

How Californians Saved the Paper Ballot And Maybe the Nation

by Mimi Kennedy

In May 2004, California's Democratic Secretary of State, Kevin Shelley, de-certified Diebold voting machines and said they could not be used in California elections without paper trails or offering voters the option of a paper ballot. Diebold had used uncertified software in an Alameda county election, a violation of law; Shelley recommended the California Attorney General prosecute.

A drumbeat arose against Shelley in the media: he was a bad boss, a screamer, his employees hated him! In February, 2005, he resigned in tears at a press conference. Later he said that his staff, many of them holdovers from Republican administrations, had sabotaged his office processes, withholding messages, telling callers he was too busy for meetings, and generally disrupting whatever he tried to do. He warned that the same might happen to our then Democratic Secretary of State, the popular fighter Debra Bowen, and indeed, it came to pass.

As Secretary of State, Debra Bowen ran a "red team review" with computer scientists and security experts testing all the software used in California elections for vulnerabilities. Debra de-certified most of the systems, and re-certified them only with strict conditions. The effect was to establish paper ballots as California's only permissible legal ballot of record.

She paid a price; as with Shelley, she had trouble

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photo: James Heddie

Mimi Kennedy and Election Integrity advocates, many involved with this issue, including Marta Steele, Bob Fitakis, Jonathan Simon, Bent Ptashnik, Greg Palast and Victoria Collier

with longtime staff. She ran for Congress in 2010 and lost, then retired in 2015. Her legacy to California, and the nation, is impossible to overestimate.

Legislators fascinated with futuristic technology still want us to "vote on our phones!" But wiser heads have prevailed, knowing that consumer transactions, which can be traced to the source by name, and checked, have no relation to voting, which is private and anonymous, and vulnerable to undetectable, aggregate manipulation.

Since Bowen's term, awareness of election security issues in California has multiplied. In this June 2016 primary, thousands of activists watched almost every county's vote count, uncovering violations and praising best practices. 60,000 provisional presidential votes were counted in Los Angeles that, if one sharp-eyed observer had not asked the right question, would have been disqualified in a way that she noted was a violation of CA's primacy of voter intent law.

As goes California, so goes the nation. Voter-verified paper ballots, publicly-observable chains of

custody as ballots are collected, transported, counted and stored, and publicly-observable hand-counts, either as completely redundant verification, or verification to a statistically sufficient degree, are the only way to preserve the republic. Thank you, Debra Bowen – and election integrity activists in California and their colleagues nationwide!

Mimi Kennedy is an actress, author, and activist. She is Chair of the Progressive Democrats of America and has worked on electoral, labor and other issues.

Mimi Kennedy on the Help America Vote Act (HAVA)

The Help America Vote Act of 2002, George W's big legislative push after the 2000 election not only wired America with electronic voting machines, but did away with paper ballots, the only voter-verifiable way to publicly-verify the accuracy of election results. In 2004, the CEO of Diebold, one of the companies that reaped the benefits of HAVA appropriations, promised to "deliver" Ohio to George W. Bush in the re-election. Diebold had been founded by Bob Urosevich. The other big voting machine winner from HAVA was ES&S, run by Todd, Bob's brother. Under HAVA, all 50 states had to acquire some version of wares such as theirs, ostensibly to provide access for people with disabilities by 2006. If that didn't happen, states in violation would be sued by Bush's Department of Justice. Diebold delivered Ohio to Bush in 2004.

In LA, I'd joined then-Registrar Conny McCormack's Community Voter Outreach Committee with a few other activists. We knew she wanted Diebold for the county. She was featured on the cover of a Diebold sales pamphlet, touting their wares. When Diebold's reputation

was smeared by a bribery indictment, she turned to ES&S, and we got some \$5000 Precinct Ballot Readers from the company, to give voters the HAVA-mandated "second chance" voting to correct under-or-over-voted ballots, and connected to an audio booth for disability access. McCormack promised, at a mass meeting of activists, never to tabulate with the machines, or use memory cards (digital transport media) in a tabulator. Then she tried to buy a tabulator from ES&S anyway, with the \$45 million she had left over from HAVA funds. Activists went to the Board of Supervisors and warned it was a waste of money. Conny McCormack resigned in early 2008 under investigation for ethics violation in her job.

The \$45 million that activists saved LA is now developing an open-source, paper ballot-based system that the county will own, removing the layer of legal unaccountability that corporate vendors utilize. The ballots will be hand-countable and human-readable in 10 languages, and the ballot generator will be accessible according to the Americans with Disabilities Act.