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[00:00:32] **Speaker 1** The Wisconsin primary election is less than a month away, and the agency tasked with making elections go in this state is busily trying to interpret court rulings and other guidance. But meanwhile, the Wisconsin Elections Commission remains in the eye of the election fraud storm, as all three Republican candidates for governor support getting rid of the commission following its election guidance during the peak of the pandemic. Enter New Wisconsin Elections Commission chair, Republican Don Miller's. He joins us now. And thanks very much for being here.

[00:01:03] **Speaker 2** A pleasure to be here.

[00:01:04] **Speaker 1** So what is it like to enter as the new chair of the commission when people in your own party want to do away with it?

[00:01:12] **Speaker 2** There's a lot of catching up to do. We're trying to make the best of what we have. Whether or not the commission goes away is certainly a controversial issue. There are folks in the Republicans who want to get rid of the commission. There are other ones who want to keep it while the commission stays or goes is beyond my pay grade. My role is to make sure that we run a an efficient and honest election in August. And in general, that's that's really all I can do. I can't look beyond that.

[00:01:42] **Speaker 1** So what do you think, though? What is your position on the idea of abolishing the Elections Commission?

[00:01:49] **Speaker 2** Well, I don't have a I really don't have ever given it much thought. I do think and I, I was on the record in 2016 when I was first appointed, when the commission was created, that the Elections Commission was a serious upgrade over the Government Accountability Board. I also served on the prior agency, so my biggest concern about the commission is that we seem to be deadlocked on all the important, important issues of the day. And my warning to other commissioners is if there's a chance to keep the commission, we better start working together.

[00:02:23] **Speaker 1** In fact, just this week, this issue that you speak to of the deadlock, because there are three Democrats and three Republicans on the commission, you end up with a deadlock. Now, Republicans like yourself wanted to offer guidance to clerks after the Supreme Court ruled absentee ballot drop boxes are illegal. Dems said that that guidance would confuse clerks more than help. What about these deadlocks on the commission? Does that set up kind of render it ineffective in your mind?

[00:02:53] **Speaker 2** It does. I mean, I think I thought it was outrageous that the commission couldn't agree to issue a stamp driven. This is a career civil service staff who tried to distill 141 page decision with two concurrences decision that's very complicated, distilled it to a page and a half that we could give out to the 1800 plus clerks, most of them, the vast majority of whom don't have lawyers to go to consult with. And the very fact that we couldn't do something so basic doesn't that it doesn't bode well for the future of the commission.

[00:03:29] **Speaker 1** Why did you in particular want to offer that guidance to clerks?

[00:03:35] **Speaker 2** Clerks? The vast majority of Clarke's worked very hard to have a lot of roles they have to deal with other agencies of state government elections is a very important, perhaps the most important part of their job, but it's not the only part of their job. And if the election commission exists one of the for a primary reason to provide guidance to Clarke's, this was a very well-written page and a half memo that would have distill what they can and cannot do with drop boxes. There's a lot of information out there. Not all of it good. This information was accurate and it should have been provided to the Clarke's.

[00:04:09] **Speaker 1** What in a in a nutshell, was the guidance.

[00:04:13] **Speaker 2** The guidance. This is that the commission interpreted the decision that you cannot have unstaffed drop boxes, that the statutes require that absentee ballots be returned in-person by the electorate. That was the guidance. And that's pretty that's basically what the commission or the Supreme Court ruled. And we tried to make it clear and so that we could address those questions.

[00:04:38] **Speaker 1** What about the issue raised by disability rights advocates that federal law, they say, protects the right of disabled people to get help mailing their ballot or deliver it to the clerk?

[00:04:49] **Speaker 2** We agree. In fact, the Republicans offered to add to the guidance a provision that would remind clerks of the requirements of the federal law that requires that override state law, that clerks must make accommodations for people who are illiterate, who are blind or disabled. Those are the that's the language of the federal law. And that guidance is even shot down. Three Democrats wouldn't even agree to put that into the guidance.

[00:05:15] **Speaker 1** So among the Republicans on the commission right now is Bob Spindle, who was one of the fall selectors for Trump, now getting attention, as you know, from the January six committee and possibly the U.S. Justice Department. What is your comment on Wisconsin? Slate of false selectors.

[00:05:34] **Speaker 2** Well, I'm reluctant to talk about that. There is a lawsuit that's pending the the commission. There was a complaint filed with the commission. The commission dismissed the complaint on 62620. Both of the complainants are suing the commission and including Commissioner Sandell in court. The commission staff have recused themselves and one of the one of the unpleasant duties that I have as commission chair is when I am quarterbacking that case and the outside attorneys are reporting to me. And so I'm not going to comment on it. I do agree I will agree, though, that I thought the commission's decision was correct, that the the alternate slate of electors, as far as I can tell, did not violate any Wisconsin law that was presented in that complaint.

[00:06:21] **Speaker 1** What about calls to decertify the 2020 election?

[00:06:28] **Speaker 2** The even the counsel representing the prevailing party in the drop box, Casey's counsel there, have conceded that there's nothing that can be done right now to decertify the 2020 election. As far as I can tell, the commission has no role at this point in dealing with the 2020 election. My job has been to look forward. We have, it seems to me, despite many advances in election technology, our confidence in election results is at an all time low. In 2016, I was sued because, among others, because of the many people on the left, felt that Hillary Clinton won Wisconsin. And in 2020, you have the same thing where people on the right believe that Donald Trump won. Right now, the commission has no role in that. My job is to look forward and try to enhance the public's confidence in elections.

[00:07:25] **Speaker 1** I trust that you do believe that Joe Biden legitimately won the presidency.

[00:07:32] **Speaker 2** I have my personal feelings on that. It seems like every time I'm asked about my role on the commission, that's one of the questions that has been asked to me. Clearly, the Supreme Court decided that there were things that were untoward in terms of the drop boxes. Whether that had an impact on the election results. I don't know if there's any evidence of that. But I'm not going to opine on whether or not in my role as head of the commission that the one candidate won or another. I'm trying to look for Don Miller's.

[00:08:05] **Speaker 1** Thank you very much.

[00:08:07] **Speaker 2** Thank you. The car, okay?

[00:08:16] **Speaker 1** Yeah. Yeah, I'm. I'm. I'm. I'm kind of. We're off right now, but I was I was kind of surprised. You're basically saying that you you don't necessarily believe the results of the 2020 election.

[00:08:33] **Speaker 2** No one say that. I said I'm not going to give an opinion on.

[00:08:36] **Speaker 1** Okay.

[00:08:36] **Speaker 2** I mean, listen, I am I'm trying to work with Republicans on both sides of that issue. And if I come out and publicly say what I think, it makes it harder for me to work on that. I have I've had angry phone calls from people who think that Trump won. I get angry. And this I'm talking about from legislators and angry phone calls from people who think that Biden won. And maybe that's why I'm doing my job. But my my goal is, again, I don't look at this as a career move. I'm not excited about staying on the commission permanently, but I am interested in trying to resolve some of the some of the issues. One of the biggest problems of the commission is that a lot of discretion is given to the commissioners. And if we're going to continue being deadlocked, three, three, we're not going to be able to move the ball forward. And I want whoever wins in November, I want it to be I'm hoping that everyone will agree that's who won. I mean, we've got two statewide races and it's very important that whoever wins, everyone agrees. Whatever the result, the winner was the winner.

[00:10:00] **Speaker 1** You know, and I don't mean to keep you, but one thing that's confusing to me about this is that what was it, 60 court cases around the 2020 election? Oh, yeah. And I mean, it just it seems like to continue to talk about a question of whether or not Donald Trump lost and Joe Biden won just kind of perpetuates this notion that there was no integrity in this election.

[00:10:34] **Speaker 2** Right. Well, I mean, I think what I like, for example, I had lunch with someone since I've been on the correction who wanted to give me their side of it. This is a Trumpist and they gave me a list of things. And these were all things they said, well, actually, these are legal things that occurred like the drop box. These are all ostensibly legal. They were approved. And the question for me is, did that change the outcome? Now, it probably didn't. I mean, the fact if people were I mean, because of the pandemic, right. People were voting and putting things on the drop box. The concern that many people on the right had had was this facilitated ballot harvesting, because you could bring eight ballots or something like that. And we know that in North Carolina, was it 2018, a congressional race was overturned because of on the Republican side, because Republicans had ballot had done the illegal ballot. And so I think that's the concern now. Is that enough to change 21,000 votes? Probably not. But that those that's what people are concerned about. And, you know, my my goal is to try to answer I'm not going to answer those questions, but try to make it clear going forward. I mean, there's another issue about the integrity of the list. And there are there's an open records request, and I'm not sure that the request that that is being sought is going to lead to a lot. But let's provide it. Let's see. And so you can see whether or not I mean, there's concern about people being about inconsistency among local clerks and in in dealing with the registration. I don't know that that's happening, but let's take a look at it and let's make sure that if it is happening with find out if it isn't happening, you can have more confidence. Not.

[00:12:31] **Speaker 1** What do you think about Justice Gable means investigation.

[00:12:35] **Speaker 2** Oh, well, no.

[00:12:39] **Speaker 1** That was a big hand.

[00:12:39] **Speaker 2** Right. There's we're not on right now. It's a real it's a real challenge for me. I'm a I'm a civil litigator. I do I'm not a criminal investigator, but I do I subpoena stuff all the time. And I it's like amateur hour. And and it's it's I mean, there is there was there was a report I think there was a preliminary report to the commission. The commission responded to it. Nothing. I think everything that was in there, there was an explanation for, I believe.