

"Be the change you wish to see in the world."

Second Saturdays
October 11, 2008
www.secondsaturday.net

The Beginning of the End

“*Bush v. Gore* will go down in history as one of the worst decisions the Supreme Court ever made, along with the *Dred Scott* case.”

-- President Bill Clinton, *My Life*

Where it all began

Whether or not politics were on your radar in November 2000, you could hardly ignore the extraordinary events that took place from election night forward that year. National news networks called the election, then reversed themselves, then declared the election was too close to call due to vote anomalies in the state of Florida. Unlike years past, we did not wake up the morning following Election Day knowing who our next president would be.

In the days and weeks that followed, we saw firsthand just how dysfunctional our electoral system is. The foundation of a government that for more than two centuries has been the model of emerging democracies around the world was revealed to be suffering from the electoral equivalent of osteoporosis, cancer, arthritis, heart disease, and emphysema. America was in seriously poor health.

What we also saw at the time – but didn’t realize until much later – was the first blatant power-grab by the Republican Party. It was hardly their first attempt, to be sure, but it was the first naked taking of the levers of power, the first out-in-the-open political coup of what would become, tragically, the first of many to follow in two successive Bush Administrations.

At the time, the events were extraordinary. Little did we know, however, just how fundamentally critical those events would be for what came after, laying the groundwork for the steady, relentless assault on every aspect of our system of government, a methodical transformation from a democratic republic to some governmental Frankenstein, cobbled together from rotting corpses of ideology and run amok among the unsuspecting villagers of the American people.

Why was *Bush v. Gore* so controversial?

The Supreme Court intervention in the Florida recount process was unprecedented for multiple reasons. Never in the history of the Court had a decision been skipped across the normal appeals process, pressured for turnaround in such a short time frame, nor had the extraordinary stipulation that it would apply *only* to that decision and no others.

More than that, however, it was the seeming inevitability of the decision, that even before it was officially announced, there was very little uncertainty about the outcome. Indeed, as many judicial scholars have argued over the years:

“...several members of the Court—perhaps a majority—were determined to overturn any ruling of the Florida Supreme Court that was favorable to Vice President Gore, at least if that ruling significantly enhanced the Vice President’s chances of winning the election.

The Beginning of the End

They acted on the basis of strong intuitions—which, as I said, is by no means necessarily inappropriate in itself—but the intuitions were intuitions about the outcome, not about the law. The specific legal questions presented in the litigation were shifting, complex, and esoteric. It is hard to see how the Justices could have strong legal intuitions about any of those specific questions. To the extent those questions raised familiar broad issues—like federalism and the relationship between the courts and the political process—the majority’s reaction in this litigation contradicted their normal inclinations. During the litigation, the Justices in the majority appear to have accepted, at one time or another, four different arguments offered by Governor Bush’s lawyers, all of which were questionable—one of which, based on 3 USC § 5, even the majority subsequently abandoned—but which had one common element: they required that the Florida Supreme Court be reversed. On the crucial remedial question that ensured Governor Bush’s election, the majority’s decision appears to be simply indefensible. And the majority opinion insisted that its rationale was to be applied, essentially, only in this case—basically conceding that the result, not the legal principle, dictated the outcome.”

-- “Bush v. Gore: What Were They Thinking?”, David A. Strauss
<http://press-pubs.uchicago.edu/sunstein/chapter9.html>

Taken together with the relentless assault on the lower levels of the process by the GOP apparatus – from the Florida Secretary of State’s office to the county elections’ offices, along with the daily repeat of the mantra that Bush was the victor and that Gore was a sore loser, the repeated assertions that the vote count remained in Bush’s favor every time despite the unseen and underhanded attempts behind the scenes to disqualify votes, eliminate votes, stall the process, and run out the clock...it becomes clear that the inevitability of the Supreme Court’s decision in Bush’s favor was no accident.

Bitter fight to the end

Make no mistake. The GOP has no interest in free and fair elections. They’ve done the math, they’ve got the data, and they know the electoral calculus does not favor them. As a party, they have worked systematically, at every level, to suppress the vote to gain by crookedness what they cannot earn by fairness. As Digby wrote earlier this year (<http://digbysblog.blogspot.com/2008/05/recounting-recount-by-digby-i-dont-know.html>):

“...the modern Republican party has become fundamentally hostile to democracy.(And we already knew they were crooks.) This was first made obvious to me back in 1994, when Republican leader Dick Armey famously stated "your president is just not that important for us." They went on to impeach that president against the clear will of the people.

But the biggest clue about what they were up to came in 2000 with the Florida recount. I know it seems like ancient history to go back to that but it is extremely important to remember just how outrageous their tactics were: the Gore campaign used legal tactics and the Bush campaign didn't. There was the "bourgeois riot" and dirty trickster Roger Stone directing the street theatre from a van. ... They used every lever of power they could to count illegally cast overseas ballots. They operated a hypocritical and situational media campaign that the press completely failed to properly analyze until it was too late.

The Beginning of the End

And after they did they helpfully told those who objected to "get over it." And I guess we did."

This didn't start with the 2000 election, and it won't end there. As we saw when we watch *Hacking Democracy*, and as subsequent reports have revealed during the Justice Department scandal and investigations into electoral fraud, vote suppression, electronic voting, and other disenfranchisement investigations, the GOP continues to refine its vote stealing processes. Note the recent "scandal" about the ACORN voter registration drive in Nevada, the hysterical claims of registering thousands of unqualified voters and that somehow, these mythical voters – applications where "voters" have filled out names like Mickey Mouse, Superman, and the Daffy Duck – are going to storm the ballot boxes and give the election to...well, the Democrats, obviously. Don't forget also the scare from two years ago about illegal immigrants casting ballots, and of course the perennial accusations that thousands of dead people have voted, too.

Despite repeated studies and reports that prove that voter fraud and registration fraud happens about as frequently as getting struck by lightning, the GOP and their paid political hitmen raise the specter with every election. They do this because it works, and the 2000 election was the prime example. (And the 2004 election, but we already covered that during the *Hacking Democracy* Second Saturday.) And when backed into the corner, as they are now with the upcoming 2008 Presidential election, facing the real possibility of a landslide loss, they will fight harder and dirtier than ever.

They may still lose – the election is shaping to be too big to steal at this point – but anything they can do to delegitimize their opponent's victory is still a win. And ultimately, anything and everything they can do to subvert the voters' faith in their electoral process is how they continue to grasp the levers of power when democratic Darwinism should've long since made their party and their ideology extinct.

"The conservatives' long term goal is to make citizens so cynical about the electoral system that they just don't vote. The fewer people who participate in democracy the easier it is for the aristocracy to maintain control."

-- Digby, 10/11/08

So what can I do?

1. Vote. Obviously.
2. Check your registration. The deadline for voter registration in Oregon is Tuesday, October 14th. Check to be sure you haven't been purged without your knowledge. Recent changes in address, name, party identification, and other factors are ways that you can be legitimately deregistered. And of course, just regular mistakes can happen without any malicious intent at all.
3. Help with GOTV efforts. Democracy works best when we all participate. Regardless of party, we all have a stake in the outcome of an election – any election. Now more than ever, you need to be out there pounding the pavement and urging your friends, family, neighbors, and coworkers to vote.
4. Get informed. Read the information provided here and learn the facts. Correct misinformation when you see/hear it. Help to rebuild confidence in the electoral process.

Mandatory Reading & Other Resources

Links:

Recount Movie – the official movie website

<http://www.recountmovie.com/>

dKosopedia “Election Fraud” entry – the wiki kept by the Daily Kos community; entry includes a listing of all different variations of vote suppression and election fraud

http://www.dkosopedia.com/wiki/Election_fraud

The Five Worst Republican Outrages – December 2000 article immediately following the Supreme Court ruling and the declaration of Bush as the winner of the Presidential election

<http://www.villagevoice.com/news/0051,barrett,20833,6.html>

Where are they now? – WashingtonPost.com article on the GOP rioters during the 2000 Florida recounts who were actually GOP operatives and staffers, and where they are now

<http://www.washingtonpost.com/wp-dyn/articles/A31074-2005Jan23.html>

The Myth of Voter Fraud – WashingtonPost.com article about the nonexistence of voter fraud and how this trope ties into the 2007 Justice Department/attorney firings’ scandal

<http://www.washingtonpost.com/wp-dyn/content/article/2007/03/28/AR2007032801969.html?hpid=opinionsbox1&reload=true>

Machiavelli’s Inbred Children – Digby’s post about current Bush cronies, the Justice Department scandal, and their roots in the 2000 election recount shenanigans

<http://digbysblog.blogspot.com/2007/03/machiavellis-inbred-children-by-digby.html>

Hans Across America – still more connections between the manipulators of the 2000 recount and their ongoing influence within the Republican Party

<http://digbysblog.blogspot.com/2007/04/hans-across-america-by-digby-sometimes.html>

Republican Ballot Security Programs: Vote Protection Or Minority Vote Suppression--Or Both? – a report to the Center For Voting Rights & Protection about the GOP history on vote suppression

http://www.pdfdownload.org/pdf2html/pdf2html.php?url=http%3A%2F%2Fwww.votelaw.com%2Fblog%2Fblogdocs%2FGOP_Ballot_Security_Programs.pdf

The Vote: Bush, Gore, and the Supreme Court

Published by the University of Chicago Press
