

NATIONAL COMMISSION ON FEDERAL ELECTION REFORM

TRANSCRIPTS OF THE FIRST PUBLIC HEARING

**Carter Center
Atlanta, Georgia**

March 26, 2001

PANEL 4: The Federal Election System: Historical Perspectives

Witnesses:

Jack N. Rakove	Professor, Stanford University
Alexander Keyssar	Professor, Duke University
Ruth B. Mandel	Director, Eagleton Institute of Politics
Larry J. Sabato	Professor, University of Virginia

President Carter: I think all of the panelists have taken their positions. Chairman Lloyd Cutler had to leave, but we will give him a full report on our process. This afternoon, our final panel is concerning the historical perspective of the federal election system. Not only what has happened in the past, but how we can derive lessons from the history of our country and holding elections. We are very proud to have this distinguished group with us. We will start by introducing Jack Rakove who is a professor at Stanford and already a friend of mine. It is good to have you with us, by the way, Warren Christopher has given us good advice here at the time he was chairman of the board of trustees at Stanford and when the Carter Center affiliated with Emory University. He gave us some sound advice based on his experience between Stanford and the Hoover Institute, and we have capitalized on that. So we are very proud to have you.

Professor Jack Rakove: Thank you, President Carter. I have to say I am here on bit of a lonely quest because I want to introduce a subject that has not yet been raised here. It seems to me that among all of the rules and procedures that this commission might wish to consider in its coming months of deliberation, the most fundamental rules in which we conduct presidential elections should not be neglected. And I refer specifically to an issue which has dropped off the radar screen since early November, and that is the Electoral College. In raising this issue, I want to make clear that I am not a political naïf. As my friend Alex Keyssar knows, I am not a starry-eyed idealist by any means. As Senator Gorton reminded me, what I really want to discuss is probably a non-starter to begin with. I think that it is precisely for that reason that it needs to be considered and that, indeed, we do need to look back and ask some hard and searching questions about the origins of the rather perverse institution that, in fact, governs our system of presidential selection, that is to say the electoral college.

There are at least four things that the election of November 7, or November 7th to December, demonstrated about the Electoral College. First, it can indeed produce a disparity in the results - that is to say between the popular vote nationwide and the electors. We know the last time this actually happened was 1888, but I'm sure, as President Carter well remembers, he was pretty close to actually participating in that kind of election.

President Carter: I wasn't old enough to remember.

Professor Rakove: Well, maybe not close enough. But if I remember correctly, President Carter enjoyed a margin of something like one million and a half votes nationwide. In fact, the swing of something like 30 or 40 thousand votes in a couple of states would have given President Ford a term in his own right. That in itself would have raised some interesting questions about our constitutional system. Secondly, a point that I think has not been fastened on is that in close elections, the formula for allocating electors among the states really does matter a great deal. As everybody probably knows, every state gets two electors in exchange, or return, for having two senators, and this creates a basic distortion from the perspective of a one-person-one-vote principle of democracy. In the last election, it turned out to be rather significant that President Bush carried 30 states with 271 electoral votes and Vice President Gore carried twenty states plus the District of Columbia, with 267 or 266 – depending on how you want to count in this case. So the departure from the one-person-one-vote rule turns out to have some significance in close elections.

Third, a point that seems to me to be strangely neglected during the discussion of the events of late November and December, the close divisions that we saw in six states – that is Florida, New Mexico, Iowa, New Hampshire, Wisconsin, and Oregon – remind us that the winner-takes-all rule, that operates in every state but Maine and Nebraska, is, itself, a rather arbitrary way to think about what happens when the voters from a particular state go to the polls. I have to say, I found myself being quite puzzled in late November and December that no one was discussing the idea that here we had a state which by any statistical measures the electorate of which was divided into two equal blocks by a statistically insignificant margin. Nobody was reflecting on the irony that all of Florida's 25 votes, not to mention the national election, would hinge on that statistically insignificant, and perhaps numerically indeterminate, result.

Finally, and I think in some ways perhaps most interestingly from our current perspective, one of the principal defenses of the electoral college is that, in fact, it operates to decentralize presidential elections. That is to say that the presidential candidates have to build national coalitions. They can't rely upon single regions. They have to find issues that play to a number of states. It seems to me, coming out of the last election, that the one thing we learned is that the Electoral College works in exactly the opposite fashion. It enables us to identify those states that are most in contest, and to identify, conversely, all the states which are not seriously any sort of contest, and therefore, to focus political activity, resources, and media buys on a relatively small number of states. So, in fact, the usual defense of the Electoral College turns out to be fallacious.

Well, there is no such thing as a five minute history lecture, but in the two minutes remaining to me, I want to just briefly make four substantive points, just to bear out the general set of issues that I have just identified. The first is that I think everybody who looks seriously at the adoption of the Constitution, and I consider myself in that category, will have to realize that the Electoral College is not a system that was well conceived at the beginning. It is a system we are perfectly entitled to feel fairly critical about because,

in fact, it was pretty much cobbled together at the last moment. I think the best explanation of why we have it is that it was not the most attractive but the least objectionable of the basic alternatives that were in front of the framers of the Constitution. So this is a part of the constitution that we are entitled to look at with a fair degree of critical scrutiny.

Secondly, we often say about the Electoral College that it is an anachronism because it was so long ago that the framers adopted it. The crucial thing to know about the Electoral College is that it was an anachronism not from the vantage point of the year 2000 but from the year 1800. All of the interesting innovations that have taken place in the Electoral College basically take place by the time Jefferson is elected in 1800. That is to say, the adoption of the winner-take-all rule and the resort to popular voting is basically worked out by 1800 purely for strategic reasons on the part of party leaders very much like the gentlemen sitting across from the witnesses here.

Third, the most difficult point, conceptually, to make about the need to reform the electoral college, and my own preference – I should say in passing, is to have a single national electorate without recognition of states having any capacity, especially in terms of the allocation of electors, is that small states neither need nor deserve the additional political weight they acquire by virtue of the two elector rule in exchange for the Senate. The reason for this quite simply is that Americans never vote on the basis of the size of the state that they live in except when they are voting on the question of whether or not the size of the state that they live in should be a basis for setting up the rules of an election. That is to say, I would hope the congressmen on the panel can affirm this, but it seems to me whenever you cast votes during your tenures in Congress, you weren't asking whether you came from a small or a large state and what kind of position was most appropriate to your constituents based on the size of the state you lived in. The basic consideration, which operated were what kinds of interests do your constituents have. And your constituents are the same as the constituents in all of the other states.

The fourth and final point I want to make, because I see that the red light is already going on, is simply that to bear out the earlier point about the fallacy that the electoral college actually works out to build strong inter-state coalitions. It seems to me patently obvious from the last election that with the sophistication of modern polling techniques - I was tracking polls daily myself in the weeks before the election - everybody knows which states are in play and not in play. So the idea that the Electoral College somehow works to distribute political energy, tension, and interest just seems to me now to be fallacious. Because any skillful politician, and everybody running for President, of course, earns that label, will know what states matter and what states don't. Which states do you need to concentrate your resources in and which not. I watched a fair part of the Olympics and a good part of the baseball playoffs as a citizen of California, and I never saw a presidential campaign commercial. That is a crude way to measure the distorting effect of having a state-based system, but that is exactly how our system operates. Thank you very much.

President Carter: Let us try to remain within the time. Thank you very much. We will have time to discuss later. If you don't mind, just give us a brief introduction for yourself.

Professor Alexander Keyssar: My name is Alex Keyssar, and I am a professor of history and public policy at Duke University. I am here presumably because I authored a book entitled *The Right to Vote: The Contested History of Democracy in the United States*, which appeared last September. This led me to be accused by my colleagues as writing the best-timed book in the history of the academy. I will not read this to you, but I will try to summarize some of the lessons that came out of it.

This history of the right to vote in the United States is, in fact, significantly at odds with popular and most cherished images that we have. According to these images, the United States has long embraced popular government and democratic values. Whatever limits were set on suffrage at the outset of our nation's history were steadily erased by an inexorable extension of a democratic ethos in a lengthy series of constitutional and legislative reforms. In fact, the history is much more complex, much less rosy, and far more filled with conflict than the standard image suggests. I think those conflicts offer some sobering lessons to us and to you facing the decisions you have to make. The election of 2000 was one when historical skeletons really came out of the closet. They came out of the closet and rattled loudly not only in Florida but throughout the nation, and understanding something about those skeletons, I think, can help us.

One such skeleton referred to, in what I have heard referred to a number of times obliquely, is the Byzantine relationship between the federal government and the states with respect to the right to vote, a relationship that was all too visible last fall as legal matters ricocheted between the federal and state courts. This peculiar relationship, and it is related to what Jack Rakove talked about, had its origins in a decision made by the founding fathers not to embed a national suffrage requirement in the federal constitution. The only reference to suffrage in the original constitution, as people here know, came in Article One, Section Two, which mandated that everybody who could vote for the most numerous house of the state legislature in the state in which they lived could also participate in elections for the House of Representatives. A national requirement was considered. It was rejected largely for contemporary, pragmatic, political reasons. The writers of the Constitution feared that a national suffrage standard might jeopardize ratification of the Constitution because each state already had its own requirement. Those requirements varied from one state to another, and there were bound to be objections to any uniform standard.

It was an understandable political decision, but in other respects it was the original sin of our constitution with respect to voting rights because it separated citizenship from suffrage and left the issue of suffrage to the states. As a result, there has been immense variability throughout history in the scope of the right to vote, and the federal government for more than two hundred years, has been playing constitutional catch up. It is for this reason, as we all know, that all of the constitutional amendments affecting suffrage are

raised negatively. They do not confer the right to vote. What they do is to prohibit certain grounds upon which the right to vote can be denied. Our constitution did not, and still does not, contain an affirmative guarantee of a right to vote. I would suggest, and this is a much broader matter than others have discussed, that such a guarantee is long overdue and that one thing that this commission should seriously consider is advocating the passage of a constitutional amendment guaranteeing the right to vote in federal elections for all United States citizens eighteen years or older.

The desirability of such an amendment is underscored by another aspect of our history, which is that the evolution of suffrage has not been unidirectional. It is not simply a story of progress and expansion. There are many moments when the right to vote has been taken away from groups of people: women in New Jersey in the early nineteenth century, African Americans in the north in the antebellum period, African Americans in the South after the Civil War, unemployed workers in the 1930s – just to name a few of the many, many groups of people who had the right to vote and then lost it. Most recently, convicted felons in Massachusetts lost the right to vote last November. The list of rollbacks is extensive. They point to an uncomfortable fact that Professor Boone referred to this morning; that is, strong as our democratic traditions are, there have been sizeable numbers of people who do not believe in democracy, who have opposed universal suffrage, and resisted enfranchising others, particularly if those others were poor, black, non-English speaking, or ethnically different. Proud as we are, as justifiably proud of our institutions, we must acknowledge that the United States acquires universal suffrage late in our history; 1970 would be a reasonably accurate date. I think it would be, perhaps, naïve to assume that suffrage would not, in the future, require very strong legal protection.

Another historical skeleton that came out of the closet was the Electoral College, but since Professor Rakove has done such a great job talking about this, I will forebear except to mention one point that he did not make. One thing that emerged in our election last fall was the peculiarity in the constitutional mandate that permits, seems to permit, state legislatures alone to choose electors. By implication, this was suggested both by Justice Scalia and the Florida legislature, possibly no popular vote would be required at all. That is a potential loophole that might well be closed. We stood on the brink of seeing the Florida legislature move on its own regardless of the outcome.

I would like to mention two final things, and I will try and do this as briefly as I possibly can. One involves the history of political parties with the evolution of suffrage. If there is one clear lesson that can be drawn, it is that each of the major political parties believes fervently in the right to vote of its own supporters and isn't quite sure about everybody else. This was expressed throughout our history and often in very graphic form and there is some recent evidence to suggest that the partisan administration of elections is not altogether extinct. I suggest that this would lead to in your consideration of reforms that would try to detach the administration of elections and the electoral process from the political parties. The rules that exist now are the rules of engagement between the major parties.

Which leads to my last point, which I will try and deal with as quickly as possible. Another issue that has been mentioned is the low turnout in elections. But not only the low turnout, but the seriously class skewed turnout in American elections. Turnouts in American elections have been declining for over a century. Historians and political scientists have made their livings trying to explain this. One thing that is clear is that there is no single explanation for the decline in turnout. But the fact is that turnout is very low, it was 50% in the last election, and it was much lower for people with below median incomes and with people with less than college educations. There are a lot of mechanisms, and we have heard a number of ideas today about how to go about that; some involve just different mechanisms of election. Many of which strike me as very good ideas. I would like to just put on the table for you the notion of changing some of the structures of the electoral process including ideas involving getting rid of winner-take-all elections as the sole model and moving toward some version or proportional representation or instant run off voting. The advantage of such systems is that they encourage new groupings, new candidates, and new parties. Historically, our democracy has been, in fact, most vibrant when third, fourth, fifth parties have proliferated and when they were challenging the major parties whatever the eventual outcomes. And since the red light has been on for quite some time, I will stop there.

President Carter: Thank you. Ruth Mandel.

Professor Ruth Mandel: Yes, hi. I am Ruth Mandel, and I am a professor at Rutgers University and Director of the Eagleton Institute of Politics there. I apologize in advance for poor eye contact. But because of the time pressure, I am going to glue my eyes to this text and race through it as quickly as I can.

This Commission is examining broad questions of federal election reform. I have been invited to address you from an even wider perspective based on what we have learned at the Eagleton Institute of Politics about political participation. In particular, our center for American Women and Politics has studied in detail the specific case of women's political participation. Another faculty member who works on race and politics has looked at African American participation. In our work on civic engagement and political participation, we have explored how young people relate to the political system. Therefore my observations are based on our studies of these three groups as they have attempted to participate in governance.

For women, the suffrage struggle lasted for seventy-two years from July of 1848, when Elizabeth Cady Stanton initially included the demand in the Declaration of Sentiments presented at the first women's rights convention in Seneca Falls to August of 1920, when Harry Burn, a twenty-four-year-old Tennessee state legislator, cast the tie-breaking vote that gave the suffrage amendment the 36 states it required for passage. While the United States population includes more women than men, it took decades after the Nineteenth Amendment was ratified, for women's level of voting to match that of men. By 1964, 44 years after enfranchisement, for the first time the number of women voting in the

presidential election exceeded the number of men voting, even though a smaller proportion of women than men voted in that election. After another 16 years, beginning in 1980, the proportion of women voting exceeded that of men, and this has been the case in every presidential election since. The 1980 elections, which also produced evidence of statistically significant divergence in women's and men's voting preferences, brought the gender gap into our political consciousness and discourse. In 1992, and again in 1996, women could claim for the first time that their votes had elected a president. In 1992, had only men voted, George Bush would have been re-elected. But because women were the majority of voters and more women chose Bill Clinton than George Bush, women's preference prevailed. Clearly, women have tremendous power at the mass level if they choose to exercise it. Not only in the 1992 and 1996 races, but in numerous gubernatorial and senatorial races, men's and women's voting preferences have been different and women's votes have determined the winners.

Women's recent political history is one of significant change in behavior and status. New aspirations and expanding opportunities have resulted in growing empowerment for women as public leaders. Since the 1970s women in steadily increasing numbers have become political candidates, competing for offices at local, state, and national levels. After 30 years of progress, women's representation in elected office has grown from below 5% across the board to 22% in state legislatures and over 13% in the House and Senate. Although the pace of change has been slow and parity remains a distant goal, women's increasing clout in voting booths and growing presence in institutions of governance stand as a progressive chapter in the history of our democracy.

It is tempting, even if premature at this stage of our knowledge, to claim causality between the relatively recent recognition of women's voting power and the increase in women's roles in electoral politics and government. No substantial evidence exists to prove that women have a gender group consciousness as voters or that a significant numbers of women are motivated to vote for female candidates primarily because of their gender. Yet it would be shortsighted to dismiss linkages between expected voter turnout and candidates' issue agendas or campaign tactics. Policy issues of particular concern to women, women's voices and images in campaign advertisements, female spokespersons, visible women hired or appointed to key positions by a political party, campaign or office holder, women recruited to run for party or elective offices, women exercising roles of visible political leadership; these and other gender changes in the landscape of American politics highlight the importance of understanding political participation as all of a piece, as an organic whole.

For African Americans, the citizenship rights granted after the Civil War were insufficient in many areas to insure the opportunity to vote. The Voting Rights Act of 1965 put an end to a host of legal barriers such as literacy tests and poll taxes that were intended to keep African Americans from registering and voting. In contrast to women's votes, African Americans' votes have had a more obviously conscious and direct effect on African American representation, most likely because of the geographic and socio-economic concentration of the black population.

The Voting Rights Act of 1965 not only contributed directly to the growth of African American participation, it also led to tremendous growth in the number of black elected officials at all levels of government. The number of black elected officials increased from 1,160 in 1970 to 8,936 by 1999 with important substantive consequences. We know, for example, that African American legislators add a somewhat unique or distinct set of policy issues and priorities to legislative agendas. A 1999 study found that, in general, African American legislators were more likely than white legislators to introduce legislation dealing with women's issues, children, education, poverty, and civil rights.

These findings parallel what we have learned about the impact of women law makers who are also more likely to place on the legislative agenda and give priority to issues dealing with women, children, and families. Simply put, it makes a difference when new groups participate in politics as voters and policy makers.

Quickly, in shifting focus from gender and race to age, a glance at the recent history of young Americans, presents a different picture of political participation. I will not repeat Professor McManus' statistics from this morning. They are all as accurate as they are alarming. Many young people believe that not voting is a socially acceptable option. Young people are clearly disengaged from traditional politics and have not sought in large numbers to mobilize a youth vote. They are not indifferent to the needs of their community. Levels of youth voluntarism are extremely high. Young people believe they can contribute more effectively to society by working to help people on an individual level than they can through standard political channels. They are willing to ladle soup for hungry people, but they rarely question public policies that could affect poverty and hunger or ask how political decisions might eliminate or exacerbate the need for the soup kitchen. America's youth do not see how the functions of government affect their lives. They do not believe that they can affect what they see as a remote and corrupt system. They rarely, if ever, come into direct contact with elected officials or know how officeholders spend their time.

As a nation, we can be proud that ultimately our democracy has been responsive to a range of reform movements, extending the franchise to previously excluded groups. But at the beginning of a new century, with citizens of voting age apathetic and disengaged from the political system, we must now address the challenge of how to insure that all segments of the population believe that their needs and interests are served by the political process starting with, but not limited to, voting. Daunting a challenge as it is - to make voting easier and more attractive for greater numbers and more diverse types of citizens - achieving this goal will have an impact on other types of political behavior. People who are not engaged as voters, will not be engaged in other ways. People who do not vote also do not run for office, organize or lobby in support of issues, or take on responsibility for the larger community. They do not become public leaders.

In order to address the goal of making elections fairer and more inclusive, we must ask broad difficult questions. Do potential voters lack interest in the political system because

they perceive that it doesn't address their interests or concerns? Do they think, as one of my students recently said, that problems in the United States are not as great as they are in other parts of the world, and therefore do not require their attention?

Or maybe the problems are too serious, and they don't believe that voting will make a difference. Do they observe that their votes seem to matter very little when more than 95% of incumbents are re-elected and when fewer than 15% of congressional districts have competitive races? Is voting becoming obsolete as some might claim with eligible voters not bothering because they believe that the true sources of power in our society lie – outside of the realms of the officials we elect – in the hands of other geopolitical and economic forces that shape our lives. There are also questions about attitudes toward the political systems. Why are politics and public service held in such low regard that Senator Bob Dole's presidential campaign thought it best to downplay his years of experience as a leader in the United States Senate? Why are days of rage a feature on a New Jersey radio station – days set aside for callers to bash government and politicians? Confronting a culture plagued by widespread cynicism about politics and government, America must find the ways and means to rehabilitate public service and to commit itself to strengthening the bonds between its people and its democratic institutions.

A nationwide effort, a partnership of government, the philanthropic community, professional organizations, educators, non-profits, and others, is required to bring people into the system and show them what they can accomplish through political participation.

President Carter: Well, the next panelist is the only one in whose class I have lectured. But he has probably forgotten.

Professor Larry Sabato: President Carter you have a wonderful memory. We enjoyed that. In fact, the students in that year remembered only your lecture, none of my lectures, only your lecture.

My name is Larry Sabato, and I am the director of the Center for Governmental Studies and a professor of government and foreign affairs at the University of Virginia. I want to thank President Carter and the Commission and my colleague Philip Zelikow at the Miller Center at the University of Virginia for inviting me. I have heard the instructions are five minutes, which is less time than Julia Roberts took to accept her Oscar. It is kind of tough to do for a college professor, but I am going to try and do it. I would like to be informal in presenting it.

My own Center, as Philip knows, is doing a study and we call it the National Symposium Series on these very subjects. In fact, the Electoral College is one of them. The nominating process for President is another piece of it. Voting reform is the third piece of it. We are also going to produce a report and we would be happy to share it with you for whatever good it might do, if you are interested.

We have had a lot of past presidential contenders come and give their thoughts on the system, President Carter. They were all unsuccessful. We thought we might learn more from the ones who lost than the ones who won. So that is why they were invited. If you are interested in what they had to say, I would encourage you to have a look at our website – www.goodpolitics.org.

Just to prove what is said about academics – that we are all politically correct and that we all think alike – isn't true. I want to say – and I am sorry Jack about this but – I happen to be a strong supporter of the Electoral College system. The only change I would make in the Electoral College is to make the casting of electoral votes automatic and eliminating faithless electors and all other electors for that matter. I think the Electoral College has overall served us well. But that is another subject for another day, and I doubt that you would want to have a long debate about the Electoral College.

I am also opposed, Alex, to proportional representation because I think it encourages instability in our system. Most of all, I believe what Mr. Bell suggested a little earlier, that reforms have unintended consequences. They sound sweet, but frequently the cure is worse than the disease. I believe that our friends in Congress, if they have the misjudgment to pass the so-called McCain-Feingold bill, will find that out, as others have, who have passed other campaign finance reforms. It will not take the election lawyers six months to devise new loopholes in addition to the ones that are not even controlled by that particular bill. I frankly believe that has a lesson for what you are trying to do and what my own center at the University of Virginia is trying to do. The unintended consequences of reform ought to be considered with every reform – even the minor sounding ones. Sometimes, they create the greatest problems, and I say that as a supporter of reform in some respects.

I would like to make several comments keeping within my five-minute time limit. First, we do not have federal elections; we have state elections for federal offices. It is very important to remember as you design a solution, as I assume you are going to for some of the problems we experienced last November, especially in Florida, that the federal government can offer incentives, and that is all right, but I think mandates in this particular area, given our constitutional structure, would be unwise and unwelcome.

Second, if you did establish or attach a string to federal funds provided by the federal government to localities to upgrade their election systems, the best string to attach would be a requirement that every state establish rules for recounting in advance. It is stunning to discover, in the wake of Florida, that most states have no statewide rules on recounts or rules comprehensive enough to cover the dimpled chads, the pregnant chad, the this kind of chad, and the that kind of chad. Clearly, every state ought to have a regime for recounting. And as I say, this is the best possible string you could attach to federal money. Also that accomplishes another important goal, it makes it more difficult for the judges and the lawyers who are result oriented to achieve their results in the absence of rules. When there are clearly articulated rules passed by state legislators, it is much more difficult for the courts, both state and federal, to do what they did in the Florida case.

Wasn't it amazing that the ideological breakdown in the Supreme Court was right along ideological lines, and the same could be argued for the Florida Supreme Court in the other direction? I am sure it was just a coincidence, but I think the rules would help.

Thirdly, administrative training for election officials – this is a much more pressing concern than changing the machines of the elections. I will talk about that in just a second. But better administrative training for many of the poll workers and elections judges so that they, in turn, can better train voters who are coming into the polling places, many of whom are first time voters or have not voted very frequently or are nervous coming into the polling places. This can make a tremendous difference. Reminding the voters about the procedures for voting in that precinct, in that state, if there is a stylus system, a punch card system, checking the back of the card to make sure that there are not any hanging chads – administrative training – that is where I think money ought to go, in my view, rather than to upgrade voter machines.

On the machines themselves – this is the phoniest part of the debate since November. The studies clearly show that there is only a marginal difference between and among the various voting systems. Is the punch card voting systems worse than the others? By a smidgen. The best system is probably the old lever system. They don't even make lever machines anymore. Second would probably be paper ballots instead of the high tech stuff that some people are trying to push on you. Five thousand dollars a machine or higher for the computer touchtone? And in fact, they are slightly worse than paper ballots and levers. So I think this is a phony part of the debate. I don't think there is much difference between the different types of machines. What is really important is the educational level of the voters using the machines. And that suggests something that is very important and I will get there in a moment – that is, civic education.

But before I get there though, I would like to mention one legitimate problem that does deserve your addressing and our addressing. All the groups that are looking at the election ought to look at this too; it is voter fraud. It is really is there. It is true. It is real. It is on both sides. It is not just Democratic. There are states where there were Republican fraud efforts as well. You ought to look at the Miami Herald and the Milwaukee Journal Sentinel that have had excellent journalistic studies of voter fraud in the November elections. Large numbers of felons voting in Miami and the Milwaukee area. It is real. I did a study that took a number of years. "Dirty Little Secrets" published in 1996. I have a long chapter on voter fraud: the history of it, the current practices of it, and dozens and dozens of examples of major fraudulent activities in the vote as well as a chapter on street money, which is another very corrupt practice that goes on in American elections. So that is real and I think it really needs to be looked at.

Finally, civic education. It seems to me that the most important reform of all is to do a better job of educating our young people. We could reach them best in the high schools and the junior high schools, teaching them about politics and teaching them how to vote. We have a program at my center called the Youth Leadership Initiative, which teaches young people practical things about politics, including how to vote. Every year we have

tens of thousands of young people voting by Internet prior to each general election. Now if you do that every year as they are moving through junior high and high school, the odds are that they are going to vote once they get out of high school. They are going to be more informed voters. They are going to know how to vote when they go into the polling place. Civic education is the best reform of all.

My conclusion is simple. There has never been a perfect election. Never has been, wasn't a perfect election in 2000, will never be. We will never have a perfect election system. But we can do better. We can do better and I have tried to suggest a few reforms that will help us to do better. Thank you, Mr President.

President Carter: Well, everybody went over time, and I think we are out of time. We were scheduled to adjourn at 4 o'clock. But I think everybody would agree with me that we need some time to discuss. So I will just arbitrarily declare that our meeting afterward will be abbreviated by a half an hour, and we will allot thirty minutes now to pursue some of these outstanding ideas.

Larry, it seems to me that just educating polling officials so that they can instruct voters is a waste of time and counterproductive because the best thing is to educate the voters before they get to the polls. I know in Plains where we still have the old lever-type operators, our poll officials do not have time to tell each voter how to operate the machine. If they don't know ahead of time, then they are in bad shape. I think that one of the obstacles now is to teach voters in advance how to vote, which I can assure you they do in all other foreign countries in which we participated. Is a multiplicity of voting procedures, which exist in a particular state or television or radio or newspaper arena. But I think that this is one of the things that need to be done. How do you relate to that? Would you be in favor of a uniform voting procedure within a state?

Professor Sabato: Yes, and of course some states have that. I think it would be difficult to mandate a federal ballot separate from the state and local offices being elected at the same time. Again, I suppose if the federal government were to provide a large pot of funding that might be a condition you would attach to the funding. I don't think that it would be at the top of my list of reforms. You know, we have 23,000 voting districts and 41,000 separate local governments in the United States. I am not sure that uniformity is a good idea.

President Carter: Well, the federal government has a lot of authority in establishing standards for a federal election and one would be a uniform date another would be standards for the presentation of recount procedure. So a state would have to prove that it could do so before getting federal grants. I remember when Georgia had eighteen-year-old voting since 1945 and then later the federal government mandated eighteen-year-old voting for federal elections. I think all of the states now have eighteen-year-old voting for state and local elections. That, to me, seems to be something that needs to be addressed. Is at least, how do you have uniformity of application of the laws as much as is feasible in the country.

I think it is a waste of time to talk about changing the Electoral College. I would predict that 200 years from now, we will still have the Electoral College. There may be some states, additional states that will go to the proportional allocation of electors. That is an option that has already been exerted. What do you think would be substantive moves that the government could make to enhance the number of voters that would turn out and also how we could move toward more accuracy and more assurance that voters' decisions were honored. Does anybody have any thoughts about that? That is really what this Commission is supposed to address.

Professor Keyssar: I think you should take as your premise that it is going to take a lot of things to enhance voter turnout. I think the idea of making Election Day a holiday is probably a good idea. One whole approach is to make it more convenient or easier for people to vote. I think that whole approach is sound. But I think you also have to recognize, and my own perspective is that you have to recognize, that only addresses one piece of the problem. I think there are a number of different pieces. What I was alluding to before that non-voters are not a random cross-section of the population; they are heavily skewed in certain directions. What is it about other aspects of our party organizations, structures or political culture that deters those people from voting and does not draw them to the political process? That is why. I know it tossed it off very quickly and it is a very complex matter, but issues of proportional representation, instant runoff voting or other mechanisms to encourage in some sense, more ideas to flourish precisely aimed at those people who in disproportionate numbers did not vote should be part of what you should think about.

President Carter: One thing that Ms. Mandel didn't mention is that the ratio of voting is approximately proportional to the age of potential voters. Older people vote like 60%; newly registered voters like 20% and then you go 30, 40 and 50. Strangely enough, the percentages of people who vote are almost equivalent to their age. This is something that is just as bad as the difference in ethnic groups or minorities not voting.

Judge Griffin Bell: We don't put any emphasis on personal responsibility. A twenty-year-old probably hasn't realized they have a stake in the country. So they are not too interested. If you get to be fifty years old, you start to worry about the death taxes. You have some reason to vote. Social Security. So it depends on your stake. And it transfers back to personal responsibility. I don't think that it is a good thing to tell people they have to vote. I think they did that once in the Soviet Union. You can force people to vote. Another thing you can do . . . [?]. . . the sheriff's race. Is that deputy sheriff [. . .] get people to sign absentee ballots.

Professor Mandel: They do it in Australia today and it is...

Judge Bell: I am sure they do things like that in other places. But that is not a free country when you are doing things like that.

Professor Sabato: Americans would never accept that. I would agree with you. I don't think it is a realistic proposal for reform.

Judge Bell: We make it so easy to register but then you have to go and vote. You have to know how to manipulate the machine.

Professor Rakove: If you really want a lesson from history on what encourages voters to turnout, it is very counter-intuitive to us but in the nineteenth century, which Alex and I certainly know and Larry probably does as well, the election cycle was essentially a yearlong event with periods of high partisan activity. There were multiple elections during the year for different office. There was intense party competition. Most historians and political scientists look back somewhat nostalgically, and perhaps wrongly, to the nineteenth century as the great heyday of active political commitment and participation. Most of us have tended to assume that the intense levels of competition, which were manifested both in the balance between the parties and the sheer volume of political activity was a major explanation.

President Carter, I am perfectly prepared to concede with you that we are probably stuck with the Electoral College until the cows come home. And we may not have cows coming home much longer they way things are going. If I am right about this point that the structure of, that the combination of, very sophisticated poll taking in state based systems may actually work to discourage interest and enthusiasm for Presidential voting.

President Carter: I am just talking about the almost inherent impossibility, in my opinion, of getting two-thirds of the House and Senate and three-fourths of the states to ratify.

Professor Rakove: Of course, of course. But in a sense my point correlates with the point that Ruth Mandel made. Since we have so many non-competitive, most congressional districts are non-competitive, so what is the point in voting for Congressman? Similarly, what is the point for feeling really strongly for turning out in a state like Wyoming, Georgia or New York, where essentially you know what the outcome is going to be in a presidential election. Competition is healthy to political participation. The more the electoral system is manipulated for partisan purposes to restrict competition, it seems to be the lower expectations we should have.

Ms. Colleen McAndrews: Do any of you have insight? We had asked for some background on comparative systems around the world outside the United States. A statistic got thrown out at our first meeting that the other industrialized country that has as low a voter turnout rate as ours is Switzerland. I am curious if you have any insight in to what is similar in their situation and their culture that would result in this same low voter turnout and if there is anything we can instruct ourselves from that?

President Carter: One thing is that they have a rotating presidency.

Professor Mandel: There has been a decline in most democracies recently. This is not a phenomenon here; it is a worldwide phenomenon. Now that is not true in South Africa. There are obvious exceptions and obvious reasons but there has been a decline and I think this is a very large broad issue, which goes beyond our culture. Although we are going to address it within our own culture. I also think these are very simplistic responses in one way but in another way, for me, are profound. For me, students thinking that it is socially acceptable to say, "I don't vote." Notwithstanding what you are saying about the Nineteenth Century and competition and so forth, it really wasn't socially acceptable when I was growing up. Not only that, the habit of voting was instilled. There is something that someone who is active in the women's movement started a few years ago, you might have heard of, Take Our Daughters to Work Day. Well I have often thought we ought to have a national public education program of take our children to vote. The habit was instilled in me and lots of people I know because my parents voted, but not just because I knew they voted but because they took me to vote. I took my daughter to vote and that is how I instilled that habit in her. I think there are lots of things like that just aren't happening now. What can the Congress do about this? It is not exactly a Congressional issue. But I do think that there is a broad cultural issue here of respect and interest and investment. Frankly, I think most elected officials should go to school one day a month. Go to school and spend the day. Not so that students have an opportunity to hear about the latest policy issue that they are dealing with, primarily, but to hear what their lives are like, what they do, what a mayor does and what a legislator does. In fact there is a project, Trust for Democracy project, that we have been involved with at the National Conference of State Legislators is supporting now to send legislators into classrooms much more often.

President Carter: Do you all think it is appropriate for us to assume that the reason young people don't vote is attributable to the influence of the professors in colleges?

Professor Mandel: I would say that I have been very disturbed by many of my colleagues, and I would not make this a general statement, but many of my colleagues who have gone into a classroom and stated: Why would you bother to vote? It is all corrupt. Essentially. They said it in more elaborated and sophisticated way but that is certainly an attitude – an acceptable attitude in educational circles. I don't know. It is not the first front that I would address. I would not go after professors first.

Professor Keyssar: I would like to come in on this from a slightly different perspective. For one, I agree with Mr. Bell about this. I find the question of young people not voting less disturbing given precisely the statistics you were talking about, which is that we do know that as they get older they do vote.

President Carter: Well that is just right now. I wonder if that 20 % is going to move up.

Professor Keyssar: Well, I am not saying don't address that. What concerns me more, again, are the other groups. I would like to offer a slightly different take on the history of

declining turnout, which is that I think that we understand, not that it points immediately to a solution, but that the decline in turnout in the United States wasn't something that just happened or evolved. In many cases the parties adopted rules that were designed to depress turnout. The registration laws of the late nineteenth and early twentieth century after very high turnout in the United States, were designed, North and South, to reduce the size of the electorate. It was explicit. This was not an accident. One I think has to look at the impact of these rules in keeping turnout down.

Congressman Robert Michel: I think there is an old political axiom that people are much more inclined to vote against, work against, argue against, be against something than act affirmatively, talk affirmatively and be for something. And when times are good, as they were until just recently, people say, "well I got no reason really, I am rolling along in pretty good shape." But I will tell you, my political career witnessed some pretty serious recessions with sixteen, seventeen and eighteen percent unemployment and brother did I hear it in spades and did they turnout in untold numbers and for young people too. If chances for a job are good then well, I am not all that concerned about it. But it there is that feeling that boy, I think the country is going in the tank, then well, I think there is an inclination on the part of our young folks to get fired up and try and do something about it.

Professor Mandel: Or re-institute the draft. You will get a big vote.

Senator Slade Gorton: Mr. President. Very briefly while you were out of the room, Lloyd Cutler stumbled over a description of this Commission saying non-partisan, bi-partisan. I guess I want to say that I would describe it as bi-partisan. I am one of those partisans. I have found this an absolutely fascinating and all too typical academic discussion with three members of the panel believing the rules ought to be changed that with the net result of elections being far more liberal then they are today. And one relatively moderate or conservative coming up, although he didn't say it in so many words, with what my great concern is from the field of medicine – that is, first do no harm. Mr. Keyssar doesn't even want to trust the very liberal electorate of the state of Massachusetts with the right to decide whether or not felons should be allowed to vote. He wants to take it away from them and place it in the Constitution because he knows more than they do about what they ought to do. So we have these academic and interesting criticisms of the Electoral College for which I agree with Professor Sabato. I think there are many real justifications.

But I really am deeply concerned with two specific singular problems in one state during the course of this last year. First, a claim that certain people were deprived of the right to vote, although they were registered voters. And secondly, that others did not have their votes counted for various mechanical purposes or some other should cause us even to consider a wide range of changes with all kind of potential if not unintended consequences. I don't believe without any change whatsoever, academically in the total retention of the Electoral College and I do want to ask Professor Sabato or if any of the others will comment on it. The great issue in 1992, I remember I introduced a proposed

Constitutional amendment on it, is what happens if Ross Perot wins a few states and throws the election into the House of Representatives, which does seem to me to be highly undesirable. I think one cures that within the context of a popular election only by saying that if no candidate receives a majority in the Electoral College, we have a runoff between the top two. I don't think you can do that other than through a Constitutional amendment. Inevitably, that is going to come up again. Lord knows it would come up if Mr. Keyssar is right and goes to the worst system of all, proportional representation. All we need is to be like Israel does. Boy, everybody gets represented that way and no decisions can ever be made.

Professor Sabato: Or Belgium or Italy. Senator, I agree with a lot of what you have said. Of course you were in the Senate and Mr. Michel was a minority leader in the House. You know the political processes better than I do. But I have to tell you, I do disagree with you on that point. I don't fear an election being thrown into the House. That is the Constitutional procedure. I think had it happened this year, it would have gone much more smoothly than believed. People in the House and the Senate, you all have enormous experience here, generally rise to the challenge when there is a great challenge when the spotlight is on them and they have to perform well.

Senator Gorton: We would have ended up with a President and Vice President of different parties.

Professor Sabato: Well, we would probably survive it.

Judge Bell: That is what Jefferson and Burr went through.

Professor Sabato: Jefferson, the founder of my university, survived it and did quite well and had two successful terms as president despite a tie in the Electoral College.

President Carter: Any other comments or questions?

Mr. John Seigenthaler: Well I would like to thank Professor Mandel for raising the vote of Harry Vern which changed the character and culture of voting in this country and allowed women to vote. And those of us in Tennessee who know about old Harry's vote know that he explained it by saying that his mama told him to do it. I just, if I could for a moment, would like to follow up on Senator Gordon's comment. It does seem to me, as President Carter pointed out very early this morning, that people in this country don't seem to understand that this oldest democracy in the world is by far and away not the best democracy in the world. Indeed among the true democracies, we may be the worst. I think people who are watching their television sets and heard the President sort of outline that, would be astounded to hear that. I would just like to ask you, anyone of you, whether or not if you agree with that, you think there is the opportunity to convince the Congress of the United States that indeed is where we are so that our recommendations might be translated into meaningful reform? I know your academic environment is a

political environment all right, but it is a totally different political environment. I would welcome your comments on that.

Professor Sabato: Congressman Blunt -- I don't know if he is still here but he has been working very hard. He kind of underplayed his role in Congress with the Speaker's office to try and get a bi-partisan agreement on a committee to look at many of the subjects you all are examining and my Center is examining. He has been working very hard. Unfortunately, for the reasons he suggested very subtly, it is not working out. There are some that would rather have this issue than have solutions. I think that is always a problem. You all that have served in office know better than I do. I worry about that. I would hope that some of you, those of you with the kind of political influence that you have would try and intervene in some way and urge the House of Representatives to do the right thing and appoint that select committee so that they can begin studying some of these subjects. Then we can at least have some minimal reforms that work prior to 2002 and certainly prior to 2004.

Professor Keyssar: If I may, for a brief answer to that, I think you have to think about a mixture. You will clearly have to have an eye on Congress and what is plausible. But at the same time, it seems to me, that this Commission as a non-governmental commission, also should serve as a kind of truth telling group, offering the best ideas you can offer even if not all of them can have much chance of being adopted. But they will be out there and there will be a process.

President Carter: I feel that is true. I hope that this Commission will be able to do that. You weren't here this morning but as you probably know, we will have other meetings of this Commission at the Reagan library, at the Johnson library and at the Ford library, right? And we will be hearing different points of view. But we, as I mentioned this morning before you arrived, we at the Carter Center have done elections all over the world. Last year I think we did six elections. We are there just to monitor; we have no authority. But we can observe and learn. Sometimes, if a country is in very serious trouble, we have been called in to help them with their election law and in the case of Nicaragua we participated in writing them a new constitution. And we have learned a lot in the process.

There, the error on Election Day in Guyana, where I was this past week, was almost undetectable. I would guess that there were no errors that you could quantify between what people wanted to do when they went into the polling places and the way the ballots were counted. They had about 411,000 people registered. They voted 88%. It was a very orderly and proper election but one of the most highly charged and disputed countries in the world. About half are Indo-Guyanese who were indentured servants earlier. The other half were Afro-Guyanese who were slaves. And their political parties are divided mostly Indian on the hand, mostly black on the other hand. So the country is highly divided.

But we see, for instance in the case of Mexico, twelve years ago Mexico had an embarrassingly fraudulent election. This past year, I think the Mexican election was the best I have ever seen. It was because the three parties – two major, one minor – got together and worked out some election laws which were passed by the Congress. They adequately financed the process. The central election commission had almost a billion dollars in cash money to spend with ID cards, and registration and education of voters.

And the other thing is that in this country, the TV stations are so greedy and selfish that they refuse to permit even a request that our commission made -- that President and I also chaired, as honoraries -- for five minutes a day. That is all we asked them to do. A tiny number of them agreed to devote five minutes a day to the presentation of the issues in the Presidential campaign. This is the kind of thing that makes it almost impossible to convince the American people that this is a legitimate election. Your vote is necessary. It will be counted accurately. You will take a substantive role in the election of your future leaders. This is the way you vote and your vote will be counted accurately. That doesn't seem to me too much.

And in some countries, as you know, there is mandatory registration of voters. I wouldn't favor that. But I don't see why we couldn't someday work toward a national list of American citizens. What is wrong with that? You could call it a citizenship list and then if somebody is a citizen and not in prison, why not let them vote. Those kinds of naïve or idealistic dreams have a chance I think at this peculiar moment in history to be considered seriously.

Four years ago this Commission's recommendations if made would have been totally ignored. And I think maybe five years in the future, they might be totally ignored. But because of the embarrassment of Americans with the Florida election process, this might be the only time, at least in my lifetime, when some deep analysis can be made. I think it is very helpful to us, I know it is, to have expert election officials, like we had this morning, elected officials, and then others, including you to come and give your views to us. The views have been highly diverse but I think cumulatively, all the members of this commission have learned a lot. We really do thank you for coming and for giving us the benefit of your advice and historical knowledge.

Congressman Michel: Mr. President, if I might just say for the record that you have been much, much more than an honorary co-chairman in this commission and participating as actively as you have today. We thank you first for the invitation to come to this very fine facility, hold our first hearing, and for your leadership that you have given through the commission. It adds prestige and we are most, I am sure I speak for all of us when I say that we are mighty, happy to be a part of it and to have you conducting yourself the way you did today.

President Carter: That is a comment I would like to declare as a closing comment.