

January 18, 2004

MAKING VOTES COUNT

## Fixing Democracy

**T**he morning after the 2000 election, Americans woke up to a disturbing realization: our electoral system was too flawed to say with certainty who had won. Three years later, things may actually be worse. If this year's presidential election is at all close, there is every reason to believe that there will be another national trauma over who the rightful winner is, this time compounded by troubling new questions about the reliability of electronic voting machines.

This is no way to run a democracy.

Americans are rightly proud of their system of government, and eager to share it with the rest of the world. But the key principle behind it, that our leaders govern with the consent of the governed, requires a process that accurately translates the people's votes into political power. Too often, the system falls short. Throughout this presidential election year, we will be taking a close look at the mechanics of our democracy and highlighting aspects that cry out for reform. Among the key issues:

**Voting Technology** An accurate count of the votes cast is the sine qua non of a democracy, but one that continues to elude us. As now-discredited punch-card machines are being abandoned, there has been a shift to electronic voting machines with serious reliability problems of their own. Many critics, including computer scientists, have been sounding the alarm: through the efforts of a hacker on the outside or a malicious programmer on the inside, or through purely technical errors, these machines could misreport the votes cast.

They are right to be concerned. There is a fast-growing list of elections in which electronic machines have demonstrably failed, or produced dubious but uncheckable results. One of the most recent occurred, fittingly enough, in Palm Beach and Broward Counties in Florida just this month. Touch-screen machines reported 137 blank ballots in a special election for a state House seat where the margin of victory was 12 votes. The second-place finisher charged that faulty machines might have cost him the election. "People do not go to the polls in a one-issue election and not vote," he said. But since the machines produce no paper record, there was no way to check. It is little wonder that last month, *Fortune* magazine named paperless voting its "worst technology" of 2003.

To address these concerns, electronic voting machines should produce a paper trail — hard-copy

receipts that voters can check to ensure that their vote was accurately reported, and that can later be used in a recount. California recently took the lead on this issue, mandating paper trails from its machines by July 2006. A bill introduced by Representative Rush Holt would do the same nationally. Congress should make every effort to put paper trails in place by this fall.

Compounding the technology issues are the political entanglements of voting machine companies. Walden O'Dell, the head of Diebold Inc., has raised large sums for President Bush, and pledged in a fund-raising letter that he was "committed to helping Ohio deliver its electoral votes to the president" in 2004. Diebold is hardly alone among major voting machine manufacturers in contributing to elected officials, who represent virtually their only market. But the public has a right to expect that voting machine companies that run elections will not also seek to influence them.

Internet voting will be allowed in the Michigan caucuses next month and, for the first time, in the general election in a Pentagon-operated pilot program for overseas voters. Internet voting raises all of the security concerns of electronic voting and more. Given that major corporations regularly find their Web sites and databases hacked, and "Trojan horses" can take over home computers, it's questionable whether any Internet voting can be made completely secure. The Pentagon's program was adopted with disturbingly little publicity or debate. The public is entitled to know more about how it will work, and how it will be protected.

**Voter Participation** Our ideal of government with the consent of the governed presumes universal participation in elections, or something close to it. But even in the hotly contested 2000 presidential election, a mere 51 percent of voters went to the polls, down from 63 percent in 1960, and far less than in most mature democracies.

We no longer have poll taxes, but there are still significant obstacles to voting. In Florida in 2000, Katherine Harris, then the secretary of state, hired a private company to purge the voting rolls of felons, but ended up purging many nonfelons as well. There will be more voting roll purges this year, and little scrutiny is being given to how secretaries of state, many of whom are highly political, are conducting them. And the Help America Vote Act, passed after the 2000 debacle, includes new requirements for voter identification that could be used in some states to turn away voters.

More broadly, we need a national commitment to increasing registration and turnout. Seven states allow some form of election-day registration, which appears to raise turnout. Voting by mail, making Election Day a holiday, and similar reforms can also help. And there is a movement to roll back laws denying the vote to nearly five million people with felony convictions, 36 percent of them black males.

**Competitive Elections** The founders intended the House of Representatives to be the branch most responsive to the passions of the people. But with the rise of partisan gerrymandering, redistricting to favor the party in control of the process, competitive House elections are becoming virtually obsolete. Only four challengers defeated incumbents in the 2002 general elections, a record low, and in the nation's 435 Congressional districts, there may be no more than 30 this year where the outcome is truly

in doubt.

Pennsylvania is a classic case. After the 2000 census, Republicans, who controlled the state legislature, used powerful computers to draw bizarrely shaped districts — which were given names like "upside-down Chinese dragon" — that maximized Republican voting strength. They paired Democratic incumbents in a single district, so they would have to run against each other, and fashioned new districts where Republicans would have an easy ride. As a result, a state with nearly 500,000 more Democrats than Republicans has a Congressional delegation with 12 Republicans and just 7 Democrats.

Partisan gerrymandering takes control of Congress away from the voters, and puts it in the hands of legislative redistricters. It can also profoundly distort the political direction of the country. In four states that are almost precisely evenly divided between Republicans and Democrats — Florida, Pennsylvania, Ohio and Michigan — Republican legislators drew district lines so that 51 of the 77 seats are Republican, a nearly two-to-one edge.

Last month, the Supreme Court heard arguments in a potential landmark case challenging Pennsylvania's lines. The court could, and should, use it to establish constitutional limits on redistricting for partisan advantage. Another solution states can adopt on their own — although parties in control of state government will have little incentive to — is appointing nonpartisan commissions to draw district lines that will produce competitive races.

Thomas Jefferson advised that "elective government" is "the best permanent corrective of the errors or abuses of those entrusted with power." His faith in democracy was well placed, but for elective government to play this critical role, the elections must be inclusive and fair, and they must use machinery that works.

[Copyright 2004 The New York Times Company](#) | [Home](#) | [Privacy Policy](#) | [Search](#) | [Corrections](#) | [Help](#) | [Back to Top](#)