

Testimony of
Peter N. Kirsanow

June 7, 2007

Testimony of Peter N. Kirsanow before the Senate Judiciary Committee
On
The Prevention of Deceptive Practices
And
Voter Intimidation in Federal Elections: S.453
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Mr. Chairman, Senator Specter, members of the Committee, I am Peter Kirsanow, a member of the U.S. Commission on Civil Rights ("Commission") and a member of the National Labor Relations Board. I am appearing in my personal capacity.

The Commission was established by the Civil Rights Act of 1957 to, among other things, act as a national clearinghouse for denials of voting rights and equal protection. The Commission played a central role in providing the predicate information and rationale for passage of the Voting Rights Act of 1965 ("Act"). The Commission also provided analyses for the extension and expansion of the Act's temporary provisions in 1970, 1975, 1982 and 2006.

In furtherance of the Commission's clearinghouse function the Commission has, over the years, conducted hearings on voter suppression, intimidation and fraud. The most recent such hearing took place in October 2006, just before the midterm elections.

The purpose of the Commission hearing was to provide Congress and the President with a factual record upon which to consider policies related to voter suppression, intimidation and fraud. The Commission has not yet issued recommendations on these matters.

Nonetheless, based on the evidence presented at the Commission hearings, I respectfully submit that in its deliberations regarding S.453 the Committee address at least three deceptive practices not covered currently by the bill: (1) fraudulent registration; (2) multiple registration; and (3) compromised absentee ballots.

The evidence adduced at the Commission hearings reveals two prongs to the problem of deceptive practices and voter intimidation that affect election integrity: voter suppression (broadly defined) and voter fraud.

The evidence pertaining to the first prong consists primarily of election disinformation, long lines, voting machine malfunctions and problems with provisional ballots. Sections 3(a) (2) (A) (ii) and 3(b) (1) (A) (ii) of the bill address elements of the first prong, i.e., attempts to prevent eligible voters from voting. The bill does not address the second prong of affirmative voter fraud, i.e., votes cast by ineligible individuals, a deceptive practice just as consequential as voter

suppression and intimidation, and arguably more so.

For example, the 2000 Presidential election produced voluminous claims of rampant intimidation and harassment of voters in Florida. The Commission investigated these claims over a six-month period immediately after the election. The Civil Rights Division of the Justice Department also conducted an investigation.

Despite numerous allegations suggesting widespread voter intimidation, suppression and harassment the Commission's investigation yielded just two ostensible instances of perceived voter intimidation. Moreover, the Justice Department found no credible evidence that Floridians were intentionally denied the right to vote.

In contrast, a subsequent media analysis showed that at least 2000 votes were cast illegally in Florida in the 2000 Presidential election. Since the margin of victory was 537 votes, the fraudulent votes were sufficient to affect the outcome of the election.

This is not an isolated example. Evidence adduced at Commission hearings suggests numerous instances of significant voter fraud. The allegations include individuals and/or organizations that aid and abet voting by those ineligible to vote.

Mark Hearne, adviser to the Carter-Baker Commission on Federal Election Reform has noted that ballots cast by ineligible individuals can dilute or cancel out the votes of eligible voters. The bill does not address the deceptive practices that make this possible.

Numerous cases have been reported of paid canvassers who register ineligible individuals or fictional characters. In an infamous Ohio case during the 2004 Presidential election campaign, a canvasser paid with crack cocaine registered Dick Tracy, Mary Poppins and scores of other equally notable voters.

This type of deceptive practice has consequences. Hearne notes that in Philadelphia, a non-citizen from Barbados was told by a voter registration organization that she could vote if she had been in the U.S. for at least seven years. Although she registered, she did not vote. Later, elections officials informed her that someone had cast a ballot in her name nonetheless.

Again, these are not isolated instances. A major 2001 voter registration drive in St. Louis' black community produced 3,800 new voter cards. When some of the names appeared suspicious, elections officials investigated all of the cards and determined that nearly every single one was fraudulent. Dogs, the dead and people who simply did not want to register were among the new registrants.

The problem is not simply that canvassers are being paid to produce manifestly fraudulent voter registrations; it is also that voter rolls throughout the country are being padded with hundreds of thousands of false and fraudulent names. Testimony by John Sample before the Senate Rules Committee showed that Alaska had 503,000 people on its voter rolls but only 437,000 people of voting age.

The problem is magnified by those who solicit or aid individuals to register in multiple jurisdictions, especially in states that are not HAVA compliant. Approximately 140,000 Florida voters are registered in multiple jurisdictions; 60,000 voters are registered in both North and South Carolina; and 8000 Kentuckians are registered in Tennessee. The bill is silent on this deceptive practice.

The problem of fraudulent voter rolls and multiple registrations is compounded by compromised absentee ballot integrity. The practice of misleadingly "assisting" individuals in casting absentee ballots can lead to wholesale disenfranchisement. This is particularly true in the case of bilingual ballots.

This is not a minor concern. The 1998 Miami mayoral election was set aside due to rampant absentee ballot forgeries.

All of these deceptive practices have the capacity to affect the outcome of an election. They undermine public confidence in the electoral process. They are significant omissions from the bill.

I respectfully urge the Committee to add these deceptive practices to the bill's prohibitions.

Thank you, Mr. Chairman.