

## OF PIGS AND DEMOCRACY

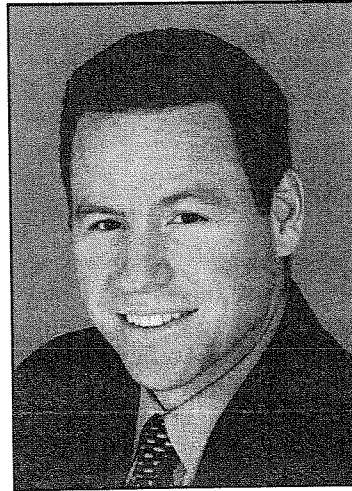
By Spencer H. Silverglate

On November 2, 2004, history's greatest democracy set out to fill the most powerful position in the free world—President of the United States. On the Florida ballot, however, the presidential election all but took a back seat to a dizzying array of proposed amendments to the State Constitution. Floridians were asked to vote on issues ranging from capping attorneys' fees in medical malpractice cases and increasing regulation of doctors to allowing slot machines at pari-mutuels and requiring parental notice for abortions on minors. One amendment asked voters to repeal an earlier amendment mandating a state-run bullet train. The earlier amendment, along with its subsequent repeal, both passed easily.

We Floridians can't seem to resist a constitutional amendment. In fairness, though, some restraint was shown, as nothing about baby pigs or any other barnyard animal made the ballot this time.

I personally had lots of time to consider the amendments because, on Election Day, I joined many of my colleagues around the state in volunteering to serve as an attorney "poll-watcher." In pre-election training, poll-watchers were educated about voting improprieties, i.e., violations by the "other party." But my training left me ill-prepared for the real drama of the Big Day. What I observed was more basic than voting impropriety and puzzling amendments. It was just plain old human nature, which is our American democracy in action. Here are some snippets:

- A newly minted U.S. citizen handed her voter registration card to a poll-worker and, in broken English, announced, "I'm here to vote." When the official noticed her name in the official register as an early voter, the woman proudly declared that she had voted, but was there to vote again. It was readily apparent that this woman was not trying to pull a fast one. She just thought the custom was the same as her homeland—"vote early, vote often."



- An elderly couple shuffled into a voting machine together. When they came to the questions about whether our appellate and supreme court justices should be retained, one lamented (quite loudly) that she didn't know any of the jurists. Her husband responded, "Look, if you like their names, then keep 'em." I imagined Learned Hand rolling in his grave at that moment.

- A party enthusiast campaigning outside the polling place exhorted voters to remember "who's your daddy." I'm still not sure what she meant by that.

Despite colorful vignettes like these, voting in Florida was relatively smooth throughout the State. This time, there were no hanging chads, butterfly ballots or court-decided elections. In many precincts, voters turned out in record numbers and, for the most part, cast their ballots in an orderly fashion.

Which brings me back to those amendments. I realize that many FDLA members and their clients have serious, valid concerns about some of them. It's worth remembering, though, that other amendments and major pieces of legislation caused similar concerns in the past, and we survived them. We survived because our system of governance, our American democracy, is fundamentally fair.

The fight over the amendments will rage on in Florida's Legislature and courts for some time to come, but it will not take place in the street. Unlike other countries, no blood will be shed and no governments overthrown. Although some of the competing interests may be dissatisfied with the ultimate outcome, all are guaranteed the right to have their positions aired and vetted, checked and balanced. And therein lies the genius and the beauty of our American democracy.

Finally, for what it's worth, I believe that everything will turn out okay, both for our nation, our noble profession and the clients we represent.