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## The Ballot, Via the Courthouse

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CAMBRIDGE, Mass. What began as judicial overreaching may be a clarion call for major democratic reform. Some legal experts already argue that last week's United States Supreme Court decision, though heavily criticized for deciding an election, could help open the local courthouse doors to election reform.

Perhaps, given its new rhetoric about restoring citizen confidence in the outcome of elections, the conservative majority will now look closely at other suits based on the principle of equal protection others that, like *Bush v. Gore*, challenge disparate treatment of voters in voting procedures. The more important effect of the court's choice of language, explicitly valuing no person's vote over another's, may be to launch a citizens' movement.

The one person, one vote language of the court under Chief Justice Earl Warren language which the recent decision draws on did exactly that, inspiring civil rights marchers in the 1960's. Current efforts could focus on creating new federal reforms, like financial assistance to poor counties to upgrade voting equipment and the elimination of all ways of recording votes that fail to give the voter feedback as to how his or her intent is being registered.

Also needed are meaningful assistance to semi-literate or non-English-speaking voters, 24-hour polling places and a national Election Day holiday. Enacting standards for federal elections is consistent with the Voting Rights Act, which has banned literacy tests nationwide as prerequisites for voting. That ban was passed by Congress in 1970 and unanimously upheld by the Supreme Court.

But reforms to equalize voting access, while important, are not enough. The circumstances of this election call for a larger focus on issues of representation and participation. If we are to build a genuine pro-democracy movement in this country, we cannot limit ourselves to butterfly ballots and chads.

A pro-democracy movement needed now more than ever in the United States would look seriously at forms of proportional representation that could assure that Democrats in Florida (or Republicans in Democratic-controlled states) or racial minorities in all states are represented fairly in the legislatures themselves. The five-member Supreme Court majority allowed the interests of the Florida Legislature to trump any remedy to protect the rights of the voters. If legislatures are to enjoy such power, it is imperative for voters' voices to be reflected in fully representative legislative bodies.

That means that voters must have a more meaningful opportunity to participate in the entire democratic process and not just on Election Day. Such an opportunity is not possible when the majority party holds a disproportionate amount of power over a heterogeneous citizenry, divided along racial and party lines, as is evident in the Florida Legislature. Recognizing the danger of majority legislative tyranny is crucial at a time when every state legislature will soon be engaged in the decennial task of redistricting.

Under current law, the members of the Florida Legislature can use their legislative authority to create winner-take-all districts to cement their power. The drawing of districts often becomes the real election. We cannot sustain the confidence of citizens to vote and participate beyond Election Day if we continue to allow election outcomes to be determined when the legislature draws districts.

A winner-take-all scheme in appointing a state's delegates to the Electoral College is similarly unfair. Florida gave all of its electors to President-elect Bush, even though, while he won a plurality of the popular

vote in that state, he did not win a majority. A system that apportions a state's electoral votes based on the popular vote received by each candidate in that state would better reflect the will of all the voters.

Proportional voting where the political parties gain seats in proportion to the actual percentage of votes won on Election Day means everyone's vote counts toward the election of someone he or she voted for. In conjunction with other reforms, it makes voting the first step in a democratic system by which we, the people, not they the court or the unrepresentative legislature rule.