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The New Hanging Chads

One of the scandals of the last presidential election was the large number of voters who were denied the right to vote because of foul-ups in the election system, like errors in the voting rolls or problems in directing voters to their correct polling places. As a result, Congress required that this year, voters be allowed to fill out provisional ballots if their eligibility is in question, and that the validity of those ballots be determined later on. It was a crucial reform, but in many places the ballots aren't working out the way they are supposed to, because of poor procedures and overly technical regulations. If this year's election is close, there are likely to be furious battles over how these rules were applied. While there is still time, state and local officials should fix the provisional-voting problems.

The nation's voting rolls are notoriously inaccurate. One study found that as many as six million votes were lost in the 2000 presidential election because of registration problems and that the use of provisional ballots nationwide could have cut the loss significantly. The Help America Vote Act of 2002 mandated that such ballots be given to every voter in a federal election who shows up at the polls but doesn't seem to be listed on the voting rolls. Unfortunately, Congress left local officials too much discretion in carrying out the law. In Chicago this March, 93 percent of the provisional ballots were thrown out, often for dubious reasons.

One of the biggest problems is that some states are refusing to count provisional ballots cast in the wrong polling place. In Chicago, this rule voided more than 20 percent of the votes with provisional ballots. But when voters cannot locate their polling places, elections officials are often just as much to blame. This month, Claude Hawkins went to four Kansas City, Mo., polling sites, trying to vote, only to be told he was in the wrong place. No poll workers, however, could direct him to the right place. The Board of Elections phone lines were busy or not answered all day. At his fourth stop, Mr. Hawkins cast a provisional ballot, which was disqualified - because he had voted at the wrong polling place.

Mr. Hawkins and other Missourians are challenging the wrong-polling-place rule in federal court. They rightly argue that it violates the Help America Vote Act, which says provisional ballots "shall be counted." They also argue, in an equal-protection claim, that in Missouri's 2002 election, African-Americans were significantly more likely than whites to have their provisional ballots thrown out. The judge has ordered Missouri to wait before certifying this month's primary results, and he has put the case on a fast track.

This week, several unions filed a similar suit in Florida, which also disqualifies provisional ballots cast

at the wrong polling places. The wrong-precinct rule serves no legitimate purpose, and it denies eligible voters the right to vote. States should not wait for a court to tell them that rule is unacceptable. At the very least, election officials who intend to throw away ballots cast in the wrong locations must have a foolproof way of directing voters on Election Day to their correct polling places.

Many more provisional ballots are disqualified because of errors in completing them. Some 2,400 of the 5,914 provisional ballots in Chicago this year went not counted because the accompanying affidavits were incompletely or wrongly filled out. Provisional ballots cannot be a literacy test, preventing all but the most sophisticated voters from casting valid votes. The ballots and affidavits should be simple and the instructions clear, and well-trained poll workers should be on hand to help voters complete them. When the time comes to count provisional ballots, highly technical rules should not be used to disenfranchise voters.

Finally, and most basically, elections officials must have enough provisional ballots on hand. Since this is the first presidential election with mandatory provisional voting, and interest in this year's race is so high, they should err on the side of excess. In California's March primary, voters were turned away because polling places had run out of provisional ballots. Some voters had to make three trips before new ballots arrived.

The guiding principle behind the Help America Vote Act's requirement for provisional ballots is that glitches in the election system should not keep eligible voters from voting. State and local elections officials must not handle provisional voting in a way that frustrates this core democratic ideal.

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