

## 3. The 2000 Election

### A Devastating Blow to American Democracy

The perfect façade of American democracy suffered a devastating blow during the 2000 presidential election. The question today is whether the bad taste left by election 2000 will depress voter turnout in the 2004 election. The terrain of election 2004 is largely the same as four years ago: a key state, Florida, whose voting machines are deeply flawed; a divide between the cultural conservatism of the South and Midwest and the social liberalism of the coasts; and the economy as a key issue, one which could trump social issues and unite a populist voter block. Have we learned lessons from the 2000 election, or will politicians and the media go on to repeat the same mistakes?

I will not go into a comprehensive accounting of the election—others have done that sufficiently. What I will do is give my impressions of the campaign season, election, and aftermath from the standpoint of a citizen and political analyst. I'll take a look at the experience of Al Gore's campaign manager Donna Brazile, and also at the views and experiences of a variety of nonvoters I found in Florida during the long election debacle. The constituencies mobilized and disenfranchised during the 2000 election are, in large part, the same players who will determine the outcome of election 2004. If anything, ideological rifts between liberals and conservatives have deepened in the last four years. The two major parties may not change many minds, but each has a chance to mobilize new voters.

Campaign 2000 had an oddly fuzzy quality. Vice President Al Gore battled for the Democrats, Texas Governor George W. Bush for the Republicans, and consumer advocate Ralph Nader for the Green Party. Perennial conservative candidate Patrick Buchanan ran on the Reform Party ticket, but won only one half of one percent of the vote. Both Gore and Bush tried their best to triangulate, or play to the center by taking the other side's issues. For example, Gore supported missile defense and Bush heavily pushed education reform. Maybe this allowed them to score a few extra voters from the other side. But as interviews with nonvoters demonstrate later this chapter, the muddying of candidate and party differences discouraged many from voting.

There were a few flashy attempts to woo new voters. In July and August 2000, two shadow conventions paralleled the Democratic and Republican National Conventions. Speakers included Arizona Senator John McCain, comedian/commentator Al Franken, musicians DJ Spooky and Chuck D, and columnist Ariana Huffington, who helped organize the events. The shadow conventions brought together everyone from button-down academics to teenage activists. Topics that wouldn't get a smidgen of time at the major conventions were given intense scrutiny, including the effects of the War on Drugs. The Republican governor of New Mexico, Gary Johnson, spoke about the need to end the drug war. Gus Smith spoke about his daughter Kemba, a battered woman who received a twenty-four-and-a-half-year prison term for transporting drug money for her abusive boyfriend. She was later pardoned by President Clinton in the waning days of his term. (I moderated one panel on the drug war, which costs U.S. taxpayers roughly \$40 billion per year.)

The energy at the shadow conventions was raw and inspiring. The young people who came to the event seemed dismayed by politics-as-usual, but inspired that they could find their voice in this context. Inside the Republican and Democratic National Conventions—spaces that I was privileged to work in and visit—the atmosphere was very different: coordinated, buttoned-down, and ready for prime time. Outside each venue, a series of protesters tried to garner attention.

## 2000 Election Timeline

### November 7 Election Day

7:48 PM Voter News Service announces Al Gore has won Florida (before the close of all state polls).

10 PM Florida race is once again “too close to call.”

### November 8

2:16 AM Fox News calls Florida for George W. Bush. Decision is made by Bush's first cousin.

Between 3 and 4 AM Gore calls Bush to concede. Networks then say race is too close to call. Gore calls Bush to withdraw concession.

### November 9

Florida results show George Bush leading by 1,784 votes. The narrow margin automatically triggers a machine recount in all of Florida's 67 counties.

The mainstream media couldn't be bothered to take the protesters seriously. Often they were portrayed as buffoons and only the most outrageous of them were shown on television. Rarely were they ever given a chance to speak. I remember talking to one CNN anchor who agreed that the protesters were being given short shrift.

The buzzword on protests was "1968," the year that police and antiwar activists clashed violently at the Democratic National Convention in Chicago. Although there were some arrests and strong-arm tactics used against protesters, the Republican convention in Philadelphia and the Democratic convention in Los Angeles were relatively calm. In the first place, no single issue unified the protesters. It was a case of a thousand flowers blooming—and few of their messages registering.

Then, on November 7, election day, I went down to Washington, D.C., to do on-air analysis for CNN. I had been fighting off a cold, which was rapidly turning into a fever. My illness added a layer of the surreal to an evening that had more twists and turns than anyone could have predicted.

After doing a live pop (guest appearance) with conservative analyst Tucker Carlson, I hung out in the green room waiting to see if they'd need me again. It was filled with an array of analysts and commentators, including future *Crossfire* co-hosts James Carville and Carlson, who came with his wife.

The Voter News Service (a joint polling effort by ABC, CBS, NBC, Fox, CNN, and the Associated Press) declared that Vice President Al Gore had won the state of Florida at 7:48 PM.<sup>1</sup> Carlson's wife began to cry.

### November 10

First recount shows George Bush ahead by 327 without counting absentee ballots. The Democrats request hand recounts in Miami-Dade, Broward, Palm Beach and Volusia Counties.

### November 11

Palm Beach announces it will recount. Bush goes to federal court to bar the recount.

### November 12

Volusia County begins recount. Democrats file suit in Seminole County against Republican absentee ballots.

### November 13

Federal court refuses to stop recount. Florida election officials announce that they will certify the election the next day. Democrats appeal.

Perhaps the prediction that Gore won Florida was a curse instead of a blessing. The television networks promised not to announce winners until the polls closed in each state, but the Florida call occurred just before the close of polls in the western part of the state. That gave Republican organizers time to urge last-minute voters to turn out. Of course, it was far from the networks' only blunder that night.

I was let off duty by CNN and went to an election-night party filled with people convinced that Al Gore was going to win. Being a bunch of good Washington liberals, they had broken out the champagne. But then, at 10 PM, the networks announced that the race was too close to call. To add to partygoers' misery, the vice president also lost his home state of Tennessee. (If he had won in Tennessee, he would have had an undisputed victory in the presidential race.) Next, at 2:16 AM, the Fox News Channel named Bush the victor in Florida. In order not to be scooped, other networks named Bush the winner, too. Without any conclusive poll data, Fox relied on an employee named John Ellis to make the decision. Ellis is George W. Bush's first cousin and had been in contact with his cousin all night.

Gore called to concede to Bush. Bush prepared for his victory speech. Then, an hour later, the networks reversed themselves again and said that Florida was too close to call. Gore called to un-concede, a bit like putting a genie back into a bottle. George W. Bush reportedly snapped at him; Gore told Bush not to get "snippy."

## 2000 Election Timeline (con't)

### November 14

District court upholds the deadline but states further recounts can continue and may be included. Katherine Harris, Florida secretary of state, certifies results with a 300-vote Bush lead in an attempt to stop the recount.

### November 15

Broward County continues a hand recount. Secretary of State Harris refuses to accept additional votes based on recount.

### November 16

State supreme court says manual recount can continue.

### November 17

Florida circuit court judge Terry Lewis says Harris can certify results, but the state supreme court puts a hold on that decision.

### November 18

Overseas ballots are counted, giving Bush a 930-vote lead.

I went to bed at a time when voters thought Bush would be the next president of the United States. I woke to find pandemonium, no clear winner. Over the course of the next thirty-seven days, the campaigns would fight over whether or not to recount ballots, which ballots to count, and how to count them. There were three basic problems with the voting in Florida. First, there was the “butterfly ballot” used in heavily Democratic Palm Beach County. Given the way the candidates’ names were placed, over five thousand voters ended up punching holes both for Gore and for conservative Patrick Buchanan. Even Buchanan admitted these were not likely to be his voters. These votes were disqualified, and they totaled ten times the number of votes with which George W. Bush claimed victory.<sup>2</sup> Second, punch-card ballots used in several counties were delivered partially punched. To count or not to count them? That’s the whole “dimpled chad,” “hanging chad,” “two-corned chad,” “pregnant chad” controversy. Third, different counties use different voting systems. The most old-fashioned and error-prone systems were concentrated in counties with more poor, working-class, and African-American voters. In some counties, 3 percent of all votes were discarded because they were improperly punched or marked.

So several counties started recounts. And then things really got ugly. On November 22, a group of Republican congressional staffers flew from Washington, D.C., down to Florida. They put out the message on conservative radio to meet at Miami’s county hall, where workers were hard at work hand-recounting ballots. The group of Republicans then stormed the recount office, assaulting workers and shutting the recount down.

### November 20

Arguments before Florida high court.

### November 21

Florida high court rules that recount can continue and should be certified on November 26 at 3 PM.

### November 22

George Bush appeals to the U.S. Supreme Court to stop the recount. Republican congressional staffers fly to Florida from D.C. Using alerts on conservative radio to get participants, they build up a mob that storms the recount office in Miami’s county hall.

### November 26

Secretary of State Harris certifies Bush victory at 537 votes (the final certified figure). This does not include recounts in Palm Beach and Miami-Dade.

### November 27

Gore officially contests the results.

The chaos of election 2000 divided Americans into those who felt the recount should continue and those who thought it should end. But the way it ended eroded many Americans' confidence in our political process. President George W. Bush took office because the U.S. Supreme Court decided, by a vote of 5 to 4, to stop the Florida recounts. Did the Justices have a hard deadline for making their decision? Well, the federal deadline for counting ballots is January 6, but the Court decided to stop the recount on December 12. The decision broke down not only on ideological but personal lines. Two of the conservative justices who declared Bush the winner had personal ties to the Texas governor and his family. After the Supreme Court selected the president, Justice Clarence Thomas's wife got a job taking applications for people who wanted to work in the Bush administration. Two of Antonin Scalia's nine children, both lawyers, went to work for Bush.

In 2004, reports revealed that Justice Scalia went duck hunting with Vice President Dick Cheney. Scalia came under pressure to recuse himself from (that is, refrain from ruling on) the case where Cheney tried to keep the public from seeing notes on a secret White House energy meeting. Scalia *did* recuse himself from a case involving the use of "God" in the Pledge of Allegiance because he had made public comments on his views, but he did not recuse himself from the energy meeting case (which, in 2004, the Court ruled should return to a lower court). And neither Thomas nor Scalia recused themselves from the 2000 election case. If both had, the Florida recount would have continued, and Vice President Al Gore, winner of the

## 2000 Election Timeline (con't)

### December 1

U.S. Supreme Court hears arguments on the earlier extension of the date for recounts by Florida.

### December 2

Circuit court judge N. Sander Sauls hears case on whether Miami-Dade and Palm Beach should hand-recount votes.

### December 4

The U.S. Supreme Court orders clarification of earlier Florida Supreme Court decision.

### December 5

Judge Sauls rules against Gore.

### December 6

Gore appeals to Florida supreme court.

### December 7

Oral arguments before Florida supreme court.

### December 8

Florida supreme court orders a manual recount of all votes in the state that could not be read by a machine.

popular vote in America, may well have become president. Today, not surprisingly, most Bush supporters believe the justices made the right call. Many Gore supporters, on the other hand, are still smarting from the way the election ended. But even among Gore's supporters, one question remains: was there anything Gore could have done differently?

## An Insider's View of the 2000 Election: Donna Brazile

For most of us, trust in the political system is not unconditional or unlimited. Our government and politicians have to reaffirm and renew their worth through positive action. (Of course, the definition of a positive action varies depending on who you are. Not surprisingly, Democrats tend to trust government more during a Democratic presidency, while Republicans trust government more when a fellow Republican is in office.)<sup>3</sup> You would think that those who work in politics would have the greatest belief in the system. But even political insiders can become disillusioned.

Former Al Gore campaign manager Donna Brazile won't say outright that Gore would be president now if only he'd listened to her. She doesn't have to. Instead, she talks about the point where their relationship—an opposites-attract partnership of the passionate organizer and the cerebral politician—broke down.

"My sister lives in Seminole County (Florida). She called me and said, 'How many forms of ID do you need to vote?' And that's when I broke."

### December 9

U.S. Supreme Court halts counting without hearing appeal.

### December 10

Lawyers file briefs before Supreme Court.

### December 11

Oral arguments before the Court.

### December 12

At 10 PM the Supreme Court rules that no further recounts can take place. Justices Clarence Thomas and Antonin Scalia have personal contacts with the Bush family but do not recuse themselves from the 5-to-4 decision.

### December 13th

Gore concedes.

It was election day. Since dawn, Brazile had been on radio stations across America, listening to black callers complain of police roadblocks, problems with the voter rolls, and being asked, illegally, for more than one form of ID. (Her sister had to show three before she was allowed to vote.) "This was not isolated to a specific state or a specific region," Brazile says. "Black people were catching hell."

When she went to the vice president, says Brazile, "I got froze out." Gore decided to pursue a legal strategy to fight the suspicious activity in Florida. Brazile wanted to get activists into play and focus on civil and voting rights. "The Republican talking points were all about, 'Stop the count. Declare victory.' And ours were all about, 'Here's why we gotta have the count.' It was not based on the Voting Rights Act. It was all blah-de-blah. It was all bullshit."

Brazile's kind face and salt-and-pepper hair clash with her sometimes salty language. But she's always had a take-no-prisoners philosophy when it comes to defending civil rights. Brazile, the third of nine children, grew up in Kenner, Louisiana, near New Orleans. When Rev. Martin Luther King, Jr., was assassinated, she snuck out of the house to hear a preacher from the SCLC. "I got an ass-whipping for leaving the house," she says. "But I had to go."

Brazile was only eight, but she learned that the antidote to political oppression was political action. The very next year, she rode her bike through the neighborhood to campaign for a local candidate. And of course, there's the time she started a riot in her newly integrated school to protest the way the black kids were left to stand in the sun while white kids had shade.

"I've had one of the best seats in history," says Brazile, who recently completed the political memoir *Cooking with Grease*. "Working on the bill to make [Martin Luther] King's day a holiday. I was there when Harold Washington was first elected. I was there when Jesse Jackson launched his campaign. I was there when Mondale selected Ferraro. I was there when Shirley Chisholm launched the first black women's political party. I was there with Hands Across America, and the fight for housing and homelessness, because my own family had experienced that. . . . All the way down to working on the Hill, what it was like being on the largest plantation in America." All of these positive, if hard-won, experiences with government as a social-change agent gave Brazile the strength and motivation to continue her work.

It seems physically impossible for Brazile to have just one job. She lectures at Georgetown and the University of Maryland. She heads the Democratic National Committee's Voting Rights Institute. She writes for newspapers and magazines and co-hosts a show on CNN. She is a fierce Southern-foods cook who delights in crafting dishes for friends like D.C. congresswoman Eleanor Holmes Norton. But there's one job she's not aiming to have again—campaign manager. "Al Gore cured me. I would never get involved in another presidential campaign on that level again. I'm cured," she cries. "I'm still cured!"

The tortured denouement of the Gore campaign left Brazile "weary." "I was so beaten down—not broken, 'cause it takes a lot to break me—but I was so beaten down," she says. "I went to church . . . [and] I went to confession because I'm Catholic. I say 'Bless me Father for I have sinned.' And he says 'What is your sin?' And I said, 'You know, I do my job and something happened and I think I could have fought just a little harder in terms of what was going on in the campaign. . . . I could have fought harder on Tennessee.'" Brazile had pushed to put more money and voter mobilization troops into the South, particularly Gore's home state of Tennessee, which he lost. Then, she wanted to rely on civil rights and advocacy groups to help fight for the recount. Gore chose a more hands-off legal strategy. His running mate Joe Lieberman, on the other hand, advocated pushing civil rights.

The Gore legal strategy didn't succeed. "I finally broke down and cried the day that . . . the Supreme Court decision just enraged me," says Brazile. "If I could have found Clarence Thomas's phone number that night, I would have cussed him out. I was so pissed. And because they used civil rights statutes to stop the count, I was so angry. I live right down the street from the Supreme Court, a couple blocks from where Frederick Douglass had his Capitol Hill home. And I was on a rampage. I wanted to have a rally that night at midnight. But nobody was up [for it]. Everybody was just shocked."

"The mainstream press were so busy trying to figure out the legal ramifications and the constitutional crisis. And I was dealing with downright racial discrimination at the ballot box," says Brazile. She sent out media advisories on the voting rights violations. "And I was evil," she says. "I thought that everybody in the campaign had abandoned the struggle. Here black people got out and voted, and they got abandoned. It was very personal because here I played a major role in the campaign for almost three years of my life, and

during the time when I thought the campaign should have listened to me, I was totally marginalized because—the race stuff. Nobody cared.”

For Brazile, as for many Americans, the great shame of election 2000 was not simply the failure of the system, but the lackluster response of the media, government, and public. Few responded as outrages came to light, particularly given the racial politics of the situation, and the public’s muted response reflects the pervasive lack of trust in the system. After all, if you think government is wrecked, you won’t be surprised when it fails you.

Today, Brazile is kinder in judging both herself and the campaign she managed. She didn’t endorse a Democratic candidate in the 2004 primaries. Instead, she’s focusing on the need for voters to define their issues and choose the candidate who speaks to them. The top political issue today, hands down, is “jobs and the economy,” says Brazile. “Since President Bill Clinton left office, unemployment has skyrocketed. The 2004 electoral season will be the most important political season in our lifetime.”

## Florida’s Nonvoters

In late November 2000, I flew to Tallahassee, Florida, to see for myself what was going on. I traveled with my fellow reporter Dani McClain, who is also African-American. Coming from New York, we immediately had to adjust to seeing Confederate flags everywhere, from the back of pickup trucks to the signage on local convenience stores.

Tallahassee is Florida’s capital and the home of two major universities. In the center of town, reporters clustered near the courthouse where Leon County Circuit Judge N. Sanders Sauls was hearing Gore’s request to continue recounts. Scores of television cameras crowded in to get tight shots of a few protesters. The camera angles made the few seem like many. What people at home generally could not see was that the protesters were a small and motley crowd. The atmosphere near the courtroom was more like the end of a family barbecue, with a dozen Bush supporters and eight or nine Gore supporters leaning against the walls and chatting amiably with people on their side. Unlike the instance of Republicans organizing Bush supporters to storm the recount offices in Miami-Dade, the Democratic protesters, in particular, seemed to have little awareness that their actions would be taped and replayed.

My main reason for coming to Florida was to interview nonvoters about how they made the decision to stay away from the polls, and whether they regretted it given how close the race was. I found plenty of voters as well, stalwart Bush and Gore voters with a long list of reasons for their decisions. Many of them felt that they'd just participated in the race of a lifetime.

First stop: a public housing project where all or most of the residents were African-American. Twenty-year-old Shawenda Please, a college student with a two-year-old son, tried to register twice: once with her mother and once at school. She wanted to vote for Gore, but when it came time to vote, her name wasn't on the rolls. Another resident had just moved from out of state and failed to re-register. And then I ran into a group of men shooting the breeze on a stoop. I ended up going out for a bite to eat with Marcell Thompson, a long-haul truck driver who was visiting his family.

Thompson, the kind of good, hard-working man who would get the girl in a Terry McMillan novel, was thoroughly disillusioned by politics. He would have voted for Gore, he said, but he was on the road. Then he added, "I pretty much couldn't care less about voting any way because I truly believe that what runs the country, and what's always run the country, is money and power. . . . Even though we fought as women and men and blacks to vote, regardless of how much we've been through to get to the position where we are now, we can vote all we want to. It's who has the money and who has the power who gets the say-so. That's just how the country has always been run and how it always will be run."

If Thompson were president, what issues would he focus on? "Everyday life," he said. "I mean, you have single mothers out here who are really struggling. There are certain programs that help certain mothers, but you have certain mothers who have an honest job that doesn't pay enough to reach up to their means of what they really need. And then whenever they get to the point where they have no choice but to ask for certain assistance, then you got other people looking at them and saying, 'People always got to get your hand out.'"

Just a few miles away at Florida State University, a group of teenage students had a different take on voting. The students who voted tended to have a strong family history of following politics and also felt confident in their ability to make decisions. Those who did not vote either had trouble registering (particularly as students who lived outside their home states) or didn't have a history of political engagement in their families.

Jessica Smith, age nineteen, didn't vote. "I don't even think my parents vote," she said. On the other hand, eighteen-year-old Cynthia Copeland voted via Ohio absentee ballot. "My parents were always like, it's a responsibility," Copeland said. "They always vote." Their experiences reflect national patterns. According to the National Association of Secretaries of State, young adults whose parents vote are twice as likely to go to the polls as ones whose parents don't vote.<sup>4</sup> In other words, we can't blame young people alone; we have to look at the examples set for them.

The students also took issue with the quality and style of political information they received. Eighteen-year-old Amber Waters chose not to vote because, she says, "I didn't know which way one person was going with it as opposed to another. . . . I didn't want to cast a wrong vote." She mused for a moment. "I didn't have the information I needed. [After the election] in class for the next two weeks everyone was talking about how they voted for Bush and how they voted for Gore. And I was hearing more and more things and so, now, if I were to vote now, I know exactly what I would do. I now know what I need to know to make an informed decision."

Marie Wilson, former president of the Ms. Foundation for Women, adds that women often don't trust their political instincts. "We have to help women understand that they can trust their own intuition," Wilson says. "Politics is a rough intelligence." In 2004, Wilson published *Closing the Leadership Gap: Why Women Can and Must Help Run the World*. She believes the lack of female elected officials further alienates potential female voters, a powerful bloc. Twenty-two million single women alone are likely nonvoters in the 2004 election.

As I continued my trip through Florida, I got yet another perspective on voting in a town near Tallahassee called Havana. This cluster of 1,700 people, more than half of them black, was really two different worlds.<sup>5</sup> There was the charming white southern town, with quaint vintage shops and restaurants, and the economically depressed black town with a grimy community center. In the dim confines of the community center, twenty-one-year-old Michael Terry spent his day with other men who seemed cut out of the mainstream economy. Asked about Gore and Bush, Terry said, with a bitter laugh, "They're the same. Both of 'em white." Did Terry think voting could change his life? "It ain't gonna change anything," he said. He pointed to the state of the town's schools. "Oh, they're garbage." After desegregation the

white parents put their children in private schools. Havana's public schools are almost all black and underfunded.

Another Havana resident, Ray Miller, pulled his car up beside me and Dani McClain after we'd unsuccessfully approached some white residents to get them to talk to us. Smiling through a mouth full of gold fronts, he said he'd picked us as outsiders because we both had braids or dreadlocks. Miller, who can't vote because of his felony record, was amazed at the outcome in Florida. "They just messed this up. All the people who don't have a felony on their record, they should at least count them," he said. "It's bad enough that people [with records] can't vote."

To many people, it sounds perfectly logical to keep convicted felons off the voter rolls. But most Western democracies return voting rights to people who have served their sentences. And, perhaps more important, the laws aren't equal across America. States have widely different policies. Forty-six states forbid prisoners to vote; thirty-two bar felons on parole from voting; twenty-nine block prisoners on probation; and fourteen states block people who've served their whole sentence for a felony—over a million Americans—from ever voting again.<sup>6</sup> Not surprisingly, the states most likely to take away felons' voting rights forever are states with high black and Latino populations, and they've used these laws to shape the voting pool. Although now the laws are defended as race-neutral, they were instituted during the Reconstruction-era backlash against what one Alabama lawmaker described as "the menace of negro domination."<sup>7</sup>

Eighty percent of Americans favor reinstating the voting rights of felons who have served all of their sentences. A bipartisan panel led by former presidents Gerald Ford and Jimmy Carter recommended the same thing.<sup>8</sup> And as he left office, outgoing president Bill Clinton made the same suggestion. (See the essay "On Felons Reclaiming the Right to Vote" later in this book.) This may reflect the fact that most felons aren't convicted for violent crimes: only a fifth of felons convicted in state court committed an act of violence, while a third were sentenced on drug crimes.<sup>9</sup> But current legislators are too afraid of backlash—or too concerned that former felons could tip the vote in states like Florida—to change the laws.

In fact, Florida has one of the highest rates of felony disfranchisement in America. Political observers are now questioning why so many Floridians become felons in the first place. State Senator Daryl Jones, of Miami, told the

*Nation*, “Every year the Florida legislature is trying to make more [minor] crimes felonies. Why? So they can eliminate people from the voter rolls.” In the year 2000, 187,000 Floridians were disenfranchised for their felony records.

The Republican-run state was so eager to strike felons from its rolls that it hired a private company, ChoicePoint, to cross-check the Florida lists for felons who had moved from Texas. The deeply flawed lists they produced relied on inexact matches—for example, two people who had the same last name and similar social security numbers or birth dates. False matches included an employee of the Monroe County election supervisor’s office and a black minister from Leon County, Rev. Willie David Whiting. Whiting arrived at his Tallahassee polling place and was told he could not vote. Turns out he’d been mixed up with someone named Willie J. Whiting, whose birthday was two days from the minister’s. “I felt like I was slingshotted back into slavery,” Rev. Whiting later told a federal civil rights commission investigating the election.<sup>10</sup>

Today, not only have we failed to learn from the Florida fiasco; we are in danger of repeating it or even making the problem worse. For two years, politicians didn’t take much action on voting reform. Then, in 2002, Congress passed the Help America Vote Act, or HAVA. It authorizes \$3.86 billion to update machinery and improve staffing for federal elections. HAVA also puts new requirements on people registering to vote, in particular making them show ID or give out their social security number. In a commentary for the legal magazine *Writ*, Grant Hayden writes, “This wouldn’t be the first time in our history that an attempt to disenfranchise voters masqueraded as an ‘anti-fraud’ measure. Southern Democrats in the late nineteenth century employed a variety of similar devices in order to keep blacks and lower-class whites away from the ballot box.”<sup>11</sup> The biggest impact from HAVA is that its call for new machinery is being turned into a push for electronic voting. This may not cure America’s voting problems. In fact, electronic voting could spark a new and bigger crisis in voter confidence.

## Electronic Voting Machines: Florida 2000 All Over Again?

Two years after a presidential election marred by controversy and confusion, voters in Florida’s Miami-Dade County might have expected they could rest easy. After all, their government had just purchased a system of brand-new touch-screen voting stations, “voting ATMs.”

But after the polls had closed, confusion reigned again. Some precincts in Miami-Dade and Broward showed that no one had voted for governor—this despite scores of voters passing through.

The culprit? Touch-screen machines manufactured by Election Systems & Software. The company blamed poll workers for not properly inserting cartridges that would read the votes when the polls closed. Election Systems & Software insisted the votes *were* registered. They performed a data extraction on the machines in question, pulling out what they said were the correct votes. No one else could check for sure. Why? Because Election Systems & Software and virtually all other electronic voting companies do not make machines that print a paper record of each voter's actions. This, say critics, could lead to tampering and fraud.<sup>12</sup>

Miami-Dade's 2002 election was a clear case of putting technology before the needs and limitations of people. The poll workers, many of them elderly long-time volunteers, were given only a brief training; the county didn't get its voting machines until June and was setting them up as late as the day before the election; and a complicated boot-up procedure (the ballots are trilingual) meant that not all machines were ready by the time polls opened.<sup>13</sup>

Technology is now being touted as the solution to voting problems, but flawed systems already caused trouble in election 2000. Volusia County, Florida, used optical scanners—computers that count paper ballots—manufactured by the Diebold Corporation. Just days after the 2000 election, the *Washington Post* ran a front page article that began:

Something very strange happened on election night to Deborah Tannenbaum, a Democratic Party official in Volusia County. At 10 PM, she called the county elections department and learned that Al Gore was leading George W. Bush 83,000 votes to 62,000. But when she checked the county's Web site for an update half an hour later, she found a startling development: Gore's count had dropped by 16,000 votes, while an obscure Socialist candidate had picked up 10,000—all because of a single precinct with only 600 voters.<sup>14</sup>

Florida election officials later claimed they'd been able to retrieve the correct vote count. Luckily, in this case, they had the original paper ballots to refer to.<sup>15</sup> But with most new electronic voting systems, there is no paper trail recording the original votes.

Touch-screen voting does have its advantages. It's easier for the disabled and for non-English-proficient voters to use. But if the new voting machines are like ATMs, who holds the password? And just as important, who can *access* the password? Last year, scientists at Johns Hopkins and Rice universities discovered security flaws in the Diebold corporation's voting machines. The source code that ran the machine also contained the password to access it, a definite no-no.<sup>16</sup>

Diebold has 40,000 voting machines in thirty-seven states. It is also run by a fiercely partisan leader.<sup>17</sup> Diebold's chief executive, Walden O'Dell, hosted a \$1,000-a-plate Republican fundraising dinner in the summer of 2003. In his invitation, he said that he was "committed to helping Ohio deliver its electoral votes to the president next year." Around the time of the fundraiser, the Ohio secretary of state was working to help Diebold qualify to sell Ohio voting machines for use in the 2004 elections.<sup>18</sup>

The fallout from the 2000 election and the push for paperless electronic voting machines threaten one of the pillars of public trust: enfranchisement, or the right to vote. (Interestingly, "enfranchisement" can also be defined as "freedom from political subjugation or servitude," something we Americans have come to take for granted.) Electronic voting machines are *the* story to watch in the 2004 elections. Many municipalities are committed to using paperless ballots in 2004, though the flaws in electronic voting machines continue to emerge. For example, in October 2003, during the recall election that ultimately put Arnold Schwarzenegger in the California governor's office, machines in Alameda County started marking votes for Democratic Lieutenant Governor Cruz Bustamante as votes for the socialist candidate.<sup>19</sup> The machines were Diebold's.

An equally troubling example of e-voting occurred in George W. Bush's home state of Texas. As Ben Tripp of the watchdog organization CounterPunch wrote:

Computerized voting machines in the 2002 election did all kinds of weird things: if you pressed the Democrat's

name in some counties in Texas, for example, the Republican's name was chosen. And in Cormal County, Texas, three Republican candidates won by exactly 18,181 votes apiece. There's the kind of coincidence the FBI loves. But it gets even more amazing: in two *other* races elsewhere in this great nation, Republicans won by—wait for it—18,181 votes. The odds of this are similar to the odds of waking up on the surface of Mars with your underwear on your head and a bowling trophy gripped between your knees. These results were eventually 'adjusted', proving it was all just a wacky coincidence. But how can we know? Because there is no physical evidence of how a vote was cast. <sup>20</sup>

Just as disturbing as the voting malfunctions is the fact that most major-media outlets ignored stories like these, leaving the connect-the-dots to independent investigative reporters in the United States and as far flung as the United Kingdom and New Zealand. (Some of the best reporting on the 2000 election was actually published in the U.K., apparently because U.S. news editors were too afraid to reflect the chaos and controversy of the election.)

Electronic voting without a paper trail is a recipe for disaster. Despite growing awareness of the problem and public protest, many municipalities will certainly use this flawed system in 2004. Voters and civil rights groups will have to come up with smart, innovative ways to track the vote and hold e-voting companies accountable for failures. Of course, municipalities could research ways to keep an independent paper trail of votes or even dump the paperless systems before November. The problem is that many counties have already paid for this flawed technology, and any change would be costly. Nonetheless, there's a notable backlash against the paperless voting machines. First, the California secretary of state announced that as of July 1, 2005, no county or city can use electronic voting machines that do not leave a verifiable paper trail. Of course, this will not be implemented until after the next presidential election.<sup>21</sup> Then came public hearings on whether Diebold machines—which were not, as the company claimed, federally approved—had failed California voters in a March 2004 primary. After Diebold machines malfunctioned in Alameda and San Diego counties,

thousands of voters in San Diego County were turned away from the polls. During the hearings, company president Bob Urosevich apologized, saying he was “sorry for the inconvenience of the voters.” The chief counsel to the state’s election division said, “Weren’t they actually disenfranchised?” Urosevich said, “Yes, sir.” Consequently, the state banned four counties from using electronic voting machines and ordered ten others to improve security before the November 2004 election.<sup>22</sup>

Electronic voting companies have never explained their resistance to creating a paper trail, something that would be simple enough to do by attaching printer technology to the existing machines. In fact, an ideal system might provide two printouts—one that is double-checked for accuracy by the voter and saved by election officials and a second that the voter could keep as a record or receipt. The need to track these e-votes puts voters in a tough position: they either have to trust a deeply flawed and partisan system or find ways of independently corroborating their votes. This is a huge barrier to trust in the system and political participation. No matter what happens in 2004, reform advocates must demand that all e-voting have a paper trail in future elections.