

Democrats prostrate before Supreme Court assault on democratic rights

Barry Grey

12 December 2000

The most significant aspect of the arguments before the US Supreme Court on Monday was the failure of the lawyer for Democratic presidential candidate Al Gore, as well as the liberal members of the Court, to raise the fundamental issues of democratic rights posed by the Court's order halting the counting of votes in Florida. The hearing was on an appeal from Republican candidate George W. Bush to make the temporary suspension of the vote count permanent.

On Saturday, the US high court, in a five-to-four split decision, countermanded a ruling handed down the day before by the Florida Supreme Court ordering a manual count of some 43,000 ballots statewide for which no presidential choice had registered in the original machine tabulation. The Florida court ruling, as was obvious to all, spelled disaster for the Bush campaign, which has spent the past month working to block a fair and accurate count of the votes in Florida, because such a count would show that Gore had won the popular vote in the state, and hence the election nationally.

By stopping the count, the right-wing majority on the US high court intervened to override the vote of the people and install, by anti-democratic and unconstitutional means, its choice for president.

The main spokesman for the Court's extreme right faction, Associate Justice Antonin Scalia, defended the granting of a stay on the Florida court's order on the grounds that allowing the count to continue would do "irreparable harm" to Bush by undermining the legitimacy of his presidency. In other words, counting the votes would expose before the people the fact that Bush had been installed by illegal and anti-democratic means. Eight days before, in arguing against an earlier action by the Florida court, Scalia had declared that there was "no right to suffrage" in the election of the president.

Saturday's action by the US Supreme Court, a body that is unelected and unanswerable to the public, constitutes an assault on the core democratic right—the right to vote—unprecedented in US history.

Yet this stark fact—and the danger of authoritarian rule that flows from it—was never once raised in the course of 90 minutes of arguments before the Supreme Court on Monday. Gore's lawyer, David Boies, did not discuss the Court's attack on the right to vote, and neither did the four justices who two days

before had voted against the majority decision to halt the count. This silence was all the more deafening, since in the minority ruling written by Associate Justice John Paul Stevens it was stated: "[T]he Florida court's ruling reflects the basic principle, inherent in our Constitution and our democracy, that every legal vote should be counted."

The refusal of the Gore campaign, and the liberal faction on the Court, to expose the attack on democracy at the center of the election crisis is a definitive demonstration of the decay of American liberalism and the bankruptcy of the Democratic Party. These forces have no serious commitment to the defense of democratic rights, and are incapable of fighting the assault being carried out by the extreme right-wing forces that dominate the Republican Party.

The capitulation of Gore and the Democrats was already signaled on Sunday, when one spokesman after another went on record to praise the "integrity" of the Supreme Court, rebuff any suggestion that it was acting out of partisan or political motives, and reassure the ruling elite that Gore would accept the verdict of the Court and quickly concede to Bush if the decision, as is expected, went in favor of the Republicans.

While the Democrats were calling for a quick end to the election impasse and urging the nation to rally behind the next president, Bush and the Republicans were making no such concessions either to Gore, or to the US Constitution. Their statements and their actions made it clear that they would not accept any resolution that failed to put Bush in the White House. Even as the US Supreme Court hearing was under way on Monday, the Republican-controlled Florida legislature was, with the blessings of the Bush campaign, preparing to ignore any vote tally for Gore, even if it arose from the decisions of the US high court, and appoint its own slate of pro-Bush presidential electors.

Leading Republicans have not hesitated to denounce the Florida Supreme Court in language usually reserved for leaders of so-called "rogue states" targeted for military attack by the US. House Majority Whip Tom Delay of Texas responded to Friday's Florida court ruling with the declaration: "This judicial aggression must not stand."

Bush's main spokesman, former Secretary of State James Baker, ripped into the Florida justices who voted to count the

ballots, casting them as partisan operatives of the Gore campaign. On the Meet the Press program on Sunday, Baker refused to give a straight answer when asked whether the Bush campaign would accept the results of a recount in Florida if the Supreme Court ordered the count to resume.

"I'm not sure I understand what you mean, 'Will we abide by the result?' The result will be there," Baker said. He went on to sanction the moves by the Florida legislature to bypass the popular vote and pick its own pro-Bush electors. When the moderator, Tim Russert, confronted Baker with the fact that the Bush campaign has been giving legal advice to the Republican legislators, Baker said, "We may have, indeed."

Republican Senate Majority Leader Trent Lott, appearing on the Face the Nation program, was asked if he would support the Florida legislature's plan, and answered, "Well, I wouldn't oppose it."

In stark contrast, Gore issued a blanket order to his campaign to say nothing critical of the Supreme Court. Senior Gore adviser Mark Fabiani told the press, "The first thing that the vice president said to me was to make sure that no one associated with him said anything that was in any way negative about the Court. He has the highest respect for the judicial system and for the independent court.... We respect the court's decision."

One Gore legal strategist said, "It's a fair court, and we expect fully that we will get a full and fair hearing tomorrow."

The cynicism and cowardice reflected in such statements are underscored by the fact that Gore made a prominent part of his election campaign the danger that a Bush White House would appoint more reactionaries to the high court, and he singled out for criticism the ultra-right tandem of Scalia, Chief Justice William Rehnquist and Associate Justice Clarence Thomas. Now that these same judges are spearheading the Bush drive to steal the election, Gore is telling the American people they have nothing to fear from that quarter.

A senior member of Gore's legal team went out of his way Sunday to say the vice president was "confident" that criticisms Gore made during the campaign of Scalia and company would not influence the justices.

A host of Democratic spokesmen made statements and appeared on the Sunday news programs to declare their support for the Supreme Court and promise an early concession should the Court rule for Bush. Gore's lead attorney David Boies said on Meet the Press: "If the Florida Supreme Court's decision is reversed and the United States Supreme Court says no more votes are going to be counted, then that's the end of it.... The United States Supreme Court is the top court in the land. Their voice is final. They have the power to decide this."

Former Secretary of State Warren Christopher, Gore's chief spokesman, said, "Certainly, the vice president, if he is not the winner, will do the right thing.... He understands the importance to the American people of trying to bring this country together when this long process is finally at an end."

Senator Robert Torricelli of New Jersey told Fox News Sunday: "If this is concluded in the next 48 hours, the person who is on the losing side of this should go and meet with the winner.... They should make an appearance together. There should be an immediate call for national unity and for accepting the results of this election, getting about the country's business."

House Minority Leader Richard Gephardt said, "We have a rule of law in this country. And I have said from the beginning we have got to stick with it."

The Democrats' invocation of the "rule of law" to justify a criminal and illegal assault on constitutionally protected democratic rights is perhaps the most graphic expression of the chasm that separates the Democratic Party from the masses of American working people. Faced with a choice between defending democratic rights and upholding the authority of state institutions that are conspiring against these rights, the Democrats do not hesitate to abandon the former and rally behind the latter.

They cannot mount a serious defense of democracy against the Republican right because, in the end, they defend the same class interests as the Republicans—the interests of the privileged oligarchy that controls the vast bulk of the wealth in America. They are far more frightened at the prospect of a movement from below in defense of social and democratic rights than they are of authoritarian forces within the political and economic elite.

The cowardice of the Democrats stands in contrast to the anger and disgust within wide layers of the American population over the intervention of the US high court.

Despite the barrage of pro-Bush propaganda and misinformation from the media, a *Washington Post* -ABC News poll taken over the weekend showed that 53 percent wanted the Court to allow the counting in Florida to resume, substantially more than the 43 percent who wanted the counting stopped.

Far from being encouraged by such signs of popular opposition to the Court's action, the Democrats are all the more ready to throw in the towel, for the sake of the stability of the profit system. As in the impeachment crisis of 1998-99, the Democrats act today to conceal from the people the existence of a conspiracy against their democratic rights, and thereby serve as accomplices of the Republican right.



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact