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GRAPHICS: ABC NEWS VOTE 2004

01:00:02

ANNOUNCER

Live coverage of Vote 2004 continues. Here again, Peter Jennings.

01:00:08 PETER JENNINGS, ABC NEWS

(OC) Welcome back. Just want to remind our affiliates, I think they probably already know this anyway, up and down the line, that we're going to stay on the air. Under other circumstances we might have gone away, but under these circumstances we're not going anywhere. Take a look at the map and you'll know why. Because while ABC News has now projected that Mr. Bush is going to win in all those red states and Mr. Kerry in the blue states, Ohio is just hanging there at the moment, and we are not yet prepared to make a projection.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 246, KERRY 207

01:00:39

PETER JENNINGS

(VO) The Secretary of State from Ohio said a moment ago, spoke very, mostly clearly there about the status of the provisional ballots. Jake Tapper, who, who does our ballot watch for us, Jake, is there any more to add on the question of the provisional ballots in Ohio and whether or not they may be what we're waiting for to make the difference between a win or a loss?

01:01:02

JAKE TAPPER, ABC NEWS

(OC) Well, a source that we have in the secretary of state's office says that their rough, his rough estimate for how many provisional ballots there will be is 150,000. That could be larger than the margin of victory of whoever wins, which makes it a very, very complicated process to declare Ohio a clear win for either candidate at this point.

01:01:22

PETER JENNINGS

(OC) Okay, Jake. Many thanks very much. Now we'll take a look at the map again, because in this particular instance you have to go down to the lower left-hand corner to see that which is normally at the upper left-hand corner.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 246, KERRY 207

01:01:31 PETER JENNINGS

(VO) ABC is now going to make a projection that the three electoral votes in Alaska, as somebody once said, too far and too Republican for Democratic candidates to visit, ABC News projects that, that Alaska down here is going to go to Mr. Bush.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 207

01:01:50 PETER JENNINGS

(OC) And so that's three electoral votes more for Mr. Bush, 249. 207 for Mr. Kerry. That is no surprise, George, but again, just to remind people who've joined us late of the dilemma for Mr. Kerry.

01:02:03 GEORGE STEPHANOPOULOS, ABC NEWS

(OC) Not at all. That shows very, very clearly now, if, unless Senator Kerry wins Ohio, President Bush is the next president, because if President Bush picks up those 20 electoral votes in Ohio that will bring him up to 269. That means the worst he could do, even if Senator Kerry runs the rest of the table, is to have a 269-269 tie. That will throw it into the House Of Representatives. There are more states controlled by Republicans than states controlled by Democrats in the House Of Representatives. President Bush is president.

01:02:33 PETER JENNINGS

(OC) Now, you more than anybody else, earlier this evening and yesterday, too, talked about Nevada as a battleground. We talked about Yucca Mountain, we talked about Las Vegas, this fastest growing city in the United States. Anything more to add about Nevada at this point? And -I don't even know, I don't even know what the popular vote is in Nevada. Maybe if someone can bring it up.

01:02:47 GEORGE STEPHANOPOULOS

(OC) We, we should look at the popular vote. We know they've been fighting it out all evening in Nevada.

GRAPHICS: NATIONAL MAP

01:02:50 GEORGE STEPHANOPOULOS

(VO) It was a, it was a state that John Kerry did try for, did put on his battleground list early in the campaign, went back there several times, advertised there early on.

01:03:02 PETER JENNINGS

(VO) Stop for just a second. That's New Mexico we're looking at. We'd actually like to talk about -okay. Stop in Nevada for just a second.

GRAPHICS: NEVADA, POPULAR VOTE

GRAPHICS: BUSH 49% 200,573

GRAPHICS: KERRY 50%, 203,660

GRAPHICS: 17% PRECINCTS REPORTING

01:03:08 PETER JENNINGS

(VO) Here's the popular vote, with 17 percent of the precincts reporting.

Remember, it's a lot earlier in the West than it is here in the East. With 17 percent of the precincts in Nevada reporting, Mr. Kerry has -50 percent of the popular vote and Mr. Bush has 49 percent.

01:03:26 GEORGE STEPHANOPOULOS

(VO) He is holding his own, so far.

01:03:27 PETER JENNINGS

(VO) But there's nothing, he's holding his own, but nothing there at the moment. Yeah.

01:03:29 GEORGE STEPHANOPOULOS

(OC) That's exactly right. And New Mexico, of course, will also be very closely contested. Vice-President Gore won that by only 366 votes last time around. President Bush was trying to go there time and time again during this campaign as an insurance policy against the loss of one of the big states up in either Ohio, Florida, or Pennsylvania. We'll see if he needs it later on.

01:03:49 PETER JENNINGS

(OC) The governor of New Mexico, Bill Richardson, former ambassador to the United Nations, was seemingly very confident that he would in the final analysis be able to deliver this to Mr. Kerry.

01:03:58 GEORGE STEPHANOPOULOS

(OC) And we'll, we'll see if he can at the end of the night. He worked, he's a tremendously popular governor of that state, just as Jeb Bush, very, very popular governor of Florida.

01:04:07 PETER JENNINGS

(OC) While we're looking at this map with, with the Southern United States going as red as it is, I want to bring back in Linda Douglass from -Capitol Hill because you know, Linda covers on a day-to-day basis the representatives from these Southern states. And I know you raised the point earlier, Linda, whether or not the Democrats have lost the South forever.

01:04:29 LINDA DOUGLASS, ABC NEWS

(OC) Well, you know, this is always a discussion that the Democrats have every campaign. And only Bill Clinton really seemed to be able to get around this. And then, that, that is, of course, the growing Republicanization of the South. You saw Zell Miller, the Democratic Senator from Georgia, who endorsed President Bush, who has been saying, ranting, really, here in the Senate about how Democrats don't understand values, they don't understand the religion of people in the South, they don't understand the needs of gun owners, they don't understand how people at home watching TV think their way of life, their lifestyles are threatened by all the kind of explicit stuff that's on television. That Democrats who live in the Northeast and live in the cities and live in California just don't get it. And this, if it turns out that, that Kerry does lose, is certainly going to be a stinging memory for the Democrats, and, and evoke that conversation all over again.

01:05:21 PETER JENNINGS

(OC) Well, Mr. Kerry ...

01:05:21 LINDA DOUGLASS

(OC) Putting John Edwards on the ticket was supposed to be the solution, of course.

01:05:25 PETER JENNINGS

(OC) Well, Mr. Kerry certainly has, all you have to do is look at the map, lost the South again. Let's talk to a couple of other people about this as well. Thanks, Linda. George Will. Was Zell Miller right that the Democrats are simply out of touch with the way of life? And of course, there's no single way of life in the South anymore anyway.

01:05:39 GEORGE WILL, ABC NEWS

(OC) Well, that's right. I mean, we've talked this evening about how different the states are from Florida to Arkansas to Virginia, with its Northern Virginia suburbs of Washington, DC. But remember, Peter, earlier in the evening I made the point that if you carry nothing in the South, plus Oklahoma, Kentucky, West Virginia, that's 173 electoral votes.

01:05:59 GEORGE WILL

(VO) And if you lose all of those, and Mr. Kerry has now lost them, that means he has to carry 74 percent of all the remaining electoral votes, and that's very difficult to do. One point about Nevada.

01:06:10 PETER JENNINGS

(VO) Can I, can I hold you on Nevada for a second?

01:06:11 GEORGE WILL

(OC) Sure. Sure.

01:06:12 PETER JENNINGS

(OC) Because I know you want to make an observation, but I want to get Michael Beschloss. And that of course is Zell Miller we were looking at, on the video there, the Democratic, retiring Democratic Senator from Georgia who made the stinging attack on John Kerry at the Republican convention, is under the skin of every Democrat. But he's the one who said, not only in person, but has said in his book that he thinks the Democrats, as Linda Douglass said, are out of touch with a way of life in the South that he believes crosses all demographic lines. Michael Beschloss, our historian on this.

01:06:42 MICHAEL BESCHLOSS, ABC NEWS

(OC) Well, you know, Peter, sometimes people forget that until fairly recently the heart of the Democratic party was Southern states. Even in the 1950s, when Adlai Stevenson was losing huge elections to Dwight Eisenhower, the states he got were in the South because that's where the Democratic party was. 1964, Lyndon Johnson signed the Civil Rights Act. He said I know that by signing this bill I'm giving the South to the Republican party forever. But you know, since then there have been two Democrats who have been able to win elections as president. Jimmy Carter in 1976, Bill Clinton in '92 and '96. And I think it's not by coincidence that, that these were two people who not only came from the South and were able to carry Southern states, but they had grown up among conservatives,

they knew how to talk about liberal values in a way that was not offensive to people in the Midwest and the border states and the South. And I think one question that people might well ask is, if John Kerry loses tonight, was that because the Democrats took a risk of nominating someone who was from the Northeast? There hasn't been a Northeastern president elected for 44 years.

01:07:49 PETER JENNINGS

(OC) Many thanks, Michael. And I want to go to Ken Mehlman in Washington. But if he'll wait just one second, Cokie Roberts, who's the Southerner here, from Louisiana, gets one comment on the subject.

01:08:01 COKIE ROBERTS, ABC NEWS

(OC) Well, not, not only has the South become so Republican at the presidential level, but what we're really seeing tonight is something different at the Senatorial level. For Fritz Hollings' seat to go Republican, for John Edwards, the candidate on the Democratic ticket, the North Carolina seat to go Republican, and apparently for the seat in Louisiana, it's looking very much like it, for the first time ever, will go Republican, I mean, we're talking about a much more Republican South than we've ever seen before.

01:08:33 PETER JENNINGS

(OC) Many thanks, Cokie. And the rest of you. George, I'll come back to you on Nevada in just a minute, but I want to talk first with Ken Mehlman with the Bush campaign who's joined us again from Washington tonight.

01:08:41 KEN MEHLMAN, ABC NEWS

(OC) How are you?

01:08:41 PETER JENNINGS

(OC) I'd like to say that you have a big smile on your face, but you always have that smile, and so I'm ...

01:08:46 KEN MEHLMAN

(OC) Well -it's bigger right now.

01:08:48 PETER JENNINGS

(OC) So, so what's on your mind about Ohio? What's seriously on your mind about Ohio?

01:08:54 KEN MEHLMAN

(OC) I think we've, we're gonna to win Ohio. I think we won it today. The numbers are coming in. Another of the networks, Fox News, called Ohio for the president. I believe others will follow suit. I think that if you look at the numbers, what you're seeing is this, Cuyahoga County, which is Cleveland, the Democrats, often the best performing part of the state for them, we actually did better this time than we did in 2000 when we won the state. And we're doing incredibly well in the rural parts of the state, and there still are some outstanding votes in the Southwest part of the state, where Republicans always do well. So we feel great about where we stand in Ohio and are very appreciative of the fact that the president has won that state.

01:09:31 PETER JENNINGS

(OC) And as you look on, I just point out again, we have not projected Ohio for the state, though as you point out, another, the Fox Network has. Looking out to Minnesota, Iowa, Wisconsin, New Mexico, and Nevada, you want to make some equally confident projections there?

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 207

01:09:47 KEN MEHLMAN

(OC) Well, I, I do think we're going to win Nevada. I think if you look at the numbers, the Democrats had to do very well in Clark County, which is Las Vegas.

01:09:54 PETER JENNINGS

(VO) Right.

01:09:54 KEN MEHLMAN

(VO) And they did not do as well as they needed to. In terms of the other states, I think they're all very close. I think that Wisconsin's gonna be very close. Iowa's gonna be very close. New Mexico very close. All three will come right down to the wire.

01:10:06 KEN MEHLMAN

(OC) Michigan and Minnesota are obviously harder for us to win. But we feel great about where we are, winning Ohio. I believe and winning Nevada wins four more years for George W. Bush, and I think that's a great thing for the country.

01:10:19 PETER JENNINGS

(OC) Thanks, Ken, very much. The votes are all in.

01:10:20 KEN MEHLMAN

(OC) That's a lot.

01:10:21 PETER JENNINGS

(OC) He's one of the smartest men in politics. You have to take what he says very, very seriously. One comment about Nevada from George Will.

01:10:26 GEORGE WILL

(OC) Well, it was last Friday that Ken Mehlman told me, inferring from who was voting and the absentees and all these other mysteries they understand, inferring that the Democrats were winning in Clark County but radically - underperforming. So he thought they were going to get it. It's worth remembering as a historical fact, Peter, that the first Republican president, Lincoln, rushed Nevada into the union ...

01:10:48 PETER JENNINGS

(OC) Right.

01:10:48 GEORGE WILL

(OC) ... from territorial status to statehood status even though it had only about a fifth of the population required because he thought he might need the three electoral votes ...

01:10:56 PETER JENNINGS

(OC) Electoral votes.

01:10:56 GEORGE WILL

(OC) ... in 1864 or that it might go to the House and he'd really need

it.

01:10:59 PETER JENNINGS

(OC) I remember the incident. Many thanks, George, very much. On Nevada and Ohio. Our coverage will continue in just a moment.

01:11:10 ANNOUNCER

(VO) Vote 2004, Election Night brought to you by ... This ABC Special will continue in a moment.

COMMERCIAL BREAK

01:13:14 ANNOUNCER

This ABC News special, Vote 2004 continues. Once again, Peter Jennings.

01:13:21 PETER JENNINGS

(OC) Welcome back to our coverage. We've been obviously all of us sitting around here talking about Ohio. And as Cokie Roberts and I were just mentioning, and you found it out in Ohio during the campaign, this is all about economics versus the moral issues, about the character issues. In Cincinnati, for example, which was the base for this very powerful and successful campaign in favor of an amendment to ban gay marriage in the state, the head of that movement told me about two weeks ago that they had enlisted in their campaign, about a thousand evangelical churches. And if you have successfully engaged a thousand churches and their membership in various parts of the state, you have pulled in a hugely powerful force in terms of driving the moral character notions of the election. And if it is true that in Cuyahoga County up in the Northeast around Cleveland, George Stephanopoulos, that the Democrats have not produced the turnout, Ken Mehlman said they haven't produced the turnout they've anticipated ...

01:14:20 GEORGE STEPHANOPOULOS

(OC) That's where they had to get it, Peter, that's right. They had to get it across the Northeast, from Cleveland across into Youngstown, the places that have been, that have the highest proportion of African-American votes and also have been hardest hit by the loss of manufacturing jobs over the last four years, Youngstown especially in that steel belt.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 207

01:14:37 GEORGE STEPHANOPOULOS

(VO) And they had to produce in the big City of Columbus, in the City of Dayton, in the City of Toledo ...

01:14:44 PETER JENNINGS

(VO) Right.

01:14:44 GEORGE STEPHANOPOULOS

(VO) ... because they would lose the suburbs and the rural areas.

01:14:44 PETER JENNINGS

(OC) Let's go to our political director, Mark Halperin, to see what else you can contribute on the state of Ohio or for that matter on any other issue.

01:14:53 MARK HALPERIN, ABC NEWS

(OC) Well, Peter, the exit poll matches up what you found when you went to

Cincinnati, it's nice when that works out that the reporting matches up with what we've managed to talk to voters. In Ohio today, supporters of, before I get to the gay marriage ban, let me just tell you, Kerry supporters ...

GRAPHICS: OHIO

GRAPHICS: GAY MARRIAGE BAN SUPPORTERS

GRAPHICS: BUSH 66%, KERRY 34%

01:15:07 PETER JENNINGS

(VO) Stay, stay with that because that's the graphic that's up.

01:15:08 MARK HALPERIN

(VO) Okay. In gay marriage ban on the ballot, it passed by a decisive - margin. They asked Ohio voters if they supported banning gay marriage, and that passed decisively. And of the people who voted for the gay marriage ban, the President won 66 percent to 34 percent for Senator Kerry. Pretty decisive. Also, that issue was, we thought would be a key motivator for a key group, that strong vote for the president amongst White protestant churchgoers.

GRAPHICS: OHIO

GRAPHICS: WHITE PROTESTANT CHURCHGOERS

GRAPHICS: BUSH 70%, KERRY 30%

01:15:33 MARK HALPERIN

(VO) They voted overwhelmingly for the president. And a key group not just in Ohio but in almost all the battleground states. That group voted 70 percent for the President, 30 percent for Mr. Kerry. They voted in about the same proportions as they did four years ago. And then one other number from Ohio, Peter. Kerry supporters, their top issue, 42 percent said it was the economy.

01:15:52 MARK HALPERIN

(OC) For Bush supporters, moral values was cited by 38 percent. And obviously, a lot of those voters I'm sure were concerned with that gay marriage ban.

01:16:00 PETER JENNINGS

(OC) So 40 percent to 38 percent on the economy vis-a-vis the so-called moral character issues?

01:16:05 MARK HALPERIN

(OC) Again, for, for Kerry supporters the top issue for almost half of them, 42 percent was the economy. For Bush voters it was moral values 38 percent was their top issue.

01:16:13 PETER JENNINGS

(OC) Okay. Many thanks, Mark. I know that Kate Snow has got a lot of exit polling information as well, Kate, but I'm not sure your unit is, is ready. So you tell me. You want to do some exit polls or you -want us to come back to you in a moment?

01:16:26 KATE SNOW, ABC NEWS

(OC) In terms of which, which races? In terms of Senators?

01:16:27 PETER JENNINGS

(OC) Well, you've, you've got a whole mess of them over there. Pretty much your call.

01:16:32 KATE SNOW

(OC) Well, we could tell you about some of the exit polls in the Senate races or I can tell you about governors, which we haven't talked about at all yet tonight.

01:16:37 PETER JENNINGS

(OC) Yeah, we, we have never touched on governors. Promising people we'll come back if anything happens in the battleground state, let's talk about governors.

01:16:43 KATE SNOW

(OC) All right. Let's do governors. There are 11 races tonight, and there's one important one that I think we should call that we, we have been talking about, and that's Mitch Daniels. He's the former director of the Office of Management and Budget under Bush.

GRAPHICS: GOVERNORS AT STAKE TONIGHT

GRAPHICS: GOVERNOR, INDIANA

GRAPHICS: PROJECTED WINNER

GRAPHICS: MITCH DANIELS, REPUBLICAN

01:16:58 KATE SNOW

(VO) He's a Republican. And he was trying to unseat Joseph Kernan, the current governor of Indiana, the Democrat, and he has done so. We can project that Mitch Daniels has won that race. So that's a switchover to the Republican column. Republicans currently do hold the majority of governorships in the country. And they're adding to that with Mitch Daniels.

GRAPHICS: GOVERNOR, UTAH

GRAPHICS: PROJECTED WINNER

GRAPHICS: ROBERT BENNETT, REPUBLICAN

01:17:20 KATE SNOW

(VO) Utah, we can project that John Huntsman will become the next governor of Utah. That was a Republican seat. It was a retiring situation. Oleen Walker retired. And John Huntsman will take over.

GRAPHICS: GOVERNOR, NORTH DAKOTA

GRAPHICS: PROJECTED WINNER

GRAPHICS: JOHN HOEVEN, REPUBLICAN

01:17:34 KATE SNOW

(VO) In North Dakota, John Hoeven is the projected winner there, the current governor will retain that.

GRAPHICS: GOVERNOR, DELAWARE

GRAPHICS: PROJECTED WINNER

GRAPHICS: RUTH ANN MINNER, DEMOCRAT

01:17:42 KATE SNOW

(VO) In Delaware, Ruth Ann Minner we project will keep her seat as the governor. She'll go into her second term. She's the first female governor, by the way, of Delaware.

GRAPHICS: GOVERNOR, NORTH CAROLINA

GRAPHICS: PROJECTED WINNER

GRAPHICS: MIKE EASLEY, DEMOCRAT

01:17:50 KATE SNOW

(VO) In North Carolina, Michael Easley will go into his second term now, a Democrat.

GRAPHICS: GOVERNOR, WEST VIRGINIA

GRAPHICS: PROJECTED WINNER

GRAPHICS: JOE MANCHIN, DEMOCRAT

01:17:56 KATE SNOW

(VO) In West Virginia the projected winner, another Democrat, Joe Manchin. It was Bob Wise. He's retired. And now Joe Manchin will take that seat.

GRAPHICS: GOVERNOR, VERMONT

GRAPHICS: PROJECTED WINNER

GRAPHICS: JIM DOUGLAS, REPUBLICAN

01:18:07 KATE SNOW

(VO) In Vermont, Governor Jim Douglas retains his governorship there. He's had a career in Vermont politics.

GRAPHICS: GOVERNOR, MISSOURI

GRAPHICS: CANDIDATES

GRAPHICS: MCCASKILL, DEMOCRAT

GRAPHICS: BLUNT, REPUBLICAN

01:18:14 KATE SNOW

(VO) In Missouri this is still one that's open, Peter. We have not called this one yet. It's Clair McCaskill the Democrat taking on Matt Blunt the Republican. It's open because Clair McCaskill actually booted out the, Bob Holden, the governor of Missouri, in the primary, which is unusual. She beat him in the primary. So she's now running against Blunt. And we're waiting for more information about this one. But this could be one where it could potentially change over if Blunt were to win. Then it becomes a Republican governorship. A couple of other tight races just to quickly tell you about.

GRAPHICS: GOVERNOR, NEW HAMPSHIRE

GRAPHICS: CANDIDATES

GRAPHICS: BENSON, REPUBLICAN

GRAPHICS: LYNCH, DEMOCRAT

01:18:49 KATE SNOW

(VO) Craig Benson, the governor there. Just a first term governor. And he's been having some trouble in this race. We talked to a Republican observer up in New Hampshire who said that this is one of the worst-run campaigns in the history of the state of New Hampshire by the GOP. So Benson's having a big fight.

GRAPHICS: GOVERNOR, MONTANA

GRAPHICS: CANDIDATES

GRAPHICS: BROWN, REPUBLICAN

GRAPHICS: SCHWEITZER, DEMOCRAT

01:19:09 KATE SNOW
(VO) And finally, in Montana, actually, we've got two more. In Montana Brian Schweitzer appears to be doing pretty well there, but we can't call it quite yet. Not enough information there.

GRAPHICS: GOVERNOR, WASHINGTON

GRAPHICS: CANDIDATES

GRAPHICS: GREGOIRE, DEMOCRAT

GRAPHICS: ROSSI, REPUBLICAN

01:19:16 KATE SNOW
(VO) And in Washington state, where Gary Lott has retired, Christine Gregoire may succeed in taking his place as a Democrat.

01:19:26 PETER JENNINGS

(VO) Okay, many thanks, Kate.

01:19:28 PETER JENNINGS

(OC) And it's taken us a while to get to the governors, for which I apologize. But it does speak, I think, to the importance of the presidential race. There's still some outstanding Senate races, but the big one is on, in the, in the Presidential race. What's going to happen in Ohio, New Mexico, Nevada, Minnesota, Iowa, Wisconsin. Michigan also yet to be decided in such a way that we feel confident, fully confident projecting them. Our coverage will continue in just a moment.

GRAPHICS: ABC NEWS VOTE 2004

01:19:54 ANNOUNCER

(VO) This ABC News special "Vote 2004" will continue in a moment.

COMMERCIAL BREAK

01:22:07 ANNOUNCER

(VO) This ABC News Special, "Vote 2004," continues. Once again, Peter Jennings.

01:22:16 PETER JENNINGS

(OC) I keep being reminded how the other real world intrudes on us. ABC's Martha Raddatz, who is our -our national security correspondent, has been at the Pentagon watching this all night and has not participated in the discussion, but she reminds us about the war. The Iraqi explosion that they heard a short while ago somewhere in Baghdad, may have been a car bomb. Yeah, if I can -have her, I'd like very much to talk. Hey, Martha, hi.

01:22:42 MARTHA RADDATZ, ABC NEWS

(OC) I'm here.

01:22:45 PETER JENNINGS

(OC) Thank you for spending such a long night with us, but I know you're accustomed to this in terms of, of the war. These little messages I get that the campaign -against Fallujah is not begun, of course, but been a lot bombing tonight and now you send us the message about a, what you call a vehicle-borne device.

01:23:01 MARTHA RADDATZ

(OC) Improvised explosive device, yes.

01:23:03 PETER JENNINGS

(OC) Yeah, yeah.

01:23:03 MARTHA RADDATZ

(OC) Yes, the VBIED, which is essentially a car bomb. There was apparently a car bomb at the entrance to the airport, to Baghdad International Airport, at the civilian entrance to the airport. I'm told that as far as car bombs go, it did not cause a great deal of damage, but we don't know the casualty figures yet. As you know, Peter, that has been one of the major problems in Iraq over the last month or so, these car bombs. And you're seeing more and more of them over there.

01:23:31 PETER JENNINGS

(OC) I'm reminded how much and how intensely in the last few weeks, the candidates argued about the explosives that were missing in Iraq. As you've been on your e-mail, as I know you are, to commanders and soldiers and Marines in Iraq tonight, what are they saying about this election?

01:23:52 MARTHA RADDATZ

(OC) Oh, I think there's a, a great difference of opinion over there. As you know, I, I was over there. I just got back about a week ago or so. And I think -I was surprised at how many soldiers came up to me and said, you know, I'm voting for John Kerry because people don't really understand how bad it is over here. But the next day someone would come up and say, you know, I'm voting for George Bush because I didn't like what John Kerry said about this being the wrong war at the wrong time. Comments like that strike very deep with soldiers in the field. But I would also add, Peter, that I didn't think a lot of people were paying a great deal of attention. They've got a lot more important things on their hands over there. And -I would sit in the mess halls, and people wouldn't really be watching television. There's certainly no talk about the debates. And I was over there during the period when there were several debates.

01:24:38 PETER JENNINGS

(OC) Right.

01:24:38 MARTHA RADDATZ

(OC) They just weren't talking about it.

01:24:40 PETER JENNINGS

(OC) One of the things I don't know that you absolutely know the answer to. Maybe the Pentagon does, as to how many soldiers and Marines in the theater have actually participated in the election? Do we have any idea?

01:24:51 MARTHA RADDATZ

(OC) I'm not, I'm not sure about that. I don't have any figures on that yet. And I, and I think you might still see some sort of balloting coming through, some sort of voting from the field. Sometimes that takes a lot longer than you think ...

01:25:03 PETER JENNINGS

(OC) It's interesting, when, I'm sorry. Go ahead.

01:25:05 MARTHA RADDATZ

(OC) No, no. That's okay. Go ahead.

01:25:06 PETER JENNINGS

(OC) No, I was going to say, it's interesting, it, it's about several hours from now when you and I are getting up to come to work. You're always up, I notice, looking at your e-mail before I am. But we begin to see this activity from Iraq on a daily basis about the increasing level of violence in the country, and you're seeing it again tonight, aren't you?

01:25:22 MARTHA RADDATZ

(VO) Yes. And, and I think particularly, and you pointed out Fallujah.

01:25:26 MARTHA RADDATZ

(OC) I think Fallujah is really at the boiling point as, as far as US commanders are concerned. And I think you'll probably see some sort of action as soon as the Iraqi government gives the go-ahead. When I was there, they were certainly starting these air strikes, more intensified air strikes, and, and there was some ground action when I was there as well. But there is a lot of talk, and you've heard some very strong -statements from commanders over there saying the status quo cannot stand. Elections have to go forward in this area, in Fallujah, in order for them to be free and fair elections across the country. Those elections, as you know, are scheduled for January. So I think you're probably on the verge of some sort of action in Fallujah. Certainly don't know any date for that. But they have been very out front about saying this is going to happen.

01:26:11 PETER JENNINGS

(OC) Well, I hate like heck to keep you this late at night, but it's certainly, it's certainly terrific having you. And nobody, nobody knows this story better than you do. We're going to come back in just a moment after having talked to Martha Raddatz, to talk to the two campaigns. Our correspondents with the campaigns right after this.

GRAPHICS: ABC NEWS VOTE 2004

01:26:28 ANNOUNCER

(VO) "Vote 2004 Election Night" will continue in a moment.

COMMERCIAL BREAK

01:29:50 ANNOUNCER

(VO) This ABC News Special, "Election Night 2004," continues from ABC News World Headquarters. Once again, Peter Jennings.

01:30:00 PETER JENNINGS

(OC) Well, as the nation watched Florida four years ago, tonight we are watching Ohio. And we're watching other states to the West, as you can see on our map. And certainly other states in the Midwest, in the upper Midwest tonight. But it is Ohio that everybody is absolutely laser-like focused on at the moment. And just recently, not recently, just a moment ago, in a statement from the Kerry campaign communications director Mary Beth Cahill, who says the following, "the vote count in Ohio has not been completed. There are more than 250,000 remaining votes to be counted. Believe when they are John Kerry will win in Ohio."

GRAPHICS: OHIO POPULAR VOTE

GRAPHICS: BUSH, 51%, 2,544,215

GRAPHICS: KERRY, 49%, 2,438,411

GRAPHICS: 91% PRECINCTS REPORTING

01:30:38 PETER JENNINGS

(VO) The vote count in Ohio, she says has not been completed. There are more than 250,000 remaining votes to be counted. "We believe when they are John Kerry will win in Ohio." There's the popular vote as far as we have it. With 91 precincts reporting, 51 percent for Mr. Bush and, I've lost, 49 percent for Mr. Kerry there, but Mr. Bush with 91 percent has 105,000 more votes than Mr. Kerry.

GRAPHICS: OHIO LEADER

GRAPHICS: BUSH +105,804

GRAPHICS: 91% PRECINCTS REPORTING

01:31:07 PETER JENNINGS

(OC) Which takes us to the head of our ballot watch, Jake Tapper. I want to do this rather carefully, Jake. On the Mary Beth Cahill statement ...

01:31:15 JAKE TAPPER

(OC) Yes.

01:31:15 PETER JENNINGS

(OC) ... when she says 250,000 remaining votes to be counted, we think she means the provisional ballots?

01:31:21 JAKE TAPPER

(OC) Well, it's difficult to know exactly what she means. She means the provisional ballots in combination with the 10 percent of the votes, roughly 10 percent of the votes that were cast in a normal way that have yet to be counted. We've been surveying the counties. It's difficult to find out exactly what the hard number is as to how many of these provisional ballots there are to be counted. We think any estimation of 175,000 to 250,000, which is what we are hearing from some Democrats earlier in the day, we think that's a somewhat unrealistic number.

01:31:51 PETER JENNINGS

(OC) So, so just, just based on your own intelligence, no, not your native intelligence ...

01:31:55 JAKE TAPPER

(OC) Right.

01:31:55 PETER JENNINGS

(OC) ... but your reporting intelligence, what do you think you're seeing in Ohio and are you seeing anything that the rest of us are missing?

01:32:02 JAKE TAPPER

(OC) Well, we see a very tight race, and we see this wild card thrown in there, which is the provisional ballots. These are the ballots, of course that are cast by individuals who show up to the precincts, they're not on the voting rolls, they insist that they are voters and there is roughly a 12-day period where Ohio election officials get to count those votes if those are eligible voters. In 2000, 90 percent of the roughly 100,000 provisional ballots were counted. So these are not an insignificant number. But the idea that the margin could be made up specifically

entirely by these provisionals is, that's somewhat of a stretch.

01:32:38 PETER JENNINGS

(OC) Okay, George, I just want to raise one thing about Ken Blackwell, the Ohio secretary of state. I'm not very big on labels, as you know, but he's certainly a Republican. He's regarded in Ohio as a conservative Republican. He's been challenged many times in Ohio on this question of voter issues by the Democrats.

01:32:56 GEORGE STEPHANOPOULOS

(OC) And he's been feeling the pressure. In the final days of, of the campaign in Ohio, he actually broke with his Republican Attorney General and, and his national party and said that he did not want poll challenges inside the polling places in the final days. That was something that was litigated by the rest of the Republican party. But just to reinforce I think what Jake said there, even if there are 250,000 votes out, if, if Senator Kerry is 105,000 votes behind right now, he would have to win those 250,000 by such a greater margin than anything else we've seen in the state to make up, to make up the gap, that's hard, that's going to be very, very difficult if not impossible to do.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH, 249, KERRY 207

01:33:33 PETER JENNINGS

(VO) Fareed Zakaria, I said that I would get back to you on this question of Ohio but really the debate in Ohio between the economic and the so-called moral character, social issues, you wanted to say?

01:33:45 FAREED ZAKARIA, ABC NEWS

(OC) Well, I just think when you look at the, the trouble John Kerry and the Democrats have had carrying rural parts of the, the Midwest, mention was made of the South, the problem is not simply that they are not espousing a certain set of social values. It's that when John Kerry speaks about them he divides the Democratic party. Whereas when George Bush speaks about them he unites the Republican party. If you look at an issue like gay marriage, if you look, look at abortion, if you look, look at things like that, this problem is of course exacerbated by the war on terror. The war on terror has united Republicans but often divides Democrats. The Patriot Act. Iraq. When John Kerry speaks about Iraq, 30 percent to 40 percent of his party agrees with him and 30 percent to 40 percent disagrees. Whereas -for Bush it is a uniting feature. So the very things that makes it easy for John Kerry to win in New York and California and win big, make it difficult for him to win Ohio, as we're seeing right now.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 207

01:34:52 PETER JENNINGS

(VO) Okay. Many thanks, Fareed.

01:34:54 PETER JENNINGS

(OC) I want to, I want to bring in, if I may now from Los Angeles one of

the guests who's had to sort of sit around for much of the night waiting for just such a moment as I think we've arrived at. This is Stuart Taylor, who is the national columnist for the "National Journal." And Stuart, if I may remind you of something you wrote in a recent column with which I suspect you're very familiar. "American politics has never been and never will be a thing of beauty." Where are we at tonight, do you think?

01:35:23 STUART TAYLOR JUNIOR, NATIONAL JOURNAL
Well, I think, I think we're down to Mr. Kerry hanging on by his fingernails to the hope that he can win Ohio, as we've heard, by somehow sweeping a huge percentage of the large number of provisional ballots cast by people who had some question about their registration. And I think we've heard from your other correspondents, reason to doubt that he can make up that deficit. I'm not sure we have all the relevant numbers. I'm not sure if we know, for example, what the historical pattern has been on Democrats and Republicans winning provisional ballots.

GRAPHICS: OHIO LEADER

GRAPHICS: BUSH +102,342

GRAPHICS: 91% PRECINCTS REPORTING

01:36:07 STUART TAYLOR JUNIOR
If, though, the Democrats decide, if the Kerry campaign decides after doing whatever math they need to do, that they've got at least an outside shot at winning Ohio with provisional ballots, then we may see more lawsuits. There are a lot of legal issues they've disputed about how to count provisional ballots. One is what if the voter goes to the wrong precinct and casts a provisional ballot? Must it be counted? Kenneth Blackwell, the Ohio secretary of state, has said no. His decision was upheld by a Federal Appeals Court about eight days ago.

01:36:38 PETER JENNINGS
(OC) Right.

01:36:38 STUART TAYLOR JUNIOR
I'm not sure whether it's still possible to appeal that to the Supreme Court.

01:36:45 PETER JENNINGS
(OC) Let me, let me finish your statement, in all fairness, the way you actually wrote it the other day. "American politics has never been and never will be a thing of beauty unless and until genetic engineers purge selfishness, dishonesty, tribalism, and irrationality from human nature." It's a great phrase. As you look at the election,

01:36:58 STUART TAYLOR JUNIOR
And they're, and they're working on that, I'm glad to say.

01:37:00 PETER JENNINGS
(OC) As you look at the election tonight, how do you think it's by and large going? I don't mean in terms of partisan terms. In terms of the process with which you've been so concerned.

01:37:12 STUART TAYLOR JUNIOR
The process, one concern that I think a lot of people had, and I had, which

is that we would be, that, that there would be a flurry of lawsuits in a lot of battleground states that would tie up everything in litigation and we'd see Bush versus Gore, maybe something worse. That does not appear to have been happening. I think the reason is a lot of the issues were resolved. There was a great deal of litigation before the election. And, and a lot of the issues were resolved so that by the time the election was held there wasn't anything much to fight over. The other reason, I think, is none of the battleground states so far, with the possible exception -of Ohio, seem to have had a close enough balance between the two presidential candidates so that there could be, litigation could tip the, tip the, the outcome.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249

GRAPHICS: KERRY 207

01:37:58 STUART TAYLOR JUNIOR

I think a lot of people who are concerned about the process will heave a sigh of relief if at the end of the day we have a fairly clear winner, if not tonight maybe tomorrow, and it isn't tied up in a, in a long, bitter, polarizing process of lawsuits.

01:38:19 PETER JENNINGS

(OC) As you look at the map tonight, a map which I know you're not altogether happy has been done just in reds and blues do you think you're looking at a partisan nation which we'll have some difficulty recovering from its, from the angst of its partisanship?

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH, 249

GRAPHICS: KERRY, 207

01:38:38 STUART TAYLOR JUNIOR

Yes and no. There's been some interesting research, including some by a political -scientist, Morris Fiorina of Stanford, that the nation itself is really not very polarized. That Americans are by and large as tolerant and as willing to get along with one another, in some ways more tolerant than they were 20 or 30 years ago. That it's the political class, very broadly defined as polarized, the politicians, the interest groups the people who passionately care about politics, the professors, perhaps some of the journalists. And that that polarization makes it look as though the entire country is polarized. For example, the example that comes to mind is let's imagine that the presidential nominees this year had been John McCain and Joe Lieberman. Or John McCain and John Kerry, for that matter. I think it would have been a much less polarizing election. I'm not saying those would've been better nominees. That's not the point. The point is I think it is the -it is particularly President Bush who's attracted such passionate support and such passionate opposition that tends to make the electorate look more polarized than it really is.

01:39:49 PETER JENNINGS

(OC) I've got a couple more questions I'd like to ask you. So please stay

with us if you would. Our coverage will continue in just a moment. That's Stuart Taylor from the "National Journal," one of our guests tonight. We'll be back.

01:40:06 ANNOUNCER
Vote 2004 election night will continue in just a moment.

COMMERCIAL BREAK

01:42:11 ANNOUNCER
ABC News election night 2004 continues. Once again, Peter Jennings.

01:42:15 PETER JENNINGS
(OC) Well, we don't know absolutely where this is going at the moment, and we're pressing the Kerry campaign, we're pressing the Bush campaign on a variety of issues. But take a look at our map, and you can see precisely where we are at the moment.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249

GRAPHICS: KERRY 207

01:42:27 PETER JENNINGS
(VO) Ohio, Kerry people have no apparent interest, nor should we even force them to have an apparent interest in, in, in conceding in Ohio. But ABC News is not in a position to confidently project in Ohio with the number of provisional ballots in question and not the entire state reported or counted. And I guess you all know, who've paid any attention to the debate and the justified criticism of the media, particularly the networks and the cables after 2000, that we are not in a great hurry to risk saying something about which we are not certain. Yes, George.

01:43:07 GEORGE STEPHANOPOULOS
(OC) But Peter, President Bush just passed an important milestone in just the last couple of minutes.

01:43:10 PETER JENNINGS
You're right.

01:43:12 GEORGE STEPHANOPOULOS
(OC) Now, look at the popular vote up there on, on the screen. President Bush has now got 51 percent of the popular vote.

GRAPHICS: POPULAR VOTE

GRAPHICS: BUSH, 51%, 50,497, 526

GRAPHICS: KERRY, 48%, 47,040,906

01:43:18 GEORGE STEPHANOPOULOS
(VO) 50,497,000. Now just a 539,064 votes. Last time around in 2000, President Bush won 50,456,000 votes. He's already topped the total from last time. And secondly, he is still above that all-important 50 percent. If President Bush holds on to that, he will be the first president since his father to break 50 percent.

GRAPHICS: POPULAR VOTE

GRAPHICS: BUSH, 51%, 50,539,064

GRAPHICS: KERRY, 48%, 47,064,880

01:43:43 PETER JENNINGS

(OC) And, and much more importantly, I suspect, from his point of view. However competitive he may or may not be with his father, if he holds on and he is, he is the president again, he will, if he wins the popular vote, be able to say I won both of them.

01:43:55 GEORGE STEPHANOPOULOS

(OC) Fair and square and I won both of them.

01:43:57 PETER JENNINGS

(OC) Yeah.

01:44:00 GEORGE STEPHANOPOULOS

(OC) Absolutely right.

01:44:01 PETER JENNINGS

(OC) Okay, I want to go back to Stuart Taylor from the "National Journal" who's been hanging around for quite a long time. Stuart, we're very grateful for you hanging around, but I want you to make the one point again, which I feel, I share, I share with you, which is to say that the country is never quite as divided on a whole mess of issues as we in the media say it is.

01:44:18 STUART TAYLOR JUNIOR

Yes. And, and not everyone in the media. There, there's been a whole debate about this in the media and elsewhere this year. But I think the, the deepest research I've seen, public, surveys of public opinions on issues like abortion, for example, show that the public is, there's a fairly broad spectrum of people in the public who are kind of ambivalent, they want abortion to be legal some of the time, they don't want it to be legal all of the time.

01:44:44 PETER JENNINGS

(OC) Gun control.

01:44:44 STUART TAYLOR JUNIOR

They're not quite sure. And, and whereas the political forces are arrayed into passionately pro-abortion rights groups that want even very late-term abortions to be virtually an option at any time. And passionately anti-abortion groups who want to ban it entirely.

01:45:10 PETER JENNINGS

(OC) There, there's been some discussion about which side might take defeat in this election better. I've heard it argued by at least one of my colleagues here that if the Republicans had lost tonight they would have taken defeat with a greater grace than if the Democrats lose again. What do you think?

01:45:29 STUART TAYLOR JUNIOR

Well, I think there's two cross-cutting things. One, the Democratic bitterness against President Bush -is very powerful and, and will not go away. However, the fact that if he wins and if he wins a popular vote victory, that will perhaps erase one of the great complaints Democrats have about President Bush, which is that of course he became president after losing the popular vote in the 2000 election and after a very disputed electoral count in Florida and all that. If, if he wins a narrow but, but

undisputed victory here, it will no longer be possible to question the legitimacy of his holding office. People still may not like what he does.

01:46:16 PETER JENNINGS

(OC) Many thanks, Stuart. Please don't leave unless you have to.

01:46:18 STUART TAYLOR JUNIOR

Thank you.

01:46:20 PETER JENNINGS

(OC) Stuart Taylor from the "National Journal," with us this evening. I want to check in on the campaigns at the moment. The Bush campaign staff has apparently moved from its headquarters over to the Reagan Building, where we've had that sort of large shot earlier this evening of where they intend to celebrate if they ultimately do celebrate. ABC's Terry Moran is at his White House post. Terry, what's going on?

01:46:40 TERRY MORAN, ABC NEWS

(OC) Well, Peter, the senior staff here, the president's closest aides, his family, they are all gathered in the west wing. They brought some photographers up a little while ago in a very celebratory mood here. They think they've got this thing won. They are very confident in that. Vice-President Cheney arrived a little while ago. They're working on, on the speech right now. Obviously, there are votes yet to be counted in Ohio and elsewhere. But I must say there's a unanimity of opinion in the, in the Bush campaign. They think they've got this won. And one of the things that they think did it for them was that vast Amway-style network of church members, neighbors who called each other. It wasn't, it wasn't organized in a professional way but a volunteer way. And it was organized over the course of four years. And that they believe has come through for them tonight.

01:47:33 PETER JENNINGS

(OC) Terry, thanks very much. I just, before I go to Dean Reynolds on the Kerry campaign, this brings up the question of the get the vote out effort. And as we've said several times in the past few weeks, the Democrats farmed theirs out to some extent to professional organizations, formed for this very purpose, and the Republicans so to speak -kept it in the family. What does this tell you?

01:47:56 GEORGE STEPHANOPOULOS

(OC) Well, I mean, Democrats will say that they also had a lot of volunteers as well. In fact, they point out that they ...

01:47:58 PETER JENNINGS

(OC) Right.

01:47:59 GEORGE STEPHANOPOULOS

(OC) ... they tripled the number of volunteers nationwide. But what the Republicans were doing was making a virtue out of necessity. They have not had the outside allies, the foot soldiers like the Democrats have had in the past, mostly organized labor, union members. So they tried to build a new network, going to the churches, as we've talked about several times - this evening. And Karl Rove invested a lot of time and attention and money

into this effort over the last four years. They know that in past campaigns they were beaten on the ground and they were determined not to let it happen this time.

01:48:31 PETER JENNINGS

(OC) ABC's Dean Reynolds, who covers the Kerry campaign. Dean in Boston.

01:48:35 DEAN REYNOLDS, ABC NEWS

(OC) Well, Peter, you know, when one side, in a very close election has to keep asserting its confidence, it tells you something about the level of its confidence. And frankly, the Kerry campaign, and it's now raining, drizzling here, which further dampens the mood, has been trying to buck itself up for the last, oh, I'd say about six hours. It was only about 12 hours ago that they were feeling really good, and earlier this morning when we arrived in Massachusetts, I couldn't find any Kerry campaign folks who didn't think they were going to win. They must be well and truly shocked tonight, especially about the loss of Ohio. If there was one state in the whole country where they thought they could make the economic argument stick, it would be Ohio which has lost more than 200,000 jobs during George Bush's presidency.

01:49:27 PETER JENNINGS

(OC) Let me ask you a question, which I'm sure you've certainly twigged (PH) me there. Do you believe the Kerry campaign is conceding Ohio? Because we've not, I hate to put you in an embarrassing position here. We've not projected Ohio.

01:49:40 DEAN REYNOLDS

(OC) No, but everybody else has. And I think they can watch television as well as everybody else. Their -claim about these provisional ballots, that's going to be a long stretch, and it has the whiff of legal action frankly, and I don't know that there's a lot of stomach for that throughout the entire campaign.

01:50:02 PETER JENNINGS

(OC) Okay. Thanks very much, Dean Reynolds with the Kerry campaign. When we come back, we will talk to an attorney in Washington, Stanley Brand, who knows a lot about challenging elections if it comes to that. We'll see what his opinion is. Hope you'll stay with us.

01:50:18 ANNOUNCER

ABC News coverage of Vote 2004 will continue in a moment.

01:52:33 ANNOUNCER

Vote 2004 continues. Once again, from election headquarters in New York, Peter Jennings.

01:52:42 PETER JENNINGS

(OC) Well, I don't think that everybody's called Ohio. We certainly haven't projected Ohio. And, and I beg your pardon? Somebody talking to me. Okay, so a number of people have not projected Ohio yet. And we're not going to project Ohio until we're absolutely sure. And there are a couple of reasons why we're being very cautious about Ohio. One of them has to do with Hamilton County in Cincinnati.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 207

01:53:04 PETER JENNINGS

(VO) Mark Halperin, you and I were separately, I think, in Cincinnati in the last two or three weeks. And they have an issue in one county as I recall, that may contribute to their overall state counting problem.

01:53:17 MARK HALPERIN

(OC) It's a local race where they may have to count the ballots by hand. And that may be slowing down some of the returns. The Kerry campaign is staking their hopes now on just a few votes coming in and then on these provisional ballots that we've been discussing.

01:53:30 PETER JENNINGS

(OC) There was a, there was a scandal with the Republican candidate for what, Attorney General? Something like that?

01:53:33 MARK HALPERIN

(OC) Something like that.

01:53:37 PETER JENNINGS

(OC) And the, and the Democrats, I don't mean to be so glib about it. And the Democrats couldn't get someone on the ballot ...

01:53:41 MARK HALPERIN

(OC) The county ballot.

01:53:42 PETER JENNINGS

(OC) ... the county prosecutor.

01:53:43 MARK HALPERIN

Yes.

01:53:43 PETER JENNINGS

(OC) And the Democrats couldn't get a man on the ballot in time, so they were required to count them all by hand. Do we think that may be the issue in Ohio at the moment?

01:53:52 MARK HALPERIN

(OC) We believe that's where some of the remaining vote is at. The Republicans are arguing there's not enough vote out in all categories to make a difference. The Democrats are staking their hopes still that there's enough votes out there to make this close.

01:54:03 PETER JENNINGS

(OC) And in terms of the provisional ballots, there would have to be more provisional ballots, wouldn't there, than the percentage of difference between Mr. Kerry and Mr. Bush at the moment?

01:54:10 MARK HALPERIN

(OC) Well, certainly, certainly at a minimum the Kerry campaign would -have to have the absolute number of provisional ballots be greater than the margin. But they wouldn't get every absentee ballot, and -provisional ballots often are not successfully passed because when they look at the basis for being provisional there may be a problem with it.

01:54:30 PETER JENNINGS

(OC) I remember Mark saying to me on more than one occasion, that more

ballots would be spoiled in this season by voter error than any fraud in the country. But one quick note from Cokie Roberts. In terms of looking, we're all looking at these numbers all the time now. Cokie, the independent voters in Ohio, stunning number from you.

01:54:46 COKIE ROBERTS

(OC) This isn't just Ohio, Peter. This is nationwide. What we're seeing is after a year when the issues were Iraq, terrorism, the economy, over and over and over again, independent voters are saying that the issue that matters most to them, moral values.

01:55:02 PETER JENNINGS

(OC) Interesting, interesting.

01:55:03 COKIE ROBERTS

(OC) And that is trumping those other three.

01:55:08 PETER JENNINGS

(OC) Okay. We'll see how that plays in Ohio specifically, which I thought we were focused on. Independent voters choosing the issues of morality over the others. We will come back. Oh, we have one more minute. All right. Let's everybody slow down for a second. Hamilton county, it's sort of Hamilton county versus Cuyahoga county ...

01:55:24 GEORGE STEPHANOPOULOS

(OC) Cuyahoga County, Cincinnati versus Cleveland.

01:55:25 PETER JENNINGS

(OC) ... out there. Cincinnati versus Cleveland. And this brings us back, of course, to the whole question of get out the vote campaign. Earlier in the day the, the Democrats were positively ebullient about their get out the vote efforts.

01:55:36 GEORGE STEPHANOPOULOS

(OC) Boy, they sure were. And Peter, what might have happened, and this is from reading the tea leaves and then early returns that we've seen, is that the Democrats got their vote out, but sure enough the Republican party and that Amway operation that Terry Moran was talking about just a few minutes ago, got its vote out as well and both sides lifted up. So far from what we've seen the Democrats did quite well in Cuyahoga county, 66 percent of the vote so far for Senator Kerry.

01:56:02 PETER JENNINGS

(OC) Your experience as a political operative in a much, much former life in terms of somebody's got a good get out the vote operation that is in full steam. Can you catch up in the middle of the afternoon or the early evening?

01:56:15 GEORGE STEPHANOPOULOS

(OC) Oh, sure. Depending on which precincts are getting counted. There's no question about it. And one thing you saw happening today on both sides, Peter, it was fascinating. Both sides knew that this was gonna be a close race, so they were focusing on the get out the vote all through the day and they didn't want to dampen any enthusiasm on either side.

01:56:30 PETER JENNINGS

(OC) Many thanks, George Stephanopoulos.

GRAPHICS: ABC VOTE 2004

GRAPHICS: ELECTORAL VOTE

GRAPHICS: BUSH 249, KERRY 207

GRAPHICS: POPULAR VOTE

GRAPHICS: BUSH 51%, 51,417,266

GRAPHICS: KERRY 48%, 47,822,494

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GRAPHICS: ABC VOTE 2004

02:00:02

ANNOUNCER

This ABC News special election night 2004 continues. Once again, Peter Jennings.

02:00:08

PETER JENNINGS, ABC NEWS

(OC) Well, it's 11:00 in the evening in the West, 2:00 in the morning in the East, and after, lo, these many hours, ABC News is now gonna project the first switch of a state in this entire election evening. So let's go to the board, please.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 207

02:00:20

PETER JENNINGS

(VO) New Hampshire, four electoral votes, most competitive of all the northeast states, and ABC News is now going to call it for Senator Kerry.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, 211

02:00:31

PETER JENNINGS

(VO) Senator Kerry now has 211 electoral votes, with ABC projecting that this state, which Mr. Bush won in 2000 by only about 7,000 votes, is going to be awarded tonight to Mr. Kerry. We're also now in a comfortable position to project that in the state of Minnesota, with its ten electoral votes, the only state, by the way, to vote a Democrat in the past seven elections, is going to Mr. Kerry. Mr. Kerry now has 221 electoral votes. Mr. Bush has 249. George Stephanopoulos.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 221

02:01:09 GEORGE STEPHANOPOULOS, ABC NEWS

(OC) About 7 1/2 hours ago, Peter, I said keep an eye on New Hampshire. I didn't know it would take that, all that time to find out the result of that state.

02:01:16 PETER JENNINGS

(OC) Long, long time.

02:01:16 GEORGE STEPHANOPOULOS

(OC) It is a switch and it shows. Look across the Northeast. All blue. I mean, we, we really see the geographical electoral shifts in the country when you fill in blue up in New Hampshire tonight. But again, without Ohio, Peter, New Hampshire doesn't matter in the electoral college for John Kerry.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 221

02:01:34 PETER JENNINGS

(VO) It's very interesting though. Speaking of New Hampshire, it always has a big impact on presidential politics but not usually at this end of the pipe.

02:01:40 GEORGE STEPHANOPOULOS

(OC) Exactly right. Usually because of its primary. It jealously guards its "first in the nation" status in the primaries. But New Hampshire is also a changing state, Peter. It's becoming ...

02:01:48 PETER JENNINGS

(OC) Right, people pushing up from the South?

02:01:51 GEORGE STEPHANOPOULOS

(OC) Right. And -it used to be very, very conservative. And now it's a lot more like its neighbors. You see that tonight.

02:01:58 PETER JENNINGS

(OC) Okay, many thanks, George. New Hampshire, four electoral votes for Mr. Kerry. Minnesota, ten electoral votes to Mr. Kerry. Now, I want to do a quick tour of our correspondents out there in several of the regions. Just ask them for a brief comment each on what is happening of the latest nature in their neck of the woods. Claire Shipman in Ohio.

02:02:19 CLAIRE SHIPMAN, ABC NEWS

(OC) Well, we're just about to get a briefing from the secretary of state here, Peter. And we're told he's going to talk about the number of provisional ballots they are expecting, and we're told he's going to say it's in the vicinity of 150,000. There's been a lot of talk, as you know tonight, from the Democrats about whether that number could be more than 200,000. Republicans have been saying they thought it would be less than 125,000. It's all critical, as you know, because if that number is greater than the margin of victory, then I think the Democrats think there's a reason to ask that all of those ballots are counted and they may still have a reason to hope. One of the reasons that they think many of those provisional ballots might be Democratic votes is because so many of the

newly registered voters are probably the ones who ended up having to cast the provisional ballots, and they've thought all along that most of the newly registered were likely to vote Democrats.

02:03:10 PETER JENNINGS

(OC) Okay, thanks, Claire, very much. It's probably a bit late in the evening to be telling you one more time about provisional ballots, but people show up, they show up at the wrong precinct, they didn't have proper identification when they showed up. They're entitled, as a result of an act of Congress now, to cast this provisional ballot, which will be not merely counted later but examined and possibly counted later. ABC's Jake Tapper, as you look out across the state of Ohio now do you know what you're seeing in terms of provisionals?

02:03:37 JAKE TAPPER, ABC NEWS

(OC) Well, our team here -has surveyed all of the 88 counties in Ohio, and 62 of the 88 have gotten back to us. And there are 106,061 outstanding provisional ballots, according to our survey, 106,061.

GRAPHICS: BATTLEGROUND STATES, OHIO

GRAPHICS: PROVISIONAL VOTING

02:03:55 JAKE TAPPER

(VO) That is smaller as of right now, with 96 percent of the vote counted, smaller than the margin of victory that George W. Bush has.

02:04:02 JAKE TAPPER

(OC) But there is an indication that there are at least questions as to whether or not the Kerry campaign is going to be willing to concede Ohio if the margin of victory that George W. Bush has is around the same size or smaller than the number of outstanding provisional ballots. And like I said, that's 106,000, with 62 of 88 counties tabulated.

GRAPHICS: OHIO LEADER

GRAPHICS: BUSH +121,012

02:04:23 PETER JENNINGS

(VO) Okay. Many thanks, Jake.

02:04:24 PETER JENNINGS

(OC) We're going to come back to Ohio in a second, but I would point out that we have not yet projected the vote in Wisconsin. Barbara Pinto of ABC News is in Wisconsin. Barbara.

02:04:32 BARBARA PINTO, ABC NEWS

(OC) Peter, election officials are still here in Milwaukee city hall, up on the fifth floor, counting absentee ballots. There were more than 17,000 of them. 70 percent more than there were in the year 2000. That is holding up the count in this city, the biggest ward in the state, and it is also holding up the count in Madison, Wisconsin, where there are also about 20,000 absentee ballots still counting. Another issue, one small town, the town of Algoma, a Republican stronghold, small town of 6,000 people. When the polls closed at 8:00 tonight, there were 300 to 400 people waiting in line to vote. And they were all allowed to vote this evening late into the night. We're still awaiting results there as well.

02:05:16 PETER JENNINGS

(OC) Okay. Thanks very much. Of course, Wisconsin ten electoral votes, too close to call, campaign 'til the very end there. The last week of the campaign saw both candidates and their families up in the state. ABC News still deems that too close to project, and I suspect that's probably the truth across the board tonight. Another cliffhanger, of course, is New Mexico, and here's ABC's John Donovan. John.

02:05:38 JOHN DONVAN, ABC NEWS

(OC) Peter, just a little tour of the region around here in the west and southwest. Colorado has reported earlier its nine votes went to George Bush. That was not surprising. Senator Kerry earlier was making a stronger showing there. But when the balance began to tilt several weeks ago he decided about ten days ago to pull his advertising and spend it elsewhere. So that was not a surprise. Two states to our west. Nevada is still up in the air with its five votes still undetermined. And the same is true here in New Mexico. I'm in the counting center where they're going through the absentee ballots, which have been surprisingly large this year, and this particular county, which is the largest in the state, about 20 percent of the ballots are absentee ballots, and they have to be counted by hand. That process has been going on for hours and will continue to go on for hours. We've heard from the governor of the state, Bill Richardson, who is predicting, he thinks, a 1 percent victory for John Kerry here. But Richardson is partisan in this. He's a former member, he's a Democrat, a former member of the Clinton administration. So he has a dog in the fight. But the early indications, at least from this state, the largest in the county, is that John Kerry has a very, very slight lead in the so far published tally from this county. But again, that's not counting all of those absentee ballots back there, and they could make a significant difference. Peter.

02:06:54 JOHN DONVAN

(OC) And John, I think you said earlier, too, that the absentee ballots are going to be counted. If there are provisional ballots in New Mexico, when will they be counted? Do you know?

02:07:03 JOHN DONVAN

(OC) They'll start looking at them in three days, and they have to report them out by November 12th. And in this state, it's nowhere near the raw number that Ohio has. It's about 10,000 here. But relative to the overall number of votes cast, which is about a million, it's a very high number and could be decisive depending on how close this thing turns out to be in this state.

02:07:20 PETER JENNINGS

(OC) That's great, John. Thanks very much. John Donovan in New Mexico. Barbara Pinto in Wisconsin. And Claire Shipman in Ohio. It's just late enough at night, George Stephanopoulos, I think to indulge in just a little speculation if it's okay. Could we go and look at our electoral map for a second? And bear in mind that I'm going to make a change on Ohio here for

the moment, but I'm going to do it in yellow. Now, if we could go to look at the map of Ohio.

GRAPHICS: ELECTORAL VOTE

GRAPHICS: BUSH 249, KERRY 221

02:07:43 PETER JENNINGS

(VO) I'm going to make a change on the map just to show Ohio. There. Now, if Mr. Bush turns out to win Ohio, as the Bush campaign, and Mr. Kerry wins everything else, we have that ...

02:07:57 GEORGE STEPHANOPOULOS

(VO) 269 to 269.

02:07:57 PETER JENNINGS

(VO) 269 to 269. Explain again slowly to people what happens.

02:08:02 GEORGE STEPHANOPOULOS

(VO) What happens again is that it goes to the House of Representatives. And then in the House of Representatives each state gets one vote and the vote is determined by -whoever has the more members of Congress, Republicans or Democrats. Right now there are 28 states which would go towards Mr. Bush under that scenario. There's a couple of states that are tied. That's enough for him to win.

02:08:26 PETER JENNINGS

(OC) I'm going to read this, if I may, because this is from, I hope you won't be offended, Mark Halperin, if I read one of your memos out loud.

02:08:33 MARK HALPERIN, ABC NEWS

(OC) It depends what it is, Peter.

02:08:33 PETER JENNINGS

(OC) Well, you can come over here and check me out if you like. Mark says -I'm not gonna say this only because I usually tend to say things a little slower than you do, right? Just clarify it for me as we go through. The key question now is, when all the vote is in Ohio will the margin be greater or smaller than the number of provisional ballots, right?

02:08:54 MARK HALPERIN

(OC) And that's the number we're working on right now. We're trying to give you a nice graphic to lay it out. But right now we don't have hard numbers on either side. The margin is around 100,000, a little bit above it, and the number of provisional ballots will be above 100,000. Senator Kerry has a leg to stand on perhaps if the number of provisional ballots is

...

GRAPHICS: OHIO POPULAR VOTE

GRAPHICS: BUSH 51%, 2,687,002

GRAPHICS: KERRY 49%, 2,564,957

02:09:16 PETER JENNINGS

(VO) Greater.

02:09:17 MARK HALPERIN

(VO) Greater by a certain -he'll need some cushion because he certainly won't win every provisional ballot, as I said before, and he also certainly won't have every provisional ballot that's for him legally counted because

of the rules governing which ones are legally counted.

GRAPHICS: OHIO LEADER

GRAPHICS: BUSH +122,045

02:09:30 PETER JENNINGS

(VO) Okay. I'm not going to rain on your parade because you're making, any more than to that extent, this graphic.

02:09:34 PETER JENNINGS

(OC) But I do want to go to Washington now and talk to a lawyer, among other things, who was a consultant to ABC News in the 2000 election and is with us again in Washington tonight. His name is Stanley Brand. He is a Democrat. He specializes in election law. Mr. Brand, I know this is a little bit of a difficult question to answer, maybe one you choose not to answer. Do you think that the, that the instinct in the Kerry campaign is, up until now, to challenge or concede depending on how close it is?

02:10:05 STANLEY BRAND, ABC NEWS

(OC) Well, I think, again, it's, you know, -it's not a replication I don't believe, of at least what I'm hearing in your reporting, of what happened in Florida. The question here will be how close is the vote and do the Kerry people believe they can make up most or all of that ground through the provisional ballots? And that's a judgment call. At this point it's hard to tell. Each one of those ballots has to be adjudicated in a sense, as George Will pointed out. And that's a very fact-bound exercise.

02:10:43 PETER JENNINGS

(OC) Will the campaign have gamed out these various scenarios pretty exhaustively before tonight?

02:10:49 STANLEY BRAND

(OC) I would think they've thought about this one. Since the provisional ballot mechanism was one that everybody was aware of and was put in place specifically to address the problems that arose in 2000 in Florida.

02:11:04 PETER JENNINGS

(OC) I asked Senator Kerry last weekend in Iowa what his instinct was on conceding for the good of the country or challenging for the good of the country. We talked about Mr. Nixon conceding in 1960 when there were still possibilities in Illinois and Texas. Do I remember that correctly? Illinois and Texas to challenge. As a lawyer do you have any particular thoughts about the good of the country and the good of the party?

02:11:29 PETER JENNINGS

(OC) As a lawyer I don't think much about that. I'd think about whether I could win. And my question would be, do you, do you think you can win enough of those to change the outcome or affect the -outcome in a significant way? That, I think that's the, the question that the lawyers will be looking at.

02:11:50 PETER JENNINGS

(OC) Many thanks for such an honest answer.

02:11:51 STANLEY BRAND

Thank you.

02:11:51 PETER JENNINGS
(OC) Stanley Brand in Washington. Our coverage will continue in just a moment.

02:11:58 ANNOUNCER
ABC News coverage of Vote 2004 will continue in a moment.

COMMERCIAL BREAK
02:14:00 ANNOUNCER
This is the 2004 vote. Once again, from ABC News election headquarters, Peter Jennings.

02:14:09 PETER JENNINGS
(OC) We are of course very focused on Ohio and the other battleground states of the upper Midwest and also on New Mexico tonight, and even Hawaii. But the rest of the world has intruded in other ways. Reports from Baghdad just a few minutes ago that gunmen have killed a senior Iraqi oil ministry official in Baghdad on Wednesday. His name is Hussein Ali. He was a director general at the oil ministry, and he was shot dead as he was leaving his home on his way to work. There's another report of four Jordanian workers kidnapped in Iraq today. And there was also a car bomb or a car bomb driven device at the entrance to Baghdad Airport today, and that killed nine Iraqis. And I think there was one other on a bus tonight, which just goes to show you that Iraq is going really hard. And I beg your pardon? All right. Let's go to Ohio and listen to the secretary of state, Kenneth Blackwell.

02:15:05 KEN BLACKWELL,
REPUBLICAN, OHIO, SECRETARY OF STATE
... patience and civility. Having to stand in, in long lines which were a sign of the -robustness of the, the campaign and the vitality of democracy in Ohio. There's a lot of speculation about provisional ballots. We've heard numbers thrown around like 250,000 provisional ballots. I don't know how anybody knows that number, because the final tallies have not come in yet. They are coming in as we speak. We can only give you trends. If in fact you carry out -the trend line, it looks like we would have at the most 175,000. But that is just a speculation. We had over 100,000 in 2000. 90 percent of those were good. And given the increase in the number of new, newly registered voters, the speculation is that you could have a, a greater number. And it looks now, trending in, as, as some of the smaller counties have come in with their final numbers and their final tabulations, that we are trending towards about 175,000 at the high end.

02:16:31 REPORTER, FEMALE
(inaudible)

02:16:35 KEN BLACKWELL
No, -I said that, that it's trending toward that. Yeah, but you, we will not know and nobody knows how many provisional ballots we, we have had cast until all of the tabulations have come in from across the state.

02:16:54 REPORTER, MALE

(inaudible)

02:17:02 KEN BLACKWELL

Again, I'm not in the, I'm not in the business of projections. That's what you guys do. I'm in the business of managing and administering fair and efficient elections. And that's what we've done in the state of Ohio -in the 2000 presidential election.

02:17:21 PETER JENNINGS

(OC) So that's Ken Blackwell, the secretary of state in Ohio, who's saying the same things in a news conference out there I think he said to us a little while ago. But let us just go through these too close to project states at the moment. Because even though they're too close to project now, as we'll talk in just a minute with George Stephanopoulos and Mark Halperin, there may be shifts that will account for a whole lot of other potential goings on. But just take a look now if you would at the popular vote in these various states which are still too close to project.

GRAPHICS: OHIO, POPULAR VOTE

GRAPHICS: BUSH, 51%, 2,702,479

GRAPHICS: KERRY, 49%, 2,574,487

GRAPHICS: 97% PRECINCTS REPORTING

02:17:51 PETER JENNINGS

(VO) Let's start with Ohio. With 97 percent of the precincts reporting, Mr. Bush has the edge in the popular vote, 2,702,000. Mr. Kerry's two million five hundred and almost 600,000.

GRAPHICS: MICHIGAN POPULAR VOTE

GRAPHICS: BUSH 48%, 1,704,584

GRAPHICS: KERRY 51%, 1,813,494

GRAPHICS: 77% PRECINCTS REPORTING

02:18:06 PETER JENNINGS

(VO) In Michigan, with 77 percent of the precincts reporting, Mr. Kerry has the edge with 1,813,000 approximately. Mr. Bush with -1,704,000.

GRAPHICS: WISCONSIN POPULAR VOTE

GRAPHICS: BUSH 49%, 1,230,396

GRAPHICS: KERRY 50%, 1,254,345

GRAPHICS: 86% PRECINCTS REPORTING

02:18:19 PETER JENNINGS

(VO) In Wisconsin, also too close for us to project, 86 percent of the precincts reporting Mr. Kerry has 1,254,000. Mr. Bush, 49 percent, 1,230,000.

GRAPHICS: IOWA POPULAR VOTE

GRAPHICS: BUSH 50%, 723,878

GRAPHICS: KERRY 49%, 713,213

GRAPHICS: 96% PRECINCTS REPORTING

02:18:32 PETER JENNINGS

(VO) In Iowa, Mr. Bush has the edge with 96 percent of the precincts reporting, with 723,000. Mr. Kerry, 10,000 less at 713,000, 49 percent.

GRAPHICS: NEW MEXICO POPULAR VOTE

GRAPHICS: BUSH 52%, 271,110

GRAPHICS: KERRY 47%, 242,201

GRAPHICS: 93% PRECINCTS REPORTING

02:18:44 PETER JENNINGS

(VO) New Mexico, John Donovan was talking a minute ago how tight it was. 93 percent of the precincts reporting. Mr. Bush has 52 percent of the popular vote, and Mr. Kerry has 47 percent. About 30,000 between the two men at the moment. And this may account for both provisional ballots or the absentees which they are currently counting.

GRAPHICS: NEVADA POPULAR VOTE

GRAPHICS: BUSH 50%, 311,347

GRAPHICS: KERRY 48%, 301,009

GRAPHICS: 65% PRECINCTS REPORTING

02:19:08 PETER JENNINGS

(VO) In Nevada 65 percent of the precincts reporting. Remember, we're in the west now. The polls close much later than here in the east. Mr. Bush has 50 percent, 311,000. Mr. Kerry has 48 percent, 301,000. Whoever had any idea that this was not going to be close and dramatic.

GRAPHICS: HAWAII POPULAR VOTE

GRAPHICS: BUSH 44%, 55,372

GRAPHICS: KERRY 55%, 69,298

GRAPHICS: 0% PRECINCTS REPORTING

02:19:25 PETER JENNINGS

(OC) And finally, in Hawaii, which we have not projected and nobody thought was going to be a battleground state, but this is very early. The polls just closed of course. Hawaii that many time zones away. With about 100 and-some-odd thousand votes counted, Mr. Kerry has 55 percent and Mr. Bush has 44 percent of the vote. George Stephanopoulos.

GRAPHICS: POSSIBILITIES

GRAPHICS: BUSH 249, KERRY 221

02:19:49 GEORGE STEPHANOPOULOS

(VO) This shows why Ohio is so important, Peter. You just went through all those popular votes. Let's play, let's run through a scenario here. Right now President Bush has 249 ...

02:19:57 PETER JENNINGS

(OC) All right, let me get my, let me get my pen out here. Okay.

02:20:00 GEORGE STEPHANOPOULOS

(OC) Right now President Bush has 249 electoral votes.

02:20:03 PETER JENNINGS

(OC) Mr. Kerry has 221.

02:20:06 GEORGE STEPHANOPOULOS

(VO) If President Bush won all the states he's ahead in right now, Nevada, New Mexico and Iowa ...

02:20:11 PETER JENNINGS

(VO) Hold it, Nevada, New Mexico, and Iowa.

02:20:15 GEORGE STEPHANOPOULOS

(VO) That would add 17 electoral votes. He would be at 266, 3 shy of victory.

02:20:19 PETER JENNINGS

(VO) All right, now let me, I'm going to do something a little, this is sort of a little against my principles. But I just want to tell people at home, we are not calling these states. This is still in the realm of possibilities. But we're going to give these three states to Mr. Bush just so that you get a clearer take on the arithmetic.

02:20:34 PETER JENNINGS

(OC) Nevada takes Mr. Bush to 254.

02:20:35 GEORGE STEPHANOPOULOS

(VO) New Mexico ...

02:20:37 PETER JENNINGS

(VO) ... New Mexico takes him to 259. Iowa takes Mr. Bush to 266.

02:20:41 GEORGE STEPHANOPOULOS

(VO) ... 266, still short. Give Senator Kerry all the states where he's leading now, Michigan, Wisconsin, and Hawaii. Takes him to 252. Whoever wins Ohio ...

02:20:54 PETER JENNINGS

(VO) Oh, man.

02:20:55 PETER JENNINGS

(OC) Whoever wins Ohio becomes President. That's why he's hanging in there and fighting even though it looks like an uphill battle right now.

02:21:02 PETER JENNINGS

(VO) So in other words, I think you're making an argument, let me just go to our live updates and tell people we're done before I leave that hanging out there.

02:21:09 PETER JENNINGS

(OC) What you're suggesting I think, this is good intelligent politics at the moment, not just recalcitrance.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 221

02:21:15 GEORGE STEPHANOPOULOS

(OC) No, not, not yet. It is their one path to victory remaining for Senator Kerry. Until it's absolutely sure. And, and I think there's a, there's a legacy of Florida here as well, Peter. A lot of Democrats were disappointed in Vice-President Gore four years ago, because they didn't think he fought hard enough or smart enough in the state of Florida. I think the Kerry team is going to go the extra mile to make sure that they didn't leave any stone unturned before conceding.

02:21:41 PETER JENNINGS

(OC) I'm very grateful for the support we get in the news division here, but we seem to have a lot of commercials. When we come back, we're going to talk to Tavis Smiley in California, who has some thoughts about Ohio and about Florida.

GRAPHICS: VOTE 2004 ABC

GRAPHICS: ELECTORAL VOTE
GRAPHICS: 270 NEEDED TO WIN
GRAPHICS: BUSH 249, KERRY 221
GRAPHICS: POPULAR VOTE
GRAPHICS: BUSH 51%, 52,855,627
GRAPHICS: KERRY 48%, 49,306,305
GRAPHICS: ELECTORAL VOTE
GRAPHICS: BUSH 249, KERRY 221
GRAPHICS: POPULAR VOTE
GRAPHICS: BUSH 51%, 52,860,099
GRAPHICS: KERRY 48%, 49,311,744
GRAPHICS: STATES WON
GRAPHICS: BUSH 27, KERRY 17
COMMERCIAL BREAK

02:24:16 PETER JENNINGS

(OC) Welcome back to our political coverage. You're looking at Copley Plaza there in Boston. And the reason we're look at it at the moment is because there is some consideration apparently being given in the Kerry campaign that the vice-presidential nominee, Senator Edwards, may come out and say something to this large crowd which has been, as Dean Reynolds pointed out, dispirited but very patient over the last six hours. So I'm going to go to California now to Tavis Smiley, who has been a wonderful participant with us this evening from California on, on any matter of things. But Tavis, as you get rolling here, and I say boo in your ear, it will be because John Edwards is showing up, and I hope you won't be offended. Your thoughts on Ohio, first of all.

02:24:59 TAVIS SMILEY, NPR, PBS, TALK SHOW HOST

That, that's my cue to talk fast. I'm pretty good at this.

02:25:02 PETER JENNINGS

(OC) Don't talk that fast.

02:25:03 TAVIS SMILEY

First of all, before I get to Ohio here, there's been some concern all throughout this campaign, Peter, and you've reported on it and I've talked about it, as to whether or not John Kerry had what it took to energize the African-American base, to energize the Hispanic base, number one. Number two, it's one thing to show up and vote against the incumbent president, but another thing to motivate your base to show up and vote for you. There will be a lot of questions in the coming days if John Kerry doesn't win this, as to whether or not he had what it took from day one to energize the black and brown base. Secondly, if these, I don't want to throw numbers out because I know you've avoided doing that all night. So I'm going to follow your lead. But if these exit poll numbers, Peter, hold up, -which are showing very clearly that one, Mr. Kerry did not do as well with Hispanic voters as Mr. Gore did four years ago. And, number two, that President Bush has picked up significantly in the Hispanic community. If in fact that is the case, I think we're seeing a brand new trend for what's

going to happen to the Hispanic vote in the coming months and years. Consider, then, since we're speculating here, consider then that President Bush does win. Mr. Rehnquist retires from the Supreme Court. The president almost assuredly puts a Hispanic on the Supreme Court. You may see the Republican party put a lock on the Hispanic vote in the same way that Democrats have done on the African-American vote for many years to come.

02:26:28 PETER JENNINGS

(OC) All right, Tavis, let's talk about those two things separately for just a second. Because your, your speculation about the Supreme Court is perfectly justified and some of us are surprised it wasn't a much bigger issue in this campaign. Because the next president has an opportunity to perhaps make three, four appointments to the court and, and, and here comes Senator Edwards in Copley Plaza, Boston. Tavis, I'll be back to you, okay.

02:26:49 TAVIS SMILEY

Yes, sir, I'm standing by.

02:26:52 PETER JENNINGS

(OC) Let's go to Copley Plaza. In a minute we'll go back to Tavis Smiley. And John Edwards is about to show up at this crowd. Can we just have a look at the plaza please.

02:27:02 PETER JENNINGS

(VO) A little hesitation on the side of the, on the side of the stage there, but we are now certain, at least we're told that Senator Edwards is going to come and make a statement in Boston.

02:27:13 PETER JENNINGS

(OC) And as he does, bear in mind what George Stephanopoulos has been saying in the last couple of minutes as to why there may be this very determined hesitation in the Kerry campaign to acknowledge what some other people have projected, that Mr. Bush has won in the state of Ohio. Bear in mind also, too, what Tavis Smiley's been saying there a moment ago, and we'll go back and talk to him about it. That in Ohio it appears so far that in the northeast part of the state particularly, where the African-American vote was so important to the Democrats as a counterweight to the conservative Christians in other parts of the state, and to some extent to the independent voters too, the vote has not perhaps been what the Democrats hoped for. Here is Senator Edwards on the stage in Copley Plaza.

02:28:06 SENATOR JOHN EDWARDS,

DEMOCRATIC VICE-PRESIDENTIAL CANDIDATE

Thank you, thank you, thank you, thank you. It's been a long night, but we've waited four years for this victory. We can wait one more night. Tonight John and I are so proud of all of you who are here with us and all of you across the country who have stood with us in this campaign. John Kerry and I made a promise to the American people that in this election, every vote would count and every vote would be counted. Tonight we are keeping our word and we will fight for every vote. You deserve no less. Thank you, thank you.

02:29:33 PETER JENNINGS

(OC) Well, that is a very, very carefully rehearsed comment, I suspect. Senator Edwards coming out to say to these people, George Stephanopoulos, we have waited four years, we can wait one more night. And as they've said many times, particularly in the wake of 2000 it is their intention that every vote be counted.

02:29:55 GEORGE STEPHANOPOULOS

(OC) Every vote -will be counted, we will fight for every vote.

02:29:58 PETER JENNINGS

(OC) Yeah.

02:29:58 GEORGE STEPHANOPOULOS

(OC) Again, that's what I was referring to just a few minutes ago. The legacy of Florida four years ago. This is a principle the Democrats feel they can stand on or at least buy some time on. But right now, wait to see how many provisional votes there really are out there in Ohio, and what the margin of victory is.

02:30:12 PETER JENNINGS

(OC) And Mark Halperin, if you'd come and join us for just a second on this subject because, I'm sorry to keep dragging you over here. We miss you, you see, when you're not here. Take this, take this even a step farther than George has been. What the Democrats may have in mind at this point?

02:30:27 MARK HALPERIN

(OC) Well, first of all, as a matter of political theater what we just saw was eerily reminiscent of four years ago ...

02:30:32 PETER JENNINGS

(OC) Sure.

02:30:33 MARK HALPERIN

(OC) When as the chair of the Kerry campaign, Bill Daly, came out and gave another very carefully crafted statement in order to preserve Al Gore's ability to go on and, and contest the race in Florida. John Edwards didn't say anything specific there. But what we do get the sense is, what we know from talking to aides to the Kerry campaign, they're focused on the provisional ballots. Now, as we've said earlier, the key question is, is the president's lead in Ohio smaller than the number of outstanding provisional ballots? And ABC's Alan Davis has just pointed out, absentee ballots that came into Ohio over the weekend have not been counted as part of this and they will not be counted until ten days from now. No idea how big that number is either. We have a graphic. I don't know if it's ready.

02:31:17 PETER JENNINGS

(OC) Hang on a second, hang on a second because we're going to pause for a second ...

02:31:18 MARK HALPERIN

(VO) Okay.

02:31:19 PETER JENNINGS

(VO) ... because some of the local stations around the country may be joining us and some of them may be going away to do other issues, if there

are any other issues. I can't believe it. But let's just pause for a second. We'll continue in one, just a matter of seconds.

GRAPHICS: OHIO

GRAPHICS: PROVISIONAL BALLOTS 130,000

GRAPHICS: BUSH LEAD 125,327

GRAPHICS: 97% PRECINCTS REPORTING

GRAPHICS: ELECTORAL VOTE

GRAPHICS: 270 NEEDED TO WIN

GRAPHICS: BUSH 249, KERRY 221

GRAPHICS: POPULAR VOTE

GRAPHICS: BUSH 51%, 53,352,895

GRAPHICS: KERRY 48%, 49,732,059

GRAPHICS: ELECTORAL VOTE

GRAPHICS: BUSH 249, KERRY 221

GRAPHICS: POPULAR VOTE

GRAPHICS: BUSH 51%, 53,352,895

GRAPHICS: KERRY 48%, 49,732,059

GRAPHICS: STATE WON

GRAPHICS: BUSH 27, KERRY 17

COMMERCIAL BREAK

02:34:53 PETER JENNINGS

(VO) Welcome back to our election night coverage. It is, it is, as one headline said, "a cliffhanger in many, many respects."

02:35:02 PETER JENNINGS

(OC) ABC News is now going to make now yet another projection. Four electoral votes matter a great deal yet. Let's go to the map.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 221

02:35:10 PETER JENNINGS

(VO) ABC News now projects that something that almost became a battleground state last week, at least the vice-president, Mr. Cheney, thought it was going to be, or wanted us to think it was going to be. In Hawaii, ABC projects that Hawaii is going to go for Mr. Kerry. Mr. Kerry has 225 electoral votes and Mr. Bush has 249.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 225

02:35:30 PETER JENNINGS

(OC) We've clearly been, we have been expending a lot of energy in trying to get the Ohio vote right. But now we have something added into the mix. Which is the observation by Senator Edwards in Boston moments ago that, let me read it. "We waited four years. We can wait one more night." Jake Tapper on our Ballot Watch. You sort of sneered at the phrase "one more night."

02:35:53 JAKE TAPPER

(OC) Well, I just found it interesting because of course provisional ballots, it takes 11 days in Ohio to count them, not one more night. So

this is, this process is going to take at least 11 days if they're waiting. The latest count we have of our survey is that there are, is that there are 120,159 outstanding provisional ballots. That's 69 out of Ohio's 88 counties. With a rough lead, Bush's lead in Ohio is about 126,000. So these numbers are very similar. Now, keeping in mind, when the ballot ...

02:36:27 PETER JENNINGS

(OC) Just repeat that, Jake. I apologize.

02:36:28 JAKE TAPPER

(OC) Okay, sure.

02:36:28 PETER JENNINGS

(OC) The number of provisional ballots, about 120,159.

02:36:32 JAKE TAPPER

(OC) 120,159. That's 69 out of 88 counties tabulated. And President Bush's lead over Senator Kerry right now is 126,000 votes ...

02:36:42 PETER JENNINGS

(OC) Okay.

02:36:42 JAKE TAPPER

(OC) With about 97 percent of the precincts reporting.

02:36:45 PETER JENNINGS

(OC) Go on from there.

02:36:45 JAKE TAPPER

(OC) Now here's the other key. It takes 11 days according to Ohio statute, to count these provisional ballots. Keep in mind, Ohio is a punch card ballot state. That means you have 11 days delaying the certification, before, before secretary of state Kenneth Blackwell, the Ohio secretary of state, awards the 20 electoral votes to whomever. In that 10, 11 days, who knows what the lawyers are going to do when it comes to all those punch card ballots. Are they going to go to each county and petition for a recount? Are they going to be opening the chads again? Who knows?

02:37:18 PETER JENNINGS

(OC) Do I hear Ohio with a Floridian accent? Is that what you're saying?

02:37:21 JAKE TAPPER

(OC) If I had a Floridian accent to do, I would do it right now.

02:37:23 PETER JENNINGS

(OC) Now who, the lawyers they challenge, who would makes the, who would make the initial decision to recount any of the punch card ballots which do not at this point appear to be, there's no indication they're in question, right?

02:37:36 JAKE TAPPER

(OC) Right, no, not at all. But the statute in Ohio is that it's a, I think, .25 percent, the margin needs to be that narrow. Certainly the margin is not that now. All I'm saying is with an 11-day gap for, between now and certification because of the, that's the necessary time to count these provisional ballots, who knows what the lawyers are going to do county by county?

02:37:59 PETER JENNINGS

(OC) Many thanks, Jake. That's really interesting. Let me go over and talk to George Will and Cokie Roberts and Fareed for a moment.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 225

02:38:03 PETER JENNINGS

(VO) So what does that tell you, listening to Jake's dissertation there?

02:38:11 GEORGE WILL, ABC NEWS

(OC) It's could be a long time.

02:38:11 PETER JENNINGS

(OC) That's great George ...

02:38:12 GEORGE WILL

(OC) Well, let me go, let me go back to Colorado's 7th district and repeat that.

02:38:17 PETER JENNINGS

(OC) Yeah.

02:38:17 GEORGE WILL

(OC) They had a cliffhanger in 2002 in the 7th district Colorado House race. It was settled in the end by 121 votes. But there were about 2,000 provisional ballots cast there. The district is composed of three counties. Each county had a different standard. We don't know whether that's permissible anymore under Bush versus Gore. But they had three different standards for counting provisional ballots. It took them several weeks to get that done. And we're talking about 3,000, 2,000 rather. Now if we're talking about a multiple of 60, well, 60 times that in the great state of Ohio. So we could have this go on for a very long time. It's also interesting, Peter, that they sent out -Mr. Edwards to make this statement. Mr. Edwards is a trial lawyer. The lawyers, as we heard from Mr. Brand, when you interviewed him a moment ago from Washington, lawyers are value-neutral in a sense. They want to fight and they want to win.

02:39:13 PETER JENNINGS

(OC) Well, let's go back to Mr. Brand for a second if he is still in Washington. Are you there, sir?

02:39:17 STANLEY BRAND

(OC) Yes, sir.

02:39:21 PETER JENNINGS

(OC) So what would you be telling the campaign at the moment, given the, the scenario that Jake Tapper has just -written out?

02:39:29 STANLEY BRAND

(OC) Well, again, the, there's gonna be a factual inquiry into the validity of these ballots. And that is going to entail some amount of procedure. Whether that can be done, as Mr. Will points out, in a timely enough fashion remains to be seen. But that, that would be the procedure.

02:39:51 PETER JENNINGS

(OC) Fareed Zakaria?

02:39:52 FAREED ZAKARIA, ABC NEWS

(OC) Well, I think as George is, is implying, the issue is in some ways

probably no longer just the provisional ballots because there have been reports all day of a flurry of lawsuits, in some cases brought by Republicans, shutting down polling places. It's not clear whether these are, are true or not. But I'll read to you from one of the most reputable blogs, which is well connected with Democratic operatives.

02:40:15 PETER JENNINGS

(OC) Go ahead.

02:40:15 FAREED ZAKARIA

(OC) This is talkingpointsmemo.com. Which says, "why is there no network coverage of the flurry of lawsuits across Ohio? This is what the election is coming down to and it's not being reported." The implication here being that there have been Republican attempts. So if ...

02:40:33 PETER JENNINGS

(OC) I'm sorry, just try that again. That one point again.

02:40:35 FAREED ZAKARIA

(OC) There have been Republican attempts to cause delays and shutdowns in precincts, so a Democratic blog is reporting. Now, if all this is going to be challenged over the next few days or weeks, this is no longer just about the provisional ballots. It could be about ...

02:40:50 PETER JENNINGS

(OC) This is precisely the point -that George was making.

02:40:52 FAREED ZAKARIA

(OC) Yeah, and, and that means it could be one week, it could be three weeks.

02:40:57 GEORGE STEPHANOPOULOS

(OC) Cokie.

02:40:58 COKIE ROBERTS, ABC NEWS

(OC) This could be the worst of all possible worlds, Peter. This is exactly where we were four years ago. And, and having all of these lawyers go down and then people feel it was illegitimate. And the fact that it's Ohio is a tremendous problem. Because for the last couple of weeks we've been getting these reports out of Ohio of attempts on the part of Republicans to suppress minority votes and attempts on the part of Democrats to register Mary Poppins. And so that it is really, it is, it is going to be very, very bitter unless ...

02:41:31 PETER JENNINGS

(OC) I must confess I ...

02:41:31 COKIE ROBERTS

(OC) ... it is a big margin.

02:41:33 PETER JENNINGS

(OC) ... I thought that in Ohio a lot of these complaints, George, had gone away in the last week or so and that people had pretty much dealt with the early charges.

02:41:41 GEORGE WILL

(OC) I thought they had also because they went to court ...

02:41:44 PETER JENNINGS

(OC) Right.

02:41:44 GEORGE WILL

(OC) ... and they got court rulings on this before the voting started.

Remember, in Florida we started from a base number of 537 votes. So it was agonizingly close and you could say the tiniest difference in chads and one thing and another could make a difference. Here we're gonna start from a difference of 120-some-thousand votes.

02:42:02 COKIE ROBERTS

(OC) But, but I think you're going to find a tremendous upset on the part of Democrats and minorities in the same way that there was about Florida if they think that Ohio was stolen from them. And there's no reason to suspect that, but that will be the suspicion.

02:42:19 PETER JENNINGS

(OC) George Stephanopoulos.

02:42:19 GEORGE STEPHANOPOULOS

(OC) I think that is all correct.

GRAPHICS: ELECTORAL VOTES

GRAPHICS: BUSH 249, KERRY 225

02:42:19 GEORGE STEPHANOPOULOS

(VO) I still want to go back to the popular vote. There's a big difference from four years ago. It is, it is not as close, at least so far, as it was four years ago.

GRAPHICS: POPULAR VOTE

GRAPHICS: BUSH 51%, 53,928,872

GRAPHICS: KERRY 48%, 50,208,004

02:42:28 GEORGE STEPHANOPOULOS

(VO) And I think this will put tremendous pressure on the Democrats the longer they try to draw this out. It doesn't make it impossible, but it does put tremendous pressure on them, and it's something you can, you can bet the Republican party, the Bush campaign, the Bush White House, is going to press in these days. They're gonna say this is a defiant strategy going right in the face of the will of the people.

02:42:47 PETER JENNINGS

(OC) Well there is, there's been a reaction from the Bush campaign. In just a moment we're gonna talk to George Terwilliger, who is an attorney who worked with the Bush team in, in 2000. But first from Terry Moran from the campaign itself. Terry.

02:42:57 TERRY MORAN, ABC NEWS

(OC) Well, Peter, the attorneys for the campaign are gathering at this moment and trying to gauge what the response should be. But I can tell you anger, frankly, is building on the part of the Bush campaign, having talked with and e-mailed several Bush staffers right now. Some of the words I'm hearing, bizarre, they're calling this move by the Democrats. They say, the Bush campaign, it's absurd and ludicrous. They look at the number of the margin. They say the president gonna end up with somewhere around 120,000 more votes than Senator Kerry. There are going to be roughly

175,000 provisional ballots, some number of which will eventually be judged to be invalid, which would leave a very, very slim window it would seem, mathematically, arithmetically, for Senator Kerry to get through to victory. The Bush campaign says it would be upwards of 90 percent of the provisional ballots would have to go Senator Kerry's way. And here's the accusation. They say the Kerry campaign knows that this is, quote, "statistically silly and are doing this just to keep the pot going." And now the question for ...

02:44:09 PETER JENNINGS

(OC) But, but Terry, Terry, the truth, the truth is the Republican campaign with those statements, is in itself spinning and is speculating about the numbers in Ohio and if the positions were reversed the Democrats might be saying exactly the same thing about the Republicans.

02:44:25 TERRY MORAN

(OC) Fair enough. No, there's absolutely no question about that. The numbers are the numbers. You can't spin the numbers. Math is math. But the question now for the White House is what should the president do? Does he go out and declare victory? Does he await a concession call, which it seems is not going to come anytime soon from Senator Kerry, or does he just stay awake way past his bedtime I think it's fair to say?

02:44:48 PETER JENNINGS

(OC) Okay. Thanks, Terry, very much. The Republican National Committee Chairman, Ed Gillespie, just told the crowd at the Reagan Building, thanked them for their patience, and said he would have an update. And I confess I just went back and looked up the transcript of an interview I did with Senator Kerry in Iowa over the weekend and asked him the following. "And what if there is, sir, a Florida-like situation again?" "I don't think there will be," the Senator said. "I believe that we have, let me tell you something ... " "You must have planned for this, Senator, to some extent," I said. Senator Kerry, "we've laid the groundwork to be able to protect the constitutional right of Americans to vote. That's what's at stake, not me, not George Bush. The right of Americans, the greatest democracy on the face of the planet, to lift people up and show them how democracy works. I'm fighting for the right of every American to vote, 1 million African-Americans were disenfranchised last time. Their votes weren't counted. I am going to make sure people's votes are counted." George.

02:45:48 GEORGE STEPHANOPOULOS

(OC) You heard the echoes tonight from Senator Edwards, making almost exactly the same points. This is a Democratic talking point. It's a valid, valid point to fight on. The question is going to be, when everybody sifts through this overnight, when all of the other states come in, you have to look at the popular vote, you have to look at where the electoral college is, and then see, as Terry Moran was suggesting, is it really statistically possible for Senator Kerry to make up the gap with those provisional ballots that are out there?

02:46:13 PETER JENNINGS

(OC) Okay. Let's talk to the lawyers. George Terwilliger was a senior member of Mr. Bush's legal team during the Florida election recount. And also with him in Washington is Trevor Potter, a former commissioner and chairman of the Federal Election Commission who specialized in election law for the last 15 years. Mr. Terwilliger, you tell us where you think we are.

02:46:38

GEORGE TERWILLIGER,
FORMER DEPUTY ATTORNEY GENERAL

Well, it's been a long night, Peter, but I don't think it has to be a long month. I think that the reporting you just had really summarizes the situation. The numbers don't add up, that the provisional ballots in Ohio could make a difference in the outcome there. I think Senator Edwards' fighting words, while maybe exciting to a partisan crowd, are not very exciting to the country if what they portend is stalling what seems like the inevitable results of Ohio in order to give lawyers on the, on the Democrat's side time to conjure up some of the things that Cokie for example, was talking about. In terms of ways to challenge the results. There were no reports, really, of any voter intimidation or anything like that in Ohio. There were accusations of that. Those accusations were adjudicated and resolved in favor of continuing the 100 year-old tradition of having challengers in the polls to make sure that every voter who was entitled to vote got a chance to vote, everybody favors that. But everyone should also favor making sure that voters who are not entitled to vote don't vote. This isn't like Florida at all, in my estimation, at this point. The numbers are entirely different, as George Will pointed out. And more importantly, the voting process here has not been called into question whatsoever. If the provisional ballots are, are to be counted, they will be counted according to a, a well-established procedure in Ohio, where people will first decide if it, if it is in fact a legal vote. And if it's a legal vote, it gets counted. It's, it's not that difficult. But even if they were all counted and even if the Kerry/Edwards team won a disproportionate share of those, there's not enough votes there to make up the difference. So I hope what we're not seeing is a presage to a, a litigation strategy to try to win this election.

02:48:39

PETER JENNINGS

(OC) Let me go to Trevor Potter, the former commissioner and chairman of the Federal Election Commission, who is there in Washington with you. Mr. Potter, is it in your view possible, once they're waiting to dispose of the provisional ballot issue, that they could open up the punch card issue on the punch card ballots -in Ohio?

02:48:57

TREVOR POTTER,
FORMER CHAIRMAN, FEDERAL ELECTION COMMISSION

No. It shouldn't be possible because under Ohio law you would have to have a much bigger, a much smaller margin of victory to get into a recount situation in which the people would look more closely at the punch cards.

02:49:14

PETER JENNINGS

(OC) So where do you think we are at the moment?

02:49:15 TREVOR POTTER

With the gap we've got, I think actually George Stephanopoulos is, is probably thinking the way the Kerry folk is, which is let's look at it in the morning. Let's see what happens to all these other states that are out there. Let's see where the popular vote is in the morning. By the estimates we had earlier this evening, we're still looking for maybe 7 to 10 million popular votes to come in. When all that is done, they're going to know whether they're looking at 269-269. Or whether they're looking at a easy Bush win in the popular vote and in the electoral college. And that I think affects what they, what they then decide to do in Ohio.

02:49:55 PETER JENNINGS

(OC) Well, Mr. Potter, Mr. Terwilliger sees an opportunity here for - Democratic lawyers to get up and running. From your perspective, is this going to be a real opportunity for lawyers or perhaps just a brief delay?

02:50:11 TREVOR POTTER

I agree with, with George Terwilliger that we have not seen really any credible allegations of the sort we saw in Florida. In Florida you had chaos with people not understanding the ballot, with a very close election, with allegations that tens of thousands of people were turned away from the polls or never got there. All of that, whether right or not, created an environment in, in which you could then go in and overturn every stone. We have not seen that in Ohio. In Ohio we've seen, the couple of lawsuits that were referred to today involved keeping ballots, polling places open so that voters could go ahead and vote. And that occurred. The polling places were open. We haven't seen any reports of major machine breakdowns or problems with the technology in Ohio. So I think you're left with a very simple vote counting issue. The, the one variable I've heard tonight that I don't think we have an explanation for yet, is how many absentee ballots are out. Whether they've been counted or not.

02:51:14 PETER JENNINGS

(OC) You take my breath away, Mr. Potter. Mr. Terwilliger, I have one more question for you. If you were Mr. Kerry's lawyer, and you certainly are not, if you were Mr. Kerry's lawyer, why would this not be a perfectly reasonable position to take?

02:51:28 GEORGE TERWILLIGER

Well, I'm certainly not his lawyer, and since -I am on the other side I wouldn't presume to give him advice. But ...

02:51:37 PETER JENNINGS

(OC) That was delicate.

02:51:38 GEORGE TERWILLIGER

... it depends on what the reasonable step is. I don't think, I really don't think Senator Edwards' little speech was very helpful to the situation or the country. If they want to wait for the vote count to be completed and see how many provisional ballots there are and what happens in the other states as the night goes on, you know, I suppose that's one

thing. Although it seems to me the result is inevitable at this point. But to talk about, with those kinds of fighting words, to bring up the specter of election by litigation, I just don't think is helpful, Peter. I think the people of the United States want elections to be decided by voters, not by judges.

02:52:22 PETER JENNINGS

(OC) Well, Mr. Terwilliger, you've made it clear why I don't think you'd be John Kerry's lawyer, at least not a very successful one. But I thank you both very much. Please don't go away. I have a strong feeling we -may need you again. But bear in mind, -as we look out at the political landscape in the country tonight, the huge mass of Democrats. Look at anything in the country today, it's divided into angry Democrats who believe they lost the election unfairly four years ago, that Mr. Gore got the popular vote -and the Supreme Court gave it to President Bush. So I'm not sure, George, that under the present circumstances, you can blame the Democrats for at least dragging their feet.

02:52:59 GEORGE STEPHANOPOULOS

(OC) I was gonna say the same thing. It's not unreasonable to take a few hours, let all the votes be counted across the United States. Let's see what happens with the other states. You know, it's 3:00 in the morning -on the East Coast right now. And I think what John, -it's very, very delicate. On the one hand, for the Democrats, he can't concede prematurely. On the other hand, for the rest of the country, if it continues to fall as we see it right now, he can't drag it out irrationally. That's the balance he's trying to strike right now.

02:53:28 PETER JENNINGS

(OC) Well, "USA Today" in tomorrow's edition certainly has the right phrase for it. And we're all experiencing. It's a cliffhanger. And we'll be back in just a moment.

GRAPHICS: VOTE 2004

02:53:39 ANNOUNCER

This ABC News special, Vote 2004, will continue in a moment.

COMMERCIAL BREAK

02:55:04 PETER JENNINGS

(OC) Welcome back to our coverage of the presidential election. George Stephanopoulos just reminded me that it was five minutes to 3:00 in the morning here in the east and five minutes to 12:00 in the west. But a short while ago, I'm not quite sure where we can go in arguing the Ohio question for just a moment. But I left Tavis Smiley hanging out there in Los Angeles. And Tavis, on the Ohio question and African-Americans, I want to ask you this. In Cuyahoga County the other day in any number of black neighborhoods, people said to me, "John Kerry is not Bill Clinton." And, and by which they meant he, John Kerry did not identify in the way that Bill Clinton did with African-Americans or black Americans. And if the turnout is not as good as the Democratic party had wanted in the black community in Ohio, is that, do you think, the central reason?

02:55:56 TAVIS SMILEY

Well, that's certainly going to be part of it. But the truth of the matter is nobody is Bill Clinton. I mean, he is the rare form of politician, like the guy or loathe the guy, he does have a special gift, it seems to me, for politicking -and -for making the most of the opportunity he's had in the body politics. I don't know that people necessarily expected him to be, John Kerry that is, to be Bill Clinton. But it does raise the question that I tried to get out earlier, Peter, as to whether or not John Kerry did enough to energize the African-American base. And I also tried to make the point earlier, that certainly if these numbers hold up he did not do enough to energize the Hispanic vote. And I think that's going to be a significant issue to talk about in the days ahead.

02:56:42 PETER JENNINGS

(OC) Okay, Tavis, let me just go back to what Senator Kerry said to me in Ohio that weekend. "I'm fighting for the right of every American to vote." And then he paused, "1 million African-Americans were disenfranchised the last time. Their votes were not counted." How hard do you believe that African-Americans would want Mr. Kerry to fight?

02:56:58 TAVIS SMILEY

I think they'd want Mr. Kerry to fight rather aggressively, in part because the right to vote is the most precious right that we have, number one. Number two, so many African-Americans were in fact disenfranchised out of their right to vote four years ago. It would be tragic to have that happen again. This time around nobody's alleging that again at this point. But thirdly, Peter, what has not been mentioned tonight, which I think is worth mentioning right quick, is that whoever the next president is of these United States, in just a couple of years from now, 2007 to be exact, the Voting Rights Act in this country is set to expire. If tonight, and the conversations that we've been having tonight, don't underscore yet again the importance, it seems to me, of making sure that the Voting Rights Act is renewed in 2007, in fact before 2007, certainly before 2008, and not allowed to expire, I don't know -what would make that point. And finally, right quick, Mr. Rove, you have to give him credit, I think did a masterful job of realizing, from their point of view, that they weren't going to pick up a whole lot with regard to the African-American vote. Let's put our eggs in the basket of trying to get the Hispanic vote. It seemed to have worked for them rather well.

02:58:05 PETER JENNINGS

(OC) It has, Mr. Rove and the -Republican campaign establishment has been accused any number of times by Democrats in this campaign, of trying to suppress the black American vote in many parts of the country in this election. Have you ever seen any evidence of it?

02:58:25 TAVIS SMILEY

Well, -I think the closest evidence -that we saw in this particular election, in fact the Republicans had to admit that it was wrong and they asked this particular official, you'll recall, Peter, in Michigan to step

down. But there was a Republican official in the state of Michigan who said publicly, that if we're going to win the state of Michigan we have to suppress the vote in Detroit.

02:58:45 PETER JENNINGS

(OC) Right.

02:58:45 TAVIS SMILEY

By that, of course, he meant the African-American vote. Once that happened, that was all the proof that black folk needed to show, see, there are people on the GOP, in the GOP who want to suppress our vote. Now, again, to the credit of Mr. Gillespie and the Republican National Committee, they did ask that guy to resign immediately.

02:58:59 PETER JENNINGS

(OC) Right. But now just one more question for you, Tavis. And, and clearly, we're gonna come back to this a variety of times. We do know that in Ohio, which we're all talking about at the moment, the African-American turnout was not what the Democratic party had hoped for. So what happened?

02:59:17 TAVIS SMILEY

Well, I think, you know, I think -it's pretty clear to me at least, that it was clear all along that whatever the African-American turnout was going to be, Mr. Kerry stood to get the overwhelming majority of that particular vote.

02:59:31 PETER JENNINGS

(OC) Right.

02:59:31 TAVIS SMILEY

For me that was never the question. Can he get the black vote that turns out? The question was can he turn out the African-American vote in significant numbers? And that's what the debate's going to be about in the coming days.

02:59:42 PETER JENNINGS

(OC) Okay. Thanks very much, Tavis. I really appreciate it. And I hope somebody, Mark Halperin I'm gonna ask you if you'd ask somebody on your staff for the moment, you don't have to even stand up. If you can get me the stats, the statistics on the, on the black American vote tonight.

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