



TESTIMONY
of
CHELLIE PINGREE
PRESIDENT
COMMON CAUSE
before the
COMMISSION ON FEDERAL
ELECTION REFORM

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We commend President Carter, Secretary of State Baker and the rest of the commissioners for taking on this important task and recognizing that the work of improving our elections, begun after the 2000 election, has not been finished.

Common Cause is a nonpartisan nonprofit advocacy organization founded in 1970 by John Gardner as a vehicle for citizens to make their voices heard in the political process and hold their elected leaders accountable to the public interest. Now with nearly 300,000 members and supporters and 38 state organizations, Common Cause remains committed to honest, open and accountable government, as well as encouraging citizen participation in democracy.

Common Cause has worked for many years to remove barriers to voting and expand the number of Americans who vote, including support of the Motor Voter Act, encouraging more Americans to register to vote, and lowering the voting age to 18 years.

On and before Election Day 2004, Common Cause joined with other organizations to monitor voters' experiences and connect voters with their elections officials. We took in nearly 210,000 calls from a voter alert line, 1-866-MYVOTE1. We had more than 1,000 monitors at polling places nationwide, with a concentration in Ohio and New Mexico. We collected 1,700 voters' stories through our website, and have an unprecedented amount of non-partisan data on what happened to voters on Election Day. We have included with our testimony the [preliminary report](#) we prepared from this data as well as a [summary report](#) of a conference Common Cause organized in December 2004 with the Leadership Conference on Civil Rights and the Century Foundation.

This commission must not judge the 2004 election based on the outcome, but instead look at how the voters fared under our current "system" of voting. The presidential election did not go smoothly, despite the fact that a president was chosen quickly without court intervention, and without the chaos that some elections officials feared. Voters, however, waited in line for hours to cast ballots, and requested more than 50,000 absentee ballots that never arrived. Others lacked the most basic information about how to register to vote. These hurdles are just as large impediments to voting as hanging chads, and must be addressed.

We know the effort of this commission to reform our election system will be an uphill battle with resistance from many quarters: incumbent officials who do not want to enfranchise too many new voters, elections officials who deny their responsibility for this broken system and resist change, those who tell us that preventing fraud is a more important goal than ensuring that all Americans can exercise their right to vote, and those who are happy with the election results and want to avoid admitting that problems exist.

We urge the commission not only to issue recommendations, but also to work for necessary reforms when the commission's proceedings are concluded. We embrace President Carter's statement that the commission's goal should be "to define an electoral system for the 21st century that will make Americans proud again."

Common Cause believes that voters' confidence in the system's fairness and accuracy is of tantamount importance. That confidence has been shaken in recent elections; further erosion of trust in elections will undermine our democracy. As was illustrated by events in Ukraine and elsewhere, in order for voters to accept the outcome of an election they must be convinced of its validity. We believe the American system of elections should begin with the precept that elections must be able to be proven accurate and fair. In order to prove such claims, the entire election system must be transparent and free from partisan or corporate interference, with processes that are easily observed and audited.

We support:

- Easing barriers to voting,
- Election administration designed for the voters,
- Openness throughout the process (while honoring voters' privacy),
- Nonpartisan supervision of elections and ending corporate vendors' major role in administering elections, and;
- Making the way we vote a higher priority at all levels of government.

Government's Commitment

The commission should urge a continuing federal commitment to improving our election system and a renewed commitment by state governments. We are not advocating federalizing elections, but it is clear that localization is not working. The commission's focus is on the federal level, but the reality is that much election reform will continue to take place at the state level and the commission should consider defining which changes are best suited for state or federal reform.

Congress will need prodding by this commission and others to move ahead on new election reform legislation. There is much to be done, but the attitude right now is "We passed the Help America Vote Act (HAVA), so we're done. Problem solved, case closed." *This commission must make a strong statement to Congress that the work of improving our voting system is not done and will require a permanent commitment for reform.*

Expand the Franchise

We urge the commission not to get caught up in the misleading debate about fraud versus enfranchisement. The problem this nation faces is that too many people do not vote, too many people who want to vote are disenfranchised by errors or malicious efforts to suppress the vote, and too many Americans who do vote have their vote miscounted or not counted at all. Fraud, on the other hand, especially involving individual voters, is a minimal problem – one that has to be dealt with, but not one that should be at the center of this commission's work. Yes, we should do what's needed to make sure that voters only

vote once and that those who vote are eligible to vote. But these are not the great problems facing our electoral system.

One of the few, if not only study of voter fraud was prepared by Demos in 2003. That report stated that “available evidence suggests that the incidence of election fraud is minimal across the 50 U.S. states and rarely affects elections outcomes.” Further, the report states, “Overall, the disenfranchisement of voters through antiquated voting systems, errors, mismanagement of registration databases, and intimidation or harassment is a far bigger problem today than traditional forms of election fraud.”

The commission’s work should focus on ways to remove barriers to voting, to make voting more accessible and convenient, and to ensure the accuracy of the vote.

Voting Rights Act

When the commission issues its recommendations in September and, presumably, asks the 109th Congress to act on those recommendations, *we believe the commission should also urge Congress to commit to passing the extension of critical sections of the Voting Rights Act, the historic civil rights law that is needed now more than ever.*

Voter Registration and ID Requirements

Registration must no longer be a barrier to voting. Cumbersome procedures and strict enforcement of petty requirements should be a thing of the past. Voters should be allowed to register on Election Day as they vote. Registration deadlines that now commonly occur thirty days before Election Day are archaic and are just one more barrier to voting.

In 2000, a MIT/CalTech study estimated that 3 million voters were disenfranchised because of registration problems. In the 2004 election, registration problems again appear to have been the most frequently encountered problem. Common Cause’s MyVote1 phone hotline and other similar hotlines registered tens of thousands of calls about registration problems. A significant number of the registration problems are caused by error-ridden voter lists.

Most states face a 2006 deadline under HAVA for establishing statewide voter databases. Fairly administered and accurate new databases, available at the polling places, will be critical to improving our system of voting. We believe that Congress should resist the current efforts by some state and local officials to extend the January 2006 deadline for HAVA-required statewide voter registration databases to 2008. States must develop and implement databases based on the following principles:

- It is critical that voter databases are secure and reliable and not be used for any purpose other than to ascertain that a voter is registered to vote in an election.
- The process of developing and establishing the databases must be open to the public.
- Voter databases must be accurate and complete. A voter cannot be purged from the list unless there is direct communication from the voter, the registrar of another state, or from the courts (in the case of a voter who has committed a felony).
- Voters should easily be able to confirm their presence on the voter rolls by phone or on the Internet.
- The technology must be open, must be rigorously tested, with vendors subject to restrictions on partisanship or conflicts of interest.

Since the adoption of the somewhat limited ID requirements in HAVA a number of states have added unnecessary and discriminatory ID requirements. We believe there should be uniform and fair ID requirements to ensure voters are who they claim to be, but not requirements that, intentionally or not, keep some people from voting.

Identification should only be necessary upon registration. Once registered, voters should not need to bring identification with them to vote. Identification requirements should be liberal, consisting of a broad range of documents so as not to discriminate against those without driver's license or other official ID.

Expand Election Day

The high turnout in the 2004 presidential election was encouraging and exciting. But the U.S. still has one of the lowest voting participation rates in the world. We should continue to knock down another barrier to voting – a lack of time – by expanding the ways and the time when people can vote.

We believe this commission should review the existing and proposed methods of expanding Election Day through:

- No-fault absentee voting
- Early voting
- Mail-in voting
- Time off for voting
- Election Day as a holiday.

While we are generally supportive of efforts to make voting more convenient and more in line with current work hours and lifestyles, we are aware of legitimate concerns about some of these proposals, including the potential for coercion in mail-in voting or the limits of an Election Day holiday. We see these as areas that the commission should study more fully.

Enforce Laws Prohibiting Voter Suppression/Intimidation

The U.S. Department of Justice as well as state elections officials must make monitoring and defending the right to vote a top priority. The long history of suppression of voting in racial and ethnic communities makes this an especially important task. Enforcement authorities must have in place adequate and funded programs to protect Americans from efforts to intimidate voters at the polling place and before the election. While it is important that only eligible voters are allowed to vote, it is also important that political parties and other advocates not engage in activities such as systematic and arbitrary challenging of voters intended to intimidate voters and disrupt elections.

We believe this is a crucial area for the commission to study, although it is one where quantifiable data is elusive and some incidents of suppression are carefully concealed as legitimate efforts to reduce voter fraud. We urge the commission to shed a bright light on these activities and to make a strong statement in its final report about the importance of these problems.

We believe the federal government should play a strong role in ensuring the voting rights of all Americans. We also think that state and local governments must play a strong role by:

- Making strong statements about protecting the rights of voters on Election Day.
- Enforcing existing laws and prosecuting illegal activities intended to intimidate voters or disrupt turnout.
- Allowing international and nonpartisan election observers to observe polling places without prior notice or permission, provided they do not disrupt Election Day.
- Establishing statewide standards for challenge procedures characterized by transparency and fairness, including penalties for partisan or otherwise frivolous challenges.

Reduce Partisanship and Conflict of Interest in Election Administration

Government officials in charge of running elections should not be engaged in partisan political campaigns if we are to have elections voters can trust. Elections officials must maintain avoid any real or apparent conflict of interest with the vendors who provide equipment and assistance in many areas of election administration.

We believe this is an important area for the commission to study and make recommendations. Our own recommendations include:

- Prohibit non-elected election administrators from participating in partisan political campaigns. Elected officials should be limited to participation in their own campaigns.
- Include nonpartisan and unaffiliated voters in decision-making, poll watching and other aspects of election administration.
- Establish strict conflict-of-interest laws for all elections officials.

Fix, Replace, Test and Maintain Voting Machines

The nation still has not fixed the machinery of voting. Millions of Americans voted on discredited punch card or lever machines in the 2004 election and about one-third of voters used electronic voting machines that are unreliable and insecure. Elections officials need to take a step back and take another look at what is the best technology for voting.

We know this issue has been especially contentious and spawned a significant and vocal national grassroots movement. We urge the commission to take their concerns seriously. The commission should reserve its skepticism for the self-interested assurances of the vendors and the often-defensive comments of elections officials who have too easily embraced flawed new technology.

We strongly recommend the following:

- All voting systems must have a voter-verified paper ballot that is the official ballot for purposes of recounts and audits.
- All systems need better testing, maintenance and independent certification. All systems must be auditable.
- Voting systems must allow voters with disabilities to be able to vote privately and independently.
- The process for testing and certification must be open and independent computer security experts should be allowed access to the voting machine software.
- We must ensure the U.S. Election Assistance Commission (EAC) and the National Institute for Standards and Technology have sufficient funding for setting standards for voting systems – and updating those standards whenever necessary.

The Polling Place: Poll Worker Training and Recruitment, Accessibility, and Voter Education

The operation of the polling place is perhaps the most critical element in our voting system. The polling place should be welcoming, accessible, and efficient. Pollworkers are the bedrock of our voting system. They must be trained to ease and facilitate voting.

We believe this is an area that the commission could present strong recommendations – perhaps less controversial than in other areas – for sustained federal funding and perhaps a resource center that would develop innovative and effective ways to improve the polling place.

We believe the following are important guidelines:

- Poll worker training should be rigorous, ensuring that pollworkers meet minimum standards for knowledge of election procedures, including:
 - Laws and regulations governing voting and polling places,
 - How to assist disabled or non-English speaking voters,

- How to assist voters with various problems (not registered, not in correct polling place, wishing to correct a mistake made while casting their vote, etc.), and;
 - How to operate voting machinery in use at polling place.
- To ensure an adequate number of poll workers, minimum standards regarding number of poll workers and voting systems per polling place should be set.
 - Poll workers should approach their jobs in a nonpartisan manner.
 - Innovative approaches for recruitment should be explored, including using students, or a random system of recruiting citizens (as in jury duty).
 - Voters should receive written information about their voting rights when registering and at the polling place on Election Day.
 - Voters should receive timely notification of their registration status after registering to vote. Correction of errors should be allowed up to and including Election Day.
 - Voters should be notified of their polling place prior to Election Day or any early voting period.
 - There should be a system (phone, Internet, other) telling voters where their polling place is located and when it is open.
 - During the three months preceding an election, there should be open training days during which voters can learn how to operate voting equipment. Such training days should be held in public places, such as public schools, shopping malls, and community centers.

Develop Uniform Statewide Provisional Ballots Standards

Provisional ballots must be fully implemented as a meaningful safety net for voters when there are problems with registration or ID requirements. The first priority should be to eliminate, as much as possible, the need for provisional ballots by fixing problems with voter databases and election day registration opportunities.

There is now, or soon will be, data available from states for the commission to study what happened with provisional ballots that were cast in this past election. We also urge the commission to look beyond those numbers to problems that were reported by voters who were refused provisional ballots or were confronted with pollworkers who had little knowledge of provisional ballots.

We believe that:

- Voters should be allowed to cast a provisional ballot for federal or statewide offices even if, for whatever reason, they are not in their own precinct.
- Every provisional ballot cast by an eligible voter should be counted.
- The HAVA-required notification system for voters using provisional ballots should be fully implemented.
- Poll workers should be fully trained on the use of provisional ballots.
- Voters must be informed about their right to cast a provisional ballot.

Re-Enfranchisement

Millions of Americans, many of them minorities, cannot vote because states either permanently deny that fundamental right to felons or make it difficult to restore the right. The right to vote should be automatically restored to people who have been convicted of a felony and have served their time in prison. Re-enfranchisement should be automatic upon completion of parole. Individuals who have paid their debt to society should not be required to take additional actions to restore their right to vote.

Increase federal, state, and local funding for elections

Election administration has historically been badly under-funded and a low priority for all levels of government. The passage of HAVA in 2002 was the first time the federal government provided funding for elections. It should not be the last.

As we noted early in this testimony, we believe the federal government should not end its commitment to help fund elections when the last dollar of HAVA money is sent to the states. Once Congress fully funds HAVA – which should be done immediately – it should establish a permanent program of funding, particularly to ensure updated and innovative solutions to election problems.

But the federal government cannot carry the whole load of funding. Local governments have defended their role in elections but historically have failed miserably at adequately funding elections. We believe state governments must play a strong role in funding of elections, giving election administration the priority it deserves in our democracy.

Conclusion

There are a number of significant problems areas that need to be addressed by this commission. We understand that in the limited time and with the resources at your disposal, you may not choose to address all of them. We have outlined what we think the major problems are and what needs to be done.

We know this commission will approach its work with an open mind and will seek the facts about what happens in our elections. We have presented our views of what has happened and what needs to be done based on our own experience and the experience of many other advocacy organizations around the country. We commend the commitment of the commission in taking on this issue that is so critical to our democracy.