

**March 14, 2004**

MAKING VOTES COUNT

## Florida as the Next Florida

**A**s Floridians went to the polls last Tuesday, Glenda Hood, Katherine Harris's successor as secretary of state, assured the nation that Florida's voting system would not break down this year the way it did in 2000. Florida now has "the very best" technology available, she declared on CNN. "And I do feel that it's a great disservice to create the feeling that there's a problem when there is not." Hours later, results in Bay County showed that with more than 60 percent of precincts reporting, Richard Gephardt, who long before had pulled out of the presidential race, was beating John Kerry by two to one. "I'm devastated," the county's top election official said, promising a recount of his county's 19,000 votes.

Four years after Florida made a mockery of American elections, there is every reason to believe it could happen again. This time, the problems will most likely be with the electronic voting that has replaced chad-producing punch cards. Some counties, including Bay County, use paper ballots that are fed into an optical scanner, so a recount is possible if there are questions. But 15 Florida counties, including Palm Beach, home of the infamous "butterfly ballot," have adopted touch-screen machines that do not produce a paper record. If anything goes wrong in these counties in November, we will be in bad shape.

Florida's official line is that its machines are so carefully tested, nothing can go wrong. But things already have gone wrong. In a January election in Palm Beach and Broward Counties, the victory margin was 12 votes, but the machines recorded more than 130 blank ballots. It is simply not believable that 130 people showed up to cast a nonvote, in an election with only one race on the ballot. The runner-up wanted a recount, but since the machines do not produce a paper record, there was nothing to recount.

In 2002, in the primary race for governor between Janet Reno and Bill McBride, electronic voting problems were so widespread they cast doubt on the outcome. Many Miami-Dade County votes were not counted on election night because machines were shut down improperly. One precinct with over 1,000 eligible voters recorded no votes, despite a 33 percent turnout statewide. Election workers spent days hunting for lost votes, while Floridians waited, in an uncomfortable replay of 2000, to see whether Mr. McBride's victory margin, which had dwindled to less than 10,000, would hold up.

This past Tuesday, even though turnout was minimal, there were problems. Voters were wrongly given computer cards that let them vote only on local issues, not in the presidential primary. Machines did not

work. And there were, no doubt, other mishaps that did not come to light because of the stunning lack of transparency around voting in the state. When a Times editorial writer dropped in on one Palm Beach precinct where there were reports of malfunctioning machines, county officials called the police to remove him.

The biggest danger of electronic voting, however, cannot be seen from the outside. Computer scientists warn that votes, and whole elections, can be stolen by rigging the code that runs the machines. The only defense is a paper record of every vote cast, a "voter-verified paper trail," which can be counted if the machines' tallies are suspect. Given its history, Florida should be a leader in requiring paper trails. But election officials, including Theresa LePore, the Palm Beach County elections supervisor who was responsible for the butterfly ballot, have refused to put them in place.

Last week, Representative Robert Wexler, a Florida Democrat, filed a federal lawsuit to require paper trails. He relies on the Supreme Court's holding in *Bush v. Gore* that equal protection requires states to use comparable recount methods from county to county. Florida law currently requires a hand recount in close races. That is possible in most counties, but the 15 that use electronic voting machines do not produce paper records that can be recounted. Under the logic of *Bush v. Gore*, Representative Wexler is right.

After the 2000 mess, Americans were assured they would not have to live through such a flawed election again. But Florida has put in place a system, electronic voting without a paper trail, that threatens once more to produce an outcome that cannot be trusted. There is still time before the November vote to put printers in place in the 15 Florida counties that use touch screens. As we learned four years ago, once the election has been held on bad equipment, it is too late to make it right.

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