

September 30, 2004

MAKING VOTES COUNT

Playing With the Election Rules

One of the lessons of the election mess in Florida in 2000 was that a secretary of state can deprive a large number of people of the right to vote by small manipulations of the rules. This year in Ohio and Colorado, two key battlegrounds, the secretaries of state have been interpreting the rules in ways that could prevent thousands of eligible Americans from voting. In both states, the courts should step in.

Just weeks before the deadline to register, Kenneth Blackwell, Ohio's secretary of state, instructed the state's county boards of election to reject registrations on paper of less than 80-pound stock - the sort used for paperback-book covers and postcards, compared with the 20-to-24-pound stock in everyday use. He said he was concerned about forms' being mailed without envelopes and mangled by postal equipment. But the directive applied to all registration forms, even those sent in an envelope or delivered by hand. Mr. Blackwell, a Republican, acted in the midst of an unprecedented state voter registration drive, which is signing up far more Democrats than Republicans.

Under intense criticism, Mr. Blackwell has backed off. Earlier this week, his office said it would not be the "paper police," but said it was not withdrawing the directive. Yesterday, it said he had advised county boards to accept registrations on any paper. But the advisory is worded so inartfully that it could create confusion. And it is unclear how many registrations may have already been rejected. The burden is now on Mr. Blackwell to ensure that counties have not rejected valid registrations.

Mr. Blackwell's second directive tells local elections officials to follow a bad policy Ohio adopted on provisional ballots. This is the first presidential election in which every voter whose eligibility is in doubt has the right to cast a ballot and to have the vote's validity verified later. But Ohio and some other states have tried to gut this guarantee by not counting provisional ballots cast in the wrong polling places. There is no reason to do that.

This rule could void many votes. There will be a flood of first-time voters this year, who may not know where to vote. And some polling places have been changed by redistricting. Mr. Blackwell says poll workers should help voters call an elections hot line to find out where to go. But these hot lines are often busy on Election Day. Poor people and members of minorities, who move more often than most voters, are likely to be most affected. Ohio Democrats, who expect to do well among these groups, are fighting the rule in court.

In Colorado, Secretary of State Donetta Davidson, also a Republican, has issued a bizarre ruling of her own on this issue. She will allow provisional ballots cast at the wrong polling places to count for only the presidential race. The Senate race in Colorado, among the closest in the nation, could determine control of the Senate, and there is no reason all valid provisional ballots should not count in this race or for statewide ballot propositions. Colorado Common Cause is challenging Ms. Davidson's rule, but she should not need a court to tell her to count the votes.

Democrats say these rulings are all attempts to disqualify thousands of Democratic votes. Whatever the motivation, they threaten to disenfranchise voters. They have no place in our democracy.