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The Stolen Election of 2000

Two things in particular, two historical events, pushed many on the left into Moore's capacious embrace.

The first of these was the Republican attempt to unseat a sitting Democratic President on specious grounds involving his personal life, led by a Special Prosecutor, Kenneth Starr, who seemed to confuse his personal religious views with a public policy mandate. It is a truism that often those who feel most threatened by their own sexuality do the most damage in society, and it is at least interesting that while Republicans chanted their mantra of "It's not the sex, it's the perjury," Starr's final report to Congress on his investigations dwelt sternly, but in fetishistic, fine-grained detail, on the sex. One of the best American essayists captured the sickness behind the Starr report very well. Adam Gopnik wrote in *The New Yorker*, "A supposedly dispassionate account of a man's sins becomes so overwrought that the reader gradually realizes that the point of the story is not that the hero is wicked but that the narrator is mad."¹

But Starr was merely the instrument. The plan was a seizure of power by extra-constitutional means, or, failing that, an attempt to cripple a sitting president of the opposition party and damage any potential Democratic candidate to be his successor.

This cynical morality play had two effects: it made non-conservatives very aware of the lengths to which conservatives would go to seize power, and it made some of them seriously consider playing by the same rules. Indeed, while there were many who recognized the damage that mixing sex and governance was doing to the republic, there were few liberals who denied a certain satisfaction in the sex scandals that broke over the heads of Newt Gingrich and his presumed successor as Speaker of the House, Robert Livingston, in the aftermath of the Clinton impeachment. Liberals, to their shame, didn't have much to say about pornography publisher Larry Flynt "outing" Livingston's affair and threatening to expose the affairs of other Republicans, even though it was hard to find liberals who thought that Flynt had done a good or honorable thing. The refrain "Live by the sword, die by the sword" was much bandied about.

The Lewinsky case was the prelude. More than anything else, the event that primed non-conservatives for bare-knuckled political brawling was the stolen election of 2000.

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What happened in Florida in 2000 is a vexed and complicated issue, but it is worth going into in some detail, because it is at the root of much of the polarization in American politics today. Let's look at the facts. George W. Bush won Florida's 25 electoral college votes, and therefore the presidential election, under the following circumstances:

¹ Adam Gopnik, "American Studies." *The New Yorker*, September 28, 1998.

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Bush's brother Jeb was the governor of Florida, and had ultimate oversight of the election machinery.

One of Bush's eight partisan Florida campaign co-chairmen, Katherine Harris, was also the officially nonpartisan Florida Secretary of State, in charge of supervising and facilitating the election.² Harris and Jeb Bush did something interesting prior to the election. They kicked a lot of legitimate voters off the rolls, and a majority of those who stayed off were Democrats. How they did this is known in rough outline, but their method is usually misunderstood and misinterpreted. It wasn't, contrary to popular belief, about disfranchising people by race.

The Secretary of State spent much effort prior to the election on purging the voter lists of persons convicted of a felony, who, if the conviction was in the state, do not have the right to vote in Florida. The state spent more than \$4 million on hiring a private contractor, Database Technologies, to compare lists of known felons with names on the Florida voter rolls and to prepare an "exceptions list" of matching names (after winning the contract, Database Technologies merged with ChoicePoint, Inc. in February 2000 and changed its name to DBT Online.) Those whose names ended up on the exceptions list were supposed to receive letters informing them of their status. If they wanted to regain the right to vote, they either had to prove to the State of Florida that they were not in fact felons, or apply for clemency from the governor's office.

So far, so good with the voter purge. There's nothing illegal or, arguably, anything wrong here; the state of Florida passed a law that had not been rescinded by the legislature or overturned by the courts, and no one forced anyone to commit a felony. If, for historical and socioeconomic reasons, blacks are overrepresented in Florida's felon population; and if, for not-unrelated historical and socioeconomic reasons, blacks in the post-Civil Rights era are more likely to be Democrats than Republicans, and if therefore more Democrats than Republicans happened to be purged in this manner, the purge may have helped Republicans but it was not necessarily a political act. Even if Republican election officials knew and were happy about the differing rates of disfranchisement, they were just doing their jobs, doing what the law told them to do.

But it's more complicated than that. The purge was riddled with errors, errors that the Florida Division of Elections and Secretary of State actively and knowingly encouraged. Staff at the Florida Division of Elections, supposedly nonpartisan but overseen by Republicans, instructed Database Technologies to use the loosest criteria for the matching process: Disregard the middle initial. Disregard the subject's date of birth – a close but not exact match is OK. Disregard Jr. or Sr. Consider it a match if ninety percent of the subject's last name matches. Match real first names with nicknames. Switched first and middle names can also match: to use the example given in the testimony of DBT Online's

² The office of State Secretary of State is quite different from that of the federal office of the same name. This officer does not work on foreign relations, which are constitutionally reserved for the federal government. The State Secretary of State is charge of civic matters, such as overseeing fair and transparent elections.

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Vice President for Operations George Bruder before the US Commission on Civil Rights, “Ann Deborah” would match “Deborah Ann.”³

Katherine Harris and the Division of Elections were repeatedly and explicitly told by precinct officers and by Database Technologies itself that this “loose” method of identifying felons would result in a lot of false positives, but consistently responded that this was all to the good. Marlene Thorogood, a Product Manager with Database Technologies, sent an email to Emmett “Bucky” Mitchell IV, an Assistant General Counsel for the Division of Elections, in which she wrote, “Unfortunately, programming in this fashion may supply you with false positives.” Mitchell replied, “Obviously, we want to capture more names that possibly aren’t matches and let the supervisors [of elections] make a final determination rather than exclude certain matches altogether.”⁴ George Bruder, in his testimony, confirmed that Mitchell had been notified of the poor methodology and confirmed that Mitchell had responded that the list should be broad and encompassing. “[T]he state dictated to us that they wanted to go broader, and we did it in the fashion that they requested.”⁵ According to Mitchell, the loose criteria were approved by the head of the Division of Elections Ethel Baxter, after consultation with Katherine Harris. The state’s response to repeated warnings about the looseness of the match criteria was to further loosen – not tighten – those criteria.

Harris and Jeb Bush went further: In addition to felons convicted in Florida, they instructed Database Technologies to include in the database of felons people convicted of felonies in the states of Texas, Ohio, Wisconsin, South Carolina, Kentucky, New Jersey, Virginia, Washington, Connecticut, and Illinois, states for which Database Technologies had access to conviction records. This meant that if a Florida voter’s name and birth date were a *rough* match with a *felon in one of these states*, the Florida voter would be struck from the rolls. But Texas, Connecticut, South Carolina and Wisconsin automatically restore civil rights after felons have served their full sentences or complete parole; Illinois and Ohio restore their voting rights on release from prison. The idea that felons whose civil rights had been restored in the state in which they did their crimes could be barred from voting was a position that the Florida Supreme Court had specifically rejected as illegal in 1998.

The standard conspiracy theory that has developed in the wake of the 2000 election, the one suggested by Greg Palast and John Nichols and sometimes by the NAACP, goes something like this: By setting the exceptions list criteria so loosely, Harris and Jeb Bush and Florida’s Division of Elections were deliberately drawing blacks disproportionately into the list, deliberately disfranchising them, figuring that blacks were most likely Democrats. As Michael Moore expressed it in the opening sequence of *Fahrenheit 9/11*,

³ George Bruder Testimony, Miami Verified Transcript, Feb. 16, 2001, p. 220.

⁴ In materials quoted by the US Commission on Civil Rights’ investigation. Emmett Mitchell IV, assistant general counsel, Division of Elections, “Your letter,” Mar. 23, 1999.

⁵ George Bruder Testimony, Miami Verified Transcript, Feb. 16, 2001, p. 219. Part of Bruder’s testimony, can be seen on the DVD *Unprecedented: The 2000 Presidential Election*.

where he discusses the Florida vote: “You can usually spot them by the color of their skin.” But that theory doesn’t hold up.

Think about it. If you set your criteria to produce false positives, you will get a lot of incorrect matches with non-felons – but not necessarily black or poor or otherwise likely-to-be-Democratic non-felons. Matching Jonny Ray Jones Jr. with John A. Jones is just as likely to match an urban unemployed black Democratic felon with a rich white suburban Republican John Bircher. *Unless*, in addition to the loose name criteria, you match exactly on race; in that case you’re much more likely (although still nowhere near certain) to incorrectly match the felon with a non-felon of similar background and political affiliation. But it seems that Database Technologies did *not* match on race, and the State of Florida didn’t filter the results that way. The exceptions list included more than a thousand racial mismatches.

The numbers don’t support a “black exclusion” strategy. Blacks are 14.6 percent of Florida’s general population and 11 percent of the over-18, US-citizen potential voting population,⁶ but almost 49 percent of all of Florida’s felons are black;⁷ blacks were 44 percent of those named on the exceptions list as suspected felons.

On this basis, US Civil Rights Commissioners Abigail Thernstrom and Russell Redenbaugh dissented from the Commission’s post-election finding that there was disproportionate black disfranchisement, since 44 percent is below the 49 percent of blacks in the Florida felon population. Yet this number *does* show some disproportionate black disfranchisement. In the absence of skewed selection by race, we would expect blacks to be 49 percent of those *legitimately* disfranchised, reflecting their numbers in the felon population, and 11 percent of the *remainder* of the exclusions, those disfranchised due to random mismatches between the felon list and the voter list, in proportion to the general population. We can’t know exactly what total percentage to expect under this scenario, since there is no reliable information on what proportion of the names on the exceptions list were mismatches, but it would probably have been less than 44 percent. However, even taking this into consideration, at 44 percent we do not necessarily see intentional targeting of blacks by race; there are other possible explanations, such as the disproportionate association of blacks with certain last names – Washington, Williams – that might have skewed the results to matching more black felons with black non-felons than with white non-felons.⁸ Given the lack of evidence that race was used as a selection criterion and the overall closeness of the statistics to the proportions in the general

⁶ Source: US Census Bureau.

⁷ Source: Florida Department of Law Enforcement; and the dissenting statement of US Civil Rights Commissioners Abigail Thernstrom and Russell Redenbaugh on the Commission’s report on Florida voting (the relevant passage does not appear in all versions of the statement; it is present in the version posted on *National Review Online*, at <http://www.nationalreview.com/document/documentprint062701.html>. This link was active as of August 2005.)

⁸ See Guy Stuart, “Databases, Felons, and Voting: Bias and Partisanship of the Florida Felons List in the 2000 Elections.” *Political Science Quarterly*, vol. 119, no. 3, Fall 2004. pp. 453-475.

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population, such unintentional second-order explanations are more plausible than a conspiracy based on racial selection.

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Does all of this mean that the felon purge was innocent and non-political? Not at all. It was just diabolically clever. What were Jeb Bush and Harris and Mitchell and Clayton Roberts, the director of the Division of Elections, up to? Why would they want to cast a wide net?

They were using a rebate strategy.

Think of how rebates work. A company offers a product at a certain price, but a partial refund is available, which encourages sales to those who might not buy the product at the full price. Only motivated customers take advantage of the offer, though, since the rebate application process is intentionally annoying and designed to discourage a response.

The Florida purge criteria were designed to kick as many people as possible off the rolls, in two groups: genuine felons, and those who roughly matched their names. The first group could be reasonably assumed to be disproportionately black, poor, and likely Democrats, but felons were legitimately excluded, by law. The second group might be people of any race, background, or political affiliation. It was randomly selected.

Remember that if a person's name turned up on this list, the process of getting voting rights restored put the onus on the voter. He or she, first of all, had to receive the notification letter, and to receive the letter this voter needed a stable address. The voter needed to have the documents to prove non-felon status, which would include having a valid photo ID. The voter would have to know his or her Social Security number. The voter would have to have a reasonable level of literacy, and to be confident in interactions with officials. The voter would have to not fear contact with the authorities on account of things like unpaid parking tickets or child support. Above all, the voter would have to be motivated, would have to have enough of a sense of citizenship to be willing to jump through some hoops to get the right to vote restored.

Now in general, what group would more often be able and willing to go through the "rebate" process? Not the poor, the transient, the uneducated, the marginally literate, those alienated from mainstream political culture – which, since the Republican Party serves the interests of the rich, disproportionately describes Florida's Democrats. Since race is related to class, it also happens to disproportionately describe Florida's blacks.

People in these categories, if they were citizens and residents of Florida and over 18 and had not been convicted of a felony, had the right to vote. But if they were on the list, *they had to actively claim this right.*

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The response to notification of disfranchisement in fact followed exactly the pattern that a rebate strategy would suggest. Out of 4,678 African Americans on the Miami-Dade exclusions list, 239 objected when they were notified that they were ineligible to vote and had their voting rights restored. They represented 5.1 percent of the total number of blacks on the felon list for that county. Of the 1,264 whites on the list, 125 objected, 9.9 percent, and had their rights restored.⁹ The higher absolute number of blacks *targeted* is most likely explained by the disproportionate number of black genuine felons. The higher rate of *reinstatement* of whites is most likely explained by higher literacy rates, more stable residency patterns, and greater comfort levels dealing with officials, which determined their response to the exclusion notification. We don't know anything about how those who were reinstated, black or otherwise, voted; but we do know that as a group, blacks in Florida voted for Al Gore by a factor of more than 9 to 1, and whites favored Bush.

That's why the Republican officials cast a wide net. Exclude as many as possible, and disproportionate numbers of Republican voters will self-select. They'll take the rebate. The strategy was about class, not race. But like so many things in America, class looked like race.

The beauty part from the point of view of the Republicans is that, unless someone finds a strategy memo that Bush and Harris and Mitchell never needed to write – they would have understood each other too well – partisan intent to skew the election is entirely unprovable; and without that intent, the plan wasn't illegal. The exceptions list *wasn't* meant to disfranchise blacks. That idea was a red herring, and it totally confused those Democrats and black activists who tried to figure out what was happening but couldn't quite do it. Unimaginatively turning to the tired tropes of past battles, they trapped themselves into having to prove disproportionate black disfranchisement, into having to explain why there were anomalous rates of Hispanic disfranchisement, high rates of white disfranchisement, and they couldn't do it. None of that was to the point. What mattered were the *numbers* of those who were excluded, and they were in the tens of thousands. The higher the numbers, the more the rebate effect would show up.

Contrary to the US Commission on Civil Rights' report and the indignant claims of the Republican Party, it is quite reasonable to conclude that there was a preconceived plan designed for partisan effect. Did it work? The impact of the purge list was somewhat ameliorated by the fact that it was so widely known to be flawed that many county elections supervisors did not use it, or used it only partially. This was a decision taken at the county level. But in a very close election, its effect should not be discounted. George W. Bush won Florida by an officially certified margin of 537 of the 5,825,043 votes cast in Florida. That's less than one one-hundredth of one percent. The Republicans always knew it was going to be close. They knew it wouldn't take much.

⁹ US Commission on Civil Rights, *Voting Irregularities in Florida During the 2000 Presidential Election*.

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Can we be sure that this was what Jeb Bush, Harris, Roberts, and Mitchell were thinking and planning? Of course not. But they talk to plenty of party statisticians and socio-political analysts. They are pros. They know how these things work. And the behavior of Harris and Bush in other election matters is instructive. Acting in their capacities as government officials – supposedly responsible to the process rather than to their party or candidate – they did everything they could to help George W. Bush win.

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Things that Moore left out of *Fahrenheit*: Bush's narrow margin of victory triggered an automatic recount. When a Miami-Dade County hand recount of questionable ballots started to show Gore gaining, there was a threatening demonstration outside the county offices that intimidated officials into stopping the recount. Although the demonstrators claimed to be a spontaneous crowd, it later turned out that they were a group of Republican Capitol Hill staffers, more than 200 of them. Republican Party operatives paid their airfare down to Florida, as well as all their expenses, so that they could demonstrate against the recount and generally disrupt Democratic events. There is a picture of a group of these rioting Republican staffers, each of them identified by name and position on various Republican staffs, in John Nichols and David Deschamps' *Jews For Buchanan: Did You Hear The One About The Theft Of The American Presidency?* (New Press).¹⁰ New York Republican representative John Sweeney was there, and was heard to shout, "shut it down!"¹¹ – that is, shut down the recount, a legal process put in place by the institutions of democracy. John Bolton, a lawyer working for the Republicans who would later be George W. Bush's nominee as Ambassador to the United Nations, arrived in Miami to announce, "I'm with the Bush-Cheney team, and I'm here to stop the count."¹²

It happened that absentee ballots for Bush had glaring irregularities: no postmark, filled out or requested by someone other than the voter, filed after the deadline, etc. When the Republicans starting slamming the Democrats in the press by insisting that Democrats were trying to disfranchise military personnel serving overseas, Al Gore's running mate, Joe Lieberman, conceded that while some of the absentee ballots might be very questionable, it looked too bad to go after the military vote, so the Democrats dropped

¹⁰ No reason not to repeat here the names of some of the people who had such contempt for the democratic process: Tom Pyle, policy analyst, office of [then] House Majority Whip Tom DeLay. Garry Malphrus, majority chief counsel and staff director, House Judiciary Subcommittee on Criminal Justice. Rory Cooper, political division staffer at the National Republican Congressional Committee. Kevin Smith, former House Republican Conference analyst. Steven Brophy, former aide to Republican senator Fred Thompson. Matt Schlapp, former chief of staff for far-right Republican Todd Tiahrt, at the time of the "riot" working for the Bush campaign. Roger Morse, an aide to Republican representative Van Hilleary. Duane Gibson, an aide to Republican representative Don Young. Chuck Royal, legislative assistant to Republican representative Jim DeMint. Layna McConkey, former legislative assistant to former Republican representative Jim Ross Lightfoot.

¹¹ Jeffrey Toobin, *Too Close To Call: The 36-Day Battle To Decide The 2000 Election* (Random House), p. 156.

¹² Scott Shane, "Never Shy, Bolton Brings a Zeal to the Table," *New York Times*, May 1, 2005.

that line of challenge. But the joke was on them: While the Republicans had made an enormous outcry about supposed Democratic plans to block the military vote, they in fact had put in place their own plan to challenge absentee ballots, including military absentee ballots for voters registered in Democratic but not in Republican counties, insisting on using the tightest criteria in the former and the loosest in the latter. They also effectively challenged civilian absentee ballots while fighting to count military overseas ballots with exactly the same flaws. Reporters for *The New York Times* thoroughly documented the double standards of the Republicans. Referring to the Supreme Court decision that eventually decided the election, they concluded, “The court did not consider the varying treatment of military and civilian votes. It did not address the unequal treatment of the 2,490 ballots that finally determined the election’s outcome. Those issues were never raised.”¹³

After the election, it turned out that if ballots in which the voter had both written in the candidate’s name and checked the box next to the candidate’s name were counted, or else had crossed out one marked circle and marked another – the so-called “overvotes” – a statewide recount would have shown that Gore picked up 315 net votes of the first type and 682 net votes of the second type, enough to wipe out Bush’s 537 vote victory margin. The optical scan ballots were supposed to work by recording the voter’s choice from a darkened circle, but included a line at the bottom for a write-in candidate. Next to this line the instructions said, “Write in candidate’s name here.” Many voters thought they should write in the name of the candidate whose circle they had selected. The intent of the voter would not seem to be ambiguous for both kinds of “overvotes,” and Florida law specifically mandates that it is the intent of the voter that must be considered. The Bush team successfully argued that these votes should not be counted.

The Florida Supreme Court ordered a statewide recount of *all* questionable ballots. However, the Bush campaign couldn’t accept this. Bush brought suit at the Supreme Court, demanding that all recounting stop and that he be named the winner. In *Bush v. Gore*, in a 7-2 ruling the Court held that Florida’s recount was unconstitutional because of varying ballot-counting standards in the different counties (nothing was said about the varying *voting method* standards in those counties and, indeed, nationally). Then, rather than insisting that the Florida Supreme Court develop a single standard for counting and extending the arbitrary counting deadline, in a 5-4 ruling the Court forbade *any* recount before the arbitrary statutory deadline of December 12.¹⁴ All five of the justices who ruled in Bush’s favor had been appointed by Republican presidents.

These five judges were known, or quite reasonably presumed to be, Republican partisans personally. Justice Sandra Day O’Connor, on first hearing that Gore was apparently the winner on the close election night, was overheard to remark, “My God! That’s terrible!”

¹³ David Barstow and Dale van Natta Jr., “Examining the Vote; How Bush Took Florida: Mining the Overseas Absentee Vote.” *The New York Times*, July 15, 2001.

¹⁴ For a very interesting discussion of the US Supreme Court Justices’ reasoning and their states of mind, see David A. Strauss, “*Bush v. Gore*: What Were They Thinking?” in Cass R. Sunstein and Richard A. Epstein (eds), *The Vote: Bush, Gore and the Supreme Court* (University of Chicago Press).

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Two of Justice Antonin Scalia's sons were working for the Bush legal team during the recount battle, and his son Eugene had already obtained a job with the incoming Bush administration, assuming Bush won. The wife of Justice Clarence Thomas, Virginia Lamp Thomas, was working for the Heritage Foundation, vetting possible Bush administration appointments. O'Connor, Scalia and Thomas refused to recuse themselves.

The court emphasized that its decision was not to be read as setting any kind of precedent. Quite extraordinarily, the decision was rendered *per curiam*; that is, it is not signed by the individual justices. These facts led many to suspect that the justices are secretly ashamed of what they have done and aware that it would lead to electoral chaos if applied as a precedent. No wonder that, after *Bush v. Gore*, many of the court's own clerks "thought that the Court was a fraud, that the place had sacrificed its legitimacy, and that there really wasn't much point in taking the whole institution seriously anymore."¹⁵

After the election, a consortium of news groups counted all of the disputed ballots cast in Florida and found that if there had been a statewide recount of all of these ballots using the standards in effect in each county, Gore would have won by 171 votes. Using various combinations of the various standards that were proposed at different times and in different counties for the recount, Gore wins under twelve scenarios and Bush wins under twelve scenarios. Ironically, under the standards Gore sought from the Florida Supreme Court, Bush wins. But using the tightest combination of standards – completely filled circles for Optical Scan ballots and full punches for punch-card ballots, and stipulating that all observers agree on the condition of the ballots, Gore would have won by 134 votes. You have to loosen at least one of those things for a Bush win.

You can check this for yourself. The *New York Times* has posted a web-based data tool that uses the results of the media consortium investigation in configurations that you can specify. The tool is at <http://www.nytimes.com/images/2001/11/12/politics/recount/results/A2B1C6.html> (This link was active as of August 2005). By the way, if anyone out there still takes Ann Coulter seriously, she's on record as saying of the 2000 election, "The media consortium study... [showed] that Bush had won on any count."¹⁶ The anti-Moore film *Celsius 41.11* also claims that "the media consortium declared George W. Bush the winner no matter how the votes were counted." In support of this statement, the film flashes a written summary of the consortium's findings on the screen for a few seconds, too fast to read it. If you pause the film and read this summary, what you can see of it says this: "George W. Bush would remain as the winner of Florida's electoral vote...under one limited set of rules, those prescribed by the Florida Supreme Court in December of 2000... Bush's title, however, rests on narrow legalistic grounds... Under a full accounting, Gore probably would be president..."

¹⁵ See Jeffrey Toobin, "Breyer's Big Idea." *The New Yorker*, October 31, 2005.

¹⁶ Ann Coulter, *Slander* (Crown Publishing), p. 149.

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Of course there is a Republican counter-narrative to this description of events. A representative example is Bill Sammon's book *At Any Cost: How Al Gore Tried to Steal the Election* (Regnery Publishing, 2001.) Sammon is a long-time Clinton hater and a reporter for the reactionary *Washington Times*. Since the election, he's written adoring books about Bush in office.

Sammon's work is forthrightly partisan. He clearly despises Al Gore and paints him as a ruthless, selfish schemer without any sense of national responsibility. Sammon does a good job of showing that the Florida elections were poorly organized and administered and that, in the aftermath of the vote, many decisions by judges, canvassing boards and individual poll workers were taken on a sloppy, ad hoc basis. But he tries to paint every hardball decision that the Gore team made to try to turn the procedures to Gore's advantage as some sort of illegitimate scam, and completely ignores the fact that the Bush team was doing the same and worse on the other side of the question. The book's focus on Gore allows Sammon to keep almost silent about the thuggery of the Bush people, and to portray Bush as an innocent bystander, a noble man above the fray. But even some of Sammon's own details condemn the Bush advocates, as when he describes how Katherine Harris, again and again and again, refused to allow recounts and, when they were forced upon her, refused to allow enough time for them to take place. Harris allowed the extension of only one deadline: that for the absentee ballots, widely expected by both Democrats and Republicans to favor Republicans because of the large number of military ballots. Sammon, a Republican partisan, shows that *every single decision that Harris took in the aftermath of the election favored Bush and hurt Gore*.

Sammon makes one legitimate point: that thousands of voters in the Western Florida panhandle, which was dominated by Republicans and which was in a time zone one hour earlier than the rest of the Florida precincts, were discouraged from voting when NBC called Florida for Gore at 7:49 Eastern time; thinking the contest was over, many potential Republican voters standing in line to vote may have gone home. Sammon believes this may have cost Bush as many as 10,000 votes. But Sammon also believes (and I agree with him on this) that the confusing Palm Beach "Butterfly Ballot" was no excuse for a recount in that county; if voters couldn't figure out how to vote properly, if they couldn't see which arrow led to which candidate on the form, that was their problem. According to the media consortium findings, poorly-designed ballots probably led to a net loss of more than 8,500 votes for Gore. So what about those Bush voters who supposedly just stepped out of line the minute they heard the very first, unconfirmed call that their guy had lost, just eleven minutes before the polls were scheduled to close? Isn't that their problem too? Besides, Sammon undermines his own point just a few pages later, when he notes that John Ellis,¹⁷ Bush's first cousin who was heading up the Fox News "decision desk," called Florida for Bush just three minutes after Tom Brokaw at

¹⁷ "John Ellis" is something of a Bush family name. The "Jeb" in Jeb Bush is actually an acronym for John Ellis Bush.

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NBC said it had gone for Gore. Ellis made the call after speaking with his cousin, the candidate –surely this procedure is as irregular and illegitimate as any mistake made by NBC based on faulty information.

Astonishingly, Sammon makes *no mention whatsoever* of Katherine Harris’ inaccurate purges of the voter rolls that just happened to favor Republicans, something which may have cost Gore tens of thousands of net votes. And when he discusses the lingering effects of the election, he drifts into complete fantasy land. “During Bush’s first months in office, most Americans closed ranks behind their new president... Bush demonstrated a sure-footedness that reassured Republicans and Democrats alike that an adult was now in charge. The new president deftly cultivated a bipartisan bonhomie that silenced most cries of illegitimacy.”¹⁸

Which begs the question: What planet was Sammon living on? The new administration was the most viciously partisan in living memory. Bush seemed to relish crushing and humiliating his political opponents, making no concessions whatsoever to the fact that he had lost the popular vote and won the electoral college under extremely questionable circumstances. The newly installed Vice President, Dick Cheney, boasted of how little respect this administration had for its clear lack of a mandate: “From the very day we walked in the building, a notion of sort of a restrained presidency because it was such a close election, that lasted maybe thirty seconds. It was not contemplated for any length of time. We had an agenda, we ran on that agenda, we won the election – full speed ahead.”¹⁹ The arrogance is mind-boggling, and sadly predictive of the wartime crimes of hubris and incompetence that Bush and Cheney were later to add to that of their election theft. But according to Sammon, this administration was cultivating *bipartisan bonhomie*? The fact that Sammon could write this without any apparent sense of shame casts serious doubt on the credibility of his entire book.

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Let’s try a thought experiment. Let’s go to opposite-land. Suppose all of these things happened just as they did, but *the other way around*. Suppose it was Gore’s brother who was the governor of Florida, and the Florida Secretary of State was one of Gore’s campaign chairmen. That the Florida Secretary of State/Gore campaign chairman had been using a flawed database methodology to kick legitimate voters off the voting lists prior to the election, in a manner which subtly favored the reinstatement of Democrats. That she had continued to do this even after being informed of the errors, and that election officials had explicitly instructed the database contractor to use a methodology that would give “false positives.” That Democratic partisans had disrupted a legitimate recount and forced it to close down. That many of the absentee ballots that went for Gore had serious irregularities. That the Supreme Court that handed the election to Gore had a majority of known Democratic partisans who had obvious conflicts of interest. That an

¹⁸ Bill Sammon, *At Any Cost: How Al Gore Tried to Steal the Election* (Regnery Publishing), p. 274.

¹⁹ Bob Woodward, *Plan of Attack* (Simon and Schuster), p. 28.

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examination of the disputed votes showed that, under the strictest standards, Bush had won. And that, after all, more Americans had voted for Bush than for Gore, a fact that may have no constitutional relevance but that is very important for a popular sense of political legitimacy.

Given this opposite-land scenario, would the Republicans have shrugged their collective shoulders and said, “Well, it was close, but Gore’s the president now, he won it fair and square. We Republicans will just have to accept that and maybe we can turn it around in four years.”

Of course not. The entire Republican congressional delegation, led by Republican *Capo* Tom DeLay, would have walked out if Al Gore had tried to take up his duties, leading to a constitutional crisis. I think we all know this. The fact that the Democrats did not do this when Bush was appointed to the presidency in exactly this manner was a huge failure of responsibility, and very hard to forgive. It made many people anxious to listen to anyone who would stand up and tell the obvious truth about Bush’s illegitimacy.

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To be clear, then: It is more than plausible – it is very likely – that Jeb Bush and Katherine Harris and their confederates in the Florida Republican Party stole the 2000 election. Not accidentally, not due to unanticipated chaos, but according to a well-thought-out, preconceived plan, first with the purge and then using every official tool at their disposal to help their man win. Most of the people who knew this did not grasp the mechanics of the first aspect of the plan, believing that the voter purge was designed to directly disfranchise blacks. But it hardly matters. It was designed to disfranchise Democrats. They knew they’d been cheated, and they were right about that.

The outrage lingers and can’t be assuaged – certainly not by the protests at Bush’s 2001 inauguration, which I observed and which Michael Moore discusses in the opening sequence of *Fahrenheit 9/11*. In his film, Moore describes Bush’s armored limo being hit with eggs and forced to stop, and says that Bush was not able to make the traditional walk for the last few blocks of the route. This last part is not true. Bush did get out and walk, but not very far, and only when he was in the safe, restricted zone among his ticket-holding supporters.

I was in Washington for the inaugural parade, and I remember that the fury was like a living thing. There was applause from the Republican stands when Bush and Dick Cheney took the stage, but the boos and calls of “Thief!” from the crowd were quite audible on the steps. Chief Justice William Rehnquist got the biggest applause from the Republican seats during the administration of the oath, which struck me as candid acknowledgment of what had happened.

A few Republicans along the motorcade route were deeply offended by the protesters. One apparently middle-class, middle-aged, well-dressed man spotted two men in their

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thirties who were holding up a large sign reading “STOLEN ELECTION, PHONY PRESIDENT” and yelled that they were “a couple of sore-loser queers.” A group of ten or so Republicans, in tuxedos and party dresses for the inaugural balls, suggested that the protesters would feel more at home in Cuba. “Yes, they have phony elections there too!” a protester replied.

The police had to delay the parade because a group of protesters had burst through the police lines at fourteenth and Pennsylvania and were blocking the route. Finally, when the motorcade rolled, there were really loud boos and taunts as the cars turned onto Pennsylvania Avenue. Bush must have heard it. I can testify that, just as Moore showed it in *Fahrenheit 9/11*, the street was very densely packed with signs reading HAIL TO THE THIEF!, ILLEGITIMATE!, GORE GOT MORE! and BUSH CHEATED! And my own personal favorite: SORRY BARBARA, YOUR SON’S ILLEGITIMATE. He must have seen them. It wasn’t just in one place along the route; it was all along it. In some places, the protesters were the very large majority, and they were loud.

It angered me when the protesters taunted the cops and military, who after all were just doing their jobs, jobs that are worthy of respect. I had a more complicated reaction to the treatment of the high-school marching bands. I certainly felt sorry for them; after all, this was supposed to be their big moment, a celebration, and they’d practiced hard and it was wet and rainy and freezing and they (especially the Texas bands) were drawing a lot of boos and thumbs-down signals as they marched along, gamely giving the “W” salute with their fingers. (This confused me at first. I thought they were giving the Satanic biker horns symbol while looking straight ahead, as if they’d collectively lost patience with the crowd and had decided as a group to give it back to us. That would have been great, in a strange way; under the circumstances, the parade should have been as much of a bummer for all concerned as possible. But no, it was the “W” salute, I eventually realized, just following the drill.) I thought it was important for them to realize that there was nothing to celebrate here; important that they go home to Amarillo or wherever and tell people that the crowd was focused and furious, that there was a depressed mood. So I felt for them and I hated to see them take flak from the crowd, but perhaps it was a lesson that had to be learned. Innocence is not always a virtue.

Those who protested the installation of a usurper with an unwarranted sense of entitlement were in no mood for finesse. Michael Moore might be a loudmouth who occasionally makes unjustified, even scurrilous attacks on Bush, but many of those who knew that Bush stole the 2000 election thought, “Well, more power to Moore.” The election showed that it was no time for fine-grained reason and delicate, balanced argument in political debate. What was wanted was a return to democracy itself. Yes, and revenge. The blunter the instrument, the better. A significant part of the broad opposition to Bush was ready to coalesce around a populist demagogue.