

**February 29, 2004****MAKING VOTES COUNT: EDITORIAL OBSERVER**

## **The Results Are in and the Winner Is . . . or Maybe Not**

**By ADAM COHEN****C**HEROKEE COUNTY, Ga.

Rob Behler isn't saying Max Cleland's Senate seat was stolen by rigged electronic voting machines, but he insists it could have been. Mr. Behler, who helped prepare Georgia's machines for the 2002 election, says secret computer codes were installed late in the process. Votes "could have been manipulated," he says, and the election thrown to the Republican, Saxby Chambliss.

Charlie Matulka, who lost to Senator Chuck Hagel of Nebraska the same year, does not trust the results in his election. Most of the votes were cast on paper ballots that were scanned into computerized vote-counting machines, which happen to have been manufactured by a company Mr. Hagel used to run. Mr. Matulka, suspicious of Senator Hagel's ties to the voting machine company, demanded a hand recount of the paper ballots. Nebraska law did not allow it, he was informed. "This is the stealing of our democracy," he says.

Defeated candidates who think they were robbed are nothing new in American politics. But modern technology is creating a whole new generation of conspiracy theories — easy to imagine and, unless we're careful, impossible to disprove. The nation is rushing to adopt electronic voting, but there is a disturbing amount of evidence that, at least in its current form, it is overly vulnerable to electoral mischief.

Among the growing ranks of electronic-voting skeptics, Mr. Cleland's loss in 2002 and Mr. Hagel's wins in 1996 and 2002 have taken on mythic status. There is no evidence the wrong man is in the Senate today. The problem is, there is no way to prove the right man was elected, either.

Mr. Cleland's loss was, some say, a surprise. He was said to be leading in the polls before Election Day, but ended up losing decisively. Many political observers attribute his loss to President Bush's strong support for Mr. Chambliss, and attack ads picturing Senator Cleland with Osama bin Laden. But others are suspicious of the new voting machines in Georgia.

In the summer of 2002, Mr. Behler was in a Georgia warehouse, helping prepare thousands of machines for the coming election. He says there were constant problems with the hardware and software, and growing pressure as the election drew near.

Three times while he was there, he says, Diebold, the voting machine manufacturer, sent "patches" — updates in the programming — to be installed on the machines. Later, he says, he heard of a fourth. Bev Harris, an electronic-voting critic who runs [www.blackboxvoting.org](http://www.blackboxvoting.org) and is a controversial figure in the elections world, says there were eight. Diebold and Georgia insist there was only one patch, which Diebold says was added "prior to the election, but not last minute."

The Georgia machines do not produce a paper record voters can inspect to ensure a vote was correctly cast. But Georgia says they go through three testing levels, including an outside body that certifies the software. When patches are added late, however, there may not be time for certifying them. Georgia officials concede the one patch they admit to was given only a partial examination by an outside certifying body.

Ms. Harris argues the patches could have turned Cleland votes into Chambliss votes. "You can put in dynamic files that self-destruct after the election," she says. "There would be no evidence."

A final piece of the conspiracy theory is that Diebold's chief executive is an active Republican fundraiser. It was probably inevitable that given all the elements — late changes, an end run around the vetting process, a manufacturer with political ties, and a surprising outcome — there would be suspicions about the results.

Some of the same factors were present in Nebraska. In his primary race in 1996, Mr. Hagel, who had lived in Virginia for 20 years, beat the state attorney general by nearly two to one. In the general election, he defeated the governor, who had been elected two years earlier in a landslide. In 2002, against Mr. Matulka, he won more than 80 percent of the vote.

What gets conspiracy theorists excited is not just Mr. Hagel's prodigious wins, but his job before jumping into the 1996 race: heading American Information Systems, the manufacturer of the machines that count 85 percent of Nebraska's votes. There is a much simpler explanation than electronic sabotage. Mr. Hagel's campaign in 1996 was widely regarded as stronger than his rivals' campaigns. His next opponent, Mr. Matulka, an unemployed construction worker, was a weak candidate. But when critics like Ms. Harris argue these machines could have been programmed to miscount, the state should be able to come back with irrefutable evidence they were not.

A healthy democracy must avoid even the appearance of corruption. The Georgia and Nebraska elections fail this test. Once voting software is certified, it should not be changed — not eight times, not once. A backup voting method should be available, so if electronic machines fail or are compromised shortly before an election, they can be dropped.

Votes must be counted by people universally perceived as impartial. States should not buy machines from companies that have ties to political parties, and recent company executives should not be running for elections on those machines.

And every voter should see a paper receipt. This "voter-verified paper trail" should be retained, and made available for recounts — a low-tech check on the reliability of electronic voting. Most Americans would not do business with a bank that refused to provide written statements or A.T.M. receipts. We should be no less demanding at the polls.

After all, as Tom Stoppard has observed, "It's not the voting that's democracy, it's the counting."

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