

---

News From . . .

## The House Policy Committee

Christopher Cox, Chairman

<http://policy.house.gov>



# Key to Election: Rule of Law

WASHINGTON (Friday, November 10, 2000)—How the United States handles the close Presidential election is a vital signal to the world about the viability of representative democracy, House Policy Chairman Christopher Cox said today.

Chairman Cox made the following statement:

The hallmark of American democracy is the rule of law under our Constitution. Adhering to the Constitutional command that the President be the person with a majority of electoral votes is essential if we are to maintain the rule of law. The Constitution provides that ‘[e]ach State *shall* appoint ... Electors.’ It is not discretionary.

While some commentators are urging an election result based exclusively on the nationwide popular vote, this would do violence to the rule of law. The Electoral College vote insures not only that a president wins the popular vote in each state that he or she carries, but also that his or her support is not unduly regional but rather broad based throughout the country. The Constitutional emphasis on the role of states is reflected in the Tenth Amendment of the Constitution, which reserves many of the most vital responsibilities of government to the States; the structure of the United States Senate, which gives equal weight to California and Delaware; and the Electoral College, which has chosen America’s Presidents since the first election of George Washington.

The Framers deliberately rejected direct election by nationwide plebiscite in favor of the Electoral College system. The Electoral College requires candidates to assemble truly nationwide majorities on a state-by-state basis instead of focusing on what today we would call ‘major media markets.’ The authors of the *Federalist Papers*—the ‘op-eds’ supporting ratification of the Constitution—wrote of the ‘excellence’ of the

Constitutional system for selecting the President, noting that it alone escaped criticism in the fierce debate over ratifying the Constitution. Congresses, under Democratic Party control, considered and rejected proposals to abolish the Electoral College in 1969, 1977, and 1979.

A hallmark of America's greatness is the lawful transfer of power from one Administration to the next—particularly in close elections. To protect the legitimacy of our political process, candidates have repeatedly foregone legal maneuvers to challenge close elections, even in the event of substantial allegations of irregularity.

For example, in 1960, Richard Nixon refused to contest the presidential election results despite a razor-thin popular margin and substantial allegations of fraud in Illinois. Nixon, a ferocious partisan, was nevertheless unwilling to subject the country to the anguish of a lengthy contested election. As he wrote in *Six Crises*, 'If I were to demand a recount, the organization of the new administration and the orderly transfer of responsibility from the old to the new might be delayed for months. The situation within the federal government would be chaotic.'

In 1976, President Ford declined to challenge the results in Ohio, despite advice that a recount could have changed the outcome.

Just this week, Missouri Senator John Ashcroft declined to challenge his exceptionally narrow defeat, despite serious legal doubt concerning the eligibility of his opponent. Each of these candidates put aside hopes for victory that were within reach rather than jeopardize the legitimacy of his opponent's election.

On November 8, 2000, Vice President Gore said 'The Constitution is the foundation of liberty and must be followed.' The Constitution and the rule of law set bounds to the pursuit of power that must be respected. Congress, operating under the Constitution and the rule of law, will ensure that the 43<sup>rd</sup> President of the world's oldest constitutional democracy is chosen in the legal and Constitutional manner prescribed by law. The world will once again be able to look to the United States as the beacon of freedom and liberty it must remain.

# # #