was no determination whether the objection constituted an appropriate basis under the 1887 Act. However, if a State has not followed its own procedures and met its obligation to conduct a free and fair election, a valid objection—if endorsed by at least one Senator and a Member of the House of Representatives—should be debated by each body separately until ''disposed of''.

DETAILED FINDINGS

A. Pre-Election

1. Machine Allocations—Why were there such long lines in Democratic leaning areas but not Republican leaning areas?

Facts

One of the critical reforms of HAVA was federal funding for states to acquire new and updated voting machines, and to fairly allocate the machines. Under HAVA, the Election Assistance Commission (EAC) provides payments to States to help them meet the uniform and nondiscriminatory election technology and administration requirements in title III of the law.'' In 2004, the EAC processed a payment of $32,562,331 for fiscal year 2003 and $58,430,186 for fiscal year 2004 for a total of $90,992,517. There is no information publicly available describing what, if any, Ohio HAVA funds were used and for what those funds were used. Nor are we aware how such funds were allocated within the state of Ohio and between counties.

There was a wide discrepancy between the availability of voting machines in more minority, Democratic and urban areas as compared to more Republican, suburban and exurban areas. Even on election day, urban areas were hard pressed to receive the critical machines to respond to the ever lengthening lines. According to a Washington Post investigation, ''in Columbus, Cincinnati and Toledo, and on college campuses, election officials allocated far too few voting machines to busy precincts, with the result that voters stood on line as long as 10 hours—many leaving without voting.'' Moreover, the Election Protection Coalition testified that more than half of the complaints about long lines they received ''came from Columbus and Cleveland where a huge proportion of the state's Democratic voters live.''

Based upon various sources including complaints, sworn testimony, and communications with Ohio election officials, we have identified credible concerns regarding the allocation of machines on election day:

Franklin County

A New York Times investigation revealed that Franklin County election officials reduced the number of electronic voting machines assigned to downtown precincts and added them to the suburbs. ''They used a formula based not on the number of registered voters, but on past turnout in each precinct and on the number of so-called active voters—a smaller universe. . . . In the Columbus area, the result was that suburban precincts that supported Mr. Bush tended to have more machines per registered voter than center city precincts that supported Mr. Kerry.''

The Washington Post also found that in voter-rich Franklin County, which encompasses the state capital of Columbus, election officials decided to make do with 2,866 machines, even though their analysis showed that the county needed 5,000 machines.

The Franklin County Board of Elections reported 81 voting machines were never placed on election day, and Board Director Matt Damschroder admitted that another 77 machines malfunctioned on Election Day.'' However, a county purchasing official who was on the line with Ward Moving and Storage Company, documented only 2,741 voting machines delivered through the November 2 election day.'' While Franklin County's records reveal that they had 2,866 ''machines available'' on election day. This would mean that the even larger number of at least 125 machines remained unused on Election Day. Mr. Damschroder misinformed a federal court on Election Day when he testified the county had no additional voting machines; this testimony was in connection with a Voting Rights Act lawsuit brought by the state Democratic Party that alleged minority precincts were intentionally deprived of machines.

After the election the Washington Post also reported that in Franklin County, ''27 of the 30 wards with the most machines per registered voter showed majorities for Bush. At the other end of the spectrum, six of the seven wards with the fewest machines delivered large margins for Kerry.''

At seven of the eight polling places in Franklin County, a heavily populated urban community, there were only three voting machines per location; but there had been five machines at these locations during the 2004 primary.

According to the presiding judge at one polling site located at the Columbus Model Neighborhood facility at 1393 E. Broad St., there had been five machines during the 2004 primary. Moreover, at Douglas Elementary School, there had been four machines during the spring primary.

We have received additional information of hardship caused by the misallocation of machines based on emails and other transmissions, with waits of 4–5 hours or more being the order of the day. For example, we have learned of four hour waits at Precincts 35B and C in Columbus; seven hours waits for one voting machine per thousand voters, where the adjacent precinct had one station for 184 voters.'' Additionally, it appears that in a number of locations, polling places were moved from large locations, such as gyms, where voters could comfortably wait inside to vote, to smaller locations where voters were required to wait in the rain.''

Dr. Bob Fitrakis testified before the House Judiciary panel that Franklin County Board of Elections Chair, Bill Anthony, said that a truckload of 75 voting machines were held back on election day while people waited 5 to 6 hours to vote.

Over 102,000 new voters were registered in Franklin County. A majority of them were African Americans. ''And so,'' said State Senator Ray Miller, ''only logic would say, we need more machines, particularly in the black community.''

Rev. William Moss testified that there were ''unprecedented long lines'' and noted that Secretary of State Blackwell did not provide sufficient numbers of voting machines to accommodate the augmented electorate in Columbus.

Knox County

At Kenyon College, a surge of late registrations promised a record vote. Nevertheless, Knox County officials allocated two machines, just as in past elections. Voter Matthew Segal, a student at Kenyon College, testified before the House Judiciary panel about conditions that amounted to voter disenfranchisement in Gambier, Ohio.'' The Gambier polling place had two machines for a population of 1,300 people, though nearby counties had one machine for every 100 people. He noted that voters were ''compelled to stand outside in the rain, through a hot gymnasium in crowded, narrow hallways, making voting extremely uncomfortable.'' According to his testimony, ''many voters became overheated and hungry'' and had to leave the long lines to eat. ''One girl actually fainted and was forced to leave the line,'' he said. ''Many others suffered headaches due to claustrophobic conditions and noise.''

In contrast, at nearby Mt. Vernon Nazarene University, which is considered more Republican leaning, there were ample voting machines and no lines.

Other

The NAACP testified that approximately ''thirty precincts did not have curbside voting machines for seniors and disabled voters.''

One entire polling place in Cuyahoga County had to ''shut down'' at 9:25 a.m. on Election Day because there were no working machines.

We received an affidavit from Rhonda J. Frazier, a former employee of Secretary Blackwell, describing several irregularities concerning the use of HAVA money and the acquisition of election machinery by the state. She states that Secretary Blackwell's office failed to comply with the requirements of the voting reform grant that required all of the voting machines in Ohio to be inventoried and tagged for security reasons. Ms. Frazier also asserts that she ''was routinely told to violate the bidded contracts to order supplies from other companies for all 17 Secretary of State offices throughout the State which were cheaper vendors, leaving a cash surplus differential in the budget'' and that, when she inquired as to where the money differential was going, she was essentially told that this was not her concern and that she should not inquire about where that money went.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

Through intent or negligence, massive errors that led to long lines were made in the distribution and allocations of voting machines. The Washington Post reports that in Columbus alone, the misallocation of machines reduced the number of voters by up to 15,000 votes. Given what we have learned in our hearings, this is likely conservative estimate, and statewide, the shortage of machines could have resulted in the loss of hundreds of thousands of votes. The vast majority of this lost vote caused by lengthy lines in the midst of adverse weather was concentrated in urban, minority and Democratic leaning areas. As a result, this misallocation appears to be of the pivotal factors concerning the vote and outcome in the entire election in Ohio.

On its face, the misallocation, shorting, and failure to timely deliver working machines would appear to violate a number of legal requirements.

First, it would seem to constitute a violation of the Voting Rights Act and the constitutional safeguards of Equal Protection and Due Process, particularly given the racial disparities involved. Denying voters the means to vote in a reasonable and fair manner is no different than preventing them from voting outright.

Second, the failure to provide enough voting machinery violates both Ohio's Constitution, that provides all eligible adults the right to vote, and the Ohio Revised Code which requires the Boards of Elections to provide ''for each precinct a polling place and provide adequate facilities at each polling place for conducting the election.'' Further, ''the board shall provide a sufficient number of screened or curtained voting compartments to which electors may retire and conveniently mark their ballots.''

These conclusions regarding Ohio legal violations are supported by several precedents, as well as common sense:

The U.S. District Court for the Southern District of Ohio found such a serious threat to the voting right that it took the highly unorthodox step of ordering that those individuals waiting in line for longer than two hours receive paper ballots or some other mechanism.

There is specific precedence for a legal violation due the fact that, under Ohio law in 1956, the courts were forced to intervene to enforce the then-applicable requirement of one machine per 100 voters. The court was highly critical of the previous practice of requiring only one machine for 800 voters or two for 1,400. Nearly 50 years later, we are unfortunately back to the antiquated practice of effectively disenfranchising those who are unable to spend an entire day voting.

Evidence suggests that the Board of Elections' misallocation of machines went beyond urban/suburban discrepancies to specifically target Democratic areas. In particular, within the less urban county of Knox, the more Democratic leaning precincts near Kenyon College were massively shorted; the more Republican leaning precincts near Mt. Vernon Nazarene University were not.

Third, it appears that a series of more localized legal violations have not been investigated. These include Mr. Damschroder's contradictory statements regarding the number and availability of machines on election day in Franklin County raise the possibility of perjury. The affidavit submitted by Rhonda Frazier would also appear to demonstrate a prima facie violation of the Help America Vote Act.

Fourth, Secretary of State Blackwell's failure to initiate any investigation into this pivotal irregularity (which perhaps borders on fraud), notwithstanding his clear statutory duty to do so under Ohio Revised Code section 3501.05, represents a clear violation of Ohio law. The Secretary of State's most important obligation under the Ohio Constitution is to protect the right of every Ohio citizen who is eligible to vote and invesigate any and all irregularities concerning the same. Mr. Blackwell's failure to obey Ohio law on this point constitutes a clear instance where Ohio election law has been abrogated.

2. Cutting Back on the Right to Provisional Ballots

Facts

In a decision that Ohio Governor Bob Taft believed could affect over 100,000 voters, on September 17, 2004, Secretary Blackwell issued a directive restricting the ability of voters to use provisional ballots. The Election Protection Coalition testified that the narrow provisional ballot directive led to thousands of ballots from validly registered voters being thrown out because election officials with limited resources never told many of the voters in their jurisdictions where to cast a ballot on Election Day. While the Help America Vote Act provided that voters whose names do not appear on poll books are to sign affidavits certifying that they are in the correct jurisdiction and to be given provisional ballots, Secretary Blackwell considerably narrowed the definition of ''jurisdiction'' to mean ''precinct.'' Alleging that allowing voters to use provisional ballots outside their own precincts would be ''a recipe for Election Day chaos,'' Secretary Blackwell required such ballots to be cast in the actual precincts of voters otherwise they would be discarded entirely. Mr. Blackwell's rationalization appears to have ignored the fact that in prior elections, Ohio was able to grant far broader rights to provisional ballots, and that other states that permitted voters to cast them from anywhere within their county did not face the chaos he feared.

Because of Secretary Blackwell's restrictive order, the Sandusky County Democratic Party filed a federal lawsuit to overturn it. The plaintiff's basis for the suit was that the order was discriminatory because lower-income people were more likely to move and, thus, appear at the wrong precinct. Furthermore, the order would have disenfranchised first-time voters, many of whom would not know where to vote.

In his rulings in favor of the plaintiffs and against Secretary Blackwell, U.S. District Judge James Carr held that the blame lay squarely on Secretary Blackwell. The court was forced to issue two rulings ordering Secretary Blackwell to issue HAVA-compliant directives. Secretary Blackwell abided by neither judgment and instead proceeded with directives that would disenfranchise Ohio voters.

With respect to the speed of the case, the court noted that its urgency was the result of Secretary Blackwell failing to issue provisional voting guidelines for almost two years after the enactment of HAVA: ''The exigencies requiring the relief being ordered herein are due to the failure of the defendant to fulfill his duty not only to this Court, as its injunction directed him to do, but more importantly, to his failure to do his duty as Secretary of State to ensure that the election laws are upheld and enforced. . . . The primary cause of the exigency is the defendant's failure to have issued Directive 2004–33 relating to provisional voting for nearly twenty-three months after HAVA's enactment. . . . Blackwell has never explained why he waited so long to do anything to bring Ohio's provisional election procedures into line with federal law.''

The court then turned its attention to the substance of Secretary Blackwell's original and amended directives. In these directives, ''Blackwell described not a single provision of federal law generally, much less HAVA in particular. . . . By failing to discuss HAVA, on the one hand, and describing only outmoded, no longer applicable procedures on the other, Blackwell . . . left Ohio's election officials more confused than they would have been if the directive had not issued.'' In addition, because the amended directive did not clearly state that persons who might not be eligible to vote must be informed of their right to vote provisionally, the court held that ''Blackwell's proposed directive would disenfranchise all such individuals.'' The court believed that, by seeming to deprive voters and county election officials of valuable information regarding HAVA and provisional ballots, ''Blackwell apparently seeks to accomplish the same result in Ohio in 2004 that occurred in Florida in 2000.'' Ultimately, the court was forced to require the Secretary, within a tight deadline, to issue specific guidelines pertaining to provisional ballots.

Instead of complying with this federal court order, Secretary Blackwell entirely disregarded the ruling and questioned the motives of the judge. He referred to Judge Carr as ''a liberal judge . . . who wants to be co-secretary of state.'' At a speech before the Loveland Area Chamber of Commerce in Clermont County, Secretary Blackwell compared himself to Mohandas Gandhi, Martin Luther King, and the apostle Paul on the grounds that he would rather go to jail—as they did—than issue an order he believed was illegal. He also claimed his office could not speak with Judge Carr about the case because the Judge was in Florida; Blackwell later admitted he did not mean the Judge actually was in Florida. Additionally, a journalist reported seeing Judge Carr in his chambers the day the ruling was issued. Secretary Blackwell appealed the judge's decision to the Sixth Circuit Court of Appeals, which overturned the lower court decision and authorized Mr. Blackwell's more restrictive legal interpretation.

While Blackwell cited an October 12 resolution by the Election Assistance Commission as authority for his decision, EAC Chairman DeForest Soaries asked Blackwell in writing not to say that the resolution endorsed the Blackwell order. Chairman Soaries further stated that Secretary Blackwell was the only secretary of state who actually misread the EAC's ruling. The EAC did not ''agree that a person in the wrong precinct shouldn't be given a provisional ballot. . . . The purpose of provisional ballots is to not turn anyone away from the polls. . . . We want as many votes to count as possible.''

Many of Ohio's county boards of elections also disagreed with Blackwell's interpretation of the law and with his motivations. Franklin County Board Chairman William Anthony stated, ''For him to come out with that decision so close to Election Day . . . I'm suspect of his motivations.'' The Director of the Franklin County Board also disagreed with Blackwell and asserted that its precincts would have voters who insist they are in the correct precinct sign affidavits and submit provisional ballots. Cuyahoga County directed people to the right precincts but still accepted provisional ballots from anyone who insisted on voting. Cuyahoga County Board Chairman Bob Bennett, who also chairs the Ohio Republican Party, issued a statement saying the Board would not deny ballots to voters who wanted them: ''The Cuyahoga County Board of Elections will not turn voters away. . . . We are simply trying to avoid confrontation at the ballot box over the validity of each ballot. Those decisions will be made by the board of elections according to state law.''

In response, Mr. Blackwell's spokesperson threatened such election officials with removal from their positions.

In Hamilton County, election officials implemented Mr. Blackwell's directive and refused to count provisional ballots cast at the correct polling place even if they were cast at the wrong table in that polling place. Some polling places contained multiple precincts that were located at different tables. As a result, 1,110 provisional ballots were deemed invalid because people voted in the wrong precinct. In about 40 percent of these cases, voters found the correct polling places, which contained multiple precincts, but workers directed them to the wrong table. In other areas, precinct workers refused to give any voter a provisional ballot. Also, in at least one precinct, election judges told voters that they may validly cast their ballot in any precinct, leading to any number of disqualified provisional ballots. Similarly, in Stark County, the Election Board rejected provisional ballots cast at the wrong precinct in the right polling place. In earlier elections, a vote cast in Stark County in the wrong precinct at the proper polling location was counted.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

Mr. Blackwell's decision to restrict the use of provisional ballots is one of the most critical in the election and could well have resulted in disenfranchisement of tens of thousands of voters. In a single polling place in Hamilton County, denying provisional ballots if a voter showed up at the wrong precinct cost more than 1,100 votes.

Although Mr. Blackwell's narrow interpretation was ultimately upheld by the Sixth Circuit, this was not until after a lower court found: ''The Proposed Directive fails in many details to comply with HAVA by not instructing Ohio's election workers about their duties under HAVA. Among the crucial, but omitted details are: the mandatory obligation to inform voters of the right to vote provisionally and the duty to provide provisional ballots to all persons covered by the statute, and not just to persons whose names are not on the rolls.''

In our judgment, Mr. Blackwell's restrictive interpretation violates the spirit, if not the letter, of HAVA. The decision seems particularly unjust given that Ohio had not experienced any notable difficulties giving provisional ballots on a broader basis in past elections, and other states which adopted broader constructions did not report the chaos and confusion that Mr. Blackwell claimed to be the rationale for his decision.

3. Cutting Back on the Right of Citizens To Register To Vote

Facts

On September 7, 2004, Secretary Blackwell issued a directive to county boards of elections mandating rejection of voter registration forms based on their paper weight. Specifically, he instructed the boards to reject voter registration forms not ''printed on white, uncoated paper of not less than 80 lb. text weight.'' Then the counties were instructed to follow a confusing procedure, treating the voter registration forms not on this minimum paperweight as an application for a new registration form. Mr. Blackwell's issuance of this directive less than one month before Ohio's voter registration deadline resulted in confusion and chaos among the counties:

The Lake County Board of Elections Director, Jan Clair, who happens to be a Republican, stated that the weight order would ''create more confusion than the paper's worth. . . . It's the weight of the vote I'm concerned about on Nov. 2—that's the important thing.''

The Mahoning County Board of Elections Director, Michael Sciortino, said mailing high weight registration paper to voters was not a priority and might occur after the election because of how it might confuse voters.

The Cuyahoga County Board of Elections Director, Michael Vu, said his Board would rather not comply with the weight order and asked state lawmakers to address it. Secretary Blackwell gave permission for the Board to accept registration forms that were printed in newsprint in the Cleveland Plain Dealer.''' As Director Vu pointed out, his office does not ''have a micrometer at each desk to check the weight of the paper.''

Other counties such as Madison County followed Mr. Blackwell's ruling and indicated that they sent letters and new forms to voters.

The Franklin County Board of Elections was unlikely to comply with the weight directive, largely because it does not keep track of the weight of such forms.

The Lorain County Board of Elections accepted voter registration on any weight of paper.

The Montgomery County Board of Elections said the paper weight order was frustrating their ability to process registrations. They attempted to comply by mailing a new form to potential voters who sent forms of incorrect weight, but a processing backlog of 4,000 forms prevented them from sending new forms by the October 4 deadline, such that some voters could have been disenfranchised. Steve Harsman, the Deputy Director of the Board, says ''there is just no reason to use 80-pound paper.''

Finally, Secretary Blackwell was not following his own order. An Ohio lawyer, John Stopa, noted that voter registration forms obtained at Blackwell's office were printed on 60-pound paper. An election board official stated he obtained 70-pound weight forms from Blackwell's office.

After several weeks of pressure from voting rights advocates, such as the League of Women Voters of Ohio and People for the American Way, Secretary Blackwell reversed his directive on September 28, 2004. Even his new order, however, was not drafted clearly enough. He did not withdraw the first directive, and the New York Times found the second directive to be ''worded so inartfully that it could create confusion. As a matter of fact, the Delaware County Board of Elections posted a notice on its website stating it could not accept its own Voter Registration Forms and directed voters to request a new one by calling a number.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

Secretary Blackwell's directive to reject registration applications based on paper weight, even though eventually rescinded, undoubtedly had a negative impact on registration figures. During the time period the directive was in place, it likely resulted in an untold number of voters not being registered in time for the 2004 election. In addition, even after the directive was reconsidered, it was done so in a confusing manner. For example, the directive continued to be posted on the Ohio Secretary of State's website, and at least one county, Delaware County, continued to post the directive on its website as well.

Mr. Blackwell's initial directive appears to be inconsistent with the National Voter Registration Act, which put safeguards in place to ease voter registration, not impede it. There is perhaps no more certain indication of the disenfranchisement bias Secretary of State Blackwell brought to his job than this controversial ruling, which was widely reviled even by Republicans.

4. Targeting New Minority Voter Registrants—Caging

Facts

The Ohio Republican Party attempted to engage in ''caging,'' whereby it sent registered letters to newly registered voters in minority and urban areas, and then sought to challenge 35,000 individuals who refused to sign for the letters or the mail otherwise came back as undeliverable (this includes voters who were homeless, serving abroad, or simply did not want to sign for something concerning the Republican Party). Mark Weaver, an attorney for the Ohio Republican Party, acknowledged the Party used this technique. During a hearing before the Summit County Board of Elections, a challenger admitted that she had no knowledge to substantiate her claim that the voters she was challenging were out of compliance with Ohio's election law:

Ms. Barbara MILLER (Republican Challenger): That was my impression that these items that I signed were for people whose mail had been undeliverable for several times, and that they did not live at the residence.

Mr. Russell PRY (Member, Summit County Board of Elections): Did you personally send any mail to Ms. Herrold?

Ms. MILLER: No, I did not.

Mr. PRY: Have you seen any mail that was returned to Ms. Herrold?

Ms. MILLER: No, I have not.

Mr. PRY: Do you have any personal knowledge as we stand here today that Ms. Herrold does not live at the address at 238 30th Street Northwest?

Ms. MILLER: Only that which was my impression; that their mail had not been able to be delivered.

Mr. PRY: And who gave you that impression?

Ms. MILLER: Attorney Jim Simon.

Mr. PRY: And what did—

Ms. MILLER: He's an officer of the party.

Mr. PRY: An officer of which party?

Ms. MILLER: Republican party.

Mr. PRY: Where did you complete this challenge form at?

Ms. MILLER: My home.

Mr. PRY: What did Mr. Simon tell you with respect to Ms. Herrold's residence?

Ms. MILLER: That the mail had come back undeliverable several times from that residence.

Mr. PRY: And you never saw the returned mail?

Ms. MILLER: No, I did not.

Mr. PRY: Now, you've indicated that you signed this based on some personal knowledge.

Mr. HUTCHINSON: (Joseph F. Hutchinson, Jr. Summit County Board of Elections) No.

Mr. ARSHINKOFF: (Alex R. Arshinkoff, Summit County Board of Elections) Reason to believe. It says, ''I have reason to believe.'' It says it on the form.

Mr. JONES: It says, ''I hereby declare under penalty of election falsification, that the statements above are true as I verily believe.''

Mr. ARSHINKOFF: It says here, ''I have reason to believe.''

Mr. HUTCHINSON: It says what it says.

Mr. ARSHINKOFF: You want her indicted, get her indicted.

Mr. PRY: That may be where it goes next.

Among other things, the Republican Party arranged for the Sandusky County sheriff to visit the residences of 67 voters with wrong or non-existent addresses.

The caging tactics were so problematic that a federal district court in New Jersey and a panel of the Third Circuit found that the Republican Party was egregiously in violation of the 1982 and 1987 decrees that barred the party from targeting minority voters for challenges at the polls. They found sufficient evidence that the Ohio Republican Party and the RNC conspired to be ''disruptive'' in minority-majority districts and enjoined the party from using the list. The Third Circuit granted a hearing en banc and therefore stayed the order and vacated the opinion.

The U.S. District Court for the Southern District of Ohio found the same activities to violate the Due Process Clause of the Constitution. Most importantly, notice of the Republican-intended challenge and subsequent hearing was sent to the 35,000 voters far too late to be of any use to the challengee. In fact, the notice was sent so late, that many did not receive it before the election at all, and the court found that ineffective notice must have been the intent: ''The Defendants' intended timing and manner of sending notice is not reasonably calculated to apprise Plaintiff Voters of the hearing regarding the challenge to their registrations, nor to give the them opportunity to present their objections, as demonstrated by the individual situations of Plaintiffs Miller and Haddix . . . it seems that Defendants intend to send the notice to an address which has already been demonstrated to be faulty.''

The court also found that the challenge statute in general was not narrowly tailored enough justify the ''severe'' burden on voters. While the state's interest in preventing fraudulent voting was compelling, there were other ways to do that besides allowing partisan groups to arbitrarily challenge voters.

Analysis

Although the ''caging'' tactics targeting 35,000 new voters by the Ohio Republican Party were eventually struck down, it is likely they had a negative impact on the inclination of minorities to vote, although, it is difficult to develop a specific estimate.

The caging tactics were clearly both discriminatory and illegal. All three district court cases ruled in favor of the plaintiffs, finding the challenges to be politically and racially charged, and burdening the fundamental right to vote. As one court stated, ''This Court recognizes that the right to vote is one of our most fundamental rights. Potential voter intimidation would severely burden the right to vote. Therefore, the character and magnitude of Plaintiffs' asserted injury is substantial.'' It went on to note that the right to vote is paramount to any interest in challenging other people: ''. . . Plaintiff's right to cast votes on election day is a fundamental right. The challengers, however, do not have a fundamental right to challenge other voters. These decisions correctly overturned these caging and challenging activities because they violated the right to equal protection, due process, and Ohioans' fundamental right to vote.

Ralph Neas, President of the People for the American Way Foundation, emphasized the seriousness of these tactics when he testified that ''the 35,000 people that were threatened with being challenged. That's not the spirit of democracy; that's the spirit of suppression. [The Republican Party] did everything to minimize the vote in the urban areas and to engage in voter suppression, and I hope the hearings really emphasize this. I think that prosecution is something that should be considered with respect to what happened in Ohio.''

5. Targeting Minority and Urban Voters for Legal Challenges

Facts

The Ohio Republican Party, which Secretary Blackwell helped lead as Chair of the Bush-Cheney campaign in Ohio, engaged in a massive campaign to challenge minority voters at the polls. The Republican Party lined up poll challengers for 30 of Ohio's 88 counties, and the vast majority were focused in minority and urban areas. In addition to intimidating minority voters, this scheme helped lead to increased delays and longer waits in voting lines in these areas. This was a particularly damaging outcome on a day of severe adverse weather in Ohio. As a federal court looking at these issues concluded: if challenges are made with any frequency, the resultant distraction and delay could give rise to chaos and a level of voter frustration that would turn qualified electors away from the polls.

Three separate courts issued opinions expressing serious concerns with Ohio's voter challenge processes. At the state level, Cuyahoga County Common Pleas Judge John O'Donnell found that Secretary Blackwell exceeded his authority in issuing a directive that let each political party have multiple challengers at each polling place. While the Democratic Party registered only one challenger per polling place, the Republican Party had registered one challenger for each precinct (there are multiple precincts in many polling places). Judge O'Donnell found the directive to be ''unlawful, arbitrary, unreasonable and unconscionable, coming four days after the deadline for partisan challengers to register with their county boards of elections.'' An attorney with the Ohio Attorney General's office, Jeffrey Hastings, admitted to Judge O'Donnell that Secretary Blackwell had changed his mind in first limiting challengers to one per polling place and then, after the October 22 challenger registration deadline, allowing multiple challengers.

Two federal district court judges also found the challenge procedure to be problematic and tantamount to voter disenfranchisement. In one lawsuit, the plaintiffs were Donald and Marian Spencer, an elderly African-American couple who alleged the challenge statute harkened back to Jim Crow disenfranchisement. In her opinion rejecting the GOP challenger system, U.S. District Court Judge Susan Dlott wrote that ''there exists an enormous risk of chaos, delay, intimidation and pandemonium inside the polls and in the lines out the door.'' In the other district court case, Summit County Democratic Central and Executive Committee, et. al. v. Blackwell, Judge John R. Adams noted the risk that ''the integrity of the election may be irreparably harmed.'' ''If challenges are made with any frequency,'' he wrote, ''the resultant distraction and delay could give rise to chaos and a level of voter frustration that would turn qualified electors away from the polls.''

Judge Dlott also noted the racial disparity inherent in challenges, citing that only 14% of new voters in white areas would face challenges while up to 97% of new voters in black areas would face them. The Chair of the Hamilton County Board of Elections, Timothy Burke, was an official defendant in the lawsuit but testified the use of the challenges was unprecedented. Chairman Burke stated that the Republican Party had planned for challengers at 251 of Hamilton County's 1013 precincts; 250 of the challenged precincts have significant black populations.

Both federal courts blocking the use of challengers highlighted that challengers were not needed because Ohio law already safeguarded elections from voter fraud by the use of election judges. In particular, Ohio law mandates that four election judges staff each polling place and provides that the presiding judge of each group can make decisions regarding voter qualifications.

Although Secretary Blackwell reversed his position and issued a statement on October 29, 2004, excluding challengers from polling places, his position became less relevant when Jim Petro, Ohio's Attorney General, argued in favor of the challenges taking place and said the Secretary's new statement was unlawful. Seeing the irony in these conflicting opinions, Judge Dlott asked ''how can the average election official or inexperienced challenger be expected to understand the challenge process if the two top election officials cannot?''

These two lower court rulings did not stand. The Sixth Circuit Court of Appeals reversed the two lower court opinions on a 2–1 vote. The Supreme Court of the United States denied the applications to vacate the 6th Circuit's stays of the lower court rulings. While troubled about the ''undoubtedly serious'' accusation of voter intimidation, Justice John Paul Stevens said the full Court could not consider the case because there was insufficient time to properly review the filings and submissions.

Analysis

The decision by the Ohio Republican Party to utilize thousands of partisan challengers in the voting booths undoubtedly had an intimidating and negative impact on minority voters. While it is difficult to estimate how many voters were disenfranchised by the

challenger program, given the adverse weather conditions and the lack of trained pollworkers, the disruptions caused by challengers could easily have reduced minority turnout by tens of thousands of voters, if not more. It is noteworthy that these disruptions were predicted by Republican officials: ''Mark Weaver, a lawyer for the Ohio Republican Party, acknowledged, '[the challenges] won't be resolved until [Election Day], when all of these people are trying to vote. It can't help but create chaos, longer lines and frustration.' He reiterated that 'challengers at the polls] were bound to slow things down.''' This will lead to long lines.

While the program of challenging voters was ultimately upheld, after a series of back and forth decisions, clearly this is an issue which harkens back to the ''Jim Crow'' era. As U.S. District Court Judge John R. Adams wrote in his Summit County opinion: ''In light of these extraordinary circumstances, and the contentious nature of the imminent election, the Court cannot and must not turn a blind eye to the substantial likelihood that significant harm will result not only to voters, but also to the voting process itself, if appointed challengers are permitted at the polls on November 2. . . . The presence of appointed challengers at the polls could significantly impede the electoral process, and infringe on the rights of qualified voters.''

As a result, the Ohio challenger system deserves reconsideration by the legislature or further judicial appeal.

6. Denying Absentee Voters Who Never Got Their Ballots the Right to a Provisional Ballot

Facts

Secretary Blackwell also issued a ruling preventing the issuance of provisional ballots for voters who requested absentee ballots, even if they failed to receive them by the official deadline or did not receive them at all. Despite the fact that these errors occurred on the part of the Ohio government and not the voters, Secretary Blackwell determined they should not receive provisional ballots at the polls.

A lawsuit filed by a college student, Sara White, who never received her absentee ballot and was denied a provisional one, led to a ruling that other similar voters must be issued provisional ballots. The court ordered Lucas County to start providing provisional ballots, and directed Secretary Blackwell to advise all Boards of Elections of the same within 30 minutes. The legal ruling overturning Mr. Blackwell's restrictive ruling on absentee ballots came late in the afternoon, and as a result, many voters intending to vote that day were prevented from doing so.

Analysis

Mr. Blackwell's decision to prevent those voters who requested absentee ballots, but did not receive them on a timely basis, from being able to vote, also likely disenfranchised many voters, particularly seniors who were turned away from the polls before the decision was known.

The federal court found that Mr. Blackwell's decision clearly violated HAVA: ''HAVA is clear; that all those who appear at a polling place and assert their eligibility to vote irrespective of the fact that their eligibility may be subject to question by the people at the polling place or by the Board of Elections, shall be issued a provisional ballot.'' In addition, this restrictive directive also likely constituted violations of Article S, Section 1 of the Ohio Constitution, granting every Ohio citizen the right to vote if he or she is otherwise qualified.

7. Denying Access to the News Media

Facts

Secretary Blackwell also sought to prevent the news media and exit poll takers from locating themselves within 100 feet of polling places. This would have been the first time in thirty years in which reporters were prevented from monitoring polls. Media organizations challenged the barrier, leading to a U.S. Court of Appeals for the Sixth Circuit ruling that struck down Secretary Blackwell's decision. In its opinion, the court noted that ''democracies die behind closed doors'' and found that the district court's ruling had ''interpreted and applied the statute overly broadly in such a way that the statute would be violative of the first amendment''.

Analysis

Mr. Blackwell's decision to prevent news media and exit polls from interviewing Ohio citizens after they voted constitutes a clear violation of the First Amendment's guarantee that state conduct shall not abridge ''freedom . . . of the press.'' His decision also likely violated Ohio's own Constitution that provides: ''Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press.'' His decision does not appear to have had any negative impact on the vote, but potentially made it more difficult for the media to uncover voting irregularities, discrepancies, and disenfranchisement.

B. Election Day

1. County-Specific Issues

Warren County—Counting in Secret Because of a Terrorist Threat?

Facts

On election night, Warren County, a traditional Republican stronghold, locked down its administration building and barred reporters from observing the counting. When that decision was questioned, County officials claimed they were responding to a terrorist threat that ranked a ''10'' on a scale of 1 to 10, and that this information was received from an FBI agent. Despite repeated requests, County officials have declined to name that agent, however, and the FBI has stated that it had no information about a terror threat in Warren County.

Warren County officials have given conflicting accounts of when the decision was made to lock down the building. While the County Commissioner has stated that the decision to lock down the building was made during an October 28 closed-door meeting, e-mailed memos—dated October 25 and 26—indicate that preparations for the lockdown were already underway.

Statements also describe how ballots were left unguarded and unprotected in a warehouse on Election Day, and they were hastily moved after county officials received complaints.

It is important to view the lockdown in the context of the aberrant results in Warren County. An analyst who has received all the vote data for 2000 and 2004 by precinct in several Ohio counties did a detailed analysis of the greatest increase in votes for President Bush by precinct, and the Bush-Kerry margin in Warren County. The analyst revealed that Warren County first did a lockdown to count the votes, then apparently did another lockdown to recount the votes later, resulting in an even greater Bush margin and very unusual new patterns.

Moreover, in the 2000 Presidential election, the Democratic Presidential candidate, Al Gore, stopped running television commercials and pulled resources out of Ohio weeks before the election. He won 28% of the vote in Warren County 223 In 2004, the Democratic Presidential candidate, John Kerry, fiercely contested Ohio and independent groups also put considerable resources into getting out the Democratic vote. Moreover, unlike in 2000, independent candidate Ralph Nader was not on the Ohio ballot in 2004. Yet, the tallies reflect John Kerry receiving exactly the same percentage, 28 percent, in Warren County as Gore received.

In support of his assertion that there was no wrongdoing in Warren County, Secretary Blackwell has referred to a Democratic election observer in Warren County, Jeff Ruppert, who has said he observed nothing inappropriate at the County administration building. While we have no reason to doubt Mr. Ruppert's truthful account of what he actually observed, a complete review of his statements shows numerous problems at the building. At the outset, Mr. Ruppert acknowledges that he was subject to the lockout and had to present identification to even be admitted to the building. Once he gained admission, Mr. Ruppert said he did ''have concerns over how provisional ballots were handled at polling places—which he said seemed to be inconsistent.'' He also points to a number of areas he observed that were centers of activity (ballots being transferred from vehicles, precinct captains accompanying ballots in elevators, and ballots being stored), but it clearly would have been impossible for Mr. Ruppert to observe all of these activities at the same time. Finally, considering that he left before the ballot count was completed, it is inaccurate to state with certainty that there were no problems in Warren County.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

Given the total lack of explanation by Mr. Blackwell or Warren County officials, it is not implausible to assume that someone is hiding something. We do not know whether what happened is simply a miscommunication or mix up, where an election official misunderstood an FBI directive. If that were the case, it would seem to be an easy matter to dispel the confusion surrounding this episode. Given that no such explanation has been forthcoming and given the statistical anomalies in the Warren County results, it is impossible to rule out the possibility that some sort of manipulation of the tallies occurred on election night in the locked down facility. The disclosure that the decision to lock down the facility the Thursday before the election, rather than on election day would suggest the lockdown was a political decision, not a true security risk. If that was the case, it would be a violation of the constitutional guarantees of equal protection and due process, the Voting Rights Act, and Ohio right to vote. We believe it is the statutory duty for the Secretary of State to investigate irregularities of this nature.

Mahoning County—Innumerable Flipped Votes and Extra Votes

Facts

We have received numerous reports of transfers of votes for Senator Kerry to votes for President Bush. Specifically, in Youngstown, the Washington Post reported that their investigation revealed 25 electronic machines transferred an unknown number of Kerry votes to the Bush column. Jeanne White, a veteran voter and manager at the Buckeye Review, an African American newspaper, stepped into the booth, pushed the button for Kerry—and watched her vote jump to the Bush column. ''I saw what happened; I started screaming: 'They're cheating again and they're starting early!' '' The Election Protection Coalition also confirmed

these voting ''glitches'' noting that a ''voter reported 'Every time I tried to vote for the Democratic Party Presidential vote the machine went blank. I had to keep trying, it took 5 times.' ''

The voting machine in Youngstown experienced what election officials called ''calibration problems.'' Thomas McCabe, Deputy Director of the Mahoning County Board of Elections, stated that the problem ''happens every election'' and ''[i]t's something we have to live with and we can fix it.''

There is also information, still being investigated, that in several precincts, there were more votes counted by machine than signatures in poll books (which includes absentee voters). This would mean that more people voted by machine at a precinct than actually appeared at that location. For example, in CMP 4C Precinct, there were 279 signatures and 280 machine votes. In BLV 1 Precinct, there were 396 signatures but 398 machine votes. In AUS 12 Precinct, there were 372 signatures but 376 machine votes. In POT 1 Precinct, there were 479 signatures but 482 machine votes, and in YGN 6F Precinct, there were 270 signatures but 273 machine votes. It would appear from these numbers that the machines counted more votes than voters.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

Evidence strongly suggests many individuals voting in Mahoning County for Senator Kerry had their votes recorded for President Bush. Due to lack of cooperation from Secretary of State Blackwell, we have not been able to ascertain the number of votes that were impacted or whether the machines malfunctioned due to intentional manipulation or error. This determination would help us determine if the Voting Rights Act was also violated. Ascertaining the precise cause and culprit could help ensure that the error does not occur in the future. Secretary of State Blackwell's apparent failure to initiate any investigation into this serious computer error would seem inconsistent with his statutory duty to review these matters.

Butler County—The Strange Case of the Downballot Candidate Outperforming the Presidential Candidate

In Butler County, a Democratic candidate for State Supreme Court, C. Ellen Connally, received 59,532 votes. In contrast, the Kerry-Edwards ticket received only 54,185 votes, 5,000 less than the State Supreme Court candidate. Additionally, the victorious Republican candidate for State Supreme Court received approximately 40,000 less votes than the Bush-Cheney ticket. Further, Connally received 10,000 or more votes in excess of Kerry's total number of votes in five counties and 5,000 more votes in excess of Kerry's total in ten others.

According to media reports of Ohio judicial races, Republican judicial candidates were ''awash in cash,'' with more than $1.4 million in campaign funding, as well as additional independent expenditures made by the Ohio Chamber of Commerce.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

It appears implausible that 5,000 voters waited in line to cast votes for an underfunded Democratic Supreme Court candidate and then declined to cast a vote for the most well-funded Democratic Presidential campaign in history. We have been able to ascertain no answer to the question of how an underfunded Democratic State Supreme Court candidate could receive such a disproportionately large number of votes in Butler County over the Kerry Edwards ticket. This raises the possibility that thousands votes for Senator Kerry were lost, either through manipulation or mistake. The loss of these votes would likely violate constitutional protections of equal protection and due process; if manipulation is involved, that would also violate the Voting Rights Act and Ohio election law. This anomaly calls for an investigation, which Mr. Blackwell has failed to initiate.

Cuyahoga County—Palm Beach County for Pat Buchanan-Redux?

Facts

It has been well documented that a flawed Palm Beach County ballot design in the 2000 Florida Presidential election may well have cost Al Gore thousands of votes, by misrecording such votes as votes for Pat Buchanan. A similar problem may well have occurred in Cleveland in 2004.

Precincts in Cleveland have reported an incredibly high number of votes for third party candidates who have historically received only a handful of votes from these urban areas. For example, precinct 4F in the 4th Ward cast 290 votes for Kerry, 21 for Bush, and 215 for Constitution Party candidate Michael Peroutka. In 2000, the same precinct cast less than 8 voters for all third party candidates combined. This pattern is found in at least 10 precincts throughout Cleveland in 2004, awarding hundreds of unlikely votes to the third party candidate. Notably, these precincts share more than a strong Democratic history; they share the use of a punch card ballot. This problem was created by the combination of polling sites for multiple precincts, coupled with incorrect information provided by poll workers.

In Cuyahoga County, each precinct rotates candidate ballot position. Therefore, each ballot must go into a machine calibrated for its own precinct in order for the voter's intent to be counted. In these anomalous precincts, ballots were fed into the wrong machine, switching Kerry votes into third party votes. This was done on the advice of poll workers who told voters that they could insert their ballots into any open machine—and machines were not clearly marked indicating that they would work only for their designated precinct.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

It appears that hundreds, if not thousands, of votes intended to be cast for Senator Kerry were recorded as being for a third party candidate. At this point it is unclear whether these voting errors resulted from worker negligence and error or intentional manipulation. While Cuyahoga County election official Michael Vu said he would investigate, there has been no further explanation about what will be done to remedy this situation, and Secretary of State Blackwell has refused to cooperate in our investigation or pursue his own inquiry. In any event, those voters whose votes were not properly counted suffered a violation of their constitutional protections of equal protection and due process; if intentional manipulation is involved, this would also implicate the Voting Rights Act and Ohio election law.

Franklin County (Gahana)—How does a computer give George W. Bush nearly 4,000 extra votes?

Facts

On election day, a computerized voting machine in ward 1B in the Gahana precinct of Franklin County recorded a total of 4,258 votes for President Bush and 260 votes for Democratic challenger John Kerry. However, there are only 800 registered voters in that Gahana precinct, and only 638 people cast votes at the New Life Church polling site. It has since been discovered that a computer glitch resulted in the recording of 3,893 extra votes for President George W. Bush—the numbers were adjusted to show President Bush's true vote count at 365 votes and Senator Kerry's at 260 votes.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

At this point it is unclear whether the computer glitch was intentional or not, as we have received no cooperation from Secretary Blackwell or other authorities in resolving the question. In order to resolve this issue for future elections, it must be determined how it was initially discovered that such a computer glitch did and could occur and what procedures were employed to alert other counties upon the discovery of the malfunction. Further, a determination should be made as to whether we can be absolutely certain that this particular malfunction did not occur in other counties in Ohio during the 2004 Presidential election, and what actions have been taken to ensure that this type of malfunction does not happen in the future.

Miami County—Where did nearly 20,000 extra votes for George W. Bush come from?

Facts

In Miami County, voter turnout was a highly suspect and improbable 98.55 percent. With 100% of the precincts reporting on Wednesday, November 3, 2004, President Bush received 20,807 votes, or 65.80% of the vote, and Senator Kerry received 10,724 votes, or 33.92% of the vote. Thus, Miami reported a total of 31,620 voters. Inexplicably, nearly 19,000 new ballots were added after all precincts reported, boosting President Bush's vote count to 33,039, or 65.77%, while Senator Kerry's vote percentage stayed exactly the same to three one-hundredths of a percentage point at 33.92 percent. Roger Kearney of Rhombus Technologies, Ltd., the reporting company responsible for vote results of Miami County, stated that the problem was not with his reporting and that the additional 19,000 votes were added before 100% of the precincts were in.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

Mr. Kearney's statement does not explain how the vote count could change for President Bush, but not for Senator Kerry, after 19,000 new votes were added to the roster. Thus, we are primarily concerned with identifying a valid explanation for the statistical anomaly that showed virtually identical ratios after the final 20–40% of the votes were counted. Specifically, we have received no explanation as to how the vote count in this particular county could have changed for President Bush, but not for Senator Kerry,

after 19,000 new votes were added to the roster. The vote results in Miami constitute yet another significant anomaly in the tens of thousands range without any explanation or investigation by Secretary of State Blackwell, leading us to conclude that there is likely some vote error or vote manipulation. This could constitute a violation of constitutional guarantees of equal protection and due process and, if intentional, would likely violate the Voting Rights Act and Ohio election law.

Perry County—Discrepancy in Number of Votes and Voters

Facts

The House Judiciary Committee Democratic staff has received information indicating discrepancies in vote tabulations in Perry County. Similar discrepancies have been found in other counties. For example, in Trumbull County there are apparently more absentee votes than absentee voters according to a recent study. For example, the sign-in book for the Reading S precinct indicates that approximately 360 voters cast ballots in that precinct. In the same precinct, the sign-in book indicates that there were 33 absentee votes cast. In sum, this would appear to mean that fewer than 400 total votes were cast in that precinct. Yet, the precinct's official tallies indicate that 489 votes were cast. In addition, some voters' names have two ballot stub numbers listed next to their entries, creating the appearance that voters were allowed to cast more than one ballot.

In another precinct in Perry County, W Lexington G AB, 350 voters are registered according to the County's initial tallies. Yet, 434 voters cast ballots. As the tallies indicate, this would be an impossible 124% voter turnout. The breakdown on election night was initially reported to be 174 votes for Bush, and 246 votes for Kerry. We are advised that the Perry County Board of Elections has since issued a correction claiming that, due to a computer error, some votes were counted twice. We are advised that the new tallies state that only 224 people voted, and the tally is 90 votes for Bush and 127 votes for Kerry. This would make it appear that virtually every ballot was counted twice, which seems improbable.

In Madison Township, Precinct AAS, a review of the poll books shows that 481 people signed in to vote on election day, yet the Perry County Board of Elections is reporting that 493 votes were cast in that precinct, a difference of 13 votes. The same discrepancy appears with respect to Monroe Township AAV. The poll books show that 384 people signed in on election day to vote, while the Perry County Board of Elections reports that 393 votes were cast, a difference of 9 votes.

We have also received information that in at least three precincts, Pike West AAY, New Lexington I AB, and Redfield AAC, more signatures appear in the sign-in books than votes cast. This would indicate that votes may have been thrown out.

In Perry County, there appears to be an extraordinarily high level of 91% voter registration; yet, a substantial number of these voters have never voted and have no signature on file. Of the voters that are registered in Perry County, an extraordinarily large number of voters are listed as having registered in 1977, a year in which there were no federal elections. Of these, an exceptional number are listed as having registered on the exact same day: in total, 3,100 voters apparently registered in Perry County on November 8, 1977.

In addition, according to a Democratic staff count of the poll books, there are approximately 751 registered voters in Madison Township AAS, while the Perry County Board of Elections reports that there are 850 registered voters in that township.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

Clearly, there is an unexplained discrepancy between the actual vote tallies and the number of registered voters in various precincts as well as other statistical anomalies in the County. Given the lack of any explanation to date, and an absence of willingness by Secretary Blackwell or any other authorities to explain or investigate these irregularities, it is not inconceivable that some sort of vote tampering has occurred. If so, that would likely constitute a denial of the constitutional guarantees of equal protection and due process, the Voting Rights Act, and Ohio election law.

Republicans in the State of Washington are currently citing such ''mystery voters'' as evidence of fraud. The State Republican Chairman has commented, ''people ask me what fraud would look like? It would look like this.

2. Myriad Other Problems and Irregularities

We learned of literally thousands upon thousands of additional irregularities in Ohio. As a matter of fact, the Election Protection Commission has testified that to date, there have been over 3,300 incidents of voting irregularities entered for Ohio alone. The following is a brief highlight of some of the more egregious irregularities we have learned of during the course of our investigation:

a. Intimidation and Misinformation

Facts

In the course of our hearings we learned:

The NAACP testified that it received over 200 calls regarding incidents of suspected voter intimidation or unusual election related activities, particularly actions taken by challengers who intimidated poll workers and voters. Other specific incidents involved a caller who reported that someone was going door-to-door telling people they were not registered to vote. A voter in Franklin County received information in the mail identified as being from the state that said he would have to vote by provisional ballot because he had moved; in fact, the voter had not moved and had lived at the address for 10–15 years. One polling place worker was only asking African American voters for their address. A new voter was told that there were vote challengers at her precinct. When she was voting, she was confused by the punch cards. She was afraid to ask poll workers for help for fear that she would be challenged. Vote challengers were demanding that voters provide ID, leading many people to leave. This egregious behavior should be curtailed by the state.

In Franklin County, a worker at the Holiday Inn observed a team of 25 people who called themselves the ''Texas Strike Force'' using payphones to make intimidating calls to likely voters, targeting people recently in the prison system. The ''Texas Strike Force'' members paid their way to Ohio, but their hotel accommodations were paid for by the Ohio Republican Party, whose headquarters is across the street. The hotel worker heard one caller threaten a likely voter with being reported to the FBI and returning to jail if he voted. Another hotel worker called the police, who came but did nothing.

Phone calls incorrectly informed voters that their polling place had changed.

The Cleveland Plain Dealer found that several Lake County residents received an official-looking letter on Board of Elections letterhead informing them that their polling place had changed or that they were not properly registered to vote.

On election day, a fake voter bulletin from Franklin County Board of Elections was posted at polling locations, and fliers were distributed in the inner city, telling Republicans to vote on Tuesday and Democrats to vote on Wednesday due to unexpected heavy voter registration.

In Cleveland, the Washington Post reported that unknown volunteers began showing up at voters' doors illegally offering to collect and deliver complete absentee ballots to the election office.

The Election Protection Coalition testified that in Franklin County, voters received fliers informing them that they could cast a ballot on November 3.

In Franklin County there were reports that about a dozen voters were contacted by someone claiming to be from the county board of elections, telling them their voting location was changed.

''Door-hangers'' telling African-American voters to go to the wrong precinct were distributed.

Analysis

The use of intimidation and misinformation in Ohio on election day was widespread and pervasive and clearly suppressed the vote. The NAACP testified that they received over 200 complaints of such acts in Ohio, so it is likely the actual number of incidents ranged in the thousands, if not higher. It is difficult to estimate how many of these incidents actually resulted in lost votes.

These incidents of voter intimidation and misinformation clearly violate the Voting Rights Act, the Civil Rights Act of 1968, Equal Protection, Due Process and the Ohio right to vote. The fact that Secretary Blackwell did not initiate a single investigation into these many serious allegations may represent a violation of his statutory duty to investigate election irregularities. Cases of intimidation and misinformation such as we have seen in Ohio appear to have become a regular feature of our election landscape and would appear to warrant the development of a stronger investigative and law enforcement system than we have at present, at both the state and federal levels.

b. Machine Irregularities

Facts

In the course of our hearings we learned:

In Auglaize County, there were voting machine errors. In a letter dated October 21, 2004, Ken Nuss, former deputy director of the County Board of Elections, claimed that Joe McGinnis, a former employee of ES&S, the company that provides the voting systems in Auglaize County, had access to and used the main computer that is used to create the ballot and compile election results. Mr. McGinnis's access to and use of the main computer was a violation of county board of election protocol. After calling attention to this irregularity in the voting system, Mr. Nuss was suspended and then resigned.

In Cuyahoga County and Franklin County, there were voting machine errors with respect to absentee ballots. The arrows on the absentee ballots did not align with the correct punch hole. This likely led to voters casting a vote for a candidate other than the candidate they intended to support.

In Mahoning County, one precinct in Youngstown recorded a negative 25 million votes.

In Mercer County, one voting machine showed that 289 people cast punch card ballots, but only 51 votes were recorded for president. The county's website appeared to

show a similar anomaly, reporting that 51,818 people cast ballots but only 47,768 ballots were recorded in the presidential race, including 61 write-ins, meaning that approximately 4,000 votes, or nearly 7%, were not counted for a presidential candidate.

At our Washington, D.C. hearing, investigative journalist Bob Fitrakis highlighted malfunctions in Lucas County: ''When the machines in Lucas County, which is a heavily Democratic county, when they are locked in the principal's office and nobody may vote at that site; when they're going wrong all day, and the [Lucas County Election Director Paula Hicks-Hudson] admits the test failed prior to that, and the software is provided, of course, by Diebold, whose CEO, Walden O'Dell, is a member of President Bush's Pioneer and Ranger team, has visited the Crawford ranch and wrote a letter promising to deliver the electoral votes of Ohio, one has to be somewhat suspect.

In Hamilton County, the Washington Post learned many absentee ballots did not include Kerry's name because workers accidentally removed Kerry when removing Ralph Nader's name from the ballots.

Analysis

There is no doubt that there were a number of machine irregularities and glitches in the election, beyond the major discrepancies highlighted earlier in our report However, it is difficult for us to quantify the number of votes that were altered or affected by these irregularities.

Given the lack of cooperation we have received from the Secretary of State's office, it is difficult for us to ascertain whether the glitches were the result of mistake, negligence, or intentional misconduct. Depending on the type of misconduct involved, these errors may constitute violations of the Voting Rights Act, Equal Protection and Due Process, and Ohio's right to vote. Morever, it would appear that Secretary Blackwell's apparent failure to follow-up on these machine errors by way of an investigation would violate his duty to investigate election law irregularities.

The role of voting machines and computers in our election represents an increasingly serious issue in our democracy. Our concerns are exacerbated by the fact that there are very few companies who manufacture and operate voting machines, and they tend to be controlled by executives who donate largely, if not exclusively, to the Republican Party and Republican candidates. Issues such as the need for verifiable paper trails and greater accountability all warrant further investigation and possibly legislation.

c. Registration Irregularities and Official Misconduct and Errors

Facts

In the course of our hearings we learned:

A Washington Post investigation found that many longtime voters discovered their registrations had been purged.

Numerous voters were incorrectly listed on roster as felons, and thus not allowed to vote.

The NAACP testified to receiving over 1,000 calls related to voter registration issues, generally from individuals who were not on the voter rolls even though they had voted in previous elections, individuals with questions on how to register, and individuals with concerns about not receiving a voter registration card.

The Election Protection Coalition found that ''Individuals frequently reported having 'disappeared' from the voter rolls . . . Many individuals expressed concerns that they had registered but never received confirmation or were not listed on the voter rolls at the precincts.''

At our Columbus, Ohio hearing, several documented problems in Cuyahoga County were brought to our attention by the Greater Cleveland Voter Registration Coalition (GCVRC). GCVRC registered approximately 10,000 voters before the 2004 elections, yet when they tracked the registrations, 3.5% were either not entered at all or entered incorrectly, completely disenfranchising the applicants. While the board of Cuyahoga County was alerted to this problem as early as September, no corrective measures were taken. Projected out county-wide, over 10,000 people were likely not correctly registered and lost their right to vote. These registration problems led to provisional ballots being thrown out.

The NAACP reported that many voters complained they were asked to show ID when they thought it was unnecessary or were unable to vote because they lacked proper ID. At several locations in Cuyahoga County, all voters were being asked for ID, not just new voters. A voter called to say that all voters are being asked for ID. The poll workers were checking the address of the voter against the address on the registration and if they did not match, the voter was being turned away, often without casting a provisional ballot. In still another case, a voter was challenged because the address on the ID did not match the registration address (but was in the same precinct).

There were numerous cases where election workers sent voters to the wrong precinct.

A voter stated that a polling place in Cleveland ran out of ballots, and put in an emergency request for ballots but did not receive them.

The Associated Press reported that officials ticketed lawfully parked cars at the polling stations.

Election protection volunteers received complaints about provisional ballots from voters, many of whom reported being denied the opportunity to vote by provisional ballot. Some polling places either ran out of provisional ballots or never had any at their location. For example: a voter registered to vote in September. When she went to the polling place in Cuyahoga County on Election Day, they said she was not registered and they refused to give her a provisional ballot.

In Franklin County, some voters, who were in line to vote, but outside of the doors to the polling place, were sent home at 7:30 p.m. when the polls closed.

Analysis

Just as we witnessed in the Florida presidential debacle four years ago, improper purging and other errors by election officials represent a very serious problem and have a particularly negative impact on minority voters. The fact that the Greater Cleveland Voter Registration Coalition projects that in Cuyahoga County alone over 10,000 Ohio citizens lost their right to vote as a result of official registration errors and that the NAACP received more than 1,000 purging complaints on election day indicate that the overall number of voters who may have been disenfranchised as a result of official mistakes and wrongful purging is in the scores of thousands, if not more. Congressional passage of HAVA's provisional ballot requirement was intended to mitigate errors such as this, but Secretary Blackwell's unduly narrow interpretation of this requirement, as well as weak rules for counting and checking provisional ballots, have made it far less likely that individuals whose registration was wrongfully purged or never entered would be able to receive a provisional ballot and have it counted.

Given the information we have, it is unclear whether improper purging and other registration errors which appear so prevalent in Ohio were the result of human mistake or intentional misconduct. If it was intentional, a strong case can be made that it violated the Voting Rights Act, Equal Protection, Due Process, possibly the National Voter Registration Act, as well as Ohio's right to vote law. The Secretary of State's failure to investigate these registration errors and other irregularities may also violate his duties to do so under Ohio law.

HAVA funds were supposed to be used to implement a fairer and more efficient registration system statewide. Unfortunately, full funding has been delayed, and most states, including Ohio, have received waivers from this federal requirement.

3. General Problems

a. Spoiled Ballots—Hanging Chads Again?

Facts

Ohio had a significant number of spoiled votes—approximately 93,000. These are ballots in which either no presidential vote was recorded or multiple votes were indicated and therefore ignored. For example, someone may not have filled in his presidential choice dark enough for an optical scan machine to read, but did fill it in clearly enough to be a valid selection in a hand count. In addition, a punch card voter may not have punched completely through his choice, leaving a ''chad'' attached that could not be read by the tabulator. However, that same chad could be read in a hand count because Ohio law provides that hanging chads may be considered valid votes as long as two corners are detached.

According to a New York Times investigation, ''the problem [with spoiled ballots] was pronounced in minority areas, typically Kerry strongholds. In Cleveland ZIP codes where at least 85% of the population is black, precinct results show that one in 31 ballots registered no vote for president, more than twice the rate of largely white ZIP codes where one in 75 registered no vote for president. Election officials say that nearly 77,000 of the 96,000 [spoiled] ballots were punch cards.''

One of the principal purposes of the recount in Ohio was to ascertain the intent of these 93,000 ballots. However, by manipulation or otherwise every county in Ohio but Coshocton County avoided completing a full hand recount. This means that the vast majority of these spoiled ballots will never be reviewed.

The problem was particularly acute in two precincts in Montgomery County which had an undervote rate of over 25% each—accounting for nearly 6,000 voters who stood in line to vote, but purportedly declined to vote for president. This is in stark contrast to the 2% of undervoting county-wide. Disturbingly, predominately Democratic precincts had 75% more undervotes than those that were predominately Republican.

Secretary of State Blackwell has refused to answer any of the questions concerning these matters posed to him by Ranking Member Conyers and 11 other Members of the Judiciary Committee on December 2, 2004.

Analysis

Given the high level of interest in the presidential election in 2004, it is logical to assume that many of the persons casting spoiled ballots intended to cast a vote for president, so this irregularity alone could account for tens of thousands of disenfranchised votes, with a disproportionate amount being minority voters and Kerry voters. One of the reasons Ohio has such a large number of ballots is that the state relies so heavily on the outdated and antiquated punch card system that proved to

be error prone in Florida. Sixty-eight of the 88 Ohio counties still rely on the outdated punch card machines. Thus, at least in the critical swing state of Ohio the promise of HAVA funding to help states acquire better equipment so that more votes could count has not been met.

With regard to the severe undercount voting figures in Montgomery County, we have not received any cooperation from Secretary Blackwell in ascertaining how this occurred. This may have been due to some equipment or poll worker error or, in the worst case, manipulation.

b. Exit Polls Bolster Claims of Irregularities and Fraud

Facts

An exit poll serves as a predictor of the final vote results in an election. It is conducted by interviewing voters about their vote selections as they are leaving the polls. The process for conducting reliable exit polls was largely created in 1967 by CBS News pollster and statistician, Warren Mitofsky, now known as ''a world recognized expert in exit polling in particular and public opinion polling in general.'' Former Mexican President Carlos Salinas credited Mr. Mitofsky's work for contributing to the prevention of fraud and an increase in credibility in the 1994 election in Mexico.

The exit poll data taken on November 2, 2004, was compiled by two well-respected firms—Mitofsky International and Edison Media Research. Joseph Lenski, who conducted the exit polls for Edison Media Research, trained in the field of exit polling under Mr. Mitofsky before starting his own firm. They conducted in 2004 exit polls under a contract from the National Election Pool (NEP), a consortium of six news and media organizations: the Associated Press, ABC, CNN, CBS, NBC, and Fox.

In this year's election, the National Election Pool conducted two types of exit polls: 73,000 voters were interviewed in statewide polls, and an additional 13,000 voters were interviewed for a national poll. The national poll's sample size was approximately six times larger than the sample normally used in high quality pre-election national polls. This poll size would normally yield a very small margin of error and would be very accurate. Furthermore, such a poll would normally result in a close congruence between exit poll and official results. The sample size for Ohio was 1,963 voters, which is quite large for statistical purposes and equivalent to the 2,000 person norm for most national polls. In addition, this year's poll numbers were designed to account for absentee votes after a large number of absentee votes contributed to the inaccurate projections of the Florida race in 2000. This year, Mitofsky and Edison began telephone surveys in key states before the election to screen for absentee voters and create an accurate estimate of their votes.

While exit pollsters caution against using their results to predict election results, exit polls can be extremely accurate, with only small variations from the official outcomes in numerous elections. For example, in the three most recent national elections in Germany, exit polls differed from the final official vote counts by an average of only 0.26%. Their results have proven to be very accurate; correctly predicting the winner with no evidence of systematic skew of the data. United States exit polls have also been precise. Brigham Young University students' exit poll results for Utah in this election indicated 70.8% for Bush and 26.5% for Kerry.

The official results were 71.1 % for Bush and 26.4% for Kerry.

In the Ohio election for 2004, early exit polls that were released just after noon on November 2 showed that Senator Kerry was leading President Bush by three percentage points. Shortly after midnight on November 3, exit poll data continued to indicate that 52.1% of Ohio voters selected Senator Kerry and 47.9% selected President Bush. These numbers, however, differed greatly from the final results of the election; in the official results, President Bush led Senator Kerry by 2.5 percentage points in Ohio.

National poll data showed a similar shift from a clear advantage for Senator Kerry on Election Day to a victory for President Bush on the day after the election. Data that was provided by Edison/Mitofsky to the National Election Pool members at 4 p.m. on Election Day showed Senator Kerry leading 51% to 48%. These percentages held the same in the data released at 7:30 p.m. that day. By the time Senator Kerry conceded the election on Wednesday, November 3, the Edison/Mitofsky poll numbers had been aligned with reported vote counts. For the first time the poll numbers showed an advantage for President Bush with 51% to Senator Kerry's 48%.

On December 3, 2004, Rep. Conyers requested the raw exit poll data from Mitofsky International. Mr. Mitofsky replied ''The data are proprietary information gathered and held for the benefit of those news organizations, and I am not at liberty to release them.'' On December 21, 2004, as a follow-up, Rep. Conyers requested the data directly from the news wire and television companies that contracted with Mr. Mitofsky and Mr. Edison for the data. Though the Congressman has not received a response to his letter, Edie Emery, a spokesperson for the NEP and a CNN employee, said the exit poll data was still being analyzed and that the NEP's board would decide how to release a full report in early 2005. ''To release any information now would be incomplete,'' she said. Furthermore, Jack Stokes, a spokesperson for the Associated Press said, ''like Congressman Conyers, we believe the American people deserve answers. We want exit polling information to be made public as soon as it is available, as we intended. At this time, the data is still being evaluated for a final report to the National Election Pool.''

Analysis

Clearly something unusual is indicated by the differential between the exit poll information we have obtained and the final vote tallies in Ohio. It is rare, if not unprecedented, for election results to swing so dramatically from the exit poll predictions to the official results. Kerry was predicted to win Ohio by a differential of 4.2 percentage points. The official results showed Bush winning by 2.5 percentage points. The differential between the prediction for Kerry and the winning results for Bush represent a swing of 6.7 percentage points. According to University of Pennsylvania Professor Steven Freeman, this ''exit poll discrepancy could not have been due to chance or random error.'' Professor Freeman has further concluded that statistical analysis shows a probability of 1 in 1,000 that the difference between Senator Kerry's share of the exit poll projection and the official count of the vote would be as much as the final 3.4% spread, a virtual impossibility. As a matter of fact, there are broad statistical variations of up to 9 percentage points between exit poll data and official results in Ohio and other key states in the 2004 election. In state after state, Senator Kerry's advantage in the exit poll results was lost by sizable margins.

The discrepancy between the exit polls and the official vote count must be due to an inaccurate poll or an inaccurate vote. Either there was unintentional error in the exit poll or the official vote count, willful manipulation of the exit poll or the official vote count, or other forms of fraud, manipulation or irregularities occurred in the electoral process. Pollsters Mitofsky and Lenski have intimated that their poll numbers deviated from the official results because a disproportionate number of Bush supporters refused to participate in their polls. However, Professor Freeman posits that part of the discrepancy is due to a miscount of the vote.

As noted above, election polls are generally accurate and reliable. Pollsters are able to categorize their sources of error and develop extensive methodologies to limit those errors with each successive poll. Political scientist Ken Warren noted claims, ''. . . exit polling has become very sophisticated and reliable, not only because pollsters have embraced sound survey research techniques, but because they have learned through experience to make valid critical adjustment.'' In fact, prominent survey researchers, political scientists and journalists ''concur that exit polls are by far the most reliable'' polls.

Unfortunately, throughout American history various devices, schemes and legal structures have been used to shape the outcome of an election. Elections at every level of government have been skewed by tactics that deny voting rights, establish poll taxes, lose voter registrations, disqualify voters and disqualify ballots to ensure a certain outcome. The Florida election in 2000 provides ample evidence that our system is rife with election irregularites that have profound impacts on our election outcomes.

Elections are politically controlled, with extreme pressures for certain outcomes. In our system, victory can become more important than an accurate vote count. While pollsters are privately hired based on their accuracy and timely results, candidates and campaigns are primarily concerned with winning. When key election officials are also key campaign officials, as was the case in Florida in 2000 and in Ohio in 2004, the goal of providing an accurate vote tally gets into the murky waters of winning the political contest. But pollsters lose their legitimacy, and thus future contracts, if they are not accurate. Thus, '' the systemic pressures on polling accuracy are much greater than they are on vote count accuracy.

While pollsters use feedback and detailed analysis to improve their results, are motivated towards accuracy, and face market competition if they fail to provide thorough, accurate and timely exit poll results, ''there is little competition, feedback and motivation for accuracy in election processing.'' Thus we do not dismiss these exit poll results, and their discrepancy with the official vote counts, as others might do. We believe they provide important evidence that something was amiss in the Ohio election.

Full, accurate and reliable statistical analysis cannot be completed until the raw data from the exit polls is released. The limited available ''uncalibrated'' or raw data indicates the broad discrepancies that are discussed above. However, it appears that the National Election Pool data was ''calibrated'' or corrected after the official results were publicized. It may be standard practice to recalibrate poll results to reflect the actual outcome ''on the assumption that the [official] count is correct, and that any discrepancies must have been due to imbalanced representation in their samples or some other polling error.'' Thus data that was publicized on Election Day showing these large discrepancies is no longer publicly available; only the recalibrated numbers are available on the Internet. An independent, detailed analysis of the early exit poll data is necessary to verify the actual outcome of the vote in Ohio, and thus restore complete legitimacy to this election. In any event, the discrepancies that we are

able to identify place the entire Ohio election results under a cloud of uncertainty.

C. Post-Election

1. Confusion in Counting Provisional Ballots

Facts

Secretary Blackwell's failure to issue standards for the counting of provisional ballots led to a chaotic and confusing result such that each of Ohio's 88 counties could count legal ballots differently or not at all. In turn, this fostered a situation where subsequent to the election, Cuyahoga County mandated that provisional ballots in yellow packets must be ''rejected'' if there is no ''date of birth'' on the packet. This ruling was issued despite the fact that the original ''Provisional Verification Procedure'' from Cuyahoga County stated, ''Date of birth is not mandatory and should not reject a provisional ballot'' and simply required that the voter's name, address and a signature match the signature in the county's database. The People for the American Way Foundation sought a legal ruling ordering Secretary Blackwell and the county elections board to compare paper registration and electronic registration records. People For the American Way further asked the Board to notify each voter whose ballot was invalidated and how the invalidation could be challenged. Neither of these actions were taken.

In another case, while the state directed counties to ensure voters had been registered during the thirty days before the election, one college student who had been registered since 2000 and was living away from home was denied a provisional ballot.

Analysis

Mr. Blackwell's failure to articulate clear and consistent standards for the counting of provisional ballots likely resulted in the loss of several thousand votes in Cuyahoga County alone, and untold more statewide. This is because the lack of guidance and the ultimate narrow and arbitrary review standards imposed in Cuyahoga County appear to have significantly contributed to the fact that in Cuyahoga County, 8,099 out of 24,472 provisional ballots, or approximately one third, were ruled invalid, the highest proportion in the state. This number is twice as high as the percentage of provisional ballots rejected in 2000.

These series of events constitute a possible violation of the Voting Rights Act, as not only were legitimate votes apparently thrown out, they undoubtedly had a disproportionate impact on minority voters, concentrated in urban areas such as Cuyahoga County which had the highest shares of the state's provisional ballots. The actions may also violate Ohio's constitutional right to vote.

2. Justice Delayed is Justice Denied—Recounts were Delayed Because of a Late Declaration of Results

Facts

Ohio law requires the Secretary of State to provide county boards of elections with directives governing voting procedures, voting machine testing, and vote tallying. Prior to the election, Secretary Blackwell thus issued a directive providing that Ohio boards of elections would have to complete their official canvasses by December 1, almost one month after the date of the 2004 election. The directive further states that ''no recount may be held prior to the official canvass and certification of results,'' so that county boards would have to wait until Secretary Blackwell decided to certify the results before proceeding with recounts.

Ohio law also sets deadlines for the conduct of recounts. First, applications for statewide recounts must be submitted within five days of the Secretary of State's declaration of results. Second, such recounts must begin within ten days of the recount request. Secretary of State Blackwell gave county boards of election until December 1 to certify their returns and then waited to another five days, until December 6, to certify the results. As a consequence, recounts could not be sought until at least December 11, and were required to begin by December 16. The Green/Libertarian recount began on December 13, 2004. As a result, the recount was pending when the Secretary of State sent certificates to electors on December 7, and before the electoral college met on December 13. Because it appeared the Secretary of State had intentionally delayed certification to ensure that the recount could not be completed by these time periods, 11 Members of Congress, including Rep. Conyers, wrote to Gov. Taft asking that they delay or treat as provisional the December 13 meeting of the state's presidential electors.

The counties completed their recounts on December 28, 2004, but due to a variety of irregularities and alleged legal violations in the recount, they remain embroiled in litigation as of the date of this report.

Analysis

The scenario created by Secretary Blackwell effectively precluded recounts from being concluded prior to the December 13 meeting of electors. By setting the vote tally deadline so late and then delaying the declaration of results—it took a full 34 days after the November 2 election for the results to be certified—Secretary of State Blackwell insured that the time for completing recounts, therefore, was pushed to after the date of the Electoral College meeting. As a result of this intentional course of conduct, it appears that Mr. Blackwell has ensured that the controversies concerning the appointment of electors could not be resolved by December 7, 2004, thereby causing Ohio to lose the benefit of the electoral college safe harbor so that there appointment of electors is not necessarily binding on Congress. In addition, this diminishment of the recount law may violate the voters' right to equal protection and due process, as well as undermine the entire import of Ohio's recount law.

3. Triad GSI—Using a ''Cheat Sheet'' to Cheat the Voters in Hocking and Other Counties

Facts

Perhaps the most disturbing irregularity that we have learned of in connection with the recount concerns the activities and operations of Triad GSI, a voting machine company. On December 13, 2004, House Judiciary Committee Democratic-staff met with Ms. Sherole Eaton, Deputy Director of Elections for Hocking County. She explained that on Friday, December 10, 2004, Michael Barbian, Jr., a representative of Triad GSI, unilaterally sought and obtained access to the voting machinery and records in Hocking County, Ohio.

Ms. Eaton witnessed Mr. Barbian modify the Hocking County computer vote tabulator before the announcement of the Ohio recount. She further witnessed Barbian, upon the announcement that the Hocking County precinct was planned to be the subject of the initial Ohio test recount, make further alterations based on his knowledge of that information. She also has firsthand knowledge that Barbian advised election officials how to manipulate voting machinery to ensure that a preliminary hand recount matched the machine count.

According to the affidavit, the Triad official sought access to the voting machinery based on the apparent pretext that he wanted to review some ''legal questions'' Ohio voting officials might receive as part of the recount process. At several times during his interaction with Hocking County voting machines, Mr. Barbian telephoned into Triad's offices to obtain programming information relating to the machinery and the precinct in question. It is now known that Triad officials have intervened in other counties in Ohio—Greene and Monroe, and perhaps others.

In fact, Mr. Barbian himself has admitted to altering tabulating software in Hocking, Lorain, Muskingum, Clark, Harrison and Guernsey counties. Todd Rapp, President of Triad, also has confirmed that these sorts of changes are standard procedure for his company.

First, during an interview, film maker Lynda Byrket asked Barbian, ''you were just trying to help them so that they wouldn't have to do a full recount of the county, to try to avoid that?'' Mr. Barbian answered, ''Right.'' She further inquired: ''did any of your counties have to do a full recount?'' Mr. Barbian replied, ''Not that I'm aware of.''

Second, it appears that Mr. Barbian's activities were not the actions of a rogue computer programmer but the official policy of Triad. Rapp explained during a Hocking County Board of Elections meeting:

''The purpose was to train people on how to conduct their jobs and to help them identify problems when they conducted the recount. If they could not hand count the ballots correctly, they would know what they needed to look for in that hand count.''

Barbian noted that he had ''provided [other counties] reports so they could review the information on their own.''

As one observer asked, ''Why do you feel it was necessary to point out to a team counting ballots the number of overvotes and undervotes when the purpose of the team is to in fact locate those votes and judge them?''

Barbian's response was, ''. . . it's just human error. The machine count is right . . . We're trying to give them as much information to help them out.''

In addition, Douglas W. Jones, a computer election expert from the University of Iowa, reviewed the Eaton Affidavit and concluded that it described behavior that was dangerous and unnecessary:

''I have reviewed the Affidavit of Sherole L. Eaton (''the Eaton Affidavit''), the Deputy Director of the Hocking County Board of Election, as well as the letter of Congressman John Conyers to Kevin Brock, Special Agent in Charge with the FBI in Cincinnati, Ohio. In light of this information, and given my expertise and research on voting technology issues and the integrity of ballot counting systems, it is my professional opinion that the incident in Hocking County, Ohio, threatens the overall integrity of the recount of the presidential election in Ohio, and threatens the ability of the presidential candidates, their witnesses, and the counterplaintiffs in the above-captioned action, to properly analyze, inspect, and assess the ballots and the related voting data from the 2004 presidential election in Ohio. It is my understanding that 41 of Ohio's 88 counties use Triad voting machines. As a result, the incident in Hocking County could compromise the statewide recount, and undermine the public's trust in the credibility and accuracy of the recount.''

We have received several additional reports of machine irregularities involving several other counties serviced by Triad, including a report that Triad was able to alter election software by remote access:

In Union County, the hard drive on the vote tabulation machine, a Triad machine, had failed after the election and had been replaced. The old hard drive was returned to

the Union County Board of Elections in response to a subpoena.

The Directors of the Board of Elections in both Fulton and Henry County stated that the Triad company had reprogrammed the computer by remote dial-up to count only the presidential votes prior to the start of the recount.

In Monroe County, the 3% hand-count failed to match the machine count twice. Subsequent runs on that machine did not match each other nor the hand count. The Monroe County Board of Elections summoned a repairman from Triad to bring a new machine and the recount was suspended and reconvened for the following day. On the following day, a new machine was present at the Board of Elections office and the old machine was gone. The Board conducted a test run followed by the 3% hand-counted ballots. The results matched this time and the Board conducted the remainder of the recount by machine.

In Harrison County, a representative of the Triad company reprogrammed and retested the tabulator machine and software prior to the start of the recount. The Harrison County tabulating computer is connected to a second computer which is linked to the Secretary of State's Office in Columbus. The Triad technician handled all ballots during the machine recount and performed all tabulation functions. The Harrison County Board of Elections kept voted ballots and unused ballots in a room open to direct public access during daytime hours when the courthouse is open. The Board had placed voted ballots in unsealed transfer cases stored in an old wooden cabinet that, at one point, was said to be lockable and, at another point, was said to be unlockable.

On December 15, 2004, Rep. Conyers forwarded information concerning the irregularities alleged in the Eaton Affidavit to the FBI and local prosecutors in Ohio. He has not received a response to that letter. On December 22, 2004, Rep. Conyers forwarded a series of questions concerning this course of events to the President of Triad GSI and to Mr. Barbian. Counsel for Triad GSI has indicated that a response would be forthcoming later this week or shortly thereafter.

Analysis

Based on the above, including actual admissions and statements by Triad employees, it strongly appears that Triad and its employees engaged in a course of behavior to provide ''cheat sheets'' to those counting the ballots. The cheat sheets told them how many votes they should find for each candidate, and how many over and under votes they should calculate to match the machine count. In that way, they could avoid doing a full county-wide hand recount mandated by state law. If true, this would frustrate the entire purpose of the recount law—to randomly ascertain if the vote counting apparatus is operating fairly and effectively, and if not to conduct a full hand recount. By ensuring that election boards are in a position to conform their test recount results with the election night results, Triad's actions may well have prevented scores of counties from conducting a full and fair recount in compliance with equal protection, due process, and the first amendment.

In addition, the course of conduct outlined above would appear to violate numerous provisions of federal and state law. As noted above, 42 U.S.C. §1973 provides for criminal penalties for any person who, in any election for federal office, ''knowingly and willfully deprives, defrauds, or attempts to defraud the residents of a State of a fair and impartially conducted election process, by . . . the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held.'' Section 1974 requires the retention and preservation of all voting records and papers for a period of 22 months from the date of a federal election and makes it a felony for any person to ''willfully steal, destroy, conceal, mutilate, or alter'' any such record.

Ohio law further prohibits election machinery from being serviced, modified, or altered in any way subsequent to an election, unless it is so done in the presence of the full board of elections and other observers. Any handling of ballots for a subsequent recount must be done in the presence of the entire Board and any qualified witnesses. This would seem to operate as a de facto bar against altering voting machines by remote access. Containers in which ballots are kept may not be opened before all of the required participants in are attendance. It is critical to note that the fact that these ''ballots'' were not papers in a box is of no consequence in the inquiry as to whether state and federal laws were violated by Barbian's conduct: Ohio Revised Code defines a ballot as ''the official election presentation of offices and candidates . . . and the means by which votes are recorded.'' Ohio Rev. Code §3506.01 (B) (West 2004). Therefore, for purposes of Ohio law, electronic records stored in the Board's computer are to be considered ''ballots.'' Triad's interference with the computers and their software would seem to violate these requirements.

Further, any modification of the election machinery may only be done after full notice to the Secretary of State. Ohio Code and related regulations require that after the state certifies a voting system, changes that affect ''(a) the method of recording voter intent; (b) voter privacy; (c) retention of the vote; or the (d) communication of voting records, must be done only after full notice to the Secretary of State. We are not aware that any such notice was given to the Secretary.

Finally, Secretary Blackwell's own directive, coupled with Ohio Revised Code §3505.32, prohibits any handling of these ballots without bipartisan witnesses present. That section of the code provides that during a period of official canvassing, all interaction with ballots must be ''in the presence of all of the members of the board and any other persons who are entitled to witness the official canvass.'' The Ohio Secretary of State issued orders that election officials are to treat all election materials as if the State were in a period of canvassing, and that, ''teams of one Democrat and one Republican must be present with ballots at all times of processing.''

Triad has sought to respond to these charges by arguing that Ohio law requires a Board of Elections to prevent the counting or tabulation of other races during a recount and limit these activities to those offices or issues for which a formal recount request has been filed. However, this requirement does not supercede the above requirements that election machinery only be serviced or otherwise altered in the presence of the full elections board and observers. There are at least two ways this recount process could have been conducted legally. First, recounters could have been given the full ballot and been simply instructed not to count the other races recorded. Second, the service company employees could have waited to alter the software program until the official recount began in the presence of the board and qualifying witnesses. Neither of these scenarios occurred in the present case.

In addition to these provisions imposing duties on the Board of Elections, there are numerous criminal penalties that can be incurred by those who actually tampered with the machines. These apply to persons who ''tamper or attempt to tamper with . . . or otherwise change or injure in any manner any marking device, automatic tabulating equipment or any appurtenances or accessories thereof;'' ''destroy any property used in the conduct of elections;'' ''unlawfully destroy or attempt to destroy the ballots, or permit such ballots or a ballot box or pollbook used at an election to be destroyed; or destroy [or] falsify;'' and ''willfully and with fraudulent intent make any mark or alteration on any ballot.''

It is noteworthy that the companies implicated in the misconduct outlined above, Triad and its affiliates, are the leading suppliers of voting machines involved in the counting of paper ballots and punch cards in the critical states of Ohio and Florida. Triad is controlled by the Rapp family, and its founder Brett A. Rapp has been a consistent contributor to Republican causes. In addition, a Triad affiliate, Psephos Corporation, supplied the notorious butterfly ballot used in Palm Beach County, Florida, in the 2000 presidential election.

4. Greene County—Long Waits, the Unlocked Lockdown and Discarded Ballots

We have received information indicating negligence and potential tampering with Greene County ballots and voting machines. On December 9, election observers interviewed the County Director of Elections, Carole Garman, and found substantial discrepancies in the number of voting machines per voter in low-income areas as compared to other areas. Apparently, some consolidated precincts had almost the state imposed limit of 1,400 registered voters and others had only a few hundred voters. One of the precincts disproportionately affected included Central State University and Wilbur Force University, both historically black universities.

The next day, the observers returned to that office and requested voter signature books for copying. Ms. Garman granted such access. After leaving the office for three hours, the observers returned and had been advised that, under Ohio law, they were entitled to copies of the precinct books for a nominal fee, and requested such copies from Garman. Garman did not concur with that view of Ohio law and telephoned the office of Secretary Blackwell, eventually reaching Pat Wolfe, the Election Administrator for the Secretary of State. Garman then advised the observers that, per Blackwell, all voter records for the State of Ohio were ''locked down'' and they now were ''not considered public records.'' Garman subsequently physically removed the books from one observer's hands'' After attempting to persuade Garman to reverse this decision to no avail, the observers departed the office.

The observers returned the following day, a Saturday, at 10:15 am. While a number of cars were parked in the parking lot and the door to the office was unlocked, and there was no one in the office. One light was on in the office that had not been on the previous night after the office was closed. In the office, unsecured, were the poll books that had been taken from then observers the day before. There were also voting booths, ballot boxes apparently containing votes, and voting equipment, also unsecured. Shortly after the observers had left the office, a police officer arrived and later elections officials and members of the media. The officials were unable to offer any explanation for the unsecure office, other than negligence, and said they would ask a technician (from the Triad company) to check out the machines on Monday.

A number of other substantial irregularities in Greene County have come to our attention that were uncovered after the office

was discovered to be unsecure. In the short period of time that observers were given to examine voting records, ballots were not counted for apparently erroneous reasons. In a number of cases, Greene County officials rejected ballots because the secrecy envelope for the ballot appeared to indicate that the voter had voted in the wrong precinct, notwithstanding the fact that a notation was made—apparently by an election worker—indicating the vote should count. The records appeared to indicate that, in some cases, voters were sent to the wrong precinct by election workers and, in others, were given the wrong precinct's envelope for the ballot because election workers had run out of envelopes for the correct precinct.

These records also appeared to indicate that some voters were purged from the voting rolls on the basis that they failed to vote in the previous election, while other voters who had not voted in several elections had not been purged. On October 26, Secretary Blackwell issued a directive and provided it to Greene County officials regarding the ''pre-challenging'' process, where a voter's eligibility is challenged prior to the election, and sent an attached list of voters who were to be pre-challenged in Greene County, to the Board of Elections. Notice was sent by the Board to these voters on the Friday before the election by registered mail, and was likely not received until Monday, advising such voters of their right to be present at a Monday hearing, where the voter's eligibility would be decided.

Other irregularities appear in the official ballot counting charts prepared by election officials, including a number of precincts where the number of voters do not match the number of votes cast despite the fact that the charts indicate that those numbers ''must match.''

We have also obtained evidence indicating that eligible voters did not have their ballots counted for invalid reasons. For example, an overseas military ballot was not counted because it was a photocopy rather than the original ballot; an 85 year old voter did not have his absentee vote counted because it did not have a stub attached; a disabled voter who indicated she marked her ballot with the assistance of election workers did not have her absentee vote counted because no stub was attached; an absentee voter with a properly postmarked ballot did not have his vote counted because it was received ''too late,'' but before the initial certification of results; and provisional ballots that were not counted because an election official forgot to sign as a witness when the ballot was cast. Substantial numbers of provisional ballots appear to have been rejected because voters were purged in the last two years.

Analysis

Numerous Ohio laws appear to have been broken in Greene County. First it is a misdemeanor to deny the public access to election records. Ohio law clearly states that ''No director of elections, deputy director of elections, or employee of the board of elections designated by the director or deputy direct shall knowingly prevent or prohibit any person from inspecting, under reasonable regulations established and posted by the board of elections, the public records filed in the office of the board of elections.'' Not only is this a crime, but grounds for dismissal from election duties—required whether the offender is an official or an employee. It does not appear that anyone has been prosecuted, and no one has been dismissed as required by statute.

Second, the complete lack of security on Friday night violates any number of Ohio laws requiring that ballots and machinery be kept absolutely secure. Section 3505.31 requires that ballots, pollbooks, poll lists, tally sheets and voting machines be kept tamper-proof and under seal. Ballots are to be held secure until a recount is properly conducted in front of witnesses, and ballots may not be handled by anyone except the board and its employees. Failure of these duties by board members and their employees, is a felony, as ''No member, director or employee of a board of elections shall willfully or negligently violate or neglect to perform any duty imposed upon him by law, or willfully perform or neglect to perform it in such a way as to hinder the objects of the law.'' Again, it requires that the offender be dismissed, and again, it appears that those actions have not been taken in Greene County. It is important to note that this statute does not require any intent of wrongdoing—simple negligence is enough to invoke the statute and there is no explanation as to why it has not been enforced.

Third, Greene County's operation seems to have several Constitutional problems, both federally and at the state level. The selective use of challenges and purges invokes the Equal Protection clause. We were unable to confirm any legitimate reason why some voters were challenged and then purged, and others were not. There are also Due Process concerns as those to be purged were not given sufficient notice to meaningfully participate in their scheduled hearings. And finally, these actions violate Ohio's own constitution that guarantees the right to vote.

5. OTHER RECOUNT IRREGULARITIES

We learned of numerous additional troubling recount irregularities in the course of our investigation. The groundwork for these problems was laid when the Secretary of State failed to issue specific standards for the recount. In essence, Mr. Blackwell's directive on recount procedures permitted each county board of election to determine its own recount rules. Mr. Blackwell failed to issue such standards, notwithstanding the fact that election officials themselves had offered contrasting election recount procedures, including some counties who sought to unilaterally oppose doing any recount whatsoever.

Some of the serious recount irregularities that we learned of in connection with our investigation include the following:

a. Irregularities in Selecting the Initial 3% Hand Count—Many County Boards of Elections Did Not Randomly Select the Precinct Samples

In the course of our investigation we learned:

Mr. Keith Cunningham, Director of the Allen County Board of Elections, explained that it would take considerably longer to carry out the recount if there were a random selection process employed. Instead, the Board pre-selected four precincts, totaling slightly more than the required three percent, for the recount. Democratic and Green Party witnesses raised objections but to no avail.

The Clermont County Board of Elections selected the 3% precinct samples by choosing the thirteen precincts with lowest number of voters plus the next number of precincts that reached the total of 3% of the total votes cast in that county. This selection process eliminated larger and more diversified precincts. The staff of the Board admitted that small precincts were chosen because fewer problems would be encountered in smaller precincts. A witness objected to this selection process, but to no avail.

The Cuyahoga County Board of Elections decided to choose only precincts with 550 votes or more and from a cross-section of areas—one East side, one West side, one affluent, one non-affluent. This criterion left only eight percent of precincts available to be selected. In addition, witnesses observed that the ballots were not in a random order, and that they had been previously sorted. As the ballots were fed into the counting machines, there were long runs of votes for only one candidate and then long runs for another, which seemed statistically improbable.

The total number of votes cast in Morrow County was 16,694. Three percent of this would be 501. The Morrow County Board of Elections selected the Harmony Township precinct for the initial hand count because it had 517 ballots cast. When observers complained this was not random, the Board responded that it had the right to select the precinct. During this discussion, an election official with the Board called the Secretary of State's office and reported that the Secretary of State's office stated that the Board was correct.

The Hocking County Board of Elections met and Rod Hedges, a Republican Board member, stated that he believed the Board should select a precinct that was not heavily in favor of George W. Bush or John F. Kerry. The Board decided to consider only the precincts where the vote totals for Bush and Kerry were similar. An observer objected that this was not a random selection, but to no avail.

Election officials in Medina County were aware of several ''problem'' districts, but instead chose to perform the manual 3% test recount on two precincts that had been part of a school levy recount the previous Monday. That meant that those ballots had been taken out of the standard ''double lock'' situation and had been handled several times since that Monday.

The Board of Elections in Vinton County selected a precinct 3% manual recount test simply because its vote total was closest to 3% of the total votes cast in the county.

The Summit County Board of Elections selected precincts randomly with the Director and Deputy Director of the Board of Elections and two other Board employees present, both of whom were IT specialists for the Board so that they could compute the three percent. The Board shuffled 475 precinct cards and then chose randomly from the pile. The Summit County Board of Elections conducted this selection without any recount witnesses present.

b. Irregularities in Applying the Full Hand-Count Requirement—Counties Not Conducting Full Hand Count After 3% Hand and Machine Counts Did Not Match

In the course of our investigation we learned:

In Monroe County, the 3% hand-count failed to match the machine count twice. Subsequent runs on that machine matched neither each other nor the hand count. The Monroe County Board of Elections summoned a repairman from Triad to bring a new machine and the recount was suspended and reconvened for the following day. On the following day, a new machine was present at the Board of Elections office and the old machine was gone. The Board conducted a test deck run followed by the 3% hand-counted ballots. The results matched this time and the Board conducted the remainder of the recount by machine.

In Fairfield County, the hand recount of the 3% test sample did not match the machine count, even after two attempts. The Board suspended the recount and stated that Secretary Blackwell recommended that the recount should begin again ''from scratch.'' The Green recount observers were then told that it was 4:00 PM, the building was closed, and all had to leave. The Republican recount observers, however, were allowed to stay in a

conference room for an additional ten minutes or so for a private discussion. When the Board reconvened a few days later, it announced that it would be conducting a machine count of the county's votes. When a Green Party observer objected, she was told by the Board that she was not allowed to speak.

c. Irregularities in the Treatment of Ballots—Some Counties Marking Ballots and Some Counties Not Securely Storing Ballots

In the course of our investigation we learned:

In Washington County, the Board of Elections had, in the first count, excluded ballots which included no votes and overvotes. During the recount, the Board altered many such ballots to make them work. An observer protested this practice. An election official pulled a black marker from his right pocket near the beginning of the recount and stated that he was the mark-up man. He proceeded to do all of the marking of the ballots. Another election official assisted with the ''band-aids''. The observer noted that all the re-marking and band-aiding of ballots did reflect the will of the voter, with one exception. In the precinct Belpre 4A, a voter had both marked the oval and put an X through it for presidential candidate Michael Peroutka and had marked the oval for Bush. The election official put a band-aid over the Peroutka vote and put his own X on the Bush vote. The observer objected that it should be counted as an overvote. The Board ruled that the vote should count for Bush.

In Lucas County, an observer witnessed the physical alteration of three ballots for the apparent reason of ensuring that the vote count produced by the optical scan machine would match the 3% hand count. At least one of the election officials stated that she did not want the hand count and machine count to be different because they did not want to do a complete hand count. The Board made the alterations to the ballot after determining the intent of the voters. Following a lunch break during the recount, the Board kept recount observers waiting while a technician from the Diebold company reprogrammed the machine.

In Ashland County, ballots cast in the presidential election were stored by precinct in open cubicles along one wall in the employee lunchroom/meeting room, completely open and visible to anyone who enters the room. Piled on top of the cubicles were bags of Doritos, mugs, cleaning products, Glad Wrap and other miscellaneous items. Board of Election officials said the room was kept locked, except when used.

In Coshocton County, the Board stored voted ballots mixed with blank, unused ballots in partially-opened boxes, unsealed at the time of observation and apparently never sealed after the election. While ballots were stored in a locked room, all Board employees had keys to the room.

In Belmont County, the Deputy Director of Elections stated that her county had hired an independent programmer (''at great expense'') to reprogram the counting machines so that they would only count votes for President during the recount.

In Portage County, all ballot boxes were locked and reopened, locked and re-opened again—always in plain sight—and transported methodically from the visual inspection area to the tabulator room.

d. Irregularities in the Treatment of Witnesses at the Recount and their Access to Ballots

In the course of our investigation we learned:

In Summit County, recount witnesses were threatened with expulsion if they spoke to counting teams. In some instances, they were expected to ''observe'' from up to 20 feet away, which prevented them from being able to actually observe recount.

In Huron County, the punchcard tabulator test was observed only by Republican witnesses. This test was conducted the day before the Green Party witness was invited to observe the recount.

In Putnam County, Board of Elections officials told observers that their Board would meet on December 15th to decide the start date. When the observer called back on the 15th, she was told the recount had already taken place.

In Allen County, observers were not allowed to examine provisional ballots and absentee ballots during the recount. The Board told them that they must make an appointment at a later time working around the Board's schedule. The Board further stated that only the specific person who cast such a ballot is allowed to inquire whether his or her vote was counted.

In Holmes County, observers asked to see the spoiled ballot pile, comprised of five ballots, but the Board denied access, stating that they were in a sealed envelope that could not be opened.

In Licking County, the Board denied observers access to view provisional and absentee ballots.

In Mahoning County, the Board denied observers access to view rejected absentee ballots.

In Medina County, the Board denied observers access to view provisional ballot tallies, provisional ballots, and the actual machines and ballot booklets used.

In Morgan County, 30 of 160 provisional and absentee ballots were not counted, and the Board denied observers access to view these ballots. The Board stated that these ballots were locked away and would be destroyed 60 days after the election.

In Stark County, the Board denied an observer request to view the provisional ballots.

In Warren County, the Board denied an observer request to view provisional and absentee ballots. The observer has requested that the Board have this decision reviewed by the county prosecutor and the Board is now awaiting the county prosecutor's decision.

Analysis

The Secretary of State's failure to issue specific standards for the recount was a major problem. It appears to have contributed to a lack of uniformity that may very well violate both the Due Process Clause and the Equal Protection Clause of the Constitution. As the U.S. Supreme Court held in 2000, ''Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another.'' As the Court articulated in that case, ''It is obvious that the recount cannot be conducted in compliance with the requirements of equal protection and due process without substantial additional work. It would require not only the adoption (after opportunity for argument) of adequate statewide standards for determining what is a legal vote, and practicable procedures to implement them, but also orderly judicial review of any disputed matters that might arise.'' It may also have violated Ohio state law which charges the secretary of state with ''[issuing] instructions by directives and advisories to members of the boards [of elections] as to the proper methods of conducting elections'' and ''[preparing] rules and instructions for the conduct of elections.''

In terms of the specific irregularities, they would seem to be inconsistent if not in outright violation of several aspects of Ohio's recount law. Those counties which did not randomly select the precinct samples appears to violate the Secretary of State's directive on this point. Those counties which did not conduct a full hand count after the 3% hand and machine counts did not match is inconsistent with Ohio's statutory right to have inconsistent results rechecked. Those counties that allowed for irregular marking of ballots and which failed to secure and store ballots and machinery appear to have violated provisions of Ohio law mandating that candidates have the right to ensure that ballots are secure between the election and the official recount, that ballots may not be handled by anyone besides Board members and their staff, and may not be handled outside of the presence of the Board and qualifying witnesses. Finally, those counties which prevented witnesses for candidates from observing the various aspects of the recount appear to have violated provisions of Ohio law providing that candidates have the right to observe all ballots.

RECOMMENDATIONS

A. Electoral College Challenge

We believe there are ample grounds for challenging the electors from Ohio as being unlawfully appointed.

We say this for several reasons. First, there is considerable doubt that all controversies regarding the appointment of the electors were lawfully resolved six days prior to the meeting of the electors (on December 7) in order for the state's electors to be binding on Congress as required by 3 U.S.C. Sec. 5. This is because, among other things, the Secretary of State appears to have intentionally delayed the initial certification of the electors until December 6, making it impossible for the recount (of which he was fully aware) to be completed by December 7, let alone the December 13 meeting of the electors.

Second, there are numerous irrefutable instances where Ohio election law has been violated by the Secretary of State and others such that the election cannot be said to comply with Ohio law, and the electors cannot be considered lawfully certified under state law within the meaning of 3 U.S.C. Sec. 15. These violations of law are highlighted throughout this Report.

The failure to provide adequate voting machinery would appear to violate both Ohio's Constitution, that provides all eligible adults the right to vote, and the Ohio Revised Code which requires the Boards of Elections to provide ''for each precinct a polling place and provide adequate facilities at each polling place for conducting the election.'' Secretary of State Blackwell's failure to initiate any investigation into this pivotal irregularity notwithstanding his statutory duty to do so under Ohio Revised Code Sec. 3501.05, represents another likely violation of Ohio law.

The ''caging'' tactics targeting 35,000 new voters by the Ohio Republican Party for preelection legal challenge were found by three federal courts to be illegal as being politically and racially charged, and burdening the fundamental right to vote. The tactic would also appear to violate Ohioans' right to vote under the Ohio Constitution.

Mr. Blackwell's decision to prevent news media and exit polls from interviewing Ohio citizens after they voted was found by a federal court of appeals to have violated the First Amendment's guarantee that state conduct shall not abridge ''freedom . . . of the press''. His decision also likely violated Ohio's Constitution that provides: ''Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press.''

Mr. Blackwell's decision to prevent those voters who requested absentee ballots, but did not receive them on a timely basis from being able to vote, was found by a federal court to violate HAVA. This restrictive directive also likely violated Article 5, Section 1 of the Ohio Constitution, granting every Ohio citizen the right to vote if he or she is otherwise qualified.

Numerous incidents of voter intimidation and misinformation engaged in Ohio on election day likely violate the Voting Rights Act, the Civil Rights Act of 1968, and the Ohio right to vote. Mr. Blackwell's apparent failure to institute a single investigation into these acts likely represents a violation of his statutory duty to investigate election misconduct.

The voting computer company Triad has essentially admitted that it engaged in a course of behavior during the recount in numerous counties to provide ''cheat sheets'' to those counting the ballots. By insuring that election boards were in a position to conform their test recount results with the election night results, Triad's actions may well have prevented scores of counties from conducting a full and fair recount. Triad's action appears to violate Ohio law prohibiting election machinery from being serviced, modified, or altered in any way subsequent to an election, unless it is done so in the presence of the full board of elections and other observers.

Numerous Ohio laws appear to have been broken in Greene County, where after initially being granted access to poll books to conduct an audit, election observers had this access abruptly revoked under the orders of Secretary Blackwell, and arbitrary and capricious practices and counting procedures that disenfranchised hundreds of voters were identified. These practices violate Ohio law requirements preventing the denial of public access to election records; requiring that ballots and machinery be kept absolutely secure; and protecting the right to vote.

The Secretary of State's failure to issue specific standards appears inconsistent with Ohio state law which charges the secretary of state with ''[issuing] instructions by directives and advisories to members of the boards [of elections] as to the proper methods of conducting elections'' and ''[preparing] rules and instructions for the conduct of elections.''

There were numerous specific irregularities in the recount that are inconsistent with several aspects of Ohio's recount law. Those counties which did not randomly select the precinct samples violated the Secretary of State's directive on this point. Those counties which did not conduct a full hand court after the 3% hand and machine counts violated Ohio's statutory right to have inconsistent results rechecked. Those counties which allowed for irregular marking of ballots and which failed to secure and store ballots and machinery appear to have violated provisions of Ohio law mandating that candidates have the right to ensure that ballots are secure between the election and the official recount, that ballots may not be handled by anyone besides Board members and their staff, and may not be handled outside of the presence of the Board and qualifying witnesses. Finally, those counties which prevented witnesses for candidates from observing the various aspects of the recount violated provisions of Ohio law providing that candidates have the right to observe all ballots.

Whether the cumulative effect of these legal violations would have altered the actual outcome is not known at this time. However, we do know that there are many serious and intentional violations which violate Ohio's own law, that the Secretary of State has done everything in his power to avoid accounting for such violations, and it is incumbent on Congress to protect the integrity of its own laws by recognizing the seriousness of these legal violations.

B. Need for Further Congressional Hearings

It is also clear the U.S. Congress needs to conduct additional and more vigorous hearings into the irregularities in the Ohio presidential election and around the country.

While we have conducted our own Democratic hearings and investigation, we have been handicapped by the fact that key participants in the election, such as Secretary of State Blackwell, have refused to cooperate in our hearings or respond to Mr. Conyers questions. While GAO officials are prepared to move forward with a wide ranging analysis of systemic problems in the 2004 elections, they are not planning to conduct the kind of specific investigation needed to get to the bottom of the range of problems evident in Ohio. As a result, it appears that the only means of obtaining his cooperation in any congressional investigation is under the threat of subpoena, which only the Majority may require.

Given the seriousness of the irregularities we have uncovered, and the importance of the federal elections, we recommend that the House and Senate form a joint, select committee to investigate the full gamut of irregularities across the board.

Among the issues which require further attention at Congressional hearings are the following:

The misallocation of voting machines. Congress should examine the extent to which the lack of machines in certain areas led to unprecedented long lines that disenfranchised predominantly minority and Democratic voters.

The decisions to restrict provisional ballots to actual precincts and to deny them to voters who did not receive absentee ballots. Congress should examine the extent to which the decisions departed from past Ohio law on provisional ballots, how many voters were impacted, and whether a broader construction would have led to any significant disruption at polling places.

The use of partisan, pre-election ''caging'' tactics. Congress should examine to what extent caging is used and to what degree minority voters were targeted for intimidation and suppression.

The use of voter suppression and intimidation tactics. Congress should investigate reports of intimidation and misinformation in violation of the Voting Rights Act, the Civil Rights Act of 1968, Equal Protection, Due Process and the Ohio right to vote.

The use of partisan challengers. Congress should examine whether the use of such challengers is disruptive and intimidating to voters. Further, Congress should investigate whether the precinct judges, which are required by law, are sufficient to regulate voting practices.

Voter purging and other registration errors. Congress should look at what methods of voter purging are used and whether they target minority groups.

The prevalence of undervotes, in which ballots are cast but lack votes for president. Congress should further investigate whether undervotes are principally caused by punchcards and what reforms can be made to prevent them.

The need for greater accountability in ballot counting. Congress should examine whether an audit capability for voting machines would enhance the ability to verify voter choices.

The lack of national standards for issuing provisional ballots and conducting recounts. Congress should examine areas in which national standards would promote the guaranteed right to vote and would ensure that every vote counts.

Restrictions on the use of government-granted power for political or personal gain. Congress should investigate the need for restricting the ability of state contractors and public officials involved in the administration of elections to participate in campaign activities.

C. Legislation

Our investigation has made it abundantly clear that Congress and the States must reform the election laws to address the many inequities that have come to light. At the very least, we must—

Develop a fair and uniform system of processing provisional ballots, including training of poll workers and counting votes.

Ensure that every voting machine has a verifiable audit trail, guidelines for which could be established by the Election Assistance Commission.

Consider an Amendment to the Constitution of the United States to reaffirm the right to vote.

Facilitate voter turnout through the establishment of a national election day holiday, the expansion of early voting, and the re-enfranchisement of former felons.

Ensure full enforcement by the Justice Department of anti-voter intimidation laws, including prohibitions on voter suppression and caging.

Establish national standards for voter registration, polling place opening hours, and ballot recounts.

Establish an explicit private right of action for voter rights in the Help America Vote Act.

Ensure that state and local election officials involved in the administration of elections do not use their offices for political gain.

Ensure enough accessible voting machines and poll workers are available at all precincts such that waiting times are reasonable, including in lower-income and minority communities.

Consistent with the First Amendment, restrict state contractors from participating in campaign activities.

Develop and fund public campaigns to educate voters on voting rights, anti-voter intimidation laws, etc.

Fully fund the Help America Vote Act.

Clarify that provisional ballots are available to all citizens who request them, as long as they are in the appropriate County.

We recommend that House and Senate Members join together in reforming these laws and preserving our democracy.

Mr. Speaker, I yield to the gentleman from Missouri (Mr. CLAY) for the purpose of making a unanimous consent request.

(Mr. CLAY asked and was given permission to revise and extend his remarks.)

Mr. CLAY. Mr. Speaker, I thank the gentleman from Michigan for yielding.

Honorable colleagues, the numerous irregularities that occurred with the electronic voting machines in Ohio on November 2 of last year point to an unresolved national crisis: The lack of a unified standard for all voters and all ballots cast in a Federal election. Congress must establish this standard, with a verifiable paper or audit trail. It is the only way to ensure the integrity of the Federal election process.

Reports of voter intimidation, inadequate and malfunctioning voting machines, incompetent election judges, and lines at polling

places in urban areas that lasted for many hours were widespread.

These irregularities were compounded by the irresponsible conduct of the allegedly unbiased top election official who openly became a partisan advocate for his party's Presidential nominee.

The Ohio Secretary of State has refused to assist us in the search for the truth. He has shown no interest in determining whether the glitches were the result of mistakes, negligence, or intentional misconduct.

Numerous voters have reported that when they attempted to cast a vote for Kerry-Edwards, the electronic voting machine registered the vote as a ballot for Bush-Cheney. While it is difficult to quantify the number of votes that were altered or affected by the irregularities that have been reported, a single vote not counted, as it was intended . . . is a discredit to our democracy. I am not suggesting that these irregularities changed the outcome of the election. But I am insisting that we act to ensure that the sacred right of every voter, to have his or her vote counted, as the voter intended, is protected by adopting a uniform Federal standard.

In order to protect the voting rights of the citizens of Ohio, and to be true to the oath that we all swore to earlier this week, it is our responsibility as Members of Congress to review the serious irregularities that occurred in Ohio to ensure that this significant disenfranchisement of voters never happens again. It is imperative that we give voters complete confidence that their votes will be accurately counted by reforming our election laws to address all of the irregularities that have come to light. I encourage my colleagues to join me in preserving our democracy.

Mr. CONYERS. Members of the House, we are here today not as partisans for one Presidential candidate or another, but because we want to do our duty under the Constitution to protect our democracy. We are here because of the inner-city voter in Franklin County who waited 10 hours in the pouring rain while suburban voters in the same county had no wait because election officials decided to reallocate voting machines from Columbus to the suburbs. We are here because of the Hispanic voter in Hamilton County who also stood in line for hours, but was directed to the wrong voting table and had his ballot thrown out because of a decision by the Secretary of State of Ohio to throw out ballots cast at the right polling place but the wrong precinct.

We are here because of the elderly voter in Lucas County who requested an absentee ballot that never showed up and was refused a provisional ballot because of another partisan decision by the Secretary of State of Ohio. We are here because of the new voter in Delaware County whose registration form was thrown out because it did not meet the paper weight requirements set forth by the Secretary of State. We are here because of the African American voter in Summit County who was targeted with an unlawful voter challenge because of her race and because she refused to answer a certified letter from the chairman of the Republican Party.

Most of all we are here because not a single election official in Ohio has given us any explanation for the massive and widespread irregularity in the State. No explanation for the machines in Mahoning County that recorded Kerry votes for Bush. No explanation of improper purging in Cuyahoga County. No explanation for the lockdown in Warren County. No explanation for the 99 percent turnout in Miami County. No explanation for machine tampering in Hocking County.

Read on our Web page 101 pages of great staff work that takes this out of semantics, of partisanship; and I appeal to every Member of this body to sustain this objection.

We are here today, not as partisans for one Presidential candidate or another, but because we want to do our duty under the Constitution to protect our democracy.

We are here because of the inner city voter in Franklin County, who waited 10 hours in the pouring rain, while suburban voters in the same county had no wait because election officials decided to reallocate voting machines from Columbus to the suburbs.

We are here because of the Hispanic voter in Hamilton County who was directed to the wrong voting table, and had their ballot thrown out because of a decision by the Secretary of State to throw out ballots cast at the right polling place but the wrong precinct.

We are here because of the elderly voter in Lucas County who requested an absentee ballot that never showed up and was refused a provisional ballot because of another partisan decision by the Secretary of State.

We are here because of the new voter in Delaware County, whose registration form was thrown out because it did not meet the paper weight requirements of the same Secretary of State.

We are here because of the African American voter in Summit County, who was targeted with an unlawful voting challenge because of her race and because she refused to answer a certified letter from the chairman of the Republican Party.

Most of all we are here because not a single election official in Ohio has given us any explanation for the massive and widespread irregularities in that State: No explanation for the machines in Mahoning County that recorded Kerry votes for Bush—No explanation for the improper purging in Cuyahoga County—No explanation for the lock down in Warren County—No explanation for the 99 percent voter turnout in Miami County—No explanation for the machine tampering in Hocking County.

The debate we have today will not change the outcome of November's election. We know that. But out of today's debate, I hope this Congress will respond to our challenge:

A challenge to hold true bipartisan hearings to get to the bottom of what went wrong in Ohio and around the Nation on election day.

A challenge to show the same concern about voter disenfranchisement in this country that we show in Afghanistan, and the Ukraine, and Iraq.

A challenge to enact real election reform; that gives all citizens the right to a provisional ballot; that gives all voters a verifiable paper trail; and that bans election officials from serving as campaign chairs.

The thing we should never fear in Congress is a debate, and the thing we should never fear in a democracy is the voters. I hope that today we have a fair debate and 4 years from now, we have an election all our citizens can be proud of.

Mr. Speaker, I am proud to yield the balance of my time to the distinguished gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank the distinguished gentleman from Michigan for yielding.

I agree with JOHN KERRY. I think George W. Bush won Ohio. But I agree with millions of American citizens that no American should have to wait 4 hours to cast a vote. I agree with tens of millions of Americans who are very worried that when they cast a ballot on an electronic voting machine that there is no paper trail to record that vote in the event of a recount.

What today is about is to demand that the Federal Government begin to move forward, to guarantee that every voter in America feels secure and confident that all of the votes cast in this country are counted accurately and that all of our voters are treated with respect and dignity. That is what democracy is about and that is what we are fighting for.

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Mr. BLUNT. Mr. Speaker, I rise to address the House for 5 minutes.

The SPEAKER. The gentleman from Missouri is recognized for 5 minutes.

Mr. BLUNT. Mr. Speaker, as I listened to the gentleman from Vermont make his remarks, I assume that means that he will be voting with me to accept the results from Ohio since he agrees that the President won. That has just been verified for me. So the whole purpose of this discussion, at least from that perspective of understanding that there are still challenges in our election system in the country, should be handled at a different time.

But let us talk about what we are doing here today. First of all, every Member of this body was elected to this body. It distinguishes us from almost any other institution, certainly in the Federal Government and in many other institutions. We also were all elected under the same rules and regulations that we are discussing today. I do not know that we help the process by casting doubt on what all of those people that work in elections all over America do. I know in Missouri when I was the chief election official for 8 years and an election official for 20 years that no Republican did anything on Election Day by themselves. I think it is the same in Ohio. Every single thing that is done is done by a Republican. It is also done at the same time by a Democrat. I do not think the people that stepped forward to accept that significant public responsibility are saying there was a problem with the election on Election Day. In fact, I think they are all saying we did exactly what we should have done on Election Day: We tested the equipment; we verified the ballots; we counted, as we should, with bipartisan teams

there to do that; and we have certified these results.

If we were taking this important time today to talk about a difference of 118 votes, that might be justifiable in my mind. To take this time on this day to challenge all of those Democrats and Republicans who gave of themselves and their time to make this process work in Ohio and in Missouri and everywhere else where people voted the November Election Day with a difference in this State of 118,000 seems to me to be the wrong time, the wrong place, and maybe even the wrong job for the Federal Government. These are great discussions to have in Ohio. That is where they are ultimately going to solve the problem of how they conduct elections in Ohio, and this apparently is more about that than anything about the result.

The purpose of our work here today is to certify the result unquestioned by the country, unquestioned by the Democratic nominee, unquestioned by anybody involved in this process who certified the election, our job today was to count the electoral votes, get on with our business of doing the work that can only be done here in this city by the Federal Government to move the country in a new and positive and better direction. We need to continue to do that. We need to be committed to that. We also need to understand that every time we attack the process, we cast that doubt on that fabric of democracy that is so important.

People do have to have, as I believe the gentleman from Michigan (Mr. CONYERS) said, confidence that the process works in a proper way. They do not need to believe that it is absolutely perfect because, after all, it is the greatest democracy in the history of the world and it is run by people who step forward and make a system work in ways that nobody would believe until they see it to produce the result of what people want to have happen on Election Day.

This was not a closely decided election. The President's margin is significant. No President elected since 1988 has had a majority of the vote, let alone a 3 percentage point majority of the vote with a direction clearly to move the country forward.

We need to get on with our job. We need to honor the election process by working in the proper time and the proper way at the proper place to make it better, but not to suggest that because there were problems that somehow those problems affected a result in ways that every one of us knows is not the case.

Mr. Speaker, I yield to the gentleman from Florida (Mr. KELLER).

(Mr. KELLER asked and was given permission to revise and extend his remarks.)

Mr. KELLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there is a wise saying we have used in Florida over the past 4 years that the other side would be wise to learn: ''Get over it.''

Is it not ironic that the very people who refuse to move on are the people from Moveon.org and their hero Michael Moore?

There's a wise saying we've used quite a bit in Florida over the past 4 years that the other side would do well to learn—Get over it. Isn't it ironic that the only people who refuse to ''move on'', are the people from ''move on.org'', and their hero Michael Moore?

My colleagues across the aisle have two sides to choose from, the JOHN KERRY side that acknowledges the election is over and President Bush has won. Or the Michael Moore side that defines ''democracy'' as Democrats going to the polls, and ''conspiracy'' as Republicans going to the polls.

The election is over and the results couldn't be clearer. We know that President Bush won the electoral vote by 286 to 252. We know that President Bush won the popular vote by 3.3 million votes. We know that President Bush won Ohio by more than 118,000 votes, an overwhelmingly comfortable margin. We know that in every area of Ohio, bipartisan county boards have verified and vouched for the integrity of the Ohio election results.

Why are we here wasting time on silly Hollywood inspired conspiracy theories?

Well, since Hollywood likes conspiracies so much, here's a real one. On June 23, 2004, the Michael Moore movie ''Fahrenheit 911'' premiered in Washington, DC. According to U.S. News and World Report, New York Times, and National Journal, one of the few Senators who attended this premier was Senator BARBARA BOXER. In this movie, Mr. Moore said it was shameful that not one U.S. Senator objected to the electoral vote count in Florida. Two days ago, on January 4, 2005, the same Michael Moore published a new letter to Senator BOXER and other Senators reminding them that they didn't object to the electoral vote count 4 years ago, and requested that they rise and object to the vote count from Ohio today. Today, in fact, Senator BARBARA BOXER just objected to the Ohio vote count.

Is this all merely a coincidence? Is this pandering to the Michael Moore wing of the Democratic Party? Is it worth wasting 2 hours of Congress' time? The only bigger waste of 2 hours would be to go see ''Fahrenheit 911.''

Do the people in the Michael Moore wing of the Democrat Party really think that the American people and their congressional representatives, are so stupid that they could be tricked into objecting to these electoral results? Well, the answer is ''yes.''

Michael Moore told a British newspaper ''Americans are possibly the dumbest people on the planet . . . We Americans suffer from an enforced ignorance. We don't know about anything that's happening outside our country. Our stupidity is embarrassing.''

In Germany, Mr. Moore told the German people ''You can see us (Americans) coming down the street . . . We've got that big grin on our face all the time because our brains aren't loaded down.'' He further asked the German people, ''Should such an ignorant people (as Americans) lead the world? . . . Don't go the American way when it comes to economics, jobs and services . . . it is the wrong way.''

Regarding those who are now killing Americans in Iraq, he said, ''The Iraqis who have risen up against the occupation are not insurgents or terrorists or the enemy. They are the revolution, the minutemen and their numbers will grow—and they will win.''

How many normal people in this country really believe that a terrorist like Al-Zarqawi, who chops off the heads of Americans over in Iraq, is on the same level as Paul Revere, the folk hero of the American Revolution?

Here's some straight talk. In 2000, they didn't like the way the votes were counted in Florida. Now, they don't like the way the votes are counted in Ohio. In the blue States, they call it a recount. In the red States, we call it what it is: sour grapes.

Mr. Speaker, President Bush has clearly won the electoral vote and the popular vote. Certifying these electoral votes is the only course for us to follow. Why allow the conspiracy theorists to undermine the public confidence in the electoral system itself? Let us vote down the objection, certify the electoral college results, and prepare to celebrate the happy day of January 20, 2005 when President George W. Bush is once again sworn in as the President of the United States.

Mr. WATT. Mr. Speaker, I rise to address the House.

The SPEAKER. The gentleman from North Carolina is recognized for 5 minutes.

Mr. WATT. Mr. Speaker, there is nothing more basic to democracy than assuring that everyone who wants to vote is provided that opportunity and that each person's vote is counted in the result.

In the last two election cycles, our country, which has held itself out as the world's model of an example of true democracy has fallen woefully short of meriting that title. The United States cannot continue to claim that it stands for and is willing to fight for democracy and the rights of people to vote in Afghanistan, Iraq, and other places around the world while not being willing to do whatever is necessary to guarantee the vote of all of our citizens here at home. Equal access, convenience of voting, quality of voting machines, and other means to assure democracy must not be a function of economic status, race, where citizens live, or any other variable. We must do whatever is necessary to assure equality in voting rights, opportunity and access for all our citizens, and if our democracy is to be protected, the eyes of the world will be watching to see how we respond to this, not treat it as frivolous when people are not allowed to vote.

That is why I applaud the gentlewoman from Ohio (Mrs. JONES) for her leadership and for allowing this body to have a discussion about the basic right to vote in America.

For me this is not about whether George Bush won or lost the last election. I am planning to vote to certify. I will tell the Members that. But there is nothing more basic than the right to vote, and if we pretend that this is frivolous, then we are not going to move forward and do anything in response to what is going on.

Two days ago we took an oath of office to uphold and defend the Constitution, that at least three amendments in the Constitution which guarantee equal access to the ballot, and yet we are saying that people who did not get an opportunity to vote, who did not have equal access to the vote, are raising frivolous issues? Come on, give me a break. We should not be about denying or abridging that right, and I stand here in full support of it. We have got to improve the Help America Vote Act. We took the first step 2 years ago. We have got to take additional steps to make sure that every single person who seeks the right to vote is given that right.

Mr. Speaker, I yield the balance of my time to the gentlewoman from California (Mrs. NAPOLITANO).

Mrs. NAPOLITANO. Mr. Speaker, I stand today with my colleagues in the Congressional Black Caucus as they affirm their commitment to ensuring the vote of every American is counted, something I hope everybody in this body supports.

As Chair of the Congressional Hispanic Caucus, I am proud to be a voice for this long proud history of Hispanics in this Nation. Since the earliest days of this country, Latinos too have died and fought for the ideals that our Nation was founded upon, but unfortunately we know that many in our Latino community feel disenfranchised from our political process. Our democracy depends on full participation of all our citizenry and a deep and abiding faith in our electoral system.

For the sake of this country, I ask Congress to do all they can to commit themselves to ensuring that our elections are not clouded in question and that we can truly proclaim ourselves a model for the rest of the world.

Mr. NEY. Mr. Speaker, I ask to be recognized for 5 minutes.

The SPEAKER. The gentleman from Ohio is recognized for 5 minutes.

Mr. NEY. Mr. Speaker, this is a sad day. It saddens me that we have to be here today debating this issue. Politics in America can be bitter. Campaigns can divide people and breed resentment. That is a given. It also used to be a given that once a campaign was over the winner claimed victory, the loser accepted defeat, everybody else went on with their lives, and the country moved forward. Now, unfortunately, it seems the bitterness and resentments do not end with the campaign. Instead, the divisions are stoked by individuals who simply do not like the results.

The curious thing about this challenge today is that it is taking place in spite of the fact that the losing candidate has admitted defeat. I have to applaud JOHN KERRY for the gracious and magnanimous speech that he made the day after the election where he acknowledged he had been beaten. He also called for unity. I wish those bringing this challenge had heeded his call.

I know there are some problems obviously with this election. They are not frivolous. These problems were not unique, however, or confined to Ohio. Nor were they limited just to Democratic voters. There is no such thing as a perfect election. There has not been. There never will be a perfect election. The question, then, is not whether or not mistakes were made. Of course they were. The question is did those mistakes affect the outcome of this election? The answer is no. No serious person, no objective observer, could claim that they did today.

Now let us talk a little bit about the so-called evidence that has been presented about what happened in Ohio. Much has been made about the long waits for voters in some precincts. The distribution of voting machines in the State has been criticized, the claim being that minority precincts did not have enough machines while white or suburban precincts had too many. Ken Blackwell, our Secretary of State, has been a frequent target and basically blamed for everything. But, in fact, elections in Ohio are run by and large by the county election boards. If my colleagues are not familiar, these bipartisan boards consist of four members, two Democrats, two Republicans. Decisions about how many machines to have in each precinct are made by those boards, not by the Secretary of State. It is possible they could have miscalculated or underestimated.

In a recent article that appeared in the Columbus Dispatch, and this is important, Franklin County Board of Elections Chairman William A. Anthony, Jr. said long lines were not caused by the allocation of machines, a process controlled by a Democrat supervisor, he added, but by the high voter turnout, the overall lack of voting machines, and a ballot that included more than 100 choices for voters.

For those thinking Mr. Anthony must be a part of this conspiracy, I would point out that in addition to his position on the elections board, Mr. Anthony serves as chairman of the Franklin County Democrat Party. He said that he is offended by accusations from a band of conspiracy theorists. He further added, ''I am a black man. Why would I sit here and disenfranchise voters in my own community? I feel like they're accusing me of suppressing the black vote. I've fought my whole life for people's rights to vote.''

I could go on, Mr. Speaker, but basically what is the point? Those who believe this election was stolen will always believe it. No amount of facts or evidence will convince them otherwise. The bottom line is those bringing this challenge today simply cannot accept the fact that George Bush has been elected President of the United States. It is too painful for them.

We must always be seeking ways to improve the process. We announced weeks ago we are going to have bipartisan hearings to look at these issues, and they are not frivolous. They are important issues. But it would not have changed the outcome of the election.

Mr. Speaker, it does not elevate those who are bringing this challenge. It does not elevate our House. It does not elevate the debate. It debases all of us, and it merits a sad day in the history of this Nation.

Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time.

Most of our colleagues may not know that we not only had an election in Ohio but we had a recount that was funded by two third-party candidates that got less than 1 percent of the vote, and knowing this was going to happen today, I called my boards of election back home to see how that recount went.

□ 1400

In Ashtabula County after the recount, each candidate picked up one vote.

In Geauga County there was a net gain of two votes for President Bush, and the 72 provisional ballots that were not allowed were not allowed because the people did not live and were not registered in the State of Ohio. In Lake County, not one ballot changed from November 2, and all of the 201 provisional ballots tossed were tossed because the people were not registered in the State of Ohio.

In Summit County, there was a four-vote swing for Senator KERRY.

In Cuyahoga County, the county that I am lucky enough, home of the City of Cleveland, to share with the objector and the gentleman from Ohio (Mr. BROWN) and the gentleman from Ohio (Mr. KUCINICH), the net swing was 23 votes for JOHN KERRY.

On this day, we should be praising the dedication and hard work of our election officials and not castigating them.

Ms. PELOSI. Mr. Speaker, I ask to address the House for 5 minutes.

The SPEAKER. The gentlewoman from California is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, today we are witnessing democracy at work. This is not, as some of our Republican colleagues have referred to it, sadly, frivolous. This debate is fundamental to our democracy.

The representatives of the American people in this House are standing up for three fundamental American beliefs: that the right to vote is sacred; that a Representative has a duty to represent his or her constituents; and that the rule of law is the hallmark of our Nation.

Under the rule of law, today this House will accept the election of President Bush and Vice President CHENEY as President and Vice President of the United States. There is absolutely no

question about that. This is not in any way about rejecting that outcome. So, please, let us be respectful of each other and understand what it is about.

Today's electoral challenge is not intended to overturn the results of the election. It is instead to discuss the real problems with our electoral system and the failings of the process in Ohio and elsewhere. It is about election reform, not about the election result.

The Members of Congress who have brought this challenge are speaking up for their aggrieved constituents, many of whom may have been disenfranchised in this process. This is their only opportunity to have this debate while the country is listening, and it is appropriate to do so. If there were other venues of this caliber, we would have taken that opportunity. But this is the opportunity. We have a responsibility to take advantage of it.

The right to vote is the foundation of our democracy. A discussion of that foundation, again, should not be considered frivolous.

As the Supreme Court noted: ''No right is more precious in a free country than that of having a voice in the election of those who make the laws under which as good citizens we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.''

I repeat: ''Other rights, even the most basic, are illusory if the right to vote is undermined.''

The principle of one person-one vote is sacred in our country, and we must do everything to uphold it. Yet more than 225 years since our founding, there are still legitimate concerns over the integrity of our elections and of ensuring the principle of one person-one vote, that every person has access to voting and that every vote will be counted.

Twenty years ago, I was chair of the California Democratic Party. It was our function, it was our purpose to remove obstacles of participation to voting. The greater responsibility, of course, was with the Secretary of State in our State and in States across the country who controlled the elections in the State. But we all, in all of our capacities, had a responsibility to remove, not throw up, obstacles to participation.

I know that this issue is not just about counting votes, but what happens in all three phases, before, during and after the election; and in all three phases, there were problems in this election in Ohio and elsewhere.

Before the election, there were complaints about absentee ballots that were requested, but did not arrive. There were reports of registration problems and of improper purging of the voting rolls. The Ohio Secretary of State made decisions about provisional ballots, partisan poll watchers and paper requirements for registration forms that some found questionable, leading to widespread confusion and possible disenfranchisement.

During the election we know that there were not enough voting machines in poorer and minority areas. This is a fact. Yet there were sufficient machines in wealthier areas. This led to appallingly long waiting times of up to 10 hours in certain places. You can deny it all you want, but it is a matter of public record that this is a fact, and this is wrong.

There were credible reports of voter suppression on election day through intimidation and misinformation and the patchwork use of provisional ballots led to unequal treatment under the law; unequal treatment under the law, undermining the principles of one person-one vote and equal protection.

As for after the election, the American people must have every confidence that every vote legally cast will be legally counted and accurately counted. But constantly shifting vote tallies in Ohio and malfunctioning electronic machines which may not have paper receipts have led to additional loss of confidence by the public.

As elected officials, we have a solemn responsibility to improve our election system and its administration. We cannot be here again 4 years from now discussing the failings of the 2008 election. We must work with the Elections Assistance Commission to further reform the election process, and we must pass legislation to improve the Help America Vote Act, including universal standards for provisional ballot and strong verification measures and paper trails.

I want to commend the gentleman from Ohio (Mr. NEY), the distinguish chairman of the Committee on House Administration, for his leadership in helping to pass the HAVA Act, which is really where we are pinning our hopes, and to the gentleman from Maryland (Mr. HOYER), who served in that capacity with the gentleman, and now in the Senate others, a broader array of people who are weighing in on that.

Congress must seize the opportunity this year to reauthorize the act and to make the needed reforms and improvements. Our very democracy depends again on the confidence of the American people and the integrity of our electoral system.

So, Mr. Speaker, I say to my colleagues, please do not talk about this as a ''conspiracy theory.'' It is not about that. It is not about conspiracy; it is about the Constitution of the United States. George Bush and DICK CHENEY are the elected President and Vice President of the United States, and I think the objection will be overruled today in that regard. It has never been about that. It has always been about the fundamental principle of the legitimacy of our electoral process.

Congress will resolve this dispute today, and we will all abide by the results because we are a Nation of laws. America is a beacon of democracy to the world. We must never forget the power of our own example to those who aspire to freedom throughout the world.

So let us respect this debate today for what it is, about ensuring the foundation of our very own democracy, and by sending a message to the world that we are truly, truly protective of our Constitution and that we honor the oath of office that we take to protect and defend the Constitution.

Mr. Speaker, I urge my colleagues all to join together in a bipartisan way for electoral reform to follow on the good work that I mentioned of the gentleman from Ohio (Mr. NEY) earlier and the gentleman from Maryland (Mr. HOYER) and to make sure that 4 years from now we will come together not having to have this kind of debate, but that today's debate will serve the purpose that it is intended to have for our country.

Mr. REYNOLDS. Mr. Speaker, I ask to address the House for 5 minutes.

The SPEAKER. The gentleman from New York is recognized for 5 minutes.

Mr. REYNOLDS. Mr. Speaker, I am glad that the Democratic leader mentioned the bipartisan support led by the gentleman from Ohio (Mr. NEY) and the gentleman from (Mr. HOYER). The committee on which I sit, the Committee on House Administration, did bipartisan work on the Help America Vote Act of 2002, and it took a step in the right direction.

For the record, the chairman has also scheduled hearings to evaluate where we are and where we are going in the future so we can work in a bipartisan fashion on the Help America Vote Act and its future considerations.

Mr. Speaker, in 1974, Captain Hiroo Onada formally surrendered to the U.S. military forces. What made his surrender particularly unique is Captain Onada, who had already been declared legally dead for 15 years, was a member of the Imperial Army, still fighting a war whose outcome had been decided 29 years earlier.

Thirty years later, another contest whose results have been firmly decided is being waged not on some remote island, but in the halls of the United States Congress.

It is a sad day.

Mr. Speaker, President Bush won more votes than any candidate in America's history. His opponent conceded that victory long ago. The Ohio results have been certified, and one of that State's newspapers, the Dayton Daily News, reported last month that those advancing the wild-eyed conspiracy theories surrounding Ohio's electorate votes are ''speaking nonsense.''

Mr. Speaker, it is amazing to me that my colleagues on the other side of the aisle cannot accept the words of their very own candidate who said, ''We cannot win this election.''

The American people have spoken. I urge my colleagues on the other side of the aisle to open their ears and hear their voices; to join us in facing the challenges of the future rather than trying to change the past.

President Bush has been duly elected by the people of this great country, and

it is time for those who refuse to accept the American people's decision, if you will pardon the expression, to move on.

Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. REGULA).

(Mr. REGULA asked and was given permission to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the Ohio recount requested by the other party, has been completed and has been verified. In every area of Ohio, bipartisan county boards have verified the integrity of these election results. This is the true message to the world: our system works with integrity.

We keep hearing that Ohio's vote was rigged in some way. But this is not plausible when you have a system of 88 separate bipartisan county election boards. In Ohio, our boards take great pride in their administration of the election laws.

I urge the Congress to accept the votes cast today by the State of Ohio for President Bush.

Mr. BROWN of Ohio. Mr. Speaker, I ask to address the House for 5 minutes.

The SPEAKER. The gentleman from Ohio is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I do not question the outcome of this election. However, I do know that I stood in line for hours with voters trying to cast ballots, and since election day I have heard from dozens of voters, Democrats and Republicans, who lost their right to vote on November 2 in my State of Ohio.

For 8 years in the 1980s I served as Ohio's elected Secretary of State. During my term in office, we held and my office conducted two Presidential elections, two gubernatorial elections, and dozens of primary and special elections.

The role of the Ohio Secretary of State serves two main functions: to ensure everyone is confident that his or her vote will be counted and to encourage everyone to exercise that right to vote. Our Secretary of State this year failed on both counts. I speak from experience when I say the 2004 Presidential election in Ohio was riddled with unnecessary problems.

□ 1415

I visited four precincts in Oberlin, Ohio, outside of my district where I stood in line with voters, some of whom waited up to 6 hours to vote. I visited Hispanic and white working-class precincts, and I saw long lines everywhere I went. I received panicked calls throughout the day from voters whose polling places had broken machines and were being denied the right to vote. In the days leading up to the election, I witnessed reports throughout my district in northeastern Ohio of voters who had been told their voter registration could be invalid and that despite their efforts to register, they were not on the voting rolls. In far too many cases, their votes were not allowed.

Ohio voters should never again be forced to wait 3, 5, sometimes even 10 hours to cast a vote. Ohioans should never again, as too many people did this November, lose their right to vote.

But it is not just about Ohio; it is not just about who won and who did not. It is about our system of democracy. Mr. Speaker, I am saddened that no Republicans in this body are joining us today in acknowledging problems in Ohio and in working with us to fix those problems because, Mr. Speaker, defending the right to vote should be a concern for Republicans and Democrats alike.

Mr. Speaker, I yield to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, Ohio symbolizes that the Help America Vote Act fell short of the lofty goals set by this Congress. Ohio's Secretary of State, Kenneth Blackwell, a Republican, in a State in which all statewide offices are controlled by Republicans and, in our State legislature, Republicans outnumber Democrats two to one in both chambers, our Secretary of State repeatedly took actions to make it more difficult for as many Ohioans as possible to have their votes fairly cast and accurately recorded.

No national standards were set for voting equipment because the Bush administration appointed members of the Election Assistance Commission so late that their confirmation was nearly a full year later than required by HAVA itself. They had no time to recommend standards until it was too late, and those standards are still not in place today.

The Ohio Secretary of State tried to force county boards of elections to buy equipment that his own reports showed to be flawed. Federal dollars that this Congress appropriated to help modernize elections became stuck in Ohio between the Secretary of State's office and local boards of elections who were often in deep disagreement as to which machine standards were trustworthy.

Just prior to election, Secretary Blackwell continued to frustrate the enfranchisement of Ohioans with actions ranging from specifying paper weight standards for voter registration forms that even his own office could not meet, and then fighting the availability of provisional ballots right up until 3 p.m. on Election Day. In fact, people who had requested absentee ballots and had not received them were denied provisional ballots until a Federal court ruling that was issued at 3 p.m. on Election Day, after who knows how many Ohioans were denied ballots that they were prepared to cast for the candidates of their choice.

No one can change the outcome of this election; but believe me, hundreds of thousands of Ohioans do have questions about the way that this election was handled in Ohio, in a State in which the winning margin was only 118,000 votes. Implementing the actual intent of HAVA and amending it where necessary deserve the full investigation of this 109th Congress, and it ought to be our first order of business.

I commend the gentlewoman from Ohio (Mrs. JONES) of Cleveland who experienced these abuses in her area for bringing this to national attention. We are very proud of her. We are very proud of the Members who have chosen to join her. I would ask my Republican colleagues, starting with the Committee on House Administration, to join us in this effort to make HAVA really work as we approach the elections of 2006.

Ms. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I seek to be recognized for 5 minutes.

The SPEAKER. The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH) for 5 minutes.

(Mr. HAYWORTH asked and was given permission to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, this may be the most appropriate time to remind each and every one of us engaged in this debate that it is the hallmark of our constitutional Republic and our government to operate by the consent of the governed. And there is a corollary to that which we should likewise remember: in a free system where the people choose, it is also necessary for contestants who are unsuccessful to accept the verdict of the people. In our Republic there are majority rules, but the rights of the minority are protected.

Now, also understand what has transpired this afternoon. In what should be a reaffirmation of our constitutional Republic and the Electoral College, a Member has chosen to dispute the outcome of voting in the State of Ohio. Despite that fact, speaker after speaker on the minority side, including the leader from California, has said they accept the verdict of the election. Do not misunderstand, I say to my colleagues. This is a vitally important point.

The problem we confront with this debate is that it serves to plant the insidious seeds of doubt in the electoral process. All the talk of election reform, all the talk of hearings that the leader championed, all the process complaints, some that are inaccurate that have come from the other side, are points to be debated in the regular business of this House. Yes, they are important. But to disrupt the Electoral College, to say in effect, hey, we just want to shine light on this problem, is not the proper use of the people's time. And with all due respect, I question not the intent; but the net effect is this: again, it is to place doubt and to institutionalize forever the notion of grumbling and a lack of acceptance of the verdict of the people. In less elevated terms, Mr. Speaker, it is called sour grapes; and it is sad to see in this House.

Mr. Speaker, I would be remiss if I did not point out that this view is not

shared universally, despite the kind words for the Member who brought this from her friends on that side of the aisle. Listen to the comments from Kerry campaign spokesman David Wade: ''I'd give my right arm for Internet rumors of a stolen election to be true, but blogging doesn't make it so. We can change the future; we can't rewrite the past.''

Or Kerry spokesman Joe Lockhart on Election Day: ''We think the system has worked today. There were thousands of lawyers deployed to make sure that no one tried to take advantage or unfair advantage and, by and large, it has worked. I've seen very few reports of irregularities, and even the ones we have seen, after a little investigation, you find there is not much going on.''

And it bears repeating, even though he has spoken earlier today in Baghdad and made some comments I vociferously disagree with from a Member of the Senate going into a wartime theater, listen to the words of the nominee of your own party who lost the election, my friends on the Democratic side: ''But the outcome should be decided by voters, not a protracted legal process. I would not give up this fight if there was a chance we should prevail, but it is now clear that even when all of the provisional ballots are counted, which they will be, there won't be enough outstanding votes for us to be able to win Ohio and, therefore, we cannot win this election.''

Mr. Speaker, one of the virtues of our system is this: in America, there are never lost causes because, in America, there are never fully gained causes. That is why we have the electoral process. How sad the electoral process has been sidelined today for a publicity stunt.

Mr. KUCINICH. Mr. Speaker, I rise to address the House for 5 minutes.

The SPEAKER. The Chair recognizes the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from New Jersey (Mr. PAYNE).

(Mr. PAYNE asked and was given permission to revise and extend his remarks.)

Mr. PAYNE. Mr. Speaker, I rise today to join my colleagues in objecting to the certification of the State of Ohio's electoral votes.

Mr. Speaker, I rise today to join with my colleagues in objecting to the certification of the State of Ohio's electoral votes.

Unfortunately, last November in Ohio we witnessed many of the same irregularities that occurred in Florida in the year 2000 and which tainted the election results. That year, former Vice President Gore won the popular vote by over half a million votes but was denied an electoral victory because of voter irregularities.

As a member of the House International Relations Committee, I have monitored elections around the world, in remote nations like Namibia in Africa, and most recently in the disputed election in the Ukraine. Watching election coverage of our own elections here in the United States last November, I was shocked to see American voters facing greater obstacles than I have seen in third world countries. There were voters who waited in line over 10 hours to cast a ballot. For those standing in line, not only was this frustrating, it was also a particular hardship for older voters and for parents who had families waiting for them.

In addition to the unreasonably long lines at certain voting precincts, other problems included a large percentage of provisional ballot rejections, voting machine errors, and voter registration obstacles.

Mr. Speaker, as in the past, the most impacted voters are African Americans, Hispanics and other minorities. In Florida in 2000, minorities on their way to the polls were stopped at road blocks in their neighborhoods on the pretense that law enforcement officers needed to check vehicle inspection stickers. The wait was so long that many minority voters had to turn around and go home or to work. This is not democracy. This is how people lived under apartheid in South Africa.

Now we learn that in Ohio, more than half of the complaints about long lines came from Columbus and Cleveland where a huge proportion of the State's Democratic voters live. The House Judiciary Committee report details numerous problems and obstacles that Ohio voters faced. For example, a New York Times investigation revealed that Franklin County election officials reduced the number of electronic voting machines assigned to downtown precincts and added them to the suburbs. One entire polling place had to shut down at 9:25 in the morning on election day because there were no working machines. Does this sound like democracy?

Mr. Speaker, we have a responsibility to ensure that the constitutional right of every voter in this country is protected. We are raising this objection to try to ensure that our Nation takes action to ensure that what happened in Florida and Ohio will never happen again.

Mr. KUCINICH. Mr. Speaker, let us not denigrate factual concerns about the Ohio election by dismissing them as simply partisan. This is not about Democrat or Republican votes. It is not about red or blue States or black or white. It is about wrong or right. It is not about winners or losers. It is about protecting voting rights in our democracy against corruption.

Let us review just one of the very serious concerns with the Ohio election: voting machines were misallocated, causing voters to stand in line, in some cases for 10 hours. That denies voters equal protection of the law. In the State's capital, a shortage of voting machines in predominantly African American communities was created, even though the Secretary of State knew far in advance that 102,000 new voters were registered in that county alone. The misallocation of voting machines was estimated to have denied at least 15,000 people the opportunity to vote. Furthermore, the Secretary of State, who under Ohio law has a constitutional duty to ensure election laws are upheld, failed to issue guidelines under the Help America Vote Act for 2 years. Contrary to the spirit of HAVA, which is to encourage voting and to have every vote count, Ohio's top election official conducted the activities of his office in a most partisan manner, undermining public trust in the election. He sharply restricted the ability of voters to use provisional ballots. He endeavored to make it more difficult for lower-income people, who are more likely to move, to vote.

We know who won the election, but what the American people do not know is the extent to which voting irregularities in the State of Ohio deprived tens of thousands of my fellow citizens of their 14th amendment right to equal protection of the law and their constitutionally protected right to vote. The right to vote is expressly protected by the 15th amendment, the 19th and the 24th amendment, and the 26th amendment to the United States Constitution. It is that right which has produced our very presence in this Chamber. It is that right which binds us as a Nation, which creates the unity of States, which legitimizes the government, which enfranchises not just the people, but in which reposes the treasure of the American people, a government of the people, by the people and for the people.

People have marched for that right, have put their lives, their fortunes, their sacred honor on the line for that right, have died for that right; and the least we can do is show our commitment to protecting that right.

The outcome of the election will remain unchanged, but what must change is a system which denied citizens of a great State their opportunity to change the outcome. Election reform is our solemn duty. Our statements today show whether we intend to do that duty.

Mr. Speaker, I yield to the gentlewoman from California (Ms. LEE) to continue this.

Ms. LEE. Mr. Speaker, let me say, first of all, that I rise to object to the certification of Ohio's electoral vote; and I want to thank the gentleman from Michigan (Mr. CONYERS), the gentlewoman from Ohio (Mrs. JONES), and Senator BARBARA BOXER for their leadership. We all know this is not deja vu. The Supreme Court did not appoint President Bush this time, as it did in 2000. But again, in 2004, the Democratic process was thwarted.

It is a fact that thousands of minority voters were disenfranchised before and on Election Day. The misallocation of voting machines, the restrictions of provisional ballots, the improper purging of voter rolls, the delays in mailing absentee ballots, the malfunctioning of electronic machines, the widely reported incidents of intimidation and misinformation in violation of the Voting Rights Act are all but a few examples of the widespread efforts to disenfranchise and suppress Ohio voters.

Let me tell my colleagues, my constituents in the Ninth Congressional District of California want democracy to work for all. Some say ''get over it.'' I will never get over the shameful stain

of the suppression of any American's constitutional right to vote. We must pass Federal standards to require a paper trail, insist on nonpartisan officials ensuring the process be moved forward for real, in a real way, and pass real election reform.

Mr. KUCINICH. Mr. Speakr, I yield to the gentleman from New York (Mr. NADLER), a great leader.

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

□ 1430

Mr. NADLER. Mr. Speaker, the right to vote has been stolen from qualified voters. Stolen through corruption, through political cynicism, through incompetence, through technical malfunction.

Despite the fact that the widespread and documented irregularities in the Ohio election have not been proved to change the outcome of the presidential election, the loss of the right to vote by so many is unacceptable.

Elections must not only be fair and honest, they must be seen to be fair and honest in order to maintain the legitimacy of our democratic institutions.

This year we have dodged a bullet. If the apparent margin of victory in Ohio were closer, the Florida 2000 fiasco would look like a picnic.

Mr. Speaker, normally the process of counting electoral votes is a purely ceremonial event. Normally it is a celebration of our democratic institutions. Normally it is a celebration of the rule of law and equal protection of all Americans under the law.

But we do not live in normal times. the right to vote has been stolen from qualified voters—stolen through corruption, through political cynicism, and through incompetence, through technical malfunction.

Regardless of the reason, the denial of the fundamental right to vote is a crime against our democracy, against our way of life, and against the most fundamental rights of every American.

Despite the fact that the widespread and documented irregularities in the Ohio election have not been proved to have changed the outcome of the presidential election, the loss of the right to vote by so many is unacceptable.

Elections must not only be fair and honest, they must be seen to be fair and honest in order to maintain the legitimacy of our democratic institutions.

This year, we have dodged a bullet. The disgraceful events in Ohio may not have changed the outcome of the election, but a closer vote could well have made this belief impossible. If the apparent margin of victory in Ohio were 30,000 or 40,000 instead of 118,000, we would now be embroiled in a dispute that would make Florida in 2000 look like a picnic.

What is at stake is our democracy. This is not about conspiracies, or phantoms. It is about the failure to count valid votes for invalid reasons. It is about disenfranchising thousands of voters by forcing them to wait on line 10 hours to cast their votes. It is about the co-chair of the President's reelect committee serving as the chief election officer for the state, and doing everything possible to prevent voters from voting. It is about voting machines that invalidate valid votes.

We are told to get over it. How do you get over having your vote stolen? How do you get over widespread disenfranchisement?

This Congress must fully investigate these allegations, and we must act to prevent these outrages from happening again. If these outrages were criminal violations of our laws, those responsible must be brought to justice. If they were not violations of the law, they ought to be. Our next election must not again steal people's votes.

My colleagues on the other side of the aisle should not let partisan politics stand in the way of an honest assessment of this election. They should not ignore what happened. However they vote today, they should commit themselves to a full and fair investigation. Anything less would suggest that they think there is something to hide. It would suggest that there is a partisan coverup.

We can do better. We must do better.

Mrs. MILLER of Michigan. Mr. Speaker, I rise to address the House for 5 minutes.

The SPEAKER. The gentlewoman from Michigan (Mrs. MILLER) is recognized for 5 minutes.

Mrs. MILLER of Michigan. Mr. Speaker, the American people must be watching this debate and literally shaking their heads. With all of the challenges facing our Nation we are spending our time debating the challenge to the validity of the Presidential election simply because the Democratic Party cannot accept the fact that their candidate lost this election. They cannot accept the fact that their agenda, that their vision for America has been rejected by the majority of Americans. They cannot accept the fact that President George W. Bush simply received more votes than Senator JOHN KERRY.

This election was very hard fought on both sides. The American people have accepted the fact that it is over and they want this Congress to get to work and to work in a bipartisan way.

If this is a minority party's idea of bipartisanship, then let the people of our Nation see it for what it is. Because in the spirit of bipartisanship, the Democrats are asking us to overturn the Presidential election which President Bush won by over 3 million votes nationwide and by over 118,000 votes in the State of Ohio.

In the spirit of bipartisanship they say that somehow Karl Rove was manipulating votes from a secret computer in the White House and that somehow these secret computers were changing the votes on punch cards and optical scan sheets that record actual votes. This language is in their challenge.

How interesting, however, that their challenge as it talks about conspiracies in the State of Ohio, making allegations that have no basis of fact, their challenge is silent about an incident in Ohio where fraudulent voter registration forms were being submitted and the worker who collected them was paid in crack cocaine.

How interesting that their challenge does not mention the Democratic group ACORN which submitted vote registrations for dead people that used 25 different addresses for the same individual.

Mr. Speaker, before I came to Congress I served very proudly for 8 years as the Michigan Secretary of State where my principal responsibility was serving as the chief election officer. So I feel I have a little bit of background to make some observations about the election process. In fact, Michigan is recognized as a national leader on elections. We constructed the first statewide computerized voter registration list which precludes the possibility of anybody having more than one address or registering more than once.

In fact, I might add, I was very proud in my former capacity to receive the highest grade in the Nation of Secretaries of State for voter election reforms and that grade was given to me by the NAACP.

We are all committed to free and fair elections. We all want to make sure that every single vote is counted, that no different voter is disenfranchised.

I do remember clearly, however, how distressed I was in my former capacity to have to threaten the Detroit City Clerk, a Democrat, with court action if she did not comply with our State election law to make sure that every vote is counted, particularly minority votes. However, my dismay at seeing that none of the Members of the United States Congress here ever spoke out to protect the rights of their own constituents to be heard at the ballot box. There was no outrage. There was no indignation. And yet today we hear outrage based on fantasies and conspiracies.

Mr. Speaker, let me say that I am sincerely interested in undertaking the important work of the American people in truly a bipartisan manner. So I would ask that we might be spared from selective outrage, that we might be spared from the righteous indignation based on fantasy.

Mr. Speaker, the challenges to those votes in Ohio are turkeys. I think those turkeys should be given to someone else.

Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. TURNER).

Mr. TURNER. Mr. Speaker, when the processes that are meant to guarantee our freedoms are abused, they are weakened in meaning and the rights and privileges that they are meant to protect are placed in peril. Like the person who cried wolf for attention, who risked the safety of the herd by demeaning and diminishing the meaning of the alarm, the objecting Members today weaken the processes of objecting to a State's electoral votes and place in peril future real attacks on our voting rights.

If their goal today was to protect the right to vote, why object only to Ohio?

Why not pick a State that voted for JOHN KERRY? Because the objection today is not about protecting our right to vote. It is about undermining our election process and our President.

Mr. Speaker, we are asking people in Afghanistan and Iraq to risk their lives to vote, and today we hear complaints about the time it took to vote in free elections in the greatest democracy in the world.

My hometown newspaper in Dayton, Ohio said, ''What's not in order is the suggestion of some great fraud where there is none. Some people will take advantage of the inevitable flaws of elections to confuse other people . . . Those people do harm, not good.''

Mr. CUMMINGS. Mr. Speaker, I rise to address the House for 5 minutes.

The SPEAKER. The gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I yield to the gentleman from New York (Mr. ENGEL).

(Mr. ENGEL asked and was given permission to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, we must ensure that everyone has the right to vote and every vote is counted.

Mr. Speaker, I rise today to highlight the fact that too many Americans are being denied the right to vote in a fair, free and open election process. Every American citizen who wants to vote should be allowed to vote, and every vote must count.

Sadly, many voters in this nation believe their right to cast ballots for President, Member of Congress, Governor or countless other leadership positions has been undercut because of this nation's broken electoral system.

Today, the House of Representatives will certify the Electoral College's ballot electing the next President. While my first choice for this important job was Senator JOHN KERRY, I know that President Bush won this election.

This does not change the fact that around the country and particularly in the state of Ohio, many voters felt as if their vote was not properly counted. This feeling was particularly acute in more poor, urban and minority areas. Money, privilege, or geographic location should not make someone's vote count more than anyone else's.

In October 2002, Congress enacted the Help America Vote Act, which addressed many of those weaknesses. It created a new federal agency, the Election Assistance Commission, with election administration responsibilities. It set requirements for voting and voter-registration systems and certain other aspects of election administration, and it provided federal funding; but it did not supplant state and local control over election administration.

Yet, more needs to be done. We cannot have another election where tens of thousands of Americans feel as though their votes did not count or were counted improperly. We must continue to work toward a more perfect system. The Republicans control Congress, and their unwillingness to invest what it takes to correct our national electoral system is a disgrace.

Fixing the voting problems around the country will not be easy and will not be cheap. But a fair and open election is the bedrock of our democracy and what ensures a peaceful transfer of power. How can we ask Americans to respect the laws made in Washington if we cannot ensure them the lawmakers were elected fairly?

Today, American soldiers are being wounded and dying so the United States can spread democracy around the world. It is absolutely shameful that when these soldiers return home, they cannot even be sure their own electoral process is fair and accurate.

I realize that in the case of Ohio, the irregularities would not overturn the results of the election. Even Senator KERRY has conceded that and does not support this congressional motion. I, therefore, will vote against the motion, but feel that it is important today to highlight the very real problems we have with our electoral process—which must be addressed by this Congress.

Mr. CUMMINGS. Mr. Speaker, today this is not about overturning election results but reforming a broken election system.

Mr. Speaker, as I listen to my friends from the other side I become quite upset when I hear them say things like, we are trying to break down the election system, taking away from the credibility of our election system. Nothing could be further from the truth.

What we are trying to do is make sure that every single voter has the right to vote and that their vote is counted.

This is not a black and white issue. This is not a Republican/Democrat issue. This is a red, white and blue issue.

This Constitution that we base our country and our laws on, the fundamental things of that Constitution, that building block, is the vote; and when we take away that vote, then what we do is we basically are destroying our democracy. That is what this is all about.

I wonder, I really do, if it were your wife who was denied the right to vote or your child, would you be making the same arguments?

All we are saying is we want to make sure that if we have a broken system, if there is one person whose vote is not counted, if there is one person who does not have the right to vote, then that is one person too many. It is as simple as that.

So it upsets me that you keep saying these things about us denying Bush his opportunity to be President and all this kind of thing. That is not true.

What we are addressing is the fundamental right to vote. It is simple as that.

Mr. Speaker, I rise today to express concern for our nation's democracy. At its core, our form of government is based on the premise of "one person, one vote."

When you take away that right to vote or when you deny a cast vote from being counted, then you denigrate the building blocks of our great democracy and our Constitution.

We are not here to contest the election results, but urge election reform of a broken system.

In fact, today, we are reliving the painful experiences of the 2000 election.

Those problems included: outdated and unreliable technology, confusing ballots, lack of poll worker training, and inaccurate voting lists.

As a result, 6 million voters were disenfranchised.

We all remember that this disenfranchisement was most prevalent in Florida.

And here we stand again, four years later, to discuss flaws that led to a significant disenfranchisement of voters in the recent 2004 Presidential Election.

This is not an effort to overturn the results of the election. Rather, this is an effort to address the irregularities of the election and to fix our broken election system.

Although there were general reports of irregularities across the country, we must examine the prevalent problems that occurred in the state of Ohio, in particular.

There were numerous accounts of eligible voters—waiting on line for up to ten hours in the cold and rain—facing insufficient resources at polling places, voting machine shortages, the denial of provisional ballots, voting machine errors or tampering, and the intentional distribution of inaccurate information.

I think many of my colleagues find these irregularities appalling.

My friends of the House and Senate this is a red, white and blue issue; not black or white; not urban or rural; or even Republican or Democratic.

We must stand up to these injustices.

That is why, as a result of these irregularities, I believe these critical steps must be taken:

1. Congress needs to enact meaningful nonpartisan election reform—HAVA can and needs to be improved, particularly by providing for a verified paper trail for electronic voting machines.

2. Congress should engage in further hearings into the widespread election irregularities reported in Ohio and around the country to fix our piecemeal election system.

Our duty to uphold democracy in America is clear.

If even one American is denied the right to vote, or one vote is not counted, that is simply one too many.

I applaud the brave gentlelady of Ohio, STEPHANIE TUBBS JONES, and the equally brave Senator BARBARA BOXER of the State of California for raising this contest to the electoral votes from Ohio.

I leave this great Chamber with a fitting quote from Thomas Jefferson, "[It is] by their votes the people exercise their sovereignty."

Mr. Speaker, I yield to the gentlewoman from Georgia (Ms. MCKINNEY).

Ms. MCKINNEY. Mr. Speaker, never have the issues been so clear as they are for all of us today. Our country is at war ostensibly to bring democracy to a far off country on the other side of our planet. At the same time, a significant chunk of the American people protest in their own humble ways for democracy at home. They see unequal protection of the precious right to vote blatant in Ohio but not only in Ohio; voting machines that cannot be trusted, casting votes for candidates not intended by the voter. That happened in my own race in my own State of Georgia.

Provisional balloting made absurd by seemingly purposefully drafted arcane rules that in some case rendered the right to vote moot; our democracy entrusted to privately owned software run on computers that can be hacked, that overheat, break down or have their batteries die in the middle of the voting process; and, moreover, voting on machines that do not even tell us after we have voted who it is exactly that our vote was counted for.

When Congress passed the Help America Vote Act, it hoped to correct the blatant irregularities and purposeful disenfranchisement that occurred in Florida in the 2000 election. It is clear from the work of the Committee on the Judiciary, the gentlewoman from Ohio (Mrs. JONES) and the tireless efforts of people across Ohio that this Congress has a lot of work to do.

Our Vice President has told to us expect war for the next generation. It is not only our responsibility but our right to demand full democracy at home, and we do that by our actions today. This is not merely about bitterness or a recount, this is about a blackout.

It is time to end the blackout and shine the lights on our precious right to vote.

Mr. CUMMINGS. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, the numerous irregularities that occurred with the electronic voting machines in Ohio on November 2 of last year point to an unresolved national crisis. The lack of a unified standard for all voters and all ballots casts in a federal election.

Congress must establish this standard with a verifiable paper or audit trail. It is the only way to ensure integrity of the federal election process.

Reports of voter intimidation, inadequate and malfunctioning voter machines, incompetent election judges and lines at the polling places in urban areas that lasted for many hours were widespread. These irregularities were compounded by the irresponsible conduct of the allegedly unbiased top election official who openly became a partisan advocate for his party's Presidential nomination.

Honorable colleagues, the numerous irregularities that occurred with the electronic voting machines in Ohio on November 2nd of last year point to an unresolved national crisis: the lack of a unified standard for all voters and all ballots cast in a federal election. Congress must establish this standard, with a verifiable paper or audit trail. It is the only way to ensure the integrity of the federal election process.

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These irregularities were compounded by the irresponsible conduct of the allegedly unbiased top election official who openly became a partisan advocate for his party's presidential nominee.

Mr. DREIER. Mr. Speaker, I rise to address the House for 5 minutes.

The SPEAKER. The gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I have just listened to the remarks of my returning colleague from Georgia. I certainly welcome her back to this great deliberative body. She began, Mr. Speaker, by saying that we are a nation at war, and it is very clear that we are. We are in the midst of a global war on terrorism and the people who are leading that war on terrorism clearly have no confidence whatsoever in the process of self-determination. And that is why I think that this exercise which we are going through today clearly emboldens those who would, in fact, want to undermine the prospect of democracy because there is no evidence whatsoever, no evidence whatsoever that the claims that are being made are valid.

The vote in Ohio has already been recounted. There is no doubt President Bush won the election. He won with historic margins, and millions of first-time voters in Ohio were participating. JOHN KERRY has accepted this fact. Even those foreign officials who many of our colleagues invited to the United States as election observers have come to the conclusion that George Bush won the election.

We as a Nation are regularly encouraging elections all over the world. We just observed this amazing exercise that has taken place with the election of Viktor Yushchenko in Ukraine.

Now, it is true that no election is perfect. We have seen this since the beginning of our democracy. But small imperfections here and there do not a mass conspiracy make. In fact, we have had a number of people quoting newspapers. I am not an expert on the newspapers in the State of Ohio, but I have been told by more than a few people that the Dayton Daily News, which is sometimes named something else, actually endorsed JOHN KERRY and on December 3 they said the following: ''Some people will take advantage of the inevitable flaws of elections to confuse other people, to sow doubts. Those people do harm, not good. They undermine the legitimacy of every close election outcome.''

The fact is the system worked pretty well. People should know that. Now, that came from what I am told is one of the most liberal newspapers in the State of Ohio and a newspaper that endorsed JOHN KERRY.

□ 1445

I would respectfully suggest, Mr. Speaker, to my colleagues on the other side of the aisle, as well as those on the other side of the Capitol, that what makes our system great is our willingness to accept the legitimate results of an election, whoever wins, and move forward together for the good of the American people.

I would remind them once again, there is no evidence whatsoever to suggest that the results of this election were anything other than legitimate. We know how difficult it is to lose an election. I am here with my colleague returning also, Dan Lungren. He lost his first election in 1976. I lost my first election in 1978, and Dan likes to regularly remind me that he was the first one to come and campaign and encourage me to run again in 1980.

Losing an election is disappointing, no doubt about it whatsoever; but moving forward in defeat is just as critical to the integrity of our democracy as claiming victory itself.

It has been said that democracy still represents the best hope for mankind. Sowing seeds of doubt about a legitimately decided election threatens to unnecessarily dim that hope.

This objection is without any merit whatsoever, Mr. Speaker; and we should move on together as we look towards the inauguration which will be taking place on the 20th of this month and as we proceed to implement the agenda of the American people.

Mrs. DRAKE. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentlewoman from Virginia.

Mrs. DRAKE. Mr. Speaker, I find it interesting irony in today's challenge to the legitimacy of President George W. Bush's election, the very partisans who fought against him the first time, arguing against his intelligence, political savvy and leadership abilities, are at this very moment accusing him of pulling off a major feat in tampering with and illegally affecting the outcome of the vote in Ohio. All of this he allegedly did without leaving a shred of evidence.

Mr. Speaker, I find an interesting irony in today's challenge to the legitimacy of President George W. Bush's election as President of the United States:

The very partisans who fought against him the first time, arguing against his intelligence, political savvy and leadership abilities are at this very moment accusing him of pulling off a major feat in tampering with and illegally affecting the outcome of the vote count in Ohio.

All of this, ladies and gentlemen, he allegedly did without leaving so much as a shred of evidence.

So I ask my colleagues who prefer to dwell on the past rather than fight for the future; who would rather level accusations than legislate; who would rather waste Congress's time and taxpayer dollars than work on providing health care, education and a strong military for America—I ask these colleagues, if reform is needed in Ohio, to work with their State legislature to create the best system possible and to join Senator KERRY in accepting the will of the American people.

Mr. JACKSON of Illinois. Mr. Speaker, I ask to address the House for 5 minutes.

The SPEAKER. The gentleman from Illinois (Mr. JACKSON) is recognized for 5 minutes.

Mr. JACKSON of Illinois. Mr. Speaker, I want to be clear. Today's objection is not about an individual, but our institutions. It is not about Republicans, but our Republic. It is not about

Democrats, but our democracy. It is not about an election result. It is about an election system that is broken and needs to be fixed.

Today, we are hearing the facts about voting irregularities in Ohio. In 2000, we saw a similar mess in Florida and other States. As we try to spread democracy to Iraq and Afghanistan and elsewhere, it is prudent and appropriate and timely to examine our own democracy.

What is wrong with our democracy? What is wrong with our voting system? State after State, year after year, why do we keep having these problems?

The fundamental reason is this: Americans do not have the explicit right to vote in their Constitution. In 2000, the U.S. Supreme Court in Bush v. Gore ruled: ''The individual citizen has no Federal constitutional right to vote for electors for the President of the United States.'' So at present, voting in the United States is a State right, not a citizenship right.

Hence, our voting system is built on the constitutional foundation of States rights: 50 different States, 3,067 different counties, 13,000 different election jurisdictions, all separate, all unequal.

Consider this, if a person is an ex-felon in Illinois, they can register and vote. If they are an ex-felon in 11 States, mostly in the South, they are barred from voting for life. There are nearly 5 million ex-felons who paid their debt to society but are prohibited from ever voting again, including 1.5 million African American males; but in Maine and Vermont, a person can vote if they are a felon while they are in jail. Illinois, Florida, Vermont. Different States, different rules, different systems.

In contrast, the first amendment to the Constitution guarantees us an individual citizenship right, freedom of speech, freedom of religion, freedom of association; and we can travel between the States with such a fundamental right. However, when it comes to voting, a person does not have such a fundamental right. They have a State right. A State right is not a citizenship right, but a right defined and protected by each State and limited to each State.

108 of the 119 nations in the world that elect their public officials in some democratic manner have the right to vote in their Constitution, including the Afghan Constitution and the interim document in Iraq. The United States is one of eleven nations that does not have an affirmative right to vote in the Constitution. Should we not be the 108th nation that does just that?

The Bible says if we build a house on sand, when it rains, the winds blow and the storms come and it will not stand. Our voting system is built on the sand of States rights. Florida one year, Ohio the next year, and no telling what is happening in 2008 and 2012.

As a result, the American people are gradually losing confidence in the credibility, the fairness, the effectiveness and the efficiency of our voting system. So we need to build our democracy, not on HAVA Democrats, not on HAVA Republicans, but build our democracy on the fundamental individual guarantee in the Constitution that every citizen can rely upon in their Constitution.

We need to provide the American people with the citizenship right to vote and provide Congress with the authority to craft a unitary system from Maine to California so we do not have so many separate and unequal systems. Mr. Speaker, it is the foundation upon which we build a more perfect Union amongst the States.

Mr. LEWIS of Georgia. Mr. Speaker, will the gentleman yield?

Mr. JACKSON of Illinois. I yield to the gentleman from Georgia, whose credentials on the question of voting are unparalleled and unmarked and unmatched in this Congress.

Mr. LEWIS of Georgia. Mr. Speaker, I thank my colleague and friend for yielding.

The right to vote and to have every vote counted is precious and sacred. It is the heart and soul of our democratic process. We cannot be true to ourselves as a democratic society unless we get it right.

I think, Mr. Speaker, it is fitting and appropriate that we pause, that we have this discussion, that we have this debate, and that Congress hold further hearings on questions about the Presidential election in Ohio and elsewhere.

Our electoral system is broken, and it must be fixed once and for all. What happened in Florida in 2000 and in Ohio in 2004 tends to dramatize the fact that there is something wrong with our democracy. More and more of our citizens have grown uneasy.

I hear people on the other side saying we should forget it, we should get over it. How can we get over it when people died for the right to vote, where people suffered for the right to vote? The right of every vote to be counted must be upheld by this body.

Mr. JINDAL. Mr. Speaker, I ask to address the House for 5 minutes.

The SPEAKER. The gentleman from Louisiana (Mr. JINDAL) is recognized for 5 minutes.

Mr. JINDAL. Mr. Speaker, it is a great honor to address this House for the first time in my elected career. It is also with a heavy heart that I address this House.

I think that this debate diminishes this House. This was one of the proudest weeks of my life, when my father was able to see his son being sworn into this House, when I was able to bring my daughter to watch her father being sworn into this House.

As a son of immigrants, I take very seriously the freedoms and rights granted to us in this country, America, the greatest country in the world.

I think we diminish this House by the discussion that we are having. Let us be clear. We are not here at a congressional hearing. We are not hear to talk about improving our election procedures. We are hear to certify the results of this recent election. We are here to certify the fact that President Bush did, indeed, win the votes granted to him in the State of Ohio; did, indeed, win election across this great country.

In many ways, I am glad that my daughter and father are no longer here to watch this debate taking place in this House. Even CBS news has recognized the fact that President Bush has won this election. This is probably the only place left that is still disputing this election.

What kind of message are we sending out? What kind of message are we sending to the rest of the world where we bring democracy to every corner? Where we are trying to bring democracy, the right to vote to Afghanistan, to Iraq, to the Palestinian people, what message do we send when we stand up and say if you lose an election, if you do not like the results, you can always go to court, you can always hire an attorney?

This is the wrong message to be sending. This does not bring honor to this House. This does not bring honor to our democratic tradition. This does not bring honor to the history of a peaceful transition of power. This does not bring honor to those who have gracefully conceded before.

Indeed, in my own home State we had a congressional election decided by less than half of a percentage point, less than one vote per precinct. I want to stand up here and congratulate both the Democratic winner of that election, as well as his Republican opponent.

Mr. Speaker, I have got several remarks from several different editorial pages from the State of Ohio that say that we should not be having this discussion, that say that the votes were counted in Ohio. There is another place, there is another time to be having this discussion. Today is about certifying, accepting the results.

Two things that have been good that have happened today: one, I have heard many of my colleagues from the other side recognize our President as the rightful winner. I thank them for doing that. Secondly, before I yield the balance of my time to the gentleman from Ohio (Mr. TIBERI), I would like to say in Louisiana we make several jokes about the fact that in the past, distant past, people used to vote multiple times. We never, however, in the history of our State have ever had multiple counts of the same vote.

I would offer that this is not a good day for our country, not a good day for democracy; and we have stopped the acceptance of the certification of the votes.

Mr. TIBERI. Mr. Speaker, will the gentleman yield?

Mr. JINDAL. I yield to the gentleman from Ohio.

(Mr. TIBERI asked and was given permission to revise and extend his remarks.)

Mr. TIBERI. Mr. Speaker, I am often asked in Columbus, Ohio, why it is so partisan here in Washington, D.C., and one wonders why 2 days after we get sworn in.

Mr. Speaker, I spoke with a board of elections official this morning in my district, a Democrat, who said that what we are doing today is, in her opinion, an insult to not only Democrat but Republican board members throughout the State. The bipartisan system that is in place in Ohio, not one board member has objected to the process in Ohio, not one.

Mr. Speaker, were there problems? Certainly, there were problems in Ohio. Were there long lines? Certainly. I stood in a long line in my area. The Columbus Dispatch reported there were long lines everywhere. In fact, in central Ohio, in Columbus, Ohio, the busiest places to vote were not in urban areas. They were in suburban areas.

All electoral votes in Ohio have said what we are doing today is wrong. In fact, the chairman of the Democrat Party in Franklin County, my county, has gone so far as to label the charges as a band of conspiracy theorists. I did not say that; he said that. By the way, Mr. Anthony, the head of the Franklin County Democrat Party, the head of the board of elections in Franklin County is also a union official, an African American and a good man.

Mr. Speaker, what we are doing here today, as the Cleveland Plain Dealer has said, is the election horse is dead. We are beating a dead horse. The election is over. Let us get on with it.

Ms. WOOLSEY. Mr. Speaker, I ask to address the House for 5 minutes.

The SPEAKER. The gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I yield to the gentleman from New Jersey (Mr. PALLONE) for a unanimous consent request.

(Mr. PALLONE asked and was given permission to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, I thank the gentlewoman for yielding, and I rise in support of the challenge to Ohio's electors.

After the 2000 Presidential Election we knew we had to make changes in our elections system so American voters were confidant that their vote had been registered and counted. The 2000 election taught us that many of our election machines were outdated, and unfortunately, some of our election officials served their political party over the voter who should have the right to vote on Election Day.

Three years ago, Congress approved landmark election reform legislation, the Help America Vote Act, that was supposed to fix many of the election problems we encountered in Florida and other States in 2000.

We've spent more than $3 billion over the last 3 years to correct the voting problems of the past, but despite all this funding we still heard horror stories of Americans in lower income and minority areas having to wait more than 4 hours to cast their votes because of the lack of enough ballot machines. We have to do more to ensure that every American has an equal chance to vote—meaning we need to make sure working election machines are available at all polling places.

The nationwide use of provisional ballots is a direct result of that legislation. The problem is that while Congress can require that States allow voters to use provisional ballots, it has little control over how election officials count those provisional ballots.

Ms. WOOLSEY. Mr. Speaker, this is the second Presidential election in a row in which serious, well-documented concerns have been raised about disenfranchisement and voting rights violations without any congressional investigation. This is the second time, and this time, it must be different.

The United States is supposed to be a beacon of freedom, the greatest democracy in the world. Yet we cannot seem to guarantee that the votes of our citizens are counted.

This past election there was everything from votes outnumbering voters in some precincts to blatant voter intimidation in other precincts. It is time that we investigate these serious violations because they are violations to our democracy.

There is an irony here, a very tragic irony. Yes, indeed, we are sacrificing American lives and billions of dollars to try to establish democracy in Iraq. Yet we cannot seem to get our own democracy in order right here at home.

This is not about which candidate won, which candidate lost on November 2. It is not about politics at all. It is about citizens and their most fundamental rights.

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The recommendations put together by the minority Members of this House must be followed, and I look forward to working with them to ensure that our efforts to ensure every vote counts come together before the next election. And if we do not, why would any American bother to vote?

Mr. Speaker, I yield to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, we have preached democracy in Afghanistan. We have preached democracy in Iraq. Now the time has come for us to accelerate the process of more fully practicing what we preach.

I wholeheartedly endorse the democracy mission of America, but I am here today to beg the chosen decisionmakers here in Congress to take a giant step forward to bolster America's world crusade for democracy. Today it is appropriate that we address our remarks not only to the citizens of America but also to the people of Iraq. Our efforts to achieve free elections in Iraq will be totally shattered if we want to propose today that Nation be divided into 30 or 50 units with each unit granted the power to determine its own election procedures, to select its own equipment, and to appoint its own administrators without any uniform national standards.

Our historic compromise granting certain powers to the State that was necessary for the birth of this Nation must no longer be used as an excuse for the abuse of the free and democratic election process here in America. The abuse in certain sections of the country, which once openly used violence and intimidation, were outlawed. All other abuses involving voter suppression and dirty tricks should immediately be made Federal crimes. Out of those who have fought in the past and those still on the battlefield for the cause of democracy, it is our duty to take the steps to escalate our momentum toward the attainment of a more perfect Nation.

Mr. Speaker, we have preached democracy in Afghanistan. We have preached democracy in Iraq. Now the time has come for us to accelerate the process of more fully practicing what we preach. Our great nation is the premium democratic government of the world and we are all proud of that fact. A unifying position of both Democrats and Republicans is that we support democracy everywhere. We believe that where there is democracy the people are inevitably better off. I wholeheartedly endorse the democracy mission of America. But I am here today to beg the chosen decision makers here in the Congress to take a giant step forward to bolster America's world crusade for democracy. As we strive for a more perfect union let us unite to end hypocrisy and to construct a more perfect one person, one vote electoral process.

Today it is appropriate that we address our remarks not only to the citizens of America but also to the people of Afghanistan and to the people of Iraq. We should begin by apologizing for this present electoral system, which undercuts the principle of one person, one vote. Our efforts to achieve free elections in Iraq would be totally shattered if we were to propose today that the nation be divided into 30 or 50 units with each unit granted the power to determine its own election procedures; to select its own equipment; and to appoint its own administrators without any uniform national standards. Our historic compromise granting certain powers to the States that was necessary for the birth of this nation must no longer be used as an excuse for the abuse of the free and democratic election process here in America. The abuse in certain sections of the country, which once openly used violence and intimidation, has been outlawed. All other abuses involving voter suppression and dirty tricks should immediately be made federal crimes.

For too long our nation has accepted as legal and has tolerated blatant sabotage of free elections. Florida offered abundant evidence of such sabotage in the year 2000. Now, in 2004, Ohio has produced a multiple list of irregularities and we are demanding a more thorough investigation. In Ohio the failure of 25 to 30 voting machines to operate correctly with one precinct recording a negative 25 million votes; and the forced waiting periods of three hours in the rain in African American neighborhoods, and ten hours at a polling site for college students; these are only a few of the outrageous examples of voter disenfranchisement in Ohio.

In honor of those who have fought in the past and those still on the battlefield for the cause of true democracy it is our duty to first investigate and then to legislate to overcome all of the poisoning obstacles which obstruct the consolidation of a more perfect national election process. This is a vitally necessary action which will escalate our momentum toward the obtainment of a more perfect nation. God bless America. And God bless democracy everywhere.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentlewoman yield?

Ms. WOOLSEY. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from California (Ms. WOOLSEY) for yielding, and I thank the gentlewoman from Ohio (Mrs. JONES).

Mr. Speaker, this is a sacred debate. This is not a frivolous time in our history. This is about avoiding the suppression of votes. Might I say when the people of Ukraine rose up against their flawed election, they understood what democracy is all about.

Mr. Speaker, I rise to object to the votes in Ohio. I rise under the Constitution of the United States in Article 4, 14 and 15. I argue the point that we have an inconsistent election, and I argue the point that we believe in democracy. The equal protection and due clauses of the 14th amendment of the Constitution operate to protect the rights of citizens to vote for the candidate of their choice.

Furthermore, the well-settled case on this issue, Reynolds v. Sims, states that ''the right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.''

How would Members like to be in Ohio and be told that the election was on November 3, 2004, instead of November 2, 2004? The Constitution's due process clause requires fundamental fairness and that a State election official not employ vote-counting procedures that are so flawed.

Mr. Speaker, I believe that the American people value the value of one vote, one person, and all votes counted.

Mr. Speaker, I support the objection made as to counting the votes of the Electoral College from the State of Ohio in the name of the American people, the United States Constitution, in the name of procedural due process, and in the name of democracy. The Equal Protection and Due Process Clauses of the 14th Amendment of the Constitution operate to protect the rights of citizens to vote for the candidate of their choice. Furthermore, the well-settled case on this issue, Reynolds v. Sims states that ''the right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.''

This is a sacred debate that is in no way frivolous use of the time of the Congress or of the tax dollars of the American people. Nor is this debate one that aims to overturn the 2004 presidential election. On the contrary, this debate is being made at the request and at the behest of the American people.

I will cast a protest vote today not only in the name of the integrity of the Ohio voting process but for the democratic process that is seriously flawed and that must be fixed.

The Court in that case also enunciated that ''undeniably the Constitution of the United States protects the rights of all qualified citizens to vote, in state as well as in federal elections . . . It has been repeatedly recognized that all qualified voters have a constitutionally protected right to vote, . . . and to have their votes counted.''

Moreover, under the Equal Protection Clause, all methods prescribed by a legislature to preserve the right to vote must be effected and not thwarted as stated in Bush v. Gore in 2000. Reynolds and its progeny of cases added that votes that are cast must actually be counted under the Equal Protection Clause of the Fourteenth Amendment—applicable to the individual States.

In addition, Mr. Speaker, the Constitution's Due Process Clause requires ''fundamental fairness,'' or that a state official not conduct an election or apply vote-counting procedures that are so flawed as to amount to a denial of voters' rights to have their voices heard and their votes count. The First Circuit federal Court in 2001 held that where ''organic failures in a state or local election process threaten to work patent and fundamental unfairness, a . . . claim lies for a violation of substantive due process.''

As we look to reauthorize relevant sections of the 1965 Voting Rights Act (VRA), it would be an indictment of the election process itself if we fail to ask pointed questions as to the integrity of the Ohio election in 2004. This challenge is an absolute must relative to America's standing and reputation as a real democracy and as a center that promotes the sanctity of the right to vote.

Today's challenge in Joint Session forum aims to ensure the maintenance of the integrity of the voting process. I support my colleagues in challenging the mechanics of the Electoral College vote certification for its procedural value. This challenge represent our collective exhaustion of legal remedies on behalf of the American people—our constituents, for without this act, their voice remains muted. What my colleagues and I stand to achieve today is to raise the awareness of the American people as to the legitimacy of the democratic process and the absolute value of the notion of ''One person, One vote''. Our collective efforts may not net a different result in terms of the recent presidential election; but can and will affect future elections. On a global scale as the standard bearers of democracy this challenge can serve to provide a shining example of hope to the emerging democracies in Afghanistan and Iraq.

The exhaustion of all remedies available when there is any doubt as to the legitimacy of the overall process is one of the basic tenants upon which this country was founded. The duty to doggedly pursue a task to its ultimate conclusion is as applicable to the recent gubernatorial race in the State of Washington as it is in the democratic elections taking place for the first time in the Ukraine. In Washington State, candidate Dino Rossi declared victory after only a partial recount. However, after a full and fair recount, it was correctly determined that the Democratic candidate Chrisine Gregoire was the victor. A rush to judgment is never prudent. The transparency of process and convincing evidence of the true and correct outcome will preserve this institution we call democracy.

In the Ukraine, a new election was held when majority supporters protested and complained of fraud in the election that resulted in the surprising defeat of opposition leader Viktor Yushchenko. The second vote held revealed that Yushchenko had actually won by a significant margin. What underscores the critical nature of full and fair recounts when there is doubt as to legitimacy is the fact that while the first flawed election rendered Yushchenko a loser by three (3) percentage points, the revote rendered him a winner by eight percentage points. This is clear and convincing evidence. This is democracy.

Mr. Speaker, election processes, like legislation, are imperfect; therefore, we must use every opportunity and resource available to bring them closer to legitimacy and a truly representative nature. All evidence of voting irregularity and failure of votes to be counted is relevant and important to the achievement of this goal. This is democracy.

The hearings that we have held as a body within the House Judiciary Committee and the hard work that officials such as my colleague from Ohio, Ms. TUBBS JONES has done leading up to November 4 and well through its aftermath have yielded factual findings that suggest the existence of ample grounds on which to challenge the electors from Ohio as being unlawfully appointed. Our fact-finding has shown possible violation of 3 U.S.C. Section 5—which states that all controversies regarding the appointment of electors should be resolved six days prior to the meeting of electors (or December 7, 2004 for purposes of the current election) in order for a state's electors to be binding on Congress when it meets on January 6, 2005, to declare the results of the 2004 election.

Secretary of State J. Kenneth Blackwell and others appear to have intentionally delayed the initial certification of the electors until December 6, rendering a recount impossible by December 7—let alone by the December 13 meeting of Ohio's electors.

Today's debate is very important to document the serious election improprieties that occurred in Ohio and in other voter precincts around America. Some of the incidents that occurred include:

Insufficient resources allocated to poor and minority precincts, which resulted in unusually long lines which resulted in long waiting time;

Lack of a verified ''paper trail'' relating to electronic voting machines, thus failing the test of transparency;

Reports of Ohioans being told, incorrectly, that the presidential election was to take place on Wednesday, November 3, 2004, as opposed to Tuesday, November 2;

Denial of provisional ballots to voters;

Voter intimidation;

Voting machine errors or tampering;

Improper purging of eligible votes;

Fraudulent phone calls, fliers, and bulletins on official-looking letterhead;

Questionable vote recount in Ohio, about which the case Yost v. David Cobb, et al. is currently under litigation.

The American people deserve to have their voice heard and to have their fundamental rights advocated.

During this past pre-election period, I had the privilege of working closely with my constituents and with very efficient legal minds

that really care about making every vote count. A former staff member of mine, Attorney J. Goodwille Pierre, led an organization called Election Protection 2004 in efforts to educate voters on the best way to increase voter turnout.

Entities such as the Houston Black Lawyer's Association, the African-American section of the State Bar of Texas, Region 5 of the National Bar Association, and Election Protection 2004 combined to hold a lawyer training session on Texas election law on October 9, 2004. Over 200 lawyers attended and participated in this training session, and I feel that it was very effective in empowering the voters in the 18th Congressional District of Houston.

In addition, I worked with these groups to hold a public meeting of over 500 volunteers from all walks of life, which included over 100 lawyers, to discuss strategies on decreasing voter intimidation and implementing complaint mechanisms. I would like to thank Attorney John Strausberger from the firm of Weil, Gosthal, & Mangen for having given us the legal procedure backbone to our effort on a pro bono basis. I also had the opportunity to meet with the key election official for Harris County to bring her within arms-reach of these groups so that voter intimidation could be detected early and properly addressed.

I would also like to thank Ms. Barbara Arnwine of Lawyer's Committee on Civil Rights, Mr. Ralph Nease of People For The American Way, and Carmen Watkins and Unity '04-Texas for their leadership and extensive efforts.

Election Protection 2004 produced a report entitled ''Texas Election Protection EIRS Report.'' It revealed over 2,200 incident reports with over 1,500 having occurred on Election Day as compiled from poll monitors, on-line systems, and the 1–866–VOTE hotline.

A partial breakdown of the results showed my District, Harris County, as leading other counties with over 720 complaints. Among the key issues identified in the complaints obtained were:

(1) Confusion about how to implement provisional ballot requirements;

(2) A significant number of Harris County voters having not received absentee ballots;

(3) Apparent vote switching in Harris and Travis Counties on e-Slate voting machines associated with straight party voting;

(4) Stringent and obtrusive identification requirements;

(5) Voter intimidation; and

(6) Confusion among voters about straight party voting.

Mr. Speaker, the fact-finding made by the Committee on the Judiciary, my colleague from Ohio, my constituents and the constituents in many other districts makes it more than clear that additional and more focused hearings are required as to the irregularities in the Ohio presidential election and around the country. Furthermore, the election law requires reform in order to make voting more fair, consistent, and representative. We must lead by example. We must act in the true spirit of democracy.

Mr. KINGSTON. Mr. Speaker, I rise to request permission to address the House.

The SPEAKER. The gentleman from Georgia (Mr. KINGSTON) is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I yield for the purpose of a unanimous consent request to the gentleman from Georgia (Mr. PRICE).

(Mr. PRICE of Georgia asked and was given permission to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, I thank the gentleman for yielding. I rise in opposition to the objection.

Mr. Speaker, as a freshman member I stood here with the rest of you two days ago taking an oath to preserve, protect and defend the Constitution of the United States. I couldn't be more proud and humbled to be a Member of the finest deliberative body in the Nation.

Having served four terms in my state Senate in Georgia in both the majority and minority—I have great respect for appropriate procedural objections.

However, political grandstanding during this vital electoral college ballot count is shameful and reprehensible.

What my new colleagues on the other side of the aisle are doing today is destructive of our system. To raise an objection for which many speakers on the other side have said they will oppose—only feeds unfounded discontent in the veracity of our great democracy.

I shall never lose my faith and pride in our great Nation and will fight vigorously and pray for our future at a time when some in the minority party put politics over people.

God Bless America.

Mr. KINGSTON. Mr. Speaker, we have been asked by our Democratic colleagues to take this objection to the vote today seriously. We have been told this is not frivolous.

Well, we have to ask, why Ohio? Why Ohio, the State that happened to put President Bush over the top? Why not Minnesota where KERRY won, where there were discrepancies and Democrat groups working inside polling places at polling booths? Why not New Hampshire where KERRY won where Democrat operatives allegedly slashed wheels of vehicles intended to take Republicans to the polls? Why not Wisconsin which KERRY won where Democrat operatives physically intimidated Republican voters? Or why not even Colorado where a Democrat worker with ACORN signed herself up to vote 25 different times? Or why not New Mexico where a 13-year old was registered to vote by the same Democrat front group? And why not some of the other problems that were going on in Ohio, why do we not talk about them?

For example, in Franklin County in Ohio where a dead person was registered to vote, or 25 addresses were submitted for the same man, why are they not concerned about that? Or why not raise a question about Lake County where a man who had been dead for 20 years was registered to vote?

Our Democrat colleagues do not seem to be concerned about that, and yet here is the serious charge of that complaint by Reverend Bill Moss: A, that there was a computer in the White House hooked up to voting booths in Ohio which was allegedly controlled by some super agent who could change the results of those elections in Ohio from 1600 Pennsylvania Avenue. I do not think even Hollywood would even buy into that;

B, there were numerous agents who were doing ''unidentified things'' to intimidate voters;

C, that a Democrat Supreme Court candidate received more votes than JOHN KERRY; therefore, the election is a fraud; and

D, because the exit polls showed KERRY was going to win, he should have won. The only thing that I know that are less realistic than exit polls are Godzilla movies, and yet that is what the basis of this attack was.

We have heard that many voters had to stand in line for 3 hours. My dad is 87 years old. He is blind. He is very inconvenienced when he votes. He has to have assistance, yet as a World War II veteran and survivor, he is proud to wait 3 hours to vote. He only wishes more of his peer group was alive to have the same honor.

Mr. Speaker, I yield to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Speaker, my colleagues across the aisle have two sides to choose from, the JOHN KERRY side that acknowledges the election is over and President Bush has won, or the Michael Moore side that defines democracy as Democrats going to the polls, and conspiracy as Republicans going to the polls. The election is over and the results could not be clearer. Why are we here wasting time on silly, Hollywood-inspired conspiracy theories? Well, since Hollywood likes conspiracy so much, here are some real facts.

On June 23, 2004, the Michael Moore movie Fahrenheit 9/11 premiered in Washington, D.C. According to U.S. News and World Report, the New York Times and the National Journal, one of the few Senators who attended its premier was Senator BARBARA BOXER. In his movie, Mr. Moore said it was shameful that not one U.S. Senator objected to the electoral vote in Florida.

Two days ago on January 4, 2005, the same Michael Moore published a new letter to Senator BOXER reminding them that they did not object to the electoral vote count 4 years ago, and he requested they rise and object to the vote count from Ohio today. Today, in fact, Senator BOXER objected to the vote count. Does Michael Moore and the people in the Michael Moore wing of the Democrat Party really think the American people and their elected representatives are so stupid that we could be tricked into objecting to these electoral results. Well, the answer, I think, is yes.

Michael Moore told a British newspaper, ''Americans are possibly the dumbest people on the planet. Our stupidity is embarrassing.'' In Germany, Mr. Moore told the German people, ''You can see us Americans coming down the street. We have that big grin on our face all the time because our brains are not loaded down.''

Regarding those who are now killing Americans in Iraq, Michael Moore said, ''The Iraqis who have risen up against the occupation are not insurgents or terrorists or the enemy, they are the

revolution, the minutemen, and their numbers will grow and they will win.''

Mr. Speaker, how many normal people in this country really believe that a terrorist like al-Zarqawi is the same as Paul Revere? I ask my colleagues to vote no on this objection.

Ms. WATERS. Mr. Speaker, I rise to request permission to address the House.

The SPEAKER. The gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, I dedicate my objection to Ohio's electoral votes to Mr. Mike Moore, the producer of the documentary Fahrenheit 9/11, and I thank him for educating the world on the threats to our democracy and the proceedings of this House on the acceptance of the Electoral College votes for the 2000 Presidential election.

The Democratic Judiciary Committee Staff Report clearly establishes that the State of Ohio has not met its obligation to conduct a fair election. Ohio's partisan Secretary of State, Mr. Kenneth Blackwell, I am ashamed to say an African American man has failed to follow even Ohio's election procedures, let alone procedures that comply with Federal law and constitutional requirements. Our ancestors who died for the right to vote certainly must be turning over in their graves.

Mr. Speaker, I traveled to Ohio where the gentleman from Michigan (Mr. CONYERS) convened hearings, and I listened to citizen after citizen describe the Ohio election debacle. When there is a shortage of voting machines that leads to lines of up to 10 hours to cast a vote in precincts that are predominant minority and Democratic voters, forcing countless prospective voters to leave without voting, and where a number of Democratic precincts had fewer machines than were used in the primary election, despite the certainty of a much higher turnout in the hotly contested general election for President, it is clear that Ohio has failed to run a fair election.

When Mr. Blackwell arbitrarily and unreasonably refused to provide provisional ballots to voters who were in the right county but the wrong precinct, or to voters who requested but did not receive an absentee ballot in a timely manner, it is clear that Ohio has failed to run a fair election. When a county in Ohio shows more votes cast than registered voters, or when another Ohio county shows an underfunded Democratic State Supreme Court candidate getting substantially more votes than the well-funded campaign of Senator KERRY, it is clear that Ohio has failed to run a fair election.

When Secretary of State Blackwell refused to recognize thousands of new voter applications because they are not on postcard-weight paper, it is clear that Ohio has failed to run a fair election. And where Secretary Blackwell, in violation of his statutory duty to investigate election irregularities, refused to investigate or remedy any of the hundreds of cases of voter intimidations reported to him, it is more than clear that Ohio has failed to run a fair election.

Mr. Speaker, we are now over 4 years beyond the nightmare of Florida in the 2000 election. I chaired the Democratic Caucus Election Reform Committee. We traveled all over this country. We held hearings. I worked with Members of this House to pass HAVA, Help America Vote Act. Yet, is there anyone who can say we have a fair election system or this is the best we can do?

The 2004 election in Ohio and elsewhere revealed that enormous problems remain in our election systems and HAVA simply does not address those problems. It is stunning to me that in the 21st century we continue to use horse-and-buggy procedures to conduct our elections. It is amazing but true that in many jurisdictions we use more sophisticated technology to run the daily lottery than we devote to our election system. Incredibly even in those few jurisdictions that have moved to electronic voting to avoid the problem of chads and punch cards, we do not require a verifiable paper trail to protect against vote tampering. If an ATM machine can give each user a receipt that that user can reply upon, then a voting machine should also be able to give a receipt.

Mr. Speaker, the issue before us is not whether the problems in the Ohio election were outcome determinative, although they could have been, it is whether the State has met its obligation to provide every voter with an equal opportunity to vote and have his vote counted. We must not allow these egregious violations to be trivialized. There is no constitutionally acceptable level of inequality in access to voting in Federal elections.

Mr. Speaker, there is no conceivable justification for disqualifying a vote for President or Senator on the count that a legally qualified voter shows up to cast his vote in the right State but the wrong precinct. Why could we not count that voter's ballot? The voter's intent is clear. There is no question as to the voter's right to vote for the President of the United States or Senator. We can ensure that the voter does not cast a provisional ballot in more than one location.

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Mr. BOEHNER. Mr. Speaker, I rise to address the House.

The SPEAKER. The gentleman from Ohio is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, elections are divisive activities in our communities, in our States, and in our country. After an election, and after the divisiveness, there needs to be a period of healing to bring our communities, our States, and our Nation back together. I think JOHN KERRY was very graceful in his concession to George Bush to begin the healing process in our country so that when we the Congress come back to work, we have an opportunity to come back together to do the people's work.

That healing period over the last several months has been interrupted by an activity without merit. I think the proceeding today will cause great harm to this institution and great harm to our country at a time when we should be coming together to get ready to do the serious work the American people sent us here to do.

I regret that. The Constitution clearly gives the responsibility for running elections to the States. All the States have their rules and regulations. In Ohio we have heard clearly, it is a very bipartisan process, two Democrats, two Republicans in each of the 88 counties. I have not heard one election official in any of the 88 counties, Democrat or Republican, raise any concern about the outcome or the fairness of the election that occurred in their counties.

If we really want to have a debate about how elections are run, that debate ought to occur at each of the 50 State legislatures where they in fact ought to look at what happened in their State. They ought to be making adjustments. But the election officials are doing the best they can, and I do think that what is happening today is really an indictment of the good work of many of those people in our States.

So I would ask my colleagues, let us get this behind us, quickly; and let us come here to do what the American people sent us here to do.

Mr. Speaker, I yield to my colleague and friend, the gentleman from Ohio (Mr. OXLEY).

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. I thank the gentleman for yielding.

Mr. Speaker, I want to associate myself with the remarks of my good friend and colleague from Ohio. I am amazed at how many experts on Ohio election law we have in this Chamber. I had no idea that so many Members from all over the country would have such a working knowledge of the Ohio electoral process. My friend from Ohio and others have explained it quite well how we work very well on a bipartisan basis. Indeed, our election laws in Ohio are quite adequate to the task despite the fact that we had a huge number of voters, an unprecedented number of registrants, and some adjustments to the new voting system; but I think we, by everybody's estimation, did quite well.

I know my friend from Michigan had a tough November with the Buckeyes beating the Wolverines and, of course, earlier in November with the loss of his Presidential candidate; but we should not try to overturn the presidential race any more than we should try to overturn the outcome of the Ohio State-Michigan game despite what my friend from Michigan might want. This is a time, as my friend from Ohio said, for reflection, for healing, for getting on with the business of the Nation.

This exercise, unfortunately, has distracted our country from that worthy goal. For that, I am truly sorry.

Ms. KILPATRICK. Mr. Speaker, I ask to address the House for 5 minutes.

The SPEAKER. The Chair recognizes the gentlewoman from Michigan for 5 minutes.

Ms. KILPATRICK. Mr. Speaker, whether we like it or not, on November 2 across America, tens of thousands of people were unable to cast their vote. Many voted and their votes were not counted. I rise to support the gentlewoman's effort from Ohio. I thank her very much. Our United States Constitution gives us the opportunity and the right to represent the millions of people that we represent daily to be on this House floor today. This is their right to speak through us on what happened to them on November 2. The rules of the House of Representatives allow us as elected representatives, representing 700,000 plus people apiece, the right to be on this floor at this time. This is the only way as we represent those people that we might express their dismay that they felt on November 2. As our leader said, this has nothing to do with overturning the election. This is why we are sent here to represent, and that is what we are doing.

Regardless of what we have heard the last hour and a half, we the Members on this side of the aisle object to the process that failed many Americans on November 2. Long lines, cold, in the rain. It was in Ohio that we talk today; but Michigan, a neighboring State, had many problems. I was in my voting area called down to count the votes after the polls closed. All day long we had reports of intimidation, of men in suits intimidating my voters, asking for identification every time they went to vote all day long. But they stayed in line, they pressed forward, and they voted.

Something was very wrong on November 2. When the polls closed at 11 o'clock that night, November 2, and we were there overlooking the vote, men in suits were touching my vote counters, touching our ballots. I went on TV, live TV, the 11 o'clock news and said, That is a felony. You cannot touch our counter. You cannot touch our voters. You cannot touch the ballots. It could have been Michigan, but you chose Ohio; and I am here to stand with you today.

Something is very wrong with our voting process. Every vote must count. Every vote must be counted. We have got to fix this, and I thank the gentleman from Ohio (Mr. NEY) for his efforts, but we have got more work to do.

Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, nothing is more critical to the foundation of our democracy than the guaranteed right to vote. In the 2004 Presidential election, there were voters in every State, including the pivotal State of Ohio, who were denied that right; and each time it happened, the foundation is weakened. That is why I join my colleagues today in objecting to the counting of Ohio's electoral votes. I commend my colleagues in this House of the people and the Senate who are raising this objection for their courage, and I am proud to join them.

There is little disagreement that irregularities did occur. The question is what are we going to do about it. It is simply not sufficient to tell the losers in this election to get over it, or to accuse them of sour grapes, or to say we are doing the best we can. It is our patriotic duty to stand up for every voter no matter his or her race or party affiliation and demand that Congress act to expand voter protection and guarantee voter rights.

Once all the facts are determined, a national demand for electoral reform must force Congress to finally finish the job begun under the Help America Vote Act, HAVA, including voter-verified paper trail. We cannot simply sit back and accept the results as if nothing happened or possibly illegal activities had taken place in precincts throughout Ohio. Those Ohio election officials who denied voters provisional ballots, a portion of the voting reform bill that I championed, must be held accountable along with those who allowed machines to be tampered with, eligible voters to be purged illegally, and voters to be intimidated.

This is our chance to demonstrate to our citizens and the world that Americans are constantly working to perfect our own democracy.

Ms. KILPATRICK. Mr. Speaker, I yield to the gentleman from Texas (Mr. GENE GREEN).

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, just for history purposes, I think in the 1960s we might have heard the same thing when we had the Voting Rights Act that needed to be passed by this Congress.

I rise today to address an issue that is at the core of our democracy: our ability to ensure that each vote cast by an American is counted.

Voting irregularities have been a major concern in our country for decades In October 2002, this body passed the Help America Vote Act (HAVA) in order to eliminate voting irregularities and restore integrity and reliability to our electoral system. However, these new systems have not been without flaws. Software errors used in Florida's 2002 election lost over 100,000 votes, and at least 15 states, including Texas, reporting irregularities in their equipment throughout our most recent elections.

Under HAVA, this body provided billions of dollars to the states to replace old lever voting booths and punch card voting machines that produced the infamous "hanging chads" in Florida with more high-tech machines. However, this new technology conceals the most important part of the election process: the recording and counting of votes.

While there are no federal elections being contested in Texas, there are three State House elections that are being reviewed including one in my hometown of Houston. All of these election contests were brought by Republican candidates even though there are Republican county clerks and the Secretary of State is a Republican. While the process of contesting election results in our country is a peaceful process, I question how much faith the American people have in our ability to accurately report election results. Surveys leading up to the 2004 Presidential election indicated as many as 42 percent of Americans anticipated problems with our voting system and they were right.

I strongly belive voting standards should call for a paper trail in case a vote needs to be audited. Without such requirements, even having uniform standards would not enable us to accurately rely on a final vote count without a paper trail. Several states including my home state of Texas do not have the ability to print a ballot for verification purposes. The inability to conduct a complete audit of elections results is bad public policy and it's detrimental for our democrary.

Americans deserve the ability to confirm their vote and our democracy depends on the accuracy of our election process. It is time for this body to require that each voter receives verification that their vote was accepted and counted. No election is perfect, but we all deserve an election system that enables us to correct errors when they occur.

This country served as a guide to Afghanistan in their historic elections on October 4 of last year and now, we are assisting Iraq to make their first open election in history a success on January 30. If we are to serve as the world's model of democracy, we must ensure that every vote is counted, and if need be, is able to be recounted accurately and fairly. We cannot serve as the model of democracy if our own democratic process is flawed

Mr. PORTMAN. Mr. Speaker, I rise to address the House.

The SPEAKER. The gentleman from Ohio is recognized for 5 minutes.

(Mr. PORTMAN asked and was given permission to revise and extend his remarks.)

Mr. PORTMAN. Mr. Speaker, Americans turned out in record numbers and their votes have been counted. President Bush won with more votes than any other Presidential candidate in the history of our great country. In Ohio, in fact, the votes were counted and then recounted, and President Bush won by over 118,000 votes in my State.

No election is ever perfect. They never are. But there is absolutely no credible basis to question the outcome of the election. That is what is going on here today. I heard my friend from Georgia (Mr. LEWIS) say, this is about the right for every vote to be counted. No one on this side of the aisle will disagree with that. We could not agree more. That is why we have HAVA. That is why we are going to refine it further. That is why we need to continue our work, as many speakers on our side of the aisle have said, to be sure that every vote is indeed counted.

But that is not what this objection is about. This objection from the other

side of the aisle, and I am going to quote one of my colleagues who said, it is about ''massive and widespread voter irregularities in the State of Ohio.'' Not so.

I also read in the challenge lots of irresponsible conspiracy theories about what happened in Ohio. I was there. It did not happen. I also heard today from the other side of the aisle that no one has answered any of these questions. That is wrong.

One of the concerns that has been raised time and time again, most commonly raised, is that in Warren County, a district that I represent and a city that I represent, that somehow there was not a fair election because people were locked out. Yes, the media was locked out in the Warren County board of elections. It happened. But here is Jeff Ruppert, a lawyer for the Kerry-Edwards campaign who was inside and saw nothing unusual: ''It was as clear and open as it could possibly be,'' he said. Other witnesses included, of course, the Democratic members of the election board and several Democrats who were hired to help count the votes.

As has been said time and time again in Ohio, we have got a pretty good system. It is totally bipartisan, two Democrats, two Republicans, every single board in every county of our 88 counties in our great State.

This is not the time, ladies and gentlemen, to obstruct the will of the American people. It is time to get our work done. It is time to govern, not to object. Let us be clear. This is not Americans forcing their will on the American people. This is the views of Ohioans that have been clearly expressed. Every objective observer agrees. In fact, every newspaper in the State of Ohio agrees. Every editorial page agrees.

We have heard some quotes today. Here is one I love from the Cleveland Plain Dealer. It says: ''The 176 Democrats who sit on Ohio's 88 county election boards pondered their jurisdictions' results, accepted their subordinates' good work, and are now turning their energies toward the future. Are they all dupes in some Machiavellian Republican scheme? Or do they simply have a firmer grasp of reality than that displayed by a handful of unrelenting zealots still ranting in the January rain 8 weeks after the election?''

Maybe we should look at some other States. Again in Ohio, President Bush won by over 118,000 votes. JOHN KERRY won New Hampshire, but by 9,200 votes. JOHN KERRY won Minnesota, but by only 98,000 votes. JOHN KERRY won Wisconsin, but by only 11,300 votes.

I want to thank my Republican colleagues today for not raising objections to those results in those States. We need to move on. I hope what we will do today, Mr. Speaker, is that we will vote overwhelmingly, Republicans and Democrats alike, just as the other body has just voted. I am told the vote was 74–1 to turn down the objection in the United States Senate. I hope we will come together as Democrats and Republicans today to vote down this objection, not to continue this cynical political ploy to try to somehow delegitimize the Presidency of the United States and his election, but rather to move forward and get on to the very important work that we have before us today.

Mr. Speaker, I yield to my colleague, the gentleman from Cincinnati, Ohio (Mr. CHABOT).

Mr. CHABOT. I thank the gentleman for yielding.

Mr. Speaker, let us face it. This is nothing more or less than an attempt to sow doubt on the legitimacy of this President. It is an attempt to weaken President Bush, and it is unfortunate because we have much work to do in this House and in the Senate putting this country on the right track.

On November 2, 2004, George W. Bush received a majority of the votes cast in this country, including the State of Ohio, the State that I happen to be a Member of this House. As a Congressman from Cincinnati, Ohio, I had an opportunity to go to dozens of polling places, both in urban areas in my city of Cincinnati and also in suburban areas. I have talked to many, many people; and most people agree that this election was conducted professionally and fairly and freely.

News sources reporting on the elections have said that few mainstream politicians doubt President Bush's victory. However, rather than certifying the 2004 election in accordance with the Constitution and Federal law and starting the work that we were elected to do, we are forced today to engage in essentially partisan debate by our colleagues across the aisle. That is most unfortunate.

A nonpartisan group such as electionline.org that pushed for election reform placed Ohio at the top of the list. Let us get back to our business.

Mr. DAVIS of Illinois. Mr. Speaker, I rise to address the House.

The SPEAKER. The gentleman from Illinois is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, the most basic and fundamental principles of any democracy are equal opportunity, equal protection under the law and guarantee of the right to participate, to have that right protected and to have that participation count.

Unfortunately in the last two Presidential elections, an increasing number of elections across the country are being marred with allegations of manipulation, chicanery, trickery, intimidation and outright illegal acts of fraud, thievery, and violence.

□ 1530

All of these acts and actions have served to undermine confidence in our electoral system, disrupt the process of normalcy, and are beginning to shake the very foundation of our democracy.

Mr. Speaker, Thomas Paine once said, ''The right of voting for representatives is the primary right by which all rights are protected. To take away this right is to reduce a man to slavery.'' Therefore, Mr. Speaker, based upon an inordinate number of allegations suggesting gross voter rights allegations and misconduct, I join with my colleagues and object to counting the State of Ohio's electoral votes and urge that we pass a strong Voting Rights Protection Act to guard against any further attempts to manipulate and erode our democracy.

Mr. Speaker, I yield to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding to me.

If we are the democracy we say we are, we must show it today by taking on the astonishing problems in our national system of elections that can no longer be blinked away. Ohio's often brazen irregularities bring forward this debate, but the Buckeye State is only the poster child for the nationwide system of voting that has been discredited in the eyes of millions of voters. I watched the long lines nationwide and here in the District with both exhilaration and pain, exhilaration that finally we were getting what we asked for, with so much enthusiasm for voting that people were standing in line the way they do for million dollar lottery tickets; pain that long lines would surely discourage many voters, particularly first-time voters, people of color, young people, and many others who wanted to believe that voting could matter in their lives. The long lines in the District were especially poignant because citizens were waiting for hours to vote for a Member of Congress who herself could not cast a vote for them in this House.

Ohio's close and contentious vote speaks for the country about virtually all the problems of the last election, from voting machine access to voting intimidation and the absence of national standards for the basics. It will take time and bipartisan determination to make us proud of our elections. Until then, one reform could begin the process of restoring confidence in our elections. If all else fails, voting machines, polling place controversy, confused or partisan election officials, a provisional ballot that, if valid, will count, can help heal voting flaws until we enact a real cure. We have got a failsafe for almost everything else, from bullet proof vests to backups for computers. Let us fix our system this year, including with failsafes for voting to save our democracy.

Mr. SCOTT of Virginia. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Speaker, functional democracy requires that the citizens have confidence in an election process and of course confidence that all legitimate votes will be counted. Clearly the State of Ohio is not able to provide such confidence.

First, there is a significant unexplained, uninvestigated difference in exit polling results and the reported election results. There are specific unresolved allegations of other election problems, particularly the long lines in some precincts that were caused not because of an unanticipated voter turnout but because of insufficient voting machines in the precinct. Other allegations were widespread and none of these allegations was investigated.

I know, Mr. Speaker, that this objection is somewhat awkward because it does not have the apparent support for the candidate involved, but I believe it is our responsibility to ensure that election results meet the spirit and letter of our Constitution and that we have confidence in the process by demonstrating that voting schemes and irregularities are not ignored.

Mr. Speaker, I would hope that we would take this in consideration as we review this election return so that this does not happen again.

Mr. BUTTERFIELD. Mr. Speaker, I rise to address the House.

The SPEAKER. The gentleman from North Carolina is recognized for 5 minutes.

(Mr. BUTTERFIELD asked and was given permission to revise and extend his remarks.)

Mr. BUTTERFIELD. Mr. Speaker, I rise in support of the challenge.

Mrs. JONES of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BUTTERFIELD. I yield to the gentlewoman from Ohio.

Mrs. JONES of Ohio. Mr. Speaker, I thank my colleagues for this opportunity to debate this very important issue. In Ohio there is a bipartisan system at the county level. However, every board of election member serves at the behest or discretion of the Secretary of State, Kenneth Blackwell, who, in fact, was the co-chair of the Bush campaign.

I want to go on to say that, for example, Secretary Blackwell issued a directive to local boards of election mandating rejection of voter registration forms on 80-weight paper. He issued a directive which ultimately was reversed which resulted in confusion and chaos among counties with regard to provisional ballots.

But be that as it may, the objection today is raised because there are irregularities across this country with regard to voting and we as a Congress have an obligation to step up to the plate and correct them. All voters ought to be allowed to vote early. There should be established a national holiday for elections to bring attention to the importance of voting. We should require those working at the voting booth to be fairly compensated, adequately educated, and sufficiently supported such that the job importance will be elevated. We need to provide them equipment, whether it is punch card, electronic, whatever it is, that it be fully tested, fully calibrated, and that there be a paper trail.

What happened in Ohio may well have been repeated across this country; yet that is no excuse for us to push the irregularities behind us and go on with the business of the day. This is an important enough issue that all the people across America want us to address it, they want us to deal with it, and they want us to correct it.

I thank all of my colleagues for giving me an opportunity to be heard, for giving us an opportunity to address the issue.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. BUTTERFIELD. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I want to thank all the Members of the House who have stayed here with us, who have participated in the debate, who have shared their views, as different as many of them are, because this is the way we work.

This debate, I think we all know, will not change the outcome of the November election. But we do know that out of today's debate, the Congress will respond to the challenge that has been raised here in connection with a better system of voting, not just for Ohio but for everywhere. A challenge has been raised here this afternoon to hold true bipartisan hearings to get to the bottom of not just what went wrong in Ohio but around the Nation on Election Day. This day, the first time in our history, that since 1877 this law has been used in which the Senate and the House have come together to say that an objection has enough merit to keep us here in this discussion.

Join us. Enact real election reform and give the citizens the right to an operative provisional ballot and give all voters a verifiable paper trail. We should never fear this debate in the Congress, and I hope that today we have a fair debate and that 4 years from now, Mr. Speaker, we have an election that all our citizens can be proud of.

Mr. DELAY. Mr. Speaker, I rise to claim the remainder of the time.

The SPEAKER. The gentleman from Texas is recognized for the remainder of the time.

Mrs. JONES of Ohio. Mr. Speaker, can I ask how much time that is?

The SPEAKER. In the tradition of the House, the gentleman from Texas will be heard for such time as he may consume.

Mr. DELAY. Mr. Speaker, what is happening here today is amazing but not surprising. Mr. Speaker, what we are witnessing here today is a shame. A shame. The issues at stake in this petition are gravely, gravely serious. This is not just having a debate. But the specific charges, as any objective observer must acknowledge, are not. That is because the purpose of this petition is not justice but noise.

It is a warning to Democrats across the country, now in the midst of soul searching after their historic losses in November, not to moderate their party's message.

It is just the second day of the 109th Congress and the first chance of the Democrat congressional leadership to show the American people what they have learned since President Bush's historic reelection, and they can show that, but they have turned to what might be called the ''X-Files Wing'' of the Democrat Party to make their first impression.

Rather than substantive debate, Democrat leaders are still adhering to a failed strategy of spite, obstruction, and conspiracy theories. They accuse the President, who we are told is apparently a closet computer nerd, of personally overseeing the development of vote-stealing software.

We are told, without any evidence, that unknown Republican agents stole the Ohio election and that its electoral votes should be awarded to the winner of an exit poll instead.

Many observers will discard today's petition as a partisan waste of time, but it is much worse than that. It is an assault against the institutions of our representative democracy. It is a threat to the very ideals it ostensibly defends. No one is served by this petition, not in the long run. And in the short term, its only beneficiaries are its proponents themselves.

Democrats around the country have asked since Election Day, and will no doubt ask again today, how it came to this. The Democrat Party, the party that was once an idealistic, forward-looking, policy colossus. The New Deal, the Marshall Plan, the Great Society, the space program, civil rights. And yet today one is hard pressed to find a single positive substantive idea coming from the left.

Instead, the Democrats have replaced statecraft with stagecraft, substance with style, and not a very fashionable style at that. The petitioners claim that they act on behalf of disenfranchised voters, but no such voter disenfranchisement occurred in this election of 2004 and for that matter the election of 2000.

□ 1545

Everybody knows it. The voters know it, the candidates know it, the courts know it, and the evidence proves it.

We are not here to debate evidence, but to act our roles in some scripted, insincere morality play.

Now, just remember: pre-election memos revealed that Democrat campaign operatives around the country were encouraged by their high command in Washington to charge voter fraud and intimidation regardless of whether any of it occurred. Remember, neither of the Democrat candidates supposedly robbed in Ohio endorse this petition. It is a crime against the dignity of American democracy, and that crime is not victimless.

The Democrat leadership came down to the floor and said this is a good debate; we ought to be having a debate on this issue.

This is not a normal debate. This is a direct attack to undermine our democracy by using a procedure to undermine the constitutional election that was just held.

If, as now appears likely, Democrats cry fraud and corruption every election regardless of the evidence, what will happen when one day voters are routinely intimidated, rights are denied, or, God forbid, an election is robbed? What will happen? What will happen when, God forbid, this quadrennial crying wolf so poisons our democratic processes that a similarly frivolous petition in a close election in the future is actually successful, and the American people are denied their constitutional right to choose their own President?

Mr. Speaker, Democrats must find a way to rise above this self-destructive and, yes, plain destructive theory of politics for its own sake. A dangerous precedent is being set here today, and it needs to be curbed, because Democrat leaders are not just hurting themselves. By their irresponsible tactics, they hurt the House, they hurt the Nation, and they hurt rank-and-file Democrats at kitchen tables all around this country.

The American people, and their ancestors who invented our miraculous system of government, deserve better than this. This petition is beneath us, Mr. Speaker; but, more importantly, it is beneath the men and women that we serve.

Mr. Speaker, I urge my colleagues, both Democrat and Republican, to do the right thing. Vote ''no,'' and let us get back to the real work that the American people hired us to do.

Mr. PASCRELL. Mr. Speaker, I strongly believe that every vote should be counted. There were obviously irregularities in the Ohio vote and I urge that they be thoroughly investigated by this Congress and the Department of Justice. We have an obligation to resolve the problems that have been documented. However, I would have voted against the motion because I do not believe this to be the proper occasion to address this important issue.

Ms. ESHOO. Mr. Speaker, the debate today is not about contesting the results of the last November's election. Today's debate cuts to the essence of our democracy—the founding principle of our country—the right to vote. Clearly, the right to vote is dependent on the assurance that all voters have access to the polls and that all votes will be counted. But since the presidential election in 2000 the American public has grown increasingly wary of the accuracy and integrity of our elections, and I applaud my colleagues for their efforts to bring focus to this issue. It's essential that we bring attention to the serious problems facing our electoral system.

It's up to Congress to restore confidence in our elections, and I call on all Members to make this a priority in the 109th Congress. The 2000 Presidential Election spurred a series of reforms, and Congress took important first steps to improve our system of voting. I was proud to cosponsor the Help America Vote Act, which did much to upgrade our electoral process and create national standards for conducting elections. However, I'm disappointed that subsequent efforts to increase the security and reliability of our Increased Accountability Act in the 108th Congress, I supported requiring verifiable paper trails for all voting machines, a step that would provide a significant boost to voter confidence and allow for expedited recounts. Unfortunately, this legislation was not considered prior to the 2004 election, and the House majority leadership refused to even bring it up in committee. This issue must be revisited and legislation should be promptly passed in the 109th Congress.

Democratic elections are the foundation of all democracies, and thousands of Americans have died—and continue to die every day—for the right to vote. The United States of America should set the standard for fair and accurate elections, and the reported irregularities tell us that we continue to fall short. One need not believe in conspiracy theories or maintain that the outcome in Ohio was invalid to recognize that we still suffer from serious shortcomings in our electoral process.

I urge my colleagues not to let this opportunity slip buy. We must promptly pass electoral reforms that will ensure that the results of our elections are beyond reproach and accepted by all voters.

Mr. STUPAK. Mr. Speaker, I regret that I was not able to attend today's vote regarding the objection to the November 2004 electoral college results in Ohio. This recorded vote was not expected and came up at the last minute. I was unable to return for the vote in time due to bad weather in the Midwest that resulted in more than 1,000 flights being delayed or cancelled. Due to the problem with flights and a prior family commitment, I was unable to travel back to Washington, DC from Michigan. Had I been in attendance I would have voted ''no'' on agreeing to the objection.

However, I have very serious concerns about the voting irregularities that occurred in Ohio. I believe those problems have not been properly addressed by Ohio's Secretary of State, who also served as the State's Republican Party leader.

It is my hope that these specific problems will be further investigated and that by the 2008 presidential election our Nation's electoral process will be more fair, more open and more accessible than it was in 2004.

Mr. MEEK of Florida. Mr. Speaker, Ohio was granted an opportunity today not afforded to my home state of Florida in 2000, and for that I am thankful. I express my gratitude to Congresswoman STEPHANIE TUBBS JONES of Ohio and Senator BARBARA BOXER of California for raising this objection, but I feel that we must now move past the documented voting irregularities that plagued the State of Ohio.

The purpose of this objection is not to change the outcome of the 2004 Presidential election, but to raise awareness to the difficulty faced by thousands attempting to cast their ballots for President in Ohio. Following the 2000 election, the people of America were promised sweeping electoral reforms aimed at preventing problems like those that happened in 2000, but those promises were only partially kept. This body let the voters of this country down, and we simply need more reform. There is still too much room for error in our election law and we must be earnest in addressing these lapses.

We know that elections are not perfect, but no American should be castigated for raising questions or concerns when valid voting problems arise. Only open debate on this issue will solve these problems; only accurate information will quell rumors and conspiracy theories that question our country's sacred democratic tradition.

As we are all aware, the former Soviet Republic of Ukraine's recent presidential elections were called into question. After the first vote, Members of Congress from both sides of the aisle condemned this election in a foreign country as fraught with irregularities and intimidation. Yet some of these same Members rise in apparent indignation when irregularities are discussed in our own elections in our own country. They do not want to talk about the voting problems in Ohio. Yet these problems are real, and they deserve the attention of the American people. They provide compelling reasons why the Congress must address election reform in the first session of the 109th Congress.

The Help America Vote Act of 2002 was a good start, a necessary first step, but it was inadequately funded and unevenly implemented. More attention is needed. We must ensure that all voting machines have a paper trail that will ensure a proper recount can be conducted. We must eliminate conflicts of interest among those who administer our State's elections. No Secretary of State should serve as a Presidential campaign State co-chair as was the case in Ohio this year and in Florida in 2004. We simply must have independence, uniformity and accountability in all elections across our great republic.

These lapses, inconsistencies, lack of resources and conflicts of interest are, Mr. Speaker, worth discussing.

Again, I thank those who brought this objection. These two Members of great courage and integrity have given this country a platform for reform. Only a proper review of our voting processes will stop these kinds of electoral abuses, and I urge the House leadership to make this effort an immediate priority of the 109th Congress.

Mr. SCOTT of Virginia. Mr. Speaker, a functioning democracy requires that the citizens have confidence in its election process, and of course confidence that all legitimate votes will be properly counted. We saw the importance of this principle in the recent Ukraine national election and in the Washington State Governor's election.

Clearly, the State of Ohio is not able to provide such confidence. First there is a significant, unexplained and un-investigated difference in exit polling results and the reported election results. Then, there are many specific, serious, unresolved allegations of voting irregularities in Ohio. For example, strong evidence exists to indicate that in some predominately Black precincts, voters had to stand in line to vote for as much as 10 hours due, not to an unanticipated voter turn out, but to a clearly insufficient number of voting machines at the precinct.

Other allegations include evidence that numerous requests for provisional ballots were improperly denied, that the counting of provisional ballots violated the Help America Vote Act and that there were over 90,000 ballots cast which were set aside as spoiled ballots without justification. Not one of these allegations was officially investigated.

Now I know that this objection is somewhat awkward because it does not have the apparent support of the candidate involved, but I believe it is our duty and responsibility to assure that election results meet the spirit and the letter of our Constitution and that we instill confidence in the process by demonstrating that voting schemes and irregularities are not ignored.

Mr. MEEKS of New York. Mr. Speaker, although I will not file an objection to the counting of Ohio's electoral votes, I rise today to acknowledge the voting discrepancies and irregularities that occurred in the State of Ohio in this past presidential election.

As is evident in my colleague JOHN CONYERS's voting rights status report, Ohio has failed to provide the opportunity for its citizens to have equal access and opportunity to cast their vote and have that vote accurately counted.

Many voters were denied provisional ballots and some eligible voters were improperly purged. Others were given erroneous information as to where and when they could vote. The State provided insufficient resources to minority precincts, resulting in long lines that caused delays up to 10 hours, forcing some voters to have to leave those lines to tend to personal obligations.

There were rampant incidents of voter intimidation, deceptive phone calls and fraudulent fliers on official looking letterhead.

The lack of a verifiable paper trail by some of the electronic voting machines contributed to a questionable vote count.

Clearly, Ohio's election officials, including Secretary of State Blackwell, have questions to answer regarding these disturbing irregularities.

How can we encourage free and fair elections in Iraq, a country that may soon become a fledgling democracy, when we can't ensure free and fair elections in America after 200 years of democracy.

As a Member of Congress it is my duty to uphold the right of the people to have free and fair elections of their government officials. It is my hope that this Congress will work together in the coming months to enact real election reform that will restore America's confidence in the electoral process.

Mr. MARKEY. Mr. Speaker, I thank Representative TUBBS JONES and Senator BOXER and Representative JOHN CONYERS for forcing this institution, and thus our Nation, to debate the quality of our democratic voting process and to consider whether it meets the expectations of its people.

If we are to form a more perfect union, we must dedicate ourselves to forming a more perfect voting process.

Four years ago, this Nation shuddered at the weakness of our ballot process, and vowed to improve it.

But in some respects, it was weakened further.

The ballot was weakened when votes were allowed to be cast without a printed record.

The ballot was weakened when the vote took so long that voters had to choose between voting and missing a day's work.

The ballot was weakened when provisional ballots were not honored.

We must confront the fact that electronic voting machines that do not provide a ''print our'' are a black hole.

We can do better. Our ATM machines give receipts in return for cash. It is clearly not a technological barrier to provide a receipt in return for a vote.

This is America. We are the incubator for democratic evolution. We are a beacon to the free world. Ohio had special problems this time, but they are problems we can fix, and when we fix them in Ohio, we will have made the progress in 2005 that we failed to make over the last 4 years.

I am voting to support this challenge to the certification of Ohio's vote as a legitimate and constructive beginning to a more perfect democracy and a more perfect union.

Mr. HOLT. Mr. Speaker, this debate is not frivolous. This is not about sour grapes. This is not about conspiracy theories. This is about the central act of democracy.

Here in the House of Representatives all members have been elected. Some of us have been elected in recounts.

What are recounts? They are independent checks of the tally.

Reliable knowledge is verifiable knowledge. As my colleagues know, I am a scientist. It is a principle of scientific thinking that one person's claim must be subject to independent confirmation or correction.

I agree with Senator JOHN KERRY. We should today award Ohio's electoral votes to President Bush. I believe President Bush got more votes in Ohio then did Senator KERRY. I believe it. I cannot confirm it. No one can confirm it.

Consider electronic voting machines. If there was an error between the voter casting the vote on the touch screen and the recording of an electronic signal in a memory bank, no one will ever know. It might be a software error; it would not necessarily be a malicious conspiracy. But if the vote is recorded incorrectly, no one will ever know.

I ask my colleagues, can anyone say he or she knows that the actual vote is what has been presented to us? The answer is no. None of us can say this knowledge has been independently verified. It is not reliable knowledge unless it is verified knowledge. This is not a philosophical fine point. Americans don't want to and should not have to take the results simply on faith. The electronic machines used in Ohio and most other States are not designed to be verifiable. Recounts are meaningless.

Self-government works only if we believe it does. A loss of confidence in our system is fatal to a democratic republic such as ours. That confidence has been eroded over the years and has taken some body blows in recent years.

We need a major effort to shore up our democracy.

Americans are a trusting people, but we demand evidence. We demand verification.

We are also a pragmatic people, and so we in the House will not upset the apple cart today. Without doubt we will endorse the electoral votes presented to us today. But we should not be satisfied. Republicans should not be satisfied. Democrats should not be satisfied. The reason is not that President Bush got more votes. The reason is that the knowledge of President Bush's majority is unreliable knowledge.

Anything of value should be auditable. Votes are valuable. Each voter should have the knowledge that the vote is recorded as intended. We are talking today about the heart of our democratic republic.

Mr. BISHOP of Georgia. Mr. Speaker, I rise today, not with the hope of overturning an election, but with the hope of overturning a system that has for too long failed to guarantee every American their most basic right, the right to vote.

Our very democracy was founded on the essential right of citizens to have a voice in their government. As Members of Congress we are sworn to uphold the Constitution of the United States, which includes the 13th and 19th Amendments, and I am quite frankly saddened that such a debate today breaks down along party lines. Each and every one of us as Americans should stand to defend this right, to protect and guarantee that every citizen, black, white, male, female, Democrat or Republican, has the opportunity to cast a vote.

As representatives we should not fear the will of the people; we should not fear a debate here on the floor of the House seeking to shed light on and improve our voting system, rather we must fear any threat to our right to vote. We must take seriously any allegation that would deprive any citizen of this right, let alone the serious and widespread allegations that are being make in Ohio.

The debate today is not about the election of George W. Bush, rather it is about the integrity and the future of our voting system. Today we are challenging ourselves to do better. We are challenging ourselves to examine our voting system, to get to the bottom of what went wrong in Ohio and around the Nation on Election Day. We need to hold hearings. We need to conduct an investigation and we need to pass legislation that puts in place specific federal protections for our federal elections, especially in the areas of auditing electronic voting machines and casting and counting provisional ballots. We must be willing to hold the same light on our election system that we hold on nations such as Afghanistan, Ukraine, and Iraq. How can we serve as a model for democracy, when our own citizens lack faith in our democracy?

That is what today is about, restoring faith in our system. This can not be accomplished by simply accepting the status quo and allowing opportunities such as today to pass without objection. The only way to change an injustice is to stand against it. Mr. Speaker, this is why I rise today. We must not accept the status quo, rather we must challenge ourselves to do better. This is what we do as Americans and this is what I am challenging us to do today.

Ms. CORRINE BROWN of Florida. Mr. Speaker, in the aftermath of the 2000 election, in which my congressional district witnessed the discarding of 27,000 votes, I am displeased to see that the Congress is here again today, 4 years later, continuing to confront many of the same problems we faced in the previous election. Many Members of Congress here to voice their own concerns, as well as echo those of citizens across the county, are engaging in floor debate to publicly enunciate their doubts and worries with respect to the veracity and/or fairness of the 2004 election. The goal of my colleagues is not so much to systematically overturn the 2004 election results, but rather, to bring about honest and open debate today to the House floor. Clearly, a formal challenge to the election's outcome could not change the results, but what it can do is to at least force both Chambers to engage in open debate and

speak clearly about the serious flaws we have experienced in our last two presidential elections. I believe this debate is beneficial for our democracy, particularly in light of recent events that went on in my State in Florida, as well as apparent discrepancies in Ohio.

With respect to the Ohio vote count, I find the objections stated by my close friend and colleague, Congresswoman STEPHANIE TUBBS JONES, to be most disturbing. According to her press statement, among the numerous discrepancies in her state, perhaps the most egregious included: ''large percentages of rejections among provisional ballots, numerous problems with voting machines, and significant flaws in registration processes and procedures.'' These very serious concerns, I believe, deserve to be discussed and debated by the Congress, in an open public forum in full view of the American public.

In addition, I would like to enumerate numerous other discrepancies that were contained in a report put out by the Judiciary Committee entitled, Preserving Democracy, What Went Wrong in Ohio, about the 2004 elections:

The misallocation of voting machines led to unprecedented long lines that disenfranchised scores, if not hundreds of thousands, of predominantly minority and Democratic voters.

Mr. Blackwell's decision to restrict provisional ballots resulted in the disenfranchisement of tens, if not hundreds, of thousands of voters, again predominantly minority and Democratic voters.

Mr. Blackwell's widely reviled decision to reject voter registration applications based on paper weight may have resulted in thousands of new voters not being registered in time for the 2004 election.

The Ohio Republican Party's decision to engage in preelection ''caging'' tactics, selectively targeting 35,000 predominantly minority voters for intimidation had a negative impact on voter turnout.

The Ohio Republican Party's decision to utilize thousands of partisan challengers concentrated in minority and Democratic areas likely disenfranchised tens of thousands of legal voters, who were not only intimidated, but became discouraged by the long lines. Shockingly, these disruptions were publicly predicted and acknowledged by Republican officials: Mark Weaver, a lawyer for the Ohio Republican Party, admitted the challenges ''can't help but create chaos, longer lines and frustration.''

Mr. Blackwell's decision to prevent voters who requested absentee ballots but did not receive them on a timely basis from being able to receive provisional ballots likely disenfranchised thousands, if not tens of thousands, of voters, particularly seniors. A federal court found Mr. Blackwell's order to be illegal and in violation of HAVA.

Second, on election day, there were numerous unexplained anomalies and irregularities involving hundreds of thousands of votes that have yet to be accounted for:

There were widespread instances of intimidation and misinformation in violation of the Voting Rights Act, the Civil Rights Act of 1968, Equal Protection, Due Process and the Ohio right to vote. Mr. Blackwell's apparent failure to institute a single investigation into these many serious allegations represents a violation of his statutory duty under Ohio law to investigate election irregularities.

We learned of improper purging and other registration errors by election officials that likely disenfranchised tens of thousands of voters statewide. The Greater Cleveland Voter Registration Coalition projects that in Cuyahoga County alone over 10,000 Ohio citizens lost their right to vote as a result of official registration errors.

There were 93,000 spoiled ballots where no vote was cast for president, the vast majority of which have yet to be inspected. The problem was particularly acute in two precincts in Montgomery County which had an undervote rate of over 25 percent each—accounting for nearly 6,000 voters who stood in line to vote, but purportedly declined to vote for president.

There were numerous, significant unexplained irregularities in other counties throughout the state: (i) in Mahoning county at least 25 electronic machines transferred an unknown number of Kerry votes to the Bush column; (ii) Warren County locked out public observers from vote counting citing an FBI warning about a potential terrorist threat, yet the FBI states that it issued no such warning; (iii) the voting records of Perry county show significantly more votes than voters in some precincts, significantly less ballots than voters in other precincts, and voters casting more than one ballot; (iv) in Butler county a down ballot and underfunded Democratic State Supreme Court candidate implausibly received more votes than the best funded Democratic Presidential candidate in history; (v) in Cuyahoga county, poll worker error may have led to little known third party candidates receiving twenty times more votes than such candidates had ever received in otherwise reliably Democratic leaning areas; (vi) in Miami county, voter turnout was an improbable and highly suspect 98.55 percent, and after 100 percent of the precincts were reported, an additional 19,000 extra votes were recorded for President Bush.

Third, in the post-election period we learned of numerous irregularities in tallying provisional ballots and conducting and completing the recount that disenfranchised thousands of voters and call the entire recount procedure into question (as of this date the recount is still not complete):

Mr. Blackwell's failure to articulate clear and consistent standards for the counting of provisional ballots resulted in the loss of thousands of predominantly minority

Mr. Blackwell's failure to issue specific standards for the recount contributed to a lack of uniformity in violation of both the Due Process Clause and Equal Protection Clauses.

The voting computer company Triad has essentially admitted that it engaged in a course of behavior during the recount in numerous counties to provide ''cheat sheets'' to those counting the ballots (Preserving Democracy, What Went Wrong in Ohio, A Report Put out by Democratic Judiciary Committee Staff).

Moreover, in my State of Florida, the problems that surfaced regarding the 2004 election related more to pre election irregularities. Examples are plentiful, examples include: Duval County, where I had to personally fight to get additional early voting locations in the county so citizens could vote early if they so desired; in Orlando, along with many of my Florida colleagues, I demanded a Department of Justice investigation into police misconduct and voter intimidation, in which the Florida Department of Law Enforcement officers intimidated elderly members of Orlando's black community, wherein armed plain clothes police in Orlando went house to house to question, or rather intimidate, dozens of elderly African American voters in their own homes. It is not surprising to me that many of the people that were questioned were volunteers in get out the vote campaigns. Lastly, we saw once again that the Florida elections supervisors were on the verge of incorrectly purging thousands of Florida citizens from the voting rolls, an action which fortunately was never completely carried out because of a CNN lawsuit requesting to see the names on their list.

Let us remember that during the 2000 elections, in my district alone (Duval County) there were approximately 27,000 ballots that were spit out by faulty machines. A disproportionately large percentage of these votes came from City Council Districts 7, 8, 9 and 10, primarily African American residential areas. Even more disturbing to me was that the Supervisor of Elections' office didn't release these figures to local officials until after the 72 hour deadline had passed. As a result, there were no legal avenues to demand a recount.

Moreover, it often goes unpublished that Florida Governor Jeb Bush spent $4 million of taxpayer money to purge a list of suspected felons from the rolls across the State: but whether or not this list was accurate was of little importance to Governor Bush. Apparently, it was the responsibility of the accused citizen to correct his or her status. Only later did we learn that the reason many of the people were incorrectly purged (estimates go as high as 50–57,000) was merely because their name was the same as, or similar to, one of the purged felons. For this reason, during the 2000 elections, some of the local election supervisors went so far as to refuse to purge names from the list of their voter rolls because, they argued, 'they did not have faith in how the state compiled its list of disqualified voters.'

Moreover, as part of a grassroots effort to encourage voters, particularly minorities, to get out to the polls, I organize motor voter drives. Yet during the last election, many voters, especially African Americans, were wrongly purged from registration lists, and many who had signed up at state motor voter vehicle offices never had their voter registration fully processed. As a result, these voters were disenfranchised as well. It is for this reason that provisional balloting is so important (wherein if a voter has not re-registered after moving within the same county, he or she may cast a provisional ballot at the polling place of their current residence). Unfortunately, to this day, the state of Florida STILL does not completely follow through with provisional balloting because, in Florida, if one casts a provisional ballot in a voter precinct which is not their own, their vote will be discarded.

To close, I reiterate that I strongly support today's Floor discussion, and pledge to continue to do everything within my capacity as a Member of Congress, and as the Democratic Party's Voting Task Force, to improve our voting system to ensure that everyone's vote is counted in future elections, and that our democracy remains just that, a democracy, not a plutocracy ruled by the elites.

Ms. MCKINNEY. Mr. Speaker, many have suggested that those of us committed to seeing a complete and accurate count of the Ohio vote in this past November's Presidential race should simply ''just get over it''.

Well this Member of Congress has sworn an oath to ''uphold and defend'' our nation's Constitution, and I do not believe that our commitment to Democracy is anything we should ''get over''. In fact, our commitment to democracy is something I believe we must deepen and

expand until this dream is transformed into a reality for every citizen of this nation.

But democracy is not to be achieved by an investment in the latest computer technology (even if computers can help us administer our elections). It is not achieved by rhetoric and flags, pomp and feel good myths of what a great nation we are.

Democracy will only be achieved by listening closely to the intention of the voters and hearing clearly from them what a great nation they wish this to be.

I'm afraid that has not happened in Ohio nor likely in other states this year.

Predominantly African-American precincts and campus precincts saw localized shortages of voting machines leading to long lines frustrating would-be voters who left for work without casting a ballot. Precincts in affluent, white and Republican suburbs did not suffer such problems.

Phone calls and fliers targeted African American voters sending them to vote on the wrong day at the wrong locations.

Long-time voters ''disappeared'' from voting rolls.

Voting machines ''defaulted'' to Bush votes regardless of which candidate the person voted for.

People were forced to vote provisionally if they were in the right county but the wrong precinct. Sometimes the right precinct was literally only one table away.

And as we did in Georgia—I'm sorry to say, too many voters in Ohio cast ballots on machines running trade secret protected, proprietary software, which produced no contemporaneously voter verified paper audit trail of their votes, leaving voters intentions subject to untraceable electronic manipulations.

The Green and Libertarian Presidential candidates demanded a recount because the stories of vote suppression and manipulation were so blatant. Three thousand volunteers and six thousands contributors came together to make that recount possible.

But Secretary Blackwell, charged with providing for free and fair elections for the people of Ohio fell short. While the law requires that precincts be selected randomly for spot checks, many counties hand-picked precincts in violation of the law.

Ohio law requires that a discrepancy between the machine count and the hand count in a spot checked precinct lead to a full recount by hand of the entire county. But these hand recounts were not conducted as required.

The integrity of the recount itself was put at risk by lax security for the ballots and the voting machines, which failed to maintain a chain of custody for election materials.

Credentialled observers were denied an opportunity to meaningfully observe the recount process, were threatened with eviction for asking questions and completed their work still unable to assure the voters that the certified results accurately reflected the collective intention of the voters in their counties.

The Ohio Secretary of State failed to provide adequate and uniform standards for the conduct of the recount.

Perhaps as disturbing as anything else, was that Ohio Secretary of State J. Kenneth Blackwell mixed his non-partisan duties to the voters of Ohio with his partisan duties as the co-chair of the his state's Bush Re-election campaign.

We need:

A Constitutional right to vote;

Uniform standards for the conduct of elections and recounts;

A contemporaneously produced voter verified paper trails for electronic voting machines;

An end to the use of trade-secret protected, proprietary software for voting machines;

Independent election commissions (or administrators) to oversee elections. (No campaign officials should ever again be placed in charge of counting or overseeing the vote); and

The abolition of the Electoral College, replacing it with popular vote using Instant Runoff Voting.

As can be learned at votecobb.ord, the recount documented wide spread evidence of fraud, the obstruction of legitimate votes (especially those cast by African Americans and young people), and computer voting machine manipulation. The Ohio recount was tainted by a lack of cooperation, the failure to follow consistent standards, and conflicts of interest by Republican election officials.

A constituent of mine from Chamblee Georgia wrote that ''If Senate Democrats remain silent on Thursday, and we see a repeat of their 2000 endorsement of a manipulated election, the Democratic Party will have abandoned all claims to be the opposition. Americans who care about democracy and fair elections should understand such silence as an endorsement of the kind of Republican election engineering we witnessed in Ohio and of the Bush agenda.''

The founders ratified our Constitution, but under popular protest very quickly adopted a set of amendments demanded by the people. Among those first changes to our governing Constitution were two Amendments designed to ensure that our nation would continue to serve the people of this nation. The First Amendment guarantees our right to petition, speak, write and assemble: in short to organize politically to change our form of government. The Second Amendment was adopted to ensure the ''security of a free State.'' If we cannot protect the sanctity of the vote and those First Freedoms, we risk leaving our citizens no choice but to reach for the Second Amendment in their own defense.

There have been 1,341 U.S. soldiers, including twenty-nine Georgians and two from my district that have so far lost their lives in our occupation of Iraq. I grieve with the families for their loss. But what are we to do when we attempt to export democracy abroad when we can't seem to even produce it at home.

Ms. MILLENDER-MCDONALD. Mr. Speaker, today it is with a respect of my past ancestors that I rise to list my name with my fellow colleagues, who have come to address the disenfranchisement of many voters who were unable to cast their votes in the most fundamental exercise of democracy—voting for the President of the United States.

As the sole member of the Congressional Black Caucus and the only woman to serve on the Committee on House Administration, I have received numerous letters from constituents and citizens whose outcry is of faulty equipment and irregularities in this last Presidential election.

Mr. Speaker, the breadth and depth of what occurred in Ohio surrounding this past Presidential election is astounding and naturally calls into question the validity of our electoral process.

However, the larger picture requires that we must engage a debate of our voting process as it represents the bedrock of our democratic society.

The Judiciary Committee, under the request of Congressman JOHN CONYERS, found that voter registration applications were incorrectly rejected; registered voters were wrongfully purged from the rolls; inadequate numbers of voting machines were used resulting in voters waiting hours to vote; and voter intimidation and misinformation was insidious at voting sites. This caused the disenfranchisement of thousands of voters across the country.

Mr. Speaker, I represent the voices of my constituents in the 37th district of California who are calling on this Congress to fully fund the Help American Vote Act. I have also called on the President to fully fund HAVA to remedy the ill-fated processes and procedures that currently exist.

Our country cannot be seen as the example of democracy in the world when there are lines of voters wrapped around the corner unable to vote and exercise this fundamental right.

We must do everything in our power as a representational body to make sure that every voter votes and that every vote is counted. We must reform our election process so that the outcome of future elections will not bring us again to this same place.

I will continue to call for further hearings that will help alleviate the irregularities in voting, and put into action the implementation of voting best practices.

Ms. DEGETTE. Mr. Speaker, the American electoral system is the paragon of democracy for the world. Therefore, we must hold ourselves to the highest standards when we conduct elections. There can be no doubt about the outcomes, no questions about fairness or fraud. Where there is even a whiff of impropriety, we have an obligation to act, and in a bipartisan manner.

The fundamental underpinning of our democracy is our guarantee that every citizen has the right to vote. Over the last 225 years we have worked slowly, but steadily, to expand this right. We have corrected grievous injustices that once prevented too many of our fellow citizens from having a voice in our democracy. Despite these efforts, sadly, we have had serious evidence of improprieties in both of the last Presidential elections. In 2000, the disenfranchisement of Florida voters took that election all the way to the U.S. Supreme Court. The 2004 Washington State gubernatorial election took over 6 weeks to resolve, and the Ohio voting process gives rises to grave concerns.

In Ohio, and other states, voters in far too many precincts faced significant obstacles when they tried to vote. Ten-hour lines to vote, a lack of sufficient ballots, wrongly purged or inaccurate voter registration roles and miscalibrated voting machines are unacceptable. These actions not only call into question the integrity of our election results, they deprive individuals of the right to vote that too many people have fought and died to protect.

We should have learned our lesson after the 2000 election. I supported and co-sponsored strong voting reform legislation, including the Help America Vote Act. This was the most

comprehensive package of voting reforms passed by Congress since the Voting Rights Act of 1965. It marked a first step, but only a first step in modernizing our electoral process nationwide.

While Congress did pass legislation, the 2004 election shows that we have not gone far enough to restore integrity to the process. We cannot continue to ignore this problem. We cannot allow Americans to be unjustly deprived of our fundamental right to vote or of anyone to doubt the outcome of our elections. Congress must develop a comprehensive and bipartisan solution to the problems that still plague our system.

I commend the gentlewoman from Ohio for raising this issue, and commit to work with her and the rest of my colleagues in our continuing quest to assure that all Americans' votes are counted.

Mr. DEFAZIO. Mr. Speaker, as even the sponsors of today's challenge to the Ohio vote acknowledge, the protest is not intended to try to overturn the results of the 2004 election. President Bush won the state of Ohio and the popular vote.

However, like in 2000, the most recent election was marred by multiple irregularities, allegations of fraud, and technical challenges. Today's debate provides an important opportunity to discuss on the House floor our continuing concerns about the integrity of our electoral process, which has been called into question by the last two Presidential elections.

Others have mentioned many of the specific concerns about the process in Ohio. Many of these problems were seen in other states as well. In response to the widespread problems, I wrote to the Government Accountability Office in November requesting an investigation of these irregularities and a review of whether tougher federal voting standards are necessary to resolve them. While Congress did approve election reform legislation in response to the problems in 2000, more needs to be done to restore the integrity of the electoral process.

One of the most blatant shortcomings is the lack of a paper trail for many electronic voting machines. In 2003, I cosponsored legislation to rectify this problem. Regrettably, the Republican Congress refused to act on it. So we headed into this last election knowing that electronic votes could not be verified or recounted manually. Damaged machines and programming errors have actually expunged all records of votes in isolated instances. That is unacceptable. I will continue to pressure the Republican leadership to allow a vote on this issue.

In addition, I asked GAO to review the need for open-source computer code for these machines. The new technology must be accessible for review and audit. The voting public must be certain that the system cannot be manipulated, and that their vote is recorded properly and accurately regardless of what system they use.

And, I asked that the investigation review the need for uniform and simple standards for counting provisional ballots, registering voters, and identification requirements at polling places. I believe strong federal standards in these and possibly other areas are necessary for federal elections. The varied standards from state to state, and even within states, seriously endanger the integrity of our elections.

We need to insure the integrity of our electoral process is absolutely beyond question. Until we fix the problems mentioned today, we will never be able to say with confidence that every vote has been counted, and counted correctly and fairly. Election reform must be a top priority of the 109th Congress.

Mrs. DAVIS, of California. Mr. Speaker, the 2004 election is over, and the results are in. I am not here today to dispute which candidate won the election. I join my colleagues today in expressing concern, however, about the irregularities that have been documented from the election in Ohio.

Mr. Speaker, we can argue all day about what did or did not happen with the election in Ohio, the procedures that were or were not used there, or about the voting machines. The issue we are addressing today, however, is the fundamental right of every American to vote. I am not challenging the outcome of the past election today. What I am challenging is the fact there are people in America who have been denied the right to vote. And that, Mr. Speaker, is wrong.

People from around the world watched the State of Ohio with great interest on Election Day. Widespread reports of irregularities and waiting times in excess of 4 hours were extremely troubling to all of us.

I just returned from the Ukraine, where some of my colleagues and I had the privilege to observe the second election there. As we are all well aware, incidence of irregularities, voter intimidation and fraud during the first Ukrainian election were widespread and well documented. People from all over the world watched both of the Ukraine elections. And we have all been deeply moved by the success of democracy there. The triumph of the Ukrainian people's will has been profound.

Mr. Speaker, a success for the democratic process like the one we just witnessed in the Ukraine doesn't just happen on its own. It takes the courage and conviction of a country's citizens to rise up and challenge what they feel is wrong. If the people feel that irregularities or intimidation have taken place, they must stand up to it. They must shed light on it. They must insist it be prevented from ever happening again.

Much of the international community, including the United States, has contributed money, training and resources to help build democracy in countries like the Ukraine. Having the opportunity to go to the Ukraine, and to witness the process first hand, was an incredible experience for me and for my colleagues who were with me. To see the people in the streets, and to observe their profound sense of satisfaction with the election was very powerful. It was clear to all of us who were there that the Ukrainian people had come to believe that people truly are empowered to challenge injustices when they occur.

Mr. Speaker, I cannot escape the parallels we should draw between the issue we are addressing today and my experiences during the Ukrainian elections. In large numbers, the Ukrainian people took to their streets—not to support a particular candidate—but to support democratic principles and the right for each person's vote to be counted fairly and unencumbered. I am heartened that America has been able to offer assistance to countries like the Ukraine in establishing democracy. What we must realize, however, is that America may indeed have a few things to learn from their experience as well.

Mr. TIBERI. Mr. Speaker, I rise today to express my disappointment with where we are today and what this process has become. I'd like to start by pointing out just a few facts.

County boards of elections in Ohio are bipartisan—made up of two Republicans and two Democrats. These individuals routinely put in 12–15 hours a day for 3 months to oversee elections in Ohio. I've spoken with Democratic members of the boards of elections in the counties I represent. They too have expressed disappointment. In fact, not one board of elections official has raised complaints.

In fact, Franklin County Board of Elections Chairman William Anthony has gone so far as to label those making these wild charges ''a band of conspiracy theorists.'' By the way, Anthony is also head of the Franklin County Democratic Party. I know him personally, as I do others who serve on the boards of elections in the three counties I represent.

Democrat or Republican, they badly want their candidates to win. But above all else, they want to ensure that everyone eligible to vote has an opportunity to do so, and that each vote is counted accurately.

Were there problems? Certainly. Long lines, not enough voting machines, these are things we can discuss. But, we must also acknowledge that these are problems that occurred across the board—urban and rural, Republican and Democrat.

The Republicans and Democrats who served on each county board of elections decide on the placement of voting machines jointly. I don't think the Democrats would agree to a plan that would cost their candidates votes by shifting machines away from where their supporters cast ballots.

Second, there were lines everywhere because of unprecedented turnout. As The Columbus Dispatch pointed out after the election, the busiest places to vote were not in the urban areas of Columbus, but in the suburbs.

All editorial boards of the major newspapers in Ohio have said what we are doing today is over the line. From the Cleveland Plain Dealer, ''The election horse is dead. You can stop beating it now.''

Everybody talks about how partisan this town has gotten. I wonder why—look at how we're starting the 109th Congress.

In closing, I'd like to say a few words to boards of elections members—and all other elections workers—that they might not have heard recently:

Thanks. Your hard work is appreciated.

Mr. CONAWAY. Mr. Speaker, several members have mentioned the inconvenience that many voters may have experienced on voting day by having to stand in line to wait their turn to vote.

I want us to put that inconvenience into a proper perspective. It goes without saying we should eliminate any barrier to voting that we reasonably can eliminate. That said, one day last year the Afghan people got up early one morning, put on their best clothes and set out to vote for the first time. They left the safety of their homes to vote at the express threat to their safety and very lives. They were threatened with being shot and killed or maimed by bombs. In addition, many stood in line all day to vote.

I believe we should look to the Afghan people for an example of how to fulfill our responsibility to vote.

Mr. SHUSTER. Mr. Speaker, I've been rather mystified over the reaction to the recent election by many Democrats. Since the November election, when a political opportunity

arises, some on the other side of the aisle shout out words like ''fraud'' and ''sham.'' If they aren't doing that they demean what the people in the red states did on Election Day and call them insulting names.

If this all seems to be the reaction of a shell-shocked party who has lost any vision and has moved to a vicious attack cycle—it is. The hard truth is that 58 million people voted for President Bush. And the even harder truth is that the majority of this country voted for President Bush, no matter how you try to confuse it. No proven allegations of fraud. No reports of widespread wrongdoing. It was, at the end of the day, an honest election.

My concern with this protest, is its overtly partisan nature. I notice that my colleagues are quick to criticize the vote in Ohio, a state that the President carried. Yet we have heard little about potential problems with voting in states that Senator KERRY won. Rumors of voter problems have been reported in states other than Ohio, including my own state of Pennsylvania. But the focus today seems to only be on a state carried by President Bush; and that leads me to believe that today's protest is about the outcome not about the process.

I believe a good deal of the reason for the last election is the failure of the left to produce a vision. And with an opportunity to regroup, take responsibility and work hard; they have walked away to the comforting shoulder of smear attacks.

I say let's move on to do what we were elected to do, make positive change in this country. It's time we put partisan politics behind us.

The SPEAKER. All time has expired.

The question is, Shall the objection submitted by the gentlewoman from Ohio (Mrs. JONES) and the Senator from California (Ms. BOXER) be agreed to.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. PORTMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 31, nays 267, not voting 132, as follows:

[Roll No. 7]

YEAS—31

Brown, Corrine
Carson
Clay
Clyburn
Conyers
Davis (IL)
Evans
Farr
Filner
Grijalva
Hastings (FL)
Hinchey
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kilpatrick (MI)
Kucinich
Lee
Lewis (GA)
Markey
McKinney
Olver
Owens
Pallone
Payne
Schakowsky
Thompson (MS)
Waters
Watson
Woolsey

NAYS—267

Aderholt
Akin
Alexander
Andrews
Bachus
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Beauprez
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Cole (OK)
Conaway
Costa
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Drake
Dreier
Duncan
Ehlers
Emerson
Engel
English (PA)
Etheridge
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gohmert
Goodlatte
Gordon
Green (WI)
Green, Al
Green, Gene
Hall
Harman
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holt
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Istook
Jindal
Johnson, Sam
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kennedy (RI)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kuhl (NY)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Oxley
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Spratt
Strickland
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (NM)
Upton
Van Hollen
Visclosky
Wamp
Wasserman Schultz
Watt
Waxman
Weiner
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—132

Abercrombie
Ackerman
Allen
Baca
Baird
Baker
Baldwin
Bass
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Blumenauer
Bono
Boswell
Boucher
Boyd
Brady (PA)
Capps
Capuano
Cardin
Cardoza
Coble
Cooper
Costello
Crowley
Cunningham
Davis (TN)
DeFazio
Delahunt
Doggett
Doolittle
Doyle
Edwards
Emanuel
Eshoo
Everett
Fattah
Flake
Forbes
Ford
Fossella
Frank (MA)
Gallegly
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Granger
Graves
Gutknecht
Hefley
Higgins
Hinojosa
Holden
Hoyer
Inslee
Issa
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Kelly
Kind
Kolbe
LaHood
Langevin
Lantos
Larsen (WA)
Leach
Lofgren, Zoe
Lowey
Lynch
Maloney
Matheson
McCarthy
McDermott
McIntyre
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller, Gary
Moran (KS)
Neal (MA)
Ortiz
Otter
Pascrell
Paul
Pearce
Pickering
Rangel
Rogers (AL)
Rohrabacher
Roybal-Allard
Ruppersberger
Rush
Sanchez, Loretta
Schiff
Serrano
Shays
Shimkus
Skelton
Slaughter
Smith (WA)
Souder
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Terry
Thompson (CA)
Towns
Udall (CO)
Velázquez
Walden (OR)
Walsh
Weldon (FL)
Wexler
Wilson (SC)
Wynn

SWEARING IN OF MEMBER-ELECT

The SPEAKER (during the vote). Will the gentleman from Georgia (Mr. NORWOOD) please come to the well of the House and take the oath of office at this time.

Mr. NORWOOD appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you will take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office upon which you are about to enter, so help you God.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER (during the vote). Under clause 5(d) of rule XX, the Chair announces to the House that in light of swearing in the gentleman from Georgia (Mr. NORWOOD) the whole number of the House is adjusted to 430 Members.

□ 1702

Messrs. HALL, MORAN of Virginia and CUMMINGS changed their vote from ''yea'' to ''nay.''

Ms. MCKINNEY changed her vote from ''nay'' to ''yea.''

So the objection was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ABERCROMBIE. Mr. Speaker, due to official travel today with the House Armed Services Committee, I was unable to cast my vote on the challenge to the Electoral College tabulation of votes for President and Vice President of the United States. Had I been present, I would have voted to sustain the objection to the Ohio electoral votes.

Stated against:

Mr. PASCRELL. Mr. Speaker, I was unavoidably absent for the rollcall vote today on challenging the Ohio electoral vote. Had I been present, I would have voted ''no'' on rollcall 7.

Mr. WALDEN of Oregon. Mr. Speaker, I would respectfully request that today's RECORD reflect that I was in my home State of Oregon attending a longstanding official event

when I learned of the vote relating to Mrs. JONES of Ohio's objection to the certified results of the Electoral College balloting in the State of Ohio and was unable to return to Washington, DC in time for today's vote. I would like the RECORD to reflect that had I been present I would have voted "nay."

Mr. BERMAN. Mr. Speaker, I was unavoidable detained and therefore unable to cast a vote on rollcall No. 7. Had I been present, I would have voted "no."

Mr. SHAYS. Mr. Speaker, on January 6, I was conducting oversight in Southeast Asia of tsunami disaster relief efforts and, therefore, missed one recorded vote.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted "no" on recorded vote No. 7.

Mrs. MCCARTHY. Mr. Speaker, because of illness, I was not present on the vote on agreeing to the objection on the Ohio electoral vote on January 6. Had I been present, I would have voted "nay."

Mr. MICA. Mr. Speaker, I was unavoidably detained and was unable to vote on rollcall 7. Had I been present, I would have voted "no" on this measure.

Mr. STEARNS. Mr. Speaker, I was unavoidably detained and missed rollcall No. 7. Had I been present, I would have voted "no."

Mr. BASS. Mr. Speaker, on Thursday, January 6, 2005, I regrettably missed recorded vote 7. Had I been present, I would have voted "nay."

PERSONAL EXPLANATION

Mr. KIND. Mr. Speaker, unfortunately, I had to fly back to Wisconsin for a military funeral and missed rollcall vote No. 7.

The SPEAKER. The Clerk will now notify the Senate of the action of the House, informing that body that the House is now ready to proceed in joint session with the further counting of the electoral vote for the President and Vice President.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate by a vote of 1 aye to 74 nays rejects the objection to the electoral votes cast in the State of Ohio for George W. Bush for President and RICHARD CHENEY for Vice President.

At 5:08 p.m. the Sergeant at Arms, Wilson Livingood, announced the Vice President and the Senate of the United States.

The Senate entered the Hall of the House of Representatives, headed by the Vice President and the Secretary of the Senate, the Members and officers of the House rising to receive them.

The Vice President took his seat as the Presiding Officer of the joint convention of the two Houses, the Speaker of the House occupying the chair on his left. Senators took seats to the right of the rostrum as prescribed by law.

The VICE PRESIDENT. The joint session of Congress to count the electoral vote will resume. The tellers will take their chairs.

The two Houses retired to consider separately and decide upon the vote of the State of Ohio, to which objection has been filed.

The Secretary of the Senate will report the action of the Senate.

The Secretary of the Senate read the order of the Senate, as follows:

Ordered, That the Senate by a vote of 1 aye to 74 nays rejects the objection to the electoral votes cast in the State of Ohio for George W. Bush for President and Richard Cheney for Vice President.

The VICE PRESIDENT. The Clerk of the House will report the action of the House.

The Clerk of the House read the order of the House, as follows:

Ordered, That the House of Representatives rejects the objection to the electoral vote of the State of Ohio.

The VICE PRESIDENT. Pursuant to the law, chapter 1 of title 3, United States Code, because the two Houses have not sustained the objection, the original certificate submitted by the State of Ohio will be counted as provided therein.

The tellers will now record and announce the vote of the State of Oklahoma for President and Vice President in accordance with the action of the two Houses.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of Oklahoma seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 7 votes for President, and DICK CHENEY of the State of Wyoming received 7 votes for Vice President.

Mr. LARSON of Connecticut. Mr. President, the certificate of the electoral vote of the State of Oregon seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 7 votes for President, and John Edwards of the State of North Carolina received 7 votes for Vice President

Senator LOTT. Mr. President, the certificate of the electoral vote of the Commonwealth of Pennsylvania seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 21 votes for President, and John Edwards of the State of North Carolina received 21 votes for Vice President.

Mr. NEY. Mr. President, the certificate of the electoral vote of the State of Rhode Island seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 4 votes for President, and John Edwards of the State of North Carolina received 4 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the State of South Carolina seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 8 votes for President, and DICK CHENEY of the State of Wyoming received 8 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of South Dakota seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 3 votes for President, and DICK CHENEY of the State of Wyoming received 3 votes for Vice President.

Mr. LARSON of Connecticut. Mr. President, the certificate of the electoral vote of the State of Tennessee seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 11 votes for President, and DICK CHENEY of the State of Wyoming received 11 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the State of Texas seems to be quite proud in reflecting the regular form and authenticity, and it therefore appears that George W. Bush of that great State of Texas received 34 votes for President, and DICK CHENEY of the State of Wyoming received 34 votes for Vice President.

Mr. NEY. Mr. President, the certificate of the electoral vote of the State of Utah seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 5 votes for President, and DICK CHENEY of the State of Wyoming received 5 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of Vermont seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 3 votes for President and John Edwards of the State of North Carolina received 3 votes for Vice President.

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Mr. LARSON of Connecticut. Mr. President, the certificate of the electoral vote of the Commonwealth of Virginia seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 13 votes for President and DICK CHENEY of the State of Wyoming received 13 votes for Vice President.

Senator LOTT. Mr. President, the certificate of the electoral vote of the State of Washington seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 11 votes for President and John Edwards of the State of North Carolina received 11 votes for Vice President.

Mr. NEY. Mr. President, the certificate of the electoral vote of the State of West Virginia seems to be regular in form and authentic, and it appears therefrom that George W. Bush of the State of Texas received 5 votes for President and DICK CHENEY of the State of Wyoming received 5 votes for Vice President.

Senator JOHNSON. Mr. President, the certificate of the electoral vote of the State of Wisconsin seems to be regular in form and authentic, and it appears therefrom that JOHN F. KERRY of the Commonwealth of Massachusetts received 10 votes for President and John Edwards from the State of North Carolina received 10 votes for Vice President.

Mr. LARSON of Connecticut. Mr. President, you should be justifiably