

None Dare Call It Stolen

Ohio, the election, and America's servile press

Posted on Wednesday, September 7, 2005. What actually happened in Ohio in 2004. An excerpt from this report appeared in August 2005. The complete text appears below. Originally from August 2005. By Mark Crispin Miller.

Whichever candidate you voted for (or think you voted for), or even if you did not vote (or could not vote), you must admit that last year's presidential race was—if nothing else—pretty interesting. True, the press has dropped the subject, and the Democrats, with very few exceptions, have “moved on.” Yet this contest may have been the most unusual in U.S. history; it was certainly among those with the strangest outcomes. You may remember being surprised yourself. The infamously factious Democrats were fiercely unified—Ralph Nader garnered only about 0.38 percent of the national vote—while the Republicans were split, with a vocal anti-Bush front that included anti-Clinton warrior Bob Barr of Georgia; Ike's son John Eisenhower; Ronald Reagan's chairman of the Joint Chiefs of Staff, William J. Crowe Jr.; former Air Force Chief of Staff and onetime “Veteran for Bush” General Merrill “Tony” McPeak; founding neocon Francis Fukuyama; Doug Bandow of the Cato Institute, and various large alliances of military officers, diplomats, and business professors. *The American Conservative*, co-founded by Pat Buchanan, endorsed five candidates for president, including both Bush and Kerry, while the *Financial Times* and *The Economist* came out for Kerry alone. At least fifty-nine daily newspapers that backed Bush in the previous election endorsed Kerry (or no one) in this election. The national turnout in 2004 was the highest since 1968, when another unpopular war had swept the ruling party from the White House.^[1] Yet this ever-less-beloved president, this president who had united liberals

and conservatives and nearly all the world against himself—this president somehow bested his opponent by 3,000,176 votes.

How did he do it? To that most important question the commentariat, briskly prompted by Republicans, supplied an answer. Americans of faith—a silent majority heretofore unmoved by any other politician—had poured forth by the millions to vote “Yes!” for Jesus’ buddy in the White House. Bush’s 51 percent, according to this thesis, were roused primarily by “family values.” Tony Perkins, president of the Family Research Council, called gay marriage “the hood ornament on the family values wagon that carried the president to a second term.” The pundits eagerly pronounced their amens—“Moral values,” Tucker Carlson said on CNN, “drove President Bush and other Republican candidates to victory this week”—although it is not clear why. The primary evidence of our Great Awakening was a post-election poll by the Pew Research Center in which 27 percent of the respondents, when asked which issue “mattered most” to them in the election, selected something called “moral values.” This slight plurality of impulse becomes still less impressive when we note that, as the pollsters went to great pains to make clear, “the relative importance of moral values depends greatly on how the question is framed.” In fact, when voters were asked to “name in their own words the most important factor in their vote,” only 14 percent managed to come up with “moral values.” Strangely, this detail went little mentioned in the post-electoral commentary.^[2]

The press has had little to say about most of the strange details of the election—except, that is, to ridicule all efforts to discuss them. This animus appeared soon after November 2, in a spate of caustic articles dismissing any critical discussion of the outcome as crazed speculation: “Election paranoia surfaces: Conspiracy theorists call results rigged,” chuckled the *Baltimore Sun* on November 5. “Internet Buzz on Vote Fraud Is Dismissed,” proclaimed the *Boston Globe* on November 10.

“Latest Conspiracy Theory—Kerry Won—Hits the Ether,” the *Washington Post* chortled on November 11. The *New York Times* weighed in with “Vote Fraud Theories, Spread by Blogs, Are Quickly Buried”—making mock not only of the “post-election theorizing” but of cyberspace itself, the fons et origo of all such loony tunes, according to the *Times*.

Such was the news that most Americans received. Although the tone was scientific, “realistic,” skeptical, and “middle-of-the-road,” the explanations offered by the press were weak and immaterial. It was as if they were reporting from inside a forest fire without acknowledging the fire, except to keep insisting that there was no fire.^[3] Since Kerry has conceded, they argued, and since “no smoking gun” had come to light, there was no story to report. This is an oddly passive argument. Even so, the evidence that something went extremely wrong last fall is copious, and not hard to find. Much of it was noted at the time, albeit by local papers and haphazardly. Concerning the decisive contest in Ohio, the evidence is lucidly compiled in a single congressional report, which, for the last half-year, has been available to anyone inclined to read it. It is a veritable arsenal of “smoking guns”—and yet its findings may be less extraordinary than the fact that no one in this country seems to care about them.

* * *

On January 5, Representative John Conyers of Michigan, the ranking Democrat on the House Judiciary Committee, released *Preserving Democracy: What Went Wrong in Ohio*. The report was the result of a five-week investigation by the committee’s Democrats, who reviewed thousands of complaints of fraud, malfeasance, or incompetence surrounding the election in Ohio, and further thousands of complaints that poured in by phone and email as word of the inquiry spread. The congressional researchers were assisted by volunteers in Ohio who held

public hearings in Columbus, Cleveland, Toledo, and Cincinnati, and questioned more than two hundred witnesses. (Although they were invited, Republicans chose not to join in the inquiry.)^[4]

Preserving Democracy describes three phases of Republican chicanery: the run-up to the election, the election itself, and the post-election cover-up. The wrongs exposed are not mere dirty tricks (though Bush/Cheney also went in heavily for those) but specific violations of the U.S. and Ohio constitutions, the Voting Rights Act, the Civil Rights Act of 1968, the National Voter Registration Act, and the Help America Vote Act. Although Conyers trod carefully when the report came out, insisting that the crimes did not affect the outcome of the race (a point he had to make, he told me, “just to get a hearing”), his report does “raise grave doubts regarding whether it can be said that the Ohio electors selected on December 13, 2004, were chosen in a manner that conforms to Ohio law, let alone Federal requirements and constitutional standards.” The report cites “massive and unprecedented voter irregularities and anomalies” throughout the state—wrongs, moreover, that were hardly random accidents. “In many cases,” the report says, “these irregularities were caused by intentional misconduct and illegal behavior, much of it involving Secretary of State J. Kenneth Blackwell, the co-chair of the Bush-Cheney campaign in Ohio.”^[5]

The first phase of malfeasance entailed, among many other actions, several months of bureaucratic hijinks aimed at disenfranchising Democrats, the most spectacular result of which was “a wide discrepancy between the availability of voting machines in more minority, Democratic and urban areas as compared to more Republican, suburban and exurban areas.” Such unequal placement had the predictable effect of slowing the voting process to a crawl at Democratic polls, while making matters quick and easy in Bush country: a clever way to cancel out the Democrats’ immense success at registering new voters in Ohio. (We cannot know the precise number of new voters

registered in Ohio by either party because many states, including Ohio, do not register voters by party affiliation. The *New York Times* reported in September, however, that new registration rose 25 percent in Ohio's predominantly Republican precincts and 250 percent in Ohio's predominantly Democratic precincts.)

At Kenyon College in Gambier, for instance, there were only two machines for 1,300 would-be voters, even though "a surge of late registrations promised a record vote." Gambier residents and Kenyon students had to stand in line for hours, in the rain and in "crowded, narrow hallways," with some of them inevitably forced to call it quits. "In contrast, at nearby Mt. Vernon Nazarene University, which is considered more Republican leaning, there were ample waiting machines and no lines." This was not a consequence of limited resources. In Franklin County alone, as voters stood for hours throughout Columbus and elsewhere, at least 125 machines collected dust in storage. The county's election officials had "decided to make do with 2,866 machines, even though the analysis showed that the county needs 5,000 machines."

It seemed at times that Ohio's secretary of state was determined to try every stunt short of levying a poll tax to suppress new voter turnout. On September 7, based on an overzealous reading of an obscure state bylaw, he ordered county boards of elections to reject all Ohio voter-registration forms not "printed on white, uncoated paper of not less than 80 lb. text weight." Under public pressure he reversed the order three weeks later, by which time unknown numbers of Ohioans had been disenfranchised. Blackwell also attempted to limit access to provisional ballots. The Help America Vote Act—passed in 2002 to address some of the problems of the 2000 election—prevents election officials from deciding at the polls who will be permitted to cast provisional ballots, as earlier Ohio law had permitted. On September 16, Blackwell issued a directive that somehow failed to note that change. A federal judge ordered him to revise the

language, Blackwell resisted, and the court was forced to draft its own version of the directive, which it ordered Blackwell to accept, even as it noted Blackwell's "vigorous, indeed, at times, obdurate opposition" to compliance with the law.

Under Blackwell the state Republican Party tried to disenfranchise still more Democratic voters through a technique known as "caging." The party sent registered letters to new voters, "then sought to challenge 35,000 individuals who refused to sign for the letters," including "voters who were homeless, serving abroad, or simply did not want to sign for something concerning the Republican Party." It should be noted that marketers have long used zip codes to target, with remarkable precision, the ethnic makeup of specific neighborhoods, and also that, according to exit polls last year, 84 percent of those black citizens who voted in Ohio voted for Kerry.^[6]

* * *

The second phase of lawlessness began the Monday before the election, when Blackwell issued two directives restricting media coverage of the election. First, reporters were to be barred from the polls, because their presence contravened Ohio's law on "loitering" near voting places. Second, media representatives conducting exit polls were to remain 100 feet away from the polls. Blackwell's reasoning here was that, with voter turnout estimated at 73 percent, and with many new voters so blissfully ignorant as to have "never looked at a voting machine before," his duty was clear: the public was to be protected from the "interference or intimidation" caused by "intense media scrutiny." Both cases were at once struck down in federal court on First Amendment grounds.

Blackwell did manage to ban reporters from a post-election ballot-counting site in Warren County because—election officials claimed—the FBI had warned of an impending terrorist attack there. The FBI said it issued no such warning, however, and the officials refused to name the

agent who alerted them. Moreover, as the *Cincinnati Enquirer* later reported, email correspondence between election officials and the county's building services director indicated that lockdown plans—"down to the wording of the signs that would be posted on the locked doors"—had been in the works for at least a week. Beyond suggesting that officials had something to hide, the ban was also, according to the report, a violation of Ohio law and the Fourteenth Amendment.

Contrary to a prior understanding, Blackwell also kept foreign monitors away from the Ohio polls. Having been formally invited by the State Department on June 9, observers from the Organization for Security and Cooperation in Europe, an international consortium based in Vienna, had come to witness and report on the election. The mission's two-man teams had been approved to monitor the process in eleven states—but the observers in Ohio were prevented from watching the opening of the polling places, the counting of the ballots, and, in some cases, the election itself. "We thought we could be at the polling places before, during, and after" the voting, said Søren Søndergaard, a Danish member of the team. Denied admission to polls in Columbus, he and his partner went to Blackwell, who refused them letters of approval, again citing Ohio law banning "loitering" outside the polls. The two observers therefore had to "monitor" the voting at a distance of 100 feet from each polling place. Although not technically illegal, Blackwell's refusal was improper and, of course, suspicious. (The Conyers report does not deal with this episode.)

To what end would election officials risk so malodorous an action? We can only guess, of course. We do know, however, that Ohio, like the nation, was the site of numerous statistical anomalies—so many that the number is itself statistically anomalous, since every single one of them took votes from Kerry. In Butler County the Democratic candidate for State Supreme Court took in 5,347 more votes than Kerry did. In

Cuyahoga County ten Cleveland precincts “reported an incredibly high number of votes for third party candidates who have historically received only a handful of votes from these urban areas”—mystery votes that would mostly otherwise have gone to Kerry. In Franklin County, Bush received nearly 4,000 extra votes from one computer, and, in Miami County, just over 13,000 votes appeared in Bush’s column *after* all precincts had reported. In Perry County the number of Bush votes somehow exceeded the number of registered voters, leading to voter turnout rates as high as 124 percent. Youngstown, perhaps to make up the difference, reported negative 25 million votes.

In Cuyahoga County and in Franklin County—both Democratic strongholds—the arrows on the absentee ballots were not properly aligned with their respective punch holes, so that countless votes were miscast, as in West Palm Beach back in 2000. In Mercer County some 4,000 votes for president—representing nearly 7 percent of the electorate—mysteriously dropped out of the final count. The machines in heavily Democratic Lucas County kept going haywire, prompting the county’s election director to admit that prior tests of the machines had failed. One polling place in Lucas County never opened because all the machines were locked up somewhere and no one had the key. In Hamilton County many absentee voters could not cast a Democratic vote for president because county workers, in taking Ralph Nader’s name off many ballots, also happened to remove John Kerry’s name. The *Washington Post* reported that in Mahoning County “25 electronic machines transferred an unknown number of Kerry votes to the Bush column,” but it did not think to ask why.

Ohio Democrats also were heavily thwarted through dirty tricks recalling Richard Nixon’s reign and the systematic bullying of Dixie. There were “literally thousands upon thousands” of such incidents, the Conyers report notes, cataloguing only the grossest cases. Voters were told, falsely, that their polling place had changed; the news was

conveyed by phone calls, “door-hangers,” and even party workers going door to door. There were phone calls and fake “voter bulletins” instructing Democrats that they were not to cast their votes until Wednesday, November 3, the day after Election Day. Unknown “volunteers” in Cleveland showed up at the homes of Democrats, kindly offering to “deliver” completed absentee ballots to the election office. And at several polling places, election personnel or hired goons bused in to do the job “challenged” voters—black voters in particular—to produce documents confirming their eligibility to vote. The report notes one especially striking incident:

In Franklin County, a worker at a Holiday Inn observed a team of 25 people who called themselves the “Texas Strike Force” using payphones to make intimidating calls to likely voters, targeting people recently in the prison system. The “Texas Strike Force” paid their way to Ohio, but their hotel accommodations were paid for by the Ohio Republican Party, whose headquarters is across the street. The hotel worker heard one caller threaten a likely voter with being reported to the FBI and returning to jail if he voted. Another hotel worker called the police, who came but did nothing.

* * *

The electoral fraud continued past Election Day, but by means far more complex and less apparent than the bullying that marked the day itself. Here the aim was to protect the spoils, which required the prevention of countywide hand recounts by any means necessary. The procedure for recounts is quite clear. In fact, it was created by Blackwell. A recount having been approved, each of the state’s eighty-eight counties must select a number of precincts randomly, so that the total of their ballots comes to 3 percent (at least) of the county’s total vote. Those ballots must then be simultaneously hand counted and machine counted. If the hand count and the new machine count match, the remaining 97 percent of the selected ballots may be counted by machine. If, however, the

totals vary by as little as a single vote, all the other votes must be hand counted, and the results, once reconfirmed, must be accepted as the new official total.

The Ohio recount officially started on December 13—five days after Conyers’s hearings opened—and was scheduled to go on until December 28. Because the recount (such as it was) coincided with the inquiry, Conyers was able to discover, and reveal in his report, several instances of what seemed to be electoral fraud.

On December 13, for instance, Sherole Eaton, deputy director of elections for Hocking County, filed an affidavit stating that the computer that operates the tabulating machine had been “modified” by one Michael Barbian Jr., an employee of Triad GSI, the corporate manufacturer of the county’s voting machinery.

Ms. Eaton witnessed Mr. Barbian modify the Hocking County computer vote tabulator before the announcement of the Ohio recount. She further witnessed Barbian, upon the announcement that the Hocking County precinct was planned to be the subject of the initial Ohio test recount, make further alterations based on his knowledge of the situation. She also has firsthand knowledge that Barbian advised election officials how to manipulate voting machinery to ensure that [the] preliminary hand recount matched the machine count.^[7]

The committee also learned that Triad similarly intervened in at least two other counties. In a filmed interview, Barbian said that he had examined machines not only in Hocking County but also in Lorain, Muskingum, Clark, Harrison, and Guernsey counties; his purpose was to provide the Board of Elections with as much information as possible—“The more information you give someone,” he said, “the better job they can do.” The report concludes that such information as Barbian and his colleagues could provide was helpful indeed:

Based on the above, including actual admissions and statements by Triad

employees, it strongly appears that Triad and its employees engaged in a course of behavior to provide “cheat sheets” to those counting the ballots. The cheat sheets told them how many votes they should find for each candidate, and how many over and under votes they should calculate to match the machine count. In that way, they could avoid doing a full county-wide hand recount mandated by state law. If true, this would frustrate the entire purpose of the recount law—to randomly ascertain if the vote counting apparatus is operating fairly and effectively, and if not to conduct a full hand recount.

The report notes Triad’s role in several other cases. In Union County the hard drive on one tabulator was replaced after the election. (The old one had to be subpoenaed.) In Monroe County, after the 3 percent hand count had twice failed to match the machine count, a Triad employee brought in a new machine and took away the old one. (*That* machine’s count matched the hand count.) Such operations are especially worrying in light of the fact that Triad’s founder, Brett A. Rapp, “has been a consistent contributor to Republican causes.” (Neither Barbian nor Rapp would respond to *Harper’s* queries, and the operator at Triad refused even to provide the name of a press liaison.)

There were many cases of malfeasance, however, in which Triad played no role. Some 1,300 Libertarian and Green Party volunteers, led by Green Party recount manager Lynne Serpe, monitored the count throughout Ohio.^[8] They reported that: In Allen, Clermont, Cuyahoga, Morrow, Hocking, Vinton, Summit, and Medina counties, the precincts for the 3 percent hand recount were preselected, not picked at random, as the law requires. In Fairfield County the 3 percent hand recount yielded a total that diverged from the machine count—but despite protests from observers, officials did not then perform a hand recount of all the ballots, as the law requires. In Washington and Lucas counties, ballots were marked or altered, apparently to ensure that the hand recount would equal the machine count. In Ashland, Portage, and Coshocton counties, ballots were improperly unsealed or stored.

Belmont County “hired an independent programmer (‘at great expense’) to reprogram the counting machines so that they would only count votes for President during the recount.” Finally, Democratic and/or Green observers were denied access to absentee, and/or provisional ballots, or were not allowed to monitor the recount process, in Summit, Huron, Putnam, Allen, Holmes, Mahoning, Licking, Stark, Medina, Warren, and Morgan counties. In short, the Ohio vote was never properly recounted, as required by Ohio law.

* * *

That is what the Democratic staff of the House Judiciary Committee found, that is what they distributed to everyone in Congress, and that is what any member of the national press could have reported at any time in the last half year. Conyers may or may not have precisely captured every single dirty trick. The combined votes gained by the Republicans through such devices may or may not have decided the election. (Bush won Ohio by 118,601 votes.) Indeed, if you could somehow look into the heart of every eligible voter in the United States to know his or her truest wishes, you might discover that Bush/Cheney was indeed the people’s choice. But you have to admit—the report is pretty interesting.

In fact, its release was timed for maximum publicity. According to the United States Code (Title 3, Chapter 1, Section 15), the President of the Senate—i.e., the U.S. Vice President—must announce each state’s electoral results, then “call for objections.” Objections must be made in writing and “signed by at least one Senator and one Member of the House of Representatives.” A challenge having been submitted, the joint proceedings must then be suspended so that both houses can retire to their respective chambers to decide the question, after which they reconvene and either certify or reject the vote.

Thus was an unprecedented civic drama looming on the day that Conyers’s report appeared. First of all, electoral votes had been

contested in the Congress only twice. In 1877 the electoral votes of several states were challenged, some by Democrats supporting Samuel Tilden, others by Republicans supporting Rutherford B. Hayes. In 1969, Republicans challenged the North Carolina vote when Lloyd W. Bailey, a “faithless elector” pledged to Richard Nixon for that state, voted for George Wallace.^[9] And a new challenge would be more than just “historic.” Because of what had happened—or not happened—four years earlier, it would also be extraordinarily suspenseful. On January 6, 2001, House Democrats, galvanized by the electoral larceny in Florida, tried and failed to challenge the results. Their effort was aborted by the failure of a single Democratic senator to join them, as the law requires. Al Gore—still vice president, and therefore still the Senate’s president—had urged Democrats to make no such unseemly waves but to respect Bush’s installation for the sake of national unity. Now, it seemed, that partisan disgrace would be redressed, at least symbolically; for a new challenge from the House, by Representative Stephanie Tubbs-Jones of Ohio, would be co-signed by Barbara Boxer, Democratic senator from California, who, at a noon press conference on January 6, heightened the suspense by tearfully acknowledging her prior wrong: “Four years ago I didn’t intervene. I was asked by Al Gore not to do so and I didn’t do so. Frankly, looking back on it, I wish I had.”

It was a story perfect for TV—a rare event, like the return of Halley’s comet; a scene of high contention in the nation’s capital; a heroine resolved to make things right, both for the public and herself. Such big news would highlight Conyers’s report, whose findings, having spurred the challenge in the first place, would now inform the great congressional debate on the election in Ohio.

As you may recall, this didn’t happen—the challenge was rejected by a vote of 267_31 in the House and 74_1 in the Senate. The *Boston Globe* gave the report 118 words (page 3); the *Los Angeles Times*, 60 words (page 18). It made no news in the *Wall Street Journal*, *USA Today*,

Newsweek, *Time*, or *U.S. News & World Report*. It made no news on CBS, NBC, ABC, or PBS. Nor did NPR report it (though *Talk of the Nation* dealt with it on January 6). CNN did not report it, though Donna Brazile pointedly affirmed its copious “evidence” on *Inside Politics* on January 6. (Judy Woodruff failed to pause for an elaboration.) Also on that date, the Fox News Channel briefly showed Conyers himself discussing “irregularities” in Franklin County, though it did not mention the report. He was followed by Tom DeLay, who assailed the Democrats for their “assault against the institutions of our representative democracy.” The *New York Times* negated both the challenge and the document in a brief item headlined “Election Results to Be Certified, with Little Fuss from Kerry,” which ran on page 16 and ended with this quote from Dennis Hastert’s office, vis-à-vis the Democrats: “They are really just trying to stir up their loony left.”

Indeed, according to the House Republicans, it was the Democrats who were the troublemakers and cynical manipulators—spinning “fantasies” and “conspiracy theories” to “distract” the people, “poison the atmosphere of the House of Representatives” (Dave Hobson, R., Ohio), and “undermine the prospect of democracy” (David Dreier, R., Calif.); mounting “a direct attack to undermine our democracy” (Tom DeLay, R., Tex.), “an assault against the institutions of our representative democracy” (DeLay); trying “to plant the insidious seeds of doubt in the electoral process” (J. D. Hayworth, R., Ariz.); and in so doing following “their party’s primary strategy: to obstruct, to divide and to destroy” (Deborah D. Pryce, R., Ohio).

Furthermore, the argument went, there was *no evidence* of electoral fraud. The Democrats were using “baseless and meritless tactics” (Pryce) to present their “so-called evidence” (Bob Ney, R., Ohio), “making allegations that have no basis of fact” (Candice Miller, R., Mich.), making claims for which “there is no evidence whatsoever, no evidence whatsoever” (Dreier). “There is absolutely no credible basis to

question the outcome of the election” (Rob Portman, R., Ohio). “No proven allegations of fraud. No reports of widespread wrongdoing. It was, at the end of the day, an honest election” (Bill Shuster, R., Pa.). And so on. Bush won Ohio by “an overwhelming and comfortable margin,” Rep. Pryce insisted, while Ric Keller (R., Fla.) said that Bush won by “an overwhelmingly comfortable margin.” (“The president’s margin is significant,” observed Roy Blunt, R., Mo.) In short, as Tom DeLay put it, “no such voter disenfranchisement occurred in this election of 2004—and, for that matter, the election of 2000. Everybody knows it. The voters know it, the candidates know it, the courts know it, and the evidence proves it.”

That all this commentary was simply *wrong* went unnoticed and/or unreported. Once Bush was re-inaugurated, all inquiries were apparently concluded, and the story was officially kaput. By March talk of fraud was calling forth the same reflexive ridicule that had prevailed back in November—but only now and then, on those rare moments when somebody dared bring it up: “Also tonight,” CNN’s Lou Dobbs deadpanned ironically on March 8, “Teresa Heinz Kerry still can’t accept certain reality. She suggests the presidential election may have been rigged!” And when, on March 31, the National Election Data Archive Project released its study demonstrating that the exit polls had probably been right, it made news only in the *Akron Beacon-Journal*.^[10] The article included this response from Carlo LoParo, Kenneth Blackwell’s spokesman: “What are you going to do except laugh at it?”

* * *

In the summer of 2003, Representative Peter King (R., N.Y.) was interviewed by Alexandra Pelosi at a barbecue on the White House lawn for her HBO documentary *Diary of a Political Tourist*. “It’s already over. The election’s over. We won,” King exulted more than a year before the election. When asked by Pelosi—the daughter of House

Minority Leader Nancy Pelosi—how he knew that Bush would win, he answered, “It’s all over but the counting. And we’ll take care of the counting.”

King, who is well known in Washington for his eccentric utterances, says he was kidding, that he has known Pelosi for years, that she is “a clown,” and that her project was a “spoof.” Still, he said it. And laughter, despite the counsel of Kenneth Blackwell’s press flack, seems an inappropriate response to the prospect of a stolen election—as does the advice that we “get over it.” The point of the Conyers report, and of this report as well, is *not* to send Bush packing and put Kerry in his place. The Framers could no more conceive of electoral fraud on such a scale than they could picture Fox News Channel or the Pentagon; and so we have no constitutional recourse, should it be proven, finally, that the wrong guy “won.” The point of our revisiting the last election, rather, is to see exactly what the damage was so that the people can demand appropriate reforms. Those who say we should “move on” from that suspicious race and work instead on “bigger issues”—like electoral reform—are urging the impossible; for there has never been a great reform that was not driven by some major scandal.

“If a nation expects to be ignorant and free, in a state of civilization,” Thomas Jefferson said, “it expects what never was and never will be.” That much-quoted line foretells precisely what has happened to us since “the news” has turned into a daily paraphrase of Karl Rove’s fevered dreams. Just as $2+2=5$ in Orwell’s Oceania, so here today the United States just won two brilliant military victories, 9/11 could not have been prevented, we live in a democracy (like the Iraqis), and last year’s presidential race “was, at the end of the day, an honest election.” Such claims, presented as the truth, are nothing but faith-based reiteration, as valid as the notions that one chooses to be homosexual, that condoms don’t prevent the spread of HIV, and that the universe was made 6,000 years ago.

In this nation’s epic struggle on behalf of freedom, reason, and democracy, the press has unilaterally disarmed—and therefore many good Americans, both liberal and conservative, have lost faith in the promise of self-government. That vast surrender is demoralizing, certainly, but if we face it, and endeavor to reverse it, it will not prove fatal. This democracy can survive a plot to hijack an election. What it cannot survive is our indifference to, or unawareness of, the evidence that such a plot has succeeded.

About the Author

Mark Crispin Miller is the author of *The Bush Dyslexicon* and, most recently, *Cruel and Unusual*. His next book, *Fooled Again*, will be published this fall by Basic Books.

Notes

1.

The print version of “None Dare Call It Stolen” contained the following line, which was incorrect: “on Election Day, twenty-six state exit polls incorrectly predicted wins for Kerry.” The correct number was five states. Although we regret the error, the context surrounding it bears further explanation.

The mistake was brought to our attention by a letter from Warren Mitofsky, founder of Mitofsky International, which, along with partner Edison Media Research, has conducted exit polls of every presidential contest since 1996. In the letter, Mr. Mitofsky stated that not only was the figure for twenty-six states incorrect, so, too, was the assertion that Edison/Mitofsky's exit polling contained any mistakes whatsoever. “One hundred-twenty-three races for President, Senator, Governor, and propositions,” Mr. Mitofsky wrote, “were called without error.” He further attributed our misstep to “confusing the reports by bloggers with the exit poll my partner and I did.”

Perhaps. But a closer inspection of what Mr. Mitofsky actually means by “called without error” could indicate otherwise. On January 19, 2005, Edison/Mitofsky released a report that, while continuing to maintain that no election projection mistakes were made, did acknowledge the existence of serious “differences between the exit poll estimates and the actual vote count.” In thirty states, the voter estimates produced by Edison/Mitofsky data was wrong to a statistically significant degree (twenty-six states for Kerry, four for Bush). Our mistake came in failing to recognize that in twenty-one of the twenty-six instances in which the estimates incorrectly named Kerry as the front-runner, he ultimately carried the state, only by a smaller margin than indicated by the exit polls. Still, an apparent logical disconnect would seem to exist. How could the estimates be wrong but not the final projection? To answer this question, a clear picture of the difference between estimates and final projections is needed.

On Election Day, exit poll interviewers submit their results to Edison/Mitofsky three times, during regularly scheduled “calls,” the last of which comes shortly before the close of the polls. These results do not contain official vote numbers, which is important. Many people would assume that Edison/Mitofsky's final projections exclusively utilize the information collected at the polls and sent in during the calls; however, this is not the process. Edison/Mitofsky's report makes clear that it does not “rely solely on exit polls in its computations and estimates.” When the voting is complete, actual vote numbers are combined with the exit poll responses and “as in past elections, the final exit poll data used for analysis . . . [is] adjusted to match the actual vote returns.” So, even if the exit poll estimates are erroneous, Edison/Mitofsky still isn't wrong—because they just add in the actual vote numbers to ensure everything checks.

This practice is by no means secret, although perhaps the average voter or election-night network-television watcher might not have been aware

of it. I certainly wasn't. Maybe knowing this should serve to highlight the risks of viewing exit polls as a hedge against improprieties in the vote count. Or perhaps that is precisely the best use for them. The chances that the state exit poll estimates erred by such a wide margin was one 1 in 16.5 million, according to a study by the National Election Data Archive Project. One final key point remains: of the five states Edison/Mitofsky had Kerry leading that he eventually lost, Ohio was one. — [Theodore Ross](#)

[\[Back\]](#)

2. Another poll, by Zogby International, showed that 33 percent of voters deemed “greed and materialism” the most pressing moral problems in America. Only 12 percent of those polled cited gay marriage. [\[Back\]](#)

3. Keith Olbermann, on MSNBC, stood out as an heroic exception, devoting many segments of his nightly program Countdown to the myriad signs of electoral mischief, particularly in Ohio. [\[Back\]](#)

4.

The full report can be downloaded from the Judiciary Committee’s website at www.house.gov/judiciary_democrats/ohiostatusrept1505.pdf and is also, as of May, available as a trade paperback, entitled What Went Wrong in Ohio. I should note here that, in a victory for family values, the publishers of that paperback are my parents, Jordan and Anita Miller.

[\[Back\]](#)

5. When contacted by Harper’s Magazine, Blackwell spokesman Carlo LoParo dismissed Conyers’s report as a partisan attack. “Why wasn’t it more than an hour’s story?” he asked, referring to the lack of media interest in the report. “Everybody can’t be wrong, can they?” [\[Back\]](#)

6. Let it not be said that the Democrats rose wholly above the electoral fray: in Defiance County, Ohio, one Chad Staton was arrested on 130

counts of vote fraud when he submitted voter-registration forms purportedly signed by, among others, Dick Tracy, Jeffrey Dahmer, Michael Jackson, and Mary Poppins. Of course, depending on party affiliation, the consequence of election misdeeds varies. Staton, who told police he was paid in crack for each registration, received fifty-four months in jail for his fifth-degree felonies; Blackwell, for his part, is now the G.O.P. front-runner for governor of Ohio. [\[Back\]](#)

7. In May 2005, Eaton was ordered by the Hocking County Board of Elections to resign from her position. [\[Back\]](#)

8. The recount itself was the result of a joint application from the Green and Libertarian parties. [\[Back\]](#)

9. Offended by the president-elect's first cabinet appointments (Henry Kissinger, Daniel Patrick Moynihan, et al.), Bailey was protesting Nixon's liberalism. [\[Back\]](#)

10. On the other hand, the thesis that the exit polls were flawed had been reported by the Associated Press, the Washington Post, the Chicago Tribune, USA Today, the San Francisco Chronicle, the Columbus Dispatch, CNN.com, MSNBC, and ABC (which devoted a Nightline segment to the "conspiracy theory" that the exit polls had been correct). [\[Back\]](#)

This is **None Dare Call It Stolen**, originally from August 2005, published Wednesday, September 7, 2005. It is part of [Features](#), which is part of [Harpers.org](#).