

## **The History and Politics of Voting Technology: In Quest of Integrity and Public Confidence**

By Roy G. Saltman

New York, NY: Palgrave MacMillan, 2006, ISBN 1-4039-6392-4

Price \$69.95, pp. 240.

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Journal of High Technology Law

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In response to the 2000 presidential election debacle in Florida, Congress enacted the Help America Vote Act (HAVA) of 2002.<sup>1</sup> Surprisingly, this was the first time in the nation's history that the federal government appropriated funds to assist states in implementing the voting technology changes mandated by the act.<sup>2</sup> Perhaps less surprisingly, it took a monumental cascade of partisan mishandling and procedural error in the closest presidential election in history for the public to take notice and, ultimately, for the federal government to act. Considering its catalytic effect, it made sense for Roy G. Saltman<sup>3</sup> to start *The History and Politics of Voting Technology: In Quest of Integrity and Public Confidence* with a detailed, yet concise, play-by-play of all that went wrong in Florida.

Saltman does an excellent job of summarizing all the details surrounding the Florida election and its aftermath. He meticulously describes the plethora of voting technologies used in the various counties in Florida in 2000.<sup>4</sup> Each technology is given its own section explaining how the technology works and in what county or counties it

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<sup>1</sup> 116 Stat. 1666 (2002) (codified as amended in sections of 42 U.S.C.).

<sup>2</sup> Roy G. Saltman, *The History and Politics of Voting Technology* 196 (2006).

<sup>3</sup> Saltman served for over thirty years as an employee of the National Institute of Standards and Technology, formerly known as the National Bureau of Standards. He is currently an independent consultant in election policy and voting technology, <http://www.palgrave-usa.com/catalog/product.aspx?isbn=1403963924> (last visited Nov. 5, 2006).

<sup>4</sup> Saltman, *supra*, note 2, at 7-15.

was employed.<sup>5</sup> The spectrum of voting technologies used, including hand-written hand counted ballots, computer tallied Marksense ballots, and the now-infamous prescored punch cards (the source of hanging chads), is dizzying. What is maddening, however, is the human error and intentional partisan interference that Saltman describes. Not only was the Florida Secretary of State, the person responsible for administering the election, an elected partisan, so too were the county Supervisors of Elections (SOEs) and the members of the Canvassing Boards responsible for counting, recounting and certifying the results at the local level.<sup>6</sup> Allegations that partisan SOEs allowed party workers to add missing information from party-friendly voters while ignoring the same errors on opposing party ballots abounded.<sup>7</sup> “*Political bias by Florida election officials played an important role the postelection legal struggle,*” to say the least (emphasis in original).<sup>8</sup> As disheartening as Saltman’s recounting of the Florida election administration is, it does not hold a candle to partisan gerrymandering and outright fraud described in the subsequent chapters.

From Florida in 2000, Saltman moves to 1775 and the Declaration of Independence, zeroing in on the “consent of the governed” language that, by extension, implies the fundamental importance of a valid vote.<sup>9</sup> Saltman makes it clear that Jefferson’s idealism was far removed from the realities on the ground. In addition to the variety of religious, property and gender restrictions that many states placed on voting, *viva voce* or oral voting was common, placing “undue pressure on the elector, especially

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 3-4.

<sup>7</sup> *Id.* at 4.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.* at 39.

where tenant farmers were forced to vote in the presence of their landlord.”<sup>10</sup> Even in states where ballots were used, Saltman points out that they were not anonymous or standardized, and some political factions used this to their advantage. Though the restrictions and problems that plagued the voting process between the Revolution and the Civil War seem outrageous from a modern point of view, Saltman almost forgives them as part of the new nation’s learning curve. To him, the truly egregious frauds were those perpetrated in the late nineteenth century at the hands of Boss Tweed and his ilk.

*The History and Politics of Voting Technology* expends a comparatively large amount of print (nearly four pages) on William Marcy Tweed and his corruption of the voting process in New York City between 1866 and 1871. Saltman uses Tweed’s ballot box stuffing, over-counting of ballots and other misdeeds both as an example of how badly the voting system could be corrupted and as the impetus that inspired the development of many of the voting technologies he goes on to describe. But for every new technology developed to prevent fraud and eliminate human error, Saltman points out that people “*intent on fraud applied ingenuity* in efforts to circumvent the system” (emphasis in original).<sup>11</sup> Machines, though providing convenience and preventing certain types of fraud, add complexities that inspire beneficent and malicious hackers alike.

Saltman goes on to catalog the rise and fall of a number of voting machines in painstaking detail, all the while giving legal and political context to their development and implementation. Mechanization of the voting process, he points out, was initially driven by the proponents of political reform, but with the advent of computer technology,

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<sup>10</sup> Saltman, *supra*, note 2, at 43.

<sup>11</sup> *Id.* at 105.

convenience and speed were the big motivators, at least for the politicians.<sup>12</sup> Political reform during the latter period was focused on equality and enfranchisement of minorities, particularly African-Americans, not with the implements used to vote. Saltman expresses great reverence for their struggle but states plainly that “[i]t is not possible in this presentation to graphically detail the events” that lead to the passage of the Civil Rights Acts.<sup>13</sup> As with most of the rest of the book, he briefly summarizes the circumstances, focusing mainly on the technological challenges of the day.

Unfortunately, Saltman has a hard time hiding his impatience with the lack of public concern with the technology problems in the latter chapters. Election technologies and statistics from the last thirty years are clearly where his expertise lies and his frustration at having his and others’ reports and recommendations ignored comes through.<sup>14</sup> As he brings his *History* full circle and returns to the “Florida brouhaha,” some degree of satisfaction comes from having his early reports remembered by the media.<sup>15</sup> Jumping at the chance to finally be heard, he ends with a final spate of statistics, pleas for increased research funding, and a slough of recommended procedural and technical changes. He does not conclude the book but instead wraps-up with a list of “Subjects Needing Further Research.”<sup>16</sup> His report is finished. It is now up to the legislators and administrators.

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<sup>12</sup> *Id.* at 105, 155. Saltman asserts that, when it came to the issue of effectiveness of election administration, during the middle and late twentieth century, “very few people in political leadership positions understood or cared.” *Id.* at 155.

<sup>13</sup> *Id.* at 137.

<sup>14</sup> Saltman, *supra*, note 2, at 172. He states in reference to two reports on election difficulties from the mid-seventies (one being his own): “While the two reports . . . were widely disseminated to election administrators, they had little impact in causing change.” *Id.* And, later referencing a report he published in 1988, “[a]s with other recommendations, this proposal had no immediate impact.” *Id.* at 177.

<sup>15</sup> *Id.* at 177.

<sup>16</sup> *Id.* at 223.

Detailed yet concise is a fair summation of *The History and Politics of Voting Technology* on the whole. In a style reminiscent of *A People's History of the United States*,<sup>17</sup> Saltman packs 230 years of history into 240 succinct pages. But information density is not the only similarity between the two histories. Like *A People's History*, Saltman's work examines in stark detail the inconvenient and oft-ignored underbelly of United States history. Though, like Zinn's history, Saltman's work ends with a degree of optimism about the future, particularly in light of HAVA, it gives the unsettling impression that there has never been a completely honest election in the nation's history. The most troubling notion that the book leaves the reader with, perhaps unintentionally, is that Justice Douglas' "one person, one vote" standard may never be technically possible.<sup>18</sup> However unsettling it may ultimately be, *The History and Politics of Voting Technology* is worth the read. Knowing why your vote may not count is better than nothing, after all.

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<sup>17</sup> Howard Zinn, *A People's History of the United States: 1492-Present*, Harpers Perennial Modern Classics (2005).

<sup>18</sup> *Gray v. Sanders*, 372 U.S. 368, 381 (1963).