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The Wizard of Odd

By Massimo Calabresi

One of the first decisions Nancy Pelosi had to make after she was sworn in as Speaker of the House was one of the most basic in a democracy: whether to seat the state-certified winner of an election. Vern Buchanan, a wealthy Republican car dealer, was declared the victor of the House election in Florida's 13th District by 369 votes in November. But 18,000 voters from a heavily Democratic county somehow didn't register a choice in that particular race, and Buchanan's opponent, Christine Jennings, claims their votes were swallowed up by paperless electronic-voting machines. Jennings has brought a suit asking for a revote, and on Dec. 20 she filed a dispute with the House.

For an army of Internet activists, the verdict is already in on "Florida 13." To them, it is the latest example of suspicious Republican victories based on electronic balloting and further evidence that U.S. democracy is threatened by the increased use of e-voting. The movement is a classic Internet phenomenon. On the one hand, it is breathless and conspiratorial, its credibility undermined by exaggerated claims and unsupported accusations. On the other hand, it is on to something. The number of uncast votes for Congress in Florida's Sarasota County is anomalous and deserves scrutiny: Could almost 1 in 5 voters really have chosen not to vote for their member of Congress? And paperless balloting in general is increasingly under fire: the government's premier science-and-technology panel last month came out against it.

In the belly of the voting-reform movement is a man who personifies this paradoxical lack of credibility in the service of a credible cause. Brett Kimberlin was convicted in 1981 of a series of bombings in Indiana. By his own account, he dealt "many, many tons" of marijuana in the 1970s. Most famously, he is the man who from his prison cell alleged that as a law student Dan Quayle bought marijuana from him. Quayle repeatedly denied the charge, and it was never substantiated. In e-mails and Web postings from Kimberlin's two organizations, Justice Through Music and Velvet Revolution, he intersperses occasionally useful pieces of information about the problems of e-voting with a hefty portion of bunk, repeatedly asserting as fact things that are not true. Kimberlin, in short, is an unlikely candidate to affect an important issue of public policy.

And yet he has. Kimberlin has found a home in the blogosphere, digging up and disseminating an indiscriminate gush of anti-e-voting material. In turn, a loose network of lawyers, congressional staff members and academics have filtered that torrent, verifying and using parts of it for their cause, many of them without knowing Kimberlin's background. Most notably, he played a key, behind-the-scenes role in a Princeton study issued last September that Norm Ornstein of the American Enterprise Institute says "caused a significant alteration in the debate" over e-voting. The office of Rush Holt, the leading congressional advocate of reform, has called Kimberlin "influential" in the movement.

In Kimberlin's mind, his successes are the product of special powers obtained through meditation. "I have evolved to where I can dip into the place of universal consciousness and tap into its very powerful forces to effect change in a positive way," he wrote in an e-mail to me late in my reporting for this story. In reality, he's just one moving part in a large, complex dynamic. But Kimberlin's grandiosity is as representative of certain parts of the blogosphere as his lack of credibility, all of which makes him a good case study of how the wilder parts of the Web are affecting the most basic functions of our democracy.

THE 1978 BOMBINGS FOR WHICH KIMBERLIN was convicted--the motives are unknown--maimed one man and terrified the town of Speedway, Ind. Kimberlin still professes his innocence, although when he was arrested, authorities found timers in his possession matching the ones used in the bombs. After his release from prison in 1993, Kimberlin pursued a musical career and an import-export business, eventually landing in his mother's basement in suburban Washington with a wife and two children. It is a constrained existence. The one-room apartment, with its low, dropped ceiling and stuccoed walls, has room for a double bed, a few stuffed chairs and a TV. After the contested 2000 election, he converted a hallway leading to the bathroom into a workplace, with a computer and modem. From that cramped space, he tapped into the expanding universe of online political activism.

The turning point for Kimberlin came with an idea to attract attention. Before the 2004 presidential election, he contacted the wealthy head of a foundation in Ohio who practiced transcendental meditation with Kimberlin's sister. After the vote, with a pledge from the benefactor, Kimberlin posted on justicethroughmusic.org a \$100,000 reward for any evidence that the election had been stolen. And things took off. First, the reward attracted blogger Brad Friedman, who then co-founded the netroots voting-reform website VelvetRevolution.us with Kimberlin and serves as his face man. The reward attracted other donors (including a politically active relative of mine who last year introduced me to Kimberlin). And it produced several people who claimed to have information on problems with electronic voting. They were prominently displayed on Friedman's site, BradBlog.com. Leveraging his website's popularity, Kimberlin made contact with congressional staff members and other activists, launching coordinated netroots campaigns for the cause.

In e-mails to me, Kimberlin claims his whistle-blowers "exposed Republican efforts to steal votes" and that a divestiture campaign targeting the nine e-voting-machine makers "helped to drive Diebold stock down by

more than 30%" and "caused numerous investigations of Diebold and other companies." In fact, no one has been charged as a result of Kimberlin's hell-raising. Yvonne Varano, who analyzes Diebold for investment firm Jefferies & Co. Inc., says the blogosphere's war on the company "has had a minimal effect" on its stock price. Diebold is under formal investigation by the SEC, whose spokesman declined to comment, but Varano said the inquiry is focused on accounting practices. Notably, no one has yet successfully claimed Kimberlin's reward, which has now grown to \$500,000.

But Kimberlin isn't all talk. In December 2005, he posted a call for Diebold stockholders to participate in a class action being prepared by lawyers with whom he was in contact. Kimberlin found the lead plaintiff; a judge has yet to rule on the validity of the class. The case alleges that Diebold defrauded shareholders by knowingly downplaying problems with its e-voting business.

Kimberlin channeled several reports of balloting irregularities in the 2006 elections that were sent to his websites to a voting-reform group that used them to challenge the use of Diebold machines in California, where the group brought a case against Diebold, alleging that the company infringed voters' rights by producing machines that can't reliably count their vote. The case has yet to be tried. And movement leaders credit him with helping mobilize supporters for petition drives pressuring members of Congress to support voting reform. The key to Kimberlin's success has been the credibility of those who have put his raw material to use. Last September that approach paid off big.

WHILE KIMBERLIN AND OTHERS were mixing fact and fiction in the blogosphere, organizations with more power and authority were grappling with the challenges of e-voting too. Some studies have found that e-voting reduces ballot errors by preventing voters from voting too many times or not enough in individual races. But the errors e-voting does produce often can't be caught because most electronic machines don't keep a reliable, independent record of the vote as it occurs. Asked to do a recount, a paperless e-voting machine will simply spit out the previous result. That, combined with the machines' vulnerability to tampering, says the American Enterprise Institute's Ornstein, has the potential to produce "a genuine, deep crisis of legitimacy," which is precisely what is happening in Florida 13.

In consultation with computer scientists at Stanford University and elsewhere, Congressman Holt, a Democrat and former professor of physics at Swarthmore College, has drafted a bill requiring that all e-voting machines come equipped with a device that produces a printed receipt showing a voter his or her choices before disappearing into storage, to be retrieved in the event of a recount. That bill is gaining momentum on Capitol Hill, thanks, Holt's office says, to the emergence of "concrete proof" of e-voting's shortcomings. Exhibit A is the so-called Princeton Report, published in September.

In mid-2005 a new activist emerged from Kimberlin's network. This time, the person had something of objective value: a pair of Diebold AccuVote TS voting machines, acquired through his job in the e-voting industry. Although e-voting- machine makers claimed their products were secure, no independent academic had managed to dissect an actual machine to check the assertion. Kimberlin called Professor Avi Rubin of Johns Hopkins

University, who had written about vulnerabilities in Diebold's e-voting source code after it was inadvertently left on a public server. "When Brett first contacted me, he seemed surprised that I didn't recognize him," Rubin says. "He said, 'It's Brett with Velvet Revolution,' and I felt like, 'Oh, boy, let's figure out how I can get off of this call.'"


But when Rubin heard a touchscreen machine might be available, he flew to the activist's house and examined it. Too busy to take on the project himself, he passed the machines along to Ed Felten, a professor of computer science at Princeton.

Felten and two graduate students produced a damning report. First, they showed that a touchscreen machine could be broken into and tampered with using a commonly available key, an act that would probably draw the attention of poll workers in an actual election. They also showed how a virus introduced from a memory card could steal votes. Felten concluded that touchscreen voting machines "are much more vulnerable to large-scale fraud" than older voting methods and that paper trails are needed to lessen the problem. Diebold spokesman David Bear says Felten's tests aren't "reflective of what happens in a real environment" and are "analogous to a magic trick, where you control the stage."

KIMBERLIN IS ONE OF THOSE people who indulge in late-night e-mails. "You have to explain what makes me different," he wrote in a message sent to me at 2:36 a.m. last month. "Not only did I have to overcome my past, but I then had to rise above millions of others to accomplish what I have. That is what makes this story special." In fact, it is not Kimberlin but his habitat that is special. In the anonymous universe of the blogosphere, Kimberlin could recruit like-minded activists, build a network to exchange information and leverage it all for access to credible opinion makers in academia and government.

A government report put out last December by the National Institute for Standards and Technology gave an apparent nod to the Princeton report, asserting in its conclusion, "We need voting systems that the computer engineering and security community can accept as reliable and secure." The panel endorsed the idea contained in Holt's bill of adding a paper trail to e-voting machines to keep the touchscreen's ease of use while providing printed receipts in the case of a recount. Pelosi's spokesman Brendan Daly says the prospects for Holt's bill in the spring "look good."

That will be too late for the voters in Florida's 13th District. Pelosi has said she intends to seat Buchanan, pending the outcome of Jennings' court case. That may be the right thing to do, but with no independent record of last November's vote, the Americans living in that district may never know who rightfully won the election. This might not seem like a big deal, but legitimacy is the musculature of democracy; without it, government has all the credibility of, say, Brett Kimberlin.

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