



Electoral Reform and the 2004 Recounts

*To: The Commission on Electoral Reform
June 27, 2005*

The types of election fraud that were uncovered in Ohio and New Hampshire in 2004 can be classed into two categories:

Old School Thugishness

The prime example being the deliberate shorting of voting machines to precincts that the elections officials did not like the possible way that they would vote, the two main groups being targeted, people of color and college students.

Hi Tech Election Fraud

An example would be the elections official in Ohio who caught a representative from a voting machine company tampering with a machine before it was tested.

We need to move away from DRE's and toward Voter Verified paper ballot of record. These should be w/mandatory audit and compatible with and be willing to accept IRV and Proportional Voting Systems.

As legislatures are updating voting equipment in response to the federal Helping America Vote Act (HAVA) of 2001, we support the growing movement of citizens calling for a strict requirement of a voter-verified paper audit trail for all voting machines installed across the United States. Electronic voting machines must include a verifiable paper trail that allows every voter to verify that his or her vote was recorded and counted accurately, coupled with random audits based on the paper trail. Technology must be used that incorporates a voter-verified paper trail that is accessible to vision-impaired voters.

Vote-counting software codes manufactured by private corporations have been deemed proprietary, banning public review of the means by which elections are determined.

Therefore, to protect against fraud, voting machine source code must be open for public inspection and verification before and after an election.

Support for IRV and Proportional Voting Systems:

We demand choices in our political system. This can be accomplished by proportional representation voting systems such as:

Choice Voting (candidate-based),
Mixed Member Voting (combines with district representation), and
Party List (party based);

and semi-proportional voting systems such as

Limited Voting, and Cumulative Voting.

All are used throughout the free world and by U.S. businesses, and community and non-profit groups to increase democratic representation. We call on local governments to lead the way toward more electoral choice and broader representation.

We believe in majority rule and reject the present method of election without a majority. Accordingly, we call for the use of Instant Runoff Voting in chief executive races, (mayor, governor, president, etc.) where voters can rank their favorite candidates (1,2,3, etc.) to guarantee that the winner has majority support and that voters are not relegated to choosing between the lesser of two evils.

Third Parties have played an important role in American Democracy. They should be cherished as an important check on the inherent entropy of a two party system. It is third parties that invigorate the realm of issues and ideas that would otherwise fall into meaningless debate.

Ballot Access should become more reasonable throughout the United States. Any state that asserts its right to ensure that there are only two political parties for the stability of the state both goes too far in its authority as well as does a grave disservice to its residents. (As the state of Oklahoma recently argued before the U.S. Supreme Court in *Clingman vs Beaver*)

Third Party Candidates should have access to Debates. Control of the Presidential Debates should be returned to an impartial agency such as the League for Women Voters.

The current Presidential Debate Commission is a partisan sham.

We believe in multi-party democracy for partisan elections as the best way to guarantee majority rule, since more people will have representation at the table where policy is enacted. We assert that introduction of a multi-party democracy is essential because

The change in the structure of electoral politics will moderate the influence of extremist views and domination by the larger parties, and offer more fair representation to a greater number of citizens; and a third party can validate and raise other points of view that need to be heard.

Voter Registration - We should act to broaden voter participation and ballot access.

We should advocate for universal voter registration and an election day holiday and/or conducting elections over more than one day (say on a weekend).

Statehood for the District of Columbia, affording D.C.'s majority African American population full political self-determination, legislative autonomy, and voting representation in Congress.

All residents of U.S. lands/territories including Puerto Rico and Guam deserve the rights of freedom and equality including the right to political self-determination.

We advocate that all persons convicted of felonies shall regain full citizenship rights upon completion of their sentence, including the right to vote and to run for elected office.

We advocate that prisoners be granted the right to vote.

We believe that a binding None of the Above option on the ballot should be considered.

All viable candidates at the state and federal levels should have free and equal radio and television time and print press coverage.

The U.S. intentionally defines corporations through charters or certificates of incorporation. In exchange for the charter, a corporation was obligated to obey all laws, to serve the common good, and to cause no harm. Early state legislators wrote charter laws to limit corporate authority and ensure that when a corporation caused harm, they could revoke its charter.

In the late 19th century, however, corporations claimed special protections under the Constitution. They insisted that once formed, corporations might operate forever with the privilege of limited liability and freedom from community or worker interference in business judgments.

As a result the 14th Amendment has been used more for the benefit for corporations than the people that it was intended to protect, people of color. Because of the lack of will of the U.S. Government to enforce the 14th Amendment (Section 2 provisions to reduce the amount of representation directly proportional to which a people have been disenfranchised) and because of its abuse by Corporations with the complicity of members of this government our elections system has become fatally flawed. The body of law which has built up around Corporations is fundamentally incompatible with a Democracy. Therefore we find representatives of Corporations having an inordinate amount of access to our elections.

National legislation to enforce the right to vote, as established in the 14th Amendment, Section 2 in the U.S. Constitution. Such legislation would override the Supreme Court's claim in *Bush v. Gore* (2000) that no guaranteed right to vote exists in national elections.

Such legislation would be analogous to the 1964 Civil Right Act, which enforces' Section 1 of the 14th Amendment guaranteeing equal protection under the law. Some congressmen favor a proposed 'voting rights amendment', but a constitutional amendment is unwarranted and would be difficult to pass, requiring ratification by two thirds of the states. Section 2 already guarantees every adult citizens' right to vote, since this section punishes states for denying this right to any group of voters. An act of Congress enforcing Section 2 could be passed with a simple majority and immediately implemented.

Public officials have not responded to citizens' pleas for enforcement of Section 2. During the December 8, 2004 forum on voting irregularities in Ohio in the national election, Rep. Conyers, when asked why the voting rights remedy in Section 2 had never been applied, declared "I do not have an exact comment as to why we haven't used it in the past." Informed by Asa Gordon of his civil action to enforce Section 2, Rep. Conyers asked Mr. Gordon to "make sure that we get the benefit of this historic lawsuit to our members so that we may take it under consideration."

The Supreme Court has affirmed the validity of Amendment 14, Section 2 (*Richardson v. Ramirez* (1974) <http://caselaw.lp.findlaw.com>, in an opinion written by Justice William Rehnquist); the later voting rights amendments merely modify its application to areas of discrimination by race and sex. More information: Douglass Institute of Government <http://members.aol.com/electorsus/map.htm>; "U.S. Constitution Mandates Penalties for States Where Votes are Obstructed," Green Party press release, December 16, 2004 http://www.gp.org/press/pr_2004_12_16.html.

Abolition of 'corporate personhood', in recognition that the 14th Amendment was enacted to protect the rights of humans, not corporations.

We have allowed corporations to flout responsibility, damage human communities and the environment for he sake of profit, escape punishment for crimes, and erode American democracy for nearly 150 years. We must enforce corporate charters and abolish the privilege of limited liability. More information: Democracy Unlimited of Humboldt County <http://www.duhc.org>