

After Political Maneuvering, Supreme Court Addresses Questionable Election Practices

by Conrad Black



In the last nine months, the United States [elections](#) and thus failing to discharge their obligation to assure that the president and vice president of the United States were fairly elected.

In none of these cases were the merits adjudicated. They were deemed to have been addressed to the wrong defendant, filed too late, and in the case of a divided Supreme Court of Wisconsin, the lawsuit had to be launched at a lower court and proceed upwards, which was completely impossible within the tight schedule between the election and inauguration.

The Supreme Court refused to hear the challenge from Texas where it was the original jurisdiction as the lawsuit was of a number of states against several other states. The reason given for declining to hear the Texas case was that the Supreme Court had no standing to sue. Of course this is nonsense as it was the only court for an interstate action and could scarcely find another subject more demanding of its attention than that the holders of the nation's national offices should be constitutionally selected.

Political Judgment

It is hard to see the Supreme Court's decision, which capped the general abdication of the judiciary from addressing this red hot political question, otherwise than as the political judgment that it did not wish to run any risk of having to choose between overturning an apparent presidential election result and twisting itself in knots trying to justify the improper intervention in voting and vote-counting procedures in several states by the courts or governors of those states and not as the Constitution requires by the legislatures in the six states where irregularities were alleged, (Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin).

There were no significant complaints of vote counting irregularities in any of the other states but if approximately 45,000 votes had flipped from Biden to Trump in Georgia, Pennsylvania, and either Arizona or Wisconsin, Trump would have won in the Electoral College. The issue of the expulsion of the Republican observers and the closing off of the public ability to observe the counting rooms in Michigan, and the extraordinarily lopsided votes that came in to drop boxes in Pennsylvania after the polls closed, and a wide range of other questionable activities and dubious amendments of normal procedures were never subjected to the judicial review that occurred in the voting controversies of the 1876 and 2000 and 2016 elections.

In 1960, when Richard Nixon received more votes than John F. Kennedy when the Alabama votes are correctly divided between Nixon, Kennedy, and the third party candidate Senator Harry Byrd, Mr. Nixon declined to challenge the outcome as President Eisenhower urged, because he felt it would be damaging to the national interest.

It is hazardous to mind-read but difficult to rebut the suspicion that the Supreme Court collectively decided, given that Justice Barrett was confirmed on straight party lines in the midst of the election campaign, that a question coming to the Court on the issue of the fairness of the election result would be dangerously controversial, especially as there was much talk among the Democrats of court-packing.

But by not hearing the challenges to the election the Supreme Court enabled itself to deal with the modifications to voting and vote-counting rules that were complained of in the 2020 election and were already publicly announced as practices that the Democrats wished to entrench legislatively in the present congressional term.

Upholding Ban on Ballot Harvesting

The second half of the Supreme Court's tactical response to these swirling political challenges came with its finding last week supporting the right of the state of Arizona to ban ballot-harvesting and to discard ballots that were cast in precincts where the voters were not registered.

In deciding this, the Supreme Court pierced the hot-air balloon that President Biden and his partisans floated months ago about reviving "Jim Crow on steroids" discrimination against minorities. Even the Washington Post awarded the president four Pinocchio's on that one and the entire charge of voter suppression is bunk.

The Democrats' versions of the Georgia act that it would close

polls at 5 and prohibit giving refreshments to people waiting in line to vote was also a fiction; the voting measures that Attorney General Merrick Garland attacked in Georgia two weeks ago impose no such closing hours and only prohibits affiliates of political parties distributing food and drink to people lined up to vote at polling places.

The Supreme Court also upheld the right of individuals to contribute anonymously to political parties and candidates and most importantly, it denied that banning ballot-harvesting or any procedure by which votes were cast by people other than those who filled them out was presumptively racially motivated.

There are now hundreds of bills before legislatures of all of the states on these questions of voting and vote-counting and as a result of the Supreme Court's decision it appears very unlikely that the Democrats will be able to legitimize the procedures that were so helpful to them in the 2020 presidential election.

Democrats Must Change

It is not really the business of the Supreme Court to engage in political maneuvering but it is quite possible that in doing so, while it confirmed a questionable election result, it has avoided an immense constitutional crisis and facilitated a return to fair and free and unchallengeable elections.

The Supreme Court decisions last week can be taken with the spurious suspension of Rudolph Giuliani's license to practice law by the New York bar because he is challenging the fairness of the last presidential election, and the contemptible indictment by the district attorney of southern New York, Cyrus Vance Jr., of the financial vice president of the Trump Organization for \$134,000 over 15 years of supposedly undisclosed non-cash benefits.

After years of promising to get Trump and countless subpoenas eliciting over 3 million pages of documents, trying to pretend that what is normally a matter entirely soluble by the payment of a relatively small additional amount of tax is a crime, and subjecting this quiet septuagenarian executive to a handcuffed perp-walk for the television cameras degrades this whole process to an implicit confession that they have no possible case against the Trump family.

The Democrats are going to have to learn that they can't steal elections indefinitely and they can't prosecute Donald Trump permanently. If they wish to remain in office they will have to show an aptitude to govern. They can't steal it again.

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