

Chapter 10

Participation, Voting and Elections

The importance of elections

- The voice of the electorate (the people) is expressed through elections.
- Most of the positions outlined herein were based on standards which existed prior to the presidential election of 2000.
- Until December 12, 2000 judges observed a self-imposed prohibition on intervening in the electoral process

Pre-2000 Standards

- Courts will never overturn an election unless the fraud changed the outcome.
- Judges cannot declare winner other than people's choice.
- The voice of the people is sacred.
- N.B. These principles are examples as to how the Supreme Court's decision on December 12, 2000 was a departure.

Examples

- Candidate wins by 23 votes when all 38 absentee votes are suspicious-Judge disallows all absentee ballots and that action changes winner.
- Voting machine with 298 votes was tampered with so judge disallows all votes from tampered machine which changes outcome.
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Conditions Were Improving

- The process of voting in this republic has become more democratic over the years.
- At first only white males with property could vote.
- Then property requirements are dropped. (1820s)

- Then African Americans are granted vote. (1865)
- Unofficial obstacles are devised to prevent African Americans from voting.
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Tools of Disenfranchisement

- Poll Taxes
- Literacy tests
- General intimidation
- All impediments removed (1965)

The Voting Rights Act of 1965

- This legislation passed following the death of President Kennedy, the near decade-long Civil Rights movement, and the charismatic advocacy of Martin Luther King, Jr.
- The legislation was made necessary because Southern states were not observing the Constitutional amendments passed following the Civil War.

What are the issues today regarding voting?

- The shape of electoral districts.
- Housing discrimination along with some voluntary neighborhood patterns has resulted in segregated regions.
- Minority neighborhoods are usually clustered.

Distributing Clusters of Voters

- This results in compressing representation.
- Instead of African Americans being 40% of two districts they are 96% of one.
- Instead of having their voice be heard in two districts, they are heard in only one.

The Impact

- This pattern has compressed African American representation into fewer constituencies than would have resulted had such housing patterns not existed.
- Constant efforts over 145 years to suppress or minimize African-American voting in the South and elsewhere makes suspicions that it is occurring in 2000 and 2004 plausible.

Remedies

- This pattern can be reversed.
- Sometimes by accident, sometimes by design, African American neighborhoods are divided into multiple electoral districts.
- e.g. instead of being 40% of one district they are 15% of three different districts.

gerrymandering

- Named for a Governor Gerry who was famous for drawing creative and politically motivated electoral boundaries.
- Term now used throughout the English-speaking world to describe the process of drawing electoral boundaries to produce an electoral outcome.
- This practice is becoming more flagrant with the advent of computer analysis.

The Courts

- The courts have attempted to remedy these patterns which are the product of housing bias by drawing the boundaries themselves.
- The courts have produced gerrymandered” boundaries to increase African American representation.

- Often the courts have ruled against historic gerrymandering by saying districts should be as square as possible.

Other Issues of Voter Participation.

- Ease in voter registration.
- Voter fraud used to involve people being counted in more than one district.
The dead sometimes vote
- Big city machines take new immigrants to the polling station weeks, days, or even hours after their arrival in America.
- Make the process of registering cumbersome.

What is the Problem?

- In 2000, voter participation is below 50%.
- One perceived obstacle to voting is the difficult nature in registering to vote.
- Most states make you register 30 days before an election. You must go to their office.
- 25% of all Americans move every four years.

Two Data Bases

- The system now in place to monitor driver's licensing did not exist 100 years ago, when voter fraud more prevalent.
- Sophisticated data base.
- Already set up to inhibit multiple licenses.
- It cost's twice the money to keep two independent systems- one for driver's licenses, one for voter registration.

Motor-Voter Reforms

- Suggested Reform: Combine the two, the motor-voter linkage. There is federal legislation.
- When you get your driver's license you're registered to vote.
- Why not institute this reasonable reform?
- Problem: 53% of adults in NYC do not have drivers' licenses.

Why are reasonable reforms opposed?

- The Republicans have additional reasons to oppose reforms
- The poor and transient more often independents who vote for Democrats
- The stable home owner more often votes for Republicans.

The Democrats Often Oppose Reforms Too

- Protect incumbents during party primary
- Transient voters less likely to be loyal to political machine
- Incumbents want to maintain the constituency which elected them.
- New voters can mean a different constituency.

Basic Principles

- Is your right to vote based on your residency or based on your proof that you are really a resident?
- Innocent until proven guilty
- Honest until proven dishonest.
- Driver's license is an accurate indication of residency until proven otherwise.

Other suggested changes (Reforms?)

- Same day registration.
- Voting by mail

- Oregon Senate race above 60% participation.
- Voting by internet.
- Arizona Democratic Primary-data not available