



Current Issues Brief
No. 9 2000–01

US Presidential Election 2000

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I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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Scott Bennett
Politics and Public Administration Group
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Enquiries

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Introduction

The 2000 United States (US) Presidential election was one of the closest and most exciting on record, featuring exhaustive cross-country campaigning by the major party candidates, spoiling activity by a significant third party, a nail-biting count that brought into question the basic electoral arrangements that have been in operation since the first election of 1789, and the battles and confusion over the count in the fourth largest state of Florida. It is likely that the country will continue to debate this election for some time after the inauguration of George W. Bush as the 43rd President.

This Current Issues Brief gives a brief overview of these remarkable events, touching on the candidates, the campaigns of the major candidates, the controversy in Florida and the final result. The 2000 election:

- reaffirmed the solidity of the US political system, but
- threw new light on the weak relationship that has long existed between the US electoral processes and the question of government legitimacy.

The paper concludes that it is highly likely that many changes to US electoral arrangements will have been made by the Presidential election 2004.

The Contestants

The names of the men chosen to be their parties' standard-bearers had long been known.

Republican Party

Presidential Candidate

As the oldest son of former President George Bush, Texas Governor *George W. Bush* (b. 1946) came from a political family. His political experience was not as deep as his opponent's, though he had worked in his father's campaigns. Prior to becoming a political figure in his own right, he had worked in the Texas oil and gas business, and was later part-owner of a major league baseball team. He was in his second term as Governor of Texas, having entered office in 1994. During 1999 a sustained Republican fund-raising effort on his behalf virtually guaranteed Bush's nomination in the following year, and despite surprise defeats in the primaries in New Hampshire and Michigan, he easily won his party's nomination. Bush brought to the campaign an engaging personality and a proven ability to work with Democratic opponents, but an apparently shallow appreciation of policy matters and an unfamiliarity with foreign affairs.

Vice-Presidential Candidate

Dick Cheney (b. 1941) served in various positions in the Nixon Administration, including a period on the White House staff. He had worked for President Ford, and was White House Chief of Staff 1975–77. After a period as Wyoming's only member of the House of Representatives, he was Secretary of Defence under President Bush, 1989–93. With both Bush and Cheney coming from 'cowboy' US, Cheney added little in the way of ticket balance. Some observers believed Bush could have been better served by choosing a running mate from a large eastern state.

Democratic Party

Presidential Candidate

The Democrats chose Vice-President *Al Gore* (b. 1948). Gore brought to the contest a career that had been Washington-focused since he was in short trousers and living in a Washington hotel with his parents, while his father was serving as Senator for Tennessee. Gore junior represented the 4th Congressional District of Tennessee for four terms from 1976, and was Senator for Tennessee from 1986 until becoming Vice-President in January 1993. His strengths included his ability to deal with the complexities of policy, something

that played a part in his having been a far more active Vice-President than many of his predecessors. On the debit side was Gore's awkward public persona, which made him a stiff campaigner, seemingly lacking an easy relationship with his audience. Despite this, the Vice-President's nomination as Democratic candidate was never really in doubt. Gore was seeking to be only the fifth sitting Vice-President to be elected directly to the Presidency—after John Adams (1796), Thomas Jefferson (1800), Martin Van Buren (1836) and George Bush (1988).

Vice-Presidential Candidate

Gore's running mate was *Joe Lieberman* (b. 1942). Born and raised in Connecticut, Lieberman graduated from Yale Law School in 1967. Apart from some years in private legal practice, he was a member of the Connecticut State Senate between 1970 and 1980, the last six years serving as Majority Leader. Between 1982 and 1988 he was Connecticut Attorney-General. He was elected to the US Senate in 1988. Ticket-balancing aspects of Lieberman's background included his Jewish religion (no Jewish-American has been President of the US)¹, his preparedness to criticise fellow-Democrat, President Clinton, in regard to the Monica Lewinsky affair, and the fact that he came from a different part of the US than Gore.

Other Parties

Among the many other candidates for the Presidency, the only two of any possible significance were *Ralph Nader*, contesting as a Green candidate, and *Pat Buchanan*, who had gained the nomination of the Reform Party after a bitter legal battle. It was unlikely that either candidate could win a state, but on each side there was nervousness at the possible spoiling effect of their campaigns. In a system that uses the first-past-the-post voting method, might Buchanan take valuable conservative votes from Bush, or might Nader siphon off green supporters who would otherwise vote Democratic?

The Campaigns

The Evenness of the Contest

As the Republicans had been active for so long in the push to gain money and a united candidacy behind Bush, it did not surprise that for some time the party held a wide margin over the Democrats in opinion polls. This lead was strengthened after the Republican Convention held in July–August. Gore's standing was seemingly hurt by suggestions of doubtful fundraising practices he had been involved in during 1996, but a strong performance by the Vice-President at the Democratic Convention in mid-August saw a marked lift in his poll standing. The candidates therefore entered the campaign in an even

position, something that was maintained throughout the campaign. Normally, the number of genuinely doubtful states declines as a campaign progresses, but in 2000 the number increased as Election Day drew closer. In mid-October the *Detroit Free Press* described the race as 'a statistical dead heat', and so it remained.² For much of the last few weeks, Bush maintained an opinion poll figure of approximately 43–45 per cent, usually a few points ahead of his opponent, though in hindsight it is clear that the polls underestimated the Gore vote. The final opinion poll figures clearly indicated the remarkable closeness of the 2000 presidential contest (Table 1).

Table 1: Final Presidential Poll Figures*

	Gore	Bush
Final Vote	48.4 Per Cent	47.9 Per Cent
ABC News	45	48
Battleground	45	50
CBS News Poll	45	44
Gallup Poll	46	48
Harris (Internet)	47	47
Harris Poll (phone)	47	47
ICR International Communications	44	46
Knowledge Networks (Internet)	44	46
MSNBC	48	46
NBC News	44	47
Pew Research Center	47	49
TIPP	46	48
<i>Washington Post</i>	45	48
Zogby International	48	46
14 Poll Average	46	47

* For those polls ending one or two days prior to election day.

Source: *ESOMAR Research World*, number 11, December 2000, p. 5.

The Geographical Battle

To be elected, a presidential candidate needs to win 270 votes in the Electoral College. When compared with other national presidential elections, this gives US contests an unusual geographical element.³

The national opinion polls, while indicating the overall evenness of support for the two major candidates, effectively disguised the different campaign needs of each. The Republicans seemed to face the easier task. Although Bob Dole, the 1996 Republican candidate, only received 40.7 per cent of the national vote compared with Bill Clinton's 49.2 per cent, the Republican actually won 159 Electoral College votes from 19 states.

Most of these came from the South, including such states as Virginia (13 Electoral College votes) and Mississippi (7), and the West, including Oklahoma (8) and the Dakotas (both 3). In 2000, polls showed that it seemed highly likely that all 19 would vote Republican once more, thus giving Bush a very strong base from which to build the total of at least 270 Electoral College votes that was needed for victory. If one added Florida (25), the fourth-largest state governed by Bush's brother, Jeb, which many expected would be won by Bush, then the Republicans were likely to win a minimum of 184 votes, leaving them just 86 votes to pick up from among the thirty other states.⁴

By contrast, the Democrats were likely to have to work much harder just to hold many states that might have been considered safe. Although the two largest states, California (54) and New York (33) were probably safe for Gore, as also were states in the North-East such as Massachusetts (12) and Connecticut (8), a number of others appeared to be vulnerable. Some of the 31 states that Bill Clinton had won in 1996 were no longer likely for the Democrats, including Louisiana (9), Arizona (8) and Nevada (4). Others, including Florida, Kentucky (8) and Arkansas (6), would be very hard for them to win. Overall, then, the Democrats had fewer 'safe' states than did their rivals. Even of the ten states that Mike Dukakis managed to win, when being trounced in 1988, polls showed that Governor Bush was making strong inroads into a significant number, including Iowa (7), Minnesota (18) and Wisconsin (11). As a rough measure of the different tasks that lay ahead in 2000, it seemed clear that Bush could win without the largest state of California, but a loss of that state by the Democrats would be fatal for the Vice-President's chances. At the same time, a Democratic success in that state could not guarantee a Democrat victory.

An out-of-left-field problem for Gore that made his task harder was the possible impact of voters supporting Ralph Nader. It was quite plausible that the Green candidate was far more likely to strip crucial votes from Gore than Pat Buchanan was from Bush. With the exception of California, the potential Green vote was likely to be highest in Washington (11), Oregon (7), Minnesota and Wisconsin, all states won by Dukakis, but now offering a realistic target for Bush—even without the presence of Nader on the ballot.

The task of achieving the target of 270 Electoral College votes was therefore markedly different for each candidate. Bush could take much more for granted, being able to ignore the large wedge of safe Republican states, and therefore being freed up to devote much time in what became called the Midwest 'battleground' states—in addition to Minnesota and Wisconsin, he spent much effort in Missouri (11), Ohio (21) and Pennsylvania (23). He also targeted, and seemed to enjoy challenging Gore in Arkansas, the home state of the President, and Tennessee (11), the home state of Gore. Finally, the Republicans responded to Nader's challenge to the Democrats in Washington and Oregon by putting a substantial effort in those Pacific states.

As the campaign progressed, Bush also began to challenge in California. This was never seen as realistically his to win, although polls suggested that Bush's surge in support, combined with Gore's relative neglect of the state, helped reduce Gore's lead from double figures to a low of about five per cent at one point. On the other hand, and probably to the

surprise of the Governor, Florida came to appear less safe than had appeared likely at first, possibly as a consequence of retirees' fears concerning their Social Security, and both Bush and Cheney came to spend a lot of time in the Sunshine State.

Gore's task seemed to be largely threefold. Above all, he needed to cling onto as many of the large industrial states, such as Pennsylvania, as he could. He could ill afford to see too many slip from his party's hands, for increasingly there seemed little chance that the Republicans would lose any of the 1996 Dole states. The Gore camp also began to sense the vulnerability of Florida, and apart from Gore often venturing into the state, it came to be joked that Lieberman spent so much time in the state that he had long since fulfilled Florida voting residency requirements. Finally, Gore increasingly needed to work to lessen the impact of Nader in Washington, Oregon, Minnesota and Wisconsin where there was a real danger that even a vote of a few per cent for the Green candidate could turn the state over to the Republicans.

The Clinton Factor

The big intangible for the Democratic candidate was how to deal with what many journalists called 'the Clinton factor'. On the one hand, burdened with such dubious matters as the Whitewater affair and the Lewinsky scandal, the President might well prove to be a burden for Gore. On the other hand, it was felt to be potentially useful for Gore to link himself to the healthy US economy that had developed during the Clinton years and which had aided the reduction of the huge 1992 deficit. In addition, the President's campaigning skills might well be usefully tapped by his Vice-President, especially as, perhaps paradoxically, the President's own approval rating remained high throughout the campaign.

Throughout the campaign, Gore chose to stake out a separate position enabling him to proclaim that he was 'his own man'. The risk was that the votes preserved by the effort to distance himself from the 'Clinton sleaze' factor, might not match the number of voters who might be stimulated to go to the poll by an active President stumping the country. Although the motivation was different, Gore's failure to use Clinton was a reminder of Richard Nixon's reluctance to use President Eisenhower in 1960.

The Presidential Debates

Many commentators expected that the three presidential debates would help Gore open up a winning lead over his opponent. It was widely believed that Gore's experience and skill in public forums combined with his long-standing interest in policy matters would be to his advantage in the setting of three formal, televised debates. The commonly-held view was that the Texan's weakness on policy issues would be clearly exposed, and that his apparent inability to express himself clearly would mark a clear difference in capability between him and Gore.

In fact, the debates seem to have helped Bush and may have weakened Gore. To some degree this was caused by weaknesses in Gore's performance. His testiness in the first debate, and his oddly muted performance in the second, both earned criticism from commentators. It was claimed, for instance, that the Democratic campaign team's preparation of their candidate:

did not fully exploit the debates to demonstrate his [i.e. Gore's] claim to greater experience and superior qualifications for the presidency.⁵

By contrast, Bush's success in avoiding any serious blunders that would have enabled Gore to 'put him away', meant that he lost no ground in the three debates. Essentially, Bush was helped by the generally low expectations that had been held of his likely debate performance.

Representative John Kasich, an Ohio Republican, believed that Gore had missed an important opportunity, saying that Gore would one day ask 'Why did this happen?' How was it that he let his opponent walk away from the debates effectively unscathed?⁶

The Issues

US Presidential elections are partly about policy issues, partly about planting images of the candidates in voters' minds.

Policy

According to the *New York Times*, the candidates simply 'devoted their efforts to blurring their differences and appropriating each other's issues'.⁷ Despite this, there were a number of important policy questions that divided the candidates:

- *Taxation*: Bush spoke of devoting more than a third of the projected budget surplus of \$1.6 trillion to tax cuts across the board. Gore would reserve about 10 per cent of the surplus for tax cuts to low and middle-income families.
- *Health care*: Gore spoke of providing health insurance for all children. He also promised a Patients' Bill of Rights allowing patients to sue health maintenance organisations. He promised to add a prescription drugs benefit to Medicare for older Americans. Bush would reduce the number of uninsured by subsidising their ability to buy private coverage, would expand medical savings accounts and would make the cost of long-term care tax deductible.
- *Social Security*: Bush would use about half the Social Security surplus to allow younger workers to set aside part of their payroll taxes for personal savings accounts to invest in financial markets. Gore proposed using the budget surplus to reduce the national debt, a consequence of which would be extending the solvency of Social Security to at least 2054.

- *Education:* Bush would provide \$1500 vouchers for students in 'failing' public schools. These could be used for paying tuition for private schools. Gore opposed vouchers but would expand the federal government's role in school construction and investment in infrastructure and new teachers.
- *Environment:* Gore supported the Kyoto global warming treaty, opposed by Bush on the grounds that it harmed US interests.
- *Foreign policy:* Gore supported the Comprehensive Nuclear Test Ban Treaty. Bush opposed the treaty, and said he would be prepared to withdraw the US from the Anti-Ballistic Missile Treaty if it was necessary to pursue missile defence. Bush also spoke of reducing US military involvement in international peacekeeping, and questioned a continued US military presence in the Balkans.

Bush described the general approach of his policy thrust as being that of a 'compassionate conservative'. Whereas Bush stayed constant in his approach, there seemed an element of vacillation in his opponent. At times Gore was clearly the inheritor of the liberal ideas of many Democratic predecessors—as in his attack on Bush's tax plan as a giveaway to America's richest one per cent. At the same time he clearly found it far more difficult to deal with some of the issues dearest to conservative voters, such as gun control and abortion rights than did Bush. His uncertainty seemed summed up by the many changes of clothing style to which he subjected his audiences—'would the real Al Gore stand up', was often asked in the press.

Personal

A great deal of effort goes into making voters aware of Presidential candidates. This is particularly the case if, like Texas Governor Bush, a candidate's political career has largely been based in a particular state. In 2000 this was given added importance for the Republicans, for the Bush team believed it could not win if the campaign became bogged down in discussion of policy detail. Consequently, much effort was made to focus on Bush's personality—and particularly his acknowledged likeability: 'he made his inexperience a virtue, his vagueness a shield, his sins a sign of sincerity'.⁸

While presenting an image of Bush as everybody's trustworthy friend, the Republicans attempted to undermine the commonly held image of Al Gore as the 'honest Boy Scout'. A major target of attack was Gore's propensity to exaggerate his involvement in various governmental activities. These ranged from his apparent claim to have taken the initiative in creating the Internet, to whether or not he had visited some bushfires in Texas with a particular government official on a particular day. The Bush campaign felt that the Vice-President was vulnerable on this count, and eventually Gore felt this attack keenly enough to apologise during the campaign for his occasional habit of 'exaggeration'. The *New York Times* believed that the Internet claim, in particular, 'helped cement an image as a public servant who sometimes embellishes the truth and cannot resist telling tall tales'.⁹

Bush used an old tactic of portraying himself as a Washington outsider. He promised to bring 'a new attitude and atmosphere' to the city, which he described as a place where 'there is so much anger, so much division, so much important work left to be done'.¹⁰ The Republicans also attempted to use anti-Washington feeling against Gore, so long a resident of the city. He was portrayed as part of the Washington establishment, who had no idea of the needs and interests of 'ordinary Americans' who lived 'beyond the Beltway'. Bush ridiculed his opponent as 'somebody who was raised in a hotel in our country's capital'.¹¹ Gore was also criticised for his policies that would, it was claimed, make him 'the biggest-spending President of all time'.

Bush was not free from personal criticism, however. Many jokes were made about his occasional confusion of language and apparent lack of familiarity with international affairs. Despite his having entered a second term as Governor of Texas, the Democrats spent a great deal of time in querying Bush's lack of experience in government and the administration of policy matters. A related attack was mounted upon the condition of some Texas services: the poor standard of schools was criticised, as also were the high levels of pollution across the state. A much-repeated claim was that Houston recently had taken over the mantle from Los Angeles as the most heavily polluted major American city.

As is always the case, each camp ran television advertisements very critical of their opponent, the tenor of which was picked up by both the stand-up comic circuit and by newspaper cartoonists. This intrusion of personal attacks into a campaign can be harsher in US than in Australian elections and a selection of cartoons is attached below, to illustrate how personal the attacks on each candidate became (see Appendix 1).

Nader

Ralph Nader's main aim was to gain five per cent of the national vote so as to qualify for federal funding in 2004, but he was soon under attack for the possible harm he was doing the Democratic campaign. He denied he was taking Democrat voters, stating that most of his support came from independents.¹² He professed to see no difference between Gore and Bush, stating that they would be equally disastrous in the White House. Nader refused to see any positives in the Vice-President that might suggest that it would be better from a green perspective to have Gore as President.

Gradually, voices in the public interest community came to query the tactical sense of Nader being on the ballot-paper. Some, in fact, called for him to withdraw. A number of past allies began to work to stop him from crippling Gore, including the Sierra Club, the League of Conservation Voters, the United Steelworkers and Planned Parenthood.¹³ A bizarre suggestion, briefly discussed on the Internet, was for Nader voters in closely-fought states to 'swap' their votes with Democrats living in states safe for Bush, but electoral authorities soon pointed to the illegality of such moves, and the Internet discussion ended.

The Count

Unusually, the conduct of the count of popular votes played a crucial part in this Presidential election.

The Media and the Count

During an Australian election night, election commentators work with actual returns as they discuss the election trends and outcome. With few exceptions there is little attempt to 'call' the election based on predictions made from opinion polling or small early samples of the actual vote.

By contrast, US media Presidential election night coverage makes great use of exit polling undertaken as voters leave the polling place. This exit polling is used as the base upon which the networks seek to establish who has won the election, a prediction that they are keen to make ahead of their rivals. An important (and not usually significant) consequence is that there is an unpreparedness to wait for large samples of actual counted votes before such predictions are made. The significance of this is enhanced by the existence of the Electoral College, for an election night call of 'New York goes to Gore' is relevant in a way that would not be the case if there was only a tallying of a nationwide popular vote. Since 1988 the networks have been part of a consortium paying for the services of Voter News Service (VNS). VNS has used exit polling, typically done well before the close of polling, combined with a few early official vote returns, to predict outcomes. In 2000 this methodology came to play a significant part in the election itself.

Between 7.50 and 8 p.m. on election night, all major networks 'gave' the Florida vote to Gore, a prediction that made Gore's overall victory seem highly likely. In a television appearance, a puzzled Bush expressed his doubt that such a result could be accurate at that stage in the count, but at first this was ignored by commentators. Bush's doubts were soon seen to be justified, as it came to be appreciated that the VNS prediction was based on faulty data, not the least of which was the fact that some Floridans were yet to vote. By 10 p.m. Florida was 'back in the game', according to revised network announcements. But the drama was not over, for just after 2 a.m. on the next morning the networks were now sure that Bush had won Florida and, hence, the Presidency—and made an announcement accordingly. Despite this, the prize was taken from Bush's hands once again (with Gore just avoiding a public concession) within two hours, as a huge Bush lead in Florida very quickly was whittled away as returns continued to come in.¹⁴

Of course, there is nothing new in this style of television coverage of Presidential elections.¹⁵ The important difference in 2000, however, was the closeness of the contest and the possible consequences of making a call that was too rushed. Most significantly, Republicans were reportedly resentful of the first television call of Florida, which they blamed for discouraging Republican voters in states to the west of Florida from going to a polling place at all. It was said that this even affected voters in Florida's Republican-voting

Panhandle, which is on Central Standard Time and therefore which did not close its polls until an hour later than the rest of the state, which is on Eastern Standard Time. For their part, Democrats also were bothered with the early Florida call. They feared that Democratic voters in the Central Time Zone would think their candidate had won the election and that it was unnecessary for them to vote. The impact of such a media call is impossible to measure, but these events have prompted Representative Billy Tauzin, the Republican chair of the House telecommunications subcommittee, to foreshadow an investigation of the night's dramatic events:

It [the early media call] may have sent a signal out to Americans that this election was being decided in a way that was not accurate. When they're being told by the networks that it's already over, that's akin to disenfranchising them.¹⁶

An independent report prepared by three veteran journalists, released on 2 February 2001, was also severe. Apart from the possible effect upon voters, the impression eventually given during the night that Bush was the winner impacted upon public perception during the post-election challenge, when Gore was labelled a 'sore loser':

Television interfered with the electoral process and the election result. In our opinion, that constitutes an abuse of power, if unintentionally so, by CNN and by all the mainstream television news operations.¹⁷

Events in Florida

The remarkable events that engrossed the nation—and a great many people beyond its shores—will presumably form the basis for a great deal of analysis over many aspects of the US political system. A chronology of these events is included in Appendix 2 of this paper. Among the most significant aspects are the following.

Voting System—Methods of Voting

The Florida events threw into stark relief many long-standing, but largely ignored, problems with the US voting system.

The difficulty of achieving any type of consistent (and fair) approach in a system that is as decentralised as is the American, stands out as a major contributing factor to the Florida saga. In that state alone there are 67 counties, each running its own electoral agency, each presumably attempting to ensure reasonable standards of performance, but each operating within its own particular budgetary restraints. According to the Federal Election Commission, in the 1996 Presidential election there were five main methods of voting used across the nation (Table 2), with some counties using more than one. All five methods were in use in Florida in 2000.

Table 2: Voting Methods used in 1996 US Presidential Election

Method	Per Cent
Paper	1.7
Lever	20.7
Punch-card	37.3
Optical scan	26.4
Direct Recording Electronic	7.7
More than one method used	6.2

Source: Federal Electoral Commission, <http://www.fec.gov/elections.html>¹⁸

Although approximately one-third of voters used the punch-card method, it was soon obvious that its being favoured by so many authorities was no guarantee of its efficiency. The method had been in use at least since the early 1960s, and by retaining aging (but cheap) equipment, electoral authorities could no longer guarantee that all votes were adequately registered. The consequence was that in 2000 some arcane electoral official terms, such as 'chad' or 'undervote' entered the US political lexicon. However, although the terms were unfamiliar, their significance soon became clear to the watching public. A voter hindered by an inability to operate a punch-card machine to adequately punch out a hole—and therefore cast a ballot that would not be read by the machine—might yet leave enough evidence of his/her voting intent. A chad is the piece of paper that is punched out in the act of voting. If the chad is still attached, it is a 'hanging chad', or if a telltale bulge indicates an attempt to puncture the card, the term is 'dimpled', 'pregnant' or 'bulging' chad. The term 'undervote' is used to describe votes that for some reason have not been counted by the machine reading the ballots—in Florida alone there were over 61 000 undervoted ballots in 2000.¹⁹

Voting Arrangements—Problems of Decentralisation

Elections in the US have always been administered by state and local authorities. This has meant that, over time, the arrangements for the conduct of national elections have differed from state to state—even from county to county within a state. Inevitably, the standards put in place have varied a great deal. Wisconsin, for instance, developed a name for having higher election standards than most other states. In the 1970s a public debate occurred over a lack of uniform standards in electoral administration. This eventually led to the establishment of the Voting Systems Standards Program, designed to give assistance to those electoral authorities who voluntarily sought to achieve certain national standards in electoral administration. When discussing this program in 1998, the Federal Electoral Commission acknowledged that there were difficulties in achieving uniformity of standards across the nation, but was generally up-beat about what had been achieved: 'the current standards remain for the most part adequate and useful for the purpose of ensuring the accuracy and reliability of voting systems'.²⁰ It is probable that many Americans would

now regard this view as unrealistically optimistic, particularly as it is clear that voting problems were not restricted to Florida.

To an Australian observer these events indicate the value in having national elections organised by a central authority, with no local input of any kind. Australia has uniform voting hours, uniform voting rules, uniform ballot papers; the US has none of these, all being controlled by state or local authorities:

The American electoral process is an enormously complex patchwork of archaic counting systems run by harried officials, with minimal oversight and funding.²¹

According to *Newsweek*, the Florida controversy, which also caused Americans to note other anomalies in other states as well:

... threw a harsh spotlight on the process of voting, arguably the most precious American act—yet one governed by an arcane patchwork of local officialdom and antiquated machinery, some of it dating back to the 19th century. The system would be amusing were it not creaking so loudly—and dangerously—under the collective weight of the closest presidential election in modern history. Voters, already terminally cynical about candidates and campaigns, might come to feel the same way about the sanctity of the vote count.²²

Voting Arrangements—Discriminatory Effects

One unexpected discovery in Florida and elsewhere, is the degree of discrimination that seems to exist as a consequence of the operation of the voting system:

- the use of punch-cards can discriminate against the elderly who can have difficulty ensuring that their card is satisfactorily punched
- people can be denied entry to polling places even when they present themselves before closing time, on the grounds that officials do not believe that they can be processed before the close of polling
- rules specific to particular states can affect electoral outcomes. For example, many Florida voters were turned away because of a state law that barred from voting people who had been found guilty of a crime or misdemeanour, even once their sentence had been served. Another example of great relevance to this election was that Florida electoral arrangements made no provision for hand re-counts of punchcard ballot papers, though, ironically, they are allowed in Texas
- because a disproportionate number of votes were disallowed in counties where black voters predominated, black spokespeople believe that there is a prima facie case for suggesting that minority voters were discriminated against by voting officials. For example, Florida shifted thousands of registered voters into 'inactive' status when records

indicated that they may have moved residence. When many arrived to vote they were denied the opportunity. Reportedly, the voting locations most likely to lack the telephone and computer connections required to clear up the confusion were precincts with a large number of voters from minority communities

- the fact that the Constitution specifies the particular day for voting by the Electoral College seemed to discriminate against some Florida voters, as judges and voting officials were clearly operating with the deadline very much in their minds. It is clear that some voters were discriminated against when their votes were not included in the final Florida tally despite their votes being known, and
- as noted above, the broadcasting of results across the nation before all voting has been completed can discriminate against parties—the Republicans have a valid claim in 2000, but it has hurt both parties at different times in the past. Interestingly, the recent Canadian election illustrated how the imposition of a national media ban until voting has ceased, can work very effectively, though this is no doubt easier in a nationally-administered system.

The Media

The media was very important in the events in Florida. This was partly due to the fact that the ongoing Florida saga was the type of story that the media relishes, with plenty of drama, anger, frustration, heroes and villains, tension. Rarely do political stories of such importance last so long, providing the media with new angles virtually every day—as the timeline in Appendix 2 makes clear. Part of this coverage was of the normal type, but the use of the Internet as part of the news-dissemination process meant that each day a massive amount of fact and opinion on these events was available to an unprecedented level.

The media also played an integral part in the way the opposing sides played their hands in Florida. Repeatedly the media reported one or the other camp as considering how best to present their case to the public. In addition, both sides saw propaganda value in having the media report that their candidate was 'ahead' in the Florida count. The media was thus an integral part of the Florida legal struggle.

A highly controversial development involving the media was the involvement of several news organisations in an informal re-count of disputed Florida votes. This was possible because of the state's liberal public records law that guarantees public access to various types of records, including ballot papers. These media organisations were joined by a private public interest body, Judicial Watch. Republicans, such as Representative Mark Foley (R-Florida), were unhappy with this media activity: 'Anything that undermines Bush's ability to govern is of my concern'.²³ Because of an absence of agreed standards for such an exercise, any figures which came from it were felt to be highly dubious.

The Use of the Courts

The legal battle in Florida brought the court system very much under the spotlight, for the legal manoeuvring involved cases brought before many courts, ranging all the way from Florida circuit courts to the US Supreme Court. The complexity of the legal struggle was such that at times it was very difficult to keep track of all the activity that was occurring. Essentially, though, there was a central thread to each side's legal strategy.

For the Republicans, ahead at all times in the Florida count, the aim was to ensure that a manual re-count was not allowed, or if it was, to bar the inclusion of the new figures into the final Florida tally. The defence of this stance was the argument that if counting by hand were to be allowed to continue, then this could be seen as unequal treatment of citizens, and was therefore in breach of the XIV Amendment to the Constitution.²⁴

There were at least two reasons why it was in the best interests of the Democratic challenger that the vote counting be allowed to continue. Firstly, it was obviously important for the Democrats' Florida vote to pass that of Bush so as to be able to argue that Gore had indeed won the Florida vote. Secondly, the struggle was not only being fought in the courts, however. It was felt that if there was some Republican effort to force a result—such as the Florida legislature choosing to ignore the vote and appoint Republican delegates to the Electoral College—then in the court of public opinion it might be very significant if this were done against a backdrop of Gore actually being ahead in the counting.

The Democrats focused their legal fight on ensuring manual re-counts be held in particular counties. In retrospect this may well have been a tactical error. It may have been better to challenge the entire Florida vote, rather than just a part of it, for the Supreme Court might have had greater difficulty using the unequal treatment argument if the entire Florida vote was being called into question, though the time constraints may have been even more acute.

Throughout the Florida legal battle there were many reminders of the close relationship between the political and legal systems. The media continually reminded the public of the links between particular judges and the administrations that appointed them. This also coloured speculation as to how particular judges might vote on particular questions—would judges appointed by Republicans be more likely to be sympathetic to arguments put by Republican attorneys? There were also instances of judges being critical of fellow-judges' decisions that were pointed to as examples of how naïve it might be to suppose that politics did not impact upon judicial decision-making.

The Vote

The official popular vote tally giving Gore a margin of 539 895 votes, or 48.4 to 47.9 per cent was the narrowest since the 50 per cent to 48 per cent victory in 1976 of Jimmy

Carter over Gerald Ford, though in saying that these are official figures, one must acknowledge that the final vote in Florida will never be known for sure (for official figures, see Appendix 3). The estimated turnout was 50.7 per cent, barely above the 49 per cent of 1996 that had been the lowest return since 1924, and well below the 55.2 per cent of 1992.²⁵

In broad terms, Gore's Electoral College vote was found in three wedges: the North-east (excepting New Hampshire), five Mid-West states (Minnesota, Iowa, Wisconsin, Illinois and Michigan) and the three Pacific states. This meant that Bush took the states from Idaho to Virginia, with only New Mexico withstanding the Republican sweep.

The national figures reveal a remarkable shift in US voting behaviour that has occurred in the past three decades.

For approximately 100 years after the Civil War, the South was the preserve of the Democratic Party. It was often said that the real competition in many congressional elections in this region was in Democratic primaries, rather than in the contest between Democratic and Republican candidates. This had begun to change by 1964 when the Republicans won five states in the South. During the 1980s the shift became clearer and in 2000 Bush won not only all eleven states from the old Confederacy, but also West Virginia, Missouri, Oklahoma and Kentucky, states located on the North-South border.

By contrast, the Democratic candidates now rely for a large proportion of their support in the Northeast, a former Republican stronghold—in 1976 Gerald Ford won five of the states between New Jersey and Maine. By contrast, in 2000 Al Gore won 43 per cent of his 266 Electoral College votes from this region.

Within the state figures there was a marked difference between urban and rural returns. Cities with populations in excess of 500 000 were won by Gore by a three to one ratio. In smaller urban areas, Gore took three of five cities with populations between 50 000 and 500 000. About half of the votes came from rural areas, and Bush won about 60 per cent of this part of the country.²⁶

Electoral College Figures

On December 18 the Electoral College cast its votes. Bush received 271 of 537 valid votes, one more than required, in the closest Electoral College margin since the disputed election of 1876. Gore should have received 267 votes, but one Democratic elector from the District of Columbia cast an unmarked ballot in protest at the District of Columbia's lack of voting power in Congress. This gave Bush a final winning margin of five Electoral College votes, 271–266.²⁷

Gore is the fourth candidate after Andrew Jackson (1824), Samuel Tilden (1876) and Grover Cleveland (1888) to win the popular vote yet lose in the Electoral College.

Ironically, the 2000 election was so close that some commentators actually had predicted that the Electoral College vote would not match the popular vote, but that Gore would be the beneficiary.²⁸

Accounting for the Result

A detailed analysis of this election will take some time, but even an early analysis such as this suggests the importance of a number of factors.

The Campaigns

In the frantic rush of campaigning after the traditional start on Labor Day (first Monday in September), the consistent opinion poll message was that the popular vote margin was likely to be narrow. In a system where about half of the registered voters were unlikely to turnout, this placed a great importance in the individual campaigns of the two candidates, with a strong emphasis on encouraging voter turnout on Election Day. It was therefore believed that both needed to be seen in marginal states if they were to have any chance of winning them. In such an electoral contest, it is inevitable that parties and commentators wonder about possible campaigning errors that may have hurt one candidate or the other. Some of the more significant questions included the following.

Bush Campaign

- Bush's choice of Washington veteran, Dick Cheney, was criticised. Presidential campaign running mates are often chosen to enhance a party's chances of winning the state of the Vice-Presidential candidate, but in this case not only was Cheney's state of Wyoming rock-solid Republican, but its Electoral College tally of three votes was very likely to be irrelevant to the result. It was pointed out that Bush may have taken the rich pickings of Pennsylvania (23), which remained doubtful through the campaign, if the state's popular Governor, Tom Ridge, had been on the ticket. Alternatively, although Senator John McCain's Arizona (8) would not have been a significant prize, the placing on the ticket of the Vietnam War hero—who had defeated Bush in two primaries earlier in the year—might well have given it far more electoral impact than brought by Cheney
- despite the Bush camp's making an issue of the Gore character flaws, little effort was made to link the Vice-President firmly to President Clinton, particularly in relation to controversies over fundraising that both had been involved in. Some critics felt that Bush had been too gentle with Gore
- some serious damage was said to have been done to Bush by the McCain campaign in the New Hampshire primary, when Bush's tax plan was said to have been designed to benefit

the rich who had no need of such a cut. Bush made no effort to trim his policy sails on this issue, and it is arguable that this might have hurt him with poorer voters

- even when Gore's opinion poll standing fell in California, there seemed little likelihood that the Democrats would fail to carry the state. Despite this, Bush spent valuable time and resources stumping California in the last days of the campaign when he could have been putting in more time in the so-called battleground states. The time spent flying to and from the Pacific Coast came with a loss of campaigning time that he could have done without, and
- Bush also puzzled observers with his relatively sedate campaigning schedule, which contrasted very much with the frenetic pace of his rival. The Texan travelled home for each weekend, effectively falling from public view, and he even rested at home on the second-last Sunday of the campaign. It must be wondered if one day's rest could really have made a difference, but this pause so close to polling day still earned him criticism: 'Would an extra stop in, say, Pennsylvania, West Virginia or Wisconsin have made a difference—or the difference?'²⁹

Gore Campaign

- although Gore's desire to establish himself as a political identity separate from the incumbent President was understandable, the manner in which this was handled denied him the use of a politician who was recognised as an effective campaigner. Critics wondered if Clinton should have been used far more, particularly in encouraging African Americans—who vote overwhelmingly Democratic—to get to the polling place
- on the other hand, Clinton may have hurt Gore whatever approach the latter took in the campaign. Opinion polls suggested that for nearly half of the electorate the Clinton scandals were an important factor when considering their vote—and that three out of four of these actually voted for Bush. This was in spite of the fact that about two-thirds of those polled thought the economy was heading in the right direction, normally an important factor in such elections³⁰
- linked to this was an apparent Democratic reluctance to make more of the healthy US economy. The economic boom that coincided with the Clinton Presidency, contrasted with the four average economic years of the Bush Presidency. Although late in the piece Gore occasionally referred to this, some Democrats believed he should have made more effort to link himself with the economy throughout the entire campaign
- the Bush camp made much of claimed problems of Gore's personality, but the Democrats were much gentler with the Texan. Should Gore have hit the Governor harder on his own flaws, not the least of which was his inability to enunciate a clear policy direction?

- further to this point, some observers claimed that Gore should have hit harder at the record of the Bush administration in Texas. The Democratic party certainly ran advertisements that were critical of the Texas record, but Gore himself perhaps should have been more involved in this
- this opens up the issue of just how well-organised the Gore campaign actually was. In an surprising confession at a forum on the election held in mid-February 2001, Carter Eskew, one of Gore's key strategists, regretted that he had 'no detailed game plan' for the campaign³¹
- Gore's performance in the televised debates was seen as ill-advised. His obvious lack of patience with Bush in the first, his over-cautious approach in the second, and even the moment in the third when in walking straight at Bush he was said to have invaded the 'personal space' of the Texan, all attracted much public criticism, and
- the issue of Gore's tendency to exaggerate had been in the public arena for some time, and there was a suggestion that this hurt him with voters. During the campaign it transpired that as early as his 1988 Presidential campaign his staff was warning of a need to control this tendency. There was certainly much made of this by his opponent, the stand-up comic circuit, and by the media. An example of the latter was the lengthy editorial that appeared in Tennessee's *Chattanooga Free Press* which re-counted a substantial number of claimed exaggerations, under the title, 'Trivial but ...'.³²

The Bush Fighting Fund

How significant was the Bush team's enormous amount of money? By the time the candidates were chosen he had raised an astonishing \$US91 million, nearly double the Gore total.³³ It is hard to judge the impact of this, but the media continually ran stories that hinted at its impact. Prior to the Republican Convention it certainly made it very difficult for other Republicans to gain any worthwhile tally of donations. In the election proper, in some states there was sufficient Republican money available to buy up a large amount of prime time television advertising space. Veteran election-observer, David Broder of the *Washington Post*, was sure that this was very significant, believing that Bush had spread cash resources more widely than any other non-incumbent candidate in his experience.³⁴

Gore and Tennessee

If Al Gore had won his home state of Tennessee he would have won the Presidency. In 11 elections since 1960, only two of 22 major party candidates (McGovern-D-1972, Gore-D-2000) have failed to win their home states—even the badly beaten Barry Goldwater (R-1964) and Walter Mondale (D-1984) managed to achieve that. Two factors appear to have been important in accounting for Gore's failure.

Like other Southern states, Tennessee has swung to the more conservative Republican Party in recent times—in 1994 the Democrats lost the Governorship and the state's two Senate seats. Gore's liberal stance on issues like abortion rights, limited gun control and gay rights probably hurt him in a conservative electorate—in his effort to outflank Nader, he may have upset the folks at home.

The second factor may well have been Gore's having come to be seen as a member of the Washington establishment. There seemed to be sentiment abroad that he had ceased to be a 'true' Tennessean and came home only when he needed people's votes. Whatever the factors in accounting for his failure, Gore barely won his home county, failed to carry his former Congressional district and finished nearly three per cent behind Bush across the state.³⁵

The Impact of the Nader Campaign

The most basic reading of the 2000 Presidential election result would suggest that the key factor in Gore's failure to win enough Electoral College votes was the impact of the Nader campaign. To make that assertion, two assumptions need to be made. The first is that green voters who supported Nader would have still turned out to vote if Nader had not been on the ballot paper. The second assumption, that follows the first, is that green voters would have been overwhelmingly likely to have supported Gore—a politician who had quite respectable 'green' credentials³⁶—ahead of Bush.

The states that are central to this claim are New Hampshire and Florida, both won by George W. Bush. In the former, Bush's final margin was just over 7211 votes (or about 1.3 per cent). With Nader's vote tally being over 22 000 votes, or 3.9 per cent of the whole, it is quite plausible to claim that New Hampshire would have gone for Gore had Nader been absent, even taking New Hampshire's general tendency to vote Republican. In the case of Florida, the case seems clearer. With the final margin between Bush and Gore being less than one thousand votes, Nader's voters would have only had to split 51–49 to Gore for the Democrats to have won the state, a very likely outcome taken the greater sympathy between greens and Democrats than between greens and Republicans.

The Intervention by the Supreme Court

For many observers, in the end it was the intrusion by the US Supreme Court into the process 'when it should not have done so' that finally decided the election result. This is the view of John Hart of the Australian National University. Hart has accused the Court of stopping a 'legitimate' re-count, and in doing so has left 'a permanent doubt about the real outcome of the election and the real winner'. From such a perspective:

the US Supreme Court, rather than American voters, determined the outcome of the presidential election, and it did so in the full knowledge that recounts were incomplete

and that the result in Florida may well have been different had those recounts been concluded.³⁷

In *Bush v Gore* (2000) by a 5–4 vote, the Court found 'a violation of the Equal Protection Clause [of the Constitution]' because the re-count operations lacked necessary 'procedural safeguards' to ensure that counties would treat unread ballots equally.³⁸ This judgment earned some criticism, for the current Court has had a history of making it nearly impossible to win claims of unequal treatment by government. Generally, claimants have had their best chances of success if they could prove bias and/or discrimination by government officials. This has proved to be a very difficult matter to prove and most cases have failed. There was certainly no effort made by Bush to claim bias or discrimination by Florida officials.

Other Races

In addition to the Presidential election, there were 34 Senatorial contests, 11 gubernatorial elections and all 435 House of Representatives seats were up for election. The more notable included the following.

Senate

Senate control was seen as within the reach of the Democrats. The Republicans held an eight seat margin (54–46), but had 19 of their seats being contested by contrast with the Democrats' 15 seats. The outcome was a Senate tied, 50–50, between the major parties.

Republicans still maintain nominal control of the Senate despite the 50–50 tie, because Vice-President Cheney has a casting vote in the event of a tied vote. But negotiations between the parties have been necessary to sort out such matters as the allocation of committee seats and staff funding.

Connecticut

Democratic Senator Joe Lieberman contested both his Senate seat and the position of Vice-President. This was the first such double candidacy since 1960, when Lyndon Johnson contested his Texas Senate seat while running on the Democratic Presidential ticket with John Kennedy. Lieberman earned criticism from within his party, for if the Democrats won the Presidency his Senate replacement would have been chosen by the Republican Governor, handing the seat to the Republicans. Despite this, Lieberman retained the seat comfortably with 63 per cent, a drop of 4 per cent on his 1994 vote.

Delaware

Former member of the House of Representatives and Governor, Tom Carper (D), defeated William Roth (R), 56 per cent to 44 per cent. Roth, elected in 1970, was the longest-serving Senator for this small eastern state. This is the first time Delaware has had two Democratic Senators since the end of World War II.

Massachusetts

Edward Kennedy, the youngest brother of President Kennedy, was first elected to the Senate in a special election in 1962. Opposed by a Republican candidate who had never before run for any office, the Democrat won his eighth consecutive Senate election gaining a massive 73 per cent of the vote, with the Republican tally at just 13 per cent.

Missouri

The Democrats nominated Missouri's Governor, Mel Carnahan, to oppose single-term Senator, John Ashcroft. It was hoped that the Governor's popularity would carry him to victory, but Carnahan was unable to draw ahead of the sitting Senator. On 16 October, the plane carrying the campaigning Carnahan crashed, killing the Governor and his son. His replacement announced that it was too late to remove Carnahan's name from the ballot paper, and that if the dead man topped the Missouri Senate poll, he would appoint Jean, Carnahan's wife. Ashcroft was left in an awkward position. He refrained from campaigning for eight days, and clearly felt constrained from attacking Jean Carnahan. Eventually he took 48 per cent of the vote, two per cent behind the dead Governor. Ashcroft was later nominated as federal Attorney-General by President-elect Bush.

New York

The most prominent Senate election for some years was held in New York, to replace long-time Senator Daniel Patrick Moynihan (D). First Lady, Hillary Rodham Clinton carried the Democratic flag, being first opposed by New York City mayor, Rudy Giuliani. After the mayor's retirement due to ill-health, State Representative, Rick Lazio, became the Republican candidate. Despite carrying the burdens of her husband, her 'carpetbagger' status and her tendency to polarise observers, Clinton's performance belied the opinion polls that seemed to suggest a close result, by returning a 55 per cent vote, 12 per cent ahead of Lazio.

West Virginia

This result is a reminder to Australians that a number of US politicians continue to win elections at an age at which we would expect them to have retired. Democrat Robert Byrd (b. 1917), first elected in 1958, won his eighth election by a massive 58 point margin.

Washington

Polling indicated that Washington state was always going to be close, but the importance of the contest could not have been anticipated. Three-time Republican winner, Slade Gorton, was opposed by high-tech entrepreneur, Maria Cantwell (D), briefly a member of the House of Representatives, 1992–94. Cantwell won on the first count by 1953 votes, and after a re-count had increased her lead to just 2229 votes. Washington thus joined California and Maine in having two female Senators.³⁹ Cantwell's delayed victory ensured that the Democratic Party would gain half of the Senate membership.

House of Representatives

If the two independent Representatives held their seats in Vermont and Virginia, the Democrats needed just a net gain of six seats to gain control of the House but fell four seats short.

One of the most interesting contests was in Washington's 5th District. In response to increasing calls for term limits to be introduced in the US, incumbent Republican, George Nethercutt, had set himself a self-imposed three-term limit. In subsequently choosing to run for a fourth-term Nethercutt earned himself a great deal of criticism, particularly in advertisements run on local television. Despite this, he easily retained the seat with a 57 per cent–39 per cent margin and virtually no loss of votes on his 1998 result.

Governor's Races

Only eleven gubernatorial contests were held. The most interesting was probably Missouri where the retiring Governor, Mel Carnahan, died in a plane crash while campaigning for the Senate (see above). In an extremely close result, the state Auditor, Bob Holden, held the position for the Democrats by just one percentage point.

Beyond the 2000 Presidential Election

There was a great deal of debate about the US political system during the Florida count manoeuvring, with some questioning the underlying lack of fairness in the whole election,

that required the involvement of the courts. In his annual report to Congress, Chief Justice Rehnquist noted that:

This Presidential election ... tested our Constitutional system in ways it has never been tested before. The Florida State courts, the lower federal courts and the Supreme Court of the United States became involved in a way that one hopes will seldom, if ever, be necessary in the future.

At the same time, Rehnquist drew attention to the fact that the American system was not in any danger and was, in fact, 'witnessing an orderly transition of power from one Presidential administration to another'.⁴⁰

Despite this, however, the consequences of the 2000 Presidential election are likely to be far-reaching. In no particular order the following may be the most significant.

Bush and Congress

President Bush seems unlikely to have much opportunity to build bridges with the new Congress, for there appears to be a large amount of Democratic hostility to his election. This will probably be emphasised by the fact that the Republican majority in the House is just four seats, while each of the two parties has half of the Senate numbers. He will probably find some difficulty in reaching out to the Democratic leadership.

Gore in Four Years Time?

Will Al Gore have the chance to run again in four years? The Vice-President has given nothing away about his plans for the next election, but there has been some media discussion about the matter. There appears to be a belief held by some politicians within the Democratic Party that in losing what seems to be an 'unloseable' election, Gore is unlikely to have the chance again—or at least in 2004.

Black Americans

A great many black Americans do not vote for Republican candidates, and are therefore always likely to be dismayed when a Republican is successful. In this case, where it is clear that a disproportionate number of votes by blacks were not counted, such dismay is likely to be felt much more strongly by many from this community. As Representative Eddie Bernice Johnson (D-Texas), president of the Congressional Black Caucus has put it:

There is overwhelming evidence that George W. Bush did not win this election either by national popular vote or the Florida vote.

Johnson said that Black members of Congress therefore did not regard Bush as the legitimate President.⁴¹

The Standing of the Supreme Court

The decision by the US Supreme Court brought down a great deal of criticism upon its head primarily along the line of it having put the result ahead of legal principle. University of Virginia constitutional law scholar, A. E. Dick, noted that the Court's action invited the observer 'to read this as a results-driven opinion'.⁴² This extended to an expression of concern over a possible loss of standing in the US political system. Justice John Paul Stevens spoke of the 'loser' in the election being 'the Nation's confidence in the judge as an impartial guardian of the rule of law'.⁴³ Some even likened the *Bush v Gore* decision of 2000 to other cases that brought disrepute upon the Court, such as *Dred Scot* (1857, constitutionality of slavery), *Plessy* (1896, constitutionality of segregation) and *Korematsu* (1944, constitutionality of wartime Japanese internment).⁴⁴

Casting a Vote

It seems likely that many changes will have been made to US voting arrangements prior to the next Presidential election. These will involve voting arrangements in many states, for voting problems extended well beyond the Florida borders:

In hundreds of jurisdictions around the country, unreliable equipment, errors by ill-informed voters, inaccurate voter registration rolls, abuses in the absentee-voting process and staffing problems at polling places contributed to the tangled outcome.⁴⁵

Above all, one key requirement would seem to be the need for states to move to taking a more active role in ensuring that elections within their borders conform to acceptable standards. The recent recommendation by a Florida committee to prohibit the use of punchcard ballots by 2002 would appear to be an example. In early February 2001 a committee of the National Association of Secretaries of State (NASS) approved recommendations from an election standards task force, that called for reforms to make sure all votes are counted accurately, and that voting be accessible and easily understood by voters.⁴⁶

The changes, important as they may be to ensure that all votes are treated equally, are unlikely to tackle the fundamental issues of decentralisation of electoral organisation or the continuing use of the Electoral College. The underlying message of the NASS report was that despite the 36-day dispute in Florida over the Presidential election, the federal government should not overreact and seek to reduce the authority that state and local governments have over election procedures. A Republican President who had been a state governor is likely to heed this message, and, indeed, President Bush has already asked Congress to look into four matters only:

- any electoral reform should include fixing machines so everyone can vote
- protecting the system against felons who vote
- protecting men and women in the military so their right to vote is not infringed, and
- exploring whether projections by the networks before the polls close have a detrimental effect on voting.

None of these matters involve the issue of decentralisation of elections.⁴⁷

One national change that has been mooted is to change the day of voting (Tuesday), either to a weekend day, or even to allow voters to cast their vote on either day of the weekend. Such a change would only require a vote by Congress—it was only in 1845 that Congress stipulated the first Tuesday in November.⁴⁸

The Electoral College

In the US there has long been a vein of opposition to the Electoral College method of electing the President.⁴⁹ The major criticism has involved the ever-present problem that the Electoral College might return a President who has failed to achieve a popular majority—as happened on this occasion. Such an event is not restricted to this voting system, but the events since Election Day seems to have engendered much more questioning of the system than took place in either 1876 or 1888, the last occasions when this occurred. Opinion polls seemed to be suggesting that Americans would welcome either the abolition or else the wholesale reform of the Electoral College. A *Newsweek* poll reported that a sample of voters preferred to rid the system of the Electoral College by a 57 per cent to 33 per cent margin.⁵⁰ Newly-elected Senator Hillary Rodham Clinton has been just one of many prominent politicians calling for reform or abolition of the Electoral College since 7 November.

As three-quarters of the states must approve a constitutional amendment, only 13 states are needed to block any amendment. According to Professor Delmer Dunn of the University of Georgia, the small states that are greatly benefited by the Electoral College numbers, would be highly likely to block such an amendment. In addition, John Hart of the Australian National University believes that any attempt to abolish or alter the Electoral College, let alone bring any centralisation of the electoral arrangements, would be seen as a challenge to state rights and, hence, would be very likely to fail.⁵¹

Media Coverage

It does seem highly likely that news organisations will alter their election night practices. NBC, CBS and ABC have all spoken of their culpability for the election night debacle and

the need for change. ABC, for example, has spoken of instituting many 'changes and clarifications' in its election night processes including:

- explaining to viewers that projections are 'informed, statistically-based estimates of the probable results', and are not 'reports of actual, final results'
- continuing to support a uniform national election closing time
- projecting a winner only after the last scheduled poll closing time in any state
- taking 'all reasonable steps to insulate those involved directly in making projections from the pressures of competition from other news organizations', and
- supporting comprehensive review of, and improvement in, the operation of the Voter News Service.⁵²

Endnotes

1. Though Barry Goldwater (R-1964)—who expressed pride in his heritage—came from the Goldwassers of Prussia, see Norman Berdichevsky, 'The Lieberman Miracle', *Contemporary Review*, vol. 277, no. 1617, October 2000, p. 196.
2. *Detroit Free Press*, 18 October 2000.
3. For the Electoral College, see Scott Bennett, 'Electing the US President', Department of the Parliamentary Library, *Research Note*, no. 13, 1999–2000. This can be found at <http://www.aph.gov.au/library/pubs/rn/1999-2000/2000rn13.htm>
4. The District of Columbia (3), which gave Dole less than 10 per cent of the vote in 1996, was never considered likely to look kindly upon Bush.
5. *Washington Post*, 5 November 2000.
6. Representative John Kasich, quoted *New York Times*, 5 November 2000.
7. *New York Times*, 7 November 2000.
8. *Time*, 5 November 2000, 25 December 2000–1 January 2001, p. 33.
9. *New York Times*, 5 November 2000.
10. Associated Press, 30 October 2000.
11. *Seattle Post-Intelligencer*, 1 November 2000.
12. AFP, 24 October 2000.
13. Associated Press, 2 November 2000.
14. For an Australian observer's description of these events, see Robert Lusetich, 'First with the worst', *Australian*, 16 November–22 November 2000, Media supplement, pp. 6–7.

15. For a description of similar rushed, and error-prone, analysis, that followed the handing down of the final Supreme Court decision, see *Time*, 25 December 2000–1 January 2001, p. 51.
16. Quoted Lusetich, op. cit., p. 6.
17. Associated Press, 2 February 2001.
18. 2000 figures are not yet available, but the Federal Electoral Commission believed that they were very similar to the previous election.
19. *Time*, 18 December 2000, p. 34.
20. 'Frequently Asked Questions About Voting System Standards', Federal Electoral Commission, <http://www.fec.gov/pages/faqsivs.htm>
21. *Boston Globe*, 12 November 2000.
22. *Newsweek*, 20 November 2000.
23. *Chicago Tribune*, 20 December 2000.
24. 'No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States ... nor deny to any person within its jurisdiction the equal protection of the laws'.
25. Curtis Gans, Committee for the Study of the American Electorate, MSNBC, 8 November 2000.
26. *Washington Post*, 7 November 2000.
27. *New York Times*, 30 December 2000.
28. For example. Reuters, 24 October 2000.
29. MSNBC, 2 November 2000; Bush finally won West Virginia.
30. *Washington Post*, 7 November 2000.
31. *New York Times*, 12 February 2001.
32. *Chattanooga Free Press*, 6 October 2000; *Los Angeles Times*, 22 September 2000.
33. Official figures from the Federal Election Commission, <http://www.fec.gov/finance/precm8.htm>
34. *Washington Post*, 5 November 2000.
35. *Memphis Flyer*, 18 January 2001.
36. See Al Gore, *Earth in the Balance. Ecology and the Human Spirit*, Boston, Houghton Mifflin, 1992.
37. John Hart, 'Hail to the thief whom the court advances', *Canberra Times*, 16 December 2000.
38. *Chicago Sun-Times*, 16 December 2000.
39. There are now 13 women in the Senate, an all-time high.
40. '2000 Year-end Report on the Federal Judiciary', 1 January 2000,

<http://www.supremecourtus.gov/publicinfo/year-end/2000year-endreport.html>

41. *New York Times*, 7 January 2001.
42. *Time*, 25 December 1900–1 January 2001.
43. *George W. Bush et al, Petitioners v. Albert Gore Jr, et al* 531 US (2000), http://frwebgate.access.gpo.gov/supremecourt/00-949_dec12.fdf, United States Supreme Court, 12 December 2000, p. 7, Stevens, J, dissenting.
44. See e.g. Akhil Reed Amar, Yale Law School, *Los Angeles Times*, 17 December 2000.
45. *New York Times*, 5 February 2001.
46. Reuters, 5 February 2001.
47. *New York Times*, 5, 9 February 2001.
48. *Boston Globe*, 8 February 2001.
49. See Martin Diamond, *The Electoral College and the American Idea of Democracy*, Washington, American Enterprise Institute for Public Policy Research, 1977.
50. *Newsweek*, 20 November 2000.
51. Delmer Dunn, letter to author, 27 January 2001; John Hart interview with author, 13 November 2000.
52. Reuters, 8 February 2001.

Appendix 1: Selection of Cartoons from 2000 Campaign

1. Gore was lampooned for his apparently humourless (and boring) concern with the full enunciation of policies.



Source: Jimmy Margulies, *The Record*, New Jersey.

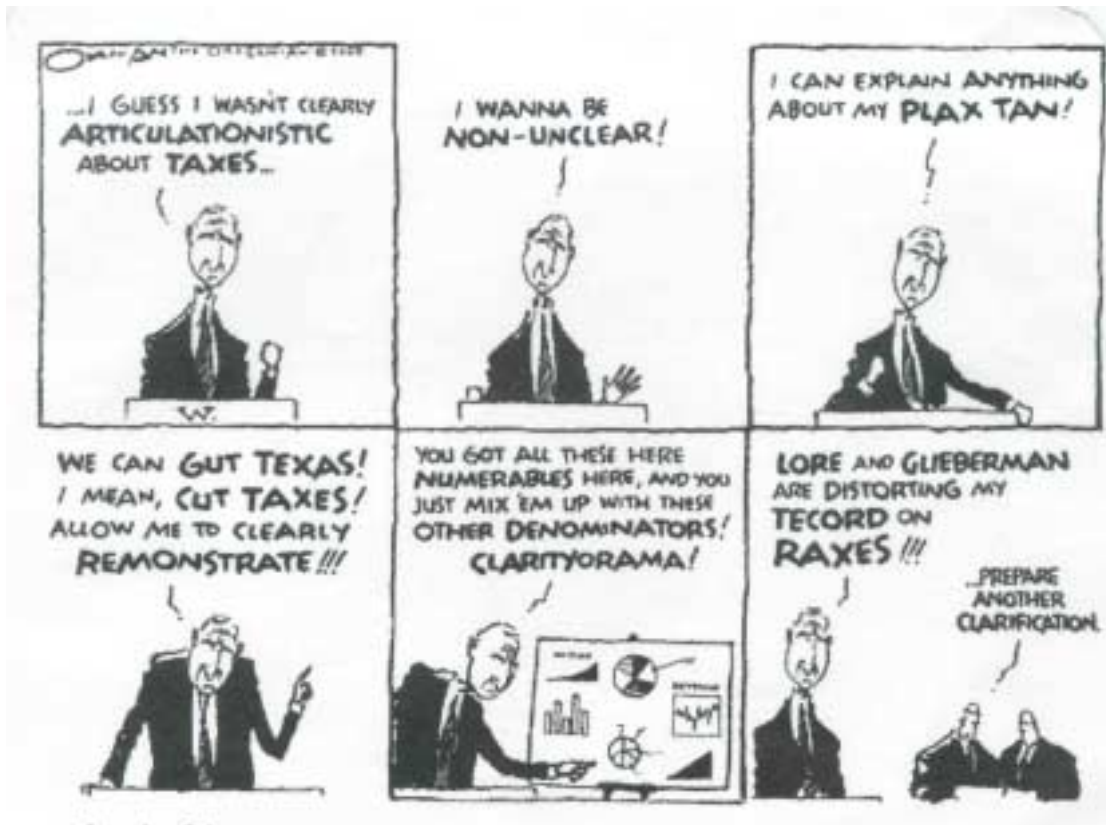
2. Many cartoonists used the Gore tendency to 'exaggerate' to good effect.



Wayne Stayskal, Tampa, FL -- From The Tampa Tribune. Visit Wayne

Source: Wayne Stayskal, *Tampa Tribune*.

3. Bush's tendency to confuse his words was also a common target.



Source: Jack Ohman, *Portland Oregonian*.

4. Some cartoonists suggested that the Texan was not clever enough to be President.



Source: Mike Luckovich, *Atlanta-Journal-Constitution*.

Appendix 2: Chronology of Events in Florida, 7 November—13 December 2000

The events in Florida after Election Day captured the interest of observers around the world. The main events of these remarkable few weeks are listed below. They have been compiled from assorted news sources, and in particular the *New York Times*, *Time*, and CNN.

7.50–8 p.m. EST Election Day, 7 November

Major TV networks project Gore to be the winner in Florida, based on Voter News Service exit poll projections.

10 p.m. EST Election Day, 7 November

As votes from Florida's Panhandle region are reported, networks retract their projection that Gore has won the state.

2.20 a.m. EST 8 November

Networks project Bush to be the winner in Florida. Hearing that he seems to have lost Florida by about 50 000 votes, Gore calls Bush to concede.

3.30 a.m. EST 8 November

After receiving reports that the vote difference in Florida is less than 1000, Gore calls Bush to retract his concession. Networks retract their projection that Bush has won Florida. Gore spokesperson, former Commerce Secretary, Bill Daley, announces, 'Our campaign continues'.

4.15 a.m. EST 8 November

By now, major networks have withdrawn their estimate that Bush is President-elect.

8 November

Final margin of Florida vote reported at 1784, with Bush leading.

Voting irregularities alleged. An automatic vote re-count is triggered in Florida. Governor Jeb Bush officially takes himself out of the process.

Both campaign teams send lawyers to Florida.

9 November

Nationwide popular vote numbers released, with Gore leading by over 192 000 votes. Neither candidate has gained the required 270 Electoral College votes.

Pat Buchanan states that the Palm Beach County 'butterfly' ballot was confusing, and says he believes many of his votes in the county were meant for Gore.

Gore's team, led by former Secretary of State, Warren Christopher, requests a hand re-count in four Florida counties—Palm Beach, Dade, Broward and Volusia.

Florida Secretary of State Katherine Harris says official results from the re-count may not be completed until the following Tuesday.

Circuit Court judge issues preliminary injunction barring Palm Beach County officials from certifying final count.

Sixty-four of Florida's 67 counties have re-counted their votes, Bush leads Gore by fewer than 400 votes in an Associated Press unofficial tally.

The Florida machine re-count is completed. Unofficial results give Bush a lead of 327 votes.

10 November

Gore seems to have won 267 Electoral College votes and Bush 246 Electoral College votes. Although both Oregon and New Mexico are still undecided, it is clear that the final result depends on the 25 Electoral College votes of the state of Florida.

11 November

Bush seeks a federal injunction to stop hand re-counts of ballots in several Florida counties. Former Secretary of State, James Baker, a Bush adviser, said this was to preserve the integrity of the election—with no uniform standard to govern hand counts, voters will be treated unequally. This would, he claimed, violate their equal protection rights that are found in the XIV Amendment.

12 November

Palm Beach County officials vote to conduct a full hand re-count of all votes.

Florida's Volusia County begins hand counting more than 184 000 ballots.

Over the following days, many lawsuits are brought in federal and state courts, seeking to block or allow various counts and certifications, seeking access to particular ballot papers, or raising questions about the legal standing of absentee ballot papers.

13 November

Harris says deadline of 5 p.m. EST 14 November for finishing all manual re-counts will be strictly enforced. Christopher says Harris' stance is politically motivated and foreshadows a legal challenge. Harris' decision will not affect the counting of overseas absentee ballots that must be received by 17 November.

A federal judge turns down a Republican request to stop all manual re-counts in Florida.

Broward County decides against a full manual re-count.

14 November

Officials in Palm Beach County vote to delay their manual re-counts until they are able to clarify whether they have the legal authority to proceed. They later vote to resume the re-count on 15 November.

The canvassing board in Miami-Dade County unanimously votes to start an immediate hand re-count of ballots in three precincts as requested by Gore's lawyers.

Circuit Judge Lewis upholds 5 p.m. Tuesday deadline for Florida vote certification. The judge says supplemental returns can be filed after the deadline, but can be ignored after circumstances are considered. An appeal by the Gore campaign to the Florida Supreme Court is expected.

Harris delays certification of Florida votes until 2 p.m. EST 15 November in order that counties can explain why they should conduct hand re-counts.

15 November

Harris says she will not accept further hand re-counts. In a petition to the Florida Supreme Court, she asks the justices to order Dade, Broward and Palm Beach counties to end manual re-counts. Election officials in Palm Beach County ask the Florida Supreme Court to decide if they can re-count ballots by hand.

The Bush camp will join in a suit by the Florida Secretary of State that seeks an order to block further manual re-counts.

Broward County votes to begin manual re-count of election votes.

Florida Supreme Court denies the Harris request to block hand re-counts of ballots.

Gore suggests a hand re-count in all of Florida's 67 counties if Republicans will not accept the re-counts in selected counties. Gore said he says he will forgo further legal challenges if the Republicans accept the selected counties' re-count. Gore also proposes a face to face meeting with Bush.

Harris says she would not allow three counties to add the results of a manual re-count of ballots to the state's total US presidential tally.

Bush rejects Al Gore's proposal for a statewide manual count of Florida's presidential vote, saying it would be neither fair nor accurate. Bush also rejects Gore's idea for a one-on-one meeting prior to the election being decided.

16 November

Lawyers for Bush submit arguments to federal appeals court in Atlanta to end the hand re-counts.

Florida Supreme Court gives the green light for manual ballot re-counts. Within minutes, officials in Palm Beach County announce they will begin their re-count.

17 November

Leon County Circuit judge upholds Harris' decision to reject late vote tallies resulting from manual re-counts.

Florida Supreme Court bars Harris from certifying the state's presidential winner until it can rule on a Democratic motion to allow the inclusion of hand re-counts.

Deadline for acceptance of overseas absent ballot papers.

Dade County reverses an earlier decision, voting to conduct a full hand re-count.

The 11th Circuit Court of Appeals denies a Republican request—based on constitutional grounds—to stop hand re-counts.

18 November

Bush gains 1380 votes to Gore's 750 votes from the overseas absentee Florida ballots enabling Bush to triple his lead in the state. Bush's official lead stands at 930 votes.

20 November

The Florida Supreme Court hears re-count arguments from both Gore and Bush on whether Harris should consider hand-re-counted ballots before she certifies the Florida result.

Florida Circuit judge says he lacks constitutional authority to order a new election in Palm Beach County.

21 November

The Florida Supreme Court rules that Florida's final presidential election vote must include the results of hand re-counts and gives counties five days to complete them.

22 November

Dade County unexpectedly calls off its hand re-count, saying it has insufficient time to complete it by 26 November . Democrats accuse Republicans of intimidating the Dade board.

Bush asks US Supreme Court to block the Florida Supreme Court decision allowing hand counts to continue.

23 November

The Florida Supreme Court refuses to order Dade County to resume hand re-count.

24 November

The US Supreme Court agrees to hear arguments in an appeal from Bush that seeks to bar hand-counted ballots in the disputed election.

25 November

Bush drops lawsuit to force Florida counties to reconsider overseas military ballots that were rejected for technical reasons.

Broward County completes its hand re-count.

26 November

Upon the expiry of the Florida Supreme Court deadline, Harris certifies Bush as the winner in Florida by 537 votes out of a total of 5 825 043, but ongoing legal action by both parties keeps the election outcome uncertain. Harris does not include results from Palm Beach County, which completed its hand re-count about two hours after the deadline.

27 November

Gore challenges Florida's certified results in the Florida Circuit Court, arguing that the figures accepted by Harris for Palm Beach, Dade and Nassau counties were inaccurate. Gore claims the certified result should have included thousands of votes that were never tallied.

The federal General Services Administration announces it will withhold the funding and office space for planning the transition until the election is decided.

28 November

The Florida District Court judge hearing Gore's election contest, N. Sanders Sauls, refuses Gore's request for a speedy resolution of the matter and sets a 2 December hearing date.

29 November

Gore decides to appeal to the Florida Supreme Court for an immediate re-count of about 13 000 disputed ballots in the two Democratic counties of Dade and Palm Beach.

A committee of Florida legislators meets to consider whether to convene a special session of the state legislature to appoint Electoral College representatives.

30 November

Gore files his appeal to the Florida Supreme Court.

The committee of Florida legislators votes to recommend a special session be called to appoint Florida's slate of Electoral College members.

1 December

US Supreme Court hears oral arguments over whether the Florida Supreme Court overstepped its authority by ordering Harris to include the hand re-counts in the certified result.

2 December

Florida Circuit Judge Sauls considers Gore's request for a hand count of about 14 000 'undervotes' in Dade and Palm Beach Counties.

4 December

The US Supreme Court sets aside the Florida Supreme Court ruling that allowed selective manual re-counts, sending the case back for the Florida Supreme Court to explain its reasoning.

Sauls dismisses Gore's bid for a hand re-count in Dade and Palm Beach Counties, and refuses Gore's request to overturn Bush's certified statewide victory. He finds that the Vice-President failed to show that hand re-counts would have affected the result. Gore appeals to the Florida Supreme Court.

6 December

US Court of Appeals in Atlanta denies Bush appeal to throw out manual re-counts in Florida.

In Tallahassee, two lawsuits go to trial asking for the rejection of some 25 000 absentee ballot papers in predominantly Republican Seminole and Martin Counties.

7 December

Florida Supreme Court hears argument from Gore that Sauls was in error in upholding the certification of the Florida results.

8 December

By a 4–3 vote, the Florida Supreme Court rules in favour of Gore and orders an immediate manual re-count in all counties with significant numbers of undervotes. Bush appeals the decision to the US Supreme Court and seeks injunctive relief to stop the hand re-counts.

Two Florida circuit court judges reject a request by Gore's to throw out absentee ballots in Seminole and Martin Counties.

9 December

Florida begins a statewide manual re-count of undervote ballots.

An Atlanta federal Appeals Court rules in favour of hand counts but says that new tallies can not be certified until the US Supreme Court gives permission.

By a 5–4 vote the US Supreme Court grants Bush request to halt Florida re-counts and sets a hearing on the matter for two days later.

11 December

The US Supreme Court hears oral arguments from both the Bush and Gore camps on the Florida re-count. Bush argues that the hand re-count violates the Constitution's guarantee of equal protection before the law, while Gore claims that the central issue is the importance of counting every vote.

12 December

In a 79–41 vote, the Florida legislature approves a slate of 25 electors pledged to Bush.

The Florida Supreme Court upholds two state court rulings that allow 25 000 absentee ballots to remain in the state's official vote tally.

The US Supreme Court votes 5–4 to overturn the Florida Supreme Court ruling that permitted manual re-counts. The case was remanded to the Florida court 'for further proceedings not inconsistent with this opinion.'

13 December

Gore concedes the election to the Texas Governor.

Appendix 3: Popular Vote and Electoral College Figures

2000 US Presidential Election

	Bush (REP)			Gore (DEM)			Nader (GRN)		Others		Total
	Votes	%	EC	Votes	%	EC	Votes	%	Votes	%	Votes
Alabama	941 173	56.5	9	692 611	41.6		18 323	1.1	14 165	0.9	1 666 272
Alaska	167 398	58.6	3	79 004	27.7		28 747	10.1	10 411	3.6	285 560
Arizona	781 652	51.0	8	685 341	44.7		45 645	3.0	19 378	1.3	1 532 016
Arkansas	472 940	51.3	6	422 768	45.9		13 421	1.5	12 652	1.4	921 781
California	4 567 429	41.7		5 861 203	53.4	54	418 707	3.8	118 483	1.1	10 965 822
Colorado	883 748	50.8	8	738 227	42.4		91 434	5.3	27 959	1.6	1 741 368
Connecticut	561 094	38.4		816 015	55.9	8	64 452	4.4	17 964	1.2	1 459 525
Delaware	137 288	41.9		180 068	55.0	3	8 307	2.5	1 866	0.6	327 529
District of Columbia	18 073	9.0		171 923	85.2	3	10 576	5.2	1 322	0.7	201 894
Florida	2 912 790	48.8	25	2 912 253	48.8		97 488	1.6	40 613	0.7	5 963 144
Georgia	1 419 720	54.7	13	1 116 230	43.0		13 273	0.5	47 422	1.8	2 596 645
Hawaii	137 845	37.4		205 286	55.7	4	21 623	5.9	3 793	1.0	368 547
Idaho	336 937	67.2	4	138 637	27.6		12 292	2.5	13 749	2.7	501 615
Illinois	2 019 421	42.6		2 589 026	54.6	22	103 759	2.2	29 909	0.6	4 742 115
Indiana	1 245 836	56.6	12	901 980	41.0		18 506	0.8	32 983	1.5	2 199 305
Iowa	634 373	48.2		638 517	48.5	7	29 374	2.2	13 299	1.0	1 315 563
Kansas	622 332	58.0	6	399 276	37.2		36 086	3.4	14 522	1.4	1 072 216
Kentucky	872 520	56.5	8	638 923	41.4		23 118	1.5	9 465	0.6	1 544 026
Louisiana	927 871	52.6	9	792 344	44.9		20 473	1.2	24 968	1.4	1 765 656
Maine	286 616	44.0		319 951	49.1	4	37 127	5.7	8 123	1.2	651 817
Maryland	813 827	40.2		1 144 008	56.5	10	53 768	2.7	12 132	0.6	2 023 735
Massachusetts	878 502	32.5		1 616 487	59.8	12	173 564	6.4	34 431	1.3	2 702 984
Michigan	1 953 139	46.1		2 170 418	51.3	18	84 165	2.0	24 779	0.6	4 232 501
Minnesota	1 109 659	45.5		1 168 266	47.9	10	126 696	5.2	34 064	1.4	2 438 685
Mississippi	572 844	57.6	7	404 614	40.7		8 122	0.8	8 604	0.9	994 184
Missouri	1 189 924	50.4	11	1 111 138	47.1		38 515	1.6	20 315	0.9	2 359 892
Montana	240 178	58.4	3	137 126	33.4		24 437	5.9	9 245	2.2	410 986
Nebraska	433 862	62.2	5	231 780	33.3		24 540	3.5	6 837	1.0	697 019
Nevada	301 575	49.5	4	279 978	46.0		15 008	2.5	12 409	2.0	608 970
New Hampshire	273 559	48.2	4	266 348	46.9		22 188	3.9	5 700	1.0	567 795
New Jersey	1 284 173	40.3		1 788 850	56.1	15	94 554	3.0	19 649	0.6	3 187 226
New Mexico	286 417	47.8		286 783	47.9	5	21 251	3.6	4 154	0.7	598 605
New York	2 403 374	35.2		4 107 697	60.2	33	244 030	3.6	66 898	1.0	6 821 999
North Carolina	1 631 163	56.0	14	1 257 692	43.1		0	0.0	26 135	0.9	2 914 990
North Dakota	174 852	60.7	3	95 284	33.1		9 486	3.3	8 634	3.0	288 256
Ohio	2 350 363	50.0	21	2 183 628	46.4		117 799	2.5	50 208	1.1	4 701 998
Oklahoma	744 337	60.3	8	474 276	38.4		0	0.0	15 616	1.3	1 234 229
Oregon	713 577	46.5		720 342	47.0	7	77 357	5.0	22 692	1.5	1 533 968
Pennsylvania	2 281 127	46.4		2 485 967	50.6	23	103 392	2.1	41 699	0.8	4 912 185
Rhode Island	130 555	31.9		249 508	61.0	4	25 052	6.1	3 668	0.9	408 783

US Presidential Election 2000

	Bush (REP)			Gore (DEM)			Nader (GRN)		Others		Total
	Votes	%	EC	Votes	%	EC	Votes	%	Votes	%	Votes
South Carolina	786 892	56.9	8	566 039	40.9		20 279	1.5	10 832	0.8	1 384 042
South Dakota	190 700	60.3	3	118 804	37.6		0	0.0	6 765	2.1	316 269
Tennessee	1 061 949	51.1	11	981 720	47.3		19 781	1.0	12 731	0.6	2 076 181
Texas	3 799 639	59.3	32	2 433 746	38.0		137 994	2.2	36 258	0.6	6 407 637
Utah	515 096	66.8	5	203 053	26.3		35 850	4.7	16 755	2.2	770 754
Vermont	119 775	40.7		149 022	50.6	3	20 374	6.9	5 137	1.7	294 308
Virginia	1 437 490	52.5	13	1 217 290	44.4		59 398	2.2	25 269	0.9	2 739 447
Washington	1 108 864	44.6		1 247 652	50.2	11	103 002	4.1	27 915	1.1	2 487 433
West Virginia	336 475	51.9	5	295 497	45.6		10 680	1.6	5 472	0.8	648 124
Wisconsin	1 237 279	47.6		1 242 987	47.8	11	94 070	3.6	24 271	0.9	2 598 607
Wyoming	147 947	69.3	3	60 481	28.3		0	0.0	5 188	2.4	213 616
Total	50 456 169	47.9	271	50 996 064	48.4	267	2 878 083	2.7	1 067 508	1.0	105 397 824

Note: EC = Electoral College votes.

Source: www.uselectionatlas.org/