



TESTIMONY

COMMON CAUSE
Chellie Pingree
President

Before the
U. S. Election Assistance Commission

Public Hearing on the Use, Security, and Reliability
of Electronic Voting Systems

May 5, 2004

Executive Summary

Common Cause strongly and emphatically supports requiring a voter verified paper audit trail for all voting systems. We believe this committee and every election official in the country should move to ensure that there be a paper trail for everyone who casts a vote.

Too many questions have been raised about electronic voting machines, about their manufacturers and about their hasty implementation. We need to take a step back and make sure we are doing the right thing for this fundamental right in our democracy.

We also share the concerns of those who have worked for many years to ensure that all Americans have the right to vote, have equal access to voting, and have the right to vote in private. But we believe that no one's right to vote has meaning if the voter cannot be reasonably assured that their vote was counted as cast.

The companies that produce equipment for elections must be held to a far higher standard of accountability and transparency. State and local elections officials must be far more vigilant in their oversight of the vendors. The government, not the vendors, must be in control of our system of voting.

- Vendors should adhere to strict nonpartisan policies and practices.
- There must be a competitive and open contracting processes for purchase of voting machines.
- There must be strict conflict of interest codes for elections officials and vendors.
- Testing of machines should be done publicly and by a truly independent body. Testing should be done at every step of the process, including random testing of machines on Election Day.
- There must be truly independent inspection of software.

I appreciate the opportunity to present the views of Common Cause on electronic voting technologies.

Common Cause strongly and emphatically supports requiring a voter verified paper audit trail for all voting systems. We believe this committee and every election official in the country should move to ensure that there be a paper trail for everyone who casts a vote.

Too many questions have been raised about electronic voting machines, about their manufacturers, and about their hasty implementation. We need to take a step back and make sure we are doing the right thing for this fundamental right in our democracy.

I want to commend each of you for accepting the difficult and important task of improving our nation's voting system. I am told that the Commission has been largely ignored by official Washington – under-funded, under-staffed, with long delays in simple matters like office space and email. It is an unfortunate reflection of the priorities of the nation's capital that voting is being given such short shrift. It is one of the jobs of the advocacy organizations represented on this panel to make certain that the importance of this commission's work becomes a priority in the nation's capital.

Common Cause stands with the other organizations represented on this panel on many important issues. On this issue, there are some differences among us. But I urge the commission to heed the concerns expressed by the other organizations represented on this panel today. Voting must be accessible to all. We must not place obstacles in the way of people with disabilities or voters who are not proficient in English. We must end

the efforts by some to suppress the vote among certain segments of the population by using scare tactics such as a police presence near polling places, or selective use of ID requirements, or purging voter lists in discriminatory ways. We must continue to work to remove those obstacles to voting that continue to be all too common. Not all these problems are in the purview of the commission, but we urge you to use your position, your bully pulpit, to carry this message to federal, state and local officials.

New technology is not the whole solution -- voting machines are only one part of a voting system. Voter education, poll worker training, especially in regard to fair and equal treatment of voters, availability of provisional ballots and accurate and nondiscriminatory maintenance of voter databases are all important priorities.

On the issue before the commission today, electronic voting technology, we believe that the goal of making voting accessible to all is not incompatible with requiring a paper trail. No matter how anyone votes, the voter must be assured that his or her vote will be counted as it was cast.

What Has Happened

The act of voting is the cornerstone of our democracy. Americans must have confidence that their vote will be counted fairly and accurately.

The 2000 presidential election exposed many of the shortcomings in our nation's elections and damaged voters' faith in how we cast and count votes. Most Americans awoke in November 2000 to the realization that our system of voting was not as reliable as most had assumed. Since then, Congress passed significant, though incomplete reforms in the Help America Vote Act (HAVA) and some state and local governments

have taken steps to correct the longstanding problems in our nation's voting system.

HAVA established this commission, set some standards and promised billions of dollars of federal funding for elections for the first time in the nation's history.

But it is now clear that one effect of the promise of HAVA funding was a feeding frenzy among elections officials and voting machine manufacturers. They predicted that federal funding was a one-time event – and that there would be a limited time to use the funding to purchase new voting machines, among other things. We believe that some of those officials moved ahead without sufficient consideration of both the potential and demonstrated problems with this relatively new voting technology.

Then, a fine American tradition took hold. Some active and engaged citizens mobilized on the issue of electronic voting machines. A few smart and dedicated computer scientists, some dedicated activists and hundreds of citizens across the country have been raising the alarm about a new threat to our democracy – the rush to adopt computer touch-screen machines as the answer to the voting debacle in Florida in 2000.

Outside of Congress, this movement has had some successes already and because of that has been described by opponents as “well-funded and aggressive.” As far as I am aware, it is not well-funded, but it is certainly aggressive. Common Cause has joined with these activists and will use our resources to help push this issue around the country.

This genuine grassroots movement has some allies among elected officials: One of today's witnesses, California Secretary of State Kevin Shelley, has taken a strong stance in addressing the problems that have arisen in his state; and, Representative Rush Holt (D-NJ) has been a leader in Congress, raising the alarm about electronic voting machines with his colleagues and introducing legislation to address the problem. I also

note that last week a Republican, Representative Steve King (IA) introduced paper trail legislation that has 28 cosponsors, making this a truly bipartisan effort in Congress.

Vendors: Transparency and Accountability

Voting machine manufacturers and some elections officials have rushed to develop and put in place touch-screen machines without sufficient regard to voters' confidence in the machines and without regard to basic principles of transparency and accountability. A business-as-usual manner, careless procedures, and overtly partisan activity by some vendor executives has exacerbated voters' alarm about the new machines.

We should be demanding more openness and accountability for companies who want to be in this "market." They must understand that this business requires a different attitude, different practices. Diebold Election Systems has become infamous for the partisan comments of its CEO, who said he is "committed to helping Ohio deliver its electoral votes to the president next year." But it appears Diebold did not learn much from the negative reaction to those comments. More recently, in response to problems with their machines in California which may have caused hundreds of voters to be turned away from their polling place, Diebold Election Systems president Bob Uresovich said, "We're sorry for the inconvenience of the voters." This comment tells us that even after months of controversy, Diebold does not understand this business: being deprived of the vote is not simply an inconvenience.

The companies that produce equipment for elections must be held to a far higher standard of accountability and transparency. State and local elections officials must be

far more vigilant in their oversight of the vendors. The government, not the vendors, must be in control of our system of voting:

- Vendors should adhere to strict nonpartisan policies and practices.
- There must be a competitive and open contracting processes for purchase of voting machines.
- There must be strict conflict of interest codes for elections officials and vendors.
- Testing of machines should be done publicly and by a truly independent body.
- Testing should be done at every step of the process, including random testing of machines on Election Day.
- There must be truly independent inspection of software.

Citizens Commissions

We support the proposal by People for the American Way to set up state advisory panels with diverse citizen representation. As their report says, “This will help instill voter confidence in the election process and a sense of ownership in the maintenance of a truly democratic system.”

Decertification

In our view, decertifying current electronic voting machines may be one reasonable response to the serious questions raised about this technology. As The New York Times said prior to Secretary of State Shelley’s decision in California:

The harder question Mr. Shelley faces is whether to ban all electronic voting machines that do not produce a paper trail, as many voting experts, and some

state legislators, are urging him to do. His obligation to ensure that voting machines function properly and inspire voter confidence argues for a total ban. To do otherwise is to risk Election Day meltdowns, and another presidential election in which voters lack faith in the outcome.

While in some jurisdictions, cost and the lack of replacement methods of voting may make this a difficult decision, we believe it should be seriously considered by all elections officials who now rely on touch screen technology.

Common Cause and Voting

Common Cause was founded in 1970 by John Gardner as a vehicle for citizens to make their voices heard in the political process. We now have more than 250,000 members and 38 state organizations. Gardner believed that individual Americans can make a difference in their government, and that an informed, active, and organized public ultimately is the only effective means for holding political power accountable to the public interest. With this in mind, he called on Americans to join Common Cause and exercise the powers of citizenship in pursuit of common values.

Throughout its 34-year history, Common Cause has dedicated itself to making the political process more fair, open, and accountable to citizens and to a belief that a healthy democracy requires not only fair and just laws governing the political process, but also an active and engaged citizenry.

Common Cause has been working on HAVA implementation and other voting issues at the state level, where in some states staff or volunteer activists have served on advisory panels, have lobbied for legislation and in concert with other groups, and raised the alarm about electronic voting. Common Cause state organizations in New York,

Maine, Texas, South Carolina, Maryland, and Alaska are supporting paper trail legislation. I am proud that my daughter, Hannah, a state legislator in Maine, working with Common Cause Maine, introduced legislation that was recently signed into law requiring a voter-verified paper trail and, importantly, worked with disability advocates in the state to ensure accessibility.

Conclusion

Common Cause shares view of a growing number of Americans who have serious concerns about the reliability and security of new touch-screen voting machines.

We also share the concerns of those who have worked for many years to ensure that all Americans have the right to vote, have equal access to voting, and have the right to vote in private. But we believe that no one's right to vote has meaning if the voter cannot be reasonably assured that their vote was counted as cast.

This commission and others making decisions about voting machines should not confine themselves to one option – DRE's printing out a ballot. Optical scan voting technology is, or soon will be, accessible to everyone and provides a reliable and accurate way to vote.

Common Cause believes that the ability to verify one's vote and have a record of each vote as cast must be an integral part of voting equipment – it is important for the accuracy of vote-counting and for Americans' long-term trust in elections.

We do not believe that current touch screen technology allows the voter to verify his or her vote in a meaningful manner. The voter must have faith that the internal

software is correctly tallying the vote – and there is currently no way to verify the vote independent of that software.

We believe it is critical at this point to *provide a voter-verifiable paper audit trail as one of the essential requirements of voting systems.*

You have received much advice today and you will be getting much more. You will hear from state and local elections officials, some with good advice, some not. And, if you are doing your job right, you may find yourself pressured by Members of Congress who may not like what you are doing. Remember always, as I am sure you do, that your constituency is not Congress or state and local election officials, but the voters of America.

There are few more fundamentally important functions of the government in our democracy than providing a fair, secure, convenient and accessible voting system. This commission's work to improve that a system will build confidence with voters and may begin to restore much of the public's loss of trust in our democracy.