



Polling place in Ashland, KY.

I. The Goals

of Federal Election Reform

In 2000 the American electoral system was tested by a political ordeal unlike any in living memory. From November 7 until December 12 the outcome of the presidential election was fought out in bitter political and legal struggles that ranged throughout the state of Florida and ultimately extended to the Supreme Court of the United States. Not since 1876–77 has the outcome of a national



President Jimmy Carter, Commissioner Colleen McAndrews, and Co-Chair Robert Michel.

election remained so unsettled, for so long. That nineteenth century political crisis brought the United States close to a renewal of civil war. Fortunately no danger of armed conflict shadowed the country in this more recent crisis. The American political system proved its resilience.

Nonetheless, last year's election shook American faith in the legitimacy of the democratic process. The effect is measurable. In 1996, three-quarters of the population thought the election had been at least somewhat fair. After 2000 that proportion fell to about one-half. About three-quarters of Democrats doubted the fairness of the process. But this is not simply a story of happy Republicans and unhappy Democrats. In 1996 just 12% of Republicans thought the election was unfair. But that proportion doubled after 2000. Beliefs about fairness are influenced by whose candidate won, but people also become uneasy when the process begins to seem arbitrary. Among those who called themselves Independents, only 11% labeled the 1996 election as unfair, but in 2000 that number rose to more than 40%.¹

This is not the first time the United States has undergone an election crisis. But the great electoral crises of the nineteenth century arose from serious structural problems. The 1800 crisis led to prompt passage in 1804 of a constitutional amendment, the Twelfth. The 1824 crisis transformed the American political system, forging the Democratic Party and leading to near-universal adoption of direct popular election for presidential electors. In 1824 only 27% of eligible voters went to the polls. Four years later 56% of the electorate cast ballots for president. The 1876 crisis arose from the special circumstances of the post-Civil War reconstruction of the South.

In the electoral crisis of 2000, by contrast, the ordinary institutions of election administration in the United States, and specifically Florida, simply could not readily cope with an extremely close election. Every aspect of the election process was put under a microscope and viewed by an anxious nation that saw controversial ballot design; antiquated and error-prone voting machines; subjective and capricious processes for counting votes; rolls that let unqualified voters vote in some counties and turned away qualified voters in others; confusion in the treatment of overseas military ballots; and a political process subjected to protracted litigation.

Stepping back from Florida, the picture is no more encouraging. The chief election official of Georgia, Cathy Cox, testified to this Commission that: “As the presidential election drama unfolded in Florida last November, one thought was foremost in my mind: there but for the grace of God go I. Because the truth is, if the presidential margin had been razor thin in Georgia and if our election systems

had undergone the same microscopic scrutiny that Florida endured, we would have fared no better. In many respects, we might have fared even worse.” Across America, we have heard the same from other election officials.

“There is probably no other phase of public administration in the United States which is so badly managed as the conduct of elections. Every investigation or election contest brings to light glaring irregularities, errors, misconduct on the part of precinct officers, disregard of election laws and instructions, slipshod practices, and downright frauds.... The truth of the matter is that the whole administration—organization, laws, methods and procedures, and records—are, for most states, quite obsolete. The whole system, including the election laws, requires a thorough revision and improvement.” That judgment, by election expert Joseph Harris, was published in 1934.² In the previous decade voter turnout had sunk to a low never again equaled before or since. So the problem is hardly new.



President Gerald Ford

But the character of the problem has evolved. In the second half of the century the federal government and federal courts established national voting rights, nationally defined. Permanent voter registration replaced the old pattern of requiring voters to re-register again and again. Election administration became more professionalized and non-partisan. Voting machines were introduced to gain greater efficiency and reduce the opportunities for the election fraud that had so frequently accompanied human vote counts. Yet, in much of the country, too many counts of that 1934 indictment remain valid.

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But in a world of problems that often defy any solution, the weaknesses in election administration are, to a very great degree, problems that government actually can solve. In the last few years, and now spurred by the events last year, election reform has returned to the legislative agenda in many states. In much of the country cadres of able and dedicated election administrators are in place who can show what is possible and carry reforms into practice. To support these efforts already underway and to encourage immediate and significant state and federal action, we make the following recommendations.



President Jimmy Carter

When they choose the president, the vice president, and members of Congress, the American people should expect all levels of government to provide a democratic process that:

- Maintains an accurate list of citizens who are qualified to vote;
- Encourages every eligible voter to participate effectively;
- Uses equipment that reliably clarifies and registers the voter's choices;
- Handles close elections in a foreseeable and fair way;
- Operates with equal effectiveness for every citizen and every community; and
- Reflects limited but responsible federal participation.

For Americans, democracy is a precious birthright. But each generation must nourish and improve the processes of democracy for its successors. In the near-term, the next three to five years for instance, we envision a country where each state maintains accurate, computerized lists of who can vote, networked with local administrators. Using that system, qualified voters in our mobile society would be able to vote throughout their state without being turned away because of the vagaries of local administration. Using the system we recommend here, millions of

military and other overseas voters would find it easier to get and return their ballots. Election Day would be held on a national holiday, freeing up more people to serve as poll workers and making polling places more accessible. Voting machines would meet a common standard of excellent performance. Each state would have its own uniform, objective definitions of what constitutes a vote. News organizations would exert necessary restraint in predicting election outcomes. Every jurisdiction and every official would obey the Voting Rights Act and other statutes that secure the franchise and prohibit discrimination. In all of this there would be a delicate balance of shared responsibilities between levels of government, and between officials and the voters they serve.

This report sets forth our recommendations for the next, immediate steps on the road to attainment of these goals.

President Gerald Ford,
June 5, 2001



