

Dark Murmurings

By Jean Bethke Elshtain

The presidency of George W. Bush began under a cloud, given the rhetorical overkill, the numbing legal maneuvers, and the mind-boggling uncertainty that characterized the post-election saga of 2000. Americans were treated to weeks of claims and counter-claims about election stealing, ballot stuffing, chad blizzards, and brazen denial of the “will of the people.” The most egregious maneuvers included florid references to historic tragedies, from Nazi genocide to Selma. Thankfully, much of this excess faded once the Supreme Court weighed in and the inexorable timetable with its movement toward inauguration set in.

One charge continues to be bandied about, however: that the presidency of George W. Bush is “illegitimate.” It is unlikely that such dark murmurings will have much of a shelf-life.

The charge is based on three claims, the first of which is that Bush lost the popular vote, thereby underscoring the undemocratic nature of the electoral college system. This claim doesn’t stick simply because, until the Constitution itself is altered, this is the way Americans elect their president. Those who use the fact of the electoral college to make a particular claim about Bush’s legitimacy must, for consistency’s sake, offer general arguments against the electoral college. To the extent that discontent with the electoral college becomes widespread, the election of 2000 will merely be one of the exhibits before the court, so to speak. In other words, this is an issue for the long haul, and a hard sell at that, given the overall legitimacy of the electoral college in the minds of most Americans.

The second claim is that a “real” Florida vote count was never made. Condem-

nation of what happened in Florida remains at fever pitch in the most partisan and ardent quarters, but this level of ire will be difficult to sustain for several reasons. One of the most important, surely, is that to date all newspaper and polling organization recounts of the most hotly contested counties have turned up President Bush as the winner, even when one credits even slightly dimpled chads as *bona fide* votes cast.

By the same token, the “disenfranchisement” charge mounted by former Vice President Gore’s campaign manager, Donna Brazile, sounds ominous, but it doesn’t hold up to close scrutiny. Florida voting data show a record high in African American turnout. This constituency, in the parlance of election professionals, “over-performed” by turning out well beyond pre-election expectations. Thus far rumors of disenfranchisement have turned out to be just that—rumors. No one has come forward with credible evidence that voters were turned away from the polls, hindered from exercising the franchise, or had their votes discounted based on race.

Third, and finally, is the claim that the Supreme Court decision resulted in the president being “selected” rather than “elected.” There is no doubt that the way the post-election tangle was unraveled by a divided Supreme Court was less than ideal. That said, whatever the assessment of the Court’s action over the long run of constitutional law, there is little doubt that any decision by the United States Supreme Court trails remarkable legitimacy in its wake. *Roe v. Wade* is one of the few cases in the last forty years that has inspired decades of political tumult. The Bush case doesn’t come close as a candidate for social and political division. The United States is a remarkably stable political culture.

The Supreme Court holds a unique place in this scheme of things, for

better or for worse. That Bush’s transition into the presidency was noteworthy for its adroit professionalism—giving Americans a strong sense that adults were in charge—helped to legitimate the Court’s action and to dispel lingering clouds of suspicion.

Underscoring all of this is, perhaps, an unstated recognition that every election is an approximation. No instrument can perfect voting in a way that guarantees confusion or controversy will never occur. The assertion that a quasi-divine essence of the people’s will lurks in dimpled chads points to presumptions more compatible with a plebiscitarian direct democracy than to the way a constitutional republic like ours works.

American politics is both principled and pragmatic. If Americans can combine pragmatism (let’s get this wrangling over with and get a new administration up and running), with established principle (the electoral college, a Supreme Court decision, a strong beginning marked by a moving inaugural address and a smooth transition), they will do it. That is why no serious challenge to the legitimacy of the Bush presidency has been or will be made. The questions instead will be the usual political ones: Are his policies good for the country? Is he making a strong case for his agenda? Are he and his cabinet competent and honest? Is he taking the Republican party in a more inclusive direction? Was his call for a restoration of civility a good idea, and what does this come down to in practice? These will dominate in the days ahead, as they should. The fat lady has sung.

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