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PANEL 3: Legislative Strategies

Witness:

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United States House of Representatives

President Carter: The television crews have asked that we take a one-minute break so that they can change their film. By the way, we have made a practice at the Carter Center of inviting foreigners to come in and observe our elections, which has always been a good idea. The Carter Center now has a project of monitoring elections in China, which is a quite extensive effort because the Chinese permit, and their law requires, that all of their villages have democratic elections. The law that was amended, with our partial help in November of 1998, requires that everyone, when they reach eighteen, automatically register to vote. There is a secret ballot. You don't have to be a Communist to run for office. You can be reelected after three years.

So we had some Chinese come over to observe our elections and they asked, after visiting a nursing home, "Suppose these people vote by absentee ballot and die before Election Day? Do their ballots still count even though they're dead?" We hadn't addressed that question before but the obvious answer is yes. The ballot counts. Then when the Kentucky returns came in, they said it is obvious in the United States that dead people vote for dead people. So this is the sort of difficulty that foreigners have of understanding our system here. Quite often, they ask questions that are really interesting. I am just killing time. We are very proud to have you here Congressman.

Congressman Roy Blunt: President Carter, Chairman Cutler, members of the commission, thank you for letting me come today. At one time, I was scheduled to be here earlier and by coming this afternoon I got to stay at home one more night and there is great value in being at home. I glad that you could accommodate my schedule today.

I am grateful for your efforts. The presidential election in the year 2000 was certainly incredibly close. At the same time, that created a lot of challenges to our system. It created lots of opportunities to talk about the issues that your panel will talk about—issues that have not been at the top of the line of attention in our country for some time.

I do get to serve the residents of the seventh district of Missouri in the Congress and I am here today to talk to you about anything you might like to ask about my views on what might happen in the Congress this year. But I am also here as someone who has spent a lot of time as an election authority. I was an election official in the third biggest county of our state for a dozen years, and the biggest county in our state where someone was elected to do that job. And then for the eight years after that, I was the Secretary of State in the state of Missouri and served as the election official during that time.

During my two terms as Secretary of State, we established a formal certification process for voting equipment for the first time. We strengthened the state rules on pre-election

and post-election testing of equipment and implemented the state's first presidential primary during that eight-year period of time. There are six of us in the House and Senate who are former Secretaries of State, and last week we all co-chaired an event in the Rayburn building that was just a preview for ourselves and other members of the current and new technology and equipment that will soon be available or is available today. My good friend Max Cleveland, who was Secretary of State of Georgia while I was Secretary of State in Missouri, joined me in that effort as well.

The events of November the 7th 2000 are really monumental in many ways. One is just the monumental effort of elections that we have taken for granted for so long in this country. A million election workers that do that only on election day supplementing the few thousand full time election professionals in America. One million election workers went to two hundred thousand polling places and by the end of the day 105 million ballots had been cast. And by the ten o'clock news or sooner, we all expected to know what the results were of that effort. Just to put that in some perspectives, for the Census for example, five out of six families in the United States only answer six questions and 84 million of those forms were returned. We didn't expect the Census to produce results for a minimum of three months, while on Election Day, at those 200,000 polling places, we expect a much different result. It is easy to look back at November the 7th and point at what went wrong. It may be substantially more difficult to craft the solutions, and the efforts of this Commission to help in that regard will be very important.

We clearly need to establish a goal of 100 percent accuracy in the election system from voter registration to Election Day procedures to election night results. With 100 percent accuracy we will hopefully with each election get closer to reaching that goal.

Clearly, technology is not the only problem or the only answer. I know you have had the Secretary of State of Georgia here today. I was interested last week in looking at her report that suggested that one type of voting system did not necessarily produce all of the problems. In fact, as we look at that one system—that punch card system now used by 36 percent of the voters in this country—we need to be realistic in understanding that in the next election cycle, a good percentage of the voters in this country are still going to be using that punch card system. In light of that fact, what can we do, and what can this Commission do, to help move the process along in other ways. To assume that we are going to totally change the election process all over the United States before the 2002 elections is an assumption that we know we can't make. To assume the 36 percent of the voters that cast their ballots on punch card equipment in the last election—that all of them won't use that equipment in the next election—we also know that that is not the quickest result. We need to be looking for the things that we can do to help in the short-term and in the long-term.

Elections generally have been a state and local responsibility. In spite of that, the Constitution gives substantial responsibility to the Congress and we need to do a better job in Washington of helping meet that responsibility. There is a need for local election authorities to have better access to the practices and techniques used in other jurisdictions

to improve voter turnout and increase ballot accuracy. Congress should support the operation of such a system that would fund research, much like we fund research in other areas. We need to do a better job of insuring that our voter rolls are accurate—so that people are not wrongly disenfranchised and legally unqualified people are kept from the rolls. Congress may need to encourage states to take a more active role in assuming this responsibility.

There may be some local jurisdictions or states that want to upgrade election systems or procedures, and there certainly is support in the Congress for the federal government to provide incentives. Regardless, there is public interest in rethinking the procedures we now use to select our political officials. I think that your work will be very helpful in empowering election officials and authorities. So often, state and local election authorities find themselves at the losing end of the appropriations or the budgeting process. When you go in and talk about voting equipment needs that are only used a few times a year, and compete against the new bridge that needs to be built or the expansion of the industrial park, very seldom do you see a state or local election official winning that competition.

Elected officials almost always have their own views. The elected officials are people we really give the responsibility of elections to, they have to go to other elected officials who have their own views about how votes should be cast and counted, normally with a great deal of prejudice toward exactly the way it was done the last time they got elected. The one thing that you know if you are the Secretary of State—for sure when you go talk to a House or Senate budgeting panel—is that every single person on that panel thinks that they may not understand a lot about what goes on in the legislature, but they are an expert in elections. So what this Commission could do to empower election officials could be very, very helpful.

Voluntary standards for access questions, access issues to the polls. A thought I have had is the development of a model code. We have model codes in so many other areas of our law, like the Uniform Commercial Code. There is a long series of model codes. We don't have a model election code. If there was a model election code that state election official could go to the state legislature with and say, "This is the model code." Before you know it, they would be saying that this is the model act that has been adopted by seven states, then twelve states, then twenty-two states. Their ability to get their legislature to respond is enhanced greatly by that. If we do have federal incentives, there is no reason those federal incentives shouldn't include a set of federal requirements. Requirements for polling place accessibility on Election Day for Americans with disabilities. Requirements that the military personnel be treated uniformly in questions like residency, ballot applications, the deadlines that they have to meet, could all be requirements that the Congress could attach to any incentives that the Congress chooses to provide for better election administration.

Most importantly, we shouldn't miss this opportunity to add strength to the fabric of democracy. The time that each of you is giving is an important effort in doing that. I

look forward to watching your progress and I hope that your efforts produce the best possible results. I am delighted to be here to answer any questions you might have.

President Carter: Thank you very much, Congressman. We have plenty of time to discuss it. I am sure that your information to us will be very valuable. It will be helpful to us, I think, to understand what is the present situation in the Congress concerning partisan divisions and whether there might be a consensus within the House and Senate in addressing this same question of elections, setting up commission and allocating funds and so forth.

Congressman Blunt: Well, I can. That is still very much in the discussion stages, but I think that in the House we have to reach a conclusion on that discussion very quickly. We have normal committees of jurisdiction that would deal with these questions of election administration. It was the speaker's view that those committees would benefit from a select committee that would essentially hold the initial hearings and try to sort the better ideas out from all of the other ideas out there. And they would also give those ideas a boost as they would get to the regular committees later this year.

For whatever reason, the start of that process has been very difficult to get agreement on. And I really think that we are at a point where we need to make a decision quickly on whether there is a select committee to do this, or whether we need to tell the committees of jurisdiction on the House side that it is time to get along with your work. We are not going to be able to agree on the format for a select committee. I think everyone is in agreement that the select committee would have to be designed in a way that produced a bipartisan result. A partisan report from a select committee would not be helpful in advancing these issues, nor would every issue have to be part of any kind of report that would come forward. But the things that would come out of that committee would need to have a broad base of support, so that they would have some chance to get started, if not completed, in the remainder of this year and hopefully completed next year so that we would have the maximum potential to impact the 2002 elections.

I think in the next few days—I think, President Carter, by the end of next week—we need to make the final decision whether there will be a select committee or committees of jurisdiction. I think the proposal is now that there will be a committee with one more member of the majority party than the minority party but it would take a two-thirds majority to include anything in the final report. It seems to me that is sufficiently bipartisan but it might turn out that it is not. And then, the House Administration Committee on the House side, and the Judiciary Committee, would be the two primary committees with responsibility. Somebody has mentioned here earlier that even the state legislatures don't seem to be dealing with this with quite the same haste that the situation in December would seem to indicate would be the case. But it is time for Congress to get on with this in whichever way we have to deal with it.

I don't think there is any discussion in the Senate for any special committee effort and so they are dealing through their normal committee process in the Senate. So if there is not

select committee in the House, I would think that the early recommendations from commissions like yours would even be more important, because there will be a desire to look for some authoritative group that is empowered with this purpose to turn to the Congress and say, "Here are some of the things that should be done and should be done quickly."

President Carter: Is the leadership in the Judiciary Committee and the House Administration Committee supporting a select committee or are they objecting to it?

Congressman Blunt: They are supporting it. They would like to have the final ability to take the bills to the floor. But the chairmen of both those committees have said that they would not attempt to duplicate the work of a select committee if it was empowered. They would take that work, hold hearings on those recommendations, and not attempt to redo what the select committee would have done.

President Carter: Would the chairman and senior members of both those committees are on the select committee. Is that a presumption or not?

Congressman Blunt: Undetermined but it is doubtful. One of the reasons that the select committee seemed to have merit was because the normal committees have all of their regular work to do, which frankly seldom involves much in the area of elections. Then we have all of these prefiled bills and ideas on what we can do to improve the election process with no group empowered to help sort through those while the normal committees do their normal work.

Judge Griffin Bell: What would prevent the House Administration Committee from invoking a sequential reference so that when then you finish they would get the bill and start over?

Congressman Blunt: The way this committee has been discussed would be that they would get a recommendation and they essentially could start over but both of those chairmen have announced that it would not be their intention to do that.

Judge Bell: That would be good.

Secretary Bill Richardson: Notwithstanding what the Senate is currently doing on campaign reform financing, is there any movement over there on the other body also to move as you are contemplating moving in the House?

Congressman Blunt: Not with a select committee, but they have had hearings on some of these proposals for incentive funding which I think would be the best way for us to approach funding. I want to remain relatively open on that until we get to some final conclusions and hear all the other ideas. And there may need to be exceptions, particularly of poor jurisdictions that would need more of an incentive or perhaps full funding. It is my view that, as long as you are going to have local individuals

administering elections, you need to have a substantial level of local responsibility for what happens on election day. That means involving them in some in the appropriating process and the decision making process.

Probably one of the worst results you could have out of this is to have local officials, who have generally done a very good job on election day, saying, "Well, I can do that but my hands are tied by this new federal directive and so we just don't have the flexibility to make voter registration more available than it is today. We just don't have the flexibility to look at alternatives to equipment because they have prescribed only one type of equipment that we clearly cannot afford even with the incentive match."

I think we need to be thoughtful as to what happens at the end of this process. Who is still going to be out there to see that the election workers show up, that the voter rolls are at the polling place in the best possible condition, and have to make those Election Day decisions? No Member of Congress is going to have to decide on Election Day whether or not somebody's name is really on the voter rolls and that is the person standing before the election judges at the polling place. So we need to be sure that we don't remove the incentive of responsibility as we try to encourage model activity and other things.

President Carter: What would likely be your role in this process?

Congressman Blunt: As the only Republican former Secretary of State in the House, there has been some discussion that if there is a select committee that I would chair it and I would be open to that. That does not seem to be the problem in forming the committee and talking to the members on both sides. But there is some great sensitivity obviously coming out of the November election that they make this too difficult a question to reach agreement on even how to form the committee.

Mr. Lloyd Cutler: One of the purposes of this privately-funded, self-starting, non-partisan and bi-partisan Commission was to get a jumpstart on these problems and come up with a set of recommendations that the Congress could move right into rather than appointing some study commission of its own. Some of the bills look to do nothing more than appointing a Commission, which is nothing more than punting the ball down field and favor the status quo. How do you feel about that?

Congressman Blunt: I think, Chairman Cutler, that the efforts of this Commission—that we need to ask sooner rather than later, that a self-starting commission with a well documented path to the recommendations it makes—is every bit as good, and much more helpful, than a Commission created six months from now by some act of Congress. So I encourage your efforts and it appears to me on a daily basis that they may be more and more important as we are just simply finding it too difficult to deal with how to get this ball teed up in the House and Senate.

President Carter: One of the few things that seem to emerge this morning is consensus even in our first hearing here. One of the things that seem to have come forward is the

need for uniformity within a state. Otherwise it is almost impossible to educate voters on how to vote on Election Day. I would guess if the major television stations in Atlanta tried to tell people how to vote, they would have ten different means of voting within the television coverage. Do you envision something like that being the minimal prerequisites for the allocation of federal funds to states to help finance changes?

Congressman Blunt: I am interested that that is developing and I understand that education may be a more important part of this process than equipment.

President Carter: Yes, that has been one of the discussions this morning.

Congressman Blunt: I don't think that discussion has been widely out there before. Somehow I think right after the November election there was a rush to condemn one system, the punch card system, and assume that it is that system that was the problem. I think that with more careful reflection at looking at what happened with lot of other systems indicate that the system is not the only culprit here. Education is certainly one of the necessary tools to deal with that.

I am not quite prepared to say that a uniform system would be the only incentive. In Georgia, a uniform system in this media market would make some sense. In Saint Louis, Missouri, where you would have Illinois having a totally different system across the river and in the same media market, the argument that education is wasted on multiple systems could fall apart pretty quickly. I am not sure that you couldn't have more than one system in a state. I do think having uniform standards for the system or systems that you have—and having those clearly understood in a state by the election officials at the polling place in the county and central level—are critically important and are something that legislators have been reluctant to give to any individual—the chief election official or some election commission—in the past.