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GATEKEEPERS TO THE FRANCHISE: ELECTION ADMINISTRATION AND VOTER PARTICIPATION IN NEW YORK

by

RONALD HAYDUK

A dissertation submitted to the Graduate Faculty in Political Science in partial fulfillment of the requirements for the degree of Doctor of Philosophy, The City University of New York.

1996

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Abstract

GATEKEEPERS TO THE FRANCHISE: ELECTION ADMINISTRATION AND VOTER PARTICIPATION IN NEW YORK

By

Ronald Hayduk

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Political scientists continue to debate the causes, consequences and remedies for America's exceptionally low voter turnout. While scholarly investigation has focused on several factors which produce low voter turnout, the machinery that administers elections in the U.S. has been ignored. Nor have the political influences and environments that determine these agencies' procedures and their place in the electoral system been adequately analyzed. There is, nevertheless, good reason to believe boards of elections play a greater role in shaping participation than is generally appreciated. Evidence indicates that in conducting elections and in implementing electoral rules--such as voter registration procedures--boards of elections can impact upon participation. Practices of boards of elections reflect the influence of networks of dominant political actors who are represented on these boards, and who mutually resist outsiders, whether as insurgent candidates or new and unpredictable voters, having incumbency interests in maintaining a stable and constricted electorate and party system. Thus, since the process of implementing electoral law is variable, and there is considerable latitude in the discretionary actions that boards of elections can take, their practices tend to reflect and serve these dominant political relations. This dissertation examines the politics involved in the development and impacts of voter registration procedures and election administration in New York during the decades surrounding the turn of the century and from 1984 to 1996.

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TABLE OF CONTENTS

Introduction Page 1

Chapter One Page 32

Explanations of Non-Voting: The Role of Voter Registration Procedures and Election Administration.

Chapter Two Page 101

Voter Registration and Election Administration in New York: An Historical Overview.

Chapter Three Page 147

Voter Registration and Participation in New York State, 1984-1995.

Chapter Four Page 232

The New York City Board of Elections, 1984-1995.

Chapter Five Page 356

The Specter of Vote Fraud: The 1993 Elections in New York City and Voter Disenfranchisement.

Chapter Six Page 425

The New York City Voter Assistance Program (VAP) and The New York City Voter Assistance Commission (VAC): Promise and Performance.

Chapter Seven Page 498

Discussion and Conclusions.

Appendix A Page 532

Appendix B Page 535

Bibliography Page 541

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INTRODUCTION

The causes and consequences of America's uniquely low electoral participation have been the focus of much research and public policy debates. There is perhaps no sub-field in political science which has been studied more than voting behavior. Some political scientists have estimated that electoral politics may be the subject of most publications in the field: "The most important, most familiar, most analyzed, and most conjectured trend in recent American political history is the thirty year decline of voter turnout in national elections."[1] Other scholars have focused upon earlier shifting patterns of voter participation in American history.[2] Political scientists, however, continue to debate explanations about how and why America's voting patterns shifted, as well as why low voter participation persists. Finally, the consequences of the shift and their significance regarding American political development are also contested by scholars.[3]

Similarly, electoral reform has periodically been a subject of public policy debates throughout American political history.[4] The most recent and significant piece of federal

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[1]The quote is from Rosenstone and Hansen, 1993:57. Titles of political science works which analyze this trend are too numerous to list here. Among the most important and representative books include The Disappearing American Voter and Why Americans Don't Vote, (by Teixiera, 1988;1992. The latter title also refers to another work that addresses the subject by two different authors from a distinct perspective, Piven and Cloward, 1988.).

[2]Among them include: Schattschneider, 1960; Burnham, 1965; Converse, 1970; Kleppner, 1982; Piven and Cloward, 1988; Teixiera, 1992.

[3]For example, see Piven and Cloward; and Teixiera, 1992.

[4]I shall discuss some of the debates surrounding electoral reform measures at the turn of the century and more contemporarily below.

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election legislation aimed at increasing the scope of the franchise since the Voting Rights Act of 1965 is the National Voter Registration Act or "motor voter," which began in 1995.

Voting remains central to modern theories of democracy,[5] and elections remain the main form of participation by average citizens. Indeed, most conceptions of democracy posit that the legitimacy of governments is derived in large measure from electoral mechanisms to select representatives who fashion public policy. The electoral system is viewed as a primary institutional link between citizens and the state. The degree of voter turnout is one measure to evaluate--both empirically and normatively--the extent and character of democratic participation, and popular input or support for public policies. Indeed, some theorists have explored the relation of patterns of political participation to policy outcomes, some suggesting that skewed patterns of participation along class, racial and ideological dimensions may correspond to unequal allocation of public resources and policies.[6]

Compared to all other advanced industrial democratic nations, the United States continues to rank second to last in levels of voter turnout.[7] America's precipitous decline

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[5]For example, see Schumpeter, 1943; Pateman, 1970.

[6]Hill and Leighley, 1992; Piven and Cloward, 1988; Burnham, 1982, 1987. Moreover, Calvert and Gilchrist note that research has shown that "nonvoters are slightly more liberal on domestic economic concerns compared to voters" (citing Wolfinger and Rosenstone, 1980; Shaffer, 1982; Bennett and Resnick, 1990; Crotty, 1991; and Teixeira, 1992.)

[7]Powell, 1982; Jackman, 1987. Switzerland is the only other advanced industrial country with a slightly lower turnout rate than the United States (48% of Switzerland's voting age population vote).

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in turnout from its nineteenth century highs of 75% to 80%--even in urban municipal elections--to the twentieth century lows of 50% to 60% is well documented.[8] Importantly, America's decline in voter participation is exactly the opposite of western Europe's developmental pattern where the expansion of the mass franchise and high rates of voting only developed in the twentieth century.

Moreover, the American electorate remains sharply skewed in class and race terms--minority and working class constituencies have disproportionately low rates of registration and turnout in elections. Although registration and turnout rates of minorities have increased since the civil rights movement and the passage of the Voting Rights Act, particularly those of African Americans and in the South more generally, blacks continue to have lower registration and turnout rates than whites, Latinos have even lower rates, and Asians lowest.[9] In addition, registration and turnout rates in urban areas generally have averaged 10% lower than in the suburbs and rural parts of the country, though wide variations exist within and between locales.[10] While nationally turnout for presidential elections declined from 62.8% in 1960 to 54.5% in 1992, turnout in urban centers has

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[8]Burnham, 1965;1970; Wolfinger and Rosenstone, 1980; Kleppner, 1982; Piven and Cloward, 1988.

[9]Piven and Cloward, 1988; Sauerzopf and Swanstrom, 1993; Affigne and Tate, 1993; Hellinger and Judd, 1994. Thus, some scholars--and politicians and policy makers--argue that increased voter registration and turnout would likely benefit the Democrats or independent political efforts and formations. Others, however, argue that increased turnout would not help either party (Wolfinger and Rosenstone, 1980), or might even help Republicans (Denardo, 1980).

[10]Even within urban centers, minority groups generally have lower voter registration and participation rates than whites. Affigne and Tate, 1993; Census Reports.

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been between 10% to 20% lower than the national rates, and has declined even faster in many cities.[11]

Over the past thirty years, electoral laws and rules such as poll taxes, literacy tests, residency requirements, and restrictive voter registration procedures have been eliminated or liberalized on the premise that they tend to fetter voting, especially by minorities and the poor. Changing the rules, reform advocates thought, would lead to increased participation. In most places across the nation, however, voter registration and turnout has remained low or continued to decline (with the important exception of blacks and poor whites in the South). Even in the 1992 presidential elections in which nation-wide turnout rose slightly, the increase was less than 5 percentage points from 50.11% in 1988 to 54.5% in 1992. Attempts to explain this apparent discrepancy, or what has been termed the "puzzle of participation", has generated a new round of analyses in the literature.[12]

While certainly several factors contribute to low rates of registration and turnout, part of the answer may lie however, in factors not well explored. Reform of the laws governing the franchise has largely not been accompanied by the necessary and concomitant changes in the bureaucratic structures that administer elections. The patterns of implementing reforms may have rendered them practically ineffective. Even well conceived laws and executive directives have been voided by discretionary administrative

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[11]Karnig and Walter, 1989; Affigne and Tate, 1993; and Saurersaupf and Swanstrom, 1993. In fact, in municipal elections, urban turnout has declined more or less steadily since the 1930's. Similarly, participation in cities is also skewed in class and racial terms: non-voters disproportionately tend to be people with low incomes and minorities.

[12]The phrase is from Richard Brody, 1978. See also King, 1994; Teixeria, 1992; Bennet, 1990; Piven and Cloward, 1990;1988.

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actions and/or non-compliance. For example, making voter registration possible by mail does not in itself put registration forms in the hands of voters, nor does mandating that government agencies expand registration opportunities insure they will.[13]

Indeed, just as the patchwork of election law varies between states and contributes to differential levels of registration and turnout, the process of implementing electoral law is highly variable--even within states--and might similarly produce distinct outcomes. Conceivably, part of the wide variation in registration and turnout rates that exists between and within states and cities might more properly be attributed to variations in the practices of election boards that implement election laws, than to the laws themselves or other factors. Because election administration in most of the U.S. is decentralized with effectively little or no federal or state oversight, there is considerable latitude for discretionary actions by state and local boards of elections. Elections officials could--and in places some progressive administrators in fact have--instituted programs which provide for wide distribution of registration forms, for example, by providing outreach through various government agencies, and have yielded increases in registration and turnout.[14]

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[13]Numerous studies in public administration demonstrate that distinct patterns of implementing law can have variable impacts. Implementation by Wildavsky and Pressman, (1973), remains the classic study. A good overview is provided in Sabatier and Mazmanian, 1983. Regarding election administration, see Harris, 1934; The League of Women Voters Educational Fund, 1972; The National Municipal League, 1974; and Piven and Cloward, 1988, 1989; Montjoy, 1993.

[14]Piven and Cloward, 1988; Montjoy, 1993; Knack, 1993; Royce Crocker, Voter Registration and Turnout: 1948-1990, Congressional Research Service, 1992; and various reports by 100% Vote/Human SERVE, 1992, and Cooper, Jamie, et. als., Center for Policy Alternatives, 1991. One of the most note able examples is that of Washington D.C., whose registration rates increased 9%--and particularly of lower income citizens--at the same time that the city lost 10% of its Voting age population. This occurred between

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Such examples are, however, few and far between.

While scholars have extensively examined the theoretical and empirical consequences of electoral laws and party systems on levels of participation[15], the machinery that administers elections in the U. S. has been largely ignored.[16] Nor have the political influences that determine these agencies' procedures and their place in the electoral system been adequately analyzed.[17] When mentioned at all, boards of elections are usually described as performing the mundane administrative operations of implementing electoral law. They are generally assumed to provide for the integrity of the ballot, and to insure that elections are fair and free of fraud. In fact, allegations that election fraud was rampant during decades around the turn of the century were the main stated justification for inauguration of voter registration procedures and bi-partisan boards of elections, and fear of fraud continues to be the primary stated reason for opposing liberalizing electoral reform and dispensing with restrictive practices of boards of

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1990 and 1994 and came on the heels of significant improvements to the city's Board of Ethics and Elections, and the inauguration of a well crafted motor voter program. Washington Post, May 6, 1994.

[15]Campbell et. al., 1960; Schattschneider, 1960; Kelly et. al., 1967; Rae, 1967; Converse, 1972, 1974; Rusk, 1974; Wolfinger and Rosenstone, 1980; Kleppner, 1980,1982; Glass et. als., 1984; Powell et. als. 1986; Grofman and Lijphart, 1986; Jackman, 1987; Burnham, 1970, 1989; Piven and Cloward, 1988, 1989.

[16]Similarly, differential implementation of ballot access and campaign finance laws might affect the range and character of candidates and party systems. Indeed, the practices governing how candidates' nominating petitions or campaign fillings are processed and adjudicated by boards of elections also appear to vary widely and yield differing results.

[17]Piven and Cloward, 1988, p.196.

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elections. The bi-partisan structure of boards of elections is founded on the notion that each party will check and balance the other, and thereby insure a fair process. According to most of the literature, boards of elections ostensibly have a neutral or negligible influence on participation and politics.[18]

But such a view, while it corresponds to the mandate assigned to election administrators, may be flawed. Their stated mission of deterring election fraud--like voter registration procedures--is largely a product of the rhetoric of elites who alleged fraudulent electoral activity was rampant in the late 19th and early 20th century.[19] While certainly election fraud did occur (and may still), such charges appear to be wildly overblown. Whether by design or default, charges of fraud instead served to justify the institutionalization of a host of restrictive procedures that continue to have significant disenfranchising consequences, especially of lower strata groups. This is evident in such recent conflicts as those which accompanied the passage of the National Voter Registration Act of 1993 (NVRA, which took effect on January 1, 1995 in most states) and its implementation, and also is apparent in several episodes in New York during the last decade that I examine in this dissertation. I will argue that such charges of fraud have served to justify the creation and institutionalization of restrictive registration and voting practices which, instead, perpetuate a more insidious form of "fraud"--administrative

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[18]Sayre and Kaufman, 1960; Harris, 1972; Goldberg, 1989.

[19]Burnham, 1970, 1974; Kleppner, 1980, 1982; Piven and Cloward, 1988; Erie, 1988; Avey, 1989; McGerr, 1986; Argersinger, 1985-86; Hammack, 1982; Gienapp, 1982; McCormick, 1981; Cox and Kousser, 1981; and Allen and Allen, 1981. I discuss the issue of fraud and the groups which raised such concerns at the turn of the century more fully in the next chapter and, regarding the contemporary period, in subsequent chapters.

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disenfranchisement of eligible voters.

There is good reason to believe political considerations are involved in electoral rules and administration. Dominant political coalitions resist outsiders, whether candidates or new and unpredictable voters, having incumbency interests in maintaining a stable and constricted electorate and party system. These dominant political coalitions are represented on election boards and appear to be generally served by their practices. Indeed, in most places election boards are staffed by political appointees of the two major parties. Board employees are thus closely tied to and dependent upon dominant politicians. Boards of elections are vestiges of what remains of the famed "political machines", and continue to contribute to a distinct but persistent form of "machine politics."[20] Boards and the corpus of election law they are mandated to implement function in essence as extensions of the party system. Since boards have considerable latitude, and the process of implementing electoral law is variable,[21] their practices generally reflect these concrete political relations. In sum, while political parties and election administration may have functioned at particular times and places in American history to mobilize voters, they more commonly have acted to demobilize the electorate, particularly in the twentieth century.[22]

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[20]On "machine politics," see for example, Wolfinger, 1974; Lowi, 1962; Mayhew, 1986; Erie, 1988.

[21]Montjoy, 1993; Knack, 1993.

[22]Shefter, 1984, 1994; Piven and Cloward, 1988. There are few exceptions where boards have taken measures to expand the franchise in their jurisdictions, several of which I discuss below.

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Indeed, although there has been little systematic analysis of election administration, practices of election boards have been criticized in some academic scholarship, in various legislative hearings, in the courts, and in news media.[23] Election experts, voter registration organizations, insurgent candidates and election lawyers, investigative journalists and voters, and even some election officials themselves regularly report that citizens are, in effect, disenfranchised by the practices of boards of elections.[24] They provide evidence which suggests that boards of elections may play an important role in shaping electoral participation, especially in terms of the low and class-race-skewed nature of voter turnout.[25]

The League of Women Voters, for example, conducted an extensive nation-wide study of election law and practice in over 251 counties and cities in 47 states during the Fall of 1971.[26] The study involved interviewing elections officials and citizens groups, as well as analyzing official procedures. The League found that election administration in the

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[23]Piven and Cloward, 1985, 1988, 1989; Gosnell and Smolka, 1976; Kousser, 1974; Key, 1949; Harris, 1934; League of Women Voters, 1972; National Municipal League, 1974; NAACP Inc. Fund, 1993. On New York, Gottlieb and Baquet, 1990; and Plunkitt, 1992; Wade, 1994.

[24]Similarly, numerous candidates either never make it onto the ballot or are ruled off by the state and city boards of elections. Board's handling of campaign finance expenditures also can contribute to differential outcomes in elections.

[25]Again, through restrictive ballot access measures and campaign finance processes, boards contribute to the generally limited scope of party and candidate choices represented on the ballot, which in turn, effects voter participation.

[26]"Administrative Obstacles to Voting", 1972. The study covered at least one type of jurisdiction from each state--a large city, a medium sized and small town, a suburb, and a rural community.

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U.S. was "inefficient", often "obstructive", and concluded that "millions" were disenfranchised by the practices of boards of elections. The League emphasized that election officials were "generally insensitive" to the problems that average citizens face in attempting to register and vote, and often comprised part of the problem rather than part of the solution to low turnout. The study found that elections officials held attitudes and operated in ways "which tends to obstruct rather than encourage the efforts to expand the electorate". Moreover, they reported that elections officials often expressed fear that any easing of registration laws and practices inevitably would lead to voter fraud.

Similarly, the National Municipal League conducted a study of election practices and reform across the U.S. in the early 1970's concluding, "legal expansion of the electorate can be administratively blunted... when that is the intention of local administrators, [which] demonstrates the important relationship between administrative procedures and electoral participation" (1974, preface). They pointed to examples where election officials played a clear role in effectively disenfranchising particular groups, especially blacks and youth. One need only recall the politically motivated disenfranchisement of blacks and poor whites in the South which provides ample evidence of the discretionary capacity election officials possess in implementing election law. Civil rights groups that mobilized to register voters during the 1960's were met with staunch--even violent--opposition by election officials.[27] Nor, unfortunately, is such disenfranchisement a relic of the past or particular to the south. Organizations that

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[27]Key, 1949; Matthews and Prothro, 1966; Kousser, 1974; Lewis, 1974; Ball et. al., 1982; Stanley, 1987; Piven and Cloward, 1988.

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mobilized to conduct large scale registration of voters surrounding the presidential campaigns of Jesse Jackson in 1984 and 1988 also reported obstruction by boards of elections across the country, albeit, in a less overt fashion and less effectively.[28]

Election boards and their defenders have countered that they fulfill their responsibilities in accordance with their state's election law, and adequately administer elections in a manner which protects the integrity of the ballot. Although they occasionally acknowledge that disenfranchisement may occur, boards generally deny intentional disenfranchisement or the responsibility for it. If any disenfranchisement appears to have occurred, boards usually maintain other factors are at work: prospective voters failed to properly apply for registration; voter registration organizations delayed processing forms or improperly instructed registrants, or may have withheld applications (using partisan criterion in selection). Boards also blame old and outmoded voting equipment (for example, voting machines), or an occasional and inevitable error by a board employee may have occurred somewhere during the process, or an ill prepared election inspector on election day may make mistakes--all of which they maintain are exceptions to the rule, few in number, and on balance insignificant.[29] Furthermore, boards claim their budgets are inadequate to modernize and increase efficiency, and attract better qualified employees.

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[28]Piven and Cloward, 1988; Affigne, 1992.

[29]Election experts and officials at the federal level, with knowledge of election administration in numerous states across the country, generally maintain this position. Several publications and discussions the author had with members of the Federal Elections Commission (FEC), the Council on State Governments, The Election Center, and some the membership organizations for elections officials, including the National Association of Secretaries of States, (NASS) the International Association of Clerks, Recorders and Election Officials and Treasurers (IACREOT), all explicitly or implicitly make this point.

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Lastly, election boards contend they take sufficient and effective measures to promote electoral participation, especially in light of their usually limited budgets.

The contending views between voting rights advocates and elections officials reflect and stem, in part, from differing perceptions about the role assigned to election boards: whether the board's primary role is to "police" the election process, a view associated with the turn of the century genesis of boards of elections; or whether the board's role is or "should" be to enhance access and participation, as the contemporary reform advocates contend. Of course, boards, in fact, do both and should. While there exists significant variation in when and where boards emphasize these competing roles, generally speaking, the evidence indicates boards appear to have practiced and continue to practice more of a "policing" function and thus tend to restrict access, particularly historically. Yet, a shift in board practices toward increasing access and efficiency is evident--largely as a result of reform efforts and technological advancements, at least in some areas and instances.

Nonetheless, it is my thesis that boards of elections do many things with regards to registration and voting which can and do affect participation. As other scholars and analysts have shown--and my study attempts to demonstrate--particular practices have specific impacts on voter participation, and in both directions: either in decreasing access and participation or in increasing access and participation. As I shall show below, scholars have cogently argued that turn of the century legal and institutional arrangements historically contributed to lower levels of voter participation--whether by design or default--and may have, in turn, contributed to other changes in party systems and the

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political attitudes of particular electoral constituencies which are now also associated with non-voting.[30] Drawing on these scholars, I argue that in the absence of comprehensive reform, the legacy of such arrangements and contemporary practices of boards of elections may continue to have significant impacts in constricting participation. Indeed, in the context of the decline of the traditional vehicles of electoral mobilization over the past 20 to 30 years--such as the party organizations, political clubs, unions and mass social movements--and coupled with the rise of media based, cash intensive, candidate centered politics, it is likely that registration obstacles have become increasingly difficult to surmount and the impacts of restrictive practices are even greater, especially for lower strata constituents. Such restrictions on access to the franchise and the ballot have probably buttressed and furthered these other developments (i.e. the decline of political clubs and parties, the rise of candidate centered campaigns, and limited the capacity of unions and social movements to act as vehicles for electoral mobilization.)

Therefor, it may not only be features of electoral laws which work to constrict electoral participation, but also the historically generated and contemporarily sustained politically motivated policies and practices of boards of elections. The general failure of electoral reforms to expand participation in much of the U.S. might, in part, be a function of such continued practices of election administration. Conceivably, then, practices of boards of elections might be one of the missing pieces of the "puzzle of participation."

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[30]This argument is made most persuasively by Piven and Cloward, 1988, chapter four. Drawing upon the work of Schattschneider and Burnham, they suggest that American political development more generally and policy outcomes also have been effected by such developments. I will discuss this thesis in chapter one.

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My dissertation examines this thesis and several related issues by exploring the case of New York. I will ask and attempt to answer:

- What are the contours of New York's voter registration and participation patterns?
- How have legal and institutional arrangements--particularly voter registration procedures and the practices of boards of elections--shaped these contours?
- Are there any distinct patterns of political actors and interests--partisan, class, ethno-cultural, racial, ideological--which are associated with particular practices and outcomes?

To be clear, the purpose of my study is not to comprehensively account for the decline in electoral participation in New York, nor to definitively quantify the precise effects of the implementation of election law on voting levels. My study of New York is designed to indicate--in general--the direction and scale of the impact that restrictive voter registration procedures and practices of election administration have upon participation and politics, and, whether these practices might effect specific constituencies differently. In addition, I investigate whether distinct patterns of political actors and interests are associated with specific practices and are served by practices of election administration. To the extent such practices contribute to the development and perpetuation of both the "hole in the electorate" and to "dominant political coalitions", election administration has distinct political impacts.

Moreover, since every county of every state in the nation has a board of elections or some variant, my study should have widespread applicability. Although state and city election law and forms of election administration may vary--and vary considerably--the

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point that practices matter applies virtually everywhere. Inevitably, there are problems of extending the findings of a study of any particular time and place to another, as is true of any area selected for analysis. There are no states or cities which are theoretically or politically "representative" of the nation, America being more the sum of its parts, than the "average" of its elements. The claim here is that social scientists have neglected election administration and further research on voting behavior can benefit by studying one of its cases. This study may shed light on the debate in the political science literature concerning the causes of low levels of electoral participation, and provides evidence suggesting directions for contemporary electoral reform policy.

Indeed, New York is an important and interesting case to examine, and one which has relevance to other jurisdictions. During most of this century--in sharp contrast to the previous century--New York State and City experienced a long decline in turnout and now ranks exceptionally low in electoral participation in the U.S.[31] From 1920 to 1956, for presidential and gubernatorial races, New York State ranked among the bottom third of all 32 states outside the South in voter turnout. In 1952 nearly 75% of New York's voting age population was registered to vote, ranking 16th nationally.[32] But during the several last decades, participation in New York has reached new historic lows. From the 1960's to the 1970's, only four non-southern or border states had lower turnout than New York State.[33] In the 1992 presidential election, New York State ranked 41st in the nation in

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[31]Scarrow, 1983; Saurerzopf and Swanstrom, 1993.

[32]Scarrow, 1983.

[33]Ibid.

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turnout (one of the few states that did not post an increase), and ranks 47th in the rate of voter registration.[34] Moreover, it is predominantly low income and minority people who are unregistered and are the nonvoters.[35] New York City's turnout rates have been approximately 10% to 15% lower than the state as a whole. Out of twenty six cities, New York City's registration rate ranks twenty third, and fifteenth in turnout.[36]

And while New York State and New York City have taken steps over the past two decades to promote registration and voting, the results continue to be disappointing. A coalition of contemporary reform advocates in New York lobbied for changes in electoral law and practices.[37] Some of the reform proposals these advocates lobbied for were, in fact, adopted: in 1975, the state legislature adopted registration by mail; in 1981 it

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[34]In 1992, only 51.94% of the voting-age adults cast ballots in New York. Approximately five million of the 13+ million people of voting age in New York are unregistered and do not vote. Data is from U.S. Census ("Voting and Registration," CPS P-20) and the State Board of Elections.

[35]Ibid.

[36]Affigne and Tate, 1993. In New York City, nearly 2 million of its nearly 5 million eligible citizens are unregistered. Again, minorities and the poor are disproportionally unregistered and non-voters. Indeed, the registration and turnout disparities between racial groups have historically been so acute that three of its boroughs (Brooklyn, Manhattan and the Bronx) continue to fall under the aegis of the Voting Rights Act. African Americans voter registration and turnout rates, however, increased throughout the 1980's, and now are nearly comparable to whites.

[37]These voting rights advocates include, the Statewide Coalition for Voter Participation, which includes 100%Vote/Human SERVE, New York Public Interest Research Group (NYPIRG), Common Cause, The League of Woman Voters, NAACP, and several unions. A complete list is provided in Appendix A. They advocated for a number of measures including, simplifying registration forms and procedures; making them more available to most citizens at public agencies; eliminating the purging of registrants for non-voting; shortening registration deadlines; and providing for election day registration.

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extended from two to four years the interval during which a person could fail to vote and remain registered; and in 1984 and again in 1990, Governor Mario Cuomo issued an executive order to provide for registration at various state agencies.[38]

Yet, registration and voting in most of New York has continued to decline. Even though New York's decline since the mid-1970's was consistent with a nationwide decrease in voter participation, it was, nonetheless, three times the size of the nation's,[39] until the implementation of the National Voter Registration Act (NVRA) which we shall examine in chapter three. Why have these reform attempts been unsuccessful? What can account for such failures of New York's electoral system?

Whatever is at work in depressing turnout throughout the nation is surely at work in New York. Providing insight into New York's low registration and participation rates may help illuminate what is a ***general*** feature of American elections, and especially in urban areas and among minority and working class constituents.[40] While there are surely a

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[38]Similarly, Mayor Edward Koch did the same for New York City agencies in 1986; and in 1988, the revised New York City Charter created the Voter Assistance Commission (VAC) which is mandated to promote voter registration--especially of groups with disproportionately low rates--primarily through agency based registration. These reforms will be discussed in chapter 5.

[39]Scarrow, 1983.

[40]Most research on electoral participation has focused on federal and state elections, employing the use of aggregate data for analysis. Dimensions of local participation--whether in national and state elections OR in local elections--has received much less systematic analysis. Research on urban participation reveals several distinctive findings: we know turnout for municipal elections is generally significantly lower than for state and national elections, and that urban turnout in state and national elections tends to be lower than turnout by suburbanites and by rural folk. While national turnout declined from 62.8% in 1960 to 54.5% in 1992, urban rates in presidential elections has been between 10% to 20% lower than the national rates, and has declined even faster in many cities. In

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complex web of factors involved, the role of New York's election administration may be an integral part of a complete explanation. I shall argue there is good reason to believe the practices of election administration have contributed, at least in part, to low rates of electoral participation. My study of New York indicates that many of these reforms have been, in fact, effectively undermined by election administration officials and other state officials. Indeed, the partisan struggles around the various electoral reforms and their implementation reveal interests and stakes similar to those evident during earlier historical periods. Lastly, to provide some comparative framework, I discuss available literature and data on other jurisdictions both in New York State and in other states and cities in the dissertation.

In chapter one, I discuss some of the main issues and analytic approaches in research on voter turnout. After review of debates in the political science literature and evidence on electoral participation, I then explore the historical basis for viewing election administration as a gatekeeper. In chapter two, I examine the genesis of voter registration procedures and boards of elections in New York during the latter half of the nineteenth and early part of the twentieth centuries. I analyze the politics of charges of election fraud which justified the imposition of restrictive voter registration procedures, changes in the state's constitution and electoral law, and the establishment of bi-partisan election

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fact, in municipal elections, urban turnout has declined steadily since the 1930's. We also know that turnout varies substantially within and between cities, as it does between states and regions. Lastly, participation is skewed in class and racial terms: non-voters disproportionately tend to be people with low incomes and minorities (which largely correlates with geographic variations). Alford and Lee, 1967 ; Karnig and Walter, 1989; Affigne and Tate, 1993; and Saurersaup and Swanstrom, 1993.

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administration in New York, and discuss the attendant political conflict and struggles over such rules and institutions. I review the partisan, class and ethno-cultural dimensions of these changes, assessing the interests and capacities of the parties, factions and reformers involved. Finally, I discuss impacts of these developments on registration and participation, specifically, the shift in the scope and bias of the franchise from high to lower levels of participation.

I then examine the more recent electoral history in New York. In chapter three, I discuss changes in electoral law and practice, patterns of voter participation, and political context. I analyze the New York State Board of Elections, the political mobilization by contemporary reform advocates and "liberal" Democrats to expand participation, and several episodes which illustrate political conflict over rules and procedures, and their impacts on participation from 1984 to 1995.

I then turn to New York City. In chapter four, I begin by examining the general patterns of voter registration and participation, and the political context. I analyze the role of the New York City Board of Elections on these patterns and politics from 1980 to 1995. I discuss the mobilization by contemporary reform advocates to expand participation, political conflicts over the Board's practices, and changes in such practices. Specifically, I document the "modernization" of the Board--or improvements in its operations--sought by reformers and "liberal" Democrats, and the positive impacts on voter registration and participation patterns.

In chapter five, I review a counter mobilization led by Republicans during the 1993 elections who attempted to reverse (partially successfully) reforms promoted by

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contemporary advocates, and the attendant negative impacts on registration and participation.

In chapter six, I examine the New York City Voter Assistance Program (VAP) and the New York City Voter Assistance Commission (VAC) which were created respectively in 1986 and 1989 under the Koch administration. Both VAP and VAC were reform initiatives won by advocates whose mandate is to facilitate voter participation. I focus primarily on VAC, a nonpartisan New York City Charter agency whose primary mission is implementation of voter registration programs in government agencies, of which I was the director from 1993 to 1995. I review the politics of VAP's and VAC's creation, the political conflicts surrounding their operation, and their impacts on registration and voting.

Finally, chapter seven discusses the conclusions of my study and implications for political science and public policy.

Research Methodology and Data Sources

I initially became interested in the subject of electoral participation through my study of nineteenth century American political history, particularly around questions concerning "American exceptionalism" and "Why is there no socialism in the United States."[41] As a student of Frances Fox Piven, I explored the political conflicts and developments which occurred at the turn of the century: the various labor struggles, the populist movement, progressive and socialist efforts, and the counter mobilization by

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[41]The latter reference is to Warner Sombart's query, Why is there no Socialism in the United States, White Plains, New York: International Arts & Sciences Press, 1976. See also, Mike Davis, Prisoners of the American Dream, London:Verson, 1986, and Louis Hartz, The Liberal Tradition in America, New York:Harcourt Brace, 1955.

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capital and elites. I was fascinated by the depth of political conflict between capital and labor, between different groups whose vision of American democracy and development was radically divergent. It became clear to me that these events were related to the important and powerful sectional political realignment of the United States and the precipitous decline in voter participation, which, in turn, had significant impacts on subsequent American political development. What was especially intriguing to me was how some of the legal and institutional arrangements that were forged during that period--particularly voter registration procedures and boards of elections--have continued to exist into the current period, and might persist in constricting electoral participation, especially by those at the bottom of the social structure. During this time, I wrote several research papers about these issues on the historical period and related subjects.

Researcher as Participant Observer

These academic interests led me to take a job with the City of New York in 1993. The position, as the Coordinator of the New York City Voter Assistance Commission (VAC), a city Charter nonpartisan agency mandated to facilitate voter participation of under-represented groups,[42] afforded me an opportunity to become a "participant observer"[43] while pursuing research for my dissertation. As the director of VAC for nearly

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[42]I discuss VAC in chapter 6.

[43]For an excellent discussion about the advantages and pitfalls of "involved observers and academic research," see John Hagedorn, Forsaking Our Children:Bureaucracy and Reform in the Child Welfare System, 1995, Lake View Press. Appendix 1.

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three years (February, 1993 to December, 1995), I and my staff[44] designed, implemented and monitored voter registration and education programs for New York City agencies and a broad range of community based organizations. I worked closely with dozens of elected and elections officials, advocacy and civic organizations, election experts and observers at the city, state and federal levels, though primarily within New York City, and members of the voting public. My experience at VAC deepened my knowledge of the academic issues which initially had piqued my interest as a student, and also broadened my understanding of New York's electoral system. In fact, my position at VAC gave me wide access to key personnel and important data, thus greatly enhancing my capacity to conduct research for my dissertation. As the Coordinator of VAC and a participant observer, I had hundreds of meetings with high level officials who provided me with information and data: I met with key staff in the Dinkins administration[45] and in the Giuliani administration (some of whom were holdovers from the Koch years[46]); other elected officials and their staffs at all levels

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[44]Jocelyn Sargent, Dirk Slater, and Bethsaida Colon-Diaz.

[45]Within the Dinkins administration I worked most closely with Michael Kharfen, Executive Director of the Mayor's Community Assistance Unit (CAU), Marsha Goffen, staff attorney of Corporation Counsel representing O. Peter Sherwood on VAC, Deputy Mayor Dr. Joyce Brown, Fred Davie, chief of staff for Joyce Brown and who represented Brown on VAC, Bill deBlasio and Marc Lapidus, who were staff assistants to Bill Lynch and moved with Lynch to the Dinkins campaign. Others included high level appointees to over twenty mayoral agencies.

[46]Deputy Mayor Fran Reiter, one of the chief leaders of the Liberal Party, her chief of staff, David Klasfeld, a former Koch administrator, Spencer Fisher and Mary Lyn Reifenburg who are staff attorneys at Corporation Counsel and represent Paul Crotty to VAC, Russell Harding, staff assistant to Peter Powers who represents Powers on VAC, Robert McFeeley and Morton Avigdor, appointees to VAC by Giuliani, Darryl Fox, staff associate of CAU, Alice Tetelman, the Mayor's intergovernmental liaison in Washington D.C., and others, including appointees to various mayoral agencies.

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of government, including the State Assembly[47], the State Senate,[48] members of Governor Cuomo's administration[49]; members and staff of the New York City Council[50]; Ruth Messinger, the Manhattan Borough President and several of her staff, members of both the New York State Board of Elections[51] and the City Board of Elections[52], as well as several

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[47]Herman Denny Farrell, Chair of the Ways and Means Committee and Democratic Party Leader of New York County (i.e. Manhattan), Eric Vitalliano and Audrey Pheffer, former Chairs of the Election Law Committee, Jerome Koenig, Legislative Specialist of the Election Law Committee, and Josh Ehrlich a staff assistant on the Election Law Committee, and Arthur Eve, Deputy Speaker.

[48]Martin Conner, ranking Democratic member of the Senate Election Law Committee and prominant election lawyer, and Terrance Tolbert, one of Conner's staff persons, Andrew Belchard, Assistant Counsel to Manfred Orhenstein, then the Senate Minority Leader, David Patterson and a staffer, member of the Election Law Committee, staff of Nellie Santiago and Senator Joseph Bruno, then ranking Republican on the Senate Election Law Committee and now Speaker of the Senate.

[49]Christopher Walsh, Assistant Counsel to Governor Cuomo, Mike Losinger, Deputy Director of the Department of Motor Vehicles (and formerly of the State Board of Elections), and Pat Zuber Wilson and Michael McNaughton of the Department of Social Services.

[50]Including Mark Green, Public Advocate, and Gail Brewer his key elections staffer, Peter Vallone, Speaker, and his chief of staff Kevin McCabe, Mary Pinkett, Chair of the Government Operations Committee, Sal Albanese and staffer Tchiyuka Cornelius; Jose Rivera, Una Clark, C. Virginia Fields, and staffers.

[51]Thomas Wilkey, Executive Director, Evelyn Aquila, Commissioner (D), Helena Donohue, Commissioner (R), David Flanagan, Public Information Officer, Anna Svizzero, Director of Election Day Operations, Annette Preston, NVRA Project Coordinator and former Secretary to Thomas Wilkey, Thomas Zolezzi, Deputy Executive Director, Peter Kosinski, Special Counsel, William Harrison, Keyboard Specialist, and others.

[52]Danny DeFrancesco, Executive Director, Jon Del Giorno, Administrative Manager, Alice Sacks, Commissioner, (deceased), Douglas Kellner, Commissioner, Nancy Wesley, Coordinator of Voter Registration, Maria Warhola, Ms. Wesley's successor, James McManus, Deputy Director for Special Projects, Rosemary Millus, former Commissioner and now Coordinator of Election Day Operations, William Cro, Director of Management Information Systems, Naomi Bernstein, Director of Communications and Public Affairs,

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members of boards of elections elsewhere in New York State, and other pertinent government personnel. I also held dozens of meetings with a broad range of nonpartisan community based civic organizations and unions (nearly one hundred in number) who engaged in voter registration and education activities, many of who advocated for reforms.[53]

Most of these contacts provided me with information on my dissertation subject, though many chose to remain anonymous in connection with the specific information they provided.[54] In addition, VAC held several public hearings that focused upon election issues and agencies which I drew upon for my dissertation research, particularly the on New York City Board of Elections and the city's agency based voter registration programs.[55] Finally, as a representative of the Commission, I participated as a member of the Ad Hoc Advisory Task Force on Implementation of the National Voter Registration

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William Fling, Voter Registration Coordinator, Patricia Cortez, and others.

[53]Again, a list of such organizations and individuals is provided in Appendix A.

[54]The kinds of contacts I had with these individuals and information they provided me varied: the contacts were often in the context of meetings, working groups, telephone conversations, public hearings and the like; and the kinds of information provided were verbal statements and data that I wrote down, and/or written materials which they provided to me. Some of these contacts were in the form of longer, private semi-structured interviews.

[55]VAC held a public hearing in December, 1993 following the mayoral election, and another in December, 1994 following the gubernatorial election. Both hearings were attended by over one hundred individuals who gave oral and/or written testimony (data from the 1993 is presented in detail in chapter five). In addition, VAC held a public hearing in the Manhattan Borough President's office which was attended by over sixty individuals, and one in the Bronx Borough President's office with approximately fifty individuals. All these hearings, and some of VAC's public monthly business meetings, were videotaped by Crosswalks Television and broadcast on New York cable channels.

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Act (NVRA), a 38 member task force representing "all segments of our election community including county board commissioners, state agency representatives, state legislative staff, voter registration advocacy groups, and executive chamber staff," convened by the State Board of Elections "to analyze, discuss and recommend legislative changes and policy" in order to implement the NVRA.[56] As a representative of VAC, I also attended numerous other public hearings on elections issues--including one held by the State Task Force on Election Day Registration, made up of members of the State Assembly and Senate Election Law Committees and civic groups; a hearing held by the State Senate on the New York City Board of Elections and potential registration and vote fraud in New York City; several City Council hearings on the City Board and VAC; and several hearings per year held by the City and State Board of Elections on various subjects--all of which produced testimony, public documents and data I drew upon for my dissertation. (I discuss these sources more fully below in the different chapters of the dissertation where I employ the data I obtained).

Moreover, I kept a log of the meetings, hearings and activities I participated in with this broad range of individuals and organizations as Coordinator of VAC, taking copious notes both during and after such events. (I also kept my own records.) In short, I became privy to information and data which I would otherwise not have been able to obtain as a mere academic scholar. These sources I had access to as a participant observer expanded and deepened my knowledge and understanding of New York's election system,

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[56]"Report of the Ad Hoc Advisory Task Force on the Implementation of the NVRA," March, 1994.

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and the political actors and interests which participate in and shape it.[57]

In sum, my dissertation research therefore included both formal and informal methods and data sources. I will now more fully describe the methods I employed in my research, and discuss additional sources of data.

Time Frame and Focus of Research

To begin, my dissertation explores two time periods: the late nineteenth and early twentieth century (1870 to 1910); and in the contemporary period (1982 to 1995). Within these time frames, I investigate primarily two areas: 1) voter registration procedures and practices of New York's election administration that affect registration and participation; and 2) political relationships that may account for these practices. "Practices" include election law, and the rules and procedures of New York's boards of elections, particularly the New York State Board of Elections and the New York City Board of Elections. In gathering data on practices, I have focused on two main areas: a) voter registration procedures; and b) election day preparations and operations. In addition, I analyze whether particular practices have expansionary or restrictive impacts on voter registration and participation, if there are differing impacts upon various constituents, and whether particular practices are associated with different political actors and interests.

In examining the political relationships which may account for these practices, I assess whether there are any patterns of particular political actors and interests associated with or reflected in the practices and policies of New York's State and City Boards of

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[57]In addition, I conducted just under twenty semi-structured interviews with some of these individuals and others (described below).

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Elections as evidenced by examining: a) the politics of the historical genesis and evolution of both city and state boards, and voter registration law and procedures; b) evaluation of the political actors and interests who shaped--and continue to shape--such law and practice, including discussion of the party system, and their relations to boards; c) potential patronage relationships, including for example, the appointment process of board personnel, and the relations to contractors for purchase, maintenance, storage and transport of voting machines, and the printing of its voter registration forms and ballots; d) conflicts with partisan opponents and reformers surrounding board practices which may affect registration and voting; and finally; e) impacts of such practices on rates of voter registration and participation on particular constituents.

Primary Sources

New York provides a rich case to examine conflicts over election practices between various political actors and institutions. Criticism of the New York's voter registration procedures and election administration--particularly the operations of the New York City and State Boards--have been highlighted in the social science literature, in legislative and public hearings, in government reports, in court cases, and in the news and popular media. Primary data sources for the historical period include: examination of the state's election statutes, constitutional provisions, legislative record and public reports; Governor's messages (from 1870 to 1910); annual and periodic Reports of the State and City Board of Elections; reports of the Commissioner of Accounts in 1910 and 1912 who investigated the operations of the New York City Board of Elections; and the Commissioner of Investigation who similarly produced reports following investigation of

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the City Board in 1940, 1941, and 1944. In addition, I examined reports by turn of the century reformers in various documents and media publications.[58] The secondary sources on the historical period are many and are cited throughout the dissertation, particularly in chapters one and two.

Primary sources for the contemporary period include the transcribed testimony of six public hearings on voter registration and the operations of New York State and City Board of Elections held by the New York State Assembly and Senate Elections Committees, from 1983 to 1994[59]; "The Task Force on Encouraging Electoral Participation", November, 1987, a publication resulting from Governor Cuomo's Executive Order number 104; several public hearings held by the New York City Council on the City Board and the Voter Assistance Commission (VAC), about one per year on each agency; public hearings held by VAC (in 1990, 1991, 1993, and 1994); and the numerous annual and period reports and documents produced by the New York State and City Boards of Elections. Indeed, I was able later to interview many of the individuals who provided testimony and data for the above cited hearings and reports.

Other primary sources for the contemporary period include a series of semi-structured interviews I conducted prior and subsequent to my employment at the Voter Assistance Commission. I interviewed dozens of key city and state politicians and/or their

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[58]For example, the Committee of Seventy, a business-backed civic reform organization, published several reports describing irregularities in election administration, and advocating reforms. I cite additional such sources in chapters one and two.

[59]Each of these hearings heard the testimony of generally over twenty individuals, including elections officials of the State and City Boards, voter registration advocates, and various elections experts.

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staff, including some of the same individuals named above.[60] Particularly important sources were interviews with members of the State and City Board of Elections; past and present Commissioners of the State and City Boards of Elections and their Executive administrators, and several board staff at nearly all levels of both the New York State and City Boards[61]; members of the New York City Elections Project (NYCEP)[62]; several of the aforementioned members of the New York State Legislature, particularly members of the Assembly and Senate Election Law Committees and their staffs; officials in Governor Cuomo's office; members of the mayoral administrations of the Dinkins and Giuliani administrations, including some of those cited on page 20; several election experts--at

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[60]Most of these interviews were audio taped and then transcribed. Many of the individuals I interviewed in government--as well as who provided information to me when I was the Coordinator for the Voter Assistance Commission--chose to remain anonymous. Where permitted, I have provided names of interviewees or informants. Contemporary reform advocates and civic organizations, however, were more willing to permit use of their name and organization in general. Most member groups of a lose coalition of such reform organizations listed in the appendix of this chapter provided me with information directly in interviews or in meetings, or indirectly through written documents.

[61]Including, State Board Commissioner Libby Moroff, (D), who held her position in the mid-to late 1980's; Evelyn Aquila, (D), who holds her position from the 1980's to date; Michael Losinger, former Deputy Director of the State Board from the mid-1980's to 1994; Thomas Wilkey, Executive Director of the State Board, and more informal interviews with several other staff at various levels of the State Board. Regarding the City Board, I interviewed Alice Sachs (D), deceased, who was the Commissioner from Manhattan through the 1980's; Douglass Kellner, (D), who replaced her; Daniel DeFrancesco, Executive Director of the City Board since the late 1980's, prior, was Administrative Manager, and held other positions all the way down to driver for then Commissioner David N. Dinkins in 1973; Jon Del Giorno, Administrative Manager since the latter 1980's; and less formal interviews with other staff including the two voter registration coordinators, Nancy Wesley and Maria Warhola.

[62]Robert Elliot, Chair; Esmeralda Simons, member of the board; David Moskovitz, Executive Director; Stephanie Dawson, his successor; and less formal interviews with Maureen Walsh, current director; and Martin Holiday.

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both the state and federal level--and election lawyers[63]; and numerous staff from reform advocacy and civic organizations listed in Appendix A. Lastly, another area of primary source data included court cases, and various newspapers and journals (cited in the chapters below).

Similar to the historical period, the secondary sources I draw upon for my study of the contemporary period are cited throughout the dissertation, particularly in chapters three through six.

Initially, I surveyed the written sources for contested practices regarding registration and election day operations which have been highlighted in the above mentioned forums during the two periods of my study: 1870 to 1910, and 1982 to 1995. These sources, and some of the initial interviews I conducted, were used to locate additional conflicts over board practices as a mechanism whereby I selected practices for further investigation. After conducting the rest of my interviews, and incorporating the information and data I obtained as a participant observer at VAC, I developed my data set.

My survey of conflicts over election law and administrative practice revealed in the

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[63]Aside from the staff of Assembly and the State Board of Elections who are charged with oversight of local boards of elections, Arthur Eisenberg, New York Civil Liberties Union; Alan Rothstein, formerly of the Citizens Union and now at the Bar Association of the City of New York; Jerry Goldfedder, an election lawyer, Jerome Koenig, Legislative Specialist of the Assembly Election Law Committee. Regarding boards of elections in other states and cities, I spoke with several reputed national experts including Richard Smolka, who publishes Election Administration Reports, and teaches at American University, William Kimberling of the Federal Elections Commission (FEC), Marie Graber, a consultant on election administration to the FEC, Carol Garner, Election Center, Royce Crocker, Congressional Research Service, Robert Montjoy, Auburn University, Norman Hill, A. Phillip Randolph Institute, Jamie Cooper, Center for Policy Alternatives, and Ellen Miller, Center for Responsive Politics.

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public record, interviews and from my own assessment led me to focus upon three main areas of contention regarding of practices of New York's City and State Election Boards: (1) provisions for access to registration opportunities and information; (2) procedures for processing registration applications and certification of registration; and (3) election day operations and certification of votes.

I selected these practices for further examination and analysis based upon the following criterion: first, these practices were the main areas voter registration activists found to be obstructive and to produce disenfranchisement; second, these practices comprise the main activity of boards of elections with regard to voter registration as mandated in state election law; third, boards have discretionary capacities in these areas; and fourth, they are the primary means boards can increase or decrease participation. Thus, these practices may well have relevance to the political interests to which the City and State Boards are related.[64]

Lastly, I analyze population data from the U.S. Census and election data from the State and City Board of Elections, analysis performed when I was at the Voter Assistance Commission, and various secondary sources to discuss and assess shifting patterns of voter registration and participation. In addition, I examined data from several voter surveys in the later 1980s and early 1990's (including those conducted by the Marist Institute, Lee Miringoff, New York Times, and Newsday).

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[64]To be sure, in focusing on conflicted practices--because I will not be able to study all the possible things that New York's boards of elections do--I will necessarily overlook some practices. Nonetheless, my study documents the main activity of New York's boards of elections which effect registration and participation, and thus can provide data to confirm or reject my hypothesis.

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CHAPTER ONE

EXPLANATIONS OF NON-VOTING: THE ROLE OF VOTER REGISTRATION PROCEDURES AND ELECTION ADMINISTRATION

> County boards of elections preside over what is in effect the disenfranchising apparatus of the American electoral system... The simple fact is that these local officials are closely connected to local politicians who want the security of a stable and reliable electorate and who therefore resist new and unpredictable voters. Elections officials also have their jobs to protect, and they show the usual reluctance of bureaucrats to take on additional work or to entertain novel developments.[1]

Debates in political science about voter turnout have centered around several explanations that emphasize different factors which might account for electoral non-participation.[2] One general approach focuses on the social characteristics and attitudes of the non-voters, such as education, income, age, race and ethnicity, and their attendant lack of motivation, party identification, or a sense of political efficacy.[3] A second general approach focuses on institutional factors. Within this approach, one group of scholars focuses on the nature of party systems: the relative decline of the parties, the degree of competition between them and the limited range and character of the parties and candidates, the presence or absence of salient issues or important elections, whether elections are non-partisan, the prevalence and impacts of media and the use of new

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[1]Piven and Cloward, 1988:196.

[2]While the meaning and significance of non-voting is not universally perceived as cause for alarm (see Berelson et. al., 1954; Will, 1983; Ranney, 1983), generally it is viewed as problematic for democratic systems.

[3]This "social-psychological school" is represented in the works of Campbell et.al. 1960; Verba and Nie, 1977; Brody, 1978; Shaffer, 1981; Conway, 1981; Wolfinger and Rosenstone, 1980; Teixera, 1987, 1992; Bennett, 1990; Gans, 1990.

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campaign technologies, and the increased costs of and the role of money in campaigns.[4] A second institutional approach focuses on restrictive legal and administrative factors thought to inhibit participation: rules such as poll taxes, literacy tests, residency requirements, and voter registration procedures.[5]

Certainly, each approach has merit and explains some portion of non-participation. These scholars have produced numerous analyses documenting the impacts of the various factors each approach emphasizes. I draw upon an approach put forth by Piven and Cloward which synthesizes important elements of each of these competing explanations. By demonstrating the various data each approach has generated can be integrated into a more comprehensive--if complex--synthesis, Piven and Cloward show that the contending explanations are more complementary than contradictory or mutually exclusive. Piven and Cloward have argued that the analyses of low turnout by the contending schools of thought

> were each inadequate, taken alone, as explanations of low turnout. The party system explanation rests too much of its historical account on the impact of the single election of 1896 in stifling party competition and increasing internal oligarchy and fragmentation, and it is evasive on the question of why the restoration of party competition in the 20th century did not raise turnout to 19th century levels. Legal-institutional explanations fail to provide an account of the political origins of legal arrangements, and of the uneven implementation of these rules by party organizations. And

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[4]The "political-behavioral" school is represented in the work of Burnham, 1965,1970, 1982; Schattschneider, 1960; Kleppner, 1980, 1982; Bledsoe and Welch, 1987; and Avey, 1989. Regarding the decline of parties and new campaign technologies, see Ware, 1988; Wattenberg, 1990.

[5]The "legal-institutional" school is represented in the work of Kelly et. al., 1967; Converse, 1972, 1974; Rusk, 1974; Wolfinger and Rosenstone, 1980; Kleppner, 1982; Glass et. als., 1984; Powell et. als. 1986; Jackman, 1987; Piven and Cloward, 1988.

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> social-psychological explanations do not confront the anomaly that correlations between social traits and non-voting are unique to the contemporary United States.[6]

They argued a synthesis was needed to integrate what had become hardened positions that were "intellectually unproductive."

> The schools are not mutually exclusive, by complementary. We argued that the inauguration of voter registration requirements helped institutionalize the party system of 1896, and that these same barriers--especially tests of eligibility, such as literacy tests, as well as various 'time and place' restrictions on registration--bore down more on the poor and minorities, thus explaining the emergence in the 20th century of a correlation between low education and low voting. Only when the interaction among changes in the parties, in the rules restricting access to the ballot, and the varying social attributes and resources of voters are examined, and examined over time (taking into account distinctive local and sectional political conditions), can the contradiction of the American electorate in the early 20th century be adequately explained....
>
> A complex and interactive explanation also helps make sense of the post-1960's turnout decline, a trend that is otherwise puzzling because it occurred during a period of voter registration liberalization. However, other political changes heightened the impact of those barriers that persisted. Most important, the local apparatus of parties (and unions) was decaying, its roles in mobilizing voters replaced by mass media campaigns... The growing impact of registration barriers was [also] obscured by...the false impression [created by inflated state figures and repeated in the media] that registration levels were both high and stable...[7]

Most importantly for my study, they highlight the inter-relationships between the political origins of electoral rules and structures and the impacts of their implementation

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[6]Piven and Cloward made this argument in their book, Why Americans Don't Vote, 1988, and in response to a charge by Stephen Bennett that they were "single-factor analysts" in an exchange with Bennett in PS Political Science & Politics, Vol XXIII, #2, June, 1990.

In addition, Piven and Cloward argued that "in the real world [policy] options for action are limited....What public policy innovation would reverse party decay? And what is to be done about low education... A system of universal registration may well be feasible."

[7]Ibid.

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over time.[8] I employ an analytic framework based on Piven and Cloward's approach. In this chapter I shall briefly review the contending explanations of non-voting, and then argue that election administration is an important and neglected aspect of a full explication of non-participation.

The Social-Psychological School

Scholars associated with this school explain mass voting behavior in terms of individual attitudes and social characteristics.[9] Focusing on the contemporary period, they contend non-voting reflects a particular set of such attitudes and characteristics.[10] Based on survey data of respondents psychological orientations and attitudes, and personal characteristics, these scholars argue the primary reasons people don't vote are reflective of the relationships between individual level composites.[11] In the first instance, certain psychological attributes are correlated with non-voting: lack of political efficacy, political involvement, motivation, disaffection, low partisan attachment and the like. In the second instance, studies also showed that the non-voters were also more likely to be from the

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[8]Indeed, resolution of these disputes might be furthered by more serious scrutiny of the rules and practices governing elections, for rules and politics intersect in implementation processes.

[9]The social-psychological school remains the dominant approach in political science, among policy makers and in the popular culture.

[10]Many of these scholars also discuss the flip side of voting behavior--the "demand" side, or why people vote--but I will focus my discussion on their explanations of non-voting.

[11]Campbell et. als., for example, stated, "We assume that the decision to vote, no less the decision to vote for a given party, rests immediately on psychological forces..." Similarly, Hadley argued that the "differences between the votes and refrainers are attitudinal..., primarily by their view of life." (1978:30).

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lower socio-economic groups: minorities, the poor, and young people, and have lower levels of education.[12] In fact, Reiter showed that the overall national decline in turnout since 1960 "has not been occurring among all social groups equally; poor and less educated whites have been dropping out of the electorate at greater rates than wealthy and highly educated whites."[13] Scholars associated with the social-psychological school correlated the above psychological attributes and attitudes found in survey research data with such social characteristics of non-voters to explain non-participation. Taken together, the relationships between these factors produces a composite--often presented as both description and explanation--of who are the non-voters and why. In short, these scholars end up contending that the non-voters don't participate because of who they are.

The social-psychological school tends to posit that the period of 1952-1960, when voter turnout was at its peak during the twentieth century, is the standard against which the subsequent decline in voter participation should be measured and assessed.[14] According to proponents of this school, non-voting results from changes in the attitudes and preferences of the non-voters, and/or their lack of resources to overcome the "costs"

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[12]Milbrath, 1965; Hadley, 1978; Reiter, 1979; Wolfinger and Rosenstone, 1980; Miller, 1980; Abramson and Aldrich, 1982; Aldrich and Simon, 1986; Teixeira, 1987.

[13]Reiter, 1979. Reiter showed that turnout dropped sharply from 71.3% in 1960 to 57.3% in 1976 for the lowest income quartile while the highest income quartile's turnout declined a modest 3.5% points from 89.% in 1960 to 86% in 1976. Similarly, Edsall and others documented the acceleration of this trend in the 1980's and corresponding shifts in electoral and policy outcomes.

[14]Teixeira, 1987:12.

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associated with voting, much as in a rational choice approach.[15]

The premises and methods of the social-psychological school, however, have been strongly criticized. While there is no dispute that turnout has declined system-wide since 1960--and declined even more sharply for low-income individuals--scholars associated with the social-psychological school have been criticized for being teleological or begging the question, and "blaming the victims."[16] Critics argue the social-psychological school does not adequately explain how and why the correlation between particular psychological attitudes and social characteristics arose. Where do such attitudes come from? Are they inherent in such individuals and groups, or socially created and developed historically? Critics have noted that such correlations are aberrant, developing only in the twentieth century.[17] Why did turnout during the latter part of the nineteenth century reach historic highs when education levels were significantly lower, and precisely the opposite is true today? As we shall see, there are alternative ways of explaining these developments and adequately answering such questions.

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[15]Downs's (1957) economic model of political choice is the precursor and underlies most rational choice approaches.

[16]For example, by ascribing low turnout among lower class citizens to the "complexities of political decision-making" (Miller, 1980:30), such analysis implies such individuals are unable to master such complexities. An alternative approach might suggest that the "passivity" or non-engagement of low-income groups reflects alienation from politics or is rather an active rejection of the political world which does not sufficiently speak to their interests (Burnham). Others have suggested that while voting does involve "complexities," they are legal and administrative rather than informational or intellectual. (Piven and Cloward, 1988)

[17]Piven and Cloward, 1988. Moreover, they argue that "Apathy and lack of political skill are a consequence, not a cause, of the party structure and political culture that is sustained by legal and procedural barriers to electoral participation."

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Structural Approaches to Non-Voting

Explanations of non-voting that employ a structural approach claim that behaviors, including patterns and trends in voter turnout, are shaped by powerful political institutions. Individuals act within a social and political context which delimits their choices. As mentioned above, these scholars point to several such structuring factors and institutions both historically and contemporarily. One group argues that the characteristics of political parties, party competition and the like strongly shape participation, while a second group argues that legal barriers--such as voter registration procedures--have and continue to contribute to low turnout.

Regarding the first group, the "political-behavioral" school, these scholars argue that changes in party systems at the turn of the century--which produced a decline in party competition, the general decline of party organizations as mobilizers and increased oligarchy, and reduced class appeals and party identification--considerably altered the dynamics of electoral politics which contributed the lion's share to the precipitous decline in twentieth century voter participation.[18] For these scholars, the "system of 1896," where the sharply sectionalized electoral realignment of the U.S. occurred with the Democrats dominating the South and Republicans the North and the national government, produced a period of system-wide partisan decomposition and electoral disaggregation.[19] Except for the brief Depression-inspired restoration between 1932 and 1948, partisan structures

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[18]Schattschneider, 1960; Burnham, 1965, 1970, 1982; Kleppner, 1980, 1982. Similarly, studies of the contemporary period show that partisan competition continues to be an important factor shaping turnout (Bledsoe and Welch, 1987.)

[19]Burnham, 1970.

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which arose during the Jacksonian era and developed in the late nineteenth century declined. The historic roll played by parties as mobilizers, aggregating and articulating collective interests with which voters identified, and to which they gave allegiance, eroded. Moreover, such changes disproportionately effected lower income groups. While some of these scholars acknowledge depressive impacts of rule changes such as voter registration requirements (discussed below), they place much more weight on the decline of partisan competition as the primary cause of the decrease in the scope of the electorate and its increased class skew.[20] Moreover, they contend such electoral reforms were the consequences of strategies undertaken by elites to solidify their dominance in response to system-wide stress and adaptation.[21] Thus, these scholars wish to "subordinate it [the role of electoral reforms] to its proper place", arguing that such electoral reforms should be viewed as reflections of other political motivations. Their theory posits a relatively well functioning mass electoral system which was castrated by powerful economic and political elites who captured the political parties (Republicans in the North and Democrats in the South) and reshaped American politics for their own purposes. Thus, they contend the political universe became increasingly conservative, less polarized, blurring social and political cleavages by reducing significant issues and their salience, and narrowing

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[20]Burnham, 1970. Burnham argues that reforms such as voter registration procedures and the Australian ballot played a marginal role at most. For example, he presents data from various counties and states where turnout declined in the absence of registration procedures as evidence in support of his proposition.

[21]Such as rapid industrialization and urbanization, which engendered the rise of increasing class conflicts and the rise of radical mass movements of labor groups, the Populists, and socialists.

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important political options.

Regarding the second group of scholars that focus on institutional factors, the legal-institutional school, they argue that features of the electoral system such as the requirements for suffrage, registration and voting procedures, the Australian ballot, poll taxes, grandfather clauses, and the like, re-shaped the "active" electorate by posing substantive barriers to participation.[22] Following Piven and Cloward in explaining electoral non-participation, I maintain there is good reason to place weight on legal and institutional factors, such as restrictive voter registration procedures. Restrictive voter registration procedures continue to constitute de-facto income and literacy tests, which tend to restrict access to the franchise and constrict the size and composition of the electorate, particularly disenfranchising citizens of lower income, education, age and of minority background.[23] These procedural barriers pose "costs" to the non-voters and inhibit their participation,[24] which, in turn, encourages parties and candidates to ignore the interests of the non-voters--changing the dynamics of party competition and party systems--which, in turn, can effect these individual's attitudes toward politics and voting.

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[22]Kelly et. al., 1967; Converse, 1972, 1974; Rusk, 1974; Powell et. als. 1986; Piven and Cloward, 1988.

[23]Piven and Cloward, 1988. Wolfinger and Rosenstone, 1980. Similarly, stringent ballot access measures tend to limit the number of candidates--especially insurgents--and the range and character of the parties, contributing to the production of oligarchic parties and incumbency.

[24]Downs' theory states, "every rational man decides whether to vote just as he makes all other decisions: if the returns outweigh the costs, he votes; if not, he abstains." Downs, 1957, p. 260. Similarly, following Downs, Wolfinger and Rosenstone state, "The more permissive the registration laws, the lower the time, energy, and informational costs of voting." Wolfinger and Rosenstone, 1980, p. 80.

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Conversely, easy access to the franchise enhances possibilities marginal voters will participate, which in turn, may encourage challengers to run and stimulate competition or effective appeals further drawing voters into the active electorate, and so on.

Scholars have presented compelling evidence which demonstrates that legal and institutional barriers depress turnout. In considering comparative data on voter registration, they point out that voter registration procedures are, in fact, unique features of electoral systems in the U.S., while most other advanced industrial democracies boast comparatively high rates of turnout.[25] Why does the pattern of voter participation of other advanced industrial democracies stand in sharp contrast with the U. S.? Interestingly, when registration is controlled, U.S. turnout rates rank favorably to other countries.[26] Indeed, higher registration rates are consistently correlated with higher turnout rates in America. According to the U.S. Census Bureau, approximately 85% of registered Americans voted in presidential elections during the 1980's, and 90% voted in 1992. Comparative data between states and cities also corroborates this emphasis: locales with the most restrictive systems tend to have lower turnout rates than states with more liberal systems.[27] Studies also show that when registration is controlled, turnout differences in

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[25]Powell 1986; Jackman, 1987; Piven and Cloward, 1988. Wolfinger, Glass, and Squire (1985), note that the United States is the only country other than France where the entire burden of registration falls on the individual rather than government.

[26]Controlling for registration, The U.S. ranks in the top third of all advanced industrial democracies in voter participation. Piven and Cloward, 1988; Teixeira, 1992. Moreover, contrary to popular wisdom, Americans compare favorably to other countries regarding interest in politics, trust in government, political efficacy and the like (Powell, 1986).

[27]Kelly, et. als., 1967; Converse, 1970; Wolfinger and Rosenstone, 1980; Kleppner and Baker, 1980; Piven and Cloward, 1988; Affigne and Tate, 1993; King, 1994.

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education, age, race and income disappear or drop dramatically. That is, once registered, the disparities in turnout between different socio-economic-status groups are negligible, or put another way, legal and institutional barriers tend to disproportionately effect lower SES groups.

There are numerous ways that registration procedures can vary, the more restrictive generally associated with lower registration rates and turnout. For example, Kelly et. als., noted that cities that no longer had literacy tests and also had closing dates for registration nearest the election day had the highest rates, even after controlling for demographic factors (such as education, race, and age). A study of gubernatorial elections similarly showed the closing date for registration significantly affected turnout.[28] Many other restrictive regulations have persisted in most states until 1995 when the National Voter Registration Act took effect, such as limiting registration to certain times and/or places, purging of voter registration rolls for non-voting, and so forth.[29] More importantly, historical comparison shows robust turnout in the U.S., during most of the 19th century--when education levels were lower--and a precipitous decline in the 20th century, when most restrictive registration systems and boards of elections came into

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[28]Patterson and Caldeira, 1983, "Getting out the Vote: Participation in Gubernatorial Elections," in APSR, 77, (September, 1983).

[29]King, 1994. King, drawing on Elazar, however, argues that "political culture" better explains variation in registration and turnout rates. Specifically, he cites several scholars (Sharkansky 1985, Herzik, 1985, and Johnson, 1985) whose work shows that states with "moralistic" cultures have registration and election laws that promote participation, whereas states with "traditionalistic" cultures have more restrictive laws. Thus, King suggests that such political cultures promote barriers to registration and voting, and lower turnout.

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being.[30]

Scholars within the legal-institutional school have important differences, however, particularly in explaining who promoted legal changes and what motivated them, why were legal and procedural changes implemented when they were, what impacts such changes had on the measurement of turnout and actual turnout, and what role electoral rules currently play.[31] In order to examine these differences and highlight the role of election administration, I will examine the nature of some of these legal changes at the turn of the century--particularly restrictive voter registration procedures--and then discuss the legacy of such changes and their continued importance for contemporary patterns of participation.[32]

Turnout Decline at the Turn of the Century

The strong correlation between the decline in turnout and electoral changes at the turn of the century has been highlighted in some of the scholarship on participation. For example, Paul Kleppner and Stephen Baker tested the impact of the new voter registration procedures on turnout at the turn of the century. While they emphasize the concomitant

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[30]Accompanying these developments during the decades surrounding the turn of the century were a host of other significant rule changes, including the direct primary, the Australian Ballot, ballot access measures, poll taxes, extended residency requirements, grandfather clauses, and the gradual elimination of non-citizen immigrant voting rights in state and local elections. All of these rule changes also impacted on voter turnout, as well as the nature of the parties and party competition. Piven and Cloward, 1988.

[31]I refer here to disagreements between Converse and Rusk with Burnham, 1974, and as outlined in Piven and Cloward, 1988, chapter four.

[32]As previously stated, I draw upon a developmental approach put forth by Piven and Cloward which synthesizes important elements of the competing schools which attempt to explain non-voting.

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decrease in electoral competitiveness, they contend registration procedures significantly account for the precipitous decline in voter participation.[33] They argue that the new personal registration systems were imposed (with other restrictive measures) on an already highly mobilized electorate. These participants of "normal politics" were not immediately driven to the periphery by these added costs, but with the change of the composition of the electorate over time (older cohorts replaced by younger, and the enfranchisement of women), the depressive effects of the registration variable increased. This in conjunction with the decline in the general level stimulus (electoral competitiveness), led to an even greater importance of the registration requirements. Thus, the new political culture and institutional arrangements led to an increased de-mobilization.[34] In analyzing the data on turnout, Kleppner shows that during the period from 1900-1920, turnout was consistently lower in counties covered by personal-registration requirements. [35] By 1920, 31

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[33]"This article tests the hypothesis that the imposition of personal registration requirements largely accounted for the post-1896 decline in voter turnout. The laws were found to depress turnout, but neither they nor other legal factors proved as important as electoral competitiveness. That was especially evident in the nation's urban-industrial area. There the social character of the active electorate changed markedly after 1896. Regression models of the 1900-16 turnout decline show the effects of an age-cohort replacement process, and one that was especially marked among younger voters of immigrant parents. That age-structured electoral demobilization was primarily a behavioral response to the "system of 1896." Kleppner and Baker (1980), p. 205.

[34]In fact, when the depression and realignment of the 1930's came, they assert "....the personal-registration requirements seem to have been more important as inhibitors of the electorate's remobilization during the 1930's than they were of its earlier demobilization."(Ibid., p. 222.)

[35]But he asserts that registration does not adequately explain all of the drop in turnout. He holds that registration accounted for between 30 to 40 percent of the turnout decrease in counties where they were introduced, but do not account for decline in turnout in areas

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nonsouthern states had some form of personal registration requirement into effect, although the nature and coverage of their laws varied considerably. However, by shifting the burden of registering away from the state, they increased the costs of participation to the individual and priced out of the system those who lacked sufficient motivation to satisfy the preelection requirement. Marginally involved citizens, who might otherwise have been stimulated to participate by the excitement of the campaign found themselves unable to vote because they had not registered earlier.[36]

Kleppner noted the considerable signs of economic stratification and age cohort bias in turnout beginning at the turn of the century and its significance for today. "This turn-of-the century transformation, and that of the 1920's, were important phases in the onward march of the Metropole's (i.e., the northeast) electorate toward its modern condition."[37] He concludes that "the registration requirements especially affected the turn-out of voters with relatively low levels of wealth and political interest."[38] Indeed, in both the North and the South economic status continues to be strongly associated with different levels of turnout.

It is interesting to note that Harris, in his study of voter registration, did not attempt "to enumerate the thousands of steps in the evolution of registration laws in all the

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where they did not apply. For this he cites other changes--woman's suffrage, literacy tests, residency requirements, poll taxes, and the most significant factor he claims to be a decrease in electoral competitiveness.

[36]Kleppner, 1982:60.

[37]Ibid., p. 63.

[38]Ibid., p. 68.

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states, for this would be unduly tedious and not particularly useful."[39] In light of the work of Piven and Cloward, Burnham and Kleppner, however, a more complete history of who supported reforms, and how they came into being would be highly fruitful. My dissertation attempts to contribute to this missing political history. Converse noted that such study is lacking and would be useful for political science:

> Even a broad-scale examination of the synchronization of turnout decrements with full registration laws is currently lacking. Yet, the gross concordance between the Harris account of the geographic evolution of registration laws and the areas selected by Burnham to illustrate his empirical case [of the decline of voter turnout] are sufficiently impressive to suggest that closer examination of the relationship between registration reform and the other Burnham indicators (turnout in particular) would be richly rewarding... the general behavior of turnout over this period noted by Burnham, and most particularly the-differential urban-rural patterns, fit so astonishingly well with what is known of the spread of registration laws in exactly the same era . . .[40]

For example, Indiana is cited by Burnham as having "awesome rates of turnout" and it is a state Harris cites as not having voting registration until 1911, after which participation declined; similarly, Philadelphia's turnout plummeted astonishingly around 1900 with the introduction of a stringent personal registration system.

Thus, these scholars suggest the potential usefulness of examination of the political origins of voter registration procedures and those who implemented these legal changes. Scholars such as Piven and Cloward emphasize the distinctive patterns of partisan, class, and ethnic interests of the actors who inaugurated and implemented such legal and institutional changes as well as of those who fought against and were effected by them in

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[39]Harris, 1929:65.

[40]Converse (1972), pp. 285-286.

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order to adequately assess their place in the American electoral system.[41]

The period of 1860-1910 saw the spread of registration laws across the nation, particularly during 1890 to 1910. During the early period, registration legislation varied both geographically and procedurally. Nevertheless, over time certain general features of these new laws and practices became more uniform and were institutionalized.

Registration systems have be characterized generally as "weak" or "strong" systems.[42] "Weak" systems, which characterized the early period, involved legislation that commissioned election officials to draw up lists of names of residents eligible to vote within their districts. This was done on the basis of their familiarity with their precincts or on the basis of door-to-door canvassing. The vote was thus restricted to those names. To a large extent, however, the burden for registration still remained with the state.

During the 1890's "stronger" types of voter-registration systems replaced "weaker" ones that had been used in most states, and were introduced in some states that previously had none. The key feature of these changes was the introduction of a personal-registration requirement, which shifted the burden of establishing eligibility from the state to the individual.[43]

Moreover, from 1860 to 1880 laws were enacted in most older states in the North,

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[41]Piven and Cloward, 1988; See also Allen and Allen, 1981; and Argersinger, 1985-86.

[42]Converse, 1972, p 283; Kleppner, 1982, p 60.

[43]Converse, 1974.

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first by the states with large cities, the law applying *only* to the large cities."[44] Scholars have noted that these laws were produced by and enhanced a nativistic animus aimed at the new urban immigrants who were tied to party "machines."[45] Ostensibly, registration procedures were designed to eliminate or reduce what was reportedly rampant electoral fraud committed by these new immigrants and "ward bosses." The literature of the period referred to charges of voting by unscrupulous individuals who used fictitious names or of the dead, and of officials who were bribed that reportedly cast ballots of those who had not turned out or introduced fictitious names.[46]

Some states imposed registration requirements statewide, while others applied one type of requirement to urban places and a less stringent one to non-urban areas. States with these "mixed registration systems" often amended their statutes, usually to raise or lower the city size limits. A few states pursued a gradualist approach, first requiring personal registration in the largest cities and then successively extending coverage to smaller-sized cities. In most states, the personal registration requirement put into place near the turn of the century was the final stage in the evolution of its system from weak to strong. The new more stringent registration requirement replaced either a loosely

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[44]Emphasis added. Harris (1929), p. 65. The states of the West and South provided registration for the first time from 1880 to 1900. Harris contends that these early attempts "rarely proved to be effective" in preventing fraud. He states that in many instances the "electorate was dissatisfied" with the procedures and the laws were repealed.

[45]Harris, 1929; Allen and Allen, 1981; Piven and Cloward, 1988.

[46]Harris, 1929.

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administered non-personal system or the complete absence of any registration.[47] Piven and Cloward contend that "the evolution of voter registration requirements, from nonpersonal to personal, from permanent to periodic and even to annual registration, and from local to centralized administration, can be understood as a reflection of the ongoing political contest over registration."[48]

Prior to the turn of the century--and to a lessor extent thereafter--debate over the merits and consequences of voter registration procedures and their implementation occurred at the national and state level. For example, Judge George W. McCreary, U.S. Circuit Court Judge and former member of the House of Representatives and chairman of the Committee on Elections of that body stated the following in 1887:

> A question of great practical importance and of some difficulty has of late been much discussed in the courts, and conflicting views have been expressed. It is this: Is an act which denies the right to vote to all persons not registered on or before a fixed day prior to the day of election and which makes no provision for registration after the time limited, so onerous and unreasonable as to be justly regarded an impairment of the constitutional right to vote?[49]

Similarly, Walter H. Michael, a prominent lawyer, acknowledged that there were clear implications and potential consequences of the new registry laws:

> The object of the registration law is to prevent illegal voting by providing in advance of election an authentic list of the qualified electors. Necessarily an efficient system of registration must involve a certain amount of inconvenience to voters, and probably under the best system that could be devised some qualified electors would lose their votes through inability to

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[47]Kleppner, 1980:207.

[48]Piven and Cloward, 1988:108.

[49]McCreary, 1887:59.

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> avail themselves of the opportunities or to comply with the conditions of registration.[50]

Clearly, the disenfranchising consequences of these new more restrictive laws was not lost on those who were on either side of these debates.

In the early period, the issue of registration represented a heated political controversy along very direct urban-rural cleavage lines. Converse has suggested that minority groups in the largest urban centers typically used the Democratic Party as a vehicle to challenge the registration laws which forced them into an elaborate procedure but required nothing of rural dwellers. The Republicans, who were sharply aware of how their rural voting base might shrink with the extension of registration to the countryside, fought vehemently to preserve their artificial legal advantage. Converse asserts that the many flip flops in and out of statewide registration laws that occurred in some states were simply a reflection of the momentary ascendancy of one or the other party.[51] This assertion can be corroborated or refuted by looking at the position of the parties vis a vis registration within each state. My examination of New York is, in part, a case study to test this proposition.

Strong systems were characterized by more frequent and supervised "purges" of the rolls to validate and update them. It also required the citizen before the election to appear before the registration board--varying from 6 months in many places in the South to one week, with the majority ranging from one or two months to one week--with

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[50]Mack, 1905:302.

[51]Converse, 1972:286.

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satisfactory proof of identity and eligibility, leaving a signature for verification on Election Day. These later attempts to tighten up laws and prevent frauds through registration resulted in "exceedingly expensive, cumbersome, and inconvenient" systems in large cities.[52]

Burnham has argued the impetus behind the rise of restrictive registration procedures "clearly grew out of that old-stock nativist and corporate-minded hostility to the political machine, the polyglot city, and the immigrant which was so important a component of the progressive mentality."[53] He claims that registration procedures were "electorate-control decisions, even if the involvement has often been implicit and the decisions unconscious because the values on which they were based are so universally shared in the political culture.[54]

Similarly, Kleppner and Baker assert that rule changes redefined voter eligibility and were "directly aimed at reshaping the participating electorate." In line with Burnham's and Piven and Cloward's thesis, they contend these rule changes and their effects were intended by elites. They cite changes such as residency requirements and literacy tests, but say these were limited to certain states and had a "marginal effect." They state that personal registration laws, the reduction of electoral competitiveness and the introduction

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[52]Harris, 1929:309.

[53]Burnham, 1970:79.

[54]Ibid, p. 83. Burnham, however, maintains that the decline of voter participation after 1900 was more a function of the decline of partisan competition that to registration.

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of woman's suffrage had wider and larger consequences.[55]

Piven and Cloward argue that the turn of the century "demobilization of lower-strata voters occurred at precisely that time in our history when the possibilities of electoral politics had begun to enlarge. Indeed, we argue it occurred because the possibilities of popular influence through electoral politics were expanding."[56] They also note that "after the election of 1896 and the weakening of party competition on the state level throughout most of the country, effective partisan resistance to registration statutes largely dissipated. Registration laws spread rapidly, and became more restrictive."[57]

Similarly, the establishment of boards of elections--whether bi-partisan or otherwise--came during the same period as the inauguration of restrictive voter

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[55] About the legal-institutional changes and subsequent decline in turnout in the South, Kleppner and Baker state, "That was not some accidental by-product, but a purposive intention of those who spearheaded the drive for suffrage restriction. Those leaders were white, Democrat, affluent and well educated--elites in both the structural and functional senses of that term. Their actions were anchored in a theory of voting rights that decried the evils of "universal suffrage" and proposed to remedy those evils by confining the privilege of voting to the "fit" literate white men who owned property. Purging the active electorate of its most "unfit" components lower-class whites as well as blacks--was only the necessary first step toward rationalizing and stabilizing the political system. That accomplishment effectively eliminated the possibility of developing a mass opposition to the hegemonic Democratic party. The next step, the publicly regulated white primary, then guaranteed that political conflict would be constrained within the bounds of that ruling institution. In tandem these measures yielded an electoral process whose outcomes were wholly predictable, and a political system whose policy outputs appropriately reflected the interests of the dominant class. Southern elites had skillfully, and by design, used legitimized public institutions to transform the political system, virtually to extinguish political democracy and to rep lace it with a broadly based oligarchy." (Kleppner and Baker (1980), p. 207)

[56]Piven and Cloward, 1988:6-7.

[57]Piven and Cloward, 1988:108-109.

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registration procedures, and were part of the same campaign to detect and deter fraud and to reform the election process. "In general, special boards of election were created in the larger cities during the period from 1880 until 1910. These special boards were set up as a device to bring about election reform..." [and were themselves a election reform.][58] Like registration, boards were initially only applied to the largest cities--such as New York--and were generally advocated by a coalition of Republicans and middle and upper class reformers.

Integral to evaluating these developments is the issue of election fraud. It is critical to determine the nature and extent of election fraud--both in the past and contemporarily--because: (1). fraud was the main stated justification for inauguration of voter registration procedures and boards of elections (their raison d'etre); and (2). concern about increased possibilities of fraud continues to be the main stated reason of contemporary opponents of reform of election law, and restrictive practices of boards of elections.

The Specter of Fraud and the Rise of Restrictive Voter Registration Procedures and Election Administration

The issue of fraud is also integral to an explanation of why turnout declined precipitously at the turn of the century. Several scholars of the legal-institutional school have contended that most of the precipitous decline in the rate of voter turnout subsequent to the election of 1896 is substantially illusory.[59] They contend the high turnout throug-

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[58]Harris, 1934:19.

[59]Converse, 1972,1974; Rusk, 1970, 1974; Campbell et. als., 1960, 1965; Kelly et. als., 1967; Milbrath, 1977.

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hout much of the nineteenth century was mainly an artifact of a large number of fraudulently cast ballots. These authors argue that the apparent decline in turnout is a result of the adoption and enforcement of legal and institutional reforms including voter registration laws and procedures and the Australian ballot system (which used government printed "secret" ballots, replacing ballots printed by the parties). They hold these changes reduced control over the electoral process by the parties themselves and "machines" in particular, and increased regulation and control by "non-partisan" or "bi-partisan" officials and boards of elections. Thus, the apparent decline in turnout resulted largely because reform measures reduced the numbers of fraudulent or coerced ballots cast. As evidence they correlate the introduction of reforms and decline in turnout, and note variations in registration and voting requirements (such as residency requirements, poll taxes, closing dates for registration, etc.) that correlate with differences in state turnout levels.[60]

It is important to note that like much of the scholarship on the period, these scholars take the charges of fraud at face value, and as evidence of vote fraud. Obviously, the contention that fraud prompted reforms which led to lower turnout rates rests on the assumptions that: 1) voter fraud was, in fact, extensive and pervasive; 2) the kinds of fraud perpetrated artificially inflated turnout levels; 3) turn of the century reformers were "idealistic" and politically disinterested. That is, were primarily, and legitimately, concerned with eliminating fraud. Charges of fraud and proposed reforms were reflections of genuine motivations, while other ramifications (such as disenfranchisement, weakening

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[60]Carlson, (1976) establishes that between 1912 and 1924 in non-southern states turnout for Presidential elections was significantly lower in counties with personal voter registration requirements than in counties with no registration or non-personal systems.

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of the party system, or partisan advantage, etc.) were, as Converse states, "unintended consequences"; and 4) lower turnout is, in part, evidence of the elimination of fraudulent ballots.[61]

The political/behavioral approach--while primarily focusing on changes in party systems--has cogently criticized these assumptions and evidence.[62] These scholars draw attention to the changing economic and political environment in the United States in the decades surrounding the turn of the century, including rapid industrialization and urbanization. They contend these economic and social developments engendered intensified class conflict and the rise of social movements (Populist, Labor, Socialist) that led to changes in party systems--most notably increasing the oligarchic character of the dominant parties, a sectional realignment in the north and south, and a concomitant reduction in competition between and within parties--which, in turn, negatively impacted on participation and politics during this century, especially of those located at the bottom of the social structure. These scholars describe how southern elites and northern counterparts worked to restrict electoral participation especially by groups located at the bottom of the social structure, revealing distinct partisan, class and racial motivations and

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[61]Converse acknowledges, however, that a small part of the decrease in turnout was due to the "inconveniences" that voter registration procedures introduced. Similarly, King, 1994, argues that "Although some legal requirements for registration, such as poll taxes and literacy tests, were means for disenfranchising lower-class--particularly African-American--citizens, most were intended either to ensure that voters had an authentic interest in the community or to allow election officials guaranteed fair elections." King, however, offers no evidence to substantiate this claim.

[62]Burnham, 1970, 1974; Kleppner, 1980, 1982; Piven and Cloward, 1988; Erie, 1988; Avey, 1989; McGerr, 1986; Argersinger, 1985-86; Hammack, 1982; Gienapp, 1982; McCormick, 1981; Cox and Kousser, 1981; and Allen and Allen, 1981.

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interests, and the subsequent consequences for developments of the electorate, party systems, and policies. They contend that while the disenfranchisement in the south was less veiled and more successful than in the north, there is, nonetheless, a growing literature which documents politically motivated parallels, particularly in urban centers.

Regarding fraud, Burnham for example, contends that much less fraud actually existed than claimed by those such as Converse. Burnham holds the decline in turnout was not so much due to the elimination of fraudulent ballots by the reforms but to other factors such as political realignment and reduced competition. He suggests the reforms such as voter registration procedures and the Australian ballot originated and were the consequence, not of the extent of real fraud, but of strategies undertaken by elites to solidify their dominance. Thus, Burnham suggests the allegations and charges of electoral fraud--and therefore the electoral reforms which followed--should not be accepted on face value, but reflect elite motivations and interests of those who inaugurated and implemented them.

Paul Kleppner has also argued that although allegations of fraud abound, there are only a handful of concrete cases which have become "classics" partly because they were referred to so frequently in the contemporary "reform" literature.

> What is most impressive about that literature is how few (and not how many) concrete instances it cited. It did not pile case upon case to build to a conclusion, but used specific examples only as illustrations of the general--and taken for granted--principle that `corruption' pervaded the electoral (and political) system.[63]

Kleppner acknowledges that fraud certainly existed, but we should not assume the

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[63]Kleppner, 1982:59.

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frequently cited "notorious cases" were but the tip of the iceberg (much as the image of the all-powerful "machine" has been mythologized). He argues instead that fraud was more

> episodic than routine, not sufficiently widespread to account for a general inflation of the turnout rate of as much as 5 to 8 percent, and certainly not supported by any underlying ethos of corruption....[If] routine and extensive vote fraud was unlikely, then it is equally unlikely that the general decline in turnout after 1896 could be attributed to procedural changes that eliminated it.[64]

Kleppner also maintains that Rusk's case for the Australian ballot's role in eliminating vote fraud is "dubious at best", pointing out that the reform was used extensively by 1892, but that turnout actually increased in 1896.

Although we can not readily settle this dispute definitively, the Converse and Rusk model, nonetheless, appears more seriously flawed. Critics have provided compelling reasons to be skeptical of the reformers claims and the Converse and Rusk contentions regarding the nature of turnout decline, and of vote fraud and its relationship to reforms. These reasons include: 1. the magnitude of the decline; 2. the nature of the "evidence" of fraud; and 3. the partisan character of the political actors involved in the fraud charges and struggles around reform. We shall examine each of these in turn.

In the first instance, some have persuasively argued that deflationary forms of fraud were and are as probable as inflationary forms of fraud, and in addition, many forms of fraud were or could be committed independently of reforms such as the Australian ballot and voter registration procedures (by the destruction of ballots, officials changing

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[64]Kleppner, 1982:59-60.

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vote counts, paying voters not to vote, intimidation of voters, etc.[65] Even if fraud was as prevalent as alleged, its forms were likely numerous and had contradictory effects, so that the decline in turnout cannot merely be attributed to fraud's elimination by reforms. The magnitude of the decline in turnout that Converse attributes to the elimination of fraudulent methods by reforms has been effectively challenged by several scholars.[66]

Indeed, Gienapp notes that Converse himself has retreated somewhat from his own earlier claims. Originally, Converse maintained that the extent of fraudulent voting by the turn of the century was anywhere from 30 to 75 percent.[67] Later, in the American Political Science Review where Converse debated Burnham, he modified his contention, arguing that only 5 to 10 percent of the votes counted in the 19th century were fraudulent.[68] Gienapp challenges even this smaller figure. While his focus is on factors he claims led to a more politically active electorate in the 19th century, Gienapp takes issue with Converse's thesis regarding the prevalence of fraud by examining aggregate voting data and investigations of instances of alleged fraud in Northern states during the antebellum period. Gienapp examines several episodes of alleged fraudulent electoral activity in Pennsylvania, Indiana, New York, and Illinois, and argues that these examples don't meet,

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[65]Kleppner, 1982; McCormick, 1981; Cox and Kousser, 1981; Argersinger, 1985-86; Allen and Allen, 1981; Erie, 1988.

[66]Kleppner, 1982; Gienapp, 1982.

[67]Converse, 1972.

[68]Converse, 1974.

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> even his [Converse's] minimum level of illegal voting [and] illustrates how untenable his interpretation is. Illegal voting in these decades was neither widespread nor significant... Hypotheses that invoke massive, systematic fraud to account for wider political participation before 1861 are without factual basis... The conclusion seems inescapable: complaints of illegal voting, both urban and rural, greatly exaggerated the amount of electoral fraud.[69]

Gienapp maintains that Converse's contention that widespread fraud was tolerated and even perceived with amusement by Americans until the turn of the century when moral indignation peaked and reforms were implemented is without foundation, and suggests rather that charges of fraud were politically motivated, especially with reference to a nativistic animus and prejudice toward urban immigrants, particularly the Irish. McGerr also cites scholarship which questions Converse's thesis, concluding, "Unlike some later analysts of political participation, writers in the twenties seldom treated diminishing turnout figures as no more than a statistical by-product of the decrease of supposedly massive electoral frauds."[70] Moreover, fraud charges and concerns have continued to the present--albeit less so--long after turnout rates have decreased. So the frequency of charges of fraud don't seem to be associated with the decline in voter turnout, but they do appear to be associated with these other factors. Such considerations suggest a different and more complicated relationship between fraud charges and these reforms, and thus the nature of the electoral changes and decline in voter turnout in the twentieth century.

A second reason to be skeptical of the Converse and Rusk model relates to the

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[69]Gienapp, 1982:26-31.

[70]McGerr, 1986:187.

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nature of the evidence of fraud. While we can't dismiss the charges of fraud by appealing to the "facts" (since there is little documented evidence), what often passes as "evidence" is suspect. Indeed, examining what constituted "fraud" and "corruption", who charged fraud, and what interests were at stake lends credence to this skepticism. In the first place, much of the "corruption" political machines were charged with had little to do with vote fraud. Moreover, much of what reformers referred to as vote fraud was not universally considered "corrupt", and certainly today would not be considered as such. For example, vote choices guided by perceptions of economic benefit or habituated party loyalties rather than on the basis of some notion of the "public good" were often defined as "corruption."[71] Critics argue the way the term was often applied provides insight into the values held by reformers or commentators who charged fraud or criticized the party system--that is, reveals their strong anti-majoritarian and anti-party outlooks--but tells us little about the extent of fraudulent practices. This lends support to scholars who suggest that the charges of fraud, and the advocacy and imposition of restrictive measures in the North were not so much aimed at reducing the prevalence of fraud as such--nor did they have that effect--but were efforts to gain partisan advantage and disenfranchise significant segments of the opposition parties' constituents, especially members of the immigrant working classes, who were organizing politically.[72]

Indeed, the way electoral fraud was defined, and the rules and practices that were

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[71]Kleppner, 1982; Allen and Allen, 1981.

[72]Burnham, 1974; Piven and Cloward, 1988.

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established to "remedy" it, reveal similar interests and stakes.[73] For, example, as we saw earlier, when Converse uses the term fraud, he always meant the kinds of illegal activity which has the effect of increasing the vote polled and thereby inflating apparent turnout rates (like repeat voting, voting for the dead, false registration, etc.). On the other hand McCormick and Cox and Kousser have argued some forms of fraud in fact were deflationary (like voter intimidation, officials destroying ballots or changing vote totals, paying voters not to vote, etc.), which to a degree must have had the consequence of canceling out the inflationary effects of the former kinds of fraud. Yet, the reforms which were erected to remedy fraud generally addressed only the former types of fraud. For example, in his history of the Australian Ballot System, Eldon Cobb Evans notes, that various forms of voter "intimidation was...extensively practiced, particularly by employers, cannot be doubted. According to a report of a committee of the Forty-sixth Congress,...many labor men were afraid to vote and remained away from the polls. Others who voted against their employers' wishes frequently lost their jobs."[74]

Scholars who challenge Converse's and reformer's interpretation of fraud contend that what counts as "evidence" reveals strong social and moral values imbedded in their data and conclusions. For example, most of the evidence they presented (high turnout in machine wards, uniformity in the voting, inability to find registered voters at addresses in

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[73]Fortunately, some efforts to define fraud have been made: Ostrogorski, 1910; Bryce, 1921; Harris, 1929, 1934; Allen and Allen, 1981; Cox and Kousser, 1981; McCormick, 1981; Argrsinger, 1985-86. I have elaborated a definition of fraud based on this literature in Appendix B.

[74]Evans, 1917:12.

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post-election surveys, high rates of naturalization, revelations of patronage and bribery, etc.), though consistent with the view that large scale fraud existed, is inconclusive, and there are plausible alternative explanations for the findings.[75] These alternatives include explanations that take into account the fact that city tenement districts had very large, immigrant and transient populations living in overcrowded housing, who were responsive to the mobilizing efforts of effective ward bosses in many places during certain periods.[76] Some party organizations did in fact work more to naturalize and register immigrant groups who they perceived were their potential constituents and allies. Moreover, it is probable that Census data under-counted the actual population in tenement districts so the actual number of people would have exceeded the official number used to calculate the rate of turnout. High turnouts which seemed unreal might have accurately reflected the reality. Thus, these scholars conclude it is not surprising to have a lack of hard evidence and scarcity of systematic studies since charges of fraud were to some extent "part of the political campaign of elite groups to regain or retain control of city politics."[77] Moreover, since subsequent writing on fraud has taken place in the context of substantially lower rates of turnout, it is not surprising that social scientists attributed evidence of the change from high to lower turnout to reduced fraud rather than broader behavioral, legal and institutional changes which demobilized and effectively barred substantial portions of the eligible electorate.

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[75]Allen and Allen 1981.

[76]Jacob Riis, 1890.

[77]Allen and Allen, 1981:171.

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There may be another possible explanation for apparently high turnout involving a sort of benign form of fraud. It is conceivable that family members, friends, and neighbors may have voted for another when asked to or when someone was unable to get to the polls. In such instances, voters known to poll workers might have convinced the worker to allow them to cast an additional ballot for a relative or friend. A voter may have, for example, said, "My father can't come to vote today but asked me to vote for him." Given the density and insularity of ethnic populations and the ties party organizations had to immigrant groups, it may be possible that such instances occurred. While these sorts of votes cast would technically be fraudulent and inflate turnout, they do not constitute the kinds of fraud generally alleged.

Lastly, what appeared to be fraud may have been the poor operation of election administration. Indeed, although Harris's own account of the rise of registration procedures and election administration maintains fraud was widespread, he acknowledges that other factors also contributed to what might have appeared to be fraud, and to actual lower turnout. For example, Harris points out that in the course of recounts where fraud was alleged, often what was found instead was the "widespread prevalence of errors."[78] In addition, Harris noted that "every election contest brings to light slipshod, careless and irregular administration."[79] Thus, Harris suggests that some amount of non-voting can be attributed to "inefficient and inconvenient" election administration. This has particular relevance to the contemporary period which I will discuss below.

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[78]Harris, 1934:4.

[79]Ibid., p. 6.

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A third reason to be skeptical is that one finds distinct patterns of particular political actors whose charges are specific to partisan groups, constituents, and geographic centers, which reveal specific patterns of interests and stakes regarding charges of fraud. Most allegations originated within Republican party organizations, oppositional factions, or reform and independent movements, who charged dominant or incumbent administrations (generally Democratic) with fraudulent activities. The most frequent charges came during the years of the heaviest immigration (1870's through the 1920's). Much writing was "openly condescending, moralistic, and prejudiced toward the new arrivals... The literature on election fraud , in sum, corresponded roughly with the years of the mugwump-progressive reform movements and can be seen as a manifestation of the middle and upper-class reform of these years."[80] Indeed, the sources of many of the charges originated from middle and upper class groups and muckraking magazines like The Nation, Harper's Weekly, Outlook, McClure's, Century, and Forum. Studies of the background of these writers indicate most were native born, white, Protestant, middle and upper class progressive reformers. Most studies concerning urban politics and fraud were written before 1930 when hostility to "bosses", "machines", immigrants, blacks, radicals, and the like ran high, especially amongst native, middle and upper class "Mugwumps" and "reformers" who authored the vast majority of such studies.[81] Indeed, the literature is largely anecdotal and based on accounts of highly motivated observers and participants, thereby casting a pall on its reliability. Most accounts were written not by "disinterested"

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[80]Allen and Allen, 1981:172-174.

[81]Allen and Allen 1981, Argersinger 1985-86.

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observers, but people who were engaged in reform activity. Indeed, one of the most influential authors, Joseph Harris, who wrote two major works published in 1929 and 1934 on voter registration and election administration respectively, remains one of the "authoritative" sources on these subjects.[82] Like earlier reformers, Harris and his affiliates (including the Brookings Institute and the National Municipal League which funded his studies), were very active in the movement to reform election procedures. "Not to say he [Harris] distorted consciously the record, but marshaled evidence to make the best case for his point of view."[83] Nevertheless, this perspective has been substantially generalized and incorporated into the scholarship on the subject.

It is also appears that these often repeated allegations and ideas which proliferated took on a "material force" (i.e. became "real" and exaggerated by virtue of their repetition in the popular literature and scholarship), so that even groups with varying and conflicting interests could share similar notions and work towards similar reform ends. And while we do not want to lump all reformers into the same category, most of their allegations reflect some "normative" view of how the political system ought to work, even while some forms of fraud were not "corrupt" in terms of the standards of the day.[84] For example, turn of the century "social justice reformers" supported eliminating "fraud" and increasing

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[82]Piven and Cloward note that Harris's work on voter registration "is a fairly thorough compilation of the main legislative developments, [but that] there exists no adequate political history of voter registration" (1988:88). Indeed, Piven and Cloward have significantly contributed toward that end. Regarding election administration, there remains no major work since Harris' work.

[83]Kleppner, 1987:168.

[84]Allen and Allen, 1981:182.

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"efficiency" and "democracy" through reform measures much as did very different political actors and interests but for very different reasons.[85] Samuel Hays has argued that

> reform in municipal government, therefore, constituted an attempt by upper-class, advanced professional, and largely business groups to take formal political power from the previously dominant lower and middle-class elements so that they might advance their own conceptions of desirable public policy ...Reformers often gave the impression that they opposed merely the corrupt politicians and his 'machine'. But in a more fundamental way they looked upon the deficiencies of pre-reform political leaders in terms not of their personal shortcomings, but of the limitations inherent in their occupational, institutional, and class positions.[86]

The reform movement's attempts to refashion the party system appears to have included the use of fraud charges as a strategy to alter the balance of power. As we shall see in the case of New York, allegations of fraud were part and parcel of reform led campaigns that led to legal and institutional changes, and changes in political power.

Piven and Cloward buttress these arguments in their analysis of how electoral reform institutionalized such a political transformation. Noting the reformer's charges of fraud had a real basis--that certainly some amount of fraud was real--they argue that the charges of fraud were historically defined. "Eliminating fraud meant eliminating clientelist parties riddled with corruption associated with uneducated and rowdy immigrants, and efficiency was understood as government run on business principles in business interests."[87] Like Burnham, they contend the deeper reason for the rise of anti-party and anti-suffrage agitation by elite groups "can be understood as a defensive response on the

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[85]Schiesl, 1989; Erie, 1989; Argersinger, 1985-86; Weinstein, 1968; Hays, 1964.

[86]Hays, 1964.

[87]Piven and Cloward, 1988:71.

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one hand to the political disturbances of the late nineteenth century, and on the other as an aggressive effort to gain undisputed control of government functions". They maintain that part of the campaign and means of carrying out this agenda lie in a series of legal and institutional changes implemented during this period:

> One set of changes weakened the ability of local party organizations, especially in the big cities, to enlist working- and lower-class voters. A second set disenfranchised many potentially contentious working- and lower-class voters in the cities..., accomplished either by legislating new qualifications for the suffrage or by erecting procedural obstructions, mainly in the form of voter registration requirements.[88]

They suggest that the charges of fraud--while having some real basis--were substantially politically motivated, and served as the basis for instituting a host of reform measures which had important consequences for subsequent American political development. Noting Schattschneider's observation that political conflict is often focused on rules and procedures, they point out that

> it is in politics, including party politics, that the legal arrangements and administrative procedures are forged... In this sense, political and legal variables are related, but political variables take pride of place; they are the independent variables. However, it was also Schattschneider's point that rules, once institutionalized, change politics--the 'rules of the game determine the requirements for success'--which is why they are the focus of so much political contention in the first place...rules do indeed originate in politics, and their implementation is conditioned by complex features of the political situation, including the new political conditions the rules themselves helped to produce.[89]

Thus, Piven and Cloward and others argue that the imposition of these new restrictive registration laws had important disenfranchising impacts on particular

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[88]Ibid.

[89]Ibid, p. 101, 111.

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constituencies and helped shape subsequent American political development. In the North, it was immigrant-stock, working class voters whose turnout significantly decreased. In the South, it was largely blacks and poor whites who statistically made up the massive demobilization of the South. These developments had an impact on the issues the political parties and candidates chose to mobilize perceived constituencies. This early twentieth century political universe and political culture, though it has since gone through important changes, has had profound significance for present politics.

Piven and Cloward suggest political parties and boards of elections--who implemented electoral reforms--both shaped and were shaped by legal and institutional arrangements, and therefor developed a stake in maintaining these new arrangements, ultimately adapting to and benefiting from a more restricted political universe. In the earlier period, "...where local parties were strong and closely linked to the immigrant working class, ways were discovered to overcome the new restrictions, such as naturalization laws."[90] Indeed, Piven and Cloward argue that "it was not so simple a matter as enacting restrictive [registration] laws. What continued to matter in practice was the organizational capacity of local parties to shape implementation."[91] Harris has noted that in many places, "...in common with many other independent boards and commissions, they [boards of elections] soon fell under the domination of political organizations..."[92] Certainly, political organizations had incumbency and patronage

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[90]Ibid, p. 108.

[91]Ibid, p. 109.

[92]Harris, 1934:19.

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interests--especially in local elections--to shape the impacts of election reform as well as the organizational capacity to dominate implementation processes by virtue of their position on such boards of elections. Variation in the ways the new rules were implemented may be related to variations in turnout within different political jurisdictions.[93] Nevertheless, like registration, bi-partisan boards of elections were initially only applied to the largest cities--such as New York--where turnout declined significantly.

> The institutional arrangements that combined to narrow the electoral universe were constructed by regional elites who worked over time to refashion the legal and party basis of mass electoral participation. They were activated by political problems created by an urban immigrant working class, by insurgent western farmers, and by both white dirt farmers and blacks in the South. They crafted the step-by-step development of institutional arrangements to narrow the electorate precisely to demobilize the groups whose politics were threatening and disruptive.[94]

Much of the literature on urban politics corroborates these inter-relations of rules and politics, explicitly or implicitly. Several scholars of "machine politics" have posited a developmental approach to urban politics which elaborates on this theme.[95] They suggest that as party organizations developed and vied for control of the machinery of government, the parties generally had greater interests in mobilizing constituents--especially in the context of keen competition--in order to win elections and patronage

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[93]Burnham's data, for example, show significant variations in turnout rates within and between northern states at the turn of the century; McCormick (1981) shows similar unexplained variations in New York State; and regarding the contemporary period, Affigne and Tate (1993) show significant variation in turnout within and between cities.

[94]Piven and Cloward, 1988:119-120. Aside from "burdensome voter registration procedures," Piven and Cloward refer to other restrictive and disenfranchising practices, including literacy tests, grandfather clauses, and the like.

[95]Erie, 1988; DiGaetano, 1988; Shefter, 1978, 1984, 1985.

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resources.[96] Once political machines had consolidated, however, they had greater interests in maintaining stable coalitions and in restricting the size of the electorate, particularly constituents linked to rival factions. Indeed, most machines consolidated their power coinciding with or following the implementation of such reforms.[97] Erie documented that many machines dropped their initial resistance to the inauguration of voter registration and election boards, and later used registration to their advantage in constructing "minimal winning coalitions" to "manage electoral demand".[98]

Moreover, important aspects of "machine politics" have persisted in New York and elsewhere, as distinct from the fabled "political machines".[99] The stakes of local elections remain significantly tied to patronage resources and relationships, such as important municipal agencies, commissions, judgeships, and the like. While not impervious to challenges from reformers, elite political groupings and "regular" party organizations

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[96]Shefter, 1984 makes such an argument more generally about political parties at both the state and local levels. He examines conditions under which parties have incentives to--or have in fact--mobilized voters, and, conversely, different circumstances which shift such incentives and actions.

[97]DeGaetano, 1988:259.

[98]Erie concludes that machines "...actively participated in reducing the size of the working class voting universe... In the post-1896 period, entrenched machines abetted capital in insulating the political system from pressures from below that might challenge their respective political and economic hegemonies." (p.250) Whether machines ever functioned benevolently for immigrant working classes (as for Merton), or benignly, or as clientelist institutions, or more in the interests of capital, has been long debated. Clearly, however, machines made some shifts in their opposition to restrictive voter registration procedures, bi-partisan boards of elections, and changed how they related to immigrant groups, mobilizing fewer voters.

[99]Wolfinger, 1972; Mayhew, 1986; Erie, 1988; Baim, 1983; Thompson, 1990; Mollenkopf, 1992; Shefter, 1994.

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continue to be adept at dominating or re-capturing electoral processes in many urban centers, and may very well have survived insurgent efforts through their capacity to limit voting through restricting registration to oppositional constituencies, limiting the number and efficiency of poll sites, and they dominate institutions such as boards of elections and the selection of judges who run for election (and who in turn rule on ballot access challenges, and the like).

This approach has particular relevance for electoral systems dominated by one party, and for urban centers such as New York City.[100] V.O. Key's seminal work on state politics and one party systems of the South indicates the significance of the inter-relations of rules and politics, and, more importantly for this study, the role played by election administration. Key discussed a tendency towards intense factionalism within such systems dominated by one party. Under such conditions, primary elections become critical, where the fate of competing factions are decided. He noted how within such systems the dominant faction often erected barriers to defeat insurgent rivals and inhibit the participation of opponent's constituents, being better positioned to work the machinery of government. Key observed that the way elections were administered--especially regarding the application and implementation of rules governing election processes such as voter registration and literacy tests--were significantly biased, in part due to the dominant faction's close links to the election administration which presided over such contests, and how this administration had discretionary capacity to effect these pro-

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[100]Baim, 1983; Mollenkopf, 1987, 1992; Thompson, 1990; Shefter, 1994.

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cesses and outcomes.[101] Indeed, given the dominance of the Democratic Party in New York City, there is substantial pressure on opponents and reformers to accommodate to it, or even to become incorporated into the political establishment.[102]

While the ostensible purpose of voter registration laws and procedures is to compile a list of voters who are eligible or qualify to participate in elections, bi-partisan boards of elections were charged with insuring that only registered individuals vote (and only once, and only in their proper voting district--i.e. to "police" the election process). However, to accomplish these goals particular practices were employed. In general, the greater the number of stringent procedures to safeguard the ballot, the greater the likelihood eligible voters will be barred from exercising their voting rights. To the extent boards employed such restrictive procedures, they increasingly effectively disenfranchised voters. Moreover, such restrictive practices disproportionately affect low-income and minority citizens. This, in turn, reduces the size of the electorate, as well as increases the bias toward middle and upper income groups, and contributes toward decreasing party competition and producing oligarchic parties, which, of course, is reflected in policy outcomes.

Scholars such as Piven and Cloward suggest that the inter-play between the inauguration and implementation of electoral reforms and the resulting political consequences were mutually reinforcing and may have had cumulative effects,

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[101]Similarly, Gosnell and Holland observed that "While the laws of one-party states in the South may provide for bi-partisan boards, they are actually completely controlled by the Democratic Party." (1951:199.)

[102]Shefter, 1987; Baim, 1980; Gerson, 1990; Thompson, 1990.

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combining to constrict the electoral universe.[103] Moreover, these rules generally have had differential impacts on particular groups over time, leading to the emergence of the twentieth century phenomenon of low turnout among low socio-economic-status groups that the social-psychological school highlights. As registration and other barriers took effect over time, (coupled with the decrease in party competition), the parties' linkages to working class and ethnic immigrant constituents withered and the electoral calculations of party strategists turned increasingly toward appealing to the better off--that is, the "active" voters. Gradually local urban parties themselves dropped their original opposition to registration procedures and bi-partisan boards of elections, institutionalizing a more constricted and stable electorate which, in turn, enhanced their incumbency and further reinforced the politics which accompanied the origin of such rules. This contracting electoral universe no doubt helped shape the responses and attitudes of the voters and non-voters as much as it was shaped by them.[104] Indeed, Piven and Cloward maintain the apparent "lack of motivation" and "apathetic" attitudes associated with nonvoters in the twentieth century (primarily low SES groups) was not a cause of their marginalization from electoral politics, but rather is a consequence. This consequence was historically produced by the various features of the evolution of the party structure and political culture which was and, more importantly, still is sustained and buttressed by these legal and institutional barriers to electoral participation. Therefore these inter active

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[103]Stringent registration procedures restricted access to the franchise by potential voters, and similarly, restrictive ballot access measures worked to marginalize insurgents within the dominant parties or independent campaigns.

[104]McGerr, 1986.

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developments may account for the persistence of such dampening effects on participation and provide insight into concomitant policy consequences. It is for these reasons that Piven and Cloward conclude voter registration procedures and the agencies that implemented them "helped to create a party system severed from the working class".

In sum, this approach strongly suggests there is good historical reason to believe that boards of elections function as gatekeeping institutions (and I shall next argue, continue to play a significant role) in maintaining a downwardly race and class skewed electorate, particularly through the use of registration procedures and access to the ballot. The interests of those who dominated previous political struggles and developments is embedded in the institutional "residue" and trajectory of election law and agencies such as boards of elections.[105] In the name of protecting against election fraud and reforming corrupt political machines, elite political interests successfully established an election system--whether by design or default--that perpetrated and perpetuated a more insidious form of fraud: restrictive electoral practices that produce political disenfranchisement. The political biases of the past therefore may be firmly ensconced in the contemporary electoral system through the development of these legal and institutional arrangements. More importantly, contemporary political actors continue to benefit from and perpetuate such arrangements.

Thus, the historical legacy of such arrangements and the contemporary practices of boards of elections may continue to have significant impacts in constricting

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[105]Schattschneider, 1960; Piven and Cloward, 1988. See also David Truman, 1951, and Peter Hall, 1986 on the general theme of institutionalization of interests.

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participation.[106] Indeed, in the context of the decline of the traditional vehicles of electoral mobilization over the past 20 to 30 years--such as the party organizations, political clubs, unions and mass social movements, and coupled with the rise of media based, cash intensive, candidate centered politics--it is likely that registration obstacles have become increasingly difficult to surmount and the impacts of restrictive practices are even greater, especially for lower strata constituents. Such restrictions on access to the franchise and the ballot have probably buttressed and furthered these other developments.

Indeed, I argue that if the establishment of registration barriers was not accidental, neither are their persistence merely a residue of a system which has decayed. Contemporary political parties have deliberately maintained these barriers for similar motives. Although there have been important successes in reforming the electoral system--particularly in the enfranchisement of women, the toppling of the most egregious features of the southern registration system, the expansion of the electorate to include eighteen year olds, and the passage and initial implementation of the National Voter Registration Act--efforts to liberalize the system have been repeatedly thrown back at the national, state and local levels.

In fact, as previously alluded to, concerns regarding the potential for election fraud have continued to be at issue in present public policy debates regarding electoral reform, particularly voter registration laws and practices. The contemporary reform efforts have generally been met by substantial opposition, mainly invoking the specter of increased possibilities for electoral fraud. Since the 1960's, opposition to legislation that would ease

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[106]Piven and Cloward, 1988.

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voter registration procedures, especially federal legislation for national registration reform, has generally come from Republicans, "conservatives" and incumbents. In their view, though the electoral system has some shortcomings, these are relatively minor compared to the potential problem of increased fraud which they claim current reform efforts would produce.

Efforts to change voter registration procedures have generally been championed by a variety of "liberal" Democrats, "radicals", and grassroots organizations. The advocates of voter registration reform indict the American political system as not being sufficiently representative and democratic, and they place part of the blame on what they characterize as our uniquely restrictive registration system. They aim, in part, to increase turnout in electoral contests especially among minority groups and the poor who, since the turn of the century, traditionally have very low rates of voting turnout and who generally support the Democrats. They contend that an enlarged electorate would potentially lead to different candidates and policies and would invigorate the polity. Such reform efforts, however, have been met with defeat at the national level.

William Crotty has noted that since the 1960's, momentum to reform our "outdated registration procedures" has revived and broadened. Nonetheless, Crotty contends reform has been substantially limited for primarily political considerations, using the issue of fraud (amongst others) as subterfuge for blocking such efforts. For example,

> Election day registration has been opposed out of fear of increasing the likelihood of fraudulent voting. The safeguards against fraud appear as strong as in the more traditional enrollment systems, and the concern does not appear to have merit... The most powerful argument..., and the one underlying most of the other objections, is the fear that it might work

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> sufficiently well to bring new and untested voters into the electorate. This is a disturbing prospect for most politicians and one that could, although it is a long-shot possibility, tilt the balance of power in politics.[107]

More recently, while the House of Representatives approved the National Voter Registration Act in 1990 over the objections of President Bush and other leading Republicans,[108] the Act was defeated. One of the main objections repeatedly raised was the concern that "weakened" registration requirements would open the door to increased electoral fraud.[109] Democratic proponents sought to ease these fears by including a number of anti-fraud provisions, as well as eliminating a stipulation of previous bills that would have allowed for election day registration. Indeed, proponents of the measure, among them then Republican Minority Whip Newt Gingrich (GA) and William Thomas (Republican of CA), contended that the bill's anti-fraud provisions were stronger that most state laws.[110]

Moreover, state Republican Parties have continued to oppose various state reform

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[107]Crotty, 1980:101-102.

[108]On February 6, 1990, HR 2190 was approved by a vote of 289 to 132, with 61 Republicans joining the Democrats, while 24 Democrats opposed it.

[109]The other objections were: 1) that the bill violates states' rights to regulate and implement elections and therefore was unconstitutional by overriding certain practices and agencies in some states which "protect the integrity of elections" and "exist for good reason" (essentially, a fraud related concern); and 2) would impose "undue costs and burdens on the states".

[110]The bill's main provisions are: 1) for the first time making electoral fraud a federal crime with stiff penalties; 2) a requirement for purging the registration rolls at least once every four years to remove "deadwood" (i.e. names of those who have died, moved, etc.) which purportedly provides the means for certain kinds of fraud; and 3) confirmation of registration by an inquiry through non-forward able mail, whereby if returned further action can be taken to confirm or remove the name.

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measures and actions in the name of guarding against fraud. For example, in North Carolina just prior to the 1988 elections, Democratic officials brought a complaint to a federal judge regarding the possible violation of a court order issued eight years prior prohibiting the Republican National Committee from improperly singling out and intimidating minority voters. At that time the state Republican Party mailed hundreds of thousands of postcards to citizens warning them that electoral fraud was punishable by imprisonment and fines. These actions, taken ostensibly to protect against electoral fraud, have previously been ruled to be a practice which intimidates likely oppositional constituents for political purposes. Proponents of reform efforts contend that such activities in these close elections by the GOP are evidence that fraud concerns are politically motivated and have substantial consequences.

What is suggested by these struggles are that certain groups have interests in charging fraud and opposing current reform efforts, and thus maintaining the current composition (or decomposition) of the electorate, and certain groups have correspondingly opposite interests. Insurgent candidates and party factions (such as Jesse Jackson's 1984 and 1988 election bids and the formation of the Rainbow Coalition) as well some "liberal" Democrats, favor less restrictive electoral laws and procedures. They do so, in part, because they perceive the non-voters to be potentially "their" supporters. This was also the calculation of some Republicans who, conversely, perceived a more "conservative" or Republican electorate, at least for a time, especially among young voters and in the South and West, and joined the proponents of registration reform and downplayed the fraud issue.

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Thus, both groups appear to see a "window of opportunity" for electoral advance vis a vis electoral rule changes. What is suggested by the different contexts of these struggles are that certain groups have interests in charging fraud and opposing current reform efforts, and thus maintaining the current composition (or decomposition) of the electorate, and certain groups have correspondingly opposite interests. Finally, in assessing these debates in both the historical (turn-of-the-century) and contemporary period--periods characterized by deep and rapid socio-economic and political changes, expressed in reform movements, and in contests over electoral arrangements (rules and procedures) which had and have significant consequences for subsequent development--also sheds some light on the stakes and interests of these strategic political actors and their charges of fraud.

Contemporary Studies of Voter Registration Procedures and Election Administration

There exist few studies that deal with the administration of voter registration procedures and elections.[111] Although there exists no comprehensive study of election administration in the U.S., there has been some documentation of the practices of election administration. Several such studies have produced evidence that practices of boards of elections do vary substantially, and produce differential impacts on voter registration and participation. While there are some examples of elections officials who have taken

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[111]As previously discussed, Harris (1929, 1934) remains the most thorough to date, but is flawed, being highly imbued with his biases as a reform advocate, including anti-immigrant sentiments, valuation of efficiency on a business model, and the like.

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measures to improve efficiency and increase access to voting, these are few in number.[112] For a variety of possible reasons discussed (and below), election administration has overwhelmingly tended to produce depressing effects on voter registration and participation.

One of the earliest studies of non-voting was conducted by Charles Merriam and Harold Gosnell in 1924.[113] Merriam and Gosnell and their team of researchers documented that "legal and administrative obstacles" contributed to non-voting in the 1923 Mayoral election in Chicago by "examination of 6,000 voters," information of "300 experts," census data, and other sources.[114] They observed that the manner elections are conducted can contribute to non-voting, even while they attribute greater weight to other factors. They found that registration and other administrative obstacles kept 13% of the eligible electorate from the polls.[115] The legal and administrative obstacles to voting they found included,

> insufficient legal residence, fear of loss of business or wages, congestion at the polls, poor location of polling booth, and fear of disclosure of age... A common characteristic of all of these five reasons for not voting is that they are based, in part at least, upon some defect of the election system which

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[112]For example, the Board in Washington D.C. in the mid-1980's made substantive improvements, and in Monroe County in New York, to just name two. (The case of Monroe will be discussed in chapter three.)

[113]Non-Voting: Causes and Methods of Control, by Charles Edward Merriam and Harold Foote Gosnell, University of Chicago Press, Chicago, 1924.

[114]Ibid, pp. 3-4, 78-108.

[115]Ibid. Their study found that 25% of the non-voters were either out of the city on election day or did not vote due to illness. More than half of non-voting was attributed to "inertia, general indifference" or a "disbelief in voting."

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could be remedied either by changing the law or its administration.[116]

Only the first one of these obstacles is a strictly legal barrier. The other obstacles they attribute to the "election system." "Such obstacles as congestion at the polls and poor location of polling place are obviously connected directly with the administration of elections. The same can be said regarding the factor described as 'fear of disclosure of age.'" Voters who feared loss of wages or business "simply found the hours of voting highly inconvenient," with only a few who said fear of pressure from employers or customers caused non-voting.

Merriam and Gosnell described how even though the election law prescribed particular parameters for the administration of elections, these were not always complied with and could result in non-voting. For example, the law stated that a voting precinct should contain "as nearly practicable" to 400 voters, but some precincts contained 500-600 voters, and "it is quite obvious that the congestion at the polls in the working-class precincts early in the morning kept a considerable number from voting." Similarly, poll site locations are to be "the most public and convenient places that can be found in each precinct," but some "were located in barber shops, pool rooms, basements, garages, and other places to which sensitive women hesitated to go." Moreover, "the complaints regarding voting facilities were found more largely among the colored, the German, the Polish, and Russian non-voters..., and in poor neighborhoods."[117] Further, the motives of the dominant party organization (Democrat) and election workers may have been at work

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[116]Ibid, p. 78.

[117]Ibid., p. 96-98.

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in some of these instances as the study found in other administrative obstacles.

> By far the greatest number of cases of intimidation were found in the colored settlement that had recently sprung up in the Ghetto district. The Democratic party organization in this district was strongly intrenched and resented the influx of colored Republican voters. Consequently the party workers used various devices to persuade the Negroes not to vote. The Democratic workers made application to have the names of registered Negroes erased. The Negroes were then sent 'suspect' notices which they had to answer in person before the Election Commissioners.[118]

They conclude the section on legal and administrative obstacles by stating that "not only did the residency requirements, the voting hours, and the registration system keep many people from voting, but the failure of the local boards to perform their tasks efficiently had a depressing effect upon the number voting."

Over fifty years later, (in 1976) Gosnell again described the general nature and motives which continued to govern election administration and its potential to impact voter participation:

> There are many administrative decisions affecting the outcome of elections (including voter turnout) which can be made by election administrators. The usual practice is to have policy determined by a bipartisan board controlled by the major political party in the county or the state. This practice has permitted a substantial advantage to accrue to the majority party, in particular, and to the incumbents of both parties with respect to party primary elections...If the dominant political party thinks that it can gain by getting more people to register, there will be a great effort to establish decentralized registration locations, appoint deputy registrars, widely advertise registration activity, and concentrate such activity in geographic areas where the party stands to gain the most. On the other hand, if the dominant party thinks that increased registration may weaken its plurality by admitting large numbers of persons who are expected to vote with the opposition, it will be reluctant to encourage registration, will react against proposals to increase registration opportunity, may limit the number of deputy registrars, or establish time-consuming procedures which

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[118]Ibid., p. 107-108.

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tend to discourage both workers and prospective registrants.[119]

The National Municipal League and League of Women Voter Studies

In the early 1970's, two national studies of voter registration procedures and election administration practices were conducted when the interest in election reform was high. In 1971 the National Municipal League (NML) launched the Elections Systems Project, to study election systems with the goal of producing reform in policy and practice in the U.S. The NML published several monographs and collections of essays that were part of the Project's national study of election practices in the U.S.[120] Similarly, the League of Women Voters conducted a study that documented the administrative practices of elections officials in 257 communities in 47 states during the Fall of 1971.[121] As

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[119]Gosnell and Smolka, 1976:118-122.

[120]The Election Systems Project of the NML, a two year study funded by the Ford Foundation, "represents the League's response to contemporary pressures for electoral reform from citizens, the courts and Congress... There is no doubt that the causes of non-voting are deeply rooted in a complex web of social and psychological conditions which defy easy solutions. Often candidates or election issues do not arouse enough voter interest to bring people to the polls. There is evidence, however, to suggest that changes in the rules by which elections are conducted may generated significant gains in participation by making voting a more convenient and significant gains in participation by making voting a more convenient and accessible feature of government. This is the working assumption of the Election Systems Project." (Issues in Election Reform, 1974:vii). The Project resulted in four publications, the most relevant being Issues in Election Reform, edited by Richard Carlson, 1974. The others were Model Election System, 1973; Costs of Administering American Elections, authored by Richard Smolka, 1973; and Voter Registration Systems in Canada and Western Europe, by Richard Carlson, 1974.

[121]The study, "Administrative Obstacles to Voting," 1972 (monograph), covered at least one type of jurisdiction from each state: a large city, a medium sized and small town, a suburb, and a rural community, the sample of communities "encompassing approximately 40 million people or one-fifty of the total population of the United States." The data collected for the study involved "recording official registration and voting

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previously mentioned, the National Municipal League study concluded, "legal expansion of the electorate can be administratively blunted... when that is the intention of local administrators [which] demonstrates the important relationship between administrative procedures and electoral participation". Similarly, the League of Women Voters found that election administration in the U.S. was generally "inefficient", often "obstructive" to efforts to increase participation, and that "millions" were disenfranchised by the practices of boards of elections.

The national study of election administration practices conducted by the League of Women Voters stated,

> In addition to changes in election laws, there is a need for changes in administrative practices of local and state election officials... Regrettably, the present election system has not worked well. It still bears the mark of forces which originally gave it birth at the turn of the century: fear of the then-widespread corruption and fraud at the polls and a desire to control the voting participation of millions of European immigrants who threatened the political status quo. Although these particular forces have largely ceased to exist, the system remains saddled with many unnecessarily restrictive laws and exclusionary procedures. It has become and administrative maze in which many of the abuses it was designed to prevent can, in fact, be more easily hidden and through which the average citizen must painstakingly grope in order to exercise his fundamental right to the franchise... More noteworthy, it would seem, is the fraud perpetuated on the American people by a system which excludes millions of eligible voters from the electoral process in the name of preventing a few dishonestly cast

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procedures, interviewing government and election board personnel to determine attitudes and practices, and observing citizen experiences at both registration and polling places." Since the League conducted the observation of the 1971 elections, a non-presidential election year, "it is reasonable to conclude then that the findings contained in this report might be an understatement of the problems citizens experience when participating in presidential elections."

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votes.[122]

The League documented various practices which result in disenfranchisement of "millions" of Americans, particularly "minorities, the poor, the uneducated and the aged." The discretionary power of elections officials was stressed in the League's report, claiming they can have substantive impacts. Even when laws are clear, "they can determine the impact of these laws by the vigor with which they" implement them, and the manner. Moreover, since "most of the laws concerning registration and voting, however, are not specific, [it] thereby leaves a great deal of discretion to local officials." Indeed, the League of Women Voters noted that "local officials may be even more powerful where the law is merely permissive." The data the League gathered indicated that "local officials have in many cases failed to use the tools allowed but not mandated by law to make registration and voting easier and more accessible for all citizens... Election officials seem to view the government as a passive participant in the electoral process with no responsibility for reaching out to citizens... [Rather, there exists] an attitude on the part of many election officials which tends to obstruct rather than encourage the efforts of citizen groups to expand the electorate."

The League documented numerous practices which demonstrate this lack of willingness to provide access, and practices which had disenfranchising impacts. For instance, the League found that 52% of 300 registration places observed in the study were

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[122]Emphasis in the original. They continue, "For the purposes of this study, administrative practices refers to the standards, procedures and structures set up to implement state election law. The main purpose of this report then is to document the need for administrative changes and to draw attention to the numerous administrative obstacles which confront all Americans as they seek to implement their right to vote."

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not clearly identified, nor were prospective voters properly notified of such places. Boards charged voter registration organizations fees for lists of voters in 55% of the communities surveyed, authorization to use such lists were required in 38% of the cases, and nearly 50% of the organizations reported that the lists were inaccurate with half of those cases reporting an inaccuracy of over 10%. One fourth of the voter registration groups reported being denied the authorization to have their members deputized to register voters; even among groups which were permitted to have members deputized as registrars, 31% reported being limited to a small number of registrars and 10% reported a limit to the number of forms they could obtain, "an effective way of limiting the number of citizens registered." Hours and places where registration could take place were unduly limited, vote registration forms were unnecessarily complicated, "52% of the observers at registration places classified staff as not helpful," and "in 30% of the places where bilingual staff was needed, it was not found." The League noted that "there is no way to measure the number of citizens who are discouraged from registering... but observations of 5,750 people attempting to register at approximately 300 registration places showed that 3 out of every 100 qualified people who made the effort and found the registration place still left without being registered." Similarly, polling places on election day presented a host of other problems. 38% of the polling places observed were poorly marked as such, 58% lacked convenient transportation, many were not open after working hours, machines broke down, election staff were generally "poorly trained" and "usually selected on the basis of their partisanship," and voters right to vote may be challenged as were the rights of 419 persons at observed polls. The League of Women Voters

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concluded by making a series of recommendations, and subsequently published a short pamphlet aimed at groups who might organize to realize such recommendations.[123]

In the collection of essays published by the NML, Issues in Election Reform, an article by Jeanne Richman and Robert Outis surveyed state's statutes and found that responsibility for the conduct of elections "varies widely", and that "in practice a state may dilute these powers through lax enforcement or extend them through forceful administration."[124] In most states, particularly in the most populous states (CA, Ill, PA and NY), responsibility for elections is "almost wholly decentralized", and that "the real authority for almost all election procedures resides in the county officials. The local units of election administration receive little or no direct help from the state in terms of funding, performance standards, training of local personnel, or effective (mandatory) direction on rules and regulations."[125] Similarly, the League of Women Voters's 1972 study observed that the discretionary powers of elections officials are formidable, especially to increase access, public information, and thus participation, but that election officials generally do not employ those powers, because either they are not provided with adequate funding to undertake such measures, or instead, oppose efforts to do so, including inadequately implementing reforms. Citing the fact that states' control, monitoring and enforcement powers are weak or not used, "local election officials become chief policy makers by

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[123]The second pamphlet is entitled, "Removing Administrative Obstacles to Voting: Before the Election and Beyond," 1972.

[124]Richman and Outis, 1974:118.

[125]Ibid., p. 125.

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default". Experts on election administration at the state and at the national level have reported in interviews with this researcher that sharp differences between jurisdictions continue to exist, and that decision making power regarding election practices is still primarily located at the local level.[126]

Moreover, the Federal Elections Commission and the Council on State Governments confirm that such conditions continue to characterize election administration in most of the U.S. Even in states where responsibility for voter registration and administering elections falls under a secretary of state body other than a bi-partisan board of elections, local structures generally are bi-partisan boards, are beholden to local officials, and continue to exercise significant autonomy and discretion.

> Virtually all state election systems require that election officials be appointed (or sometimes elected) on a bipartisan basis on the theory that the adversary confrontation between contending political parties will ensure the purity of the electoral process... Generally, a board of election at any level of government serves as the guardian of the franchise... It is essentially the task of a state board of elections to supervise the administration of election laws by local boards and generally to see that all of the laws of the state in respect to elections are faithfully and properly obeyed, with due regard to the rights of the electors and political candidates... Election officials have the actual or implied powers to perform their official duties. For example, election officials may relocate polling places to places less convenient for some voters so long as they do not

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[126]The Council of State Governments, the Election Center and the Federal Election Commission all publish some comparative data on the variations in election law and the structures of election administration, but little on their practices. One exception is Richard Smolka, a leading authority on election administration, who runs the Institute of Election Administration and publishes a newsletter, Election Administration Reports. (A national expert on ballot access, Richard Winger, publishes Ballot Access News.)

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impose a substantial burden on the right to vote.[127]

In the NML collection, Issues in Election Reform, Joseph P. Harris, wrote an essay entitled "Election Reform: The Perspective of Forty Years." This essay evaluates changes in election systems since his 1929 and 1934 studies, and makes recommendations. He begins with a focus on fraud, claiming that "grosser" forms of fraud have greatly declined, along with the improvement of competence and honesty of election officers, that reflects the rise of nonpartisanship, and the decline of bosses and machines. He also claims this reflects an increase in the "professionalization" of election administration, particularly of an increase in the number of officers and staff who are not patronage appointees but "nonpartisan appointees and selected on the basis of merit." Harris discusses other changes including, the rise of chief elections officers (Secretaries of State) and organizations of chief elections officers that promote further "professionalization" (changes that Harris wants to promote). He sketches further improvements that are needed, including increased state level control and standardization of methods/procedures

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[127]FEC, Election Case Law, 1990, p. 2-2. The selection of election personnel is generally specified in state law. Regarding the capacity of election administrators to decide poll site locations, see Taylor v. Angarano, 652 F.Supp. 827 (S.D.N.Y. 1986). In this case, representative college student voters at SUNY-Purchase sought an injunction to prevent the Harrison Town Board from relocating polling places from the campus to locations 1.5 miles from the campus and within .6 miles of the public bus stop. Plaintiffs argued that the purpose in relocation the polling place was to make it more difficult for students to vote while the board contended it moved the polling places because there were incidents of electioneering and other disturbances at the campus polling places in the previous election. The court held: injunctive relief denied because (1) the location of the new polling places, though less convenient, does not impose a substantial burden on the students franchise; and (2) the board was entitled, because of the previous disturbances at the polls, to take the necessary steps to protect the integrity of its electoral process. (FEC, ibid. 2-21) Note: said "disturbances" included challenges of student voters by Republican poll watchers and election inspectors (NYPIRG and NYCLU).

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throughout states such as having a "career, non-partisan election administrative staff and a chief elections officer at the local level, and curtailment of bi-partisan boards."

Yet, regarding election administration at the local level, Harris acknowledges that "relatively little change has been accomplished over the last 40 years." Bi-partisan boards appointed by parties are still widely used, especially in large and middle sized cities, which usually results in a "highly political administration". Indeed, he calls the bi-partisan scheme a "fiction", and the "principal cause of the backward administration of registration and elections in many areas of the country."[128] He concludes that better recruitment is needed, possibly by civic organizations such as the League of Women Voters.

Clearly, to the extent some states and locales have adopted alternative methods of selection of election officers than direct appointments by party leaders should produce more "independent" and "nonpartisan" election administration. Yet, this needs to be demonstrated, not merely asserted. Do some schemes or administrative structures work better than others? It is true that in some states, many election administrative employees are now selected through civil service procedures, particularly at the state level? And is this more conducive to "efficiency" and "competence."

Few states continue to have a board of elections at the state level, while over forty states have Secretaries of State as the chief elections officer who is responsible for maintaining voter registration and administering elections, with some being elected and others appointed by governors.[129] Yet, the methods of how personnel are selected at both

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[128]Harris, 1974:110.

[129]FEC, telephone interview with Brian Hancock.

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the state--especially at the local level--and how the practices employed by particular election administrations are determined do raise questions regarding how "independent" or "non-partisan they really are. Secretaries of States--and local elections officials--are usually active members of political parties, and therefore subject to pressures similar to other politicians, and elections officials are appointed by such politicians under traditional methods of selecting board employees which persist to this day. Given the discretionary capacity that elections officials posses, and their ties to state and local political officials, it is no surprise to find that in some jurisdictions election administrators are more open to reform than in other jurisdictions.

I argue, and as we shall see in the case of New York, that party leaders and elections officials may restrict or promote access to registration and voting depending on several factors. Such factors include (but are not limited to) the level of inter and intra party competition (and/or which party or faction may be dominant at a particular time and place); the level of non-participation and the social and political characteristics of the non-voters which will influence the political calculus of parties and candidates who may chose to mobilize or demobilize these potential voters; and the relations of elected and elections officials to other political forces and interest groups, and the capacity of such groups to exert influence on officials.

Nowhere else is this more evident than in the experience of Blacks in the South. Another essay in the NML's collection by John Lewis, "Black Voter Registration in the South," discusses how disenfranchisement of blacks and poor whites occurred (or as he states was "concocted") when "voter registration was placed exclusively in the hands of

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white officials at the state level to prevent black political control at the local level."[130] Lewis discusses the attempts by the civil rights movement to wrest control from this political establishment through a variety of means, including the creation of the Voter Education Project of the Southern Regional Council in 1962, and the passage of the 1965 Voting Rights Act. He notes that even with the massive efforts to register blacks--which did produce approximately 500,000 new registrants in 11 southern states between 1960 and 1964, "representing the most dramatic increase for any four-year period since Reconstruction"--local election officials were able to blunt further gains, and were able to undermine even these. With the passage of the Voting Rights Act, which eliminated literacy tests and similar devices which were used to disenfranchise voters, and in places authorized through the dispatching of federal examiners to enforce the Act, some important progress was made. But it was "obvious, however, that extreme forms of intimidation, harassment and denial of the right to vote[131] was much more widespread geographically than recognized by the designation of a 58-county area for remedial action. Thus, while the 1965 Voting Rights Act was the century's most significant legislative measure dealing with the enfranchisement of blacks, its effects were diminished by federal reluctance to institute full enforcement."[132]

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[130]Lewis, 1974:75.

[131]Such activity took many forms, including voter registration workers and voters being "shot at, arrested on false traffic and other charges," and the like. "One of the greatest deterrents to black voter registration and political participation is the threat of economic reprisal...,according to weekly reports submitted to the Voter Education Project by its cooperating agencies."

[132]Ibid., p. 76.

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Moreover, even though many observers expected more considerable gains of many millions of new registrants, "...such expectations obviously did not take into account the degree of oppression to which black people had been subjected, the capacity of the system to continue to dominate the psyche of these people, and ***the ability of local officials to retain institutionalized discriminatory powers*** even though the more overt and physical barriers to full political participation had been removed."[133] Such discretionary actions elections officials employed included, limiting registration office hours, days and locations, restricting deputization of registrars, "rude, uncooperative and hostile" behavior by elections officials.

> Although the Voter Education Project has not conducted a systematic survey of election officials and employees throughout the South, its experience points to the conclusion that these positions of power are retained by persons generally hostile to the advancement of black political power. The election boards generally are controlled by whites and dominated by tired old men who simply don't want to see any group, whether blacks, Chicanos, poor people or young people, become more involved in the political process. It is through such poor leadership and example that rules and regulations and other barriers to registration are set up which make it impossible for poor people and working people to register with ease. Stereotyped though it may sound, at the point of registration the registrar is too often some tired little old lady who thinks--and apparently really believes--that she is doing some people a favor by 'allowing' them to register... Voting should be considered a right to be exercised, and not a privilege to be granted a the whim of a bigoted local official."[134]

The next essay in the NML collection documents how another class of citizens, young people, also have experienced disenfranchisement from practices of elections

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[133]Ibid., p. 77. Emphasis added.

[134]Ibid., p. 79-85.

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officials.[135] One of the authors, Charlotte Roe was the executive director of Frontlash, Inc. of New York City, a nonpartisan voter registration and voter education organization which was founded in 1968. As part of a larger voter mobilization effort, Frontlash targeted 22 states in 1971 and 1972, after the passage of the twenty-sixth amendment which reduced the age for voters from twenty one to eighteen, claiming to register more than 908,000 "young and blue collar voters" as a result of their efforts. "Yet, even with a well organized approach, enormous energies had to be diverted to overcome the roadblocks to registration and to cut through the red tape of election officialdom, as the experiences of some local drives may illustrate." Roe reported similar kinds of obstructionism--albeit less violent--by elections officials in many of the states they worked in, including northern states.[136]

In the same collection of essays by the NML, Richard Smolka, who runs the Institute of Election Administration and publishes "Election Administration Reports,"contributed an article entitled, "The Need for Performance Standards in Election

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[135]"The Youth Vote: Difficulties of Extending the Franchise," by Charlotte Roe and Henry Maurer.

[136]For example, in Michigan, many county clerks refused to deputize volunteer registrars or set up conveniently located registration stations; in New Jersey, Frontlash groups "were forced to spend 60 percent of their time" working to liberalize practices of elections officials who, for example did not announce in advance dates and places for mobile registration; similar incidents were reported in Illinois; in New Hampshire, groups found that the rules changed for when, how and where registration could occur so that "the process of voter enrollment is dependent on the whims and discretionary powers of town clerks, whose job is usually inherited."

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Administration".[137] Smolka argues that "If integrity, accuracy, speed, efficiency and economy are to be achieved,... performance standards can ensure that election officials, political parties, candidates and the public will receive the necessary service for a reasonable price". Performance standards such as "a definition of a minimum level of registration per voting age population, a deadline before which all jurisdictions should report results on election night, and accomplishment of a specific task by an appropriate number of individuals within a fixed time period."[138] Service standards may include the availability of personnel to answer questions about registration and voting, public availability of lists of registered voters and election results by precinct, printed voter information available at all times, convenient polling place locations, and the like. And, in fact, he cites jurisdictions which do attempt to establish and maintain such standards with the attendant "efficient" or "inefficient" results.[139]

Smolka discusses several obstacles to establishing such standards: 1) conflicting or unclear lines of responsibility for various functions in law (e.g.. different levels/units of government, the role of parties in primaries, and the like); and 2) partisanship. He states, "Few jurisdictions recruit employees on the basis of merit. Political patronage rather than

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[137]Smolka is reputed to be one of the nation's foremost "experts" on election administration. He also teaches in the Public Management Department of American University. Recall that Smolka also wrote a monograph, Costs of Administering American Elections, published by the NML in 1973, and co-authored a text book American Parties and Elections, with Harold Gosnell.

[138]Smolka, 1974:128.

[139]For example, he claims that Alaska, Oregon and others are jurisdictions which maintain better standards and are more efficient than many states, and by contrast, Texas, Detroit, and others are jurisdictions which do not and are relatively inefficient.

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ability is a more frequent criterion."[140] But, he argues, debates about civil service vs. partisanship miss the point, which is that regardless of the scheme used, performance standards are needed. Neither scheme matters, for example, in the context of low pay ("positions in elections offices are among the least well paid and least protected of any job in state or local government"), or the lack of other necessary standards which characterizes election administration of both types.[141]

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[140]Smolka, 1974:131.

[141]However, Smolka then goes on to discuss debates about partisanship vs. non-partisanship, citing two examples of partisan struggles to control election administration: 1) the "Baby Jane" bill in Maryland; and 2) the Socialist Workers Party ballot access struggle in D.C. In the first case, Maryland's Democratic Legislature re-wrote the election law that required the CEO of the state to be of the majority party by re-defining "majority party" as the party which won the governorship and not the Presidency in an attempt to retain Jane Sawyers as the CEO (the "baby" was a slur used to further "scandalize" the event by Republicans because Sawyers was "young, attractive, computer-trained and technically skilled but controversial"). In D.C., "probably the most nonpartisan elections office in the country... where the political parties nominate the three board members, but none has ever displayed partisan tendencies once in office," the elections board developed a random sampling procedure to check petitions after the Democratic Party sued the board for not checking petitions (previously, the board did not verify signatures unless opposition candidates could show probable cause that signatures were insufficient). The board used the random method to refuse to place the candidate for the Socialist Workers Party on the ballot, only later, due to legal action, to reverse its position. Smolka concludes from these episodes that "There is no magic in either an independent nonpartisan or a partisan system per se" (p. 134). However, these episodes seem to prove the point that election administration is political or will be politicized by the parties struggling over control of the franchise to capture government perhaps even regardless of performance standards.

Indeed, in his discussion of primary elections, he notes the administration of primary elections may be quite different from that of general elections, and argues that "when the party rather than the local government controls the administration of such elections [i.e. primaries], there is little effort at professionalization and much danger of abuse of the process" (p. 134). He concludes that given that employees of election administration can have significant impacts on election processes, especially on election days were "hundreds of thousands of one day workers are required to make [what often amount to final] judgements about who is to vote and where they are to vote", increased

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Of course, since the time of these studies in the 1970's there have been changes in election administration. Some changes have been significant and produced important improvements--such as new legal and policy mandates in some jurisdictions to provide greater access to registration and voting[142], the establishment of several organizations to increase the level of performance and professionalization of elections officials[143], new technologies which have increased efficiency and decreased disenfranchisement[144] as in the case of the New York City Board of Elections which will be described in chapter four--while other changes have been cosmetic at best.[145]

"professionalization" is needed. This includes: the creation of a professional organization of and for full-time election administrators, more and better training of election officials and staff, cost efficiency standards to be implemented, and the like. Indeed, Smolka has contributed to the realization of these goals.

[142]The Americans with Disabilities Act and earlier similar legislation and court cases have forced elections officials in numerous jurisdictions to alter their practices to insure equal access to people with disabilities. Similarly, amendments to the Voting Rights Act and other court cases have compelled elections officials to provide language assistance to minorities. Most recently, the National Voter Registration Act has forced even the most retrograde elections officials to comply with new pro-active mandates.

[143]Such as the Election Center, which, in conjunction with Auburn University, offers training and courses in various areas of elections; and the National Association of Secretaries of State which has made efforts to improve the operations of election administration.

[144]Specifically, computerization of registration records, electronic voting machines, and improved training methods of agency staff.

[145]According to national experts on election administration, in most places boards still operate much as they have in the past. As one expert put it, "Very little substantial has changed. They are still throw backs to yesteryear, employing the same kinds of patronage personnel and using outdated methods. They are backwaters of government."

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A Recent National Study

Nevertheless, implementation of voter registration procedures by boards of elections continues to be a factor in low turnout. A recent national study by Robert Montjoy found that some voter registration reforms in the United States have been ineffective in part due to poor design and/or implementation.[146] His examination of five voter registration reforms found

> a good bit of variety, not only among the states, but also within states, in the adoption and implementation of these programs. Some jurisdictions have not fully implemented programs required by state law.[147]

For example, 45% (or 76) of the jurisdictions in his sample claimed to have agency registration programs, but only 16% (or 12) had "active" programs. (i.e. most such programs had weak "passive" designs of such programs which made them highly ineffective in most places.) In addition, Montjoy found that "registration offices from thirty different states reported having agency programs, but in twenty-two of these states other offices reported that they did not have an agency program."[148] Moreover, Montjoy

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[146]Robert Montjoy, "Implementation and Impact of Voter Registration Outreach Systems in the United States," November 5, 1993, prepared for the Southern Political Science Association, Savannah, Georgia, 1993. Montjoy conducted telephone interviews with state and local elections officials in each state, and as well as in 172 local offices and the District of Columbia, and he visited offices in ten states. Some of this data was published as "Motor Voter Registration Programs" with the National Clearinghouse on Election Administration of the Federal Election Commission (FEC) (1992); and as a second study with the FEC on mail registration programs (1993). In addition, Montjoy gathered additional data and examined three other voter outreach areas: deputy registrars, agency registration, and election day registration.

[147]Ibid. p. 10.

[148]Ibid.

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found a correlation between well designed and implemented programs and higher registration.[149]

He argues that such findings should not be surprising for two main reasons. First, the fragmented and decentralized structure of election systems in the U. S. lacks clear lines of authority and accountability. Such a system allows for wide discretion by local officials and requires cooperation from differing agencies who these registration programs are dependent on for successful implementation, especially where the dynamics of "street level bureaucracies"[150] which may have conflicting priorities or mandates operate. Secondly, Montjoy argues that the findings of implementation research in other fields also applies to election systems.

> A working hypothesis of this paper is that the success of such programs depends heavily upon implementation. This is a simple point which has been amply demonstrated in other areas by the now-vast literature on implementation (e.g. Ripley and Franklin, 1986). Policies are not self-executing, and unfunded mandates frequently meet with resistance on the part of agencies charged with implementation (Montjoy and O'Toole, 1979). The result is often minimal activity, if the mandating authority allows the agency to get away with it, or substantial conflict if the mandating authority has the will and ability to press for it.[151]

He concludes that "reformers and scholars need to pay attention to the design and implementation of registration outreach programs...[because] variation in implementation

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[149]Montjoy found that "active motor voter programs seem to have made a difference in registration rates between 1980 and 1992. The variable that reflected to some extent variations in activity was more closely related to registration than were the variables which simply reflected the presence or duration of a program." (Ibid. p. 18)

[150]Lipsky, 1980.

[151]Ibid. p. 1.

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makes a difference."[152]

Conclusion

Political scientists have not deemed the workings of election administration worthy of even passing mention let alone serious study. Perhaps this is because their operations have been viewed as mundane and not relevant to issues of participation and governance. The dominance of pluralist theory which has posited government as a kind of neutral arbiter among contending interests has contributed to this lack of study. To the extent politics concerns the struggle over power, of "who gets what, when, how," the rules and institutions that influence patterns of electoral participation are relevant to these struggles over power. As my study shows, political actors and interests in New York have recognized this fact for well over a century. The "stakes and prizes" of politics are evident in contests over electoral arrangements. My study of New York attempts to show that election administration can have important impacts on participation and politics, and relevance to current debates in political science on such issues.

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[152]Ibid. p. 18.

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CHAPTER TWO

VOTER REGISTRATION AND ELECTION ADMINISTRATION IN NEW YORK: AN HISTORICAL OVERVIEW

> ...in our attempt to understand any society we come upon images which have been drawn from its past and which often confuse our attempt to confront its present reality. That is one minor reason why history is the shank of any social science: we must study it if only to rid ourselves of it.[1]

In this chapter I review the literature on the history and politics of voter registration and election administration in New York. I examine when and how particular voter registration procedures and administrative structures came into being, who promoted and opposed them, and what impacts they had on voter participation and electoral politics in New York.

There is general agreement among scholars that electoral rules implemented in the South during the decades surrounding the turn of the century disenfranchised most blacks and many poor whites. The motives and techniques of the disenfranchisers are clear and widely acknowledged. But similar disenfranchising measures enacted in the North are not as universally recognized or stressed as such. While the extent of disenfranchisement in the North was less than the South and differed in respects, some scholars have argued that there are many more similarities than differences between the two cases. Piven and Cloward argue

> The decades after the Civil War, when techniques for disenfranchising blacks and poor whites were being perfected in the states of the Confederacy, were also the decades when something very much like a

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[1]C. Wright Mills, The Sociological Imagination, New York:Oxford University Press, 1959.

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> democratic counterrevolution swept across the North, leaving in its wake a new system of rules governing electoral participation.[2]

My study of New York attempts to build upon this work.

The genesis of voter registration procedures and the rise of election administration in New York largely parallels similar developments in other states, particularly in the northeast.[3] As previously discussed in chapter one, reform efforts in New York to "clean up" what were allegedly rampant "corrupt" practices in local government and electoral politics by big city "party machines" culminated in a series of reform measures that were passed by state legislatures at the end of the nineteenth and beginning of the twentieth centuries. New and increasingly stringent voter registration procedures and bi-partisan boards of elections were instituted to insure more fair, honest and legitimate elections and government. Republicans, "reformers," independents, and dissident Democrats, promoted changes in election law and practice to address a perception--which they helped to produce--that "fraud, corruption and violence have marked the operation of our electoral

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[2]Piven and Cloward, 1988:85. They note Burnham also makes a similar point about electoral arrangements: "The South is properly viewed as an extreme rather than a wholly deviant example of processes more generally and diffusely at work." Burnham, 1974:1054.

[3]Harris, 1929; 1934. On New Jersey, see Richard P. McCormick, 1953. Interestingly, Harris' 1929 and 1934 accounts of the rise of registration laws and election administration at the turn of the century remains the most thorough to date on the subject. No recent nor comprehensive analysis on election administration exists. For a general review of election law development in early New York see Charles Z. Lincoln, The Constitutional History of New York, 5 vols. (Rochester, 1906). For an excellent historical and political overview of the turn of the century, see Richard L. McCormick, 1981.

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system."[4]

Concurrent with the imposition of increasingly restrictive voter registration procedures and the establishment of bi-partisan boards of elections was a precipitous decline in voter participation in New York. Participation of eligible voters in New York declined from its highs in presidential elections of 90% during the 1880's, to 57% by 1920, with most of the loss coming between 1904 and 1912.[5] Moreover, the sharpest declines occurred in New York City: out of all counties, turnout in New York County (Manhattan) was the lowest by 1910, declining from 73.2% in 1894 to 59.4% in 1910 (or 13.8%); similarly, turnout in Kings County (Brooklyn) declined from 77.6% in 1894 to 64.2% in 1910 (or 13.4%).[6] Importantly, during this time period it was only these two counties in all of New York State that required 100% of those entitled to register to vote in person. That is, the election law required personal registration only in cities and villages with populations over 5,000, thus leaving large portions of the populations in other counties unfettered by the requirement for in person registration. For example, in 1910 Dutchess County had only 39.5% of its population in cities or villages over 5,000 who were subject to personal registration, and it posted a 73.1% turnout rate. While not all this decline in

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[4]Joseph P. Harris (1929), p. 2. Indeed, these partisans and reformers asserted that such conditions existed all over the country and were not merely sporadic. "They are still more widespread than is generally supposed, and in many communities constitute the backbone of the strength of the corrupt political machine."

[5]McCormick, 1981:pp.252-253. Interestingly, New York's voter participation was higher than the national average by between 5% to 10% during this period. For example, turnout was approximately 84% in 1896 in New York while nationally it was only 79%; and in 1920 New York's turnout rate was 57% compared to 49% nationally.

[6]McCormick, 1981:263.

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turnout can be attributed to the new rules and procedures, a significant portion of the dropoff appears to be related.

The consequences of these new laws and boards of elections provides insight into the nature of the political contests which surrounded their genesis. As discussed in chapter one, the political struggles and fierce debates that took place in New York around efforts to inaugurate and implement more stringent voter registration procedures and establish bi-partisan boards of elections squarely frame the stakes involved and the significance of these reform measures. There are several important aspects to these developments, revealing patterns of partisan, class and ethno-cultural interests.

Scholarship on New York

New York State provides an excellent opportunity to examine these issues and test our empirical questions. There are many episodes of alleged fraudulent electoral activity throughout much of the nineteenth and twentieth centuries in New York, especially in its urban centers and particularly New York City. Moreover, in the latter third of the 19th century and the first quarter of the 20th century in New York State, numerous bills were introduced to provide safeguards against electoral fraud and corruption, leaving a rich historical record.[7] My review of some of these legislative battles--coupled with several investigations by government agencies, private reform group activities, press coverage, and a wealth of secondary source material, provide ample data to assess the politics of

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[7]According to Harris, this general pattern is apparently also true of many other states. Richard P. McCormick (1953) describes in detail one such example of this pattern in the case of New Jersey.

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fraud.[8] Indeed, one of the only efforts made by the national government to regulate elections until the second half of the twentieth century came after allegations of electoral fraud in New York during the 1867-68 elections, and subsequent Congressional inquiries. The result was the Federal Election Laws which were passed in 1870-1871 (repealed in 1894) and applied to the North and South.[9] I shall now review this scholarship and material.

Partisan Conflict, Procedural Restrictions, and the Role of Fraud

Harris has noted that New York is a good example of the kinds of general developments seen in other states discussed in chapter one regarding the introduction of voter registration procedures and the rise of election administration, particularly the pattern of initially applying registration to cities and the tendency to make the practices more stringent and restrictive over time. Moreover, New York also represents the typical pattern of partisan wrangling over such measures, especially regarding the role that charges of electoral fraud played in justifying their imposition. Harris described the fight between Republicans and Democrats regarding these issues: Republicans sought to impose

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[8] Aside from the primary sources cited in the introduction and below, I refer to Harris, 1929 and 1934; Tolman, 1895; Ivins, 1887; Lincoln, 1906; Myers, 1917; Smith, 1922; Werner, 1928; Flick, 1955; Bass, 1961; Lowi, 1964; Muccigrosso, 1968; Cerillo, 1973; McSeveney, 1972; McCormick, 1981; Hammack, 1982; Shefter, 1985; and McGerr, 1986.

[9]These Federal Election Laws, which will be discussed in more detail below, were intended to "end impersonation, repeating, intimidation, and bribery in Congressional elections." Democrats contended that these laws were not intended to curtail fraud as such, but to limit citizen's legitimate franchise rights, and cited that the laws were usually implemented by Republican's appointees, who then held a majority at the national level. Both parties at the time noted that New York is of strategic importance for national electoral success (Alexander, 1969).

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a more stringent registration law for New York City while maintaining a weak or non existent registration law for the rest of the state. Conversely, Democrats sought a less stringent law for New York City, or to adopt a uniform state-wide registration law, primarily as a tactic to defeat a more restrictive law for New York City (calculating that Republicans would balk at the imposition of the same law on their constituencies upstate).[10]

As discussed in chapter one, reformers claimed fraud was possible because of the power of political machines--focusing almost exclusively on Democrats in urban centers such as New York City, Albany, Troy and the like--who "controlled" the election machinery. Ironically, reformers claimed Democratic control made it "difficult if not impossible to secure accurate and reliable information about the existence of voting frauds,"[11] thus making their claims less verifiable. Moreover, as is clear in the case of New York, while party "machines" may have possessed important control over significant patronage resources and some election processes, there were not all powerful.[12]

In his study of New York politics, Theodore Lowi has suggested that charges of

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[10]Harris, 1929. Richard P. McCormick documents a similar pattern in New Jersey. In his exhaustive study of New Jersey, he concludes: "The significant fact is, however, that all but a conspicuous few of the scores of laws that were passed [during this time i.e. 1870's-1900] were intended for no other purpose than to insure the supremacy of the temporarily dominant party." Moreover, he argues that in creating and controlling the vital election boards "... the party controlling the municipality could be fairly well assured of having complete control of the registration and election machinery." (McCormick, 1981:163)

[11]Harris, 1929:7. Nevertheless, some degree of real fraud certainly did occur, and there exists reliable evidence for some such episodes. (Ibid.)

[12]Shefter, 1985; 1994.

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fraud and corruption have been used for political purposes: "Histories of New York tend to stress the unsavory quality of its politics... [But] the traditional political system in New York is too easily denounced... It is very likely that the corruption associated with machine politics is better known and more fully documented not because there is in fact greater corruption, but because an organized opposition is a more efficient means of discovering it."[13] He notes that Republican organizations in New York City can beat Democratic ones

> only by mobilizing all of the hostility to the party system itself. This they can do through the control they share in the State legislature, by bringing forth the investigating committees that precipitate the reform movement by revelations of corrupt practices and then by 'waiting for unorganized citizens clamoring for change to come to it for the machinery needed to win elections'[14]... It is here that 'corruption' plays an important role. Discovery of corruption is both a function of the reform system and a cause of its formation.[15]

Martin Shefter corroborates this thesis in his examination of the cycles of New York City politics, describing the alternating cycles of regular and reform control of government.

> Since the end of the nineteenth century, anti-machine campaigns in New York have been initiated by what might be termed the city's 'reform vanguard'...Exposes and investigations were central to the political strategy of the reformers. The exposure of incompetence, the discovery of graft, or, best of all, the uncovering of ties between machine politicians and the underworld could destroy the legitimacy of the incumbent municipal

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[13]Lowi, 1964:182.

[14]Lowi, 1964:182, quoting Flynn.

[15]Lowi, 1964:183.

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administration.[16]

Indeed, some scholars have acknowledged the uses of charges of fraud as political strategy, even if implicitly, and the need for more investigation and analysis to asses such charges. For example, Felt has written an article entitled "Vice Reform as a Political Technique" in his investigation of a reform group in New York City at the turn of the century. While he maintains the perspective of the reform tradition--that these reform efforts were noble and motivated by moral and non-partisan impulses in the interests of the "public good"--he acknowledges their effectiveness as a political strategy and the consequences for particular and conflicting interests.[17] Similarly, Dorsett has argued that the stakes were high in these conflicts, and more investigation is needed which does not merely accept on face value such allegations:

> Historians have done little to clarify our understanding of the motives of urban politicians. And what has been done is usually based on an assumption--the assumption that men who were labeled 'bosses' by their contemporaries were only self-seekers interested in making money and wielding power. When 'bosses' worked to improve their cities, they did so opportunistically. Those labeled 'reformers' by their contemporaries (and themselves) had the best interests of their cities at heart.[18]

In determining the interests and stakes strategic actors had (and have) in the

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[16]Shefter, 1985:22-23. Clearly, Shefter (and Lowi) refer to various forms of corruption and fraud, including election fraud. Nevertheless, many of those who charged various forms of fraud or corruption, who worked against machines for perhaps different reasons, and who advocated particular reforms, were often allied with each other (or in some cases were the same individuals or organizations).

[17]Felt, 1973.

[18]Dorsett, 1972:154. Similarly, other authors make this point, including Schiesl, 1977; Hays, 1964; Weinstein, 1968; Erie, 1988.

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charges of fraud and struggles over rule changes regulating the franchise, we need to assess a set of related questions: 1) What was the nature of the party system in New York with reference to the links between parties and voters, particularly "machines" and various constituencies and conflicting group interests? 2) What was the nature of the variegated reform movements, as well as that of mass popular mobilizations and third party challenges? 3) How did the electoral system develop and change over time, and in the context of the New York political economy and expansion of the role of urban government? So, to take one aspect for example, we will want to assess the debate in the literature regarding the political machine and its relation to immigrant working class constituents and interests: Did machines perform positive "latent" functions,[19] help in the integration, ethnic succession and social mobility of ethnic minorities[20]; were machines "subversive" in threatening the interests and ability of traditional elites to rule and thus attacked by opponents as criminal and illegal[21]; or were machines ultimately inimical to the interests of working class constituencies?[22] To examine such questions, particularly regarding electoral reform, I will now review the genesis of voter registration procedures and of boards of elections in New York and the political actors and interests involved in promoting and opposing such reforms.

New York's Electoral History

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[19]Merton, 1957.

[20]Dahl, 1961.

[21]Shefter, 1978.

[22]Rosenbaum, 1973; Erie, 1989.

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One of the earliest attempts to establish voter registration in New York occurred in the 1850's. But Governor of New York, Myron H. Clark, on April 13, 1855 vetoed a bill proposing voter registration in New York, stating:

> The provisions of the bill in effect disfranchise all citizens who are able but neglect to attend before the registering officers on the days specified before the election, to have their names registered; and also all those who by absence from their residence and not returning until after the Saturday next previous to election shall not have had their names registered. It makes no provision for supplying such omissions on the day of election; but prohibits all whose names are not registered from voting.
>
> However important may be the protection of the elective franchise from abuse, and the exercise of the power to ascertain the citizen's right of suffrage by registry or otherwise, it must be done in such manner as not to restrict the exercise of a constitutional right, or prohibit any individual who, by the provisions of the constitution is entitled to vote and who may present himself on the day of election and demand his right as an elector, from exercising the privilege guaranteed to him by the constitution.[23]

In 1857 and 1858, Governor King strongly, but unsuccessfully, urged a registration law be passed by the legislature. In 1859, Governor Morgan continued the recommendation and the legislature passed a limited registration law. He stated:

> These laws are general in their character, and are so framed that in no case can those entitled to vote be deprived of their just rights on account of temporary absence or otherwise. Such a law, properly framed, is essential in securing to all citizens, native as well as adopted, the proper exercise of the elective franchise. To do this, is one of the highest duties of a State; and complying, as it will, with a mandate of the Constitution, I recommend its enactment during the present session.[24]

This law provided for the precinct officers in some municipalities to draw up registration lists without the personal application of the voter. It is worth noting that these were far

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[23]Lincoln, 1906, vol. 4, pp. 825-826.

[24]Ibid., vol. 5, p. 92.

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less restrictive methods than the more stringent procedures which passed toward the century's close.

In 1865, Governor Fenton urged the legislature to modify the law to make it more stringent by making it applicable not only to cities and large villages, but to the entire county. In addition, it required that after the first day of registration no more names could be added except by personal application of the elector.

The Tweed Years

In 1867, a debate between Democrats and Republicans took place which was to be repeated time and time again in New York. A proposed amendment to the constitution at the constitutional convention required a state-wide, compulsory registration law. The amendment lost. Democratic delegates from New York City strongly insisted that registration should be uniform throughout the state, while upstate delegates (Republicans) stoutly maintained that registration laws should not apply to rural sections.[25]

In 1869, Governor John T. Hoffman (D) advocated a uniform state-wide registration law, but evidently in a maneuver to get a more lenient registration law for New York City. In 1870, he opposed all registry laws, and in 1872 stated:

> The inconvenience occasioned to the electors, by registry laws, is not to be counted against them, if, by their means, we can ensure pure elections. I have little faith in them to prevent fraud at the polls. They have been tried and have failed to prevent it. More frequent charges of fraud, and of frauds of a grosser character, have been made since registry laws were put in operation than before.
>
> Upon principle, a registry law, if any be passed, should apply to all parts of the State alike. Yet I am satisfied that intelligent public opinion in the rural districts, among men of all parties, does not favor one there. The

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[25]Harris, pp. 73-74.

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> inconvenience and expense to the electors in such districts, from such a law, are very great, with no adequate good result in compensation.[26]

As a result, all registry laws were repealed on April 28, 1870, except as to the city and county of New York.

Much of the political fight over these registration laws came as a direct result of allegedly rampant fraudulent electoral activities in New York City under the Tweed administration during 1867-1870. Such allegations, made by Republicans and muckraking reformers, led to federal, state and local investigations, and the above discussed legislation. Moreover, these "revelations" also produced the first federal legislation regulating elections and intervention by the federal government into election procedures within the states. Lastly, these episodes are ones that were and are frequently cited in the literature on political machines and corruption.[27] For example, Griffith has pointed out the significance of these episodes for urban political history:

> The Tweed ring has historically and correctly been regarded as the symbol and culmination of municipal corruption. Because of the publicity and investigations attending its advent and its demise, and because of the fascination it has exerted over scholars, probably more is known about it than about any other similar ring in American municipal history."[28]

Briefly, alleged electoral fraudulent activity by the Tammany organization occurred during the 1867 elections, which led Republicans and their supporters to tailor their

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[26]Lincoln, 1901, vol. 6., pp. 388-389.

[27]Myers, 1917: Ivins, 1887; Smith, 1922; Werner, 1928; Flick, 1935; Alexander, 1969. All these historical works discuss the Tweed administration in relation to the episodes of various forms of corruption, including allegations of electoral fraud.

[28]Griffith, 1974:69.

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campaign to address this issue before the 1868 elections. Taking such measures as invoking the aid of the United States Court to prevent the use of alleged forged naturalization papers, which were required to prove citizenry to qualify to vote, Republican supporters secured the indictments of several men and published alleged fraudulent registry lists. Against such actions John T. Hoffman, the Tammany Democratic mayor, protested:

> We are on the eve of an important election. Intense excitement pervades the whole community. Unscrupulous, designing and dangerous men, political partisans, are resorting to extraordinary means to increase it. Gross and unfounded charges of fraud are made by them against those high in authority. Threats are made against naturalized citizens, and a federal grand jury has been induced to find, in great haste and secrecy, bills of indictment for the purpose, openly avowed, of intimidating them in the discharge of their public duties...Let no citizen, however, be deterred by any threats or fears, but let him assert his rights boldly and resolutely, and he will find his perfect protection under the laws and the lawfully constituted authorities of the State.[29]

Hoffman also offered a reward of one hundred dollars for the arrest and conviction of any person charged with "intimidating, obstructing or defrauding any voter in the exercise of his right as an elector."[30]

These charges and counter charges led to further charges and investigations. In response to a demand by the prestigious Union League Club, the U.S. House of Representatives appointed an investigating committee that submitted a majority report on February 23, 1869, which subsequently led to the passage of the Federal Election Laws of 1870 and 1871. The Republican majority reported that: thousands of aliens had been

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[29] Alexander, 1969:214.

[30] Ibid.

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fraudulently naturalized; thousands of certificates had been counted in the names of fictitious persons; people had voted from two to forty times; extensive frauds were committed canvassing the ballot; and that some courts and officials showed gross neglect and disregard for the law in these matters.[31] They concluded that through these methods Hoffman and the Democratic Electors had been fraudulently chosen.

The evidence consisted primarily of witness' statements and rates of naturalization and votes to population, based on comparisons to previous elections, to show what they contended was a disproportionately large increase in turnout that must have been accomplished fraudulently. For example, the majority concluded that the Supreme and Superior Courts ("controlled by Tweed") naturalized immigrants fraudulently because they did so at a very high rate (i.e. 30 seconds to a minute and a half per person, compared to the Common Pleas Court which was "not controlled by Tweed"--read Republican--that did them in 3 to 5 minutes per person). Moreover, the ratio of the vote cast to population in 1868 was almost 1 to 5, and from 1856-1867 was 1 to 8. They concluded that "these frauds were the result of a systematic plan of gigantic proportions, stealthily prearranged and boldly executed, not merely by bands of degraded desperados, but with the direct sanction, approval, or aid of many prominent officials and citizens of New York..."[32] By contrast,

> The Democratic minority of this House committee issued a report which not only attempted to systematically address and repudiate the various

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[31]U.S. House of Representatives, 40th Congress, 3rd Session, Report #41, 1869:4 - hereafter cited as HR41.

[32]Ibid.

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> charges, but attributed the whole investigation to partisan motives. Citing that the investigation initially arose from the partisan Union League Club of New York and with "no contest pending to render it proper or necessary", the minority report contended that the Union League Club employed attorneys and other men to "work up the case and discover evidence necessary to give it some support", and that these same men "continued in the service of the League, after the memorial was presented, to aid the majority of this committee in procuring, organizing, disciplining, and in some cases paying for such testimony as has been taken by them... All impartial and just-minded men may readily infer from these facts the spirit, intent, interested and partisan motives which have served the majority of the committee, and have presided over the preparation of this case for the League... These interested agents have expended boundless industry to discover, or to secure men to swear to, frauds, or alleged frauds, committed in all parts of the State by democrats, but none to discover or make proof of frauds committed anywhere by republicans. The majority in their report appear to have been unable to resist or rebuke this partisan animus, and, with respect, we submit that it uniformly colors and discredits their conclusions.[33]

As counter evidence the Democrats minority report included witnesses who admitted they were paid to lie regarding frauds (i.e. who had testified that they themselves committed fraud or witnessed fraud when, in fact, they had not). Moreover, the Democrats contended there were alternative explanations for the increase in naturalization and voting, namely that immigrant patterns were different in 1867-68 than during the Civil War; a "faulty" Census was done in 1865 under Republican auspices; and that the previous naturalization methods of the courts were ineffective and reflect a pattern of discrimination and hostility to immigrants. The report notes that the Republican legislature in 1865 "in the hope of reducing the democratic vote, which was fast becoming a majority in the State", passed a law requiring adopted citizens to exhibit a certificate of naturalization to register to vote, which effectively disenfranchised large numbers of voters who had voted

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[33]HR41:101.

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in previous elections because they could not produce their papers. "Although this shut out thousands of naturalized voters, it did not reduce the democratic vote in the city as largely as the republican managers had expected. So the next year, 1866, they passed a law... by which no person could be registered unless he appeared before the inspectors in person."[34] They argued that as a result, many more people had to naturalize again (for example, even if they had naturalized while minors by the citizenship of their fathers, many were unable to produce the certificates of their fathers, and the like), as the easiest way to get over the difficulty and thus greatly increased the numbers of naturalization during the years of 1866-68. They concluded that the "chief desire of the majority in the testimony taken and in their report seems to have been the injury of the democratic party, by showing that the vote in the city of New York was both excessive and fraudulent."[35] Similarly, the Tilden commission was denounced in 1875 in New York for recommending restricting the franchise in municipal elections to taxpayers and rent-payers ostensibly as a means of uplifting the electorate to citizens whose economic interests make them more invested and fit for political participation, but which would have in effect disenfranchised poor voters.[36]

The 1870 electoral campaign in New York City substantially revolved around these charges, counter charges, and legislative maneuvering, among other issues. As Alexander stated,

> the live issue, however, was Tammany and the Tweed frauds. Congress

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[34]HR41:111.

[35]HR41:108.

[36]Piven and Cloward, 1988:86; McGerr, 1986:49-50.

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> had authorized Circuit Courts of the United States to appoint in every election district one person from each party to watch the registration and the casting and the count of votes. It had also empowered U.S. marshals to appoint deputies to keep order at the polls and to arrest for offenses committed in their presence. Against these acts the Democrats vigorously protested, declaring them unconstitutional, revolutionary, and another step toward centralization, while Republicans pointed out their necessity in the interest of a fair vote and an honest count.[37]

Gienapp provides useful analysis of the alleged fraudulent voting attributed to immigrant populations in the urban centers of New York. The claim that illegal voting was done primarily by the foreign born and principally via illegal naturalization and multiple voting, Gienapp argues does not hold up. He shows that New York urban counties consistently ranked near the bottom in turnout. The four metropolitan counties of New York City were in the bottom ten, averaging more than 12% below the state's median turnout. He also found that native born citizens voted proportionately higher than naturalized citizens. Even while one kind of fraud, multiple voting, might artificially increase turnout, "Yet, the correlational relationship between the proportion of aliens and turnout is consistent with the thesis that illegal immigrant voting, at least of the latter kind, was not widespread."[38]

Leo Hershkowitz contends that the image of a thoroughly corrupt Tweed and Tammany in the 1860's and 1870's which pervades histories of New York of this era, "Like fables, they are largely untrue, but like most legends, they perpetuate themselves and

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[37]Alexander, 1969:240.

[38]Gienapp, 1982:31.

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are renewed and enlarged with each telling."[39] He maintains that there is a lack of adequate and reliable information, and that much of the history and research is incorrect and needs updating. Hershkowitz asserts that the reason why allegations of Tweed's corruptions have reached mythic proportions relates to the strong political motives of opponents and reformers, and changes in the political economy. He holds that Tweed and Tammany were a "convenient stick to hit New York City with [because]...his identification with the interests of the city was enough for the traditional rural-suburban leadership to seek his destruction." Republicans, national Democrats such as Seymour and Tilden, and the budding business-backed reform movement (such as the Committee of Seventy) saw Tweed and Tammany as "...threatening their position by his supposedly championing the 'drunken-ignorant Irish', and the 'overly ambitious' German Jewish immigrants and those seeking to change the status quo."[40]

Hershkowitz suggests that the campaigns against Tweed--including the charges of electoral fraud--were unfounded or at least wildly exaggerated, complete with "improper and staged judicial proceedings" for partisan ends. Hershkowitz's book is an attempt to correct the history and unmask the myth. Indeed, even Samuel Tilden, who later would aid in "bringing down Tweed", argued that the investigation into electoral fraud during the 1868 elections were questionable:

> It would have been impossible to credit beforehand that, under these circumstances, at a hotly contested Presidential election, when the Republican party was watchful, and straining itself to the utmost--

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[39]Hershkowitz, 1978:13, preface.

[40]Ibid., p 18-19, preface; See also Hammack, 1982.

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> systematic frauds in voting and canvassing could be perpetrated without the complicity of the leading representatives of the Republican party in the city; nor is it easy now to see how that was possible."[41]

Tightening Control over the Franchise in the 1890's

The struggles around regulating the franchise heated up during the late 1880's and through the 1890's, culminating in the creation of the most restrictive voter registration procedures in New York's history, and in the institutionalization of bi-partisan boards of elections near the century's end. These developments coincided with convulsive economic and social changes, including the rapid expansion of New York's economy and population, particularly that of New York City, and labor, progressive and socialist challenges (most notably the mayoral campaign of Henry George in 1886). The eventual imposition of the new registration laws and boards of elections produced a constricted electorate, particularly of New York City residents and working class constituents within the city, and important political changes.

Soon after the episode of intense scrutiny of New York City's elections under Tweed, there were further attempts to increase the stringent nature of the registration laws and to expand registration laws to other cities. The main form such increased restrictiveness of the registration laws took was to require voters to register in person on a yearly basis at an election office or site, as opposed to the previous method whereby a list of registrants was drawn up by the election registrars. The new requirement for personal registration was introduced ostensibly to reduce the possibilities of election fraud. This requirement for in person registration proved particularly burdensome for working people

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[41]Tilden, 1873, Appendix, pp 18-19.

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who found the hours and locations for such registration difficult to comply with. In 1880, such registration laws were enacted for cities containing 300,000 inhabitants, and then reduced to include cities containing 16,000. This was in response to allegations of fraud in parts of the state where personal registration was not required. Governor Cornell pushed for and got minor extensions into other jurisdictions.

From 1888 to 1892, numerous electoral reform bills were introduced into the state legislature of New York to address what was alleged to be significant amounts of fraud. The most significant were the Saxton Bill which proposed the adoption of the Australian Ballot, and several registration bills. Briefly, a reform movement, led by such groups as the Commonwealth Club , the Ballot Reform League, and the City Reform Club--with the aid of Republican allies--pushed to introduce several bills ostensibly to curtail or eliminate fraud in the electoral process. The Saxton Bill was introduced successively in 1888, 1889, and was finally adopted in a modified form in 1890, and a general registration bill was adopted for all cities in 1890 which included a personal registration provision for New York City.[42] The role the electoral fraud issue appears to have played is one which encouraged discontent with those in power and gave challengers and the reformers opportunity to broaden their electoral support which, in turn, led to electoral rule changes. Apparently, the strategic actors involved in these charges of fraud and struggles over rules governing the electoral process believed the stakes were high.[43]

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[42]Op Cit., Harris, 1929; McCormick, 1981; Bass, 1961; Muccigrosso, 1968; Cerillo, 1973.

[43]Ibid.

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In March of 1889, David B. Hill, in a statement vetoing a bill that would have required voter registration in Fishkill in Dutchess county, argued that if there was registration in Fishkill, there should be registration all over Dutchess county, and all over the state for that matter.

> I cannot approve a special law for one town, not because a registration law is not required for that town, but because there should be passed a general registration law applicable to all the towns of the state..... Frauds would be impossible, or rendered more difficult, by a well-considered general registration act such as now exists in the [large] cities of the state.[44]

Hill pushed for a state-wide bill, claiming frauds occur in rural communities and villages. A general registration law was passed in 1890, which applied throughout the state, except in the cities of New York and Brooklyn and in certain local elections which required personal registration.

Governor Roswell P. Flower in his annual message to the state legislature during January attempted to have personal registration extended:

> In 1890 the Ballot Reform act was fitly supplemented by a statute compelling personal annual registration of voters in all the cities of the State--the statute being in this respect merely an extension of the law which had for years applied only to New York and Brooklyn. The efficacy of this statute as a means of discouraging fraudulent voting has been amply demonstrated. I recommend its still further extension to the remainder of the State, so that personal registration each year shall be required of every voter, as prerequisite to his right to cast a ballot. This is necessary to prevent false registration in villages and country districts .... While it imposes hardships and to some extent discourages voting, its advantages are greater than its disadvantages, and it is now recognized as one of the best features of the reform electoral legislation of 1890. There is no good reason, however, why the safeguards thus thrown around the ballot in cities should not be extended to the towns and villages of this State. Such laws should, so far as possible, be uniform in their application I therefore renew

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[44]Lincoln, 1909, vol. 7, pp. 719-720.

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> the recommendation contained in my annual message of last year, that the personal registration law be extended so as to include the remainder of the State within the territory of its operations."[45]

The measure lost by a single vote.

During the mid 1890's, Republicans, business groups and reformers not aligned with the dominant faction ascendent in the Democratic Party, used calculated campaigns focusing on charges of Democratic electoral fraud which contributed to two significant developments. First, these campaigns played an important part in subsequent electoral defeats of those Democrats; and second, they led to the passage of significant electoral reform measures, including constitutional changes and statutory legislation which institutionalized much more stringent voter registration procedures, and established a system of bi-partisan boards of elections.[46]

During the early 1890's, the Cleveland faction of the Democratic Party--along with a growing independent movement and many Republicans--united in a campaign to defeat the ascendant faction of the Democratic Party and its policies, substantially with "accusations of dishonest political methods."[47] This coalitional attack was not tightly coordinated and, indeed, was motivated by various and even conflicting groups and agendas. For the first group, "dissident" Democrats associated with the Cleveland faction of the Democratic Party, "at issue was a desperate effort by the Cleveland Democrats to

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[45]Ibid., vol. 9, pp. 34 & 180.

[46]McCormick, 1981; McSeveney, 1972; McGerr, 1986; Cerillo, 1973; and Hammack, 1982.

[47]McCormick 1981:43.

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avoid exclusion from their own party, but it soon became something more."[48] That something more was a revived and rejuvenated independent reform movement, the second group, which was "led by businessmen and professionals, and informed by an ideology of political independence... with a historic doctrine of efficient nonpartisan government."[49] Moreover, the third group, Republicans, assisted in the revitalization of independent reform and profited from it by doing "what they could do to capitalize on the Democratic divisions and mistakes," adopting particular rhetoric, slogans and symbols.[50]

One of the main weapons used by this lose coalition--especially by Republicans--was a series of investigations into alleged corruption by the then dominant Democratic Party, especially within New York City. Among the main focus of these investigations were charges of electoral fraud. As previously mentioned, McCormick and others have suggested this pattern of negative campaigning via fraud and corruption charges which the opposition employed contributed to the defeat of these Democrats.[51] This led to the Republican ascendancy in New York State and reform regimes in the city, as well as significant constitutional and electoral changes, ultimately helping to accommodate the consolidation of corporate capitalism in New York.[52]

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[48]Ibid.

[49]Ibid., p 44.

[50] Ibid., p 51.

[51]McCormick, 1981.

[52]Ibid.; Lowi, 1964; Hammack, 1982; McGerr, 1986; Piven and Cloward, 1988; Shefter, 1994.

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As evidence McCormick points to Brooklyn, for example, where reform Democrats (such as the German Democratic Club, the Young Men's Democratic Club, and the Citizen's Union) broke ranks and endorsed a Republican candidate for mayor. "What the reformers began as an antimachine campaign soon became an effort to prevent the electoral corruption allegedly being committed by McLaughlin's [the Brooklyn Democratic "boss"] organization.... The 1893 election results suggest that allegations of bossism and corruption, rather than economic depression, caused the Democrat's greatest setbacks that year."[53] Indeed, the fraud charges become significant because "elsewhere, even amidst depression, the voters of New York shifted but slightly away from the Democratic Party."[54]

In Albany, "...alleged frauds had marred the elections of 1893 and, according to popular opinion, given the Democrats an undeserved victory."[55] At a meeting in November, a "Committee of Fifty" was formed to, as they stated, "consider what action should be taken to prevent the recurrence of fraudulent registration and voting at elections to be held hereafter in Albany, and to procure the passage of such legislation as will secure that result."[56] In their efforts to insure the punishment of those responsible for the corruption of the ballot and to oppose the Democratic machine in municipal elections scheduled for the spring of 1894, the combined forces of independent Democrats,

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[53]McCormick 1981:44-45.

[54]Ibid., p. 46.

[55]Ibid.

[56]Tolman, 1895:81.

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Republicans and nonpartisans ran candidates as the Honest Election Party and carried the city, electing a Republican mayor.[57] The "Committee of Fifty" noted that their "Earnest work was performed in purging the registry, and on election day at the polls, with the gratifying result of electing the entire city ticket and a controlling representation in the county and city boards. A healthy change in government is already evident both as to efficiency and economy."[58]

In Troy, "reported ballot-box fraud by Murphy's victorious Democratic machine in the fall of 1893 made 'honest elections' the main issue in the local campaign the following spring."[59] Indeed, reform organizations such as the "Committee of Public Safety" were organized in 1894 in Troy "to investigate and endeavor to bring to the bar of justice all fraud in connection with the liberties of the people, especially crimes against the right of suffrage."[60] These events led to a New York State Senate Committee being appointed to investigate the election methods and alleged frauds, which concluded that frauds were committed. But just as in the House Committee reports of 1870, the Democratic minority of the committee issued a report which claimed the Republican majority report was flawed and politically motivated.

In New York City, "just as in Albany and Troy, the Democrat's sizable victory in 1893 led reformers and Republicans to level charges that their opponents had fraudulently

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[57]McCormick, 1981:46.

[58]Tolman, 1895:82.

[59]McCormick, 1981:46.

[60]Tolman, 1895:72.

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registered men, voted repeaters, miscounted ballots, intimidated Republicans, and assaulted poll-watchers. Investigations led to thirty nine Democratic election inspectors being eventually convicted of fraud. Sensing Tammany's vulnerability, a number of new independent and Democratic organizations formed in late 1893 and 1894."[61] For example, the Committee of Seventy, created by the Chamber of Commerce to engineer the defeat Tammany met in 1894, stated that it believed it was continuing in the tradition of its namesake, the committee that helped to unseat Tweed. A number of these same gentlemen would later put together the Citizen's Union in 1897 to again try to oust a Tammany administration which won in that year. Their campaign largely revolved around charges of corruption and electoral fraud.[62] The City Reform Club, with the aid of Pinkerton detectives and a score of legal personnel, spent much time and money gathering evidence of alleged electoral corruption, as well as police connected "vice" such as prostitution, gambling and illegal saloons. Due to debts they turned over their information to Charles Parkhurst, a crusading clergyman, whose further activities and sensational revelations led to a highly publicized state investigation by the Lexow Committee.[63]

Some of these reform groups reflected the calculated aspirations of those shut out from the spoils of the office while others were less self-interested, but "all proved adept at employing the rhetoric of opposition to bosses and machines."[64] Largely, as a result of

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[61]McCormick, 1981:47.

[62]Cerillo, 1973:54; Hammack, 1982.

[63]Muccigrosso, 1968.

[64]McCormick, 1981:47; See also Hammack, 1982; and McGerr, 1986.

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these forces, and the publicity of the subsequent Lexow Committee's investigation of corruption in the New York City police department (including electoral fraud), Tammany met decisive defeat in 1894. McCormick notes that "nonpartisans as well as antimachine Democrats criticized the Republican partisanship that plainly lay behind these investigations. But the resulting disclosures, especially about New York, caused a number of independent journals to judge the Lexow investigation eminently worthwhile. It was 'unexpectedly successful' according to Harper's Weekly. 'Whatever motives actuated the appointment of that Committee,' said the New York Times, 'it is already clear and incontestable that...[it] has performed an enormous public service.'"[65]

While the election of 1894 was generally dominated by economic and cultural issues in most places outside of the areas cited, the campaign topic that the Republicans and other opponents of the dominant Democratic Party gave the most attention to was Democratic corruption, especially in the cities.[66] Moreover, "the Tribune's [a Republican Party paper] understanding of corruption was the conventional one, embracing bribery, election fraud, and the protection of criminals by policemen. If the Democrats took campaign money from business corporations and afterward protected the generous interests, the Republicans made nothing of it, for their party commonly did it too, and, besides, there was almost no public recognition of this form of misgovernment."[67] The role that the electoral fraud issue appears to have played--in the context of economic

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[65]Quoted in McCormick, 1981:52.

[66]McCormick 1981:62.

[67]Ibid., p 62.

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depression of 1893--is one which encouraged discontent with those in power and gave challengers and the reformers opportunity to broaden their support and win broad electoral victories in 1894 which, in turn, led to electoral rule changes that helped shape subsequent political development and corporate consolidation.

It is important to note another animus that motivated such groups, particularly Republicans. Many Republicans--both from upstate and Brooklyn--were alarmed at the proposed creation of greater New York City, where the five boroughs would be unified for the first time. By doubling the city's population, this geographic consolidation had strong political implications. Thus, "upstate [Republican] fears of New York City's political and economic power were greatly increased, and, in reaction to the consolidation, the 1894 State Constitutional Convention [controlled by Republicans] endorsed several provisions..." to counter the effects of consolidation.[68]

Changes to the State Constitution, Electoral Law and Election Administration

Among the most significant and lasting changes were those to the state's constitution.

> Several constitutional changes regulating the voting process, especially in the cities, received nearly unanimous support from Republican delegates and won the approval of independents [and reformers] across the state. One amendment mandated secrecy in voting and allowed the legislature to authorize the use of voting machines in places of the traditional paper ballot. These provisions constituted a sort of literacy test, since secret voting by ballot or machine required each citizen to read for himself the names of candidates, offices, and parties. Another change obliged a naturalized citizen to wait nearly ninety days after attaining citizenship before becoming eligible to vote. ***A third amendment required voter***

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[68]White, John K., "Political Conflict in New York State," in Governing New York State, eds. Jeffrey Stonecash, et. als., 1994.

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> ***registration by personal application in cities and villages of over five thousand population, while it exempted the small towns and country districts. All three amendments increased the difficulty of mobilizing recent urban immigrants to vote. The advantage to the Republicans was that most of these voters were Democrats.*** The advantage to the independents was the limitation placed upon the ability of city bosses to control elections by bringing to the polls, through corrupt means or fair ones, what the nonpartisan New York *Evening Post* called `large bodies of ignorant foreigners'...***Other constitutional changes also pleased them: a provision for bipartisan election boards...***[69]

Thus, the use of fraud allegations played a decisive role in the institutionalization of restrictive voter registration procedures and bi-partisan election administration in New York. Once such provisions were placed in the state's constitution, they were more likely to endure intact.

Nevertheless, how these new provisions were implemented also had significant impacts. Piven and Cloward make this observation about such developments which bears directly upon my thesis. They note that "it was not so simple a matter as enacting restrictive [registration] laws. What continued to matter in practice was the organizational capacity of the local parties to shape implementation."[70] The struggle to establish bi-partisan boards of elections to implement registration procedures and conduct elections was integral in these battles between the parties and reformers. Indeed, during the same period that the partisan contests over registration laws took place, similar battles occurred over election administration. In fact, these two issues were often linked. For half a century until 1900, as the parties grew stronger and party competition increased,

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[69]McCormick, 1981:53-55. Emphasis added.

[70]Piven and Cloward, 1988, p. 109.

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Republican and reformers successfully pushed for the establishment of bi-partisan boards of elections. Again, New York provides an apparently typical and important case. In the next section, I review the constitutional and statutory provision for New York's election administration.

Election Administration: Statutory Provisions[71]

Gerald Benjamin's account of the constitutional and statutory history of election administration begins with revolutionary and post-revolutionary New York. At that time, local officials were appointed, and they (or their designees) were responsible for the conduct of elections. The administration of elections under New York's first election law was the duty of the town supervisor, clerk, and assessors acting as election inspectors in rural areas, and in the city of New York of inspectors appointed in each ward by a group that included the mayor, recorder, aldermen, common councilmen, assessors, or vestrymen.[72] This early model was retained in subsequent law, but generalized the practice of a group of officials, most often the Common Council, acting as the appointing authority for election administrators in the state's cities.[73]

During the 1830's and 40's, with the removal of property qualifications and a broadening of participation in local elections, mayors and other local officials became

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[71]I draw heavily upon a paper by Gerald Benjamin, "Reforming New York's Constitutional System of Election Administration," which appeared in Effective Government Now for the New Century: The Final Report of the Temporary New York State Commission on Constitutional Revision, February, 1995. Nelson Rockefeller Institute of Government, SUNY, New Paltz.

[72]Benjamin, 1995. The law was passed in 1778.

[73]Lincoln, 1906, Vol. 111, pp. 114-116.

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elected rather than appointed. In 1840, a New York City law constructed election districts manned by three election inspectors, which the Common Council appointed.[74] Thereafter the law required the election of three commissioners of registry in each ward and three election inspectors in each district. In 1841, a new law also divided other cities in the state into election districts, with explicit provision that one of the initial appointees to three member Boards of Election Inspectors "...Shall belong to a different party from the other two."[75] Thus, following initial appointments, the same limited voting system adopted for New York City was used to fill other cities' election inspectors.[76]

Benjamin characterizes politics during the latter half of the century in New York as "one of great political competitiveness between the major parties, considerable corruption, and, concomitantly, great effort at reform."[77] Benjamin draws upon reform observers of the period who "catalogued these [corrupt] evils," including

> party preparation and distribution near the polls of distinctive ballots, eliminating secrecy in voting; ballots printed on tissue paper, marked, folded together and 'stuffed' in the ballot box; control of the electoral process by the locally dominant party; no means of identifying voters, leading to padding of the rolls with fictitious names; purchase of votes with liquor or cash; organized gangs of 'repeaters' voting at different locations under fictitious names; party adherents lining up at the polls and not moving, blocking access by opposition voters; voter intimidation, with complicity of police appointed through partisan processes; and damage or falsification of ballots during counting and then their immediate destruction

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[74]The statute mandated the division of New York City wards into election districts of approximately 500 people.

[75]Lincoln, 1906,Vol. III, p. 114-116.

[76]Ibid, pp. 116-117.

[77]Benjamin, 1995, p 121

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to remove an evidence of fraud.[78]

Benjamin notes that reform campaigns at the end of the century succeeded in achieving the establishment of voter registration, government responsibility for ballot preparation and the secret casting of ballots, and bi-partisan administration of elections.

Bi-partisan Election Administration

The first law which established bi-partisan election administration was applicable only to New York City.[79] However, a "board of elections" was not yet established. Instead, elections in the city were the responsibility of a Bureau of Elections within the Police Department. Under the new statute, the Police Commission appointed four election inspectors in each election district to one year terms, with the minority party police commissioner or commissioners recommending the minority party inspectors.[80] Benjamin

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[78]Benjamin, 1995, p. 121. Benjamin cites the turn of the century reformers, Robert H. Fuller, Government by the People (New York: The Macmillian Company , 1908), p. 5-6.

[79]The law passed in 1872, Chapter 675. Recodified as Chapter 410 Laws of 1882. Benjamin says that the first state constitution was silent on the question of election administration or procedure, except that it explicitly left to the legislature whether voting would be by voice vote or ballot. The second constitution, adopted at the 1821 Convention, provided for the first time that elections be "..by ballot, except for such town officers as may by law be directed to be otherwise chosen." A provision also added in 1821 directed the state legislature to make laws "...for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage..." established in the Constitution. Constitutional provisions added in the mid-19th century focused on voter eligibility. The 1846 Convention directed that a residence for voting purposes not be gained or lost as a consequence of federal service; employment at sea or on the waters of the state or nation; student status; residence in an almshouse or asylum at public expense; or imprisonment.

[80]Benjamin, 1995, p. 122. The Police Department was headed by a four member commission, appointed to six year terms. However, there was no statutory requirement that the police commission itself be bi-partisan until later 1894.

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notes that this bi-partisan system for New York City was "imposed by a Republican legislature on the Democratic city, creating Republican patronage at local expense.[81] For upstate cities and rural areas of the state, by contrast, the law provided for three to five election inspectors in each election district which were filled by a system of election, appointment or a combination of the two that assured the majority party control--almost always Republican.[82] Prior to the establishment of separate boards of elections,

> The most common device Platt [Republican state "boss"] used to control the Democratic cities was the bipartisan police board. The immense power of the police over the lives of urban citizens, the value and prestige of appointments to the department, the potential for graft, and the police's authority to supervise elections all lent weight to the Republicans' claim on a share of police power.[83]

These new boards were often created in distinct ways so as to fit local conditions to ensure Republican control. For example, the law in Albany was fashioned to shift power to appoint members to the board to the council from the mayor (the Republicans controlled the council and the Democrats controlled the mayoralty). In New York City, an investigation by the Lexow Committee resulted in the creation of a four-man, bipartisan board in which the party county committees would in effect name the members, thus ensuring Republican representation.

In 1880, bi-partisan boards which had overall supervisory responsibility for

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[81]Ibid.

[82]Ballot Reform Law Chapter 262, Laws of 1890. Though the statute provided for five inspectors, the secretary of state, with the support of an attorney general's Opinion, decided three were sufficient. See Revised Record of the 1894 Constitutional Convention, Vol. III, p. 255. Remarks of Jesse Johnson of Brooklyn.

[83]McCormick, 1981:89.

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elections within a city, rather than at the actual voting level, first appeared in Brooklyn, with each of the two major parties having two members of a city Board of Elections.[84] The registrars, poll clerks, and inspectors were also to be bipartisan.[85] In 1882, the law was amended to provide for appointment by the Police Commission to one year terms of three inspectors for every election district, two from the majority and one from the minority party. Benjamin notes that the law also provided that appointments be made by the commission from lists provided by chairs of the party executive committees, and even established a procedure for determining which recommendations would be used if a "...political party is divided in said city into two or more factions.[86] Thus, this change "marked the further development of a statutory basis for the involvement of political party leaders in election administration where officials were appointed rather than elected, provisions for which first appeared in state election law for New York City in 1887."[87]

In 1892, the Democrats gained control of the state government. As previously noted, Democrat Governor Flower moved to establish their control of the electoral process in New York City. "If boards of inspectors, a majority of whom are Republicans, are safe and economical in Republican strongholds of the state, boards of inspectors, a

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[84]Benjamin, 1995, p 122. The members of the Board were given five year terms to assure them "a degree of independence". The mayor appointed his party's members and after the first appointment of the minority party members was by the city comptroller, the subsequent appointments were also made by the mayor, as well as the registrars, poll clerks, and inspectors.

[85]Chapter 528, Laws of 1880. Lincoln, 1906, Vol. III, p. 123.

[86]Chapter 410 Laws of 1882.

[87]Ibid. See also Lincoln, 1906, Vol 111, p. 124.

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majority, of whom are Democrats, ought to be equally safe and economical in the Democratic strongholds."[88] However, as noted, the Democratic measure lost by one vote. The Democrats planned to adopt a host of such measures at the 1894 Constitutional Convention. Republicans, however, recaptured control of the state legislature, and instead passed a series of counter measures that transformed New York State's election system well into the twentieth century.

Because Governor Flower, a Democrat, remained in office following the election of 1894, however, some compromises were reached. For example, instead of having only bi-partisan election administration in New York City, it was established throughout the state. In rural areas inspectors were to be elected and two were to be appointed, to assure partisan balance. Similar to New York City, for all other cities an appointment process would be used that included selection from lists provided by party leaders.[89]

The 1894 Constitutional Convention and Election Administration

As Richard L. McCormick has written, "...[The 1894] constitutional convention gave the Republicans the opportunity to ***embed the reforms in fundamental law.***"[90] Indeed, as Benjamin has noted, Republicans sought to "secure in perpetuity" the prominent role of party leaders in the bi-partisan structure of the provisions of this

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[88]Benjamin, 1995, p 122. Quoted from Messages From the Governor (1892), p. 103.

[89] Laws of 1894.

[90]Emphasis added. Richard L. McCormick, From Realignment to Reform: Political Change in New York State, 1893-1910, 1981, p. 52.

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compromise.[91] In his review of the convention documents, Benjamin observes the partisan nature of the debate on this question. He quotes Benjamin Dean, a Republican of Jamestown, who observed that this change entrenched in the Constitution the power of the state chairman of each of the major parties to "...decide the regularity [i.e. choice] of the election officials in every city in this State." John Bowers, a Democrat of New York, offered an amendment to remove party leaders from the process, but it failed in a voice vote.[92]

Benjamin states that few convention delegates raised general objections to the bipartisan election provision.[93] Benjamin Dean, however, argued that partisan deadlock--which as we shall see below--might arise if the parties were divided on a matter before a

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[91]Edward Lautenbach, Chair, of the Convention Committee on Suffrage. Revised Record of the 1894 Constitutional Convention, Vol. III, p.111. Cited in Benjamin, 1995, p 123. Benjamin notes that the Convention Committee initially drafted a provision requiring equal representation of the major parties on Boards of Elections Officers, but with no role in their selection by party officials. "Upon submitting the question for debate on the floor of the convention (and after consultation with the Committee on Cities, which was also interested in the question) Lautenbach immediately added an amendment providing a role in nominating board members for party leaders, similar to the provisions of the 1894 statute. When an objection was raised about the substantial nature of this change by John Cochran, a Brooklyn Democrat and committee member, the matter was laid over so that the committee could meet again. It later reported the provision with the party leader role intact. Revised Record, Vol. III, p. 244.

[92] Revised Record, Vol, 111, pp. 248 and 270. Quoted in Benjamin, 1995, p. 123-124. Charles Z. Lincoln, who served as a delegate to the 1894 convention, points out it was not Lauterbach's intent to have the bipartisan requirement apply to "...central boards of elections or police boards or commissioners or other officers who might be charged with the duty of appointing local election officers, and that it was intended to apply only to officers in election districts." Lincoln, p. 129.

[93]Benjamin, 1995, p. 124.

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board with an even numbers of members.[94] Similarly, Nathan Woodward, an upstate Republican near Buffalo, also questioned the capacity of a bi-partisan board with an even number of members from each party to decide controversial matters. Defenders of the provision acknowledged that hypothetically, deadlocks on such a board were possible, but argued that experience showed that they were rare. Moreover, the annoyance of occasional deadlock between parties was a risk worth taking, Jesse Johnson of Brooklyn said, to "...avoid the much greater...danger and menace of the majority party having practically the control over the election.[95]

Benjamin concludes that the Constitutional Convention of 1894 was strongly influenced by reform elements in the Republican party. "What began as a reform thus evolved into bipartisan agreement to create a major patronage resource at public expense. By one estimate, at the turn of the century as result of these state provisions for bipartisan election administration, each of the major parties could reward 18,400 trustworthy adherents with jobs paying at least $5 each on election day."[96]

Buoyed by their victories following the constitutional convention of 1894, Republicans and reformers continued to press for increased "ballot security" measures.

> In 1898 the Metropolitan Election District law established state supervision over elections in New York City and some nearby towns. Headed by a

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[94]Benjamin states Dean was a "gadfly." Dean described the provision as one more reform "fetish," and argued that an elected board accountable to the public was preferable, even if controlled by one party. Revised Record, Vol. 111, p. 245.

[95]Benjamin, 1995, p. 124, quotes the Revised Record, Vol. III, p. 254.

[96]Benjamin, 1995, p. 123. Benjamin is quoting Howard F. Gosnell, Boss Platt and His New York Machine (New York: Russell and Russell, 1924, reissued 1969), p. 146.

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> superintendent of elections and staffed by seven hundred deputies, the new bureaucracy possessed considerable powers of investigation and enforcement. The following year another measure expanded the state's oversight of New York City elections.[97]

This new election administrative office, the Office of State Superintendent of Elections, was "created originally in 1898 to detect and prosecute election frauds in New York City."[98] Initially the office focused on New York City, but by 1911, was reorganized and made state-wide. The office was abolished in 1921 when it came under bad repute for being dominated by Tammany.[99] While a bi-partisan state board of elections was not (re) created until 1974, a bi-partisan board of elections was created in New York City in 1901, being removed from a bureau in the police department.[100]

These constitutional and statutory changes institutionalized bi-partisan political control of New York's election administration. Indeed, this political structure set up then has lasted largely intact to this day.

Post 1900: State and City Investigations into New York City's Election Administration

Several investigations and reports by different city agencies were conducted during the early twentieth century which document practices and politics of the New York City Board of Elections. Even though these studies were carried out under different

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[97]McCormick, 1981:89.

[98]Harris, 1934:103.

[99]Harris, 1929, p. 76.

[100]The responsibility of election administration fell to the counties, with the offices of Secretary of State and Attorney General sharing responsibility at the state level (discussed below).

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administrations--some reform and some "regular"--there is a surprisingly uniformity to their findings. The reports largely described similar conditions and reached the same conclusions. They uniformly detail how the Board operated--and largely continues to operate--as an appendage of the two major parties who exercise direct control over the policies and practices of the Board.

The reports begin by describing the political make-up of the Board, which is made up of appointees of the Democratic and Republican party county leaders which were represented equally on the Board at all levels. The leadership was comprised of four commissioners (two from each party in Manhattan and Brooklyn), until 1973 when the number of commissioners was expanded to ten commissioners to represent each of the five boroughs equally. This bi-partisan arrangement is replicated at all levels of the Board's structure and operation, down to the thousands of poll site workers.

One of the first such reports, which were often written in a style reflecting the "reform" perspective, was carried out in 1910 by the Commissioner of Accounts.[101] The examination concluded that the Board exerted significant discretionary capacity in administering the election law, and did so in the interests of the Democrat and Republican parties largely to the detriment of "efficiency and economy," and more importantly, to the detriment of the interests of voters. The report stated the Board "had ignored important administrative duties, and that the partisan character of its activities, carried out in its judicial functions, had produced an administration in the interest of the two leading

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[101]Commissioner Fosdick, Annual Report, 1910 pp. 23-24, and Annual Report, 1911 p. 11.

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political party organizations."[102] The report cites how the Board "ignored" provisions of the law concerning the location of polling places, and failed to keep proper records or conduct examinations for election officers. The same office conducted another study of the primary election held on March 26, 1912.[103] The report stated that "in many of the election districts no ballots were received at all, while in others they were received too late to be of service. ***The result was that thousands of voters were effectively disenfranchised***... It appears that the greatest inconvenience was felt in Brooklyn."[104]

The Accounting office under a different mayoral administration and commissioner, Leonard Wallerstein, conducted another study of the Board in 1917.[105] Wallerstein found similar conditions and disenfranchising practices, focusing on poll sites: "the Board has abdicated in favor of the two dominant political organizations its function of designating polling places." Moreover, the selection of election officers by the parties led to incompetent workers and "misconduct." "Party patronage constituted an insuperable obstacle to all Commissioners of Accounts who attempt to reform the Board of Elections."[106]

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[102]Ibid., cited in Investigating Municipal Administration: A Study of the New York City Department of Investigation, by Harold Seidman, Director, Division of Coordination and Research, 1941.

[103]"A Report on a Special Examination of the Activities of the Board of Elections in Relation to the Primary Election of March 26, 1912," by Raymond B. Fosdick, Commissioner of Accounts, 1912.

[104]Ibid. Emphasis added.

[105]Annual Report of the Commissioner of Accounts, Leonard Wallerstein, 1917.

[106]Ibid.

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A two year study of the Board's practices conducted in the late 1930's under Mayor La Guardia produced a scathing indictment of the Board.

> The Board has operated as an integral part of the spoils system and has abdicated numerous of its functions to the political machines responsible for the appointment of its members. As a result, the administration of the election law in this city has been marked by illegality, inefficiency, laxity and waste... Our study has disclosed that for many years the Board of Elections has displayed a marked indifference to the best interests of the people of this city and has been unduly subservient to political influences. The Board has failed to conduct its affairs in a manner consonant with its high responsibility for the safeguarding of the electoral franchise.[107]

Indeed, the Commissioner maintained that, even though many of the most glaring defects were, at least partially, corrected during the investigation, "as long as election law administration remains under the irresponsible dominance of political machines," he had little hope of permanent improvement.[108]

Socialists similarly criticized the practices of the Board.[109] "The trouble with New York elections would not seem to one reading the election laws to rest with the laws themselves." They cite a number of "abuses" perpetrated by both "Tammany Democrats" and Republicans on the citizens of New York.

> How does intimidation work? You live, let us say in a Democratic district where there are reasons for the leader to make a big showing. You are one of the group not definitely lined up already by fear or favor on the boss's side. Your name is checked to show that fact. If English is your native language and you have reasonable self-assurance and a job out of the boss's reach, you usually vote your own way, even if that way is Socialist

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[107]"Administration of the Election Law in New York City," by William B. Herlands, Commissioner of Investigations, 1940.

[108]Ibid.

[109]Norman Thomas and Paul Blanshard, 1932, What's the Matter with New York.

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> or Communist... Assuming that you have given the Tammany canvasser no assurances, you run a hostile gauntlet as you stand in line at the polls even though that hostility may not result in immediate violence.[110]

Each of the reports, nevertheless, made a series of recommendations including civil service exams for board employees, removing appointment of Board commissioners and employees from the control of the county party organizations and giving them to the mayor and Board of Alderman (later City Council), adding representatives from the other boroughs, and the like.

Sayre and Kaufman reported in their exhaustive study of New York City that while "fraud and abuse" are apparently "all but eliminated," and that elections are now more "honest and accurate," similar administrative problems and conditions persisted into the 1950's.[111] Sayre and Kaufman note that "It is the discretionary powers of the Board that are most important--and most controversial--in the contest for the stakes of politics in New York City." Focusing on the Board's formal structure and statutory authority, Sayre and Kaufman discuss charges of how "the Board is rather arbitrary" in some of its decisions.[112]

Impacts on Voter Registration and Participation

These scholars suggest that following the passage of election law provisions

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[110]Ibid., p.86-87.

[111]Sayre and Kaufman, 1960, Governing New York City.

[112]Particularly "its decisions regarding acceptance or rejection of the designating petitions submitted by insurgent groups endeavoring to challenge the incumbent party leaders in primary contests within the major parties... professional politicians on both sides of the political fence join forces against newcomers in the field. There is also an impressive body of empirical evidence to lend credence to the allegation." Ibid.:163-164.

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passed during the decades around the turn of the century and the establishment of bi-partisan election administration, these new voter registration procedures and boards of elections inaugurated increasingly restrictive election practices which contributed to a precipitous decline in voter turnout New York experienced at the turn of the century. Indeed, the data on the subsequent decline in voter turnout in New York is compelling:

> Personal registration, which was mandated for all cities in 1890 and for villages with a population of over five thousand in 1895, discouraged participation simply by making voting more difficult. Similarly, the requirement of signature identification for voters in New York City, passed in 1908, undoubtedly helps account for Manhattan's decline in turnout from 80 percent in 1904 to only 70 percent at the next presidential election...The heaviest losses, moreover, occurred more than a decade after the passage of the laws of 1890 and 1895.[113]

Where 80% to 90% of eligible voters voted for president in the 1880's and 1890's, only 55% did so by 1912. Comparable declines in gubernatorial elections were also posted--turnout rates of 60%-70% in the 1880's and 1890's plummeted to the upper 40% range by 1912. Moreover, the majority of the decline came between 1904 and 1912 when the impacts of legal and institutional changes may have been greater, especially with changes in the patterns of their implementation by boards of elections. In New York County, turnout declined from 73.2% in 1894 to 59.4% in 1910, and in Kings County, from 77.6% to 64.2%.[114]

As Piven and Cloward have argued, the historical legacy of the imposition of

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[113]McCormick, 1981:262. McCormick makes the point, following Burnham and Kleppner, that some of this decline might have been due to a reduced two party competition dynamic that manifested in a broader system wide decline in turnout after 1986.

[114]McCormick, 1981:252-253.

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restrictive voter registration procedures and election administrative practices appears to have constricted the scope and bias of the electorate in the case of New York. For example, as described earlier, Republicans were able to maintain the provision for personal registration in effect for downstate and urban in New York until 1954 when, "permanent, personal registration" (PPR) was authorized statewide for any county wishing to make use of it.[115]

> [A] reluctant Republican legislature finally agreed, in a compromise, to allow all counties to impose a personal registration requirement if they wished to do so, and not until 1967 were they required to do so. The impact of the two systems of registration--annual personal versus permanent-non-personal--could clearly be seen in the respective registration rates. As of 1950--the last census year of the dualistic system--for the 28 counties whose populations were in large part covered by the more lenient system, 88 percent of the voting-age population was registered. In sharp contrast, for the remaining dominantly urban counties with the more stringent procedure, the registration rate was only 58 percent. Clearly the lenient procedure yielded a much larger voter register.[116]

Once permanent personal registration was required statewide in 1967, however, eliminating the requirement for in person registration downstate, Democrats scored important gains in the legislature. By 1975, Democrats became the majority party in the Assembly, while Republicans retained their majority in the Senate.

Thus, the disparity in registration rates between upstate and downstate voters--

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[115]PPR meant one need only register in person once and could remain registered, so long as the registrant voted at least once every two years, thus greatly reducing the burden of registration.

[116]Scarrow, 1983:83. By the presidential election of 1960, over 90% of the state's electorate was no longer subject to personal registration (or had never been subject to it), and registration rose (2% in presidential election years, and over 10% for both gubernatorial and local election years.)

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who provided the margin of victory for the Republican dominance of New York during much of the twentieth century--not only directly issued from the different registration procedures and election administrative practices governing upstate versus downstate regions, but also contributed to distinct electoral and political outcomes. With a shrinking voter base beginning at the turn of the century--particularly in New York City--the urban/rural and suburban partisan split became even more pronounced and important politically. Republicans had dominated upstate and rural New York for most of the latter part of the nineteenth century and continued to do so for much of the twentieth, while Democrats dominated its urban centers. As the twentieth century progressed, the shrinking voter base in New York City gave further advantage to Republicans who were able to control both houses in the legislature and elect Republican governors (Thomas Dewey, 1943-54, and Nelson Rockefeller, 1959-73.). While this regional split was never complete, each party possessed an enormous edge in party enrollment and the ability to win legislative races in their respective strongholds.

Moreover, the Republicans electoral advantage also translated into distinct policy consequences for the different bases the parties maintained, often in terms of whether policies would benefit New York City or the rest of the state. The parties' control over the legislative branches--Republicans dominating the Senate and Democrats dominating the Assembly after 1975--continues to provide each with an institutional power base. From their institutional base of power, each party can advocate distinct policy positions, exercise their leverage in negotiations over legislation, advance campaign strategies, fund

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raise, and the like.[117]

Thus, the turn of the century episodes of fraud charges and legislative struggles over the regulation of the franchise, which led to the imposition of restrictive voter registration procedures and election administrative practices, provides support for my thesis. The actors involved in these charges of fraud and struggles over rules governing the electoral process believed the stakes were high. Indeed, the consequences for subsequent developments in New York proved significant. And, as we shall see in the next chapters, the ongoing practices of the administration of elections are significant for politics today. In the next three chapters, I examine these ongoing election administrative practices in contemporary New York, assess their impacts, and discuss their political significance.

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[117]Stonecash, 1994. "Political Parties and Partisan Conflict," in Governing New York State, 1994.

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CHAPTER THREE

VOTER REGISTRATION AND PARTICIPATION IN NEW YORK STATE, 1984-95

The electoral arrangements which were discussed in the previous chapter have had lasting and important political impacts during the twentieth century. During most of this century--in sharp contrast to the previous century--New York State and City experienced a long decline in turnout and now ranks exceptionally low in electoral participation in the U.S.[1] After ranking among the top states in turnout during the nineteenth century, from 1920 to 1956, for presidential and gubernatorial races, New York State ranked among the bottom third of all 32 states outside the South in voter turnout.[2] During the several last decades, participation in New York has reached new historic lows. From the 1960's to the 1970's, only four non-southern or border states had lower turnout than New York State.[3] By the 1992 presidential election, New York State ranked 41st in the nation in turnout and ranks 47th in the rate of voter registration.[4] Moreover, it is predominantly low income and minority people who are unregistered and are the nonvoters. While blacks make up 13.2% of the state's eligible voting population, only 49.5% were registered to vote and

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[1]Scarrow, 1983.

[2]Ibid.

[3]Ibid.

[4]In 1992, only 51.94% of the voting-age adults cast ballots in New York. Approximately five million of the 13+ million people of voting age in New York are unregistered. Data is from U.S. Census ("Voting and Registration," CPS P-20) and the State Board of Elections. Interestingly, New York is one of the few states that did not post an increase in the 1992 election.

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only 41.3% actually voted in 1988.[5] Hispanics' rates are considerably worse, with only 32.6% of eligible voters registered and 26.4% voting. In contrast, whites have a 63.5% registration rate and 57.2% turnout rate.[6]

New York City's turnout rates have been approximately 10% to 15% lower than the state as a whole.[7] Out of twenty six cities, New York City's registration rate ranks twenty third, and its turnout rate fifteenth.[8] Moreover, the city's proportion of the state's electorate dropped from 44.1% in 1920 to 30.9% by 1992.[9] As is the case within the state as a whole, low-income and minority citizens within New York City are disproportionately non-voters.[10]

Some observers have argued that these shifts in voter participation patterns have had important impacts on politics in New York.[11] For example, low registration and turnout rates for low-income and minority citizens in the city have contributed to their low

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[5]Fuchs and Thompson, 1994:32-33.

[6]Ibid.

[7]Sauerzopf and Swanstrom, 1993.

[8]Affigne and Tate, 1993.

[9]Sauerzopf and Swanstrom, 1993.

[10]1994 Annual Report of the New York City Voter Assistance Commission. In New York City, nearly 2 million of the nearly 5 million eligible citizens are unregistered. Again, minorities and the poor are disproportionally unregistered and non-voters. As previously mentioned, the registration and turnout disparities between racial groups have historically been so acute that three of its boroughs (Brooklyn, Manhattan and the Bronx) continue to fall under the aegis of the Voting Rights Act. African Americans voter registration and turnout rates, however, increased throughout the 1980's, and now are nearly comparable to whites.

[11]Sauerzopf and Swanstrom, 1993; Fuchs and Thompson, 1994.

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level of political power.[12] Since minorities and the poor have overwhelmingly registered and voted Democratic in New York, these circumstances have also weakened the Democratic Party--and particular factions within the Democratic Party--at all levels of government and politics.[13] Lastly, New York's skewed voting patterns may also be related to another electoral fact which characterizes the state: its high rate of incumbency.[14]

To remedy these developments, a coalition of contemporary reform advocates formed in New York during the early 1980's to conduct mass voter registration and lobby for changes in electoral law and practices.[15] Together with some "liberal" Democratic

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[12]Fuchs and Thompson, 1994, argue that the political influence of minorities remains weak particularly in policy terms. While minorities have made gains in representation in the state since 1970's--especially in the state legislature--"policy re-orientation in state and local government has not kept pace with minority representation." (p. 45)

[13]Ibid.

[14]New York's incumbency rates are among the highest in the country. According to the National Conference of State Legislatures, between 1979 and 1989, New York's Legislature had the lowest rate of turnover of all states. Between 1986 and 1990, both the Assembly and the Senate had a re-election rate of 98% or better. 147 of 190 legislators seeking re-election in 1992 had no opposition in the September primaries. Moreover, the margins of victories of incumbents has grown from 20% in 1970 to average margins of more than 50%. (Stonecash, 1994) New York's high incumbency rates are also likely to be related to another factor: 1/3 to ½ of all election law cases in the nation are in New York State, primarily legal challenges by the "regular" county party organizations in New York City to get insurgent candidates thrown off the ballot by disqualifying their nominating petitions of registered voters.

[15]As discussed in the introduction and listed in its appendix, a loose coalition of voting rights advocates came into being in the early 1980's, principally formed by Piven and Cloward and Human SERVE, the reform organization they established. I discuss these developments in more detail below. Briefly, the coalition operated under several umbrella organizational names--the New York Voter Registration Campaign, the New

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allies, these reform advocates have contended New York's comparatively low rates of turnout contributes to the production of a political system that is not sufficiently representative and democratic, and place part of the blame on what they characterize as New York's restrictive registration system and election administration. They aim to increase turnout in electoral contests, especially among minority groups and the poor, arguing that reforming such rules and practices would create an enlarged electorate and could potentially lead to different candidates and policies, thus invigorating the polity. They have advocated a number of measures, including simplifying registration forms and procedures, making them more available to most citizens at public agencies, eliminating the purging of registrants for non-voting, shortening registration deadlines, and providing for election day registration.

Some of the reform proposals these advocates lobbied for were, in fact, adopted. And while New York State and New York City have taken steps over the past dozen years to promote registration and voting, the results continue to be elusive. In 1975, for example, the state legislature adopted voter registration by mail; in 1981 the legislature extended from two to four years the interval a person could fail to vote and remain registered; in 1984 and again in 1990, Governor Mario Cuomo issued an executive order to provide for registration at various state agencies; and New York's cumbersome voter

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York State Network on Voter Registration and subsequently the Statewide Coalition for Voter Participation--which included Human SERVE, New York Public Interest Research Group (NYPIRG), Common Cause, The League of Woman Voters, NAACP, several unions, the legal defense funds, and others.

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registration form was simplified in 1993.[16]

Yet, registration and voting in most of New York continued to decline.[17] Even though New York's decline since the mid-1970's was consistent with a nationwide decrease in voter participation, it was, nonetheless, three times the size of the nation's.[18] Why have these reform attempts been unsuccessful? What can account for such failures of New York's electoral system?

While there are surely a complex web of factors involved, the role of New York's election administration may be an integral part of a complete explanation. I shall argue there is good reason to believe the practices of election administration have contributed, at least in part, to low rates of electoral participation. My study of New York indicates that many of these reforms have been, in fact, effectively undermined by election administration officials and other state officials. Indeed, the partisan struggles around the various electoral reforms and their implementation reveal similar interests and stakes to those evident during earlier periods examined in the previous chapters. Lastly, as I have argued previously, providing insight into New York's low registration and participation rates may help illuminate what is a ***general*** feature of American elections, and especially in urban

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[16]Similarly, Mayor Edward Koch did the same for New York City agencies in 1986; and in 1988, the revised New York City Charter created the Voter Assistance Commission (VAC) which is mandated to promote voter registration--especially of groups with disproportionately low rates--primarily through agency based registration. These reforms will be discussed in chapter 5.

[17]Voter registration, however, has begun to increase since the recent implementation of the National Voter Registration Act (NVRA) in 1995 and 1996 which I discuss below.

[18]Scarrow, 1983.

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areas and among minority and working class constituents.

In this chapter, I first review the contemporary political context in which voter registration groups and reform advocates in New York mobilized and the politics of several reforms enacted during the past dozen years, with particular focus on the state's agency based voter registration programs. Finally, I assess the impacts of these measures on participation and politics in New York.

Political Context, Political Mobilization, and Political Arithmetic: The Nation

> The election of 1980 provoked many on the left to reassess the importance of electoral politics. One expression of that renewed interest was the mobilization in 1984 of the largest voter registration movement in memory, perhaps even in American history. The hope was that new voters from the bottom of the income scale could reverse the electoral tide that brought the right to power.[19]

Following Reagan's election in 1980--which posted the lowest turnout in a presidential election since 1924--a coalition of reform advocates and liberal Democrats launched a campaign to boost voter registration and participation. Some voter registration advocates, Piven and Cloward in particular, were keenly aware of the political arithmetic: the scale of non-voting, and therefore, the potential for an expansion of the electorate. In 1980, 163 million Americans were eligible to vote, but only 86.5 million or 53% actually voted (76.5 million or 47% did not vote). Only about 100-110 million Americans or 60%-70% were registered to vote, leaving more than a third unregistered but eligible.[20] Reagan

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[19]Piven and Cloward, The Nation, November 2, 1985. The following section draws heavily upon their analysis and data.

[20]There are three primary sources of registration data--state election data from boards of elections and secretaries of state, census data, and the National Election Study (NES) data. All contain biases which, in general, inflate registration rates. See Piven and

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won with less than 27% of those eligible to vote, so that nonvoters exceeded Reagan voters 2 to 1. Moreover, as mentioned, the sharply skewed electorate in class and race terms suggested the significance of the non-voters for Democrats, progressives, and independents. Thus, voter participation issues increasingly became important points of contention within a dramatically changing political and economic environment which characterized the 1980's.

Piven and Cloward's strategy and stated political purpose was to: forge "a class based realignment of American politics"[21] through a "movement strategy to transform the Democratic Party."[22] Simply put, they believed progressives could be rallied around a program to increase the political participation of low income groups and minorities--especially by registration and voting--to force change within the Democratic Party and party system as a whole. Based upon their analysis of previous political realignments which led to changes in the American state and policy, Piven and Cloward "believe time is ripe to set a thoroughgoing realignment in motion, and by that process to create the electoral conditions that will support new solutions to the economic crisis in America".[23]

While Piven and Cloward and many progressives recognized that an increase in voting of low-income and minority groups would not immediately translate into policy changes more oriented toward working class interests--because of powerful countervailing

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Cloward, 1988, Appendix A.

[21]Piven and Cloward, Social Policy, 1983, Winter.

[22]Piven and Cloward, Ideas for Action, December, 1982.

[23]Piven and Cloward, 1983.

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pressures of corporate and upper class interests on the major parties and even on social democratic parties of Western Europe--they believed, nonetheless, that parties and policy are sometimes influenced from the bottom. Most notably, when mass protest movements emerge and disrupt business as usual, posing significant challenges and demands upon parties, playing a catalytic role in political realignments, such as in the 1930's and 1960's. Piven and Cloward hoped to spark such a working class movement through a voter registration strategy. Expecting to provoke opposition from entrenched parties, incumbents and elites to expanding the electorate at the bottom, they envisioned the ensuing conflict would politicize social service providers and recipients whose benefits were being curtailed, as well as other organizations and potential voters.[24]

Piven and Cloward's arguments were strengthened and progressives were heartened at an upsurge of low-income voters and new voters--blacks, blue collar workers and the unemployed--in the 1982 midterm elections. This was the first time in two decades that turnout rose, and importantly, also contributed to important Democratic gains in Congress and several statehouses.[25] Again in 1983, the election of a number of black mayors, most notably Harold Washington in Chicago, confirmed this hope. Moreover, the campaign of Jesse Jackson for President in 1984 brought a broad spectrum

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[24]While to some extent this did occur, the mobilization was not sufficient to overcome the extent of legal and administrative obstacles. Thus, their experience pointed to the area of research for my dissertation on local administrative practices and resistance by elections officials.

[25]Piven and Cloward, 1988. Democratic governors won in New York, Texas, Ohio, and New Mexico, and made gains in the Congress.

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of progressive activists into electoral work.[26] Together with unions, black churches and non-partisan/non-profit organizations, a "rainbow" of progressives mounted mass voter registration drives, many for their first time ever. Primarily targeting low-income groups, this mobilization generated coalitional comraderie reminiscent of the civil rights and peace movements of the 1960's. Although registration activists employed a variety of methods to achieve this goal--including traditional "hands on" voter registration techniques[27]--Piven and Cloward and Human SERVE, the reform organization they established, promoted the goal of establishing non-partisan voter registration in government agencies.[28]

While the impacts of this mobilization are varied and debated, the upsurge in electoral activity--especially by blacks--led to increases in voter registration and turnout, and to the election of 31 black mayors and numerous other local black officials.[29] As mentioned, Piven and Cloward had observed that several Democratic governors won

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[26]The Jackson campaign was more broadly seen by progressives as a means of re-vitalizing the struggle for political and economic justice which had declined since the 1970's.

[27]"Hands on" refers to voter registration person-to-person, generally in high pedestrian travel areas, urban and community based locations, such as shopping centers, subways, key street corners, housing projects, unemployment and social service offices, and the like. Organizations such as ACORN, Project Vote, public interest groups (such as the various Public Interest Research Groups or PIRG's), and some unions engaged in such registration activity.

[28]Piven and Cloward, 1988. They argued that such a government led system would be the best means to produce a large scale increase in voter registration, and to institutionalize it.

[29]J. Philip Thompson presents a thorough and cogent analysis of the impacts of the Jackson campaigns on black politics in New York, Atlanta and Oakland, Ph.D. Dissertation, 1990, CUNY. Piven and Cloward (1988:218) also note that minority mayors also benefitted from new voters, while suffering from domestic program cuts.

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office on the upsurge of voting among the poor and minorities in 1982, including New York, Texas, Ohio, and New Mexico. Believing that Democrats would be more favorably disposed to adopt these programs, Piven and Cloward and Human SERVE organized coalitions in such states to lobby liberal Democratic executives as well as legislatures to implement non-partisan agency based voter registration programs.[30] Beginning in 1984, these advocates successfully obtained gubernatorial executive orders establishing agency based voter registration programs in six states around the country, including New York. These agency based registration initiatives, however, provoked political conflict leading to several such programs being rescinded, saddled with stringent limitations, or effectively undermined. State Republican Parties launched legal challenges, the Reagan Administration threatened cutting off grants-in-aid, and social service providers faced political reprisals from Republican controlled counties, such as on Long Island.[31]

The National Democratic Party

Meanwhile, the Democratic Party (i.e. the Democratic National Committee or DNC) initially pledged a multi-million dollar effort for voter registration and mobilization that never materialized. The DNC ultimately used about two million dollars that was distributed to state and local Democratic organizations for get-out-the-vote efforts of

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[30]While national reform was preferred by Human SERVE and other advocates, given the fragmented federalist decentralized structure of the U.S. and the likely opposition of Republicans, reform at the state and local level was seen as "a precondition for eventually winning reform at the national level." (Piven and Cloward, 1988:210)

[31]Piven and Cloward, 1988. In New York City, many nonprofit agencies with minority constituencies did not embrace voter registration for fear of losing city subsidies from the Koch administration. Ibid. p. 226.

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already registered Democrats rather than enrolling new voters.[32] As Piven and Cloward noted, it appears that the Democratic Party would have benefited in the 1984 Presidential election from an expansion of the electorate because most of the nonvoters are low income individuals and minorities, "prime" Democratic voters. However, they also observed that most incumbent Democrats, the mainstream of the Party--and the elections officials they appoint--often view such mobilizations as a threat to their political careers. New and unpredictable voters may vote for an insurgent challenger, such as a Jesse Jackson on the national level, or similar challengers at state and local levels.

> New voters make new demands and generate conflicts over policy with other blocs [of voters] in the [Democratic] coalition... Congressional, state and local incumbents prefer a stable electorate. It is the party oligarches who remember the challenges from the McGovernites in the 1970's and who fear that another insurgent leadership would be thrust upon them by a flood of new voters. Also, the party's need for business contributions is always in tension with mass participation by the working class and minority groups. In sum, the national Democratic Party is more concerned with maintaining its internal stability than with building a party of opposition.[33]

And indeed, the Democratic Party largely sat on the sidelines. In fact, throughout the 1980's, the DNC did little to boost voter registration. Some Congressional, state and local Democrats, however, did support efforts to increase registration. Notably, most of these Democrats were minorities.[34]

Republican strategists, however, also recognized the possibility of an expanded electorate as a clear danger to ***their*** political fortunes. In response, Republicans

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[32]Piven and Cloward, 1988.

[33]Piven and Cloward, 1985.

[34]Ibid.

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constructed the most technologically sophisticated and best financed ($10 to $15 million) registration drive ever, instead targeting upscale voters and Christian fundamentalists. In fact, the Republican registration efforts probably equaled or bettered the non-profits and the Democrats, producing close to half of the 7 million new registrants added to the rolls from 1982-84, most of whom were white, better off and largely Southerners (registration rolls increased from 1980 to 1984 by 12.1 million).[35]

Piven and Cloward calculated that non-partisan organizations registered most of the other half, mostly in the North. However, many organizations, such as women's organizations, student groups, and citizen action groups frequently ended up registering middle class voters. Fewer organizations, such as Acorn, Project Vote and Human SERVE, reached groups at the bottom of the social structure.

Administrative Barriers

Activists attribute the mixed results of the 1982-84 voter mobilization efforts, in part, to existing legal and institutional barriers which thwarted registration efforts. Organizers increasingly bumped into these barriers and obstructive elections officials, limiting their effectiveness and highlighting election administration as targets for reform. They identified several such restrictive administrative practices, including: refusal by elections officials to deputize campaign volunteers as registrars in many states, limiting the amount of forms and assistance made available to organizations, maintaining limited working hours, refusing to distribute forms at government agencies and other public places, and disqualifying many new registrants by using strict standards to process

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[35]Ibid.

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registration forms.

> Although the laws restricting eligibility to vote [literacy tests, poll taxes, lengthy residency requirements] have been overturned as a result of civil rights protests and Federal voting rights legislation, the administrative barriers remain largely intact. There is still only one registration office in most counties; it is still usually open only during working hours; and it is likely to be administered by political appointees hostile to minority groups and the poor... Registration by mail, which is now permitted in twenty two states, with about 60 percent of the population, has not helped much because election officials are unwilling to fill out forms or distribute them at public places. In any case, the forms themselves are booby traps. The Board of Elections in New York City discards any that are completed in pencil, signed only on one side or with a middle initial or social title on one side but not the other... County boards of elections preside over what is in effect the disenfranchising apparatus of the American electoral system.[36]

The mobilization to register the disenfranchised generated conflicts over these rules, procedures and institutions. In response to obstruction by many elections officials a consortium of legal defense organizations was formed, filing lawsuits in more than a dozen states to challenge such practices.[37] Most suits, however, were lost because judges did not agree that the right to register was constitutionally protected. Election boards then did not need a compelling reason why they do not deputize registrars more freely or do not widely distribute registration forms. ***Thus, election officials were free to continue to act capriciously, and to leave many restrictive rules and procedures in place. Indeed, the episodes documented by the voter registration effort revealed that elections officials possess enormous discretionary capacity to implement election law in particular ways,***

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[36]Piven and Cloward, 1988, p. 436 and p. 196.

[37]These included the American Civil Liberties Union, the National Association for the Advancement of Colored People Legal and Defense Fund, the Center for Constitutional Rights, the League of Women Voters, and others.

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and to act or not act on reform proposals which ostensibly impact on participation.

For example, election boards in New York have exercised broad discretion in determining eligibility of students, often not allowing students to vote in the jurisdiction where they attend school. Some town boards have shifted poll sites from college campuses when the board was controlled by Republicans, and back to campuses when the board was under Democratic control. For example, the Republican majority in the town of Harrison voted as recently as February, 1996, "to change electoral district lines and remove a polling place at the State University of New York (SUNY) at Purchase, where the voters are overwhelmingly Democrats. This is a Harrison tradition: when Democrats rule the Town Board, the college gets voting booths, when Republicans rule, the polls are removed."[38]

Even when state election law requires elections officials to take measures to insure that mail voter registration forms are "as widely and freely distributed as possible",[39] many county boards chose to interpret such provisions narrowly. For example, throughout the early to mid-1980's, several counties in New York made forms available only at the election board offices or in town clerk offices.[40] NYPIRG reported that Erie, Albany and

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[38]New York Times, March 13, 1996. As noted elsewhere, such episodes were not limited to Harrison, but have been documented and contested by the New York Public Interest Research Group (NYPIRG), a state-wide student organization, and the New York Civil Liberties Union (NYCLU) in many counties in New York, particularly upstate.

[39]New York Election law, Article 5-210 (2).

[40]Testimony of NYPIRG (and others including NYCLU) at state legislative public hearing held March, 1983, and in subsequent interviews with the author. These advocates lobbied for, and subsequently saw the adoption of, a broader mandate in New York's election law for boards of elections to distribute forms at a broad range of specific

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New York City limited distribution to board of elections offices, leaving any individual, group or establishment that wished to obtain or distribute forms to locate their local board of elections and arrange to pick up materials.

By contrast, only a few other boards of elections, such as the Monroe County Board of Elections for example, did institute programs which provided for wider distribution of voter registration forms at some government agencies and other public places, and saw modest increases in voter registration and participation. During a public hearing on voter participation in 1983, one advocate noted the relatively higher registration rates in Monroe County which he attributed to "outstanding cooperation of the election commissioners, both past and present, as well as the super cooperation of the board of election's staff at all levels [in instituting outreach programs]."[41] Indeed, Monroe county has also been in the forefront of modernization of election administration. Monroe began a planned program to replace its aging voting machines with new machines many years before any other county, setting aside funds for such modernization. Thomas Wallace, the then Executive Director of the New York State Board of Elections, stated at a public hearing, "Monroe County has, again, stayed on top. They probably have the most modern election machines in the State of New York."[42]

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government offices and other institutions. Poor or non implementation, however, continued to limit the impact of this new mandate, until the advent of the NVRA discussed below.

[41]William Gerling, Monroe County Outreach Voter Registration Committee, March 13, 1993.

[42]Ibid. Similarly, Jerry Koenig, Assembly Election Law Committee Legislative Specialist, also corroborated that Monroe County had taken the first and most far reaching

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More generally, however, New York elections experts and reform advocates overwhelmingly report that most elections officials--both within New York State and nationally--have consistently opposed or resisted efforts to increase access to voter registration.[43]

Political Mobilization in New York

Connected to the larger national developments, dozens of organizations mobilized in New York to conduct mass voter registration during the later half of 1983 and throughout 1984. As previously mentioned, a loose coalition of voting registration organizations and voting rights advocates was formed by Piven and Cloward in 1983.[44] These groups engaged in a variety of nonpartisan activities to increase voter registration

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steps to expand access to registration and move towards modernization in the state. He attributed these initiatives to the liberal Democratic Commissioners on the Monroe County Board of Elections and in the County Executive, along with successful lobbying by advocates.

[43]My interviews with state and national elections experts and key lobbyists in Washington noted that only a minority of elections officials supported passage of the NVRA, with most opposing it and even lobbying against its passage. Moreover, proposals by reformers for local initiatives--such as wider distribution of registration forms or less stringent criteria for processing forms--usually fell on unsympathetic ears. Such proposals for more liberal access to registration opportunities were rarely adopted by elections officials, and often only after much foot dragging and significant pressure was brought to bear. Only when the passage of the NVRA seemed assured, did some elections officials drop their opposition, with few exceptions such as Tom Wilkey, Executive Director of the State Board of Elections.

[44]Piven and Cloward inaugurated a pilot project in New York, the New York Voter Registration Campaign. They hired Ken Grossinger with a small grant to convene meetings with numerous organizations including civil rights organizations, unions (such as DC37 and DC65), NYPIRG, various community based organizations, and liberal Democrats including Ruth Messinger and H. Carl McCall. Subsequently, Piven and Cloward established a nonpartisan reform organization, Human SERVE.

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and participation throughout the state, with a primary focus on New York City. Moreover, coalition members "targeted groups of women, minorities, poorer New Yorkers and students."[45] While much of this mobilization was related to Jesse Jackson's 1984 presidential campaign, other registration efforts were already under way by black and progressive groups.[46] In addition, several labor unions also mounted voter registration efforts around the Jackson 84' campaign.[47]

Largely as a result of these mass registration efforts, New York's registration rate increased significantly. By the end of 1984 registration topped nine million in New York State for the first time since 1972, rising 10% with 68% of its voting age population registered as compared to only 58% in 1982.[48] Similarly, New York City reached over three million registered voters in 1984 for the first time since 1972. In New York City alone, 855,000 voter registration applications were submitted to the NYC Board of

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[45]Tom Wathen, Executive Director, NYPIRG, press release, October 9, 1984. The "October 4th Voter Registration Campaign," a coalition of over 50 groups, registered 50,000 voters in one day and turned in the forms on the registration deadline. Human SERVE claimed it registered 40,000 people--primarily of low income--at public and private agencies from spring of 1983 to March, 1984. (Testimony of Hulbert James, Executive Director Human SERVE, Public Hearing 3-13-84.)

[46]For example, The Coalition for Community Empowerment (CCE), which was led by Al Vann, started the "Strive for 85'" effort in 1983 with the hope of electing a black mayor in 1985.

[47] Many of these same organizations--and new formations, such as the Coalition for a Just New York (CJNY)--would mount similar voter registration efforts for the 85' mayoral race.

[48] Royce Crocker, "Voter Registration and Turnout: 1948-1990," Congressional Research Service, The Library of Congress, August 11, 1992. The 1984 registration rate of 68% was the highest since 1972 when it was 72%.

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Elections by the registration deadline in October, 1984, one of the highest increases ever.[49]

Administrative Obstacles in New York

While the political mobilization of voter registration advocates produced these gains, these organizations encountered numerous barriers over the course of nearly two years which inhibited their efforts and limited the extent of the voter registration increase. The kinds of barriers advocates identified--regarding both election law and administrative practices--became focal points for further reform efforts. Importantly, as we shall see, their reform efforts produced changes in practices of the city's and state's election administration, which in turn, contributed to increases in voter registration and participation. (These increases, while significant, were modest. This data is presented below in this and the next chapter.)

As previously mentioned in the introduction, such administrative obstacles in New York have been highlighted in numerous public forums including the news media, and in legislative and public hearings, in court cases, and various government reports. I analyzed

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[49]Only 540,000 registrants, however, were "new" after eliminating duplicate registrations, change of addresses, deaths, etc. Thompson has shown that "in most cases, voter registration [increase during this period] was closely tied to organizational efforts by local activists." Thompson also demonstrated that black and Latino voter registration increased significantly between 1982-85. He estimates that between 1982-84, black registration increased by 129,000 or 25%, while Latino registration increased by 18,000 (white registration declined by 22,000). Between 1984-85, black registration increased by 78,700 or 14% and Latino registration increased by 81,800 or 21% (white registration increased by 178,600). Thompson, chapter 2, pp. 57-58. Thompson puts increases in Democratic enrollment in majority black districts at 5,000, while white enrollment rose by about 1,000 (chapter 2 p. 10; he cites Sam Roberts, "New York Democrats Gain Black and Hispanic Voters", New York Times, April 1, 1984, p. 26.) Mollenkopf also has put increases in registration in black and Hispanic AD's between 1982 and 1985 of up to 10,000 per AD. (Mollenkopf, 1987)

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such administrative practices regarding voter registration and election operations which have been highlighted in these forums from 1980 to 1994, and I also conducted interviews with elections experts and officials, elected officials, reform advocates, voter registration organizations, and investigative journalists to further document disenfranchising practices. My research of New York boards--particularly the New York City Board of Elections--identified numerous kinds of such practices. I have grouped them into three categories.

I. Provisions for access to registration opportunities and information.

II. Procedures for processing registration applications and the certification of registration.

III. Election day operations and the certification of votes.

I discuss these kinds of disenfranchising practices in greater detail in the next section and in chapter four.[50]

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[50]As discussed in the introduction, boards of elections do many things which affect participation. My research of New York boards identified a litany of problems that were reported in nearly every election, and which occurred both before and during each election that include: a critical lack of effective outreach; slipshod procedures in processing applications for registration resulting in applicants not being properly registered; failure to effectively notify or actually misinforming voters of their registration status, poll sites, voting procedures, and other critical voter information; providing absentee ballots to voters late or not at all; poll sites that open late, are understaffed and lacking necessary voting materials; failure of workers to follow provisions to insure voters correctly cast their ballots, such as providing proper instructions to use a voting machine, or to vote by affidavit ballot or emergency ballot--all of which can result in thousands of voters being effectively disenfranchised.

While in some instances the fault may not lie solely with a board of elections, in most cases boards are responsible for such disenfranchising outcomes. Whether disenfranchising outcomes are a result of errors, incompetence, bureaucratic inertia, lack of resources, or whether distinct political interests and relations are involved to account for these practices varies, or is not always clear. Nevertheless, as I shall show, several

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Legislative Hearings

These types of administrative problems were highlighted by voter registration advocates in several public hearings held by the New York State Legislature. One of the first public hearings on the problem of voter registration and election administration in New York was held during the spring of the 1984 presidential campaign.[51] The general purpose of the hearing was to receive comment about how to increase voter registration, with a focus on election law reform. Voter registration advocates testified about a range of obstacles they experienced in the course of their voter registration activity. Many who testified focused on administrative and procedural problems associated with boards of elections, and made recommendations for improvement. The nature and scope of the problems highlighted and recommendations made by advocates in the public hearing are numerous. I have detailed them below to demonstrate: first, the kinds of administrative problems encountered by voter registration groups were significant and produced disenfranchisement; and second to show how the scrutiny and criticism that the media and advocates made of such election practices, and the pressure that they were able to bring to

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episodes do reveal particular political actors have been involved in particular practices that had disenfranchising consequences, and, conversely, other political actors have been involved in practices which led to increased voter registration and participation in New York.

[51]The Public Hearing was held by a Joint New York State Assembly and Senate Election Law Committee. The hearing was exceptional in that it was "the first joint public hearing that the two election committees of the Legislature have [ever] held." (Senator James Jack, Chair of the Senate Elections Committee; transcript of proceedings, p. 2) The public hearing was held on March 13, 1984 in Albany.

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bear directly led to significant improvements.[52] Many of the advocates' recommendations were, in fact, adopted in election law and by the state and local boards, producing important improvements in their operations and modest increases in voter registration.[53]

While registration advocates had long experienced legal and administrative obstacles to their efforts to expand the franchise, they petitioned key legislators to hold this public hearing in an attempt to preempt problems which they anticipated occurring during the 1984 elections. Yet, following the 1984 elections, advocacy organizations continued to lobby for legislative and administrative changes which they hoped would increase the effectiveness of their registration efforts and reduce such disenfranchisement. In fact, advocates succeeded in pressing Democratic officials to hold four similar such public hearings in 1987 and 1988 to address the kinds of legal and administrative problems they continued to experience.[54] As I shall discuss below and in chapter four, these efforts did produce some important changes in election law and, in boards administrative practices.[55] Thus, as we shall see, contemporary reform advocates helped to modify and moderate New York's election policy and practices during the mid to late 1980's.

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[52]This claim was made by several legislators and their staff, election experts and officials and advocates I interviewed.

[53]Ibid.

[54]All of the public hearings largely focused on the New York City Board. In 1996, the Assembly Democrats also held three public hearings across the state on the implementation of the National Voter Registration Act (NVRA).

[55]This is especially true regarding the New York City Board. Advocates believe they have been less successful with other boards in the state, and, until recently, the State Board.

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Regarding the first type of disenfranchising practices that were highlighted in the 1984 public hearing, limited public access to voting information and materials and the limited outreach to the public by boards of elections, voter registration advocates complained that to the average citizen there is a dearth of information which the public needs. In the first place, most people do not know: a) that they need to be registered to vote (and from their current address); b) that the board of elections is the government agency responsible for running elections, and how to contact the board and register; and c) information about the candidates and offices for election.

> Administratively, a positive attitude toward voter participation must be fostered from the top state officials on down. The operative assumption should be that everyone eligible to vote will be encouraged to do so. Local boards of elections should mount aggressive outreach campaigns to increase participation, and this effort should involve extensive use of the media.[56]

> Although the law now requires that the 'forms be widely and freely distributed', the availability varies greatly from county to county.[57]

Advocates recommended funds be provided for advertising campaigns which contain basic election information to citizens, and that more pro-active and aggressive steps be taken by elections officials to enlist voter participation. Such outreach programs were, in fact, adopted by the city and state boards in subsequent years (albeit modest versions). For example, voter registration organizations urged the establishment of a telephone help line, to be widely advertised. The state and city boards did institute such phone services. Similarly, the city and state boards made some modest progress in advertising election

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[56]Alan Rothstein, Citizens Union, Public Hearing, March 13, 1984.

[57]Joan McKinley, President of New York State League of Women Voters, ibid.

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information, and increased their efforts to distribute registration forms more broadly. For example, Monroe county--which had already begun similar programs in the late 1970's--expanded such efforts, and the New York City Board later provided forms to post offices and libraries (albeit inconsistently and with poor design and monitoring, thus producing only modest increases in registration.)

Another problem raised by advocates was that some registration organizations were treated differently by boards of elections. There was a general perception that some groups are treated favorably while other groups have limited access to registration forms, materials and assistance.[58] In fact, some registration activists reported being treated with "outright disdain" and "discouraged" from conducting registration. In some cases, organizations which requested forms in bulk to conduct registration drives were given only limited quantities. In other cases, groups were unable to obtain registration forms because of "lack of sufficient supply." Indeed, Thomas Wallace, the Executive Director of the State Board of Elections, admitted that such incidents had occurred: "There is no question that there have been problems when groups wish to put on registration drives and wish to obtain registration forms in quantity lots. There is definitely a problem..."[59]

While explanations varied, there appeared to be a pattern of such differential treatment: those clubs and organizations that had good relations with the regular party

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[58]Laura Alschuler, League of Women Voters (LWV) claimed the League received better treatment than other registration organizations, and similarly, ACORN or CSS have corroborated similar patterns of poorer treatment towards their groups and others. Board officials and other election experts have also acknowledged that sometimes such differential treatment does occur.

[59]Public Hearing, March 13, 1984.

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organizations and elections officials received more favorable treatment than clubs and organizations which had poorer relations. The pattern raises the possibility of political motivations for such practices. Regardless of motivations, some groups have been disadvantaged in their effectiveness at registering targeted constituencies. Such organizations tended to work primarily with poor and minority groups as opposed to middle class whites.[60]

II. The second category of disenfranchising practices, cumbersome voter registration procedures, can be further broken down into three main types:

A The design of the voter registration form by the state board of elections.
B) Processing of forms by election boards.
C) Notification to voters of registration status and poll site information.

Election law requires certain data be provided on a voter registration form, but the State Board of Elections and local boards have leeway in requiring additional information and in designing format. New York's registration form--like that of many other states--has been strongly criticized by advocates who often characterized it as "booby trapped".[61] For example, there was a requirement for voters to sign on the front and the back of an application form. Often applicants do not sign both sides which led to thousands of such applications being invalidated by board clerks. In addition, advocates criticized the voter registration form that contained numerous unnecessary or intimidating items, such as

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[60]As mentioned in footnote #57, groups such as the League of Women Voters--which primarily serve middle class women--have stated they receive preferential treatment, while groups such as ACORN and the Community Service Society (CSS), who target low-income and minority populations, reported that the Board periodically "threw them curve balls of various sorts" (such as limiting or delaying forms, problems processing forms leading to missing names of registrants on election day, etc.).

[61]Piven and Cloward, 1988.

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several questions regarding citizenship, (For example, "Were you born in the U.S.?" which potentially discriminates against those from Puerto Rico, the Virgin Islands, Guam, and those who are naturalized, or "Employer" which also potentially provides problems for some registrants.)

Numerous attempts by advocates to have the State and City Board re-design the form failed. Finally, in 1992-93, the state moved to adopt several significant changes in the state form. The old form was three fold, required two signatures, and contained confusing and legalistic language in the instructions; the new form, designed with the assistance of literacy experts, is two fold, contains fewer items--removing some of the "intimidating" questions such as employer--, has simple and clear instructions, and requires only one signature. Advocates hailed these changes as an important victory, and have universally stated that their registration work has been greatly simplified, which they claim has increased their productivity. Yet, the re-designed form still retained certain items which advocates contend were unnecessary. For example, the citizenship questions may create potential problems, as may the request for a phone number.

B) Regarding the processing of voter registration forms, advocates cited several problems in the operations of boards of elections. These included losing or misfiling registration applications, and rejecting applications for overly technical reasons. In the former cases, clerical errors are apparently at work, while in the latter instances board policy and practices are at issue. The problems resulting from board policy and practice--what advocates refer to as disenfranchisement for "overly technical reasons"--are more serious. Voter registration applications of particular categories of voters--such as students

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and the homeless--have also been rejected by boards as not meeting residency requirements. Such "technical grounds" have been contested and were considered politically motivated by advocates. Boards justified these practices by stating that the law required them to reject such applications in order to guard against potential vote fraud.

> Cards get turned in and, in fact, sometimes cards get lost in the process.[62]

> Local boards should be as flexible as possible. Incomplete forms should be accepted and registrants given a chance to complete them, either in person or by mail before an election or, in certain circumstances, at the polls on election day. If one of the two signatures required on the form is omitted, let that be corrected later, too... Some boards do make those adjustments and are that flexible, others are not.[63]

Similarly, Norman Adler, then Coordinator of the New York State Network on Voter Registration, testified,

> In our experience with processing now upwards of 70,000 forms, when you turn the forms in to many of the boards of elections in the state, regardless of what the law does or does not say, when the clerks at the board of elections process the form, if anything is missing from the form, they do one of three things. In the big boards of elections [such as NYC], they throw the form in the garbage. In the middle-size boards of elections, they try to contact the person by mail. In the small boards of elections, they may actually phone the person and say come in and correct the form. ***We estimate that we are losing 15 percent of all the people who presently fill out voter registration cards because of the inadequate clerical treatment of the forms....No matter what the law says, that's the way it's treated.***[64]

In response to the statement made by Adler, Jerome Koenig, Legislative Specialist for the Assembly Election Law Committee stated, "I quite agree. By the way, I

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[62]Hulbert James, Public Hearing, March 13, 1984.

[63]Testimony of Allan Rothstein, Associate Director, Citizens Union, ibid., p. 61.

[64]Ibid., p. 16.

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understand that in some boards of elections if the signature is missing on the back, they photocopy the signature from the front and paste it on the back, and that perhaps should be standard procedure."[65]

If we calculate the potential disenfranchising impacts of a 15% "clerical error" rate attributed to the New York City Boards, of the 70,000 registration applications the Network claims to have submitted for processing by March of 1984, 10,500 would have been discarded or administratively disenfranchised. Between 1982 and 1985 voter registration increased from 2,544,000 to 3,014,000 or 470,000. Thus, at a 15% error rate, 70,500 would have been administratively disenfranchised in New York City during this period.

One of the emerging concerns from testimony at the March 1984 public hearing was "to try to standardize" such procedures across the state and all boards. Boards in New York State have and continue to conduct their operations differently, and employees within a board may also vary in particular procedures. Such variations have different consequences on voter registration and participation. "We have found that election officials are not always fully informed about proper registration procedures."[66] However, some board officials contend that some of the problem may lie with the registration

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[65]Ibid. This procedure validates a person's registration, thus reducing the number of registrations lost. Koenig has served on the Elections Committee since the early 1970's. He is widely regarded as one of the most knowledgeable and expert in election law and procedures in New York State. In fact, Koenig has actually drafted and written large portions of what has been adopted as the state's election law since the 1970's.

[66]Ibid., Alan Rothstein, Citizens Union.

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organizations: that organizations may themselves "lose" applications.[67]

Another problem in the processing of forms raised by advocates concerned the determinations made by board personnel regarding residency requirements. Many boards, advocates contended, discriminated against three discrete classes of citizens: students, the homeless and the disabled. Arthur Eisenberg, of the NY Civil Liberties Union, has noted that New York has been particularly hostile to college students, compared to other states. Testifying before the 1984 joint committee of the New York State Assembly and Senate he stated,

> Within days of ratification of the 26th Amendment, New York responded by enacting two new provisions of law with the purpose and effect of making it more difficult for college students to vote. That legislation has had its intended effect. There was litigation immediately following those enactments, the most prominent case being Ramey v. Rockefeller, where in 1972, a federal three-judge court said it was at that time too early to tell whether local public officials, local election officials in New York State would use the election law in such a way as to discriminate against college students. Well, it's 12 years later and it's no longer too early to tell. *Having conducted an extensive survey of the voting practices in many, if not most of the counties that contain large student populations, I can tell you that students are routinely denied the right to vote by local registrars who believe that college students simply should not vote in their college communities...* It [the 26th Amendment] was ratified in the early 1970's when students were engaged in sit-ins, in protests against government, and it was ratified with a view towards bridging the generation gap, to bringing students within the system. What local public officials continue to say in New York is you can work within the system but not here, not in Thompkins County, not in New Paltz, not in Purchase; work within the system but not here. Work somewhere else... *There is enormous discretion conferred upon local registrars, some of who are hostile to student voting claims, and the individual discretion conferred by the statute to inquire, to conduct case-by-case inquiry of students attempting*

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[67]Several Board members contended that some voter registration organizations also lose forms, either inadvertently or purposefully if they do not like the party the registrant chose to enroll in.

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> *to register, has a very significant dampening affect upon the mass registration.*

Another advocate, Hope Geisler, Legislative Director for the SUNY Student Association also stated at the same hearing that board officials held powerful discretionary capacity, and used it to the detriment of student voters.

> Section 5-104 [of the election law] gives local boards of elections broad powers, including the power to review information which would determine a student's financial independence, income sources, employment and so on, all in an effort to find the student's true residence for voting purposes. County boards of elections determine where or not college students are residents by requiring then to complete questionnaires.

According to a survey[68] this practice of singling out students to complete special questionnaires, oral interviews and sworn statements regularly occurred in numerous counties: Chautaugua, Albany, Ostego, Cortland, Erie, Livingston, Oneida, Oswego, Saratoga, and St. Lawrence.[69]

Local officials claimed that they were only concerned with potential voter fraud, particularly double voting. Local officials would make a determination after reviewing the voter registration application and questionnaire--if students get that far--whether to accept

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[68]The survey was conducted by Roman Hedges, Professor of Political Science, SUNY Albany.

[69]"One of the worst examples of a county election board preventing students from even going through the registration process has been Ostego County. SUNY Oneonta students tried several times to apply and to find information about registration, but the county board threw roadblocks up each time. On special registration days which the board held to enroll new voters, students were turned away after identifying themselves as students. When students called or wrote for registration forms, the county board color-coded them before mailing them so they would know they were students' forms. Finally, the college administration cooperated with the county board by sending lists of all enrolled SUNY Oneonta students to them so that the board could check all applicants against the student list in an attempt to weed them out." (Geisler, 3-13-84, p 157-158)

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or reject such applications. According to several advocacy organizations, most such applications were denied. In fact, local boards that were dominated by Republicans or Republican officials on boards were more likely to be involved in denying students residency status, and therefore, voting rights.[70] Democratic elections officials, however, were also involved in these places, being members of boards. Mr. Eisenberg and representatives from NYPIRG contended that these elections officials--of both parties--were politically motivated. Why? First, students tended to vote Democratic in 1984 (and in 1988), which Republican officials were aware of.[71] Secondly, Democratic officials feared that students may vote for insurgents within their own party in primary elections (for example, for Jesse Jackson in 1984).[72] Indeed, several other elections observers I interviewed concurred with these assessments.

In response, students took the board to court and Judge McCurn in the case Brown -v- Maddalone issued a preliminary injunction which compelled the board not only to stop discriminating against students, but to register every student in the county. According to the New York Civil Liberties Union and NYPIRG, in another particularly egregious and hotly contested county--Westchester--Republican poll watchers challenged all students attempting to cast ballots, creating "highly intimidating conditions which

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[70]As reported in interviews with staff from the New York Civil Liberties Union (NYCLU), and the New York Public Interest Research Group (NYPIRG).

[71]Ibid.

[72]Ibid.

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resulted in many students merely leaving without voting."[73] Advocates estimated that the number of college students affected by such practices in New York State were in the tens of thousands.

Similarly, several cases where homeless individuals were denied registration and voting rights led to litigation which ultimately provided relief for the homeless. The Coalition for the Homeless, an advocacy organization for the homeless, won a landmark case, Pitts vs. New City Board of Elections which enjoined boards from rejecting registration applications by homeless individuals on the ground "that they fail to inhabit a home in the traditional sense."[74]

C) Regarding mail notification to voters, advocates contended that hundreds of thousands of New Yorkers never were properly notified of their registration status, poll site and election dates, as prescribed by law.

> Boards of elections should inform the applicant promptly as to whether the application has been accepted or rejected. Although boards are required by law to notify the voter in either case, it has been our experience that persons whose applications are not accepted are often not notified... The notice going out from the board of elections as to whether the application is accepted or rejected is crucial. I think if they get a notice that they can vote, with some piece of paper in their hand or some card, that's going to give them much more information than they have now. I think there are hundreds of thousands of people who have no idea whether they are listed

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[73]Ibid. A case in the northern district, Auerback v Kinley produced an injunction against Albany County and extended to Oswego, Tompkins and Ulster counties. In the Southern district, Williams v Salerno covered Weschester County.

[74]U.S. District Court, Southern District of New York, October 23, 1984.

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> or not this year.[75]
>
> Our experience is that is still not the rule in New York City. [i.e. notification cards properly mailed to registrants][76]

Moreover, advocates contended there existed

> an absence of anything from the board of elections which [indicates they are] moving to correct [the problems of processing registration applications and mailing notification cards].[77]

Indeed, such lapses continues to occur, albeit less so. But during the early and mid-1980's, it appears to have been an all too common problem affecting a very large number of people. The impact on voting is clear: such problems can lead to disenfranchisement. Moreover, such disenfranchising outcomes are even more likely for low-income and minority voters and people with disabilities.

III. Regarding election day problems, advocates detailed numerous ways people are disenfranchised at poll sites.

> There is something subtlety foreboding about the voting process, from lining up to vote through possible scrutiny by officials and watchers at the polls... Where people turn up at the wrong polling place or are otherwise informed they have no registration on record, how elections officials at the polls handle that situation might determine whether that person will bother to vote at all, ever.[78]

Advocates stressed the need for effective training of inspectors, expanded recruitment of

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[75]Testimony of Allan Rothstein, Associate Director, Citizens Union, Public Hearing, March 13, 1984, p. 60, 83.

[76]Hulbert James, Human SERVE, ibid.

[77]Ibid.

[78]Alan Rothstein, Citizens Union, ibid.

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workers, creation of informational materials for the public, and general improvements in the organization of election day operations. Advocates focused and pressed for improvements in training, and increases in pay and alternative recruitment of inspectors to remove the staffing of the polls from the patronage system. Advocates also recommended that answers to commonly asked questions be made available to voters in written form at poll sites on election day. Thus, they recommended a variety of informational materials be produced including, posters, voting rights flyers, and the like. Advocates continued to press for such legal and administrative changes throughout the rest of the decade. Many of these recommendations, in fact, were adopted and contributed to important improvements in boards' operations. Indeed, the State Board incorporated several such recommendations into its materials, training, and oversight work with boards throughout the state.[79]

Lastly, poll site selection was also an issue that was raised, as was accessibility to people with disabilities. Although the state's election law has required a general policy of accessibility, since the late 1970's, boards routinely have granted waivers to sites and side-stepped this policy. Following intensive lobbying efforts by disabilities advocates, Governor Cuomo introduced a bill in 1984 (#152) to the Legislature to limit the circumstances under which waivers could be granted. In New York City, a lawsuit brought by a group of advocates for people with disabilities (Hill vs. Board of Elections in

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[79]As we shall see regarding the New York City Board, many of these recommendations made by advocates in this and other public hearing and lobbying efforts were substantially incorporated into the main goals and achievements of NYCEP, which was established to assist the city board in modernizing.

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1984) forced the Board to provide accessibility which gradually was achieved for the entire city by the early 1990's.[80]

Advocates expressed concern regarding boards of elections being the final arbiter of registration, given their pattern if inefficiencies, errors, and potential political discrimination. "We're concerned that the person who registered in good faith in a community registration process has some evidence that they've registered."[81] Advocates proposed several reforms to address such problems. Advocates urged the legislature and boards of elections to adopt a registration form which contained a tear off receipt or record that the individual had applied to register. While not legal "proof" of registration, this would corroborate the extent of such problems, and, more importantly, alert elections officials to identify where problems may be occurring for follow-up. Another reform recommended was for boards to number registration forms given to groups for better accountability. Lastly, advocates recommended computerization of voter registration records. This last recommendation is important to note because it became one of the cornerstones of efforts to improve and modernize the board's operations. The former two

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[80]Boards of elections and several election experts contend that this requirement has had the detrimental side effect of reducing the overall number of poll sites in the state and city. Outside of New York City, the number of sites declined from 6,644 in 1986 to 5,736 in 1992, with the degree of accessibility rising from 85% in 1986 to 94% in 1992. Similarly, in New York City, the number of poll sites declined from 1,359 in 1986 to 1,251 in 1992, with the accessibility rate increasing substantially from only 33% in 1986 to 94% in 1992. (Data from the State Board of Elections.) Advocates have counter that, while surely the number of accessible sites were few and the time to bring these and other sites into compliance has contributed to the decline, they argue that boards have justified these reductions to save expenditures, and, perhaps used this as an excuse to limit the number of sites for political reasons.

[81]Hulbert James, Human SERVE, March 13, 1984.

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recommendations were not adopted.

Finally advocates repeatedly stressed--in this and other public hearings and lobbying efforts--that one of their primary recommendations was for the state to establish effective non-partisan agency based voter registration programs. Advocates pressed for this goal because they saw it as the main solution to the problem of low registration and participation rates in New York. It is to these programs that I now turn.

Agency Based Registration Programs in New York

The several early attempts to institute agency based voter registration programs in New York have been a gross failure. From 1984 through 1994, Republican legal maneuvering and procedural obstructionism effectively thwarted efforts by voter registration advocates and their liberal Democratic supporters to establish a permanent and effective government led voter registration system in New York State. The legal and administrative barriers that Republicans erected--combined with the lethargy of conservative Democrats whose incumbency interests may have tempered their support for agency registration--blunted efforts to expand the franchise in New York.

But the advent of the National Voter Registration Act (NVRA) in 1995 removed most of the legal and procedural obstacles which Republicans had erected. It has proven to be an effective system of registering voters, producing the greatest increase in agency voter registration in the state's history. Despite a late and flawed implementation of the NVRA in New York--compared to many other states and the potential number of registrants--significant numbers of people have been added to the rolls, especially compared to the state's earlier agency based registration programs. During 1995 (an "off"

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election year), 432,625 people were registered through the NVRA agencies. By comparison, in 1994 only 8,000 were registered in the state's agency programs.[82] Indeed, the Executive Director of the State Board of Elections, Thomas Wilkey, stated, "while we have had agency-based registration programs in the past, they have never generated this level of activity."[83] Even so, Republicans captured the statehouse at the end of 1994 and have since undermined fuller and more effective implementation of the NVRA.

The rest of this chapter will explore this history and the different political actors that shaped agency based voter registration programs in New York and their implementation--particularly the role of the State Board of Elections--and examine the impacts on registration and participation. I will outline the earlier failed attempts to establish agency based voter registration programs that were stymied by Republicans, and then discuss the process whereby advocates and Democratic supporters successfully crafted among the best NVRA implementation legislation in the United States. Finally, I document the short but significant performance of the NVRA in New York, and recent attempts by Republicans to undermine and reverse these gains (which have been partially successful in New York City).

In theory, agency based voter registration enlists government employees to offer nonpartisan voter registration to each and every member of the public that uses state and local government agency's services on a daily and year round basis. Depending on

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[82]Tom Wilkey, Executive Director, State Board of Elections.

[83]Press Release, May 15, 1995. The tables below detail and compare the data by year and agency.

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program design and the effectiveness of implementation, such programs have varied widely throughout the states.[84] In New York most programs initially were "passive": merely providing voter registration forms on a counter or table generally removed from the place were the main business of the agency is conducted. In fact, many such programs existed in name only with many agency offices never implementing registration or having depleted their stock of forms for extended periods of time. Thus, such "passive" systems registered very few clients.[85] "Active" agency based voter registration programs, required by the NVRA, however, have proven to be highly effective at rapidly registering the unregistered. Indeed, several states and cities that earlier effectively implemented well designed "active" programs--for example, some state motor vehicles agencies amended agency application forms to include a voter registration form and provided assistance to clients in completion of the voter registration form--registered significant numbers of citizens. Washington D.C., for example, increased voter registration by 9% over a four year period at the same time it lost 10% of its voting age population. Moreover, the program registered a greater number of low-income and minority citizens.[86] Other states which also had effective programs and posted significant increases include Oregon and

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[84]Piven and Cloward, 1988, chapter seven. See also Knack, 1993; and Montjoy, 1993.

[85]Montjoy, 1993. Human SERVE and ACORN also issued reports detailing such cases in different states.

[86]Washington Post, May 6, 1994.

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Washington.[87] In the late 1970's and early 1980's, Monroe County in New York initiated programs to distribute registration forms at some government agencies. (The program was largely "passive" and only produced modest increases in registration.)

A State-Wide Agency Registration Program in New York

Advocates persuaded Gov. Cuomo to issue an Executive Order, #43, establishing voter registration in state agencies in 1984.[88] Within 72 hours, however, the State Republican Party challenged the program in State Supreme Court and restrained Cuomo from proceeding.[89] Even though the Appellate Division and New York State Court of Appeals (the state's highest court) eventually rejected their arguments,[90] Republicans nevertheless, succeeded in severely limiting the scope and effectiveness of Cuomo's program by persuading the courts that state employees should be prohibited from verbally

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[87]Piven and Cloward, 1988; See also subsequent reports by Human SERVE, and Knack, 1994.

[88]Ibid. p. 227. According to Piven and Cloward, Norman Adler and Victor Gotbaum of District Council 37-AFSCME "were crucial in persuading Governor Cuomo to issue an order, as were political leaders Ruth Messinger, Carl McCall, and Herman Badillo." Prior to 1984, five states (Maine, Ohio, Michigan, Arizona, and Oregon) allowed people to register to vote at motor vehicle bureaus (p. 220). Reportedly, Cuomo and his strategists were keenly aware that their re-election fortunes might turn on turnout of groups that had supported him in 1982. Integral to their calculations were their awareness that increased voter registration and participation of low-income and minority groups would likely benefit Cuomo in his re-election bid in 1986, and strongly figured into his support for issuing Executive Order #43 and in a form that advocates had lobbied for.

[89]Ibid. P. 230.

[90]Ibid. The lower court accepted Republican claims that their party would be "irreparably harmed" because they believed that state employees would administer registration in a biased manner and influence registrants to enroll as Democrats, and the Republican argument that the governor had overstepped into the legislature's constitutional power over voter registration.

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offering voter registration, or from offering assistance in completing voter registration forms, or answering questions. Nor could workers collect the forms.[91] Thus, the courts restricted agencies from doing anything more than making forms available in waiting rooms. Moreover, the Republican's court strategy effectively delayed implementation until 1985, long past the 1984 presidential election.[92] These limitations placed on how voter registration could take place in state agencies--combined with other federal restrictions on agencies that received certain federal funds, and the lackluster efforts by the Republican dominated State Board of Elections which did little to insure adequate supplies were maintained in agencies or to enforce the executive order--were significant enough to severely limit the effectiveness of the program. In essence, voter registration forms were available on tables in some offices and at worst voter registration did not exist. Thus, with a poorly designed "passive" system with strong restrictions and weak implementation, coupled with other existing legal obstacles and disenfranchising procedures over this period--such as purging voters for non-voting, the requirement to re-register upon changing addresses, and restrictive practices of boards of elections--New York's initial attempt to institute agency registration resulted in little net gain of new voters.[93]

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[91]Clark vs. Cuomo, 1984.

[92]Piven and Cloward, 1988, p. 235. Except for two weeks in September of 1984 when the injunction was lifted. Up to as many as 7,000 to 10,000 were registered during this two week period. 2,500 were deposited in drop-in locked boxes in agencies, and another 17,000 were taken home (but there is no way of determining how many were returned).

[93] Piven and Cloward, 1988. P. 235. After the courts allowed for implementation of Cuomo's executive order, implementation began in nine state agencies (389 local offices) in New York's 56 counties. In the first six months 41,533 registration forms were

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So poor was the performance of the 1984 program that advocates and liberal Democrats sought several legislative changes in New York's notoriously arcane election law, including the establishment of an effective and permanent agency based registration program.[94] Republicans who dominated the State Senate, however, prevented passage of such legislation.

Frustrated, advocates urged Cuomo to take more vigorous steps to boost New York's anemic registration and participation rates. In November, 1987, Cuomo issued another Executive Order, #104, establishing a blue ribbon "Task Force on Encouraging Electoral Participation." It was charged with identifying "why eligible New Yorkers fail to vote or to register and what steps would tend positively to affect public behavior in those regards." In February, 1988 the Task Force issued its report, making dozens of recommendations including among other things: election day registration; reduction of the registration deadline from 30 days to 15 days (for general elections and from 60 days to 15 for primary elections, and allowing newly naturalized citizens to register to vote at any time prior to a general election); allowing employees in state and local government

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submitted through the agencies, mostly from unemployment offices, and 8,763 from motor vehicles agencies. Subsequently, an additionally eight agencies (77 local offices) were added to the program. Cuomo claimed that as many as 150,000 were registered in 1986, but this figure is likely exaggerated: on site surveys by Human SERVE showed that registration was not taking place on many sites. For example, in the Fall of 1985, SERVE found only nine of the fifteen agency sites surveyed had registration forms available, and only seven made them conspicuous. In the spring of 1986, SERVE found only six of twenty-three sites surveyed had forms, and only five conspicuously. In the fall of 1986, only eight of twelve had forms, and only seven had them in plain site.

[94]The changes they sought included proposals for election day registration, shortening the deadline for registration, and others.

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agencies to actively assist in registering voters; to include registration forms in tax booklets and other standardized mailings to residents; allowing 17 year olds to register to vote; establishing a school based civics curriculum and registration program for high school students; registration of college students at their school's residences and voter registration with class registration; direct state and local boards of elections to take a range of steps to encourage registration; and support federal legislation to expand the franchise (such as a door-to-door registration canvass by the U.S. Census Bureau during its regular survey process.) Only a few of the more modest of these proposals were eventually adopted, and only in certain jurisdictions. For example, registration forms were mailed with tax forms for a couple of years (1992 and !993), and 17 year olds were permitted to register to vote. In New York City, a curriculum and registration program for high school students was established (with the assistance of Human SERVE, discussed in chapter four.)

New York's Second Agency Registration Program

Then, on March 3, 1990, during the gubernatorial election year, advocates persuaded Cuomo to issue another Executive Order, #136, to create an expanded and more effective agency based system.[95] The new executive order allowed agency personnel

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[95]A broad coalition, the Statewide Coalition for Voter Participation (see appendix for a complete list of member organizations), co-chaired by 100% Voter/Human SERVE and NYPIRG actively lobbied the Governor, Legislature, State Board of Elections, and editorial boards, stating "successful implementation of this Executive Order is one of our top priorities for the coming year" in 1990. "These groups had been among those who persuaded Governor Mario Cuomo to implement an agency voter registration program." ("Election Administration Reports," October 15, 1990.)

As with the case of Cuomo's 1984 Executive Order, #43, the fact that increased voter registration and participation of low-income and minority groups would likely

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to actively assist registrants in completing postage-paid mail registration forms during the intake process at an expanded number of state agencies, while still prohibiting collection (because Clark vs. Cuomo was still in effect).[96] It proposed a more pro-active model developed by advocates which had proven effective in other states (such as Michigan and Minnesota, or in Washington, D.C.), thus raising hopes that New York's registration and participation rates might significantly rise.

But again Republicans blocked implementation of this executive order. This time, however, it was the two Republican Commissioners of the State Board of Elections--albeit presumably at the behest of the State Republican Party--who thwarted implementation by deadlocking the four member Board,[97] seeing potential Democratic Party gains and

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benefit Cuomo in his re-election bid in 1990 was reportedly not lost on him, and strongly figured in his support for issuing the Executive Order and in a form that advocates had lobbied for. Cuomo asked for $750,000 to implement the program. The legislature subsequently appropriated $350,000 for the program, eliminating money for postage-paid registration forms.

[96]"The Governor issued the Executive Order at the urging of the Statewide Coalition for Voter Participation." (NYPIRG briefing packet on the Executive Order.) In fact, advocates assisted the Governor's office in drafting specific provisions and language for the Executive Order. (Ibid.) The Executive Order contained two provisions of paramount importance from the perspective of the advocates: requirement for agency workers to be trained to offer verbally the opportunity to register to vote and assistance in completion of the forms, and for agencies to eventually amend their intake and application forms to include a question asking if clients wish to register to vote; and an expanded list of agencies, particularly ones that reach unregistered low-income populations.

[97]Similar to the rest of the state's election administration, the State Board of Elections is bi-partisan. The State Board, however, has four Commissioners, two Democrats and two Republicans who are similarly appointed by their party's leadership. "With a composition of two Democrats and two Republicans, the board is designed for institutional gridlock," said Celia Wexler of Common Cause. Reform advocates urged that a fifth commissioner from the advocacy community be added to the State Board to overcome these circumstances. In fact, Cuomo did propose to add a fifth "public"

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Republican losses.

The State Board of Elections is comprised of four commissioners appointed by the governor upon recommendation from the parties' leaders for two year terms.[98] Two of these are recommended by the chair of the state committees of the major parties, and two by the leaders of the major parties in each legislative house.[99] As previously discussed, New York boards of elections were historically structured on a bi-partisan basis--as elsewhere--on the thesis that this would create an internal check on each party to prevent dominance by either major party of the agency and electoral process.[100] State election law

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member to the board to help break ties and bring an outside/good government perspective, but the bill did not obtain a sponsor in the Legislature, whose members, of course, have close ties to the party structures.

[98]The discussion in the next few paragraphs on the constitutional and statutory basis of the Board is base on a paper previously mentioned by Gerald Benjamin, 1995. "Reforming New York's Constitutional System of Election Administration," in Effective Government for the New Century: A Report to the People, the Governor, and the Legislators of New York. The Final Report of the Temporary New York State Commission on Constitutional Revision, February, 1995. (Benjamin notes that Michael Owens and Ben Thomases provided research assistance for the paper.)

[99]A designee of one of the legislative leaders is named as board chair by the governor, with the other as vice chair. Election Law 3-100.1. Similarly, local commissioners are appointed by county legislatures upon the recommendation of the two major parties. In New York City, the City Council appoints the Board of Elections commissioners upon the recommendation of the two major parties. County elections commissioners currently serve for two years, though the term may be extended to four years at local option, and is now four years in New York City and Schenectady county by state law. There are two commissioners in each county and ten in New York City (two for each county within it). Additionally, 48 counties employ two deputies, each appointed by a commissioner and serving at his or her leisure. Benjamin, 1995.

[100]"Among the minority of states that use boards to administer the electoral process, only two besides New York - Illinois and Kentucky - have agencies with an even number of members. Moreover, when boards head agencies executive authority is almost always vested by law in the head of the board. The state Board of Elections in New York

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requires that state and local boards of elections operate by majority vote.[101] Since boards are comprised of an even number of members selected equally from each of the two largest parties, this requirement effectively means that no decision is possible without the approval of appointees recommended by both major parties. Thus, a board member (on a two member board) or members of a party (in the case of the State Board or the New York City Board) may block any board action in controversial or contentious matters.[102] The New York State Board of Elections was created in 1974 to promote "fair, honest and efficiently administered elections."[103] Prior to the creation of the State Board, many of these functions were vested in the secretary of state and attorney general.[104]

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and its local counterpart agencies are distinctive not only because of their even number of members, but because their quasi-judicial and administrative functions are not distinguished, and executive authority for the latter is not vested by law in them in a single person." ibid. See also "The Administrative Structure of State and Local Election Offices," Technical Report #3, Federal Elections Commission, compiled by Brian Hancock, 1992.

[101]Election Law 3-100.4, 3-28.23

[102]Benjamin notes that this potential for political deadlocking, "may have the effect of driving increased numbers of election disputes into the courts for decision. New York is reputed to have half of the election litigation in the country." (P. 118)

[103]New York State Election Law, Section 3-102. To accomplish its mission the Board of Elections was given the power to adopt regulations concerning election administration, campaign practices, and campaign finance. In addition it is authorized to encourage voting, study election processes and recommend improvements, oversee local boards, investigate alleged wrongdoing, and compel the production of evidence.

[104]Chapter 607, Laws of 1974. The Assembly Committee on Election Law published a scathing report, "*Is Anybody in Charge Here?* (March 24, 1988). Prior to the passage of Chapter 607 of the Laws of 1974, the responsibility of election matters was shared by the Secretary of State, who administered the election laws, an the Attorney General, who enforced them.

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In this instance, the two Republican Commissioners of the State Board raised questions about whether the governor's executive order interfered with its statutory independence, and they also opposed the implementation plan offered by the two Democratic Commissioners.[105] The Democrats' plan called for agency employees to receive a two-hour training to verbally encourage clients to register to vote and offer assistance in completion of the forms (i.e. a "staff active" agency based registration program that advocates promoted and which has proven more effective in other states and locales). Republicans insisted that state employees not offer verbal assistance to voters, but instead only offer a written pamphlet with a phone number if they have questions, fearing that workers might give wrong information or not act in a non-partisan manner and persuade people to register as Democrats. The Democratic Commissioners voted to oppose the Republican plan.[106] The Republican Commissioners publicly stated they were in favor of making registration easier and deny trying to limit registration of potential Democratic voters, and that they were merely complying with the Legislature's intent for the Board, not the agencies, to conduct the program. Legal counsel for both the Assembly speaker and Senate majority leader, however, said that's not the case.[107] "I think they [the Republicans] may feel like, 'Hey what are we doing her, we're registering

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[105]In June, at a meeting of the State Board, the four Commissioners split over the two plans to implement the executive order, with the two Republicans voting against the Democratic plan and the two Democrats voting against the two Republican plan. "Election Administration Reports," March 4, 1991.

[106]Minutes of the State Board of Elections meeting of June 27, 1990 (approved July 18, 1990).

[107]The Sunday Observer-Dispatch, July 8, 1990.

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more Democrats,'" said Evelyn Aquila, one of the two Democratic Commissioners of the State Board.[108] Similarly, the other Democratic Commissioner on the State Board, Melvin Barasch, when asked if he thought Republicans feared that most of the new registrants would wind up voting Democratic said, "I truly believe that's the bottom line."[109]

The specific policy disagreement had to do with how to implement the executive order, reflecting differing perspectives between Democrats and Republicans on the nature of voter registration more generally. "If somebody really wants to register, they're not going to object to making a phone call," said GOP Board member R. Wells Stout.[110] The other Republican Commissioner, Helena Donohue, said in the June meeting of the Board that "...it's the easiest thing in the world to register to vote."[111] Liberal Democrats and registration reform advocates have countered such arguments by asserting that new citizen immigrants, or people who are unfamiliar with or unnerved by bureaucracy, or work a lot or are not as mobile, and so on do not find voter registration to be easy. Advocates saw current registration procedures as cumbersome and posing a challenge to many potential voters. "They [Republicans] don't seem to understand the real world--that some people who appear to register are double parked. They seem to think that you should have to

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[108]New York Times, October 4, 1990. Ms. Aquila said that she suspected Republicans especially feared--legitimately--that people in social service agencies would be more likely to register as Democrats.

[109]New York Newsday, October 5, 1990. Mr. Barasch resigned from the State Board on September 18, 1990.

[110]Associated Press, July 19, 1990 written by David Bauder.

[111]Column in the Democrat and Chronicle, by Read Kingsbury, quoting Donohue from notes take by Celia Wexler from the June meeting.

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sweat a little to register. In fact, helping people become part of the electorate should be a major role of government."[112] "Through our years of experience in voter registration, the League [of Women Voters] has found considerable confusion and anxiety on the part of first time registrants. Despite many revisions, registration forms can easily be invalidated by omission of data or of signature."[113] Indeed, advocates contended that the Republicans' plan to remove the provision for agency workers to ask clients if they want to register and offer assistance in completion of the forms was not only "a clear violation of the executive order," but also "effectively gutted the centerpiece of the order. It looks to us like they're putting partisan interests before the needs of the voting public."[114]

Republicans, while they profess a philosophy of access, typically tend to support measures that have the effect of restricting access often in the name of safeguards to the ballot. Republicans on the State Board raised concerns about costs, potential errors by agency workers which might lead to litigation, partisan implementation, and fraud possibilities that they said would result from the Democrats' implementation plan. "We're not saying people in agencies aren't capable. We're saying this is not their normal

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[112]Ibid. Travis Plunkitt, NYPIRG.

[113]Letter to Helena Donohue, Republican Commissioner of the State Board of Elections, from Susan Schwardt, President of the League of Women Voters, June 22, 1990. For these reasons, Ms. Schwardt urged Ms. Donohue in the letter to allow agency workers to be trained to assist registrants in the completion of forms.

[114]"Fact Sheet and Action Alert" of the Statewide Coalition for Voter Participation.

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purview. We just wanted basic security."[115] "We have never been opposed to voter registration drives in this state. Our only hangup was its implementation."[116]

As one editorial board put it,

> There's probably more than a little truth to that [the Democratic Commissioner's charge that the Republicans are trying to discourage expansion of the voter rolls, especially of low-income Social Service and Labor Department clients who would be likely Democratic voters], but the real issue here isn't so much Democrats vs. Republicans as it is the historic tendency of the elections board to bolster the status quo.[117]

After three more months and three more meetings of the State Board Commissioners of continued deadlock and inaction, several voting rights organizations brought a lawsuit in New York State Supreme Court to force the State Board to act.[118]

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[115]Helena Donohue, Republican Commissioner of the State Board of Elections. The Times Union, February 26, 1991. She added that she also wanted a script written that state workers involved in voter registration would have to follow so as to avoid letting their own political views affect the registrant.

[116]The Times Union, February 28, 1991. This daily newspaper has the largest circulation in the Albany area.

[117]Another upstate newspaper, The Sunday Observer-Dispatch, July 8, 1990. They continued: "A good part of the problem is structural. Since the commissioners are named through the major parties, they are inclined to be more concerned about party interests than about the public interest. A case in point is the board's lackadaisical investigation, documented in a recent report by the Commission on Government Integrity, of irregularities involving backdoor contributions to Poughkeepsie Town Board candidates by Pyramid Corp." As noted above, the editorial cited the lack of support from the party dominated Legislature for Cuomo's/advocates proposal to add a fifth "public interest" commissioner to the State Board of Elections to break deadlocked votes and bring a good government perspective to the process.

[118]100% Vote/Human SERVE et. als. vs. New York State Board of Elections filed in October, 1990. The plaintiffs were also members of the Statewide Coalition for Voter Participation including, Common Cause, NYPIRG, and CSS, DC37, the National Congress for Puerto Rican Rights.

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"The State Board of Elections has deliberately blocked an innovative and inexpensive program which would register hundreds of thousands of New Yorkers a year to vote," said Travis Plunkett of the New York Public Interest Research Group, one of the groups which brought the suit.[119] "With each passing day, the tens of thousands of New Yorkers who use the services of Motor Vehicle, Labor and Social Service offices are denied the opportunity to register to vote," the suit asserted.[120] "We'd expect this kind of obstructionism from a southern registrar in the 1960's, not New York elections officials in the 1990's."[121] Moreover, advocates brought the lawsuit at the same time the national government was debating a "motor voter" bill in Congress.[122]

In October, 1990, Judge Irma Santaella of New York State Supreme Court, New York County, denied the petition to allow the State Board to fill the vacancy left by the departing Chair, Melvin Barasch, in the hopes that his successor might change the deadlocked vote and to give the Board more time to work out the issue and respond to the court. (The Speaker of the Assembly, who nominates the Board vacancy, failed to do so until the following year.)[123] But the Democratic Board Commissioner, Evelyn Aquila,

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[119]Another upstate newspaper, The Record, October 4, 1990.

[120]New York Times, October 4, 1990.

[121]Press release from NYPIRG, October 3, 1990.

[122]In fact, the Motor Voter bill was killed in a vote on September 28, 1990 where Republican Senator Alfonse D'Amato voted to kill the bill, and Democratic Senator Patrick Moynihan voted for the bill. Thus, Cuomo's Executive Order became even more important for advocates.

[123]Under state election law, (Section 3-100) the Governor is required to accept the recommendations of party and legislative leaders who make appointments to the State

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in responding to the court, in writing supported the petitioners, "alleging that even if the existing vacancy is filled by a fourth member, there is little likelihood of implementation of the registration program as two board members have been adamantly opposed to it to this date [February 22, 1991] and even with a fourth member the board would remain deadlocked along political lines: two Republicans and two Democrats."[124] Moreover, the Board had taken other actions over the past months despite the absence of one commissioner. The Judge noted that no Commissioner nor legal counsel responded to the court in over four appearance dates and several months.

The New York Times reported that

> voter registration for next month's elections in New York State is over, along with Gov. Mario M. Cuomo's unsuccessful attempt to require state agencies to take an active role in helping register voters. Saturday's deadline also signaled the success of Republican opposition on the State

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Board. The Chairs of the Democratic and Republican State Committees provide recommendations for one commissioner each. The other two commissioners are recommended by legislative leaders--one by the Democratic leaders in the Senate and Assembly (i.e. the Senate Minority leader and Assembly Speaker), and one by Republican leaders in each house (i.e. the Senate Majority Leader and Assembly Minority Leader). The party committees must provide the Governor with at least two recommended candidates and the Governor chooses one. The legislative leaders, however, can recommend only one candidate.

For nearly two years Democratic leaders in the legislature fought over who would select the replacement for Melvin Barasch who resigned as Commissioner of the State Board in September, 1990. Newsday, March 17, 1992. According to Newsday columnist Maurice Carroll, the Assembly (i.e. Bronx Democratic Leader George Friedman) wanted to appoint Marie Echeveste, a commissioner on the New York City Board of Elections and wife of longtime Bronx Democratic organization insider Stanley Schlein. The Senate, (Manfred Ohrenstein, Democratic Minority Leader) rejected Friedman's choice, possibly due to Friedman's vote against Ohrenstein when Ohrenstein was challenged as minority leader two years earlier.) Lastly, the Senate was controlled by the Republican Party.

[124]Court Order of Judge Irma Santealla, February 22, 1991.

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Board of Elections to the Governor's move to enroll more voters.[125]

Finally, Judge Santaella ruled on February 22, 1991, ordering the State Board to implement the program as specified in the Executive Order with a few modifications. Her judgement scathingly condemned the Board:

> It is beyond dispute that millions of New Yorkers engage in transaction at certain state agencies and the subject voter registration program directed by the order would afford hundreds of thousands of voting age citizens who are not registered that opportunity. Yet, not a single citizen has been registered to vote since the inception of Executive Order 136 on March 5, 1990 and the Board's paralysis has diluted and abridged the constitutionally protected voting rights of thousands of New Yorkers....Respondents deadlock abridges the electoral process of the State of New York. The continued inaction by the very agency entrusted by the law with taking all appropriate steps to encourage the broadest voter participation in elections as directed under election law 3-102 (13) is tantamount to invidious discrimination under the 14th amendment equal protective clause and against the public policy of this state... For too long the public interest has been injuriously violated and raped by the arrogance of partisan politics at respondent Board on the subject Executive Order to the detriment of the voting rights of thousands of New Yorkers in contravention to the public interest.[126]

Although the judge's ruling was a decisive victory for the advocates, it soon became evident that it was a hollow one. By the time of the judge's order--almost a year after the executive order was issued--not only had the 1990 gubernatorial election occurred, but, more importantly, the $375,000 appropriated by the State Legislature to implement this program in state agencies was no longer available because the fiscal year ended during this period. $355,000 was returned to the general fund, leaving only $20,000. Only after the judge ordered the State Board to act did the Board move to begin

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[125]October 15, 1990.

[126]Ibid.

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implementing the program at the end of March, 1991. Therefore, no voters were registered through the Executive Order agency program for over a year. In addition, due to the state's worsening fiscal crisis, Cuomo now only proposed $125,000 for the upcoming fiscal year beginning April 1 to implement the program.

Moreover, while the Board now had fewer funds to begin the program ($20,000)--limiting the number of voter registration forms it could distribute--the Board, nevertheless, continued to compromise the implementation process, even rejecting a donation of postage paid registration forms from the New York City Mayor and Board of Elections for use in the state's agency based program.[127] And when the Board did begin to implement, advocates charged the Board limited the number of agency sites participating in the program.[128] Advocates also documented significant problems in agency registration implementation. Between April 16 and May 10, 1991, advocates observed 21 sites. For example, in no site but one did an agency worker ask the client if they wished to register to vote in accordance with the Executive Order and Court's Order, and in most agency sites, no voter registration materials were visibly displayed or available and agency workers knew little or nothing about the program.[129] Then the Senate Republicans

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[127]Advocates claimed that during the month of March alone, when the Board rejected New York City's offer of forms, the Board's supply of postage paid forms fell short of agency need by more than 100,000 forms. Letter to Thomas Wallace, Executive Director of the State Board from Shirley Traylor, Counsel for CSS, dated March 20, 1991.

[128]According to advocates, the Board limited the sites to less than half of the 500 sites identified in 1990.

[129]Letter to Michael Losinger, Deputy Executive Director, State Board of Elections from Judith Ritter, Counsel for CSS, dated, June 7, 1991.

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successfully cowed the Democratic Assembly into eliminating the proposed $125,000 for postage paid voter registration forms to implement the Executive Order for the coming year. Helen Weinstein, the Democratic Chairwoman of the Assembly Election Law Committee, said "I think its an important program, but it became clear the Senate was no how, no way going to go for it. Sometimes you just have to bite the bullet."[130] Thus, this episode demonstrates how Republicans--members of the State Board and their counter parts in the State Senate--effectively thwarted another effort by advocates and liberal Democrats to expand the franchise in New York.[131]

The Election Reform Act of 1992, (Chapter 79) and the Changing of the Guard at the Board

In 1992, the state legislature passed and the Governor signed the "Election Reform Act of 1992" (also known as Chapter 79 of the laws of 1992). Although the Democratic Assembly and Governor sought a more expansive program--including election day registration, easing ballot access measures and new campaign finance limits--the Republican dominated State Senate pressed for a watered down version of the bill,[132] producing only minor improvements. Indeed, advocacy groups which helped the Assembly and Governor to draft the initial legislation subsequently criticized the new law

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[130]The Times Union, May 24, 1991.

[131]Consequences? One that The Times Union reported was an environmental bond act the governor proposed and supported narrowly failed in 1990, and probably would have "secured passage" of the act with slightly higher turnout. (Times Union, February 28, 1991.)

[132]Regarding voter registration, existing case law (Clark vs. Cuomo) also contributed to the limitations of the new law.

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as too weak to be effective.[133] A New York Times editorial strongly criticized Republicans and Cuomo particularly for caving in and not producing better legislation.[134]

The Chapter 79 legislation also charged the State Board of Elections with the task of implementation. The Board's 1992 Annual Report stated the new law "dramatically increased the New York State Board of Elections' and county boards of elections' involvement in administering voter registration activities." The State Board was given increased responsibilities to train agency staff, produce and distribute supplies (coded registration forms, training manuals, locked receptacles etc.) and promotional materials (posters), and monitor sites. In addition, several new agencies were added to those originally covered by the governor's executive order 136, bringing the total to 17 agencies with 339 state office sites.[135] The first year of the new law, 1992, the program only functioned for the latter half due to the late date of the passage of the legislation (at the end of May). 1993 was the first full year the program functioned, and the Board made modest efforts to improve its procedures, including producing a training and reference manual for agency workers, increased monitoring of agency sites (the Board made 53 site visits), and the Board adopted rules and regulations for the program. Indeed, as a result

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[133]New York Times, May 2, 1992.

[134]The Times blamed both Republican opposition and the "timidity" of Governor Cuomo, who had indicated that he would veto the Legislatures reapportionment plans unless accompanied by serious election reform. The Times said "the main anger should be reserved for the Republicans who fight real reform," but that "Cuomo, who raised hopes, never rallied support for reform and fudged on his standards."

[135]The number of agency sites more than doubled, from 137 state-wide to 339. State Board of Elections 1991 and 1992 Annual Reports.

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of criticism from advocates, the Board began to work with three additional agencies that serve the disabled.[136]

These small but proactive efforts by the Board are a direct result of another significant development which occurred in 1992. While the Board's bi-partisan structure remained intact, its executive director shifted from the Republicans to the Democrats for the first time in its nearly twenty year history. The changing of the guard of the State Board of Elections--from Tom Wallace, Republican, who was executive director of the State Board since its inception in 1974 to Tom Wilkey, Democrat--was a small but significant development.[137] While Wilkey was the more palatable choice for the Board's Commissioners--particularly its Republican Commissioners with whom Wilkey had managed to maintain good working relations--advocates had hoped for the appointment of the current Deputy Executive Director, Michael Losinger.[138] Indeed, as the Board's

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[136]They are: the Office of Mental Health, Office of Mental Retardation and Developmental Disabilities with Disabilities, Office of Vocational Education Services for Individuals with Disabilities. This brought the number of agency sites over 400 statewide for all agencies covered by the law. The agencies, however, did not actually begin implementing until 1994.

[137]In keeping with the bi-partisan structure within the board, the deputy executive director is a member of the opposite political party. Thus, the new Deputy Executive Director, Thomas Zolezzi, is a Republican. Like the commissioners, the rest of the Board's staff are virtually also all appointees of the state parties.

[138]Michael Losinger, Democrat, who was passed over for Thomas Wilkey, left the Board to go to the DMV. Losinger, who had served as a commissioner of the Monroe County Board of Elections from 1977 to 1983 and pioneered some of the first agency based-type and voter registration outreach programs in New York State, was the preferred candidate of advocates because of this record and his work at the State Board. Indeed, the State Board's 1992 Annual Report paid tribute to Losinger stating, "Mike was primarily responsible for moving the Board toward a more aggressive approach in the areas of voter registration and outreach... An avid proponent of the concept of agency

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Deputy Executive Director, Losinger was the next in line. Most of the advocates have since, nevertheless, forged good working relations with Wilkey.

The shift to Wilkey is significant because the administrative staff conduct the day-to-day operations, and therefor can strongly shape what happens and does not happen at the Board. This was amply evident in the prior Republican dominance of the board by Wallace from 1974 to 1992.[139] Advocates and liberal Democrats such as Losinger had bitterly complained of Wallace's "backward approach to voter registration." The paucity of citizens registered during three years of the State Board's oversight of Chapter 79's operation, however, clearly shows the weaknesses of design and implementation, especially in comparison to the several million clients that pass through the state agencies covered by the law, and considering that there are over 5 million eligible unregistered potential voters in New York. Indeed, as the below chart illustrates, the performance of

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based voter registration, Mike was instrumental in the implementation and administration of the agency based registration programs established by Executive Orders 43 and 136 and Chapter 79." An Episcopalian seminarian, Losinger considers himself a "peace activist" and "community organizer," engaged in numerous "causes." Losinger believes there were several factors which led to his being passed over for the position, most importantly that he was a "progressive" who alienated both Democrats and especially Republicans within the Board and parties. For example, Losinger refused to drop an investigation into allegations that Danny DeFrancesco, the Democratic Executive Director of the New York City Board of Elections, allowed petition violations. "Danny protects Wilkey," Losinger stated. "And Danny has the power to do so--his power base is with the party leadership in the Assembly and Senate which are located in NYC. For those Democrats, not enfranchising more voters--especially Latinos, for example, means threatening them." Losinger also was characterized in similar terms by advocates. Finally, Losinger particularly "stood up to and alienated" Republicans (most importantly Helena O'Donahue, the Commissioner who most pushed for Wilkey's appointment).

[139]Wallace worked for the Department of State in 1959 and was appointed by the Secretary of State in 1965 to the position of director of the election law bureau, serving in that capacity until 1974 when the State Board was created.

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all agency programs since 1988 has been abysmal.

NUMBER OF FORMS DISTRIBUTED IN AGENCIES: 1988-1994[140]

	1988	1989	1990	1991	1992[141]	1993	1994[142]
TOTAL	91,000	50,000	0	104,312	65,740	60,718	46,201

As noted, the above figures, however, do not represent the number of people actually registered. These numbers reflect only the number of voter registration forms *distributed*. Since no comprehensive mechanisms were established to track the number actual registrants, it is possible only to estimate what the programs produced, which is at best approximately less than a third of the number of forms distributed.[143]

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[140]All data is from New York State Board of Elections Annual Reports and memorandum.

[141]From August through December, due to the law only taking effect in June.

[142]Data is from January through July only. Moreover, the rate of registration in DMV offices increased somewhat during the last few months before the registration deadline and the 1994 election. This is because Michael Losinger, the DMV coordinator for voter registration, was a close Cuomo ally and instituted several improvements to DMV's programs to boost registration, including conducting state-wide employee training, providing additional promotional materials, and the like. Losinger was also a Deputy Director of the State Board of Elections from 1987 to 1992.

[143]Based on the State Board's estimated rate of return of forms distributed--between 10% to 30%, depending on the effectiveness of the programs--the actual number of New Yorkers registered through these programs is significantly lower than the numbers of forms distributed. As we shall see below, 1995 figures, however, reflect actual new registrants. All data is from New York State Board of Elections Annual Reports and memorandum.

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ESTIMATED ACTUAL REGISTRATION, 1988-1994[144]

	1988	1989	1990	1991	1992	1993	1994
TOTAL	22,750	12,500	0	26,078	16,435	15,179	11,550

At that time, the State Board acknowledged both agencies and the Board itself had performed poorly: "Based upon the results of our own site monitoring, as well as feedback from the agencies and voter registration groups, the Board recognizes there is room for improvement in the operation of the agency based program."[145] The Board pledged to improve its efforts and to solicit better compliance from agencies and county boards. Indeed, advocates had considered bringing additional litigation to force better implementation of the program, but instead used their leverage to pressure the Board to prepare for the advent of the National Voter Registration Act which became law on May 20, 1993.

Lastly, what little agency registration occurred under Chapter 79 was biased toward better off New Yorkers. It is also likely that New York City residents fared worse compared to suburban and rural resident due to the smaller proportion of drivers in the city, and higher proportion of public assistance recipients. These disparate impacts are evident from analysis of the number of forms distributed by agency. For example, in 1992, the data indicate that DMV agencies distributed two thirds of all registration forms (40,792 of 65,740) while the Department of Social Services distributed only 584 forms

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[144]Estimates are based on the number of registration forms returned to the State Board of Elections. Estimates are based on a generous 25% rate of return.

[145]1992 Annual Report of the State Board of Elections.

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and the Department of Health distributed 615 and the Department for the Aging only 21.[146] Similarly, of the total number of forms distributed over the three year period the program functioned--193,569 from August, 1992 through July, 1994--125,117 were through DMV agencies, and only 3,569 through the Department of Social Services. Thus, the impact of registration through Chapter 79 perpetuated the existing pattern of disparate registration rates for different income and racial groups.[147]

Employees of The State Board of Elections claimed that Chapter 79 performed so dismally because the state agencies did not conduct registration as instructed, whether because they perceived voter registration to be outside of their proper purview, or bureaucratic inertia, lack of resources, or perhaps for fear of alienating dominant politicians to whom they owed their jobs. Advocates--and several board employees--contended that the State Board did not sufficiently exercise its authority nor use its resources to invigorate these agency programs. For example, instead of merely making telephone calls or sending letters, though admittedly good first steps, the State Board could have asked the governor's office to intervene with the agencies, or have the counsel of the Board contact the counsel of the agencies, and the like.

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[146]Ibid.

[147]This disparate outcome is evident from the fact that most of the registrations under Chapter 79 came through DMV offices, 125,117. Because in New York City, only 51% of the voting age population possess drivers licences compared with 90% for upstate residents of voting age, the majority of these DMV residents are likely to be upstate residents. Furthermore, within New York City, low-income and minority residents are less likely to have drivers licences, further skewing the impact of the DMV registrations.

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The National Voter Registration Act of 1993 (NVRA)

Beginning in January 1995 with the inauguration of the NVRA, however, New York State experienced a dramatic increase in voter registration. Even though the expansion of registration in New York lags compared to many other states[148]--largely due to obstructionism by Republicans who now control the statehouse--the results are clear: the NVRA rapidly registers the unregistered. The NVRA has already outperformed all previous agency programs in New York combined. The Executive Director of the State Board of Elections, Thomas Wilkey, stated, "While we have had agency-based registration programs in the past, they have never generated this level of activity."[149] Indeed, the NVRA began in an "off election year" in New York (1995) with only the election of judges and DA's which traditionally generate the lowest registration and turnout of all elections. Yet, the number of people registered to vote state wide through all registration methods in 1995 greatly exceeded the number registered to vote in 1994, by 58%, even when in 1994 there were races for governor and other state-wide offices, the state legislature, and congressional representatives. As the chart below indicates, the jump in registration in 1995 was solely due to the implementation of the NVRA.

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[148]According to Human SERVE, New York ranks 32 out of 42 states in implementation of the NVRA. New York's overall rating is 13.0% compared to the national average of 20.5%. SERVE's rating system is based upon two ratios: NVRA Ratio, which is the total number of registrations divided by a state's total unregistered population; and the PA Ratio, which is the number of age-eligible unregistered citizens who have been registered in public assistance agencies. New York's NVRA Ratio is 13.% compared to 70.6% in Alaska, 48.3% in Iowa, 45.2% in DC, 44.6% in Michigan, 42.8% in Louisiana, 41.7% in Maine, and so forth. New York's PA Ratio is 17.3% compared to 38% in Missouri, 34.7% in Utah, 33.3% in Indiana, 30.6% in Tennessee, and so forth.

[149]Press Release, May 15, 1995.

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REGISTRATION BY METHOD IN NEW YORK STATE, 1994 AND 1995 [150]

	MAIL REG	AGENCY REG	BOARD OFFICES	W/ TAX FORMS	TOTAL
1994	600,006	8,000	23,000	20,000	651,006
1995	660,000[151]	432,625	20,000	Not Done	1,112,625

Source: New York State Board of Elections.

Agency registration under the two different programs produced strikingly different results, with the NVRA registering 54 times more people than under Chapter 79. While significant problems plagued implementation of the NVRA in New York--particularly in New York City and particularly in the initial stages of the program (discussed below)--during the first four months alone, more than quadruple the number of people were

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[150]The New York State Board of Elections has not kept records of the number of *new* registrants by year, nor by the agency voters are registered in until 1995 when the NVRA began implementation. Nevertheless, According to Tom Wilkey, the Executive Director of the State Board, in 1994 a total of 651,006 voter registration forms were processed by all the boards of elections in New York State, with 600,006 people registered by mail, 20,000 through forms returned with tax packages, 23,000 through offices of boards of elections, and a mere 8,000 through Chapter 79 agency based programs. (Recall that only 46,201 registration forms were distributed through agency programs in 1994 (Chapter 79), with 8,000 actually registered through such programs (I had estimated that 11,550 registered through agencies in 1994 based on a generous 25% rate of return. See above chart on p. 210.)

[151]Of the 660,000 mail forms, an undetermined number were obtained by registrants in NVRA agencies. This figure for 1995 reflects another difference from 1994: many of the 1995 mail voter registration forms were obtained by voters at government agencies under the NVRA, and not through traditional hands on methods as was the case in 1994. Given that 1995 was an "off" election year, the fact that more mail forms were turned in to boards in 1995 than in 1994 when statewide elections occurred underscores the effectiveness of the NVRA compared to traditional methods of voter registration. Board officials predict that in 1996, a presidential election year, mail registration will climb even higher as the NVRA programs improve, and as voter registration groups who traditional mobilize for presidential elections step-up their efforts and voter interest peaks.

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registered in DMV offices in New York City (24,000) than in the entire previous year of 1994 (6,500).

Why has the NVRA been so much more successful at registering citizens than previous programs? As previously discussed, the NVRA procedures are specifically designed to actively integrate voter registration with the regular, routine delivery of government services to each and every agency client on a daily and year round basis. Voter registration is now an integral part of an agency's intake or application processes, or renewal or recertification, for drivers licences, public assistance, unemployment benefits, and services to people with disabilities. For example, in DMV offices a highly computerized system allows for "simultaneous" voter registration with each DMV transaction, producing the most integrated and effective registration process.

Moreover, the strong federal mandate on states forced removal of most of the legal and procedural barriers that Republicans had erected during the prior decade. For example, agency employees are now not only permitted but ***required*** to offer verbally assistance to each and every client in filling out the registration form, to collect the completed form and rout it to the board of elections, and to offer the same level of assistance as with other agency matters. A critical feature--integration of registration into intake and renewal processes, and integration of registration forms into agency forms, including applications for public assistance programs (AFDC, Food Stamps, Medicaid, WIC) and Unemployment benefits (as of February, 1996)--was successfully pushed in New York by a coalition of advocacy organizations and several progressive Democrats, over the objections of the Republican-led State Senate. In addition, the bi-lingual

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provisions under the NVRA are also clear and strong, which is especially important for New York City. Lastly, the NVRA gave advocates greater leverage to force compliance by allowing for private right of legal action and linkage to the Voting Rights Act. Indeed, advocates put all on notice that they intended to closely scrutinize implementation of the NVRA and planned to bring suit against the state for any violations.[152] Thus, the provisions of the NVRA differed significantly from the previous programs we discussed which were passive, limited, ad hoc and irregular. Similar impressive results have been replicated in the states which are currently implementing the NVRA, producing approximately one million new registrants and address updates per month in 41 states since January 1995 when it went into effect.[153] Indeed, the NVRA's performance is unprecedented and therefore historic.

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[152]Anticipating problems in implementing the NVRA--particularly by Republican controlled states--Human SERVE, the Community Service Society (CSS), and the Puerto Rican Legal, Defense and Education Fund (PRLDEF), co-sponsored a national conference on the NVRA in October, 1994 for voting rights activists and lawyers. The conference brought together over one hundred voting rights lawyers and activists to strategize and coordinate efforts to insure full and fair implementation of the NVRA. Despite correctly anticipating potential implementation problems in northern states that fell under Republican control in 1994, until court challenges were finally resolved in their favor, advocates and their Democratic supporters were relegated to documenting violations and bringing litigation to force Republican controlled administrations to comply with the law. Yet, as a result of the preparation for litigation by these voting rights advocates, every state challenge to the NVRA was successfully defeated by many of the groups and individuals who attended this conference. Such activity in New York and how Republicans have thwarted implementation is discussed below. Regarding other states, see Human SERVE and CSS publications on the NVRA.

[153]Human SERVE 1995 Report on the first year of the NVRA. Based on these figures, SERVE anticipates that nearly 20 million new registrants will be added to the rolls by 1996 election, and 20 million more by 1998. Several states which had not begun implementation by the end of 1995 have begun following litigation referred to above.

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These results are even more impressive in light of the fact that the NVRA began in the face of hostile Republican administrations in many states, including New York. Yet, despite these gains, Republicans have, in fact, limited the success of the NVRA. Republicans undermined more effective implementation of the NVRA legislatively and procedurally. At the beginning of 1995 when the NVRA took effect, for the first time in twenty years, Republicans held the statehouse in New York. They and their allies who dominate many county and local governments across the state, have been successful at blunting the expansion of registration in New York, particularly for low-income individuals and minority groups.[154] To be sure, while some measure of the implementation problems have been due to bureaucratic inertia and delays,[155] the lion's share rests with Republicans who succeeded in restricting the NVRA's effectiveness in New York in several ways: the Pataki administration gutted the unit of the State Board which is responsible for implementing and overseeing the NVRA, state and local Republicans have procedurally undermined the programs effectiveness in agencies--particularly the Department of Social Services which administers public assistance, the Department of

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[154]As indicated earlier in footnote 142, New York's agency programs have not performed as well as in many other states, particularly in public assistance agencies and in New York City more generally, which disproportionately effect low-income and minority citizens. Data is presented below.

[155]Disruption of government service typically occurs in transition from one administration to another as personnel and policy changes are made. Moreover, bureaucracies are prone toward some degree of inertia, as has been well documented, and workers often require some time to incorporate new procedures into their daily routines. Nevertheless, as advocates have charged, some of the "disruption due to transition in administration" and "bureaucratic inertia" might also be understood as tactics by Republicans to undermine effective implementation of the new NVRA law. This issue explored more below.

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Labor, and agencies that serve the disabled--and have actively lobbied for the repeal of the legislation on the national level and have sought to further limit the scope of the NVRA's reach in New York. Specifically, the Pataki administration has sought to roll back the number of agencies mandated to conduct voter registration and to procedurally restrict the level and effectiveness of such activity.[156]

Governor Pataki's first budget sharply cut funds for the State Board of Elections which is charged with implementing and monitoring the NVRA. In fact, the cuts--$306,000--targeted the staff and resources at the State Board of Elections specifically designated to implement the NVRA. More importantly, the cut eliminated staff who were slated to oversee the implementation of voter registration in public assistance and disabilities agencies.[157] That is, the cut was a "surgical strike" at aspects of the NVRA.[158] The cut reduced the State Board's capacity to effectively oversee all the facets of implementing the law, from timely identification of all agency office sites and subcontractors, adequate training of agency personnel, supplying needed materials, and monitoring agency progress. Indeed, the budget cut did have the desired effect of weakening the implementation of the NVRA program, especially in state agencies in New

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[156]In fact, Republicans successfully limited the scope of the kind of legislation sought by advocates and Democrats during the planning and legislative sessions prior to 1995 (discussed below.)

[157]New York Times, April 4, 1995.

[158]Richard Cloward, Executive Director, Human SERVE. The cut to the State Board was not generalized to its overall funds by specified to the six new staff hired by the Board for the NVRA.

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York City which serve a greater proportion of low income and minority voters.[159] The cut also discouraged the State Board from engaging in future activity which they thought might be perceived as meeting with disapproval of the Pataki administration, fearing retaliation.[160]

The Pataki administration's budget proposal sought to further weaken the effectiveness of the NVRA. For example, Pataki's spokesman, Robert Bellafiore, stated that the administration would seek to repeal the portion of the NVRA legislation that requires voter registration forms to be attached to applications for public assistance, clearly attempting to undermine the effectiveness of registration efforts in social service agencies. In addition, the Pataki administration sought to repeal the NVRA at the national level and indicated it would attempt to restrict its scope and implementation in New York,

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[159]The tasks of the staff cut at the State Board specifically included conducting site monitoring throughout the state, with an emphasis on New York City. In addition, the State Board was also unable to identify, supply and train the subcontractor agencies (such as day care centers, settlement houses, and the like) who receive state funds from one of the mandated agencies, the majority of which also disproportionately fall in New York City. The cut to the State Board directly contributed to poorer implementation of the NVRA in New York City than in the rest of the state, producing disparate impacts on registration. Data is presented below.

[160]For example, the Executive Director, Thomas Wilkey, a Democrat was asked to testify at Congressional Hearings into vote fraud during the spring and summer of 1995 but declined fearing that the Pataki administration might cut more funds to the Board, or engage in other possible forms of retaliation. If Wilkey had testified, he would have stated that there is little evidence of registration and vote fraud in New York, and that the NVRA would likely reduce such possibilities further rather than increase them as Republicans have charged. In fact, Alphonse D'Amato, the Senator from New York, had previously charged in 1993 that 100,000 votes cast in his 1992 election were fraudulent. (Cite Congressional Record.) Given that Pataki is a close ally of D'Amato, Wilkey's fear of retaliation may have some validity.

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claiming the costs of the program were prohibitive.[161] As early as January, 1995, Pataki's new commissioner for the Department of Motor Vehicles, Richard E. Jackson, Jr., wrote that they would lobby the federal government to repeal the NVRA, claiming that the NVRA was an "unfunded mandate."[162] Once this position became public--and it was widely reported on in the press and in legislative memos--it confirmed advocates and liberal Democrats fears that the Pataki administration would work to undermine the NVRA, and sent a message to state workers.

Clearly, the surge in voter registration since the inauguration of the NVRA generated concern on the part of Republicans in the state. Even though, as State Senator, Pataki voted for the enabling legislation for the NVRA, "Now in the Governor's mansion, he is quietly trying to thwart the effort, apparently fearful that adding more voters to the rolls will hurt Republicans."[163] Even prior to the advent of the NVRA in 1995, Republicans prevented Democrats from passing stronger provisions in the proposed enabling legislation during the 1994 legislative session. Democrats--largely prodded and schooled by the advocates[164]--proposed a more expansive version of the NVRA, such as

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[161]New York Times, April 4, 1995.

[162]Several memos from Richard E. Jackson, Jr., Pataki's new Commissioner for the Department of Motor Vehicles (DMV) to the executive chamber outline this strategy (dated January 17, 1995 and February 6, 1995.) In March, when these memos were made public, advocates and liberal Democrats--including NYC's five Democratic County Chairmen--held several press conferences condemning this move by the Pataki administration.

[163]New York Times editorial, April 4, 1995.

[164]To be clear, state Democrats--including the Governor's office--also needed strong prodding from advocates to push for these provisions. Advocates, particularly

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including more state agencies to insure that all segments of the population is reached--particularly low income and minority residents in New York City;[165] allowing the transfer of data from agencies to the SBE electronically (which would have made programs more efficient and effective); providing voters a more expansive version of the "fail safe" provisions of the bill that allows citizens who move within their county to maintain their registration and vote (by allowing the voter to go to their new poll site *or* their old or some central polling site, instead of the plan that was adopted which permits voters to only go to vote at their new poll site.)

To be clear, New York did pass legislation which is considered a "model" by advocates. It contains several provisions advocates have sought nationally. One is the use of "combined" forms in public assistance agencies, as mentioned above, in order to better insure all New Yorkers are equally afforded the opportunity to register to vote. This was seen as particularly critical for New York because of a set of peculiar circumstances. Only 51% of the voting age population in New York City hold drivers licences, compared with

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Human SERVE, NYPIRG, Common Cause, the Community Services Society, and the League of Women Voters, heavily lobbied the Assembly and to a lessor extent Senate leadership, the Black and Puerto Rican Caucus of the Legislature, and the Democratic leadership of the State Board of Elections. In addition, advocates worked the editorial boards which did endorse important provisions advocates desired.

[165]The list of agencies advocates and liberal Democrats sought to include were: housing authorities, Division of Housing and Community Renewal (DHCR), Labor, Immigration and Naturalization Service, Education--for high schoolers--and others. In fact, the final legislation also only provided for a watered down version for public universities. For example, according Jerry Koenig, (D) Assembly Election Law Specialist, who was intimately involved in the negotiations with the Republican controlled Senate in passing New York's enabling legislation for the NVRA, "when the Senate found out where and who were served by DHCR, they wanted it removed. This happened with other agencies too."

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91% of the voting age population in the rest of New York State.[166] Moreover, 76% of the voting age population is registered to vote upstate, but only 63% is registered in New York City. Indeed, nearly two million of NYC's nearly five million voting age citizens are registered to vote (or only 3 in 5 as compared to 3 of 4 upstate). Thus advocates sought to craft legislation which would insure that this disparity--which is the most extreme in the country, although significant urban/suburban splits exist elsewhere--would be overcome to produce parity. Another important feature in the New York legislation was the inclusion of a significant number of state agencies and their subcontractors which are not included in the NVRA (most notably the Department of Labor, Health, and a more modest requirement for CUNY and SUNY, and the Immigration and Naturalization Service).

Indeed, New York's relatively good legislation and early preparation to begin implementation was directly due to the work of liberal Democrats who were prompted by advocates to be comprehensive and prepared well in advance. The Executive Director of the State Board of Elections, Thomas Wilkey, the Cuomo administration and representatives from the legislature were instrumental in effectively preparing the way. In particular, Mr. Wilkey had the foresight and support from the governor's office to pull together a task force to plan for the implementation of the NVRA comprised of 38 members who represented elections officials, elected officials and advocates.[167] The task

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[166]This data, based on the U.S. Census of 1990 and DMV data, was compiled by advocates and widely circulated. Indeed, elected officials and elections officials routinely incorporated the data into their own memos and reports.

[167]Advocates successfully pressed Wilkey for my appointment to the task force representing the Voter Assistance Commission. I served on the subcommittee on agency based registration.

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force's work was significant because it not only began a process to prepare for the monumental task of implementation, but produced draft legislation for implementation, and established the political fault lines early which proved useful in subsequent negotiations by legislative leaders.[168] But Republicans effectively blocked portions of the Democrats proposed provisions, and also issued "minority" reports which were integrated into the task force's report which fueled opposition.[169]

Moreover, even once the NVRA law took effect on January 1, 1995, there were delays in the initial start up of the NVRA program by some state agencies--most notably the Department of Social Services (DSS) and agencies that serve the disabled--and several agencies had not begun implementation even by the year's end (i.e. the Department of

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[168]Wilkey is "one of only a handful of state elections officials who supported the NVRA and worked to support it," stated Louise Altman, Associate Director of Human SERVE. Wilkey has a national reputation and is widely regarded as one of the most informed and effective advocate for the NVRA nationally, and in New York State. For example, Wilkey actively promoted early and proactive thinking about the NVRA, establishing a state task force in 1993 and 1994 to plan for its implementation, and he generally has supported more liberal policies and procedures where and when he could, particularly regarding agency based registration, despite the constraints of his bi-partisan Board. He led the New York delegation to a conference on the NVRA held by the Federal Elections Commission (FEC) and "took a more progressive position than many other states." (Ibid.) Advocates' early and clear indications to Wilkey that they were very concerned about New York's implementation--especially given NYC disparity regarding non-drivers--and their unequivocal indication that he would be sued if poor implementation ensued, no doubt figured into Wilkey's actions. Wilkey was elected Vice President of the National Association of State Election Directors (NASED) in late 1994, and also serves as a member of the FEC's Advisory Panel.

[169]Similarly, elections officials across the country had generally opposed the NVRA and continued to raise concerns, particularly southern elections officials. Interestingly, the National Association of Secretaries of State (NASED) and the Election Center--both of which had opposed the NVRA--began to seek foundation funding for the bill's implementation, possibly they saw a way of expanding their influence and organizational resources, as one observer suggested.

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Labor, and several disabilities agencies.) Despite extensive time prior to the January 1 starting date, DSS--which serves the largest group of under-registered, low-income and minority individuals, two-thirds of which reside in New York City--did not introduce mandated amended intake and renewal application forms with an attached voter registration form until April, over four months after the program was to begin.[170] When DSS began to use the forms, significant gaps in implementation remained. In fact, such poor implementation had the effect of significantly limiting the number of registrants through DSS which, of course, disproportionately negatively impacted on low-income and minority groups who disproportionately reside in New York City. Moreover, even DMV offices in New York City were performing poorly compared to the rest of the state. While 91% of the voting age population upstate hold drivers licences and only 51% of New York City residents of voting age do, leaving upstate with a 2 to 1 ratio advantage, the actual voter registration at DMV offices favored upstate by a nearly 5 to 1 margin (i.e. 34,653 or 17% of all voters registered in DMV offices were registered in New York City, compared to 165,390 upstate).[171] Lastly, agencies and their subcontractors that serve the disabled also did not begin implementation until late in the year, and when they did begin, implementation proved uneven at best.[172]

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[170]When the department of social services began using a combined application form for public assistance and voter registration, and registration rates doubled, nearly achieving parity with DMV offices.

[171]Data is from the State Board of Elections from January 1, 1995 to September 1, 1995, as reported by Mark Green, Public Advocate.

[172]At first the State Board stated that there were issues of confidentiality that made less than a methodical survey of state funded providers of services to people with

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The net result was, as advocates and liberal Democrats had feared, that fewer New York City residents were registered to vote compared to upstate New Yorkers in 1995. By October, 1995, New York City was registering only one person for every three to four people registered upstate.[173] By the end of the first year of the NVRA, only 26% (110,483) of the people registered to vote by NVRA agencies were registered in New York City as compared to 74% (322,142) who were registered in the rest of the state. The chart below details the differentials in registration between upstate counties and in New York City.

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disabilities imprudent. The State Board also indicated that there may be a significant degree of overlap with other agencies and duplication of service, so it sought first to establish programs in agencies only. Lastly, the Board maintained that identifying, supplying and training all the hundreds of subcontractors would be overwhelming, especially given the budget cut they incurred. Finally, at the prompting of advocates, the Board sent out a survey in the late Fall, identifying over 700 subcontractors. The Board indicated that it would begin to incorporate them into the NVRA, over one year after the its initial starting date. Supplying and training the identified contractors began in May, 1996. Data cited below details these findings.

[173]Data from the State Board of Elections, compiled by Human SERVE and study conducted by Public Advocate Mark Green, October 1, 1995. See below.

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REGISTRATION IN SELECTED NEW YORK COUNTIES, 1995

COUNTY	TOTAL VAP*	TOTAL REG~	TOTAL UNREG	NEW REG UNDER NVRA@	% NVRA REG OF UNREG
QUEENS	1,611,134	790,954	820,180	12,579	1.5%
BRKLYN	1,791,812	972,205	819,607	18,421	2.2%
BRONX	923,857	503,443	420,414	14,023	3.3%
NEW YORK	1,279,043	773,837	505,206	24,853	4.9%
STATEN ISLAND	301,429	204,339	97,090	4,739	4.8%
NASSAU	1,055,219	737,838	317,381	13,142	4.1%
ERIE	778,863	510,987	267,876	18,777	4.9%
WESCHESTER	715,563	458,336	257,227	11,179	4.3%
MONROE	564,631	375,228	189,403	15,193	8.0%
ALBANY	239,887	181,919	57,968	6,875	11.0%
ORANGE	235,176	150,550	72,471	7,449	10.3%
ONEIDA	199,700	128,053	71,647	17,242	24.0%

Source: New York State Legislative Task Force on Demographic Research and Reapportionment; New York State Board of Elections; U.S. Census Bureau, 1990 Data.
*VAP includes non-citizens.
~Registration figures are as of November, 1994.
@NVRA registration data is for 1995. Number represents only new registrants (i.e. does not include other transactions such as change of address, enrollment, name, etc.)

As the above table shows, the implementation of the NVRA in New York is uneven, biased in favor of upstate residents, and thereby, Republicans. Every county outside New York City (except Nassau[174]), registered nearly double or more inside the

[174]Implementation of Nassua's motor voter programs were delay for much of 1995 due to opposition by local officials, according to State Board officials.

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city. While New York City has over 40% of the states eligible unregistered citizens, only 25% were registered in New York City during 1995. Moreover, in the first three months of 1996, just 25,648 of the 88,380 new NVRA registrants (29%) came from New York City. During this latter period, Monroe County, for example, with less than 40% of the population of Queens, registered over 4,000 while Queens registered under 3,500 new voters, and Oneida County, with barely one tenth the population of Brooklyn registered 5,225 where Brooklyn only registered 8,158. Thus, the data demonstrate biased implementation. While several factors may be at work to produce these skewed results, given Republican control and responsiblity of state mandated agencies under the NVRA, it suggests Republican motivated non-compliance.

Advocates, led primarily by Human SERVE, mobilized to counter these developments and Republican obstructionism. Having anticipated that the new Republican Pataki administration would attempt to thwart the NVRA, advocates began early to monitor, track and document implementation. SERVE and NYPIRG rallied other advocates and some liberal Democratic allies and held several press conferences, obtaining some editorial support (including from the New York Times and the Times Union in Albany). In addition, they monitored agency compliance with the law, surveying agency sites, gathering data and producing analyses, and they informed the U.S. Justice Department and U.S. Attorney General's Office of their findings. Eventually, they prodded several public officials to launch studies,[175] of the state's programs. Advocates also filed a

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[175]Public Advocate Mark Green in New York City, and State Comptroller Carl McCall, both liberal Democrats. These studies and the lawsuits are discussed below.

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series of lawsuits and legal motions to force the state to comply with the law. Their persistence had important pay offs.

In late September, 1995, Human SERVE persuaded Mark Green, the Public Advocate of New York City, to conduct a study of the implementation of the NVRA in public assistance offices (HRA). Green's study documented that roughly half of HRA clients interviewed (51% of the 408 clients at 18 public assistance offices) were not provided with voter registration as required by law.[176] Green's study showed that despite the fact that the vast majority of public assistance recipients reside in New York City--two thirds of the 903,000 state-wide--more were registered upstate than in NYC (56% or 46,967 public assistance recipients were registered upstate compared to only 44% or 39,498 in NYC.)[177] Similarly, Green noted that 82% (11,874) of the people registered at WIC sites were upstate, compared to 18% (2,532) in New York City, even though about two-thirds of all WIC sites are in NYC. In addition, Green publicized data showing that of the approximately 300,000 people who registered in all NVRA agencies state-wide between January and September 1, only one quarter (25%) or 75,000 were in New York City. As mentioned above, Green also noted that even DMV offices in New York City were performing poorly compared to the rest of the state: 83% or 165,390 upstate compared to only 17% or 34,653. Green concluded that, "By not implementing NVRA in

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[176]"A Vote of no Confidence: How NYC is violating the "motor voter law," October 1, 1995.

[177]Green's study also showed that 18 of the 20 people eligible for registration materials received them in the public assistance office in Staten Island, and 9 of the 10 did at the Kingsbridge and Melrose Centers in the Bronx. These centers are located in better off areas which overwhelmingly voted for Giuliani over Dinkins in 1993.

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New York City, the Mayor and the Governor are both violating the law and allowing the institutions they govern to lose political power to other jurisdictions."

Green held a press conference with advocates to make his report public, which led to a news report by the New York Times.[178] The Green report, Times article, and continued monitoring and agitating by advocates, particularly Human SERVE generated several important developments. The Justice Department contacted both the Human Resources Administration and the State Board of Elections to inquire about the information reported in Green's study. This sent both agencies scurrying to improve implementation, while they both attempted to downplay the extent of the poor implementation Green portrayed. Green then scheduled a Public hearing in December, 1995, further keeping the issue alive and the pressure on.

In addition, Human SERVE successfully pressed State Comptroller Carl McCall to conduct a state-wide "report" on the NVRA which began in November, 1995 and was completed at the end of February, 1996.[179] This report involved a thorough examination of the State Board of Elections and every agency, including surveying various agency sites. The study concluded that "participating agency implementation of, and compliance with, NVRA has been inconsistent at best, and that significant improvement is needed in many agencies..., [particularly] in registering public assistance recipients, and appears to

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[178]October 2, 1995.

[179]Report 95-D-42, "Staff Study on New York State's Implementation of and Compliance with the National Voter Registration Act of 1993." McCall did this report in lieu of a more complete audit, more typical of the comptroller's office, because audits generally take much more time to complete.

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be reaching only a minor portion of eligible disabled persons... New York's overall success in increasing its percentage of registered voters through NVRA is below the national average..."[180]

Advocates also worked with Assembly Democrats who conducted three public hearings during the spring of 1996 on the implementation of the NVRA (one in Albany, one in Buffalo, and one in New York City). The purpose of the hearings was

> to ascertain if and why state and local government agencies are not complying fully with state and federal law... It appears that many state and local government agencies may not be complying in whole or part with the requirements of the National Voter Registration Act of 1993 (NVRA) and Chapter 659 of the Laws of 1994, both of which mandate agency based voter registration in the State of New York. These laws were designed to ease the process of voter registration in this State. The apparent failure of the agencies to implement fully the voter registration programs required by the statutes has frustrated the efforts of many New Yorkers to exercise their franchise and had also generated several lawsuits...[181]

The larger purpose of the hearings was to highlight Republican obstructionism and force improvements in implementation in agencies, particularly in New York City.

Most effective was the use of litigation by the advocates. Advocates regularly wielded the threat of law suits, and in several instances in 1995 and in 1996 took legal action. Human SERVE worked with the Community Service Society (CSS) who filed several "90 day notices" against state agencies in non-compliance, or who were performing poorly. The first such notice was filed against the Department of Labor in the summer of 1995, notifying the Department of their intention to sue unless the Department

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[180]Ibid.

[181]Assembly Election Law Committee notice of the public hearing.

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began to implement. The Department of Labor had claimed that it had not been given enough state funds to administer the program and was barred under federal laws from using federal grant money for those purposes.[182] Apparently realizing that they would lose the suit and suffer damaging publicity, the Pataki administration negotiated a settlement and began implementation in February, 1996.[183] Simultaneously, however, the Pataki administration introduced an Article 7 amendment to state law as part of their budget and legislative package to eliminate the Department of Labor from the NVRA, ostensibly for fiscal reasons. John E. Sweeney, the State Labor Commissioner under Pataki, stated, "I want my agency staff to focus on job services, and I believe there are [enough] state and local agencies that already provide voter registration services." Democrats in the Legislature pledged to not allow the Pataki administration's budget maneuver to circumvent the law. As of this writing, Democrats had not allowed such a change. However, the implementation in the Department of Labor has been slow and poor. As of June, 1996, only approximately 6% of all the clients who visited the Department of Labor were registered to vote from February, 1996.[184]

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[182]New York Times, January 20, 1996.

[183]In a court settlement signed January 19, 1996, the Department of Labor dropped its opposition to implementing the state NVRA law. In fact, advocates even got Labor to consent to use a "combined" form which integrates a voter registration form into the agency's intake/application form, a major victory for advocates. Indeed, Jonathan Feldman, associate counsel for CSS, the plaintiff, said, "Now all state agencies are on notice to live up to their voter registration obligations." New York Times, January 20, 1996.

[184]Of 220,000 transactions, only 13,000 were registered to vote. Most of the remainder of the transactions produced blank forms (which either mean a client declined to register or the worker never offered the client the opportunity to register, not using the

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In 1996, the Community Service Society (acting in conjunction with Human SERVE) filed 90 day notices against several other agencies: one against the Department of Health regarding the federal public assistance program, WIC; one against the Department of Social Services in April in relation to Medicaid in hospitals (ACORN also filed one in March against the Department of Social Services more generally[185]); one against Worker's Compensation; and against the several agencies which serve the disabled (and others) including, the Department for the Aging, Office of Mental Health, and Veteran's Affairs--all of which produced progress in implementation and increases in the rate of registration.

For example, in response to the latter notices against the disability agencies, advocates prodded the State Board of Elections in March, 1996, to designate over 700 community based organizations and private agencies (day care centers, settlement houses, and the like) as official NVRA sites. This is a significant development sought by advocates for well over a year. As discussed earlier, advocates successfully crafted legislation in New York which went beyond the minimum requirements of the NVRA. Advocates and liberal Democrats added several state agencies to be covered by the NVRA legislation. Under New York law, any state agency that provides services to people with disabilities *and any state funded provider of such services*--including private non-profits--must also now offer voter registration to its clients. This is important because these seven agencies,

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forms at all) or were declinations, according to data provided by the State Board of Elections to Human SERVE and CSS.

[185]Human SERVE had been working with the Justice Department and the Attorney General's Office regarding such a suit for several months prior to the ACORN suit.

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including the Department of Health, the Department for the Aging, Office of Mental Health, Office of Alcoholism and Substance Abuse Services, and their funded non-profit and private provider organizations, offer services to people other those just with disabilities, and the agencies cannot easily separate out these populations to separately administer the programs. Therefore, these non-profit private organizations--most of which are in New York City and reach hundreds of thousands each year--are now being forced to provide voter registration to their clients. The State Board is now providing registration materials, training staff, and monitoring implementation in these 700+ sites across the state. Human SERVE also threatened CUNY and SUNY with litigation if they continue to violate the NVRA. CUNY responded by altering its plans for implementation, incorporating several recommendations made by SERVE and NYPIRG, producing improvements in its implementation in 1996.

The amount and rate of registration has improved in New York from 1995 to 1996, and, importantly, has improved in New York City. In the first few months of 1996, registration through NVRA agencies state-wide climbed to almost half of the amount for the entire year of 1995,[186] with the Department of Social Services (DSS) registering half the number people in the state as that of the Department of Motor Vehicles (DMV), as compared to only 29.7% in 1995. And in 1996 in New York City, DSS eclipsed DMV agencies in registration, registering nearly double the number of public assistance

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[186]167,671 were registered by April, 1996, compared to 432,625 for all of 1995, about one third of the total. Figures are from the State Board of Elections.

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recipients as compared to clients of the DMV.[187]

Indeed, the impact of improvements in implementation of the NVRA in New York City can be seen in the number of people registered over the past several years. The following chart illustrates improvements in registration in New York City compared to previous years.

REGISTRATION IN NEW YORK CITY FOR SIX MONTH PERIOD BY YEAR[188]

YEAR	1992	1993	1994	1995	1996
Registration	57,862	46,000	41,000	79,273	147,200

Source: New York City Board of Elections
Data includes all registration, from NVRA agencies and elsewhere.

The six month time period, from November through March, was chosen because it is typically the lowest point of registration activity during each year. This is because registration activity associated with an election has peaked and it is six months before the next election in a cycle. The jump in registration in 1995, an off election year and the first year of the NVRA which experienced significant problems and delays in implementation, and nearly doubling again in 1996, clearly illustrates the impact of the NVRA in general, and improvements to agency registration programs from 1995 to 1996.

Political Impacts and Implications

The political implications of the potential of the NVRA were not lost on

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[187]Ibid.

[188]The data is a six month period from November to March, the period that traditionally produces the lowest number of registration.

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Republicans or Democrats. The NVRA, if effectively and fairly implemented, has the potential to insure that every New Yorker has the opportunity to register and vote, and greatly boost voter participation particularly of low-income and minority voters and New York City residents whose registration and voting rates continue to lag behind the rest of the state. Indeed, it is evident from these episodes that Republicans in New York attempted to, and to a significant extent, succeeded in blunting the impact of the NVRA. Republicans sought to limit the expansion of the franchise in general, and among likely Democratic voters in particular (i.e. low-income and minority groups). The relatively poor performance of the NVRA in 1995 in New York compared with other states, and particularly in New York City, suggests Republicans were successful to some degree. For example, Texas, which has a similar sized voting age population as New York, registered 30% of its unregistered population in 1995 compared to New York which registered only 13% of its unregistered population in 1995.

Yet, pressure by advocates and liberal Democrats who sought to insure full and fair implementation of the NVRA--particularly for low-income and minority voters and those in New York City who would be likely Democratic constituents--apparently not only limited the extent of Republicans attempts to thwart the NVRA, but also, as the data presented above indicates, forced improvements in implementation in 1996. Indeed, advocates and liberal Democrats believe more progress is needed and possible. If they continue to force further improvements, they could vastly increase voter registration and participation of New Yorkers, and perhaps to alter the current balance of political power in the state. This potential is evident if one considers the data on number of clients served

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by agencies mandated to provide voter registration under the NVRA and community based non-profit and private organizations which are also covered under the NVRA. The Department of Motor Vehicles, for example, has nearly four million transactions yearly and over a four year cycle all drivers licence holders will be reached, through over ten million transactions. The Department of Social Services (public assistance), sees over three million individuals annually, and in the Department of Labor, over 500,000 people receive benefits during each year. The other mandated agencies reach over another million.[189] Therefore, the nearly five million eligible but unregistered New Yorkers, almost two million of which are in New York City, would have the opportunity to register to vote. Depending on other developments, a surge in voter participation by these disproportionately low-income and minority voters could have a decisive impact in municipal elections in New York City in 1997, and in state-wide races in 1998. If instead, however, Republicans who control of the state and city continue to significantly blunt the potential impact of the NVRA, their dominance might be sustained.

In conclusion, what these episodes in New York State demonstrate is that particular voter registration laws and practices have distinct impacts, and are associated with different political actors and interests. Laws and practices which increase access to voter registration and participation have been associated with advocates and liberal Democrats, as in the case of the limited achievements of the Cuomo's two executive orders and the 1992 Chapter 79 agency based registration programs. More dramatically, the experience of the NVRA reiterates this pattern. Importantly, the NVRA requires

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[189]Data from the agencies, the State Board, and Human SERVE.

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practices which, when properly implemented, provide for increased access and effectiveness, and have dramatically increased voter registration in New York. Yet, even while advocates and liberal Democrats have successfully pressed for better compliance, Republicans have stymied more complete implementation. Conversely we found conservatives and Republicans opposed these initiatives, laws and practices, and actively undermined such initiatives, thus restricting access to the franchise. Republicans challenged Governor Cuomo's 1984 Executive Order in court and Republican Commissioners on the State Board of Elections successfully impeded implementation of agency based programs under Cuomo's 1990 executive order. Coupled with the general failure of Chapter 79, Republicans have limited voter registration and participation in New York for a decade (1984-1994).

Similarly, the recent policy impacts of the Republican electoral gains in the state and city have been significant.[190] Analysts have noted that successive cuts to state and city government expenditures for social services, public education, housing and the like fall disproportionately on low-income individuals and minorities. At the same time, Republicans have offered a mix of tax cuts and subsidies that predominately benefit business and upper income groups. As one critic characterized the budgets and policies of the state and city executives, "Pataki and Giuliani are energetically engaged in

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[190]Fitch, 1995. In addition, Reports of the Fiscal Policy Institute from 1994 through 1996 detail impacts of the budgets both proposed by the Pataki administration and enacted by the legislature. Lastly, the Community Service Society has also produced analyses of the impacts of state policy, particularly on poorer and minority New Yorkers.

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redistributing income upward."[191]

The experience of New York as outlined in my study has relevance for political scientists concerned with voting behavior and politics. Scholars have not well appreciated that implementation of particular voter registration procedures and practices of election administration can effect patterns of voter participation. Nor have the political environments and relations associated with such institutions and practices been sufficiently acknowledged or analyzed.

Lastly, my study has implications for contemporary electoral reform measures. The particular practices which have produced increases in voter registration and participation detailed in this study provide prescriptions for policy makers, if that is their intention.

[191]Fitch, 1995.

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CHAPTER FOUR

THE NEW YORK CITY BOARD OF ELECTIONS, 1984-1995

In this chapter I examine the practices of the New York City Board of Elections and how they have contributed to New York City's low rates of voter registration and participation. I document how particular practices of the City Board of Elections have disenfranchised voters. Such disenfranchising practices reflect both the legacy of the turn of the century reforms discussed in chapter two, and the influence of contemporary dominant political actors who preside over the city's election system. While in some instances the fault may not lie solely with the Board of Elections, in most cases the Board is responsible for such disenfranchising outcomes. Whether disenfranchising outcomes are a result of errors, incompetence, bureaucratic inertia, lack of resources, or whether distinct political interests and relations are involved is not always clear. Nevertheless, as I shall show, several episodes reveal the involvement of particular political actors and interests in Board practices that had disenfranchising consequences, and, conversely, other political actors and interests have been involved in practices which have led to increased voter registration and participation. Finally, I discuss contending explanations for Board practices and their impacts at the end of this chapter.

During the last decade changes to some of the Board's practices--and the inauguration of several new procedures that increased access to registration and voting--led to improvements in the Board's operations, and contributed to modest increases in voter registration and participation. A mobilization of contemporary voter registration

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organizations and reform advocates[1] in the 1980's contested disenfranchising practices of the Board of Elections. These conflicts and reformers efforts led to a series of changes in the Board's practices and improvements in the Board's operations that increased access to registration and participation.[2] More recently, the advent of the National Voter Registration Act (NVRA) has generated new pressures on the Board and resulted in additional changes to its procedures, producing further increases in registration and voting. This chapter attempts to document these developments and measure the attendant impacts over the past twelve years. Finally, I analyze the political actors and interests associated with such changes, particularly the role of the party organizations, the Koch administration, and reform advocates. First, I will briefly discuss New York City's political system and the place of the Board of Elections within it to situate this discussion.

The Board, the Party System and NYC's Political Structure

While social scientists have extensively analyzed New York's political structure and party system, none have adequately assessed the place of the Board of Elections within the political structure. In analyzing New York City's politics, some scholars have focused on the formal elements which make-up New York's political structure, such as its Charter, political institutions and party system, while others incorporate informal aspects,

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[1]These New York based advocates include most of the organizations referred to and listed in Appendix A.

[2]Reform advocates also successfully lobbied for legal changes which also contributed to improvement in the Board's practices. These reforms are discussed below. But a counter effort led by Republicans in 1993 and 1994 slightly altered these gains. I will discuss this latter episode in the next chapter.

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such as the changing economy, demography, elites, and organized interest groups.[3] Regardless of the approach and the role assigned to New York City's political structure, however, political scientists generally acknowledge the importance of the formal political system. Moreover, formal aspects of the city's political structure are sometimes recognized as a strong influence on how dominant political coalitions form and the parameters within which they operate.[4] Election administration is not only part of the formal political structure, but is a prism which allows examination of other formal and informal elements of the political establishment, particularly the party system and the electorate. In this section, I examine New York City's dominant political establishment through the vantage point of the party system and electorate during the 1980's.[5]

While political scientists have explored the ties between New York's political party organizations and elite interests and particular constituencies, they have not explored similar ties which exist to election administration. Within New York's "machine politics", election administration has figured prominently. Party leaders pick Commissioners to the Board of Elections, who then hire all staff, and thereby directly influence policy and practice. Given these relations, the political interests of the party organizations--and the

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[3]Sayre and Kaufman, 1960; Shefter, 1985; Brecher and Horton, 1993; Mollenkopf, 1992; Fitch, 1993.

[4]Mollenkopf, for example, has argued that certain features of New York City's political system shapes the formation and perpetuation of dominant coalitions, how political entrepreneurs maneuver in this environment, and explains the longevity of the Koch administration in this fashion. (1991; 1992.)

[5]Since, a broad analytic framework can more comprehensively account for the intricacies of New York's politics, to the extent possible, I attempt to incorporate "informal" elements--or at least to contextualize them--in order to further frame the formal political developments I investigate.

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dominant political establishment more broadly--also come to be reflected in election practices of the Board. Such practices have, in turn, served to buttress the power and perpetuate party leaders and the dominant political establishment. While much of the machinery of the fabled political machines is now gone, Boards of elections remain as vestiges of a "machine politics" which has survived.[6]

Mollenkopf has noted that New York City's "political establishment has confronted the problem of incorporating potentially destabilizing groups for a century and a half."[7] New York's history is dotted with periods when urban social movements developed or when "reformers" periodically mobilized previously excluded and/or under served groups to challenge the "political machine" or "dominant establishment". Indeed, many scholars have described how the dominant political establishment has simultaneously absorbed or "tamed" challengers, and/or reconstituted itself in discussing such periods.[8] Even though

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[6]There exists an extensive literature on "political machines" and "machine politics", or "dominant political coalitions." (See for example, Lowi, 1967; Wolfinger, 1972; Erie, 1988; Mayhew, 1986, Mollenkopf, 1992.) While the demise of political machines was heralded by reformers who associated them with corruption, inefficiency in service delivery, and a bias toward certain ethnic groups (e.g. Steffens, Handlin, and Hofstader), some social scientists regard political machines as more benign or benevolent or clientelist (Merton, DeGaetano), while others see machines as inimical to working class and minority interests and favorable to capital (Erie). Moreover, many have subsequently lamented the decline of strong party organizations by arguing that reform institutions promote an upper class bias in public policy, (e.g.. Welch and Bledsoe) or that, as Lowi has said, make cities "well-run but ungoverned."

[7]Mollenkopf, John, "Political Inequality", Dual City, 1991.

[8]Theodore Lowi, At the Pleasure of the Mayor, 1964; Martin Shefter, "Political Incorporation and Political Extrusion: Party Politics and Social Forces in Postwar New York", in Political Parties and the State, 1994; David Hammack, Power and Society: Greater New York at the turn of the Century, 1982; and "Political Participation and Municipal Policy: New York City, 1870-1940," 1994; Richard L. McCormick, From

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"reform" challengers sometimes won mayoral elections, the "machine" or "regular" factions sooner or later would return to power, usually by incorporating moderate elements of the insurgent group(s). The political incorporation of new immigrants--or "ethnic succession"--has been well documented. From the 1850's to the 1870's, Irish and German immigrants challenged the English commercial elite; Italian and Jewish immigrants would challenge the Irish dominated machine during the 1930's, solidifying their hold by the 1950's; and blacks and Latinos would later challenge the dominant Italian and Jewish establishment in Harlem, Brooklyn and then Southeastern Queens.[9]

The Party System

New York City is a weakly organized, highly fragmented, decentralized, one-party system. Divided into five boroughs--each with its own separate county party organization--the city has been dominated by the Democrats since the early nineteenth century.[10] As noted, the county organizations have historically drawn their membership

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Realignment to Reform: Political Change in New York State, 1893-1910, 1981.

[9]Some analysts have discussed how political establishments have been effective at denying the radical elements of urban movements and reform challenges, and how certain factors worked to thwart such challenges. Several scholars have argued the pre-existence of the mass franchise to white males before the formation of an industrial working class led to the creation of the nineteenth century machine which, in turn, shaped and contained class interests (Bendix, 1964; Eisenstadt and Roniger, 1981; Bridges, 1984). Ira Katznelson highlighted how the spatial separation of work and residence mitigated class identity in electoral politics (1981). Martin Shefter has discussed how dominant political leaders incorporated only moderate Italians and Jews during the 1940's and 1950's as a precondition for their admittance into the political system, marginalizing more radical factions (1994). Piven and Cloward have described how social welfare programs absorbed and deflected radical and minority urban protest movements of the 1960's (1971).

[10]Roughly 65-70 percent of voters are registered Democrats. Similarly, an overwhelming majority of elected officials are Democrats, as are the political clubs that

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and support among working class ethnic immigrant groups, successively, the Irish, Italian, Jewish and more recently blacks and Hispanics.[11] Elite interests, however, also have been well represented in and served by the party system.[12]

Observers have sometimes noted the similarity of New York's party system to V.O.Key's description of southern one party states.[13] Such systems are characterized by factions within the dominant party which contend for power.

> As a result, coalitions are fluid, personality-oriented, and often based on invidious racial, ethnic, or status distinctions. Issues are blotted out. In such an environment, the regular political clubs, despite losing power at the center of New York City politics, can continue to hold sway at the periphery."[14]

Scholars have argued that the county party organizations have maintained political power through a variety of voter mobilization or de-mobilization strategizes, exercising their influence over patronage resources, access to the ballot, gerrymandering, and access to voting, including the use of particular voter registration procedures and election day

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exist.

[11]See for example, Shefter, 1994 and 1985; Stephen Erie, Rainbow's End, 1988, and Chris McNickle, To Be Mayor of New York, 1993. On political clubs, see Roy Peel, Political Clubs of New York City, 1935; Blank and Adler, Political Clubs in New York, 1975; Jeffrey Gerson, Ph.D. Dissertation, CUNY; and Jeffrey Kraus, Ph.D. Dissertation, CUNY.

[12]Lowi, 1967; Newfield and DuBrul, 1977; Shefter, 1985, 1994; Mollenkopf, 1987; 1994; Fitch, 1993 among others make this case.

[13]Julian Baim, "New York Politics Southern Style", paper presented at the American Political Science Association Meetings, 1983; Thompson, 1990; Mollenkopf, 1992.

[14]Mollenkopf, 1987:494.

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operations.[15] Some argue that the dominant political party organizations continue to have significant influence in New York City politics.

> The regular Democratic party organizations and the lesser elected officials who make up its leadership lost their ability to determine who would hold the mayoralty after 1960, but they retained their hold on lower offices ranging from the borough presidencies to the city council, state assembly, and judgeships. From these peripheral positions, they extracted concessions from the mayoral center, including appointments to city jobs, influence over the award of contracts, and favorable decisions on matters that affected their jurisdictions. In return for these favors, they could offer some degree of control over the mayor's political environment and consent to the larger policy initiatives the mayor might propose.[16]

Similarly, Martin Shefter has argued the party organizations remain prominent in New York City politics:

> In the early 1970s the majority of officials in New York City who represented district constituencies--city councilmen, state assemblymen, state senators, and civil court judges--were party regulars. Outside of Manhattan, the regular organizations also dominated offices elected at the borough or county level...[borough president, district attorney and judge of the surrogate court]. New York's Democratic machine and its affiliated clubs no longer had control over more than a half-million votes, as they had in the mid-1940's, but in elections for offices that had little public visibility they generally could place more campaign workers in the field than could most insurgents, raise more money, and draw on the talents of lawyers who knew how to use the incredibly (and deliberately) complex election law to get political novices thrown off the ballot... Democratic machine politicians attempted to ward off threats...[from challengers] as much by colluding with the Republicans and striking deals with insurgents as by trying to overwhelm them at the polls.[17]

Moreover, Mollenkopf has argued that there has been a

> revival of the regular Democratic county political organizations during the

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[15]Ginsberg and Shefter, 1985; Shefter, 1994; Mayhew, 1986; and Crotty, 1986.

[16]Mollenkopf, 1992:97.

[17]Shefter, 1985:102-103.

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> 1980's... While reformers more or less destroyed the Manhattan county party organization, the four other county organizations grew stronger during the 1980s despite racial tensions and the need to absorb the occasionally successful insurgent.[18]

Democratic party county organizations have been especially closely identified with the borough presidents and City council members, and with some mayors such as Koch. Indeed, the county organizations continue to successfully promote their own candidates by denying others access to the ballot, and to absorb or coopt successful insurgents.[19] Since 1977, no borough presidents and few council members have been insurgents or anti-organization figures.[20]

In exchange for support for elections and restricting challengers, the county organizations extracted patronage in the usual forms--jobs, contracts, and favorable decisions for their locales (whether symbolic or material, such as land-use policy). The corruption scandals of the mid to late 1980's--which played a role in Koch's and several Democratic party leaders demise--amply documented the extent of such arrangements.[21]

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[18]Mollenkopf, 1992, p. 127 and p. 122.

[19]Shefter, 1986; 1994; Mollenkopf, 1992.

[20]Mollenkopf, 1992.

[21]See Jack Newfield and Wayne Barrett's City for Sale:Ed Koch and the Betrayal of New York, 1988; New York State Commission on Government Integrity, 1990; Mollenkopf, 1992. Recall, for example, Bronx county leader Stanley Friedman's involvement in a contract awarded to a virtually nonexistent company he partly owned; and Queens county leader Donald Manes took kickbacks on parking ticket collections contracts let by Koch officials appointed at Manes' request; and the patronage-hiring operation run out of city hall under the guise of the "Mayors Talent Bank" headed by Joe DeVincenzo, one of Koch's key advisors on appointments. Ostensibly intended to promote employment of blacks, Latinos and women in city agencies, the operation instead regularly hired political referrals (who were mostly white males) submitted by county party leaders, especially from the Staten Island, Bronx and Queens county organizations.

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These scandals, however, served to undermine the party organizations' capacities and credibility during the late 1980's, leading to changes in party leadership and policy.[22] The scandals apparently also led Koch to distance himself from the party organizations and may help explain Koch's support for electoral reform (a thesis discussed in the next

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[22]"In Queens, Donald Manes served as both borough president and county leader until his suicide in early 1986; subsequently, former deputy borough president Claire Shulman served as borough president, while Congressman Tom Manton, another organizational stalwart, served as county leader. In Brooklyn, Howard Golden held both offices from 1984 until 1991. County leader Nicholas LaPorte, Sr. served as a councilman and then deputy borough president in Staten Island until a Republican was elected in 1989. In the Bronx, county leader Stanley Friedman was responsible for the election of Borough President Stanley Simon; after the indictment and subsequent conviction of Stanley Friedman and Simon in 1986, former City council member Fernando Ferrer served as borough president and Assemblyman George Friedman as county leader. The Bronx and Brooklyn have both faced conflict over racial succession. In the former, almost all minority elected officials are part of the county organization and Borough President Ferrer has crafted a new balance among black, Puerto Rican, and white politicians. He thus resolved some of the tensions that Stanley Friedman had suppressed but that erupted after his fall. In Brooklyn, Al Vann and the Coalition for Community Empowerment challenged the county organization in the years before 1984, when Meade Esposito retired as county leader. After 1984, when black insurgents and black regulars could not agree on a minority successor to Esposito, Howard Golden became county leader as well as borough president. He was challenged, however, by another regular faction led by Assemblyman Anthony Genovesi, who had been chief of staff person for Assembly Speaker Stanley E. Fink. Mayor Koch forged strong links with Friedman, Manes, Staten Island Borough President Ralph Lamberti, and the Genovesi faction of the Brooklyn organization. By the end of the 1980's, after much skirmishing, the Golden faction had developed a modus vivendi with the Genovesi faction that gave the former the upper hand. The Golden-led county organization also succeeded in coopting some CCE members while seeking to punish Vann and some others. When Golden had to give up the county leadership in 1991 as a result of a new state law, black Assemblyman Clarence Norman was elected county leader with support from black regulars and insurgents, white liberal reformers, and with tacit support from Golden." (Mollenkopf, 1992, p. 236.)

Philip Thompson has also discussed these phenomenon, especially in relationship to the campaigns of Jesse Jackson and the election of David Dinkins, Ph.D. Dissertation, 1990. The media has also noted the decline of the "bosses". See, for example, New York Times, "More and More, New York Tries Politics Without Bosses", Frank Lynn, February-11, 1990.

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section.) Similarly, political clubs have also undergone decline.[23] And as the parties and the political clubs go, so too the city's election administration follows.

Politics in the Koch Era

Shefter notes that Koch "became a practitioner of the old politics" in forging a cozy relationship with major real estate developers and owners in the city. Indeed, a significant portion of the 1981 and 1985 campaign contributions to Koch were made by these interests. Moreover, there is evidence that favorable business policies were pursued by Koch in return.[24]

Shefter describes a similar complementary relationship between Koch and the party organizations:

> More striking than the support that Ed Koch the *liberal* has received from New York's downtown business community is the alliance that Ed Koch the *reformer* has cultivated with the city's Democratic county machines. Koch entered New York politics in the 1950's through the Democratic reform movement and gained citywide prominence by defeating Carmine DeSapio for the Democratic leadership of DeSapio's home district, thus ending the public career of 'the last of the big time bosses.'...But after entering City Hall, Koch signaled his willingness to make peace with the city's Democratic machines. He appointed men with ties to these organizations to a number of positions in his administration; he backed a party regular for the Democratic leadership in the Bronx in 1978 over the candidate supported by that borough's reformers; and the following year he tacitly supported the regular, rather than the reform candidate for Bronx

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[23]Historically, political clubs--like the party organizations--where more numerous and powerful, exerting significant influence in electoral politics. Their decline, however, is not only tied to the decline of the party organizations, but also has followed similar patterns. See Roy Peel, Political Clubs of New York City, 1935; Blank and Adler, Political Clubs in New York, 1975; Jeffrey Gerson, Ph.D. Dissertation, CUNY; and Jeffrey Kraus, Ph.D. Dissertation, CUNY.

[24]Fitch, 1993 and Mollenkopf, 1992 sketch a more direct relationship, whereas Shefter, 1985 sees a more indirect one.

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> borough president. Koch's relationship with party regulars in other boroughs became equally warm, to the point that his renomination in 1981 was backed by four of the city's five Democratic county party organizations. (Manhattan remained neutral.) This support was repeated when Koch ran for the Democratic gubernatorial nomination in 1982 and for a third term as mayor in 1985...
>
> Why did Mayor Koch ally with machine politicians and adopt these traditional practices? The answer is not that he would have been otherwise unable to be reelected. On the contrary, it is Koch's electoral strength that explains why the city's regular Democratic party organizations were so anxious to come to terms with him. Despite the high probability that he would win any contest against a machine-backed candidate, the mayor had no reason to welcome such a race, and because the county party organizations still commanded an electoral apparatus useful for circulating nominating petitions and getting voters to the polls, having these organizations on his side decreased the effort necessary to put together his reelection campaigns. Moreover, the regular party organizations were still important forces in the state legislature, city council, and to a lesser extent, the Board of Estimate, and establishing a working relationship with them eased the task of governing the city.[25]

Thus, it was in the mutual incumbency and governing interests of Koch and the party organizations to reduce conflicts between them, and limit potential challengers, whether insurgent candidates or new and unpredictable voters.

Nevertheless, countervailing pressures led Koch to support certain electoral reform measures. One factor was the criticism surrounding the 1984 and 1988 elections (discussed below), particularly the poor performance of the New York City Board of Elections and the role of the party organizations in relation to the Board and the elections. Fueled by a mobilization of voter registration organizations and reform advocates, media

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[25]Shefter, 1985, p. 176-177. Koch also cultivated Republican support, and won the 1981 GOP primary after getting the endorsement of four of the five Republican county organizations, and Reagan all but endorsing Koch.

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coverage of these incidents and relations was prevalent and damning.[26] Some reform advocates, who wielded their capacity to gain access to the media, not only criticized the city's election system, but also implicated Koch. Moreover, advocates threatened (implicitly and at times explicitly) to bring legal action for violations of state election law and the federal Voting Rights Act. At the same time, they also attempted to forge effective relations with some key reform-minded Koch administration officials, and attained the administration's support for some reforms.[27]

As we shall see, these election-related problems apparently served to highlight the need for effective, or at least symbolic, reform efforts to local and state Democrats. For example, Democrats in the Assembly held four public hearings in 1987 and 1988 to pressure the state and City Boards of Elections to modernize and improve their performance. Two hearings were held in 1987 by the Assembly Election Law Committee "to examine whether the New York State Board of Elections and the New York City Board of Elections are effectively carrying out their mandated responsibilities, and to consider if legislative action is required to improve the performance of those agencies."[28] One hearing was held on October 20, 1987 on the State Board, and the other hearing was held on October 22, 1987, "to consider the progress that had been made [by the New

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[26]I describe this mobilization and review the media coverage below.

[27]According to key advocates, including Linda Davidoff, then Executive Director of Human SERVE and Gene Russianoff, staff attorney for NYPIRG, and several elections officials on the City Board of Elections and the New York City Elections Project (NYCEP), a unit of the Department of General Services, a mayoral agency (discussed below), reform minded officials in the Koch administration worked to support some reforms favored by the advocates.

[28]Assembly Election Law Committee 1987 Annual Report.

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York City Board of Elections] in achieving the goals of the Partnership report." Two additional hearings on the City Board were held in 1988 entitled "Voter Disenfranchisement in New York City," because

> during the 1984 general election and in the presidential primary held on April 19, 1988, there were accounts of extensive difficulties facing voters throughout New York City. Problems, such as late opening polling sites, malfunctioning voting machines, improper procedures followed by poll inspectors and late mail notifications to potential voters, were reported in all five boroughs... The intent of this particular hearing is to focus specifically on the issues of voter disenfranchisement and structural changes in the management of the City Board of Elections. The Election Law Committee is concerned that, despite sincere efforts to upgrade the operations of the Board, election day performance to the agency shows no marked improvement. This lack of progress results in persistent voter disenfranchisement."[29]

Similarly, Governor Cuomo also commissioned studies on voter participation and elections to help bring about government reform.[30] These "liberal" Democrats in the city and state who led these hearings knew well that turnout in New York City--where the majority of the state's Democratic voters reside--is critically important for their election victories, especially in state-wide elections. Political strategists for Governor Cuomo and members of the Assembly, for example, have reported this perspective publicly and

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[29]Assembly Election Law Committee Notice of Public Hearing, 1988.

[30]Cuomo issued Executive Order number 104 which created the "Task Force on Encouraging Electoral Participation" whose report was issued on February, 1988. The New York State Commission on Government Integrity, chaired by John D. Feerick, which was formed on April 21, 1987, issued 20 reports recommending reforms in government ethics and procedures. (Its final report was issued September of 1990 and as a book titled, Government Ethics Reform for the 1990's, Edited by Bruce Green, Fordam University Press, 1991.)

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privately, which reportedly was also made known to Koch.[31] Clearly, there was pressure on Koch to respond.

A related factor involves the aforementioned political scandals during the mid-1980's which also may have propelled Koch to accommodate to reform and distance himself somewhat from the party organizations. Indeed, as the number of such scandals grew, Koch put more space between himself and those indicted or implicated, who were frequently Democratic County Party leaders or prominent elected Democrats.[32] Some contend that Koch only supported reforms--particularly of elections--because of these political scandals which increased in frequency from the mid-1980's until his defeat, many of which implicitly pointed to Koch and were the focus of media attention.[33] Indeed, the timing of some of Koch's reform measures followed revelations of such scandals.[34]

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[31]I Interviewed several members of the Cuomo Administration and Assembly who held this view, including Jerry Koenig, Legislative Specialist of the Assembly Election Law Committee, and Michael Losinger, former Deputy Director of the Department of Motor Vehicles and prior to that, Deputy Director of the State Board of Elections who was a close Cuomo ally and was informed about internal discussions within the administration. Similarly, various news reports which alluded to the electoral arithmetic of the state and the importance of the city's turnout for Cuomo and Democrats were published in the course of coverage on the campaigns in 1986.

[32]Newfield and Barrett, 1988, describe the decline of the Queens County Leader and Borough President Donald Manes, the Bronx County Leader, Stanley Friedman, the Bronx Borough President Stanley Simon, the former Brooklyn County Leader, Meade Esposito, and Congressman Mario Biaggi, and so on, and Koch's connections to these leaders and then his distancing and defensive reactions to their demise.

[33]This view is held by several former members of the Koch administration, who chose to remain anonymous, other elected officials, including David Dinkins and Ruth Messinger, according to their staff, several top elections officials and commissioners of the City Board of Elections, and some advocates.

[34]Most of the prominent Democratic officials were indicted or convicted (or committed suicide) in 1986, and Koch increased funding for the New York City Board of

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Others have argued, however, that Koch's reform roots were real and lasting.[35] Koch's reform roots and that of some of his staff may have made him predisposed to support electoral reform, and the scandals and problems at the Board of Elections may have been an occasion to demonstrate his reform credentials (either genuinely or as a strategy to retain the loyalty of liberals).[36] Thus, Koch's support for electoral reform may have been an effort to reassert his reformism, and an effort to distance himself from the scandal ridden party organizations and incompetent Board of Elections which he might have perceived could hurt him in the next election by generating disillusion among voters and unity among his potential opponents. That is, these propositions may not be mutually exclusive.

A second factor which may have led Koch to support reforms was the reassurance his strong re-election in 1985 provided to him. In the Democratic primary election, Koch received a significant proportion of the black and Latino vote. Koch received 37% of the black vote, and 70% of the Latino vote (up from 40%), even though a black and three Latinos were also running in the election.[37] "It [the 1985 election] showed that a conservative white candidate could make a strong and successful appeal to Latino voters

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Elections for modernization, introduced postage-paid voter registration forms, and issued Executive order 136 which created the Voter Assistance Commission in December, 1986.

[35]Mollekopf argues that Koch, while walking the line between reformers and regulars, largely retained his reform roots and impulse on many matters, and brought with him similarly reform minded advisors, such as Dan Wolf, former editor of the Village Voice, and Fred Schwartz and Paul Crotty, both Corporation Counsels, and others.

[36]Koch rose in the Village Independent Democratic club, defeating the famed Carmine DeSapio in 1963 by 41 votes. Newfield and Barrett, 1988.

[37]Mollenkopf, 1992, p 118. The Black candidate was Denny Farrell.

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and that the possibility of an alliance of blacks, Latinos, and white liberals was remote at best."[38] Black and Latino leaders were in conflict, having failed to unite around a mutual candidate, and thus in disarray as an effective oppositional force.[39] Finally, Koch took steps to actively shore up his Latino and black support. In fact, under Koch, more blacks and Latinos worked for city government than at any other time, although Dinkins had more people of color in significant leadership positions.[40] Much of this was possible in part due to the "boom" in the economy, which, while clearly uneven, contributed to Koch's popularity and his growing feeling of invincibility.[41]

Finally, critics also assert that several electoral reform measures Koch would support and the city would eventually adopt had already became "inevitable". For example, a court ruling on the unconstitutional character of New York's Charter--coupled with the Charter Revision Commission's likely adoption of provisions to eliminate the Board of Estimate, a campaign finance law, and the creation of the Voter Assistance Commission--allowed Koch to politically distance himself from the Borough Presidents and County Leaders, appease his critics and support what was essentially a fait accompli.

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[38]Mollenkopf, 1992:121.

[39]Coalition for a Just New York (CJNY) was formed in 1984 by forth black leaders, chaired by Al Vann, in order to search for a consensus candidate to oppose Koch in 1985. However, no such consensus candidate was found. Interestingly, Herman Badillo, a Latino who had been a former borough president of the Bronx, former Congressman, and former deputy mayor to Koch was considered to be one of the candidates (others included Basil Patterson, Percy Sutton, et. Als.) Ibid.

[40]Mollenkopf, 1992.

[41]Newfield and Barrett, 1988 characterize Koch as possessing a sense of invincibility. See especially, chapter one, "King of the Hill."

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Therefore, Koch may have sought to simultaneously support his party--or more properly certain factions within it--by supporting minor electoral reforms (which would not produce huge voter mobilization), but at the same time, to neutralize the potential challenge to his incumbency. Koch's overtures toward reform can also be seen as gestures meant to appease and disarm his critics and potential challengers--particularly regarding his ties to the political machinery which runs elections in such a slipshod manner and with allegedly anti-democratic and discriminatory impacts--while at the same time attempting to shape reform in such a way as to limit the impact of challenges on him and the party stalwarts.

Thus, it may be due to the cracks which widened further an already fragmented and factionalized Democratic Party in New York City in the mid-1980's, that Koch's strategic interests shifted away from maintaining his close ties to the county party organizations and leaders enough to permit his support of reform measures.

I now discuss the political mobilization of voter registration activists and reform advocates who provided pressure on Koch and the Board of Elections to make some changes.

Political Mobilization in New York City

Connected to national and state political mobilization discussed in the previous chapter, a broad based coalition of dozens of organizations formed in New York City to conduct mass voter registration during the later half of 1983 and throughout 1984. As mentioned earlier, by the registration deadline in October, 1984, 855,000 voter

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registration applications were submitted to the New York City Board of Elections.[42] In 1984, New York City' number of registered voters reached over three million for the first time since 1972. Moreover, coalition members "targeted groups of women, minorities, poorer New Yorkers and students."[43] The locations, methods and effectiveness of these efforts of course varied across the different groups.

Some of this mobilization was related to Jesse Jackson's 1984 presidential campaign. Yet, other registration efforts were already under way by black and progressive groups. The Coalition for Community Empowerment (CCE), which was led by Al Vann, started the "Strive for 85'" effort in 1983 with the hope of electing a black mayor in 1985. In addition, several labor unions also mounted voter registration efforts around the Jackson 84' campaign.[44] Thompson has shown that black and Latino voter registration increased significantly between 1982-85. He estimates that between 1982-84, black registration increased by 129,000 or 25%, while Latino registration increased by 18,000. White registration declined by 22,000. Between 1984-85, black registration

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[42]540,000 registrants, however, were "new" eliminating duplicate registrations, change of addresses, deaths, and so on. This represents one of the largest increases in registration in the city's history.

[43]Tom Wathen, Executive Director, NYPIRG, press release, October 9, 1984. The "October 4th Voter Registration Campaign," a coalition of over 50 groups, was organized by Human SERVE. On October 4th, the registration deadline, coalition members registered 50,000 voters and turned in the forms to the Board of Elections. Human SERVE claimed it registered another 50,000 people--primarily of low income--at public and private agencies from spring of 1983 to October, 1984. (Testimony of Hulbert James, Executive Director Human SERVE, Public Hearing March 13, 1984 said SERVE had registered nearly 40,000 by March. A subsequent interview with SERVE staff indicated they registered at least another 10,000 by October.)

[44]Among the unions involved are DC37, 1199, and CWA. Many of these same organizations would mount similar voter registration efforts for the 85' mayoral race.

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increased by 78,700 or 14% and Latino registration increased by 81,800 or 21% (white registration increased by 178,600).[45] Thompson also showed that "in most cases, voter registration [increase] was closely tied to organizational efforts by local activists."[46] John Mollenkopf estimated that between 1982 and 1985, black and Hispanic AD's saw increases of up to 10,000 per AD.[47]

Over the course of nearly two years (1983-1984)--and in subsequent years--these organizations encountered numerous barriers which they saw as inhibiting their efforts. The kinds of barriers they identified--regarding both election law and administrative practices--became focal points for further reform efforts. As we shall see, these reform efforts produced important changes in practices of the city's election administration, which in turn, contributed to modest increases in voter registration and participation.[48]

As discussed in the previous chapter, such administrative obstacles were highlighted in numerous public forums including the news media, and in legislative and public hearings, in court cases, and various government reports. As I outlined in the introduction and in the previous chapter, I surveyed practices of New York's election administration regarding voter registration and election operations which have been

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[45]Thompson, chapter 2, pp. 57-58. Thompson puts increases in Democratic enrollment in majority black districts at 5,000 on average, while white enrollment rose by about 1,000 (chapter 2 p. 10; he cites Sam Roberts, "New York Democrats Gain Black and Hispanic Voters", New York Times, April 1, 1984, p. 26. Mollenkopf also puts increases in registration in black and Hispanic AD's between 1982 and 1985 at up to 10,000 per AD. (Mollenkopf, 1987)

[46]Ibid. p. 6, chapter 2.

[47]Mollenkopf, 1987.

[48]The data is presented in the last section of this chapter.

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highlighted in these forums from 1980 to 1994, and I also conducted a series of interviews. In this chapter, I focus on several practices of the New York City Board of Elections: provisions for registration information and access to registration opportunities; procedures for processing registration applications and certification of registration; and election day preparations and operations.[49]

My survey revealed a litany of problems that were reported in nearly every election, and which occurred both before and during each election. For example, prospective voters can be disenfranchised by: slipshod or stringent processing of applications for registration; failure to effectively notify and or mis-informing voters of their registration status, poll sites, voting procedures, and other critical voter information; providing absentee ballots to voters late or not at all; late opening of poll sites, under staffing and or the absence of necessary voting materials; failure of workers to correctly follow provisions to insure voters correctly cast their ballots, such as providing proper instructions for use of voting machines, voting by affidavit ballot, emergency ballots, or by not offering bilingual assistance as required by the Voting Rights Act in covered jurisdictions.

As outlined in the previous chapter, several public hearings held by the state

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[49]The practices were selected based upon the following criteria: first, these practices were the primary administrative barriers experienced by voter registration activists; second, these practices comprise the main activity of the Board of Elections with regard to voter registration and election operations as mandated in state election law; third, the Board has discretionary capacities in these areas; and fourth, they are the primary means the Board can increase or decrease participation. Thus, these practices conceivably readily reflect the political motivations and interests which they arguably might serve. I selected these practices from a larger body of contested issues on the basis of the above criteria.

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legislature and City Council, audits by the comptroller, New York City Voter Assistance Commission (VAC), and other government documents have detailed such complaints. The general purpose of such hearings was to receive comment about how to increase voter registration. Voter registration advocates testified about a range of both legal and procedural obstacles they experienced in the course of their voter registration activity. Many testified about specific administrative and procedural problems associated with boards of elections, and made recommendations for improvement. The nature and scope of the problems highlighted and recommendations made by advocates in the public hearing are numerous. I have detailed them below to demonstrate that first, the kinds of administrative problems encountered by voter registration groups were significant and produced disenfranchisement; and second to show that the scrutiny and criticism that advocates made of such election practices, not only illuminated the fact of barriers, but cast light on the political actors who perpetuate such practices and resist change to them.

In addition, I discuss how conflict over contested practices produced new outcomes. Pressure that reform advocates and their liberal allies were able to bring to bear directly on the Board over contested practices led to improvements.[50] Indeed, advocates initially petitioned key legislators to hold a public hearing in early 1984 in part as an attempt to solve problems which they anticipated occurring during the 1984 elections. Following the 1984 elections, advocacy organizations continued to lobby for legislative and administrative changes which they hoped would increase the effectiveness

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[50]Later in the chapter I detail the advocates' recommendations, especially ones adopted which, in turn, produced improvements in the City Board's operations and modest increases in voter registration.

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of their registration efforts and reduce such disenfranchisement. In fact, advocates succeeded in pressing Democratic officials in the Assembly and Governor's office to hold four similar such public hearings in 1987 and 1988 to address the kinds of legal and administrative problems they continued to experience. Advocates also persuaded city officials--particularly Mayor Koch--to take several initiatives which improved the Board's operations, including provide funds for modernization.[51] These efforts did produce some important changes in election law and, in the City Board of Elections' administrative practices, and contributed to reducing the amount of disenfranchisement experienced by New York City voters. Thus, contemporary reform advocates not only highlighted barriers, but also played a small but significant role in liberalizing New York's election policy and practices during the mid to late 1980's. First I will examine the barriers highlighted by the 1984 election.

NYC's Primary and General Elections, 1984

Much as advocates had feared, there were significant problems in the administration of the 1984 elections in New York City, apparently disenfranchising tens of thousands of voters. The inability of the NYC Board of Elections to adequately process the increased volume of registrations--855,000 new registrants--which dozens of organization's mass registration efforts produced led to a backlog of over 90,000 forms as election day approached.[52] Despite reassurances from the Board that all forms would be

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[51]Other initiatives to expand the franchise passed during the Koch administration--such as the Voter Assistance Program and the Voter Assistance Commission--are discussed in chapter five.

[52]New York Times, Nov. 2, and 12, 1984.

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processed on time, on election day it was estimated that 62,000 voters were turned away because they were not yet listed on the rolls.[53] In addition, declarations by the Board notwithstanding, apparently upwards of one hundred thousand voters never received mail notifications directing them to their poll sites, resulting in thousands of others being disenfranchised because they never even got to a poll site or to their correct one. The City Board of Elections ran out of forms even before the registration deadline, derailing or delaying some groups efforts. In fact, a coalition of voter registration organizations helped to arrange for the printing of an additional 80,000 forms.[54] Lastly, there were a range of significant problems at poll sites on election day which apparently led to voters being turned away.

The chaos which ensued on election day produced swift and vociferous public outcry over the mismanaged elections. "Groups complained bitterly about confusion at many polling places, missing or mis-filed registration forms, incompetent or absent poll workers and absentee ballots that were mailed to voters too late."[55] NYPIRG, for example, set up a voter information hotline which received more than 3,500 calls during the few days prior to and on the day of the election. Voters who called during the days before the election expressed a variety of complaints, including not receiving any notification or information about the location of their poll sites, or not receiving absentee

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[53]John Trinkl, "Not a Million More Oct. 4, But Still New Voters", Guardian, October 17, 1984, p.3.

[54]Sydney Schanberg, New York Times, October 2, 1984.

[55]New York Times, November 12, 1984.

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ballots (or on time), or not being able to get through the City Board's phone hotline to obtain needed information. "Many hundreds of voters who called our hotline on election day had a wide range of complaints. They told us of polling places opening late, voters being given incorrect or out-of-date information leading to their disenfranchisement, and polling inspectors failing to issue paper ballots when machines broke down."[56]

The New York City Board of Elections "lost the election", claimed the New York Daily News editorial Board. "Consider what happened last Tuesday. Names were misplaced or lost. Tens of thousands of voters had to use paper ballots because their cards couldn't be found. Long lines built up as confused election workers struggled to sort out individual cases. Many angry, impatient people left without voting as a result. And, of course, there were the usual snafus with aging, malfunctioning voting machines."[57]

Calling the 1984 Primary election a "debacle", the New York Times editorial Board strongly criticized the City Board of Elections:

> For years, the sorry state of the New York City Board of Elections was a dirty little secret shared only by political insiders. The secret erupted into a public scandal [during the 1984 elections] when Board incompetence nearly disenfranchised thousands of new voters; Politicians were finally forced to take notice... The mechanical-lever voting machines used by the city are obsolete and costly to maintain. Manual processing of voter forms is drowning the agency in paperwork. Dividing tasks between the central Board and borough offices compounds the chance for errors and weakens accountability. Moreover, as the members of political clubhouses have dwindled, so has the Board's ability to recruit enough qualified inspectors

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[56]Gene Russianoff, NYPIRG, Testimony before the Citizen's Commission on Civil Rights, NYC, November 26, 1984.

[57]November 8, 1984, testimony of Gene Russianoff before Assembly Election Law Committee public hearing, October 22, 1987.

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to oversee the polls.[58]

As the general election date drew closer, the relationship between voter registration groups and the Board of Elections became more adversarial and confrontational. "Up to now the City Board of Elections has been the Rip Van Winkle of government bureaucracies, with clogged phone lines, shortages of registration forms, and a backlog of new voters a mile long. There's an all too serious possibility that many of these new voters will be disenfranchised by the Board's unjustifiably voiding forms on technicalities or failing to send notices to voters of their polling places."[59] While the City Board maintained that the demand for voter registration forms and the volume that needed processing was greater than they anticipated, observers argued the Board had ample forewarning: "the mobilization to register new voters--by Republicans and Democrats, conservatives and liberals--has been going on steadily for the better part of a year, and in minority neighborhoods for much longer than that. So the Board of Elections has no excuse for not anticipating the demand."[60] Indeed, some of the registration forms waiting to be processed in October were received by the Board in July.

Citing potential disenfranchisement which would ensue due to the fact that the Board apparently would not send over 100,000 mail notifications to voters, and that the Board's voter information phone lines were "constantly clogged", NYPIRG petitioned the

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[58]New York Times, editorial, August 14, 1985.

[59]Press release of NYPIRG, quoting Tom Wathen, Executive Director, of NYPIRG, October 9, 1984.

[60]Sydney Schanberg, New York Times, October 2, 1984.

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Council to intervene to insure the Board got all necessary support to perform its mandated duties. In a letter to City Council President Carol Bellamy, NYPIRG and Human SERVE wrote,

> we are concerned that the Board of Elections, despite recent efforts to improve its performance, is still not doing the job it should.... The Board of Elections was well aware that this was going to be a year of unusual voter registration activity. Yet, it has acted as if it were business as usual... Polls show the Presidential election in New York State is very close. It would be a tragedy if the race were determined not by the will of the people, but by needless bureaucratic obstacles to voter registration.[61]

Implicit in these activities of advocates was the threat of legal action against the Board and the city for violations of state election law and the federal Voting Rights Act. It is important to note that this threat of legal action and public embarrassment provided leverage on city officials to take action, even if only symbolically.

The Board's attitude toward the efforts of voter registration organizations was revealing: "This registration drive has gone on [with] too much fanaticism. I'd like everybody to be registered, but not with hysteria," said the Executive Director of the City Board of Elections, Bea Dolen.[62] While she acknowledged that the Board is "an antiquated agency," she faulted the city for not providing the Board with enough money for modernization. However, according to Alair Townsend, the City's Budget Director, the Board had not requested any funds for modernization, nor had any funds been cut from the Board's budget over the last few years.[63]

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[61]Gene Russianoff, Staff Attorney, NYPIRG, October 15, 1984.

[62]New York Times, October 4, 1984.

[63]New York Times, Oct. 4 and 12, 1984.

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Increased scrutiny by investigative journalists and voter registration advocates of the Board's operations brought greater public awareness of the city's election administration, revealing an archaic institution that "had changed little in decades. Most work is done manually, as it was when the Board was established in the 1880's."[64]

Shortly before the election, Mayor Koch authorized the Board to hire any additional temporary help and incur all necessary overtime the Board felt is warranted to guarantee that all new voters are processed and informed.[65] Citing "gross incompetence" at the City Board of Elections, Mayor Koch called for reorganization of the Board. He claimed that "they [the Board] nearly put off an election," and sought to restructure the Board and give him more control over it. Koch said, "its filing systems are antiquated; voting machines need to be replaced; the Board needs a full-time legal counsel and an inspector general." Koch proposed appointing a commissioner to the Board who would report to the mayor, who would be responsible for day-to-day operations, and that a full-time counsel and an inspector general be hired to help prevent fraud.[66]

The Board attempted to deflect the barrage of criticism, maintaining that such "allegations" surrounding the elections was unfounded and exaggerated. Declaring that "the elections went well," the Board claimed that all registration cards were filed and all new voters were notified by mail of where to vote.[67] Elections officials, however,

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[64]Josh Barbanel, "Voting Board Struggles with Registration Load", New York Times Oct. 4, 1984.

[65]Mayor Koch, letter to the Editor, New York Times, November 2, 1984.

[66]Ibid.

[67]Bea Dolen, Executive Director, New York Times, Nov. 12, 1984.

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subsequently admitted that there were, in fact, significant lapses in the Board's processes during the 1984 election cycle. Indeed, the Board soon began to publicly acknowledge a need to modernize its operations, particularly regarding computerization and electronic voting machines. This change, it must be stressed, only occurred following the pressure exerted by reform advocates and the criticism in the media, and subsequent actions by the Mayor and state officials. That is to say, the Board acted in response to these developments, rather than on its own initiative.

I will now discuss these subsequent developments and changes in the Board of Elections, and assess their impacts on voter registration and participation over the past dozen years.

Modernizing the New York City Board of Elections

Following the "debacle" of the 1984 New York City Elections, voter registration advocates and media attention brought pressure to bear to place "modernization" of the New York City Board of Elections on the government's agenda during the mid to late 1980's. The city established an office to oversee the modernization of the Board of Elections, the New York City Elections Project (NYCEP), and spent millions of dollars over the next few years to institute technological and administrative improvements to the Board. During the late 1980's and early 1990's, several important changes to the Board's practices were implemented, producing subsequent improvements in the Board's operations. These developments, in turn, contributed to a reduction in the amounts of disenfranchisement, and a modest increase in voter registration and participation in New York City. Thus, voter registration advocates successfully helped to shape reform of the

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Board, making the process of "modernization" of the Board's operations integral to this study.

Approaches to Modernization

The nature and scope of "modernization", however, was highly contested. The various public officials and political organizations--the New York City Board of Elections, the party organizations, the Mayor, the New York City Partnership and Elections Project, the State Board of Elections, and the advocacy organizations--differed specifically on what "modernization" of the Board would consist of, how such a process would be carried out, and under whose auspices, reflecting their differing and conflicting political orientations and interests.

Mayor Koch initially sought direct control over the Board and greater accountability to him. Stung by the embarrassing criticism of the city's election process and facing a challenging re-election bid within the next year, Koch initially proposed that he be given power to appoint a commissioner to the Board of Elections who would be responsible for day-to-day operations and report to the mayor, and that a full-time counsel and an inspector general be hired to help prevent fraud.[68] But while the Board of Elections is funded entirely from city revenues, the Mayor had no legal authority to force such changes: the Board is a bi-partisan creature of the state and under the jurisdiction of the State Board of Elections. Once it became evident that such direct control was precluded, Koch instead took other measures to exert some influence. Immediately after the 1984 elections, he commissioned the New York City Partnership, a business group, to

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[68]New York Times, November 2, 1984.

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conduct a study on how the Board operates and to recommend improvements. Koch also set up the New York City Elections Project (NYCEP) and an Oversight Board to implement the recommendations made by the Partnership.[69] Upon release of the Partnership's report in August, 1985, NYCEP began implementation of its recommendations for modernizing the Board, primarily involving the automation of registration processes and instituting minor administrative changes (outlined below). Lastly, the Koch administration began to give support to advocates' proposed reforms of the Board of Elections, and several other reform initiatives.[70]

The voter registration advocates urged broader political reform of the Board. They sought a fundamental reorganization of the Board itself. Not only did they press to fully automate the Board's operations and to institute major administrative and organizational changes, but they also sought the elimination of political control of the Board. Advocates called for "sweeping changes" that would reduce the election

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[69]NYCEP is a division of the Department of General Services, a mayoral agency, thereby giving Koch some direct influence in shaping the process of modernizing the Board.

[70]For instance, in December, 1986 Koch issued an Executive Order (101) that established the Voter Assistance Program (VAP) whose mission was to expand voter participation in New York City by mandating voter registration in city government agencies. In 1987, to coincide with the 200th Anniversary of the Constitution, Koch helped to coordinate a mass mailing of voter registration forms to all households in New York City through VAP (This initiative was conducted in conjunction with the two U.S. Senators, Daniel Patrick Moynihan and Alphonse D'Amato who made their franking privileges available to defray costs). Koch also commissioned the City Bar Association to conduct a study of the state's onerous ballot access measures to recommend improvements (following the 1985 municipal elections which amply revealed that "highly technical restrictions on access to the ballot" posed major obstacles for many candidates for Mayor and City Council President, whose legitimacy as candidates was not determined until shortly before the 1985 primary.)

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administration's ties to political elites.[71] Advocates contended that such political control was a primary cause of the poor state of the Board of Elections. Spurred on by the heightened attention on election problems in the media and embodied in the city's steps toward modernization, advocates pressed for a range of far reaching reforms they believed would be more effective at improving the Board's performance and increasing access to registration and voting, especially to under-represented groups. To achieve their goals, they also sought--and generally received--a seat at the table with those charged with the

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[71]Gene Russianoff, staff attorney of NYPIRG, New York Times, November 12, 1984. NYPIRG has consistently lobbied for political reform of the state's election administration--for both the City and state Boards--proposing several alternative schemes. One such proposal called for the creation of a "Citizen Advisory Committee" for the New York City Board of Elections, (modeled on the Permanent Citizens Advisory Committee to the MTA) to "study, investigate, monitor and make recommendations with respect to the operations of the New York City Board of Elections." (draft of proposed amendment to the election law, section 3-204, testimony delivered by Gene Russianoff, October 22, 1987 at a public hearing held by the Assembly.) NYPIRG--along with members of the Statewide Coalition for Voter Participation--also proposed several changes to the State Board of Elections, from adding a fifth "non-partisan" Commissioner, to entire elimination of the board.

In addition, several public officials also supported broader reform of the political nature of the city's election administration. State Senator Franz Leichter, Democrat from Manhattan, introduced legislation (S-411) in 1988 which would have abolished county and city boards of elections throughout the state and transfer their functions to the State Board of Elections. He stated that, "wholesale change is needed", that it is "long past time" because the system "doesn't work" and the state "can't just tinker with it... It is time we stop treating elections as a matter that is of particular significance to the political parties and that the political parties have some special right to control the elections. Elections exist for the public and the manner in which we presently run the elections with the role of the political parties ought to be changed." (Testimony, Public Hearing held by the Assembly, 1988.) Richard Wade, Professor of History, CUNY, made similar recommendations at a Public Hearing of the Voter Assistance Commission, December, 1993, and in an article entitled, "End the party at Board of Elections," Daily News, April 20, 1994. Wade called for replacing the present board with "a nonpartisan one composed of skilled managers, a staff at home with modern high-tech tools and an enterprise dedicated to fair and impartial elections... appointed by the administrator of the city's court system."

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formulation and implementation of reforms (i.e. NYCEP and its Oversight Board, the Koch Administration, City Council, and the Board itself).

While they did not achieve the full political reform of election administration in New York, voter registration advocates did substantively shape the agenda for reform of the City Board of Elections (as well as of important election law changes). Beginning in the early 1980's, voter registration advocates lobbied for a broad range of reforms to the election administration (and election law)[72], and saw much of what they proposed incorporated into reform plans and successfully implemented in the mid to late 1980's.

The State Board of Elections moved to limit the damage to the city's election administration--and to themselves. (The state Board has legislative responsibility and authority to supervise the City Board's operations, so the failures of the City Board strongly implicated the state Board's culpability.) Supporting only limited and cosmetic changes, the State Board of Elections sought to improve their and the City Board's public image. They set up a task force to examine the City Board's situation and institute procedures to insure better future oversight. The state task force, consisting primarily of Thomas Wilkey, the State Board's liaison to county boards, made several modest criticisms, but attributed the City Board's shortcomings to lack of funding and the like. The State Board made several cursory recommendations, including increased funding and procurement of new facilities and equipment.

Similarly, the City Board of Elections and the county political organizations

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[72]Testimony by advocates before a joint Assembly and Senate Committee at a public hearing on March 13, 1984 details numerous reform proposals. These and others are summarized below.

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wanted to limit the nature and scope of reform, and repair their damaged public image. They sought to justify the Board's structure and procedures, and defend their performance in elections. The Board denied the validity of the complaints of election problems highlighted in the media, and alternatively, attributed responsibility for particular lapses (such as failure to process all registration applications properly and timely and to mail notifications to all voters) on overzealous voter registration advocates and also certain "partisan" groups (i.e. some African American organizations associated with elected officials, several labor unions, and Jesse Jackson supporters) that inundated the Board with forms and requests for information within the last months of the election cycle.

Many Board of Elections officials--as well as county organizations and political clubs--opposed most of the proposed reforms, whether by the advocates, the Mayor, or the Partnership and NYCEP. Others objected to or supported particular measures, such as increased funding for poll workers and new voting machines. Most importantly, they sought to retain the political organizational structure of the Board, which they did accomplish. Nevertheless, given the extent of the pressure to institute reforms, and the political leverage that was brought to bear for change, the Board and the party organizations slowly began to take steps toward modernization (albeit with strong resistance, and some back-peddling).

In the next section of this chapter, I analyze the "modernization" process of the City Board of Elections, and the differing roles played by these various actors. I then evaluate the impacts of modernization changes in the Board's operations on voter registration and participation in New York City.

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Advocates Approach to Modernization

The voter registration activity of advocates during 1983-84 led them to press for far reaching and thorough-going reform of the Board. Aside from their call for political reform of the Board's structure, advocates sought a fundamental overhaul of the Board's registration procedures and election day operations to eliminate existing barriers and to increase access. They strongly supported the goal of increasing the Board's "efficiency" through technological improvements that were embodied in the Partnership's recommendations, and actively worked to see such reforms implemented by NYCEP. In fact, many of the specific recommendations embodied in the Partnership's report and developed by NYCEP reflect proposals *initially* made by advocates over the previous two years. Indeed, examination of correspondence and testimony of advocates to state legislators, the Koch administration, the City Council, and to the Board itself, reveal numerous reform proposals, many of which were reflected in the Partnership's Report, and in the programs of NYCEP and its Oversight Board. By helping to shape the content and the process of the city's reform agenda, advocates exerted significant influence in modernizing the Board.

The coalition of voter registration advocates insinuated themselves directly in the process of shaping the reform of the Board and played an important part in insuring effective implementation of the modernization process. They sought official recognition by the Koch administration of the coalition and their previous efforts to monitor the Board's performance, and they requested that the Koch administration appoint two of their representatives to NYCEP's Oversight Board, the panel charged with supervising (and in

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some cases, re-shaping) the implementation of the Partnership's recommendations.[73] By all accounts, the advocates were able to exert significant influence in shaping the "modernization" of the Board, providing numerous specific proposals for changing Board' practices which were incorporated (detailed below).

Indeed, over the course of their voter registration activity during 1983 and 1984, advocates lobbied for far reaching changes in election law and in the practices of New York's election administration. Additional proposals for legislative changes or policy changes to improve the operations of election administration were submitted by advocates or supported by advocates in 1985.[74] With the problems of the 1984 elections fresh in the public mind and the advent of the 1985 mayoral/municipal election cycle, reform advocates lobbied for reform of the Board of Elections and election law with even greater vigor.[75] While they continued to lobby for a comprehensive set of reforms (detailed

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[73]The coalition initially urged appointment of Alan Rothstein of the Association of the Bar of the City of New York, and Lani Guiner of the NAACP Legal Defense Fund. As noted, Koch did appoint two advocates to the Oversight Board: Ms. Guiner and David Jones, Executive Director of the Community Service Society. Advocates also were able to attend meetings of the Oversight Board as observers. In addition, advocates successfully petitioned NYCEP to hold "regular, informal 'kitchen cabinet' sessions with the active, non-partisan voter registration groups, [because] we have given a great deal of thought to the issues you are now tackling and have an appreciation for the difficulties involved in modernizing the City's election system." Letter to David Moskovitz, Director of NYCEP from Gene Russianoff, Program Coordinator of NYPIRG, May 27, 1986.

[74]Advocates lobbied the Governor, State Legislature, Mayor, City Council, and the State and City Boards of Elections.

[75]The New York Times Editorial Board subsequently noted that, "volunteer groups [i.e. advocates] helped to steer the bewildered [voters] through the bureaucratic maze on Election Day [1984]. They also generated pressure for reform on City Hall and the Board of Elections. In response, Mayor Koch arranged for an inquiry by the New York City Partnership, a business group." September 7, 1985.

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below), advocates pressed Mayor Koch and the City Council to "take immediate steps that could improve greatly the performance of the New York City Board of Elections and its inspectors on election day [i.e. 1985 elections]."[76]

> Immediately after the chaos of last year's general election, a coalition of civic and voter registration groups--including the New York Public Interest Research Group (NYPIRG), Citizens Union, the League of Women Voters, Human SERVE and the Association of Legal Aid Attorneys--urged a series of simple short-term reforms to the Elections Board...Mrs. Dolen [Executive Director of the Board] pledged to implement these reforms, but none of them had been effectively or fully carried out by primary day.[77]

While the Board did make efforts to better prepare for the 1985 election--holding more training sessions for pollworkers, setting up information tables and distributing information to voters who had registered to find themselves unlisted at some poll sites--nevertheless, advocates contended these efforts were "minimal" and many significant problems occurred in the 1985 primary and general elections.[78] Indeed, advocates garnered greater force for their complaints by presenting systematic analysis of affidavit ballots used in the primary election as proof that the Board regularly disenfranchised thousands of eligible voters through mis-management and pollworker errors during the

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[76]Letter to Mayor Koch, March 13, 1985, from NYPIRG, Human SERVE, NYCLU, Citizens Union, Association of Legal Aid Attorneys, DC37, and the League of Women Voters; Advocates also pressed the City Board of Elections to take these same measures. A similar letter was sent the City Board of Elections, dated April 4, 1985, outlining what each agreed to following a meeting with Bea Dolen, Executive Director, NYC Board.

[77]Gene Russianoff, Program Coordinator, NYPIRG, "Unabated Problems in New York City Voting." Letter to the Editor, New York Times, September 12, 1985.

[78]New York Times September 7, 1985; October 19, 1985; November 5, 1985;

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1985 elections.[79]

To address such problems, advocates submitted numerous proposals that were reflected in various pieces of legislation and Board policies which were either considered or adopted over the intervening years, including:

- The re-design of voter registration forms to simplify them, by removing unnecessary and cumbersome data elements, which advocates contended constitute "booby traps". The current practice at the time was that local boards designed and printed forms. Advocates also proposed that designing and printing of registration forms be transferred to the State Board of Elections to insure uniformity and adequate supply. (A Senate bill, S-282 introduced in 1985 would have mandated this practice. The bill died. Finally, in 1992, the legislature passed a bill removing some of the data required on the registration form, and the State Board redesigned the form with assistance from a Washington D. C. based literacy group.);
- To relax overly stringent criterion used by the Board in determining voter eligibility, in the processing of registration applications, and in removing voters from the rolls. (Some Board members began to acknowledge in principle that such strict application of the election law might unnecessarily produce disenfranchisement in 1985/86. The Board did relax their enforcement of the letter of the law--reducing the proportion of registration applications rejected by the Board--during the late 1980's, but some of the former more stringent practices resumed after the 1993 election as outlined in chapter five.);
- To insure adequate and timely notification of election information to voters. (Beginning in 1986, the Board improved the format and content of its mailings, as well as the regularity and timeliness. However, some problems continue in this area.);
- To establish outreach programs to provide wide access to registration opportunities and election information in public locations and media. (The Board begin to advertise in 1988, after Koch and the City Council allotted funds for such activities, and the Board also began to provide forms to post offices and libraries in 1989 and 1990. However, due to the passive nature of these programs, merely placing display boxes in lobby areas with no effective monitoring systems, such programs have performed poorly.);
- Providing for postage-paid registration forms. (This was inaugurated in 1987, after Mayor Koch and the City Council supplied the funds.);
- Improvement of election day operations by increasing poll site accessibility for

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[79]Human SERVE's study found that 22% of affidavit ballots cast were improperly invalidated by the Board, amounting to 4-5,000 voters in off-year elections and 15,000 to 20,000 in a presidential election. Analysis of affidavit ballots are presented below.

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people with disabilities, expanding recruitment of poll workers, improvement of training materials and methods for poll inspectors, creation of coordinator positions for poll sites, and development of informational materials for the voting public, such as a voter's rights flyers, posters, etc. (Such efforts began in 1985/86 and much was accomplished to reduce election day disenfranchisement. Advocates continue to contend, however, that room for improvement remains. See performance measures below.);

- For the Board to use its authority to require all inspectors to attend training sessions and pass tests to demonstrate their knowledge of basic election procedures. Election law only required inspectors to be trained once every three years. The law allows for Boards to conduct more frequent training and testing, if so desired. Advocates contended that in New York City, "many poll inspectors fail to attend training sessions and do not take the tests but the Board of Elections is afraid to remove these individuals for fear of running out of available people. It has also been suggested that some inspectors--all of whom are appointed from a list supplied by the parties--would simply be unable to pass a test. Thus, the Board risks offending the party organizations that is the very heart of its constitutional and statutory basis."[80] In fact, moreover, inspectors are not even required to pass the test to prove competency--they can work even if they fail the exam. Furthermore, advocates argued that training sessions should also be held on evenings and weekends, to increase the opportunities that all inspectors would be trained, and that inspectors should receive annual information on changes in election law and procedure to review before an election, which was not current practice. (The Board did change its policy to require yearly training of poll workers, and expanded the times available for such training. Performance measures below reflect improved results over time.);
- Increase the pay for poll inspectors, and create split shifts. Advocates argued that more competent poll workers could be recruited with such changes. Before 1984, poll workers received $50 for a 16 hour day. Prior to that, the pay was $37. In 1984, the pay was raised $15 per day to $65. According to Bea Dolen, Executive Director of the City Board, the raise from $37 to $50 effectively attracted more inspectors, but the raise from $50 to $65 did not have that effect. (In 1987, the pay was increased from $65 to $85 where it currently remains. According to the Board, this raise in pay did increase recruitment, but only slightly. Split shifts, however, have not yet been instituted.);
- Advocates argued that the recruitment of inspectors should include intensive outreach to colleges and other non-political sources. The practice continues to be that the county political organizations submit lists of inspectors to the Board. Each borough Board office is responsible for recruiting inspectors, generally independently from the central Board.

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[80]Gene Russianoff, Staff Attorney, NYPIRG, Testimony before the Citizen's Commission on Civil Rights, November 26, 1984.

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(While the county political leaders finally did agree to let the Board go beyond the political clubs to recruit, advocates contend the Board has not seriously pursued outside sources. And, in fact, the overwhelming majority of inspectors still originate from the political clubs and district leaders patronage sources.);

- Require the Board to re-issue an instruction booklet for inspectors. (The State Board claimed to attempt to make instruction materials uniform and to develop a booklet for statewide use. They, however, did not do so. The City Board agreed to re-issue the original booklets for training in 1985. NYCEP later re-vamped the Board's training materials in 1986/7);
- To require local Boards to set up an information table, staffed by someone qualified to answer questions on voting and to direct people to the proper E.D. (Preliminary efforts were instituted in 1985, and "model polling site" program was established in 1986 for 100 of the 1,351 polling sites by NYCEP. In 1987, 600-700 poll sites were to be made part of the program, which would be city-wide by 1988, though this projected time was delayed.);
- Create a voter rights pamphlet, to be given to voters who's buff card cannot be found in the registration book. Poll inspectors are now required to put up a poster informing potential voters about affidavit ballots, but often do not actually post it. (A voter rights sheet and poster were created in 1987/8.);
- Post signs at poll sites advising voters of basic procedures to use voting machines. These signs would instruct voters that once they have pulled the lever of the voting machine to close the curtain, they should not pull the lever again until they have finished voting because many voters mistakenly lose their vote by not following this procedure. (Signs were developed with the assistance of NYCEP and introduced in 1987/8.)
- set up a fully staffed phone hot-line for a full two weeks prior to the elections and widely publicize it. (The Board established a phone bank with five lines from the early 1980's until 1988 when it was expanded to 15 lines. After continued pressure from advocates, the Board increased the number to 30 in 1990, and then to 70 in 1993.);
- Counting affidavit ballots submitted to the wrong election district. A bill sponsored by Peter Grannis, Democrat from Manhattan, would have protected people misdirected by inspectors, which invalidates their ballot. Originally rejected by Senate Elections Committee as being too susceptible to fraud, it was later amended to cover only ballots cast in the correct polling place, but wrong E.D. (This proposal was opposed by the Republican-led Senate until 1994 when it was passed in enabling legislation for the NVRA.);
- Establish a state voter guide, to be sent to every registered voter in the state, explaining ballot proposals. (Originally proposed in 1975 to include information on candidates also, this proposal has not been enacted state-wide. The City Board of Elections rejected a proposal for a similar voter guide in 1987. However, when the Campaign Finance Board was created in 1988, a Voter Guide was mandated for municipal elections.).

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Again, many of these proposals were eventually incorporated into the Partnership's recommendations and NYCEP's modernization initiatives, producing subsequent improvements in the Board's operations. These improvements, in turn, had impacts on registration and participation in subsequent elections in New York City. Improved performance statistics of the Board and increases in voter registration and participation are evidence of such improvements and corresponding impacts (Performance statistics and election data are presented below).

But while these improvements represent an important victory for the cause of democracy and the reformers, the nature and scope of changes to the Board's practices were more limited than what many advocates had hoped to achieve. Advocates contended broader and deeper reform would have produced even greater electoral improvements. As we shall see, the process of modernizing the Board's operations not only has been slower than planned,[81] but has not fully achieved even its stated goals. Moreover, the capacity of the Board to shape the implementation of reforms is formidable, which also undermined the thrust of many reforms. "Modernization" has been less than an unambiguous victory, particularly for reformers.

Advocates argue that the way "modernization" was conceived, organized and implemented--by the Koch administration and the New York City Partnership and

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[81] The Partnership's recommendations were to be implemented in phases by 1988. Each set of recommendations have been phased in after the dates initially established--some significantly--and others not yet at all. For example, the procurement of electronic voting machines was initially projected in the Partnership report and NYCEP plans for use in the 1988 elections. Due to several delays, however, the contract for such machines has not been finally approval, nor have the aging machines been replaced as late as fall, 1994.

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NYCEP, and by state and city elections officials--often limited the scope of reform by design. As previously mentioned, the notions of reform and modernization held by voter registration advocates--and other election experts[82]--differed in important respects from those held by the Koch Administration, the Partnership, NYCEP and its Oversight Board, and especially the Board itself, reflecting differing political interests and orientations. Contemporary reform advocates hoped for more fundamental changes in the Board's structure and operations. Advocates also perceive New York's political party structure and its leaders--and the Board which is beholden to them--as generally employing anti-democratic practices to maintain their power and privilege. Reformers advocate the creation of an independent election administration, insulated from direct political control of the parties, with a more professional staff. They pushed for removal of the Board from the political patronage system--the appointment of Commissioners and staff of the Board by the two major political parties' leaders. Such political reform was not forthcoming.

Advocates, nonetheless, successfully created significant pressure on the Board to implement reform. For example, advocacy organizations petitioned the media and editorial Boards to investigate the story of the Board and its ties to the party system. In fact, the New York Times Editorial Board concurred with advocates that more fundamental reform of the Board of Elections than merely the installation of capable management is needed to improve its operations: "As crucial [as technological improvements] will be the Legislature's political restructuring of the Board to guarantee its

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[82]Some of the state and national experts on election administration who tended to hold a view of modernization similar to advocates view include, Jerry Koenig in New York, and at the national level, Richard Smolka.

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long-term ability to function."[83] The Times continued that because the Board of Elections is a state agency whose staff is picked by the party leaders, there is "no accountability to the public" and leverage from outside the party system is required to produce this reform. Koch, "must try to bring change from the outside [which] demonstrates the most fundamental need, a political restructuring of the agency."[84] Such "political restructuring" of the Board has not yet occurred, nor was it ever seriously considered by public officials as part of the "modernization" of the Board.

Koch, The Partnership, and NYCEP

As discussed above, Mayor Koch had his own reasons for moving to modernize the Board of Elections, few of which had to do with expanding voter participation. Foremost apparently was to reduce the embarrassing criticism of the city's election system generated by advocates and the media, the responsibility for which--not completely rightly--was associated with the Mayor. Moreover, Koch had increasingly strained relations with black and Latino leaders that saw the obstacles to mobilizing their constituents as politically motivated. In the context of the mobilizations surrounding the campaign of Jesse Jackson, which gave a shot in the arm to political factions considering challenging the Mayor,[85] Koch increasingly felt the need to respond to these developments

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[83] Editorial, August 14, 1985. The Times maintained that the "Governor and legislative leaders somehow have to be formally involved in the hiring of staff and thus become more accountable." The Times position, however, overlooks the fact that the Governor and legislative leaders already are involved in appointing elections personnel--particularly of the state Board of Elections--if indirectly through their representatives and local affiliates.

[84] Ibid.

[85] For example, the Coalition for a Just New York. See Thompson, 1990.

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(especially given his reform roots). Taken together, these posed potential problems for his planned re-election bid in 1985.

The New York City Partnership Report

In response to the spate of criticism of the Board and its failures following the elections of 1984[86], Mayor Koch asked the New York City Partnership, a business organization headed by David Rockefeller, to conduct a "management and efficiency review" of the Board.[87] Rockefeller established a Partnership Task Force to conduct this study led by Frank Macchiarola, President and CEO of the Partnership. The assessment of the Board, however, was to be a "non-partisan review of the Board of Elections operations and procedures", and explicitly "non-political".[88] Following a six month study, the Partnership issued a report in August, 1985, "Agenda for Reform of the New York

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[86]"The Board's inability to handle a massive influx of voter registration applications in the Fall of 1984 was one of the major factors leading to the Partnership Report." (NYC Partnership report, "Agenda for Reform of the New York City Board of Elections", July 30, 1985, p. 42.)

[87] In a letter to David Rockefeller, Mayor Koch requested the assistance of the Partnership: "A task force of business leaders that would work closely with the Board--and take an in-depth look at such issues as modernization, planning procedures, information processing and the like--could go a long way toward providing the impetus for useful change. This is in the interest of all New Yorkers and is probably best so expressed by an organization such as your own. A review of this nature could be very time consuming. But the approach I am suggesting is more immediate: a three to six month review period, ending with a report with recommendations and guidelines for improvements in the Board's effectiveness and efficiency." Letter, 11-19-84.

[88]Frank J. Macchiarola, President and CEO of the NYC Partnership, complying with Mayor Koch's request, stated that the "bi-partisan political control [of the Board]...was not a specific subject of task force review." In fact, the Partnership held that "other localities in this state and throughout the country possess a similar electoral administration system [i.e. bi-partisan] and still provide efficient and effective service to all voters. We believe New York City can." Letter to Mayor Koch, August 13, 1985.

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City Board of Elections." Advocates contended its work reflected the Partnership's corporate perspective, and the Mayor's effort to limit public damage and shape reform. More importantly, the Task Force's report provides a revealing snapshot into the workings of the Board during this period.[89] Indeed, few "outsiders" have ever gotten as close to the workings of the Board.[90]

The findings of the Partnership's Task Force are significant on three levels: first, the Report documented the poor performance of the Board and gave legitimacy to complaints by voter registration advocates, and, more importantly, the Report provided an impetus for implementing changes; second, the Task Force's recommendations substantively defined the nature and scope of reform. The Partnership's recommendations incorporated the same or similar proposals to those put forth by the advocates, while emphasizing increasing the Board's "efficiency" through technological improvements along with administrative and procedural changes.[91]; and third, the way the Board reacted to and shaped subsequent efforts to implement reforms in particular ways revealed the influence

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[89]The Task Force was comprised of 20 members and staff, 14 of which worked for large corporate enterprises (including General Electric, New York Telephone Company, and Peat, Marwick, Mitchell & Co.), 4 from academic institutions and 2 from the Jewish Community Relations Council.

[90]As one top Board manager put it, "the Board put a wall up, and did not allow people inside. The Board has always been pretty much a closed shop: it didn't publicize what it does, didn't want a lot of press...,so no one really knew its operations. But, following the Partnership Report, the Board recognized the fact that it needed to open up its operations." (Jon Del Girono, Administrative Manager. Interview with author, December, 1992.

[91]The Partnership did not address more fundamental "political" reform which was urged by voter registration advocates.

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of political actors which dominate the Board, and produced particular impacts.

Findings and Recommendations of the Partnership Task Force

The Report detailed a range of significant problems that pervaded the Board's structure and operations. Characterizing the Board as "highly inefficient" and "archaic," with procedures which led to "the disenfranchisement of thousands of citizens," the Partnership said "there is a real acute need for massive and immediate in-depth reform."[92] Members of the Task Force who documented the Board's operations revealed an institution that was truly a relic of the past.[93]

The Partnership recommended an infusion of millions of dollars to address several areas of the Board's operations. In general,

> the improvement plan called for replacing the Board of Elections' manual procedures with automated systems and revamping its overall management and organizational structure, including the purchase and installation of modern voting machines and computerization of all major back-office operations. The plan also called for improvements in election day operations, including the recruitment, training and pay of election day

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[92]The Partnership report stated the Board's "normal processes" produce gross inefficiencies and are prone to errors, and that many procedures "are exactly opposite of what they should be."

[93]"It was amazing to me to find out how antiquated the Board of Elections was, and to find the we extremely gruesome physical setting that they were in. To take just one example, you would find these little old ladies sitting around who would copy all the voter registration buff cards, and then would cut the xeroxes to the right size [to fit into a binder]. And you could tell who was the senior staff because the most senior staff had scissors with two sharp points, and the others had scissors with one point broken off or both points damaged. It was just unbelievable. And these buff cards, three million of them, had to be manually sorted and put in binders that go out to the polls. The system was extremely manually and labor intensive, fraught with error possibilities and extremely stressed. The whole thing was amazingly backwater, and it came pretty close to collapsing in the 1984 election." Robert Elliot, Partner of Peat, Marwick, Mitchell & Co., who was a member of the Partnership Task Force. He later became the Chairman of the Oversight Board of NYCEP. Interview with the author, 9-17-92.

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workers, and steps to minimize logistical and supply problems that were by-products of the flawed manual operation.[94]

Specifically, the Partnership recommended that the Board:

- computerize and re-organize its overly cumbersome manually and paper intensive procedures for processing registration applications and the maintenance of registration records.[95] They recommended "automation and computerization of nearly every aspect of Board operations," including "ballot layout, poll place accessibility, boundary realignment requirements, and activity statistics"[96];
- overhaul election day operations whose "archaic procedures for processing voters at the polls, for verifying their eligibility, and for recording their votes are a significant cause of voting delays and disenfranchisement." To do so, they recommended improvements in the training of poll workers and expanding mechanisms to recruit workers, increase compensation of workers and volunteer citizen participation, and to create supervisory positions at poll sites for Board personnel;
- replace the Board's "obsolete voting machines [that are] major contributors to other election system deficiencies, making New York City one of the last major cities to rely on this outdated technology" (they cite a survey of thirty major cities in the U.S. where only eight cities continued to use these out-moded machines);
- re-organize the Board's management structure and personnel which has "fostered a staff environment of stagnation, low expectations and weakened Board

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[94]Partnership Report, 1985.

[95]The Partnership outlined how computerization could reduce the current registration process from 32 steps to 7. They note that these cumbersome procedures needlessly produce errors and likely lead to disenfranchisement. "Gross inefficiencies are routine, such as the photocopying of thousands of registration application forms and the trimming of these copies by hand with scissors to permit their proper filing."

[96] "Manual procedures currently followed have evolved over the years, usually around the capabilities or interests of individual staff members." (Ibid.) While this statement suggests the Partnership believed the Board's dis-organized procedures reflected a lack of coherent planning and organization associated with random and individual staff preferences, others have contested this notion. Some elections officials and other election experts have suggested that many cumbersome and illogical Board procedures are not random but instead reflect other factors. These include the desire of the two political parties to check and balance each other by requiring one or more persons from each party to engage in the same operations; or procedures designed to "safeguard" the ballot from fraud, and the like. "The whole organization is designed to prevent people who are not registered from voting, and allowing people who are registered to vote." (David Moskovitz, Executive Director of NYCEP. Interview with the author, 10-2-92.)

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accountability and all too often outside parties are brought in to perform functions that should be performed at the Board." Such re-organization, the report continues, should include "the centralization of certain responsibilities which are now fragmented... [to provide] clear lines of authority" which will afford greater effective short and long term planning and monitoring of overall operations; establish standard uniform practices and written procedures to replace current uneven and disorganized practices; and institute a training program for office staff (which did not exist). They also called for hiring new managers and creating new "technical" staff positions (such as computer programmers, imaging systems technicians, and financial auditors)[97]; and establish new specifications to procure supplies through competitive bidding to insure adequate inventories and accountability;

- establish a system to monitor distribution of registration forms--i.e. institute an active voter registration outreach program designed to expand registration in New York City because "no regular program was ever developed to provide [registration] groups with forms, information concerning polling places, eligibility requirements, registration deadlines, and new laws and procedures"; and to set up a telephone bank with well trained staff to provide greater public access to voting information.

Comparison of the Partnership's Report with recommendations and lobbying efforts made earlier by reform advocates clearly reflects similar criticisms of the Board's operations and recommendations for reform. For example, while emphasizing the need for technological improvements, comparison of the proposals put forth by advocates reveals the same perception that in-depth reform of voter registration procedures and election day operations are critical to address the Board's shortcomings. Moreover, both called for re-organization of the Board's management structure, and an increase in job standards and qualifications. Importantly, given the broader credibility of the Partnership, its recommendations became what was often referred to as a "blueprint for reform."

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[97]The average employee of the Board typically still does not have any college education, and many do not have high school diplomas. Moreover, the average age of Board staff was well into the 60's; in 1988 the average was 63, and in 1992 was in the early 50's.

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The Partnership's recommendations, however, were largely general and non-specific. How, in particular, should the Board's management structure be re-organized, or its processes be automated? What types of voter outreach programs should the Board establish? The Partnership Report was silent or short on specifically what forms its general recommendations should take, nor did it detail a suggested process and structure to implement the reforms. The Partnership, nonetheless, did call for the formation of a "blue-ribbon panel to support implementation of its recommendations." It also urged that the recommendations be implemented in several phases to be completed by 1988.[98]

NYCEP and its Oversight Board

To oversee and assist in the implementation of the Partnership's recommendations for modernization of the Board, Mayor Koch established the New York City Elections Project (NYCEP) and its Oversight Board in August 1985 following the release of the Partnership's Report. The role of the Oversight Board--the "blue ribbon panel" the Partnership recommended--was to "focus on setting policy and strategic direction for the Project [i.e. NYCEP]. In addition, the Oversight Board is responsible for monitoring the progress of the Project and insuring that a reasonable and acceptable timetable is maintained."[99] (i.e. to increase "accountability" of the modernization process, particularly

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[98]These latter two suggestions made in the Partnership's Report apparently reflect their perception that the Board "lacked of internal motivation" to make such changes. Moreover, such provisions would also give the appearance of greater "independence" from the Mayor or other political factions.

[99]Summary report of the first Oversight Board meeting held on October 21, 1985. The Oversight Board, which met quarterly, consisted of 16 members, several of whom also were on the Partnership's Task Force (the corporate executives from Peat, Marwick, Mitchell & Co., General Electric, Capital National Bank, and NY Telephone Co.), eight of whom were heads of mayoral agencies (and therefore Koch appointees), the Executive

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of NYCEP and the Board, and "to provide continuity" over time and administrations.)

NYCEP provides technical support to the Board of Elections in implementing the Partnership's recommendations for modernization. The role of the Project is to "help the Board develop the resources needed to manage the electoral system effectively. Once the new systems and programs are initiated and running effectively, full responsibility is turned over to the Board. The Project's responsibility is to provide the Board with the expertise and resources necessary to undertake the modernization initiative."[100] NYCEP was also staffed by Koch appointees and was made part of the Department of General Services, a mayoral agency, giving the Mayor substantive influence in shaping this process.[101] Thus, NYCEP and the Oversight Board were not only given the explicit mission of implementing the Partnership's recommendations, but also largely embodied the same approach and retained many of the same personnel. NYCEP's staff and mandate have been greatly reduced since 1994/5, and were moved into the Board of Elections facilities in 1995. The sole task of NYCEP is to assist the Board in installing new electronic voting machines.[102]

Director of the NYC Board of Elections, Bea Dolen, and two advocates (Lani Guinier, NAACPLDF, and David Jones of Community Service Society).

[100]David Moskovitz, Director of NYCEP. Testimony before the Assembly Election Law Committee, October 19, 1988.

[101]Koch appointed David Moskovitz as Director of NYCEP in the fall of 1985. Moskovitz, in conjunction with the Oversight Board of NYCEP, developed NYCEP's overall approach and plan of action to implement the Partnership's proposed reforms. NYCEP consisted of twelve staff (nine professional and three support staff) and was "housed" in the Department of General Services (essentially becoming a division of the department). Over course of NYCEP's work, they also facilitated the hiring of several consultants needed for automating the Board's registration system, and evaluating and procuring of alternative voting machine systems.

[102]Maureen Walsh, Director of NYCEP.

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Given NYCEP's mission and accountability to the Mayor--declarations of its "independence" to the contrary--NYCEP developed a strategy which strove to build momentum for reform of the Board and institutionalize changes, while at the same time reassuring the Board and the county political organizations that their governance of the Board would remain intact. David Moskovitz, the director of NYCEP, noted the dilemma:

> A lot of people felt that when we got started, we were not going anywhere. How many times does the government create commissions or a task force that doesn't go anywhere? A lot of people thought this was going to die in 30 days or so. People in the Board of Elections, political people, and the like. People told me I shouldn't take the job, that it would be a career ender, etc. Because the political forces and political infrastructure was resistant to change. And how the election law gave authority to county political leaders and how the Board was structured by the law would not allow for the opportunity for this kind of change. We were going up against extremely politically powerful people, so there was built in resistance to it. Why would these county leaders be inclined to give up political authority and power to the project?
>
> I had to figure out how to shape the relationship with the Board of Elections, which was a very important aspect of the project. No organization likes another organization coming in and looking over its shoulder and evaluating its job...They knew the Mayor writes the check for the Board, especially prior to the Charter change where the Mayor had even stronger authority in determining the Board's budget. So they had to let us through the front door. On the surface they were very cordial and responsive, but very concerned and not happy about the situation. There was certainly a lot of resistance on the part of the staff. They were concerned about the nature of the threat: was the Mayor trying to take over the Board? So there was a lot of tension and feeling each other out.[103]

Stephanie Dawson, who was a systems analyst for NYCEP at that time and later succeeded Moskovitz as Director, also noted the extent of this political dilemma facing not only NYCEP, but the Board and the Mayor as well:

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[103]Interview with the author, 10-2-92.

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> In 1984, we had a fiasco of an election. The election system was considered to be in a state of chaos, and that there was a lack of accountability. The press was filled with how machines were breaking down, poll workers not being trained, voters uniformed about where their poll sites were, buff cards missing, the list goes on and on, producing disenfranchisement on a grand scale. Those are observable problems and serious business issues. And we have an agency [the Board of Elections] that was turning back money or not investing in its infrastructure. They had not a single pc [personal computer] in 1985, and antiquated typewriters! How can you run an agency that was contracting most everything out?
>
> The situation dictated that change needed to happen or there was going to be a failed election. Koch seized an opportunity to make change. There was a dynamic happening there. Everything was up in the air about what 'reform' would be, and how reform would proceed - whether the Mayor would play a bigger role, whether the Board would become civil service and non-partisan, and so on. It was not possible for a Mayor not to do anything about the situation.[104]

To begin to diffuse these tensions and begin to resolve these issues, NYCEP established ongoing weekly meetings with personnel from the Board of Elections to examine Board practices and to begin planning to implement changes in the aforementioned areas.

> This process allowed for a lot of venting, and got certain fears out on the table, which helped us move forward to begin to automate the back offices. And what we found--besides vast disorganization and gross inefficiency--was that different borough offices often did things differently. In some cases, these differences apparently produced different impacts. For example, when Board sends out a welcome notice to new registrant, if it comes back to Board, do you send a second notice or cancel the voter right there? The election law does not specify, and there was some variation in how this and other such things were handled which had an impact on whether a voter stays registered."[105]

Given its mission to implement the Partnership's recommendations, and propelled

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[104]Interview with the author, 10-22-92.

[105]David Moskovitz, Director of NYCEP, interview with the author, 10-2-92.

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by public pressure from the advocates and press, NYCEP moved the reform process forward--even in the face of resistance from the Board. NYCEP used developments at the state level to give greater legitimacy to its efforts. The Project drew upon "the experiences and expertise of election-related entities in New York State including the State Board of Elections, the Legislative Task Force on Reapportionment, the New York State Temporary Commission on Voting Machine Equipment and Voter Registration Systems", and several consultants to advance the automation of the Board's registration system and to procure electronic voting machines.

NYCEP's documentation over time of the Board's deficiencies gave greater credence to critics claims and further propelled reform of the Board's operations. For example, with regard to election day operations, NYCEP helped to counter the Board's denials that significant problems pervaded elections.

> A majority of the evidence supporting this perception [of significant problems at poll sites] to date has been anecdotal. Yet recent documentation, including the New York City Partnership report and surveys of election chairpersons and police officers who worked at the 1985 primary and general elections, verifies the existence of serious problems with the Board of Elections' management of election day operations.[106]

In addition, NYCEP used a "top-down" process as a means for NYCEP to drive

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[106]"A Vote for Better Service: NYCEP's Proposals to Improve Election Day Operations", April 28, 1986. NYCEP documented "systematic problems we have identified...[that while] not adversely affecting every polling site throughout the city, have caused enough frustrations for voters and inspectors to result in...inconveniences, delays, and disenfranchisement." Their list of poll site "problems areas" included: 1) insufficient staffing of poll sites; 2) lack of and poor training of workers; 3) information deficiencies to voters (misinformation and lack of needed information); 4) shortages of tools and supplies for poll inspectors; and 5) poor poll site conditions/facilities.

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the reform process forward, even in the face of resistance and opposition by the Board. The "top down" process attempts to "define the functional requirements of a system to be developed,...and is designed to ensure that the users of the system (the Board of Elections) define how the system 'should' operate." First, NYCEP documented "the Board of Election's problems, management objectives, functions, users and data requirements. The user specifications form the basis by which to evaluate alternative system development approaches." NYCEP then "refined" the user specifications to develop technical requirements for the system.[107] This "top down" process allowed NYCEP to forge ahead by establishing guidelines and parameters which "drove the way the Board incorporated reforms."[108] For example, in establishing several "technical" positions--computer programmers, imaging systems technicians, financial auditors--NYCEP set standardized qualifications and job descriptions necessary for each of these new personnel. So even if such staff were hired through the usual channels of the political party system, the personnel would be required to have credentials or experience demonstrating a level of skills to enable them to be proficient in these newly created positions. Moreover, NYCEP sought to "establish an independent screening mechanism" to "ensure that individuals are hired who can meet the necessary qualifications for the job."[109] Despite the Board's--and in particular the county political organizations'--initial

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[107]December Status Report to the Oversight Board of the Elections Project, p. 2

[108]Interview with David Moskovitz, Executive Director of NYCEP. Similarly, in an interview with the subsequent Director of NYCEP, Stephanie Dawson, she confirmed that she also employed use of this "top down" method to achieve the project's goals.

[109]NYCEP Status Report, July 13, 1987.

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resistance to adopt these proposed changes[110], NYCEP did establish standards for new technical positions.

> One of the most fundamental changes that we made at the Board was to require that the Board open up the hiring process outside the county political leadership, and to place a greater emphasis on merit, especially in technical areas. We said we want to set up this technical process [such as computerization] and it will require particular skilled staff, and we set up a third party [Peat, Marwick,Mitchell, & Co.] to review the candidates to be hired. In the past, county leaders recommended staff for each position. This now was more specialized. And we negotiated this with the Board. We agreed on certain job specifications, salary, etc. This was not their preference. Some members of the Board recognized that the Board needed to change and were more progressive in accepting this change, where others were very opposed to it. The Democrats were a little more supportive of this than the Republicans, because the Democrats feared the Mayor's take over of the Board less than the Republicans did. And they all realized that the Mayor wasn't going to put the money up and they couldn't publicly defend having people in there that couldn't do the job. The Board wanted the option to continue to recommend candidates for these positions, and we had no problem with this so long as the person had the skill requirements. The Commissioners still ultimately makes decisions about hiring and firing, per the election law. So, we were shaping it in a way that was sellable to the county leadership and the Board. It was a protracted negotiating process, getting ten county leaders to agree. And then the hiring was another protracted and contentious process. Now the Board advertises for positions in the New York Times, where it never did that before.[111]

Similarly, NYCEP employed this "top down" methodology to develop standards and guidelines for the Board regarding numerous procedures, such as how registration applications would be processed, stored, and maintained, or how poll lists would be

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[110]"One of the major obstacles to achieving the first step, instituting a screening committee, is reaching agreement on its composition with the Board and the county political organizations... Given the possibility of protracted negotiations [because of Board and party resistance], there could be a lengthy delay before the Board can begin to fill the new positions." ibid.

[111]David Moskovitz, interview with the author.

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selected and organized, and what minimal criterion would be used to select electronic voting machines. Thus, by using "technological methods and professional standards to drive design", NYCEP propelled the Board forward towards implementing reforms and modernizing.

NYCEP also set up "joint project teams" made up of Board staff and NYCEP staff to implement particular reforms, such as computerization of registration and other processes, development of signature digitization systems (SCRIBE), and procurement of electronic voting machines.

The Response of the Board and the Party Organizations

The Board began, slowly and incrementally, to acknowledge various problems highlighted by advocates, the Partnership and NYCEP, and to allow implementation of some of the changes recommended. Initially, the Board reacted incredulously and defensively to criticisms leveled by advocates, the media and the Mayor.[112] When the Partnership's Report was released, however, the leadership of the Board publicly gave tepid support to some of the recommendations, such as acquisition of electronic voting machines and increased compensation of election inspectors. Faced with the real potential threat of law suits against the Board brought by advocates, and increased control and

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[112]As previously noted, the Board maintained that the criticism surrounding the 1984 election was unfounded and exaggerated, declaring that "the elections went well." (Bea Dolen, Executive Director, NEW YORK TIMES, Nov. 12, 1984) Board staff have, in fact, maintained that much of the "accusations and criticisms of the Board are more often than not untrue." (Interviews with Naomi Bernstein, William Cro, Danny DeFrancesco, et. als.) Indeed, advocates noted that the Board reacted to their criticisms and recommendations "incredulously, surprised, hurt and resentful, feeling instead that they are doing all they can or is necessary." (Gene Russianoff, interview with the author.)

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oversight by the city--and, more importantly, loss of funding--the Board moved to implement modernizing initiatives, even as it sought to shape the reform agenda for its own purposes.

Similarly, the party organizations--like most of the Board's personnel--reacted negatively to claims by advocates, the Partnership's findings and recommendations, and NYCEP's initiatives. In fact, initially most of the Board's personnel and party leaders perceived there to be few significant problems in the Board's operations, nor that significant change was needed.[113] Moreover, many Board personnel reported a perception pervading the agency of the Partnership's Task Force and NYCEP, and especially the advocates as "outsiders or intruders" whose "meddling" then "forced" the Board to under take what they perceived as significant and often "unreasonable" changes.[114] Some Task Force members and NYCEP personnel also reported that the Board at times strongly resisted efforts of the Task Force to complete its study, and obstructed NYCEP initiatives

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[113]This was confirmed in interviews with Board commissioners, executive staff, clerks, whose tenure at the Board dated back to this period, and Partnership Task Force staff who conducted their study.

[114]Ferdinand Marchi, who became President of the New York City Board of Elections, acknowledged "that initially there was resentment [by the Board] because you have outside agencies coming in and telling you what to do and so forth..." He reported that Board personnel "viewed [these agencies] in a suspicious manner, that they are trying to take over the operation and everything else." (Testimony before the Assembly Election Law Committee at Public Hearing, 10-19-88.) Similarly, Board employees also feared the intervention of these outside agencies. Richard Wagner, of local CWA 1183, the union representing Board personnel (except management) stated that there was "too much interference in the Board's operations by Koch and NYCEP." (Testimony, public hearing before the Assembly, 1988) Indeed, NYCEP staff assigned to initially begin work with the Board on modernization also reported this fear and resentment on the part of Board staff.

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to implement recommendations.[115] Board personnel also expressed a measure of natural anxiety about potential job loss and re-structuring.[116] Reportedly the party organizations also feared the loss of one of their last bastions of patronage and influence over the Board.[117]

The Board and party leaders tended to see the Board's biggest problem--which they contended produced deficiencies--was insufficient funding. "We are locked into an antiquated system. We want to be automated. It is only a question of money."[118] It is generally true that election administration is under-funded, earning the characterization as the "step-child of government."[119] Indeed, Boards of Elections do make convenient

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[115]David Moskovitz, Director NYCEP.

[116]"One of the primary concerns of the staff of the Board [and its union, CWA Local 1183] is the impact the modernization program will have on their jobs. Many Board workers fear that automation will lead to elimination of positions." (NYCEP Briefing Document) Security issues and concerns regarding possible election fraud were also raised by Board staff, as well as health and safety concerns about video display terminals.

[117]This was expressed by members of NYCEP and several Board staff. The other main source of patronage for the parties--in the form of jobs--other than positions at the Board of Elections are judgeships. However, reform of the election process also could mean loss of control over the election of judges.

[118]Robert S. Black, President of the Board of Elections, New York Times, November 12, 1984. The Times correspondent, Josh Barbanel, also wrote, "Mr. Black said the problem was not management, but a lack of support for an agency that is forgotten all but a few days a year." According to the Times, the New York City Board of Elections, however, had not made concerted efforts to petition the city for increased funds for such automation.

[119]Board commissioners and management, as well as county party leaders have consistently maintained the view that election administrators are "overworked, vastly underpaid, poorly housed, and starved for resources." Uniformly, they hold that Board employees are "working under extremely difficult circumstances and doing a Herculean task." (George Friedman, Bronx County Democratic Leader, Testimony at public hearing held by Assembly, 1988.) Indeed, even vocal critics of the Board's operations and

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"whipping boys" for elected officials and critics of election processes.[120]

> Machine breakdowns, late openings of polls, election worker shortages, missing buffs, late processing of voter registrations and the lack of documentation by the Board were highlighted. To some degree many of these problems existed. To many of us, these are not unfamiliar problems or concerns. However, it must be noted that *for too many years the state would mandate increased responsibilities without mention of increased funding.* In New York, the city's severe fiscal crisis drastically cut personnel and other personal service dollars. *Little or no guidance was offered by the State Board, however, on how to meet all of our responsibilities with existing funds.* We must not forget that at the same time politics itself was changing, causing inspector shortages, increased petition challenges and lawsuits. 1984 forced both the Board of Elections and the City of New York to focus on the resources necessary to conduct elections properly and fairly.[121]

Pay for election day workers, for example, has been extremely low, providing little incentive to recruit more competent workers and fill all positions. Indeed, NYCEP maintained that some poll site deficiencies are related to a lack of resources for adequate training of workers and sufficient supplies at sites. "A lack of resources prohibits the Board from providing proper training materials or utilizing equipment integral to a

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political structure also noted the plight of Boards. Franz Leichter, State Senator from Manhattan characterized the Board as the "stepchild of government" which is "starved for resources." (ibid.) This characterization of the conditions of Boards of Elections around the country was also expressed by national experts in election administration (Richard Smolka, Emmet Fremeau, Carol Garner, Marie Garber, Robert Montjoy, and Edward Packard) and in New York (Tom Wilkey, Mike Losinger, Jerry Koenig, Danny DeFrancesco, Jon Del Giorno).

[120]Analogy to Morris Fiorina's characterization of Congress' treatment of bureaucracy within the "Washington establishment" is perhaps apt. Congress:Keystone of the Washington Establishment, 1977.

[121]Daniel DeFrancesco, Executive Director of the New York City Board of Elections, speech at the Conference of the New York State Election Commissioners Association, September 7, 1990. Emphasis added.

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successful training session."[122] Regarding the training of such workers, the Board only provided limited times for training sessions--during working hours (no evening or weekend sessions)--and only a $5 stipend for attending a training session which "is insufficient to attract them [workers] to classes."[123] With increased modernization efforts to address the Board's deficiencies, funding for these and other improvements to the Board was put into place by the Koch administration beginning in 1985/86.

The Board and party leaders also contend that New York's election law limits what the Board can do and contributes to the Board's problems. For example, regarding recruitment of poll workers, the election law (section 3, 1985) requires that the Board fill such positions from lists provided by the county party organizations, and that they be equally divided between the two major political parities. As mentioned previously, the number of political clubs has declined since the 1960's, and they have lost capacity to recruit members. This has produced a smaller pool of poll workers for parties to draw on. Thus, the Board argues, they can only go outside the party system once they have exhausted the party lists, and still must use only Democrats and Republicans (not independents or other party members). Legal opinion of the New York City Law Department corroborated this interpretation of the election law.[124] Advocates countered that even within these parameters the Board could--but did not--expand its avenues outside the party system to recruit workers. For example, advocates urged the Board to

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[122]"A Proposal for a Uniform, Decentralized Election Day Training Program", NYCEP, April 2, 1987.

[123]ibid.

[124]Memo from Stephen Louis to Stuart Osnow, dated January 7, 1986.

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recruit on college campuses and through a variety of media outlets. Critics argued the Board should make such efforts because of the persistent shortages and incompetencies of the political clubs to adequately fill the need.

The Board and county political leaders, nevertheless, have consistently argued that the current political process and structure of the Board provides the best system to run elections. They contend that Board employees and election day workers recruited through the political club system are among the most dedicated, hard working, and capable workers in any government agency.[125] Further, the Board and party leaders argue that bi-partisan control of election administration provides incentives for each side to perform well under the other's scrutiny. Lastly, they argue, bi-partisan composition is needed to safeguard the election process from fraud: that the "checks and balances" bi-partisan control provides is the best mechanism to insure fair elections.[126]

Yet, once modernization of the Board was recognized to be a fate accompli, attention turned toward implementation of reforms. Indeed, even the leadership of the

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[125]With little exception, the leadership of the City and state Boards--and party leaders--consistently maintain this high regard of their staffs. They claim, for example, that Board employees are better than civil service workers--are loyal and hard working--"which you couldn't expect from civil service workers." (Robert Black, Commissioner of the New York City Board, Testimony at public hearing held by the Assembly, 1988.) "I view them amongst the hardest working people in society." (George Friedman, Bronx Democratic Leader, ibid.) Even when a worker is fired or not re-hired as a temporary or election day worker--a rare occupance--the Boards maintain that these are exceptions to the rule and merely "bad eggs". They do, however, admit the decline of the party and club system has hurt Boards' capacity to recruit and fill all positions.

[126]Many Board employees and party leaders--and some elected officials and elections experts--maintain that registration and vote fraud continues to occur, or at least is possible, even while evidence for such fraud is non-existent or anecdotal.

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Board would proclaim that "a new Board of Elections has been established" that now "embraces reform" and is working to implement changes.[127] The way the Board implemented some of the modernizing reforms, nevertheless, continued to be contested at particular junctures.

The Pace and Process of Modernization

Critics have charged the Board with being indifferent, lack-luster, or merely giving symbolic support to modernization, or that the Board has only partially implemented particular recommended reforms, or even, more insidiously, thrown up road blocks and overtly sabotaged some modernization efforts.[128] Typical criticisms, which characterize their views, include:

> Massive disenfranchisement in New York City is well documented. In the 1984 and 1988 elections, tens of thousands of people were turned away from the polls because of administrative errors, broken machines, untrained inspectors, faulty procedures, incorrectly processed registration forms and misleading voter poll information cards. The reasons for the ongoing administrative breakdown of the Board are also well documented and well known. The Partnership's findings still hold true today. The Board still has no written procedures, still conducts elections with voting machines which are hopelessly out of date and worn out, and still does not have a computer facilitated operation for processing the millions of registration forms it

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[127]Bea Dolen and Fred Panteleone, Executive Director and Deputy Executive Director, respectively of the New York City Board of Elections. Similarly, Danny DeFrancesco, the Administrative Manager and who replaced Bea Dolen in 1988 as Executive Director, and Jon Del Giorno who became Administrative Manager, have presented the Board as a "new Board that does not do things the old way any more."

[128] "Critics" primarily refer to advocates--particularly NYPIRG, Human SERVE, Common Cause, and the Community Service Society--but also include several NYCEP employees, some staff members of the Koch and Dinkins mayoralty and City Council staff, a few Board employees, and most election experts familiar with the City Board.

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receives each year."[129]

> the Board hides behind the law. It could do much more regarding expanding voter registration opportunities, implementing reforms, and improving its operations if it wanted to... It is like moving a mountain [to get them to change or act]. We had to go back to them again and again with what we thought were modest proposals, such as placing a Board employee at poll sites as an information person.[130]

> Why the [continued] poor performance of the Board? In 1984, the problem was inadequate resources and poor management. Since then the city has devoted major new resources to the Board's work. But today the heart of the problem remains the Board's inadequate management.[131]

Indeed, the Board does possess considerable capacity to shape the reform process. Board personnel, for example, limited access to information about the Board and restricted Task Force members, advocates and the media to interaction with only particular Board staff.[132] Although over time relations between the Board and "outsiders" grew more cooperative--producing important improvements in the Board's operations--when public scrutiny and pressure ebbed, nevertheless, implementation of reforms were often delayed or thwarted. In 1986 the Board reluctantly agreed to hire thirteen new technical staff to implement automated processes, but had hired only six over a year and a

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[129]Vincent Montalbano, Director of Political Action, DC37, Testimony at public hearing of Assembly Election Law Committee, October 19, 1988.

[130]Alan Rothstein, representing the Citizens Union, Testimony at public hearing of Assembly Election Law Committee, October 19, 1988.

[131]Gene Russianoff, NYPIRG, Testimony at public hearing of Assembly Election Law Committee, October 19, 1988.

[132]Interviews with members of the Partnership's Task Force, NYCEP, and advocacy organizations.

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half later, thus delaying implementation of these changes.[133] Finally, in 1990, the Board attempted (un-successfully) to de-fund NYCEP and re-allocate their appropriations to hire employees at the Board.[134]

Moreover, the modernization process appears to have been compromised by the coincidence of similar political interests (and in some cases individuals) that are represented on the Board and in the reform agencies,[135] especially give that Koch and the county political organizations had somewhat accommodated to each other. As previously noted, critics claimed that as Koch made peace with the county political organizations[136]--believing he needing their political support for electoral victory--this also had the consequence of limiting the nature and scope of reform.

In any case, the explicit mission of NYCEP was to merely initiate implementation of the Partnership's recommendations and then turn over to the Board control and responsibility for each activity. Indeed, as implementation of reforms preceded, both NYCEP and the Board increasingly accommodated themselves to each others concerns

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[133]David Moskovitz, testimony before the Assembly Election Law Committee, October, 19, 1988.

[134]Testimony by Danny DeFrancesco before the Government Operations Committee of the City Council, 1990.

[135]Several observers had initially raised concerns and questions about such potential conflicts of interest which might compromise the degree of "independence" and the effectiveness of the modernizing agencies and Board personnel. The Executive Director of the Board was made a member of the Oversight Committee of NYCEP, and several NYCEP staff, who worked for the Department of General Services (DGS) a mayoral agency which has dealt with the Board over the years around various supplies and the like, and staff from previous mayoral administrations.

[136]Mollenkopf, 1992.

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and orientations. For example, NYCEP increasingly worked to repair negative public perception as much (or more) than improve the Board's operations. "Our project is seeking to reverse the negative public perception of the Board and to enhance the Board's ability to manage election day operations and service voters in the future."[137]

Nevertheless, driven by its mission to implement the Partnership's recommended reforms--even in the face of resistance from the Board--substantial reforms were instituted and significant improvements in the Board's operations ensued. The improvements in the Board's operations through computerization of registration files, the introduction of postage-paid voter registration forms, management and staff improvements, increase outreach to registration organizations and the public (by making forms available in post offices, libraries and high schools), expanding and improving election information to the public (expanding telephone services and public information advertising), and improved election day operations (including establishing the "model poll site" program that increased the training and testing of workers, expanded recruitment and pay of inspectors, improved the organization of poll sites and clarified election day procedures, and provided useful voter friendly information to the public)--all combined to facilitate improved performance of the Board. These improvements in the Board's practices, in turn, contributed to decreased disenfranchisement and increases in voter registration and voting, albeit modest. (Data on such improvements are presented under "Board Performance Measures" below. Voter registration and participation data are also provided below.)

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[137]"A Vote for Better Service: NYCEP's Proposals to Improve Election Day Operations", April 28, 1986.

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To be clear, the leverage on the Board that was brought to bear from several arenas proved decisive in moving the Board to modernize: the intense public criticism in the media and by advocates--coupled with the threat of law suits by advocates and continued public scrutiny by investigative journalists--was critical, especially in prodding the Koch administration to take action to improve the Board's performance and public image, which in turn, brought pressure on the City Council and the political organizations to support reform, at least publicly, as well as on the State Board of Elections. In addition, critics helped prod liberal Democrats in the Assembly and Senate, and the Governor's office to support legislation necessary to move the Board forward to modernize (particularly, for example, for changes in election law to allow the purchase of electronic voting machines and automation, requiring boards to prepare outreach plans for voter registration, and the like.)

Modernization Developments

In October 1986, a report was released outlining what progress the Board had made in implementing the Partnership's recommended reforms.[138] The report provided a snapshot of what had been accomplished by that date, and what remained to be done. As previously mentioned, the Partnership had identified three main areas for modernization of the Board: computerization of registration and other processes, replacement of mechanical

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[138] "Status Report of the Agenda for Reform of the New York City Board of Elections, October, 1986." The status report was issued to the public by the Partnership and the NYCEP Oversight Board. Quarterly Status Reports were also produced by NYCEP, primarily for members of the Oversight Board, but advocates and other interested parties requested and obtained copies. So, advocates were able to monitor the Board's progress in modernizing, and to intervene at particular junctures. I had access to these reports and drew upon them for the following account and analysis.

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voting machines with electronic machines, and improvement of election day operations. And as the Partnership Task Force had originally noted in 1985, there existed several legislative impediments to modernization which needed to be addressed to proceed. Three of the major legislative issues were resolved in 1985 when the Legislature passed enabling legislation allowing municipalities to 1) procure electronic voting systems; 2) computerize voter registration records; and 3) digitize voters' signatures. This legislation removed the "legal" obstacles to modernization, and cleared the way for the Board to move forward.

Procurement of new voting machines - This process was complicated by fact that there are only three manufacturers which produce electronic voting machines, "thereby requiring a comprehensive testing and evaluation program". Moreover, given that new machines--over 7000--were estimated to cost $30 million, NYCEP was moving forward to provide such testing and evaluation. NYCEP, nonetheless, expected the city would be able to obtain its first machines the 1988 election. As we shall see, the first machines were not used until 1993, and then only to test them in the 75th Assembly District in the Bronx.

Automation of registration and related functions - Because of the large volume of registration records, 3.1 million, "automation will be difficult and will be implemented in phases with the assistance of Arthur Anderson & Co." A pilot system was scheduled for the first quarter of 1987.[139] This system, The Election Administration System (EASY), became operational in 1988, "streamlining the registration process by eliminating major bottlenecks," providing information to clerks that used to have to be searched for on buff

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[139]Status Report. The pilot program also allowed Board personnel to be trained and convert system over.

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cards in bins of different Election Districts and Assembly Districts to determine potential duplicate registrations, poll site information, and providing for "computer-generated voter notification packages to replace the hand-written cards which were time consuming and burdensome to produce."[140]

Election day operations - To address the "persistent shortage of election inspectors, poor inspector training, poor dissemination of information to voters and the absence of Board presence to manage poll sites," the Elections Project pressed the Board to reverse its neglect of this area. NYCEP developed a three-year improvement plan. The NYCEP plan included establishing "Model Polling Sites" that would be phased in over three years. The "model poll sites" would: 1) establish a poll site coordinator who would be specially trained to manage large poll sites, and handle and expedite any problem situations;[141] 2) overhaul the Board's training program, including establishing a unit in the Board responsible for year-round recruitment and training of poll workers, create new instruction materials for poll inspectors;[142] and 3) establish "information centers" [i.e. tables] within

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[140]David Moskovitz, Director, NYCEP. Testimony before the Assembly Election Law Committee, October 19, 1988. Moskovitz also noted that this new system can process between 15,000 to 20,000 registration applications per day, and that over the last two weeks before the registration deadline the Board processed over 160,000 forms.

[141]Coordinators are trained for an extra three hours and are paid $150 per day. In 1986, 100 coordinators were used, 285 in the primary election in 1988, and 600 in the fall of 1988. "However, problems with recruitment of the polling site coordinators have been in evidence, particularly in Manhattan and Brooklyn." NYCEP Oversight Board Status Report, July 15, 1988.

[142] "The centerpiece of the Election Day Operations 1987 agenda is the implementation of an enhanced election day worker training program. In analyzing the effectiveness of the Board's course, several limitations were discovered, including a scarcity of training sites and a lack of a standardized curriculum." NYCEP Status Report, July 13, 1987. NYCEP pressed the Board to "expose as many inspectors as possible to a

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poll sites staffed by information clerks to insure voters get to their proper election district (ED), create new signs and posters, and other informational materials for voters.[143] The original plan called for 100 poll sites to be "model poll sites" in the 1986 election (69 actually participated in the program in the 1986 primary election), 600-700 in the 1987 elections, and city-wide model sites by 1988.[144]

Recruitment and training of poll workers - Following criticism of advocates, NYCEP noted that "Management of the election day workforce has historically taken a back seat to registration and other Board activities. Providing a sufficient number of workers has been seen as the duty of the county political organizations, not the Board, despite the fact that the state election law obliges the Board to fill poll worker vacancies."[145] In 1987, the stipend paid to pollworkers was raised from $65 to $85 to provide better incentive to recruit competent and sufficient numbers of workers. The status report noted that meetings were taking place between political leaders and NYCEP and Board, with

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standardized high quality training class." And with the assistance of the State Board of Elections and the City Board, NYCEP developed a standardized curriculum and a certification process. The number of workers who received this new training was very limited, however, although there were plans to expand in 1988.

[143]In 1986, NYCEP "revised the forms and materials used by election day workers and the sign age hung in polling sites to improve their legibility and utility, [including] the production of a single booklet consolidating many of the forms inspectors must fill out on election day. The booklet also provided step-by-step instructions for working the polls on election day." NYCEP Status Report, July 13, 1987. Other improvements to such election day materials were made in 1987 and 1988.

[144]However, only 300-400 sites were implemented in 1987.

[145]David Moskovitz, Director, NYCEP. Testimony before the Assembly Election Law Committee, October 19, 1988. The Partnership had urged expansion of recruitment outside political sources.

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representatives from business, non-profit and advocacy organizations to discuss recruitment issues. Echoing advocates sentiments and voicing NYCEP's frustration with the intransigence of the Board at the time, Moskovitz said,

> The Board needs to get tough and enforce deadlines for pollworker applications. It must aggressively step in when District Leaders fail to provide sufficient numbers of workers. It must commit the necessary resources on a year-round basis to aggressively recruit, train and manage this massive, yet critical workforce. Implementing such an effort will take additional staff resources in the borough offices. Only with such a commitment can New York City voters receive the treatment at the polls that they deserve.[146]

By the end of 1988, NYCEP would report that "this lack of emphasis [by the Board] on recruitment, training and assignment of election day workers is now beginning to change."[147] Moreover, the newly implemented automated system (EASY) now provides a tool to efficiently manage poll workers, and a full-time person was hired by the Board to coordinate pollworker activities city-wide.[148] The rate of inspectors who were trained rose from well below 50% in the mid 1980's to 83% by 1994. Indeed, the Board acknowledged that such improvements "enabled the Board to concentrate on training its work force to better process voters and focus attention on procedures and problem solving techniques in order to avoid the disenfranchisement of individual voters. The Board has experienced a decrease in the number of valid Affidavit Ballots, in complaints

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[146]Ibid. In fact, according to NYCEP, one-third of the poll workers who worked in the 1988 September primary election did not attend training sessions.

[147]Ibid. On September 27, 1988 the Commissioners of the Board of Elections, voted to allow the Board to give priority in filling pollworker slots to individuals who have been trained, instead of using untrained workers who are sometimes nominated by district leaders at the last minute.

[148]NYCEP Status Report, January, 1989.

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and in number of voters turned away at the polls."[149]

Public information - Advocates had strongly criticized the Board for not providing the public with election information, such as information regarding registration requirements, timely communication of election dates, of poll site locations and information as to how to properly cast a vote. Indeed, the Partnership's Report and NYCEP concurred that the Board had failed to adequately disseminate election information widely, timely, and in many cases, correctly. In fact, NYCEP noted that the Board has an "obligation to provide citizens with a variety of information pertinent to the election system...[as] specified in the New York State Election Law and by the requirements of the Voting Rights Act."[150] Much of the effort to improve information to the public was merely to "improve the public image of the Board of Elections... By improving its ability to provide information, the Board will be able to deflect some of the persistent criticism that has come from good government groups, politicians, editorial Boards and other news sources. This will improve the Board's credibility."[151] Nevertheless, important improvements were implemented in 1986: the Board's telephone system was examined with a view to expanding its capacity to handle incoming inquiries (albeit by a modest and insufficient amount, increasing the number of phone lines from two to six in 1986, and in 1988 the phone bank was expanded to 30 lines with terminals to the EASY system.); its mailings to

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[149]Memo from Daniel DeFrancesco to Louise Altman, March 14, 1995. I present data on affidavit ballots below.

[150]NYCEP briefing paper, June 19, 1986. NYCEP recommended that the Board create a public information officer, and in the interim, seek pro-bono services from public relations and advertising firms, which the Board did obtain.

[151]ibid.

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voters were simplified and mailed more regularly, and election day materials such as posters were re-vamped. In 1988, the Board launched an advertising campaign developed by Smith/Greenland, Inc., running from late August to October aimed at encouraging registration and reminding people that if they had moved they needed to re-register.[152]

Organization and management - NYCEP revised the organizational structure of the Board and created thirteen new management and technical positions, claiming that "it is vital to the long term success of the modernization program that this reorganized management structure be implemented and that the new positions be filled with professionals able to offer a high degree of competence and expertise."[153] Yet, by the end of 1988, David Moskovitz, Executive Director of NYCEP, testified to the State Assembly Election Law Committee that,

> In July. 1987, the city provided funding for thirteen new positions at the Board of Elections to support the modernization initiatives. To date, only six of these jobs have been filled. Among the vacancies are senior-level technical positions responsible for managing the new electronic voting system and supporting the Election Administration System (EASY). Delays in identifying candidates for these positions retards the ability of the

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[152]David Moskovitz, Director NYCEP. Testimony before the Assembly Election Law Committee, October, 19, 1988. Ads ran in newspapers and in the subways, and promoted the Board's phone line. In the last week of October, the Board processed over 47,000 telephone inquiries.

[153]NYCEP Status Report, January 1, 1988. "Our intention has been to establish a mechanism that, while not interfering with the Board of Elections Commissioners' legal right to hire, will verify that only candidates able to perform the technical and administrative duties of the new positions are hired. This verification enables the City to demonstrate to the public that it is safeguarding the major investment it is making at the Board of Elections both in new election administration and voting systems and in new staff."

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Board to fully absorb the modernization into its agency.[154]

He noted that the county political leaders, which have statutory authority to recommend nominees for hiring, and the Elections Commissioners had blocked hiring positions. In fact, NYCEP, the county leaders and the Board engaged in lengthy negotiations before "reaching a compromise solution regarding the hiring of personnel to fill new positions at the Board."[155]

The Struggle for a new Executive Director

Management reform has been one of the most contentious issues of the modernization process. The most graphic example of this volatile issue--and the most telling--was the controversy surrounding the replacement of the departing Executive Director of the Board, Betty (Bea) Dolen. When Bea Dolen, Executive Director of the Board for twenty-five years, announced her retirement on August 16, 1988 (to be effective December 31, 1988) extensive political maneuvering broke out. The Commissioners of the Board possess the statutory authority (section 3-300) to hire the executive director (and all staff). Given the Commissioners' ties to the county political leaders, however, it was clear that there would be struggle around the selection of a candidate to fill this most prized of the Board's patronage plums (a $72,000 a year

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[154]Ibid.

[155]Ibid. "The agreement reached with the County Leaders holds that only candidates who meet the specific qualifications detailed in the job descriptions will be hired. Furthermore, since eight of the new positions are highly technical in nature (i.e. seven data processing positions and the electronic voting machine system project manager), the final three to five candidates for each of these jobs will be screened by a mutually agreed-upon third party. Concurrent with the hiring process, the Board will begin to reorganize its internal structure to reflect the new organizational chart."

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position in 1988), not to mention the most powerful position on the Board's staff. Moreover, following the presidential primary election in April, 1988, which was characterized by widespread charges of incompetence by the Board and racially motivated mass disenfranchisement,[156] there was renewed public scrutiny of the Board by voting rights groups and progressives, especially African American organizations.[157] Mayor Koch also jumped into the fray, initially calling on the Board to "conduct a search that goes as far and wide as is necessary to find someone with the talent and commitment" to do this immense job.[158] Advocacy organizations also called on the Board to "conduct a nation-wide search for a first-class replacement for Betty Dolen...providing a unique opportunity to improve its performance."[159] Manhattan Democratic Leader Herman (Denny) Farrell promoted Hulbert James for the position, the director of Jesse Jackson's

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[156]In fact, on May 19, 1988, a class action lawsuit was filed by the Center for Law and Social Justice, a civil-rights advocacy group affiliated with Medgar Evers College, CUNY, charging the Board, Betty Dolen, NYCEP, the Governor and the Secretary of State with disenfranchising voters in the primary election.

[157]Immediately following the primary election, Jackson supporters, Representative Major Owens, the New York Civil Liberties Union (NYCLU), and the Center for Constitutional Rights (CCR) sharply criticized the Board. In fact, Rep. Owens called for the resignation of Betty Dolen. The Board countered that such charges were "grossly exaggerated." (New York Newsday, April 21, 1988.)

[158]Press release, August 17, 1988.

[159]Draft letter to Robert Black, President of the Board of Elections, from Coalition for Voter Participation, September, 1988. In fact, NYPIRG's Gene Russianoff would send a letter to the New York Times to encourage their writing an editorial to the same effect, which the Times did on September, 9, 1988. Newsday ran an editorial which similarly called on the Board to set up "a candidate screening panel and mount a national search", and to increase the position's salary "to a level that will attract nothing but the best." New York Newsday, September 8, 1988.

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primary campaign and former executive director of Human SERVE;[160] Queens Democratic Leader Thomas Manton promoted Gloria D'Amico, who was then the head of the Queens Board of Elections and a longtime district leader; Brooklyn Democratic Leader, Howard Golden said he was "wide open on this thing."[161]

In fact, an odd coalition of political heavyweights--Governor Cuomo, Mayor Koch, and the Reverend Jesse Jackson--met at the Governor's office the week before the Board selected a candidate and secretly drafted a letter to the Commissioners of the Board urging them to conduct a national search using "an independent merit selection committee for the identification, consideration and recommendation of [three] candidates for executive director" to the Commissioners of the Board.[162] The Commissioners of the Board, however, moved quickly to name Daniel DeFrancesco as Executive Director.[163]

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[160]Mr. James "has long been identified with black voter registration campaigns...He has been a vocal critic of the Board of Elections and what he contends has been its laxness in encouraging registration and voting in black and Hispanic neighborhoods." New York Times, September 8, 1988.

[161]New York Newsday, September 5, 1988.

[162]Draft letter dated September 6, 1988. Other signatories included David Dinkins, Charles Rangel and Stanley Hill. "The choice of a highly qualified candidate for the post of Executive Director is critical to the long-term success of the modernization of the Board of Elections." The New York Times reported that "the agreement arose out of dissatisfaction with the Board's performance in voter registration and election day operations", particularly surrounding the April presidential primary when Jackson ran. The Jackson Campaign "contended that the Board 's inefficiency made it more difficult for many black and Hispanic voters to cast their ballots in the April presidential primary." September 8, 1988.

[163]Six Commissioners voted for the appointment of Mr. DeFrancesco, including Alice Sachs, Democrat from Manhattan who was appointed by Mr. Farrell who had promoted Mr. James. There was one abstention (James Bass, Democrat from Brooklyn), and one absent Commissioner, and two Republican vacancies.

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Board officials "acknowledged that they had quickly and quietly selected Mr. DeFrancisco to head off any move for Mr. James," who was promoted by Farrell.[164] Apparently, however, the Commissioners did not know about the Jackson-Koch-Cuomo agreement.

The Commissioners decision to name Mr. DeFrancesco sparked further controversy and conflict. Mayor Koch reacted angrily at the appointment and urged the Board to reconsider its decision. An editorial by the New York Times stated, "Whatever Mr. DeFrancesco's qualifications, the failure to consider any outsiders is inexcusable. The cronyism looks especially offensive at a time when the Board is under attack by minority voters for its perennial inefficiency."[165] Mr. Farrell threatened to remove Alice Sachs, the Board Commissioner from Manhattan appointed by Farrell. Jesse Jackson and others attended the next Commissioners meeting and implied that there would be "riots in the streets."[166] But the Board refused to reconsider its appointment of Mr. DeFrancesco.[167]

Mr. DeFrancesco had served as Administrative Manager for eight year prior to being named Executive Director. He had been employed at the Board for twenty two years at the time, serving in various capacities, including driver to the then Commissioner from Manhattan, David N. Dinkins.

[164]New York Times September 8, 1988. Indeed, the Board's press release stated, "the decision by the Commissioners was made after taking into consideration the suggestions by certain groups, to conduct an outside search for a qualified candidate. After careful review, their vote was based on the fact that within the Board's management team there already existed a fully qualified individual who knows the inner workings of the Board of Elections."

[165]"The Election Board's Arrogance", September 9, 1988.

[166]Ferdinand Marchi, Commissioner and President of the Board of Elections. Testimony at public hearing held by the Assembly, October 19, 1988.

[167]One Commissioner, James Bass, Democrat from Brooklyn who is black and who initially abstained, made a motion to reconsider the appointment, but there was no second,

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Moreover, the Board expressed anger over the involvement of Governor Cuomo and Jesse Jackson. Indeed, Commissioners who had initially objected to the appointment were more angered by Cuomo and Jackson's involvement.[168]

Patronage

Critics charge that the New York City Board has remained dominated by the established party organizations and engages in old-style political patronage as evidenced by patterns of personnel appointments, and the dispensing to political allies of contracts for goods and services such as the purchase, service, storage, and transportation of voting machines, and the printing of ballots.[169] The city "Board of Elections is the last unrepentant bastion of county machine patronage in the city," Gottlieb and Baquet concluded in 1990.[170] For example,

> An examination of these [trucking] and other contracts [including the purchase, storage and maintenance of voting machines and printing of ballots] shows how New York's Republican and Democratic Parties, placed at the helm of the agency that runs the city's elections, have shaped it into a powerful patronage tool for dispensing lucrative contracts... With

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making the vote final.

[168] "I can't understand how a Presidential candidate, the Mayor and the Governor would make an agreement about a Board in which they don't have input," said George Friedman the Bronx Democratic Chair. "It was wrong of them." Similarly, Nicholas LaPorte, the Staten Island Democratic leader said, "Where does he get off?" asking about Mr. Jackson. New York Times, September 15, 1988.

[169]Regarding the New York City Board, in 1988, Newsday conducted a three month investigation and four part series by Ken Fireman. Similarly, in 1990, The New York Times also did a four part series by Martin Gottlieb and Dean Baquet. These investigations criticized the Board around a broad range of items (previously discussed herein, and further discussed below).

[170]Gottlieb and Baquet, four part series in the New York Times, 1990.

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> scant monitoring from the city or state, the board has tailored bid specifications to favor specific companies, has ignored lower bids in favor of longstanding and high-priced contractors and has been accused of thwarting new companies forced upon them by the city.[171]

Such companies, in turn, make contributions to the political parties and elected officials who steer contracts their way. "You know, there's big bucks involved, said Lillian Bachman, the co-chair of the Queens Republican Party in 1990 regarding trucking contracts. In fact, the Republican Board of Elections Commissioner from Queens, Joseph Previte, "was removed by the party in 1985 because he was too timid in getting trucking companies to buy tickets for fund-raising events."[172]

Similarly, regarding the purchase and maintenance of voting machines, one company, R.F. Shoup of Bryn Mawr, Pennsylvania, continued to hold contracts for nearly thirty years until recently. Moreover, as Gottleib and Baquet report, the Shoup family has "long, close relationships with New York's political parties," according to the then Executive Director of the Board, Bea Dolen, and several commissioners.[173] In fact, Shoup donated money to various political groups over the course of its negotiating contracts, and Shoup members are part of "an informal eating club called the 'Schleppers,' whose members include Dolen, Danny DeFrancesco [then deputy executive director and now executive director], and the former Tammany Hall chief, Frank Rossetti and even more fabled predecessor, Carmine DeSapio," and Lawrence Mandelker, an election lawyer who

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[171]Ibid.

[172]Ibid.

[173]Ibid.

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is close to board commissioners and was the finance chair for Mayor Koch's 1989 campaign.[174] "Records going back ten years indicate the board has bent over backward to insure that Shoup keeps its contract[175]... The Board has also resisted efforts to end the 25 year near-monopoly that two companies hold over the roughly $3 million in contracts for printing election ballots."[176] Thus, these critics contend that the Board's patronage relationships reveal its ties to the politically dominant, and suggest possible motivations to maintain policies and practices which constricts participation.

A Failed Attempt

In early 1990, the City Council introduced a proposal to eliminate the $950,000 budget of NYCEP and move five of its twenty person staff to the Board. Danny DeFrancesco, Executive Director of the Board, testified before the City Council that he needed only five more staffers to do the election project's work. This proposal provoked

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[174]Ibid.

[175]The Board and Shoup--with the support of several legislators--also nearly engineered steering the most lucrative contract to Shoup, namely the $50 million package for electronic voting machines to replace the current Shoup machines, but were thwarted by such investigative journalists and other government inquiries.

[176]Several earlier investigations of the City Board of Elections were conducted by State and City agencies and found substantial problems, violations, and corruption in the board's contracting practices, revealing political patronage relationships. For example, in 1985, the Department of General Services, at the request of then City Council President Carol Bellamy and the Communications Workers of America, (the union which represents Board employees) conducted an investigation led by Kenneth Litwack into the Board's procedures of dispensing contracts (e.g. to have ballots printed, etc.), citing numerous problems in Board practices, conflicts of interest, and the like.; In November 1984, the City Department of Investigation's Corruption Prevention and Management Review Bureau conducted an analysis of the contracting and administrative procedures of the New York City Board from 1979 to 1984, citing substantial problems and violations; Lastly, investigations by State agencies in 1940's found similar problems.

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broad and swift opposition from the advocates and the Dinkins Administration: "The Dinkins Administration, which has been pushing the Board to modernize... is furious at the proposal. 'Putting it into the budget environment,' says Deputy Mayor Norman Steisel, 'is the straw that broke the camel's back.'"[177] Noting that "since its creation, NYCEP has had an uneasy relationship with the Board of Elections, the project's younger staff is a far cry from the patronage players at the Board of Elections, who are selected by the City Council on the recommendations of the county party leaders... 'They are competent high-level technocrats who do excellent work', says Gene Russianoff of NYPIRG."[178]

The Partnership's 1990 Status Report

Following the transition from the Koch to the Dinkins administration--and in the context of the Council's proposal to eliminate NYCEP--the Oversight Board of NYCEP issued another Status Report for the public.[179]

> The modernization program has realized significant improvements, but the job in not done. Our election system remains vulnerable to breakdowns that could disenfranchise voters and dilute voting power in statewide and national elections...A sustained effort is needed to ensure that this program is completed. Although management improvements have been realized, the Board of Elections still lacks the expertise and organizational capacity to complete the modernization process on its own...The Elections Project should remain in place and separate from the Board of Elections to help

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[177]Maria Laurino, The Village Voice, April, 1990. In response, Dinkins sent a letter to the party county chairs telling them that it was "vital" NYCEP remain in place.

[178]ibid.

[179]"Modernizing New York's Election System: A Status Report to the Honorable David N. Dinkins, Mayor of the City of New York, from the New York City Elections Project Oversight Board ," April, 1990.

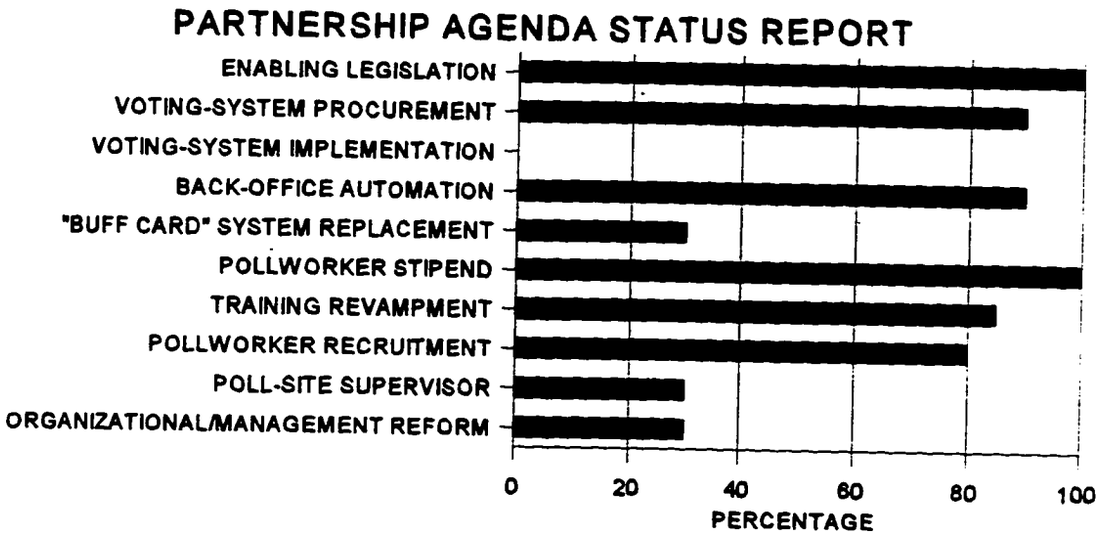
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manage the major initiatives that remain incomplete.[180]

The status of the "major initiatives" as of April 1990 were presented in the following chart.

[180]ibid. Letter from Larry Horner, Chair, April, 1990.

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While the Partnership had called for its recommendations to be implemented by 1988, only two had been completed by 1990: the enabling legislation and an increase in the pollworker stipend. This left several important tasks according to the Oversight Board:

1) replacing mechanical voting machines;
2) implementing SCRIBE citywide;
3) "developing and implementing a comprehensive organizational structure that provides clear lines of accountability and ensures consistent quality and policies across all five boroughs";
4) developing a "meaningful 'scorecard' system to effectively monitor the quality of election services provided by the Board of Elections" (i.e. the Board's performance);[127]
5) enhancing recruitment of poll workers to achieve full coverage in all positions (inspectors, information clerks, polling site coordinators, and language interpreters).

The computerization of the voter registration records and several important changes to the Board 's election day operations, however, were also near completion.

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[127]This was an addition to the original plans for modernization, one effectively lobbied for by advocates.

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Once these were completed--essentially by 1992--the only major initiatives which remained were implementation of the new electronic voting machines and the institutionalization of a "scorecard system".

Within this context of the threat to de-fund NYCEP embodied in the Council proposal, the Oversight Board's Status Report highlighted the Board of Elections's role in disenfranchising voters:

> The legal right of access to the voting booth can be seriously impaired by an electoral system that does not function efficiently. Administrative and operational inefficiencies (such as broken voting machines, lost buff-cards, incorrect enrollment, and misinformation) can be as discouraging to voters as restrictive registration policies... The long-term prospects for transforming the Board into a professional, service organization are uncertain and will be determined by the progress that is achieved over the next two years. Within the current four-year election cycle, the next two years represent a period of great opportunity for the Board, while 1992 (with reapportionment, a Spring Presidential Primary, and a School Board Election in addition to the normal Fall elections) will be the most difficult election year in over a decade.

Moreover, the Oversight Board presented strong evidence that left to their own devices, the Board of Elections would not necessarily act in a timely and effective manner in accordance with plans: "The Commissioners have not acted to select a new voting system, the organizational and management changes needed to institutionalize the new programs remain elusive, and the electoral system lacks accountability."[128] NYCEP had

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[128]The issue of the Board's Commissioners not acting to select a voting machine system was underscored by a concurrent revelation in the news media that one Commissioner, Anthony Sadowski, allegedly solicited a bribe by one of the vendors, Sequoia Pacific Corporation, presumably to secure his and others votes for Sequoia who had been vying for the $50 million contract with R. F. Shoup Company which has long held contracts with the Board. (More on the Board's relations with R. F. Shoup Company and its controversial contracting practices below.) In a a separate but related incident, a confidential report by Stanford Research Institute (SRI) which contained preliminary

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established a revised time-table for the Board of Elections to introduce the new voting machines: 300 machines in 1990, and 1,200 machines in 1991, with large scale implementation for 1992. Because of the delay in selection of the vendor by the Commissioners, however, introduction of the new machines set back even this revised timetable (the initial plan called for implementation by 1988). Given that the Partnership cited the aging fleet of machines as contributing to "election day deficiencies", the Oversight Board stated, "we are concerned that the city's electoral system remains vulnerable until a plan for replacing the antiquated and rapidly deteriorating mechanical machines is adopted and acted upon."

With regards to organizational and management reform of the Board, the Oversight Board asserted its mission as a legitimate, outside and "independent" overseer of the Board. Indeed, the Partnership had originally acknowledged that while introducing technological improvements and changing procedures are important to modernize the Board, "merely superimposing a larger budget and modern equipment over the existing system would be of little practical value." The Oversight Board noted that,

> personnel and organizational changes at the Board are political matters, and progress in this area has been extremely slow... The Board's current management team has taken some unprecedented initial steps toward realigning the political and administrative mandates of the agency. For example, the role of the central office in setting policy and monitoring service quality throughout the five borough offices has been strengthened. Recruitment of election-day and full-time personnel has been expanded beyond the traditional political channels, and a formal merit selection

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evaluations of proposals by the two companies (and others) somehow got into the hands of Mr. Shoup and allowed them to develop responses to correct specific weaknesses in Shoup's proposal, an apparent violation of contracting procedures. New York Times, April, 19, 1990.

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> process has been implemented for hiring technical personnel. But if the management of the Board is to be held accountable, they must be given a stronger hand in hiring and firing of both full-time and election day staff... In order to do so, the county political organizations must recognize the priority of the Board's administrative (as compared with political) mandate. If meaningful organizational change is not accomplished, the new programs will languish and the current service improvements will deteriorate.

Lastly, following the recommendation of advocates, the NYCEP Oversight Board sought to strengthen existing accountability mechanisms[129] and suggested additional mechanisms to provide public accountability and effective performance. The Oversight Board stated there are direct measures of the Board's performance that could be regularly reported in its annual report. To institutionalize better public accountability to effectively monitor the Board, the Oversight Board embraced the advocates' notion of establishing a "score card system", and to widely distribute these performance measures.[130] Such performance measures are also used to monitor other government services such as street

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[129]The Board is accountable to the State Board of Elections and the New York City Council. Under election law (Sec. 3-212.4, 1988) the City Board is required to provide an annual report to the state Board covering the Board's "affairs and proceedings." The Oversight Board, however, contended that "whether or not the accountability requirements were sufficient...they are not sufficient now", given the technological changes to the Board. ("New York City Board of Elections: Accountability Safeguards, A Discussion Paper, NYCEP Oversight Board, written by Larry Horner.) Moreover, the City Board did not produce an annual report from 1970 to 1988, due, according to the Board, to "insufficient funds". The other existing mechanism is through the City Council. The Council appoints the Commissioners of the Board (based upon recommendations from the county political leaders), and because the City funds the Board, the Board is subject to the budgetary hearing process carried out by the Council and the then Board of Estimate (now the Mayor and the Office of Management and Budget.)

[130] "In order for a report to be effective as an accountability mechanism, its distribution must assure that it can be used for decision making by constituents and their representatives." ibid.

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cleaning and subway maintenance. NYCEP suggested it might facilitate development of this system of accountability which could tie the Board's performance to a self-correcting means of promoting a responsive, service-oriented electoral system.[131] However, while no formal score card system was established by NYCEP or the Board, several advocacy organizations (NYPIRG in particular) have requested performance statistics from the Board following each election. Data supplied to advocates from the Board--and other data collected by advocates, police records, NYCEP, and the Voter Assistance Commission (VAC)--provides a means to evaluate the Board 's performance of its main functions over time.

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[131] "The Board of Elections is in a unique position among government agencies. There is a direct, ultimate measure of its success: rate of participation by citizens eligible to vote (both registered and unregistered). This measure can put the agency's costs in perspective, because the justification for the costs lies in the benefits. Moreover, this ultimate measure can be supported by a host of other intermediate measures: percentage of eligible citizens registered to vote; percentage of registered voters actually voting; proportion of new inhabitants circularized with mail registration applications; 'availability' of voting machines (defined as the total number of hours machines are open, staffed and functional); proportion of polling sites conveniently and safely located and perceived to be convenient and safe by the voters (defined as accessible by foot within 10 minutes by foot or auto and 15 minutes by transit, accessible to physically handicapped, uncontested, with telephone and lavatory facilities, well lighted, with visible police protection."

The Oversight Board also suggested supplementing the above with four "structural accountability controls." 1. establishing an Elected Commissioner of Elections whereby "voters could [directly] remove a Commissioner who did not perform adequately." Currently, employees are accountable to Board commissioners who are accountable to county party leaders. 2. Budgetary controls - "the Board's budget could be required by the City to be submitted functionally...and good performance rewarded and poor performance punished." 3. Audits - modeled on GAO standards. and 4. Periodic Public Hearings - "to generate public pressure on agencies to perform properly." ("New York City Board of Elections: Accountability Safeguards, A Discussion Paper, NYCEP Oversight Board, written by Larry Horner.)

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PERFORMANCE MEASURES OF BOARD PRACTICES[132]

"Performance measures are objective criteria to measure the Board's operations and progress over time."[133] Essentially, Board performance statistics are a means--or standard--to measure how well the Board provides services to voters. They measure the Board's efficiency in running elections. Moreover, performance measures document changes in particular Board practices over time. The New York Public Interest Research Group (NYPIRG) has requested, and generally received, data from the Board following each election to assess the Board's progress. NYPIRG advocated passage of legislation mandating the New York City Board to publish yearly reports containing a set of specific measures. In fact, a bill (A-10503) was introduced into the State Assembly by Peter Grannis and Scott Stringer on March 29, 1994 to amend the election law to require the Board to produce specific performance measures each year. Modeled on the Mayor's Management Report which "is considered a very useful management tool and is the subject of mandatory oversight hearings in the City Council, but does not cover the New York City Board of Elections,...this bill would foster good management at the Board and efficient running of elections."[134] The bill, however, was withdrawn from the Assembly without being voted on. In addition, some other election experts and academics have attempted to establish and use specific performance standards to assess election

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[132]All data supplied by the Board of Elections unless otherwise noted. The Board kept data for most categories of practices only since 1990, due to computerization.

[133]Gene Russianoff, NYPIRG, interview with the author.

[134]NYPIRG memo in support of A-10503. The bill reportedly was largely written by Gene Russianoff of NYPIRG.

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administration. Political Scientist Richard Smolka, for example, has written about the need for such standards and outlined a framework for establishing standards.[135] And there now exists a certificate course for election administrators held by the Election Center in conjunction with Auburn University.

As I have attempted to show, particular practices can either facilitate voting or disenfranchise prospective voters in numerous ways. In this section, I present evidence on the kinds and extent of voter disenfranchisement perpetrated by the Board of Elections as a result of particular practices over time.[136] The Board's performance statistics demonstrate improvements in several areas over the past decade which have reduced disenfranchisement of voters and increased access to registration and participation, particularly from 1988 on.[137] It is impossible, however, to precisely determine the total

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[135] "Need for Performance Standards in Election Administration" in Issues of Electoral Reform, ed. By Richard Carlson, 1974.

[136]All data are from the New York City Board of Elections, unless otherwise noted. I have also drawn upon the following additional data sources in order to better document the Board's performance: Reports and memorandum from the City and State Board of Elections, advocacy organizations [including NYPIRG, the League of Women Voters (LWV), Human Serve, the Community Service Society (CSS), Center for Law and Social Justice of Medgar Evers College, and the Asian American League Defense Fund (ALDF)]; The Voter Assistance Commission (VAC), the Dinkins Campaign, The New York State Democratic and Republican Parties, The Election Law Committees of the Assembly and Senate; a 1993 post-election public hearing sponsored by Democratic politicians in Brooklyn; and, as detailed in the introduction, in a series of semi-structured interviews and in dozens of meetings as a participant observer with Board of Elections employees and commissioners, national and local elections experts, election lawyers, voting rights advocates, elected officials, legislative staff, officials of political parties, members of political clubs, campaign workers, investigative journalists, representatives of civic and community based organizations, election day observers and voters.

[137]To be clear, other factors probably contributed to a greater extent in boosting voter registration and participation, such as the broad mobilization of progressive

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number of citizens who were disenfranchised, and just who was disenfranchised. Nevertheless, based on analysis of specific and documented incidences of disenfranchisement, we can establish an estimated rate for each disenfranchising practice. In addition, we can determine the general *frequency* of particular practices that produce such instances of disenfranchisement. Finally, where possible, we can identify the demographic distribution of particular practices (who is disenfranchised). Taken together, this permits us to estimate the kinds and amount of disenfranchisement by Board practices over time.

Board performance measures include:

- the number of affidavit ballots cast, validated and invalidated;
- the nature and the number of recorded poll site problems, including:
    a) poll site changes
    b) poll sites which open late
    c) staff shortages at poll sites
    d) level of trained staff
    e) machine breakdowns
    f) missing or incorrect supplies and materials
    g) various types of pollworker actions and inactions (such as providing misinformation, producing delays or disruption, and "rudeness" or "harassment" of voters)
- the number of voters who were "challenged", and the disposition of such challenges;
- the number of emergency ballots cast;
- the number of absentee ballot applications requested, cast and counted;
- the number of registration forms printed, distributed, and processed by the Board; and estimates of the accuracy of processing registration applications and the timing of mail voter notifications;
- information problems (VOTE-NYC Hotline)
- amount of outreach efforts (including advertising--money spent, materials printed in minority languages, etc.--distribution of registration forms and materials to government offices, including post offices, libraries, etc.)

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organizations and constituents--unions, voter registration organizations, the Rainbow Coalition and numerous African American groups, etc.--for the historic campaigns of Jesse Jackson in 1988 and David Dinkins in 1989.

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The data from these performance measures demonstrates that Board practices continue to disenfranchise voters in each election. The data also indicates that in several elections--most notably 1988 and 1993--there exists a racial and class pattern of disenfranchising impacts: a disproportionate number of low income and minority voters in New York City are adversely affected by the practices documented. However, the Board's performance has improved since 1985 when the modernization process began, and markedly so in the case of some practices, such as the processing of voter registration applications and poll site operations. These improvements have, in turn, reduced the rate of disenfranchisement, and contributed to increases in registration and voting in New York City.

Board Practices

Aside from the general lack of effective outreach efforts by the Board to increase registration and participation, including programs which would provide greater access to registration opportunities and provisions for the timely dissemination of needed voter information, the Board directly disenfranchises thousands of eligible voters each election who attempt to cast a ballot. Through numerous actions and inactions of the Board--whether by design or default--registrants who attempt to cast their vote on election day frequently are thwarted by the Board. Some individuals, through no fault of their own and in spite of their attempt to vote, never even get to a poll site. In other cases, prospective voters are turned away at poll sites or their ballots are invalidated. While clearly some people are prevented from voting by the paucity of critical voter information, and

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provisions of the election law itself, such as the deadline to register to vote,[138] the focus here is on demonstrating disenfranchisement of eligible voters by practices of the New York City Board of Elections, and improvements in such practices over time.

I have analyzed the Board performance measures listed above--two of these in some detail, namely affidavit ballots and poll site problems--to demonstrate the various forms of disenfranchisement that issue from particular Board practices, and how improvements in the Board's operations has reduced the rate and amount of such disenfranchisement.

Affidavit Ballots

The New York City Elections Project (NYCEP)--and the Board of Elections--claim that the large number of affidavit ballots that are regularly cast in each election

> does not necessarily indicate an equally large number of errors on the Board's part. Board errors are represented only by those affidavit ballots which are found to be valid. A valid affidavit ballot is cast by a voter whose buff card has been either misfiled by the Board or overlooked by the inspector at the polling site..[and subsequently verified at the Board office]. An invalid affidavit ballot is cast by a voter who is not qualified to vote in the election either because he or she was not registered, registered too late, or was not enrolled in a party [for primary elections]. This is indicative of a public awareness problem which can be addressed through voter education programs.[139]

The above statement reflects the Board's perspective regarding affidavit ballots:

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[138] Currently, the registration deadline in New York is 25 days prior to election day. The deadline was 30 days until 1991-1992, and for primary elections was 60 days until 1991.

[139]NYCEP Report July 15, 1988. This report discussed the law suit filed against the Board by the Center for Law and Social Justice of Medgar Evers College regarding alleged disenfranchisement caused by the Board's operations in the 1988 Democratic Presidential Primary Election.

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"valid" affidavit ballots indicate the Board committed administrative errors, and "invalid" affidavit ballots suggests that provisions of the election law or individual voters are responsible for their vote being invalidated.

The normal procedure is that after a voter completes an affidavit ballot at a poll site, the Board will then verify that the voter's information (name, address, signature, etc.) matches the Board's registration records. This is to prevent fraudulently cast affidavit ballots. If no registration is found, or if the information on the affidavit ballot does not accurately match the registration record at the Board, the affidavit is invalidated and not counted. Conversely, if a voter's registration record is located and the information on the affidavit ballot accurately matches the Board's registration record, the vote is counted.

While it is true that the large number of affidavit ballots cast "does not necessarily indicate an equally large number of errors on the Board's part," there exists, however, other actions (or inactions) by the Board that may cause legitimately voters' affidavit ballots to be invalidated. In fact, as voting rights advocates have demonstrated, numerous affidavit ballots are regularly invalidated by the Board that should not be. Moreover, not all affidavits that are subsequently "validated" by the Board are properly rectified. Indeed, even when affidavit ballots are correctly counted, they may still reflect clerical errors committed by Board personnel which invalidate a vote, indicating breakdowns in the Board's procedures.

There are several reasons this sometimes occurs. At several junctures Board personnel may commit an error and inadvertently or intentionally end up disenfranchising voters. At poll sites, for example, Board personnel regularly disenfranchise voters through

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administrative error, misinforming voters, and mishandling affidavit ballots. Inspectors often allow a voter to cast an affidavit ballot in the wrong election district (ED), even while the voter may be in the correct polling site, which under election law cannot be counted as valid and thus invalidates their ballot. Even though inspectors have additional resources (street finders) to determine the correct election district, they, unfortunately, do not always use them. In other cases, legitimate registrants are not informed by poll inspectors that they have a right to cast an affidavit ballot when no record of their registration can be found. These people--unless they are informed of their rights and assert them--often leave without voting. As has been demonstrated by voting rights advocates in several elections, Board errors have led to a significant number of affidavit ballot cast as a result of incorrectly invalidating legitimate voters.[140]

No comprehensive records of such occurrences are kept--nor are there the mechanisms to obtain such information--so the precise number of these individuals who are disfranchised is unknown. Numerous incidents documented in public hearings and reports reveal, however, that significant numbers of voters continue to be disenfranchised in such a manner.

Human SERVE Study

To examine the extent of such problems, SERVE conducted a study of affidavit

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[140]The New York State Network for Voter Registration (Norman Adler, Coordinator) examined affidavit ballots cast in the 1984 presidential general election; Human SERVE conducted a study of the 1985 Democratic mayoral primary; and the Assembly Election Law Committee, chaired by Steven Sanders, conducted an in-depth study of the 1988 Democratic presidential primary. These are discussed below.

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ballots cast in the 1985 mayoral primary election.[141] They found that approximately 22% of the ballots invalidated by the Board were cast by properly registered citizens who cast their affidavit ballots at the wrong table (election district) but who were at their correct polling place. That is, they were either not directed to the proper table or were mis-directed by Board personnel, a problem which would be corrected if inspectors routinely and correctly used the street finders they possess. SERVE extrapolated their finding to estimate the number of legitimate voters who are likely to be disenfranchised in this manner in various elections, suggesting that the potential number is large and politically significant. In presidential elections where up to 100,000 affidavit ballots are cast, as many as 15,000 to 20,000 voters might be deprived of their votes. In off-year elections, where 25,000 to 30,000 affidavits are cast, the number of disenfranchised would be 4,000 to 5,000 voters.

It must be stressed that the above analysis does not incorporate disenfranchisement that results from other practices by poll inspectors, such as when inspectors mistakenly overlook a voter's registration record and do not offering an affidavit ballot to voters--or even actively discourage casting affidavit ballots. Nor do they identify errors committed by personnel in the borough offices of the Board of elections either during the original processing of registration applications (outlined below), or in the verification process. An investigation by a Board Commissioner into the verification process showed that errors by

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[141]The sample was 1,105 affidavit ballots cast from all five boroughs, with emphasis on Assembly Districts characterized by low-income and minority populations as well as by middle-income to affluent predominantly white populations.

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clerks occur.[142] In fact, apparently some voters registration is canceled erroneously because of several kinds of faulty affidavit procedures.[143] Therefore, these figures likely underestimate the number of voters who are routinely disenfranchised.

The introduction of automation--particularly of EASY in 1988 and SCRIBE in 1992-93--has subsequently reduced the rate of such errors to a minimum by reducing the manual and paper intensive nature of such procedures (while not entirely eliminating errors). In addition, other improvements in poll site operations (particularly changes in Board procedures and poll worker training and materials) have also reduced the opportunities for clerical errors by poll workers and clerks.

Assembly Study

The New York State Assembly Committee on Election Law, then chaired by Manhattan Democrat Steven Sanders, conducted a similar study of the affidavit ballots cast in the 1988 Democratic Presidential Primary Election. The study found that out of the 38,131 affidavit ballots cast, 30,948 were invalidated, and 3,808 or 12.3% were erroneously invalidated due to administrative error. The study found that many of the same kind of errors were made by election inspectors who did not facilitate the casting of

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[142]A Board Commissioner, Douglass Kellner, Democrat from Manhattan, an appointee of Denny Farrell, the Manhattan County Chair, and a Dinkins ally produced evidence of such clerical errors in the 1993 elections. He suggested that these errors probably regularly occur in each election because clerks do not always "look hard enough to verify a registration, or merely make mistakes." Interview with the author.

[143]Some voters who do not respond to a mail notification but show up at their poll site to vote may be disenfranchised through such clerical error. Board records reveal that some registrants are canceled from the same address that they cast an affidavit ballot from, indicating such errors. Other such voters are erroneously canceled by failures on the part of the postal service in the delivery of the Board's mail checks.

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the affidavit in the proper Election District. Similarly, these figures do not reflect all the voters who were disenfranchised by elections officials--at poll sites or in borough Board offices--and are also therefore conservative estimates.

Board Records

The Board's own records reveal that a significant number of voters are regularly disenfranchised. In the 1992 elections, for example, 13.5% or 8,853 of the affidavit ballots that were invalidated were in fact duly registered voters who cast their ballots at the wrong table (i.e. election district) but which the election law requires to be invalidated.[144]

Affidavit Ballots				
Year	City-wide	Valid	Invalid	Disenfranchised
1992	88,738	23,488	65,250	8,853*

Source: New York City Board of Elections. * The number of potentially disenfranchised voters is based upon a 13.5% error rate. According to the Board, reapportionment in 1992 likely contributed to a higher overall number of affidavit ballots in 1992.

[144] Board Memorandum to the Law Department of Corporation Counsel.

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Board Improvements

The decline in the error rate--from 22% in 1985 as documented by the Human Serve study to 12.3% in the 1988 Assembly study--reflects improvements in the Board's operations, particularly in its election day operations (including pollworker recruitment and training, and instruction materials) and computerization. With the full and effective implementation of EASY and SCRIBE, the error rate is expected to decline even further, and with it, the rate of disenfranchisement.[145]

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[145]The slightly higher 1992 rate of 13.5% probably reflects several factors which mitigated against these improvements, including late reapportionment, and the implementation of SCRIBE in only three boroughs--the Bronx, Brooklyn, and Staten Island. (Manhattan and Queens introduced SCRIBE in 1993 and were certified by the State Board of Elections in 1994.)

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Affidavit Ballots

Year	City-wide	Valid	Invalid	%Valid	Dis-enfranchised*	Total Votes Cast
1994	26,577 (1.9% of total cast)	6,530	21,201	24.5%	1,060 (5% error rate)+	1,576,160
1993	52,659 (2.7% of total cast)+	14,051	38,608	26%	5,019 (13% error rate)	1,898,437
1992	88,738 (4% of total cast)@	23,488	65,250	26%	8,853 (13.5% error rate)	2,211,473
1991	N/A					
1990	N/A					
1989	N/A					
1988	N/A	34,110			4,195 (12.3% error rate)	

Source: New York City Board of Elections

* The number of potentially disenfranchised voters is based upon an error rate calculated from the above studies for each of the corresponding years.

+ This rate reflects an estimated optimum error rate for the Board's operations after EASY and SCRIBE are fully and effectively implemented.

@ According to the Board, reapportionment in 1992 likely contributed to a higher overall number of affidavit ballots in 1992.

As the above table shows, the number of affidavit ballots cast has declined over time, as well as the rate of clerical errors, indicating greater efficiency by the Board, thus reducing the amount of disenfranchisement of voters.[146] Again, these improvements are in large measure due to the introduction by the New York City Elections Project (NYCEP) of new training methods and materials for poll workers and technological innovations such as EASY and SCRIBE to reduce election day problems--all of which has reduced the occurrence of such errors and the rate of disenfranchisement.

Similarly, it appears that administrative error regarding the completion of "emergency ballots" cast (when a voting machine breaks down) may also negatively impact on vote counts.[147] Improvements in the Board's processing of emergency ballots, and more importantly, the full and effective use of electronic voting machines (now due in 1998-99), will further improve election day operations.

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[146]The Board attributes "a dramatic decrease from 1992 to 1993 [of valid affidavit ballots cast] to the institution of the SCRIBE Poll list system." While the total number of valid affidavits did decrease by almost half, the number of valid affidavit ballots as a percentage of affidavits cast, however, was nearly identical for those years, indicating that the rate of clerical errors by Board employees remained consistent. The Board maintains that "there has been a steady decrease since 1984 of the number of valid [affidavit] ballots." (Memorandum to NYPIRG, 11-30-1993.) The number invalidated in each election exceeds the number validated by the Board, indicating most voters--tens of thousands--continue to be disenfranchised by registration deadlines and election law mandates.

[147] In 1993, for example, of all the emergency ballots cast, 2,482 were not initially properly counted or counted altogether. (New York Times, 12-15-93)

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Emergency Ballots

Year	Number Cast	Total Votes Cast
1994	6,880	1,576,160
1993	1,991	1,898,437
1992	9,877	2,211,473

Source: New York City Board of Elections. Emergency ballots are used when a voting machine breaks down.

In sum, several thousand duly registered voters continue to be regularly disenfranchised at poll sites on each election day due to such errors committed by Board personnel. Improvements in the Board's operations as a result of modernization, however, has greatly been reduced such disenfranchisement.

Analysis of affidavit ballot procedures highlights two aspects of the Board's general procedures which has tended to produce administrative disenfranchisement: first, the greater the manual and paper intensive nature of such procedures, the higher the potential for error. In short, inefficiencies produce disenfranchisement. Thus, with the inauguration of the computerization of registration records in 1988 (EASY) and the digitization of voter registration records in 1992-1993 (SCRIBE), such administrative errors were reduced, and with it, the associated disenfranchisement. Second, the more procedures which are instituted to secure the vote, the more voters will likely be disenfranchised. In a similar fashion, when the Board re-organized and streamlined its procedures, and just as importantly, relaxed its "strict" compliance standards in processing registration and ballots, significantly fewer voters were administratively disenfranchised by these Board practices.

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"Strict" vs. "Substantial" Compliance

Although the election law clearly prescribes what is required in the casting of affidavit ballots or in processing voter registration applications, practice appears to vary considerably between the different borough offices within New York City, and among Board clerks and pollworkers. Differences in how affidavit ballots are handled by pollworkers, for example, may be due to the different level of training, experience, temperament and political affiliation of the poll inspectors and/or poll site coordinators.[148] More importantly, Board policies have changed over time and appear to also contribute to variations in the administration of election processes, including the processing of voter registration applications and affidavit ballots.

"Strict" compliance standards mean that an affidavit ballot (or registration application) must contain all information as required by election law and Board policy. For example, voter registration applications must be signed both on the front and the back of the form, and be signed exactly the same as the name of the applicant (for example, Daniel W. Holt must be signed as such in script and with the middle initial). Regarding the processing and verification of affidavit ballots, all the voter's information must exactly match a voter's registration record in order for the ballot to be validated. If, for example, a voter's name appears on their registration record as "Daniel" and they write "Danny" on their affidavit ballot, strict compliance standards would invalidate such an affidavit. While the objective of strict compliance standards is to prevent any fraudulently cast ballots, *it is*

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[148]Several Board administrators and employees have acknowledged these factors in testimony during several public hearings, and in interviews with the author. Similarly, voter registration organizations also report observing such variations.

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inevitable that "strict" standards applied to affidavit ballots or voter registration applications will disenfranchise more voters.[149]

In contrast, "substantial" compliance standards allow a greater number of affidavits and registration applications to be counted and processed. "Substantial" compliance standards would accept as valid registrations and affidavits so long as they provide the main information required. So, if someone fails to include a middle initial or sign a form twice, the Board would still accept the document and adjudicate it accordingly. Such variation in Board practices associated with changes in Board policies or standards often reveal the influence of distinct political and partisan interests. Republicans generally--though not universally--tend to use or advocate the use of "strict" compliance standards in the Board's procedures, while Democrats (particularly certain "liberal" factions) tend to use or advocate the use of "substantial" compliance standards.[150]

"Strict" compliance standards were generally used by the Board prior to the mid-1980's. Indeed, the Board--or particular borough offices--have periodically emphasized or reinforced such standards. This is especially true during particularly close or contested elections when scrutiny of ballots and registrations is intense.[151] Furthermore, particular

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[149] "In New York City, the Board of Elections routinely discards forms that are completed in pencil, or signed only on one side but not the other, or with Mr. or Mrs. on one side only." (Piven and Cloward, 1988, p. 179) In contrast, in some other jurisdictions--such as Alabama--affidavit ballots are all counted on election day on the assumption that the voter is registered, and only verified if the election results are challenged.

[150] Ibid.

[151] Such was the case during the 1993 general elections (discussed below). Because of the level of scrutiny and pressure brought to bear on the Board, "strict" compliance standards were generally emphasized by state and local Republicans. More generally,

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Board clerks and pollworkers also tend to apply these standards more assiduously than others.

Conversely, "substantial" compliance standards were more generally applied after 1984 as the Board liberalized its policies and procedures following the pressure that advocacy organizations mounted and as modernization proceeded. Even prior to these liberalizing changes, particular Board personnel exercised their capacity to administer such procedures using these more relaxed standards.[152]

As we shall see in the next chapter, however, pressure from Republicans in 1993 to guard against alleged registration and vote fraud led the Board to reverse its liberalizing trend, and to adopt more restrictive measures, likely increasing such disenfranchisement.[153]

These kinds of variations in Board policies and procedures are also evident in other Board practices. Additional aforementioned performance measures reveal similar changes in these Board practices and corresponding improvements in the Board's operations.

Election Inspectors

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contested elections and court cases which involve scrutiny and challenges to absentee, affidavit ballots or candidate petitions (and therefore to voter registration records) invariably involve use of such "strict" compliance standards.

[152]According to Board personnel and several election lawyers, such employees did so because of "personal temperament", or when it may be in the perceived partisan or party factional interest of the Board employee who adjudicated such matters, whether Republican or Democrat.

[153]In fact, Republican officials advocated other more restrictive procedures. For example, Republicans pressed for a version of the challenge process in the 1993 elections which would have prevented all voters who were challenged from voting on a voting machine, instead requiring them to cast an affidavit ballot. Adoption of this policy was successfully averted, in part, due to opposition by Dinkins campaign lawyers and voting rights advocates who, threatened to ask for the intervention of the U.S. Justice Department.

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As previously indicated, a primary reason that administrative disenfranchisement in ballot processes occurs at poll sites is due to the Board's pollworkers. While there have been important substantive improvements in the performance of pollworkers over time, significant election day problems continue to occur in each election. Approximately 20% of poll inspectors who currently work the polls every election--the line staff of the Board that voters interact with--still do not receive training. Moreover, the caliber of the training itself remains wanting, even though methods and materials the Board now uses have improved with the assistance of NYCEP. In fact, even if one fails the test at the end of the training--proving incompetence to perform necessary tasks--they can still serve as an election inspector on election day! In addition, the pay scale--$85 (up from $65)--for a 16 hour day still does not provide sufficient monetary incentive to attract more competent workers.

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Poll Inspector Training Rates

Year	% Trained Who Worked	% Trained By Borough
1994	88% (trained)	M=76%; Bx=91%; Bk=90% Q=91%; SI=94%
1993	78%	M=69%; Bx=96%; Bk=89%; Q=89%; SI=95%
1992	77%	M=69%; Bx=81%; Bk=74%; Q=82%; SI=90%
1991	76%	N/A
1990	75%	N/A
1989	73%	N/A
1988	67%	N/A

Source: New York City Board of Elections

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Clearly, changes in the Board's recruitment and training programs have markedly increased the proportion of pollworkers who receive training over time which has risen from 67% in 1988 to 88% in 1994.[154] However, the overwhelming majority of the inspectors remain patronage employees. By law, election inspectors must be bi-partisan (only Democrats and Republicans). The party organizations--through the district leader and political clubs--continue to be the main source of inspectors, even though the Board has expanded recruitment to outside sources.[155]

Thus, while we can acknowledge the enormity of the tasks of the Board of Elections whose jurisdiction is the second largest in the country, its election day workforce--which numbers over 23,000 and who preside over 1,236 poll sites--remain not only often highly incompetent, but may behave in a politically motivated fashion, the combination of which can led to, significant problems on election day result in the disenfranchisement of eligible voters. In addition, the Board's administrative structure and aging fleet of voting machines are responsible for a host of other related election day problems.[156]

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[154]In fact, the percentage of untrained inspectors was higher prior to 1988, as mentioned earlier according to Board officials, though no precise data is available.

[155]The parties present to the Board the names of individuals they have recruited who are available to work on election day as inspectors. The Board fills pollworker slots with outside workers only after the political parties fail to fill all slots, which is often very late in the election cycle. Indeed, Board personnel have reported that party officials continue to complain when the Board uses or attempts to use inspectors from "outside" sources, such as colleges or recruitment via voter registration applications.

[156]It must be stated, however, that many of the Board's personnel--whether poll workers or data clerks or administrators--are dedicated, hard working and highly

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Poll Site Problems

In each election, there are instances where poll sites are moved without proper notification to the voters who are affected, or open late, are inadequately staffed, lack sufficient supplies, or machines break down--all of which can led to confusion, delays and disenfranchisement. The reports and testimony I have analyzed reveal thousands of examples of these phenomenon which continue to occur and directly lead to disenfranchising consequences--albeit less than in the period before 1985. Indeed, while demonstrating marked improvements, the Board's own records reveal such occurrences have been frequent.

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competent, and consistently facilitate access to the franchise.

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Poll Site Problems

Year	Inspector Vacancies and Complaints	Late openings	Lack of materials	Voting machine problems	Non- Accessible Poll Sites#
1994	N/A	11	7	4.5% (or 256 out of 5,600)	One %
1993~	N/A	NA	25	2.5% (or 145 out of 5,623)	2% (of 1,236)
1992@	9%	11 (out of 1,235)	NA	5% (or 199 out of 5,494)	5% (of 1,235)
1991	13%	N/A	N/A	5.8%	6.2%
1990	8%	N/A	N/A	8%	13%
1989	6%	N/A	N/A	18%	20%
1988	5%	N/A	N/A	16%	34%
1985	17%	285*	N/A	N/A	N/A

Source: New York City Board of Elections. (These do not include complaints made to non-governmental organizations.)

+In 1993, however, most complaints were centered in Manhattan. For example, 44 of the 91 inspector vacancies/procedural complaints were located in Manhattan; 69 of the 145 machine problems were in Manhattan. Brooklyn, however, had the majority (14 out of 25) of the problems with SCRIBE poll lists (i.e. wrong or missing books).

@In 1992, the number of telephone complaint calls to the Board regarding "poll worker/poll site and voting machine issues" was 570 (M=145; Bx=57; Bklyn= 190; Q=136; SI=42). In addition, the League of Women Voters received 114 telephone complaints about the Board's operations (M=67; Bx=5; Brklyn=21; Q=20; SI=1), and NYPIRG received 51 telephone complaints (M=21; Bx=3; Brklyn=11; Q=15, SI=0). Machine breakdowns in 1992 were: M=40 out of 1,068; Bx=48 out of 914; Bk=66 out of 1,753; Q=16 out of 1,420; SI=29 out of 339.

* Data from Police reports. as reproduced by NYCEP.

Percent accessible to people with disabilities (especially regarding wheel chair accessibility).

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The above chart demonstrates improvements in the Board's operations in several areas--most notably regarding accessibility of poll sites to people with disabilities, pollworker vacancies/complaints, and voting machine problems.[157] Again, these improvements are largely due to the reforms implemented by NYCEP. However, these records are necessarily incomplete. An undetermined additional number of duly registered voters are likely to be disenfranchised in each election by such poll site incidents which are not reflected in the data kept by the Board.

Processing Registration Applications

Still other voters--at least several thousand--have been disenfranchised before election day by virtue of shoddy procedures in processing registration applications. As the Partnership Report had outlined, prior to 1987 the Board used a highly cumbersome manual and paper intensive procedures to process voter registration applications.[158] This process can be chaotic, and lends itself to administrative errors. This is particularly true during periods closer to registration deadlines when voter interest is greater and registration organizations deposit large quantities of forms. The Board must process the

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[157]The Board attributes the decrease in machine breakdowns to their Preventative Maintenance Program and the use of stationary curtains on the voting machines which was instituted by the Board in early 1990 (following the 1988 and 1989 elections which generated numerous complaints and pressure from advocacy groups). In addition, the Board improved its capacity to field telephone inquiries: 20,467 calls to VOTE-NYC were handled from 10-31-93 to 11-2-93; and over 20,000 for the same period in 1992 (60,728 for the year).

[158]Recall that the Board used 32 steps to process each application (reduced to 7 by the computerized system), including receiving voter registration applications at the central office, manually checking each form, copying, xeroxing, cutting, transporting and putting the forms into binders in each of the borough offices.

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majority of the registration applications in any given year. Moreover, the Board generally hires temporary workers to handle this increased volume, many of whom have low skill levels and are unfamiliar with Board procedures and its unique computer system. Indeed, at times a severe backlog can occur which compounds the whole problem: forms are damaged, misfiled, "lost", and voter identification cards and poll site notices are sometimes mailed out late or not at all. Given these conditions, it should not be surprising that significant numbers of errors continue to be committed by Board personnel at this stage in the process. In order to reduce the rate of errors endemic to this paper intensive system--especially during crunch periods close to registration deadlines when large numbers of registration applications are turned in for processing--NYCEP assisted the Board in instituting several important changes. As previously discussed, the major change was the introduction of the Election Administration System (EASY) which computerized all registration files. When the EASY system became fully operational city-wide in 1988, the Board was able to process nearly 700,000 applications (332,930 during the peak period from September 1 to October 31.) With the full implementation of the computerized registration system (EASY), clerks now keypunch information from voter registration applications into EASY, vastly simplifying the process.[159] Nevertheless, 30% of all registration forms require some form of follow-up by Board personnel to complete

[159]The introduction of SCRIBE now permits applications to be scanned the Board's computer system. And while SCRIBE offers additional benefits, both EASY and SCRIBE still require manual input of the forms into these systems which continues to make human error a factor.

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the registration validly.[160]

Evidently, as late as the early to mid 1980's, the New York City Board routinely discarded registration applications which, for example, contained only one signature instead of the two technically required, or had missing or incomplete data, or had other similar technical errors. In addition, as previously mentioned, voter registration applications of particular categories of voters--such as the homeless--were also rejected by the Board as not meeting residency requirements until October, 1984.[161] Thus, a greater proportion of registration applicants were likely to be disenfranchised by the Board during this period.

> Cards get turned in and, in fact, sometimes cards get lost in the process.[162]

> Local boards should be as flexible as possible. Incomplete forms should be accepted and registrants given a chance to complete them, either in person or by mail before an election or, in certain circumstances, at the polls on election day. If one of the two signatures required on the form is omitted, let that be corrected later, too... Some boards do make those adjustments and are that flexible, others are not.[163]

Similarly, Norman Adler, then Coordinator of the New York State Network on Voter Registration, testified at the same 1984 legislative public hearing that,

> In our experience with processing now upwards of 70,000 forms, when you turn the forms in to many of the boards of elections in the state, regardless of what the law does or does not say, when the clerks at the

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[160]New York City Board of Elections, Electronic Voting Systems Project Operations Review, September, 1993, Deloitte & Touche.

[161]The Board justified these practices by stating that the law required them to reject such applications in order to guard against potential vote fraud.

[162]Hulbert James, testimony legislative public hearing, March 13, 1984.

[163]Testimony of Allan Rothstein, Associate Director, Citizens Union, ibid. p. 61.

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> Board of Elections process the form, if anything is missing from the form, they do one of three things. In the big boards of elections [such as NYC], they throw the form in the garbage. In the middle-size boards of elections, they try to contact the person by mail. In the small boards of elections, they may actually phone the person and say come in and correct the form. *We estimate that we are losing 15 percent of all the people who presently fill out voter registration cards because of the inadequate clerical treatment of the forms....No matter what the law says, that's the way it's treated.*[164]

Thus, if we calculate the potential disenfranchising impacts of a 15% "clerical error" rate attributed to the New York City Board, of the 70,000 registration applications the Network claims to have submitted for processing by March of 1984, 10,500 would have been discarded or administratively disenfranchised. Between 1982 and 1985 voter registration increased from 2,544,000 to 3,014,000 or 470,000. Thus, at a 15% error rate, 70,500 would have been administratively disenfranchised during this period. As a result of the successful lobbying efforts of advocates, the Board's practices improved over the next decade and reduced this rate of disenfranchisement. Nevertheless, as I show below, tens of thousands of prospective voters may have been disenfranchised by such practices during this period.

During the 1993 elections, the city Board calculated an "error" rate which attempts to catch and rectify instances of administrative error that occur during the processing of

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[164]Testimony at Public Hearing on March 13, 1984, p. 16. In response to these statements by Norman Adler, Jerome Koenig, Legislative Specialist for the Assembly Election Law Committee stated, "I quite agree. By the way, I understand that in some boards of elections if the signature is missing on the back, they photocopy the signature from the front and paste it on the back, and that perhaps should be standard procedure." (Koenig has served on the Elections Committee since the early 1970's. He is widely regarded as one of the most knowledgeable experts in election law and procedures in New York State.)

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registration applications.[165] The Board calculated that the error rate in 1992-1993 was only 1%-2% in each of the borough offices except Manhattan which has had an 11% rate as recently as 1992-93. Moreover, this rate apparently also has fluctuated over time and between borough offices, particularly before the introduction of EASY in 1988-89. Based upon the 1993 error rates and the number of registration applications processed by the Board offices the number of inaccurately recorded applications remains significant, even after automation, suggesting that thousands of voters may be disenfranchised by such errors. These numbers are, of course, higher in the years prior to 1988.

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[165]New York Newsday, May , 1993.

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Number Registered and Estimated Disenfranchised, 1980-1995

Year	# of Forms Processed*	Total Registered{	Estimated Loss w/ 1% error rate	Estimated Loss w/ 2% error rate	Estimated Loss w/ 5% error rate
1995	262,082&	3,151,812	2,620	5,241	
1994	187,718@	3,244,779	1,877	3,754	
1993	234,132	3,301,502	2,341	4,682	
1992	564,050+	3,360,568	5,640	11,281	
1991	148,808	2,962,958	1,488	2,976	
1990	167,371	3,052,259	1,673	3,347	
1989	338,367	3,183,739	3,383	6,767	
1988	570,000^	3,017,013	7,122	14,244	35,612
1987	133,410	2,486,862	NA	NA	NA
1986	142,221	2,842,517	NA	NA	NA
1985	147,810	2,614,070	NA	NA	NA
1984	700,000#	3,014,459	NA	NA	NA
1983	NA	2,489,526	NA	NA	NA
1982	NA	2,544,394	NA	NA	NA
1981	NA	2,345,001	NA	NA	NA
1980	NA	2,585,464	NA	NA	NA

Source: NYC Board of Elections

* Refers to the actual number of registrations processed by the Board--registrants added to the rolls--eliminating duplicate registrations, change of addresses and enrollments, and incomplete or improperly filled out forms.

{ Refers to the total registered number changes throughout each year and therefore may vary depending on when (month/day) the data was obtained from the Board. Also, the number of registrants in this chart refers to the total at each calendar year's end.

& 302,800 forms were turned into the Board in 1995 but only 262,082 were actually added to the registration rolls.

@ Similarly, this number refers to the actual number of registrants added to the rolls out of 220,932 forms received.

+ The total number of registration applications received by the Board for 1992 was

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747,180.
^ 712,246 forms were turned into the Board in 1988.
# 855,000 forms were turned into the Board in 1984. The number of new registrants is approximated.

Thus, even with improvements, the Board has disenfranchised perhaps tens of thousands of voters over the past decade.[166] Indeed, partly because such problems were widely perceived to be pervasive, voter registration organizations began to make photo copies of voter registration forms before they personally turned them into the Board.[167] Testimony of registration organizations and voters at several public hearings and news reports reveal that such errors continue to occur and disenfranchise New Yorkers.[168]

The Force of Law

As the forgoing analysis indicates the Board's data is problematic--it likely contains numerous errors that are not caught or recorded. However, in practice the Board is the final arbiter: they are the keepers of the *official* records regarding an individual's registration status. And, if Board personnel cannot locate an individual's registration record, that person is not officially registered. Indeed, unless legally and effectively

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[166]These estimated error rates are based on 1993 error rates of cases identified and acknowledged by the Board. Some Board personnel, however, have suggested that the real rate of error may actually be much higher than officially acknowledged, especially during peak periods when the Board hires temporary workers.

[167]Voter registration organizations also often used copies of forms to conduct get-out-the-vote campaigns (i.e. for mailings, phone banking, etc.). Having a copy of the registration application gave voters and advocates recourse to challenge Board records. Based upon interviews with representatives of these organizations--and elections officials--several such organizations and individuals have used copies of registration applications to challenge Board records.

[168]In 1993, the Voter Assistance Commission held two public hearings, and one in 1994.

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challenged--which rarely occurs--the Board's "ruling" stands and the individual is prevented from casting a ballot, or from having an affidavit ballot validated. Any attempt to assert a registration application was submitted or to match an affidavit ballot to a registration record at the Board that does not exist because of an *initial* administrative error by Board personnel will inevitably result in that voter being disenfranchised.

Thus, "data" provided by the Board inevitably contains a bias, displacing responsibility for Board mismanagement onto individual voters. Although the number of voters who are disenfranchised is relatively small in proportion to the total number of registrants and voters, the Board is, nonetheless, responsible for such resultant disenfranchisement. Furthermore, even though much disenfranchisement results because the workings of registration law (such as the 25 day registration deadline), significant numbers of legitimate voters are routinely disenfranchised by the Board itself.

Undocumented disenfranchisement

While some of the disenfranchising impacts can be documented, other disenfranchisement that likely also occurred can not. Few and insufficient mechanisms exist to record such instances. Indeed, some people may not have even known they were disenfranchised. Certainly, numerous eligible voters were: administratively not properly registered or canceled incorrectly, or not properly notified about the status of their application or poll site through no fault of their own but rather because of the fault of the various procedures or mismanagement of the Board of Elections; or were never afforded the opportunity to cast an absentee ballot; or never got to their correct poll site and election district and their vote was not cast or counted; or after some delay or problem,

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merely left a poll site and no observation or report of such occurrences were made. Based upon testimony of representatives from a broad range of community based organizations who discussed such cases, we can safely say that an undetermined additional number of eligible voters were also disenfranchised.

In addition, many others--especially first time voters--may well have become discouraged. The unpleasant experience of being subject to such ineptitude can reinforce the skeptical or alienated perspectives some voters hold of the political system, and to conclude the costs out weigh the benefits of electoral participation. Indeed, as registration groups have attested, voters have cited such reasons for subsequent non-voting.[169]

Politically motivated disenfranchisement

Finally, Board employees may also disenfranchise prospective voters intentionally, whether at Board offices or at poll sites. While it appears that most voters are disenfranchised by the Board as a result of unintentional errors due to incompetence or flawed procedures, Board employees also have political motives and possess administrative capacities to vitiate an individual's right to vote. As the most local level and face-to-face representative of the Board of Elections to the public, inspectors possess administrative authority and discretionary capacity to shape these interactions in important ways.

As previously discussed, election inspectors are patronage appointees by law and

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[169]Numerous community based organizations have reported finding voters who have explained their non-participation from such discouraging experiences, including the Community Service Society, ACORN, and The Asian American Legal and Defense Fund (AALDEF).

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practice. Clearly, then these individuals possess political affiliations and interests. Generally, Democrats outnumber the number of Republicans who serve as inspectors on election day. This is due to many factors, including the nearly 5 to 1 Democratic registration in the city. Moreover, given that only Democrats and Republicans can be inspectors, voters who are registered in one of the other three legally constituted political parties--or one of the over 25% of the electorate that are not enrolled in any party--such individuals may be perceived and treated differently by Board personnel. Some evidence exists that suggests such biased treatment may occur. Testimony of voters and elections personnel from public hearings (for example, from two VAC hearings) and in interviews reveal that cases of such biased treatment of voters has occurred apparently with regard to party enrollment, race and ethnicity, and class.

The Case of Pre-Trial Detainees

One example of where politics may have played such a role in the case of pre-trial detainees in the city's prison system who are eligible to vote (felons are not eligible to vote). Apparently, operatives from "regular" Democratic circles reportedly pressured key Board staff which resulted in the disenfranchisement of perhaps thousands of pre-trial detainees. A prison rights organization, the Fortune Society, attempted to register thousands of inmates for the 1993 primary and general elections. According to the Department of Corrections, approximately 10,000 to 12,000 of the 20,000 inmates are pre-trial detainees who may be eligible to vote. Most of these prisoners (11,500) reside at Rikers Island which falls in the district of Peter Vallone, Democrat, and the Speaker of the City Council. Members of the Fortune Society reported that this Council member's

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office and another Democratic County Party leader had pressured the Democratic leadership at the Board not to accept registration applications which used the Rikers Island residence, thus preventing these applicants the opportunity to vote. These Democratic officials reportedly feared that potential challengers would be the beneficiaries of these Rikers Island residents who are overwhelmingly low-income minorities. Only when the Fortune Society threatened a lawsuit, and the Voter Assistance Commission and several other voting rights organizations pressed the Board to accept these registrations did the Board reconsider its policy and accept such applications. However, by then only a few weeks remained before the registration deadline, so few prisoners were registered to vote.[170]

Poll Site Location and Changes

In general the location of a poll site can negatively (or positively) affect turnout, because selection of sites may be long distances from (or close to) people's homes. Such selection is therefore subject to contestation by the political parties and leaders. Indeed, any change of poll sites must be approved by both county party leaders.[171] Some Board personnel have reported that locations of poll sites have long been the subject of political conflict within the Board and between parties, and that periodically poll sites have been

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[170]The Corrections Department also limited the number of Fortune Society members who could conduct voter registration, as well as the number of visits they could make to Rikers.

[171] Poll sites are ostensibly selected on the basis of several "official" criterion, including the number of residents in an area, proximity to other poll sites, whether the site is accessible to people with physical disabilities, and the cost of renting such a site to the Board or if a site is available that is free of cost.

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changed for "blatantly political" reasons. One episode in 1993, for example, involved the intervention of a Democratic party leader who successfully got the Board to move a poll site from a nursing home, the residents of whom were perceived to be likely Giuliani voters, to a site ten blocks away, making the task of voting much more difficult for many of these elderly residents. Similar kinds of interventions reportedly also have been made by Republicans. Such manipulations are not always successful and may now, in fact, be more rare. The Board, nevertheless, has reduced the total number of poll sites citywide from 1,359 in 1986, to 1,251 in 1992.[172]

Chinese Ballots

In this last example, the struggle by Asian-American groups during the past decade with the New York City Board of Elections is another illustration of how different political groups have contested the rules and procedures of elections and election administration, producing important changes. As early as 1985, the Asian-American Legal Defense and Education Fund (AALDEF), the lead advocacy organizations in a coalition of Asian-American groups, called for a series of changes to the Board's practices regarding Asian-American voting rights, particularly Chinese voting rights. AALDEF negotiated a voluntary agreement with the New York City Board of Elections to provide Chinese

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[172]The Board contends that a court injunction (Hill vs. Board. 1984) requiring poll sites to be accessible to people with disabilities necessitated many of the poll site changes and reductions, and that good sites are hard to find and expensive if not public sites. Advocates have countered that, while that the number of accessible sites was limited in the past, today there exists a greatly enlarged number due to the ADA act. Similarly, while the Board may have a financial interest in reducing the number of poll sites, this functions as a convenient excuse for both the Board and the elected city officials to not expand the number of accessible sites.

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interpreters at five-polling places in Manhattan's Chinatown and to permit Chinese language election signs, translated by local community groups, to be posted at these sites.[173] As the Executive Director of AALDEF stated, "this was an important first step in recognizing the rights of Asian American voters, but it fell far short of actual community needs throughout the city."[174] AALDEF and other advocates frequently over several years in the early 1990's urged the Board to institute a more comprehensive Chinese-language assistance program, believing that the lack of such a program depressed voter turnout of Chinese-Americans. AALDEF advocated the Board adopt specific criteria to select and train interpreters and poll site inspectors, and provide voting machine ballots with ballot information fully translated in to Chinese. AALDEF also communicated their concerns and recommendations to the U. S. Department of Justice.

A mobilization by Asian-Americans in New York City and revisions to the Federal Voting Rights Act (VRA) in 1992 led to important changes in poll site voting practices by the Board of Elections.[175] The revisions to the VRA required the Board to provide for the

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[173]Testimony of Margaret Fung, Executive Director of AALDEF, at the public hearing of the Voter Assistance Commission, December 7, 1994. Other organizations in the coalition included the Chinatown Voter Education Alliance (CVEA), the Coalition for Korean American Voters (CKAV),

[174]Ibid.

[175]The bill is called the Voting Rights Language Assistance Act of 1992, and amends section 203 of the VRA extending the provisions of section 203 until August 6, 2007. Section 203 of the VRA was initially enacted in 1975, and amended in 1982. The Act requires that whenever a covered jurisdiction "provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process including ballots, it shall provide them in the language of the applicable minority group as well as in the English language." Sec. 42 U.S.C. Section 1973aa-1a (c). Similarly, Latino organizations had earlier mobilized to produce changes in the Board's practices for Latinos in New York City, and monitor the VRA's provisions.

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first time bilingual voting materials to Chinese language citizens, reducing the number of voting age citizens in a county from 20,000 to 10,000 which triggered this requirement. Three boroughs now qualified for protections under these new rules: Manhattan with 19,000 Chinese-speaking voting age residents; 19,000 in Queens; and 16,000 in Brooklyn.[176] The federal requirement trumped the Board's previous resistance to provide such assistance.

In 1994 the Asian-American Legal Defense and Education Fund (AALDEF) threatened to sue the Board, specifically over the Board's refusal to fully translate ballots on voting machines.[177] The Board claimed it was not physically possible to fit Chinese names on the machine ballots. One election commissioner, Douglass Kellner, Democrat (who represents Manhattan and is Denny Farrell's appointee), however, consistently supported AALDEF's position. Only after several protests by over 50 community groups, AALDEF's threat of litigation coupled with the Justice Department's warnings, and Kellner's persistence, did the Board reverse itself in August, 1994.

Thus, only after nearly a decade of advocacy--and a change in the VRA--did the Board move to "provide equal voting rights to Chinese-Americans,"[178] particularly with regards to voting machine ballots. Coalition members report that these changes have been

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[176]New York Newsday, August 3, 1992.

[177]AALDEF contended that this omission by the Board violated section 203 of the VRA.

[178]Testimony of Margaret Fung, Executive Director of AALDEF, at the public hearing of the Voter Assistance Commission, December 7, 1994. AALDEF has also advocated similar improvements to the Board's language assistance to the Korean community, especially in Queens where the 10,000 person threshold is nearly met.

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roundly praised by Asian Americans and have had a favorable impact on voter turnout. By reducing confusion, misunderstandings and delays, Asian American voters experience less administrative disenfranchisement and alienation from the electoral process. Instead, many Asian American voters report feeling validation and empowerment.[179] Coalition members have acknowledged that the Board has "made substantial progress in implementing its Chinese language assistance program in the November 1994 election."[180]

AALDEF and others continue to advocate other improvements in the Board's practices. Several problems persist that coalition members and their constituents have encountered all too frequently, including "racist attitudes and remarks made by election inspectors, an inadequate number of interpreters (based on agreed assignments at targeted sites), insufficient training for interpreters, and inconsistent placement and display of bilingual materials at polling places."[181] A recent example came during the Community School Board Elections of 1996 where significant problems were documented by a member of AALDEF in Chinatown in Manhattan which led to the disenfranchisement of over one hundred voters.[182]

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[179]Ibid.

[180]Ibid.

[181]Testimony of Margaret Fung, Executive Director of AALDEF, at the public hearing of the Voter Assistance Commission, December 7, 1994.

[182]Claire Hsiang, development director at AALDEF, "Burned at the Ballot Box," an op-ed in The New York Times, May 11, 1996. Ms. Hsiang was an election observer at P.S. 130. The kinds of problems she described include voter names not on the registration rolls (only 54 were listed while PTA members claimed to have registered over 500 parents and hand-delivered the forms to the Board), lack of Chinese language interpreters and lack of Chinese materials such as affidavit ballots as required by law, under-staffed and overcrowded poll sites leading to disruption, confusion, frustrated voters, many (over 100) who leave without voting, lack of timely response to the lack of materials and

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Conclusion

This chapter documents how particular practices by the New York City Board of Elections disenfranchise eligible voters. The specific voter registration procedures and election day operations outlined reflect both the legacy of turn of the century reforms which gradually institutionalized such restrictive practices, and the continued influence of contemporary dominant political actors who are represented on the Board and have incumbency interests in maintaining a constricted electorate. While much of the political science literature ignores or downplays the role election administration can play in producing low voter turnout, this study attempts to show it is more important than currently acknowledged.

In addition, I show that the rate of disenfranchisement by the New York City Board has declined over the past decade due to reforms instituted over this period (1984-1994). Largely as a result of the mobilization and lobbying of registration reform advocates, the negative media attention generated by the Board's poor performance in the 1984 and 1988 elections, and the spate of scandals that enveloped dominant Democratic officials and prodded then Mayor Koch to support a host of legal and procedural changes to the Board's practices which decreased disenfranchisement by improving the Board's operations and "efficiency," and, coupled with other initiatives such as the creation of the Voter Assistance Program (VAP) and Commission (VAC), access to registration and voting opportunities increased, albeit moderately. While reform fell short of political re-

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interpreters by the Board (no Board official arrived in response to calls for assistance for nearly two hours, and then still with no Chinese affidavit ballots), and the like.

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structuring of the Board, nevertheless, due in part to these modest improvements and the voter registration drives in the late 1980's, New York City's registration and participation rates increased, and probably contributed to the election of David Dinkins in 1989.

As we shall see in the next chapter, however, some of these gains were reversed or undermined by a Republican counter mobilization in 1993 that increased disenfranchisement in that election, and may have also contributed to the defeat of David Dinkins and the election of Rudolph Giuliani.

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CHAPTER FIVE

THE SPECTER OF VOTE FRAUD: THE 1993 ELECTIONS IN NEW YORK CITY AND VOTER DISENFRANCHISEMENT

This chapter continues the exploration of the gatekeeping role of election administration by examining how improvements to City Board outlined in the previous chapter were partially reversed during the 1993 municipal elections. Republican Party officials coordinated an anti-election fraud campaign and brought pressure to bear on the New York City Board of Elections to step up security measures to safeguard the ballot. These efforts, intensified restrictive administrative procedures, coupled with a separate Republican "ballot security operation," led to the disenfranchisement of thousands of eligible voters, primarily low income individuals and people of color, contributing to their lower turnout and perhaps to the defeat of David Dinkins. Subsequent budget and staff cuts made by the Giuliani administration to the Board further affected the Board's operations.

As the campaigns for the 1993 municipal elections began, so too did the allegations and concerns regarding potential registration and vote fraud. The charges of fraud were raised by state and local Republican and Liberal party officials and their supporters--particularly from the Giuliani Campaign--as well as by local news reporters. Indeed, the impetus and source of much of the information for many news reports on the issue were Republican officials of the New York City Board of Elections. Even during the 1989 elections, state and local Republican Party officials charged registration and vote fraud by Democratic operatives and Dinkins supporters, and claimed that fraud had cost

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Giuliani votes and perhaps contributed to his defeat.[1] David Garth, Giulliani's media advisor and former campaign consultant to Mayor Koch, made similar allegations concerning the 1989 primary elections, principally in regard to Latino voting districts where Koch may have lost crucial votes in the race against Dinkins. These accusations and the fears they engendered were echoed throughout the 1993 race with great frequency and force, particularly by Giuliani and several of his campaign staff (especially Peter Powers, Giuliani's Campaign Manager and now Deputy Mayor, and Richard Schwartz, Deputy Campaign Manager, and now Advisor to the Mayor).[2] The kinds of illegal election activity alleged included: false and duplicate registrations, non-citizen

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[1]The Republican National Committee also alleged that several thousand people were ferreted from the south to vote illegally for Dinkins, according to Dinkins Campaign officials. In 1988, the New York State Republican Party's Victory 88 campaign conducted a "ballot security operation" in New York City, and the Giuliani campaign also had a ballot security operation in 1989, both of which were headed up by Suzanne Israel Tufts, Esq. During both elections, they reportedly observed various election irregularities (testimony of Suzanne Tufts during the July 28, 1993 public hearing held by the Senate Election Law Committee).

[2]During the U.S. Senate's deliberation of the National Voter Registration Act in March of 1993, Senator Alphonse D'Amato (R) alleged that vote fraud might have occurred in New York in the 1992 elections: Mr. President, let me tell you that in my election that just took place this past November, they had well over 100,000 paper ballots that were thrown out. The largest percentage of them were people who were not eligible to even vote... To open the floodgates and doors to those who are not citizens of the United States to be determining who shall be elected and who will not, that is just wrong... There are those who will absolutely go and line them all up and have them all register, no matter who, so that they can determine the outcome of elections... So I...hope we do not want to encourage voter fraud..." (Congressional Record, Senate, March 16, 1993, p 2906). The Senator's comments were made in arguing that an amendment eliminating social service agencies from the bill was therefore justified to prevent fraud. It must be noted that no evidence of such illegal non-citizen voting has been produced, despite requests made to the Senator and other Republican officials. Nonetheless, as we shall see, these allegations were repeatedly made throughout the 1993 election season.

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participation, repeat voting, and voting the dead-- all of which ostensibly would have the effect of inflating turnout for Dinkins.

Early in the spring of 1993, the first in dozens of reports appeared in major New York City newspapers and on radio and television broadcasts which raised the issue of potential registration and vote fraud, and the threat these posed to the outcome of the upcoming 1993 elections. New York Newsday and the New York Post assigned investigative staff and other resources to the story. (I review these articles and the concerns they raise below). It may not be since the heyday of Tammany that as many news reports appeared prior to an election which raised concerns about potential registration and vote fraud.

Reminiscent of campaigns led by Republicans and reformers at the turn of the century, a state committee was brought in to investigate the charges of registration and vote fraud in New York City. This Republican led state body, the Senate Election Law Committee, largely focused on the operations of the New York City Board of Elections. The stated purpose was to investigate the fraud charges raised in news reports and to take appropriate action. The investigation turned up no significant evidence of fraud. It did, however, expose slipshod registration procedures and mismanagement at the Board of elections. In fact, this Republican-led inquest was coupled with efforts to change particular administrative practices by the Board, and also appears to have been used as a basis to oppose particular legislative reform measures sponsored by Democrats and voting

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rights advocates.[3]

Arguably, the Republican tactics eventually disenfranchised voters on election day. This activity triggered changes in the way the election was conducted, and appears to have negatively effected participation, especially among minorities and the poor. Specifically, this activity brought pressure to bear upon the city and state Boards of elections to step-up security measures. By forcing the city Board to introduce additional restrictive administrative procedures and apply routine measures in a more stringent manner, Republicans increased the likelihood that greater numbers of eligible voters would be barred from exercising their voting rights. In addition, by shifting the focus of the Board's activity toward security related concerns, there were less resources for activities that increase access to the franchise. While some disenfranchisement is attributable to a separate (but related) Republican "ballot security" operation involving the use of hundreds of poll watchers, the City Board of Elections contributed by: 1) instituting several restrictive measures ostensibly to guard against the kinds of potential fraud alleged during

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[3]Republicans used the investigation to suggest that further "liberalization" of the election law and administrative practices would promote vote fraud. For example, Republicans used the public hearing held in conjunction with the investigation as a basis to oppose pending legislation that would have further simplified the New York State voter registration form--particularly regarding the section of the form that deals with citizenship--a reform which Democrats had sponsored and voting rights advocates supported. In addition, in the context of the recent passage of the National Voter Registration Act--which Republicans had opposed--the hearings provided a springboard for opposition to early passage of needed enabling legislation and provisions insuring effective implementation. Michael Nozzolio (R), Chair of the Republican dominated Senate Election Law Committee stated, "the need to ensure that the integrity of the electoral process is maintained is paramount. Opponents of the federal law have brought to light the possibility of fraud in the Motor Voter system. This possibility will be a topic upon which the efforts of my fellow Committee members and I will be especially focused."

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the months before the election; 2) by reinforcing routine administrative practices to insure the integrity of the ballot; and, 3) by the numerous slipshod procedures, mismanagement, and "errors" of Board personnel which have marred other elections. Indeed, in several ways and in many places, the Republican operation and Board practices appear to have worked in tandem, whether by design or default.

In contrast, the "liberal" wing of the highly factionalized New York City Democratic Party and their supporters,[4] raised a set of different concerns regarding the election process. They raised concerns--not about fraud--but about the "ballot security" operation that Republicans were planning, and about particular practices the Board of elections instituted in response to news reports and to the state committee's investigation. In particular, some Democrats and advocacy organizations were concerned that ballot security measures would have the effect of decreasing turnout of legitimate voters by creating intimidating conditions, cumbersome procedures, and administrative delays and failures. Their efforts, in fact, were successful at preventing the implementation of additional restrictive measures, and thus the probability of even greater disenfranchisement.

I will review the specific allegations and concerns about registration and vote fraud that were raised, and discuss the particular practices implemented as a result. I shall

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[4]The "liberal" wing here refers to Democrats allied with the Dinkins campaign and those in the "reform" mold of the 1960's--particularly in Manhattan--as opposed to factions within the regular party apparatus which generally opposed Dinkins or who were aligned overtly or implicitly with "fusion" candidates which supported Giuliani, such as former Mayor Edward Koch. Similarly, "supporters" refers to the broad range of private and non-profit organizations which were allied with or sympathetic to the Dinkins administration, as well as voting rights advocates and good government organizations.

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examine the impacts of these practices, and pinpoint specific instances where disenfranchisement occurred and of whom. While the charges of registration and vote fraud remain largely unsubstantiated, evidence exists that a form of bureaucratic "fraud" was perpetrated through restrictive practices which had the effect of decreasing turnout, particularly by minority and working class voters.

First, I will briefly review several important features of the election that forms the context of these events, and will inform this discussion.

CONTEXT: THE POLITICAL INTERESTS OF THE CONTENDERS

The Scope and Bias of the Electorate

From the outset the mayoral race was projected to be, as it was in 1989, very close. Moreover, it was clear that very small turnout increments of racially polarized voters in either direction could make the difference between the winner and the loser in the election. Thus, measures that might have the effect of increasing or decreasing turnout of particular groups carried special weight for the contestants. Most observers maintained that the Democrats and Dinkins would benefit from an expansion of the electorate, given that there were over one and a half million eligible but unregistered potential voters, mostly people with low-incomes and minorities, and therefore likely Dinkins voters, given the composition of his 1989 electoral coalition.

In this context, any activity that would have the impact of increasing registration and voting of the eligible non-registrants--including fraudulent activity--would likely benefit Dinkins and his supporters. Conversely, practices that might restrict or "suppress" registration and turnout--especially of low income and minority voters (coupled with

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strategies that would increase the turnout of groups identified as likely Giuliani or "fusion" voters)--would likely benefit the Republicans, Giuliani, other "fusion" candidates.

Election Administration

As discussed in previous chapters, Republicans have long perceived the New York City Board of Elections--accurately--as being dominated by the regular Democratic Party. Even though bi-partisan in composition, Democrats have held many of the most senior administrative positions. At first glance it would appear to be in the political interests of the Democrats on the Board of elections to increase voter registration and participation. Like the Democratic Party as a whole, however, distinct factions exist within the Board. Generally, the Democratic faction ascendant within the Board is not closely aligned with the "liberal" or pro-Dinkins elements, and in fact, has occasionally been expressly at odds with the Dinkins administration and progressive factions of the party.[5] Ironically, the Dinkins administration itself has been somewhat erratic regarding taking measures to expand the franchise.[6]

Moreover, election law assigns twin mandates to Boards of elections: to assure the integrity of elections, and "enhance voter registration."[7] As was evident in earlier periods,

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[5]Officials from both the Dinkins administration and the Board have described in interviews with the author several such policy and political conflicts.

[6]For example, the Dinkins administration de-funded the Voter Assistance Commission, which is mandated to facilitate voter participation of under-represented groups, for over a year, and the Dinkins campaign conducted little registration itself. These issues are discussed in the next chapter more fully.

[7]As discussed in chapter three, in part due to the reform efforts of contemporary advocates, New York's election law has incorporated stronger language regarding the promotion of registration opportunities by Boards of elections, and explicit directives to

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both parties and many voting rights advocates recognized that the Board could effect participation by emphasizing or de-emphasizing particular practices that are aimed at achieving one or the other of its double mandates.[8] Measures designed to maximize access to voter registration have been perceived as compromising the integrity of the ballot and opening the door to fraudulent activity. In general, Republican officials have tended to emphasize measures designed to insure the integrity of the ballot, while Democrats have tended to promote efforts to increase voter registration. Thus, each of the Board's mandates potentially serves conflicting partisan interests, and emphasizing one over the other might also influence the outcome of the elections. Election administrators have often noted the difficulty in striking a workable balance acceptable to both parties and/or factions. It was inevitable, therefore, that the Board's practices soon became a site of struggle between the contending parties. Lastly, given that its operations have been roundly criticized over the past decade, new examples of the Board's mismanagement raised in news reports and by the state investigation fueled Republican concerns that there would be greater opportunities for registration and vote fraud, and served to justify renewed scrutiny of Board practices and to press for additional safeguards.[9]

Boards to prepare voter registration outreach plans.

[8]Indeed, some election experts have noted that the various practices which boards employ to achieve these mandates often work at cross purposes. For example, Thomas Wilkey, Executive Director of the New York State Board of Elections, Emmit Femeau, Executive Director of the Washington, D.C. Board of Ethics and Elections, William Kimberling, of the Federal Elections Commission, and others have made this observation about boards across the country.

[9] Previous state investigations we discussed in chapter three were launched by "liberal" Democrats (and conducted by the Assembly Election Law Committee and a

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Role of the Media

Numerous news reports appeared during the 1993 elections that cast doubt on the integrity of the election process by raising concerns about possible election fraud. Most of these reports originated in New York Newsday, principally written by Joe Calderone.[10] The New York Post, the Daily News, and New York Times also ran a series of articles, often following stories first reported in Newsday. The Calderone articles presented registration data and/or information on elections practices--with a substantial focus on the practices of the New York City Board of Elections, particularly its Manhattan office--which raised questions about the possibility of fraudulent registration and voting activity in New York City.[11]

Moreover, the reports suggested--either explicitly or implicitly--Democratic and Dinkins campaign involvement in such activity, or at least that they would be the beneficiaries of the circumstances highlighted in the articles. The reports cast suspicion on

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special Governor's Task Force, under Cuomo) following reports of significant disenfranchisement by the Board--ostensibly due to administrative mismanagement--and to explore ways to boost New York's anemic voter participation rates.

[10]As I will discuss below, Calderone's political affiliations apparently played a role in his series of articles.

[11]Other reports appeared in papers upstate, including several "puff pieces" by Gus Bliven in a Syracuse paper that portrayed Michael Nozzolio (R), Chair of the Senate Election Law Committee, as a crusader against corruption in New York City. In contrast, the Rochester Democratic Chronicle attacked Nozzolio as "hypocritical" because Nozzollio had earlier voted for legislation to "liberalize" registration procedures when he was an Assemblyman. Several elections experts have suggested that when Nozzollio went to the Senate and was made Chair of the Election Law Committee, he was redirected by the Republican leadership to hold different policy positions and to perform other functions in line with their developing strategy.

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the Dinkins campaign's registration activity (both previous and current), and raised concerns about its links to the Board of Elections and "lax" practices. These reports served to buttress Republican efforts to change particular practices of the Board of elections and institute restrictive registration and voting procedures for the 1993 elections, as well as to forestall related election law changes.

The impetus for some initial articles--and the information used by journalists--reportedly originated from Republican/Giuliani operatives and supporters. According to top administrators in the New York City Board of Elections, several Republican employees of the Board supplied information used in news reports to journalists, including Joe Calderone of Newsday, and to David Seifman of the New York Post, both these journalists being well known Republican and Giuliani supporters. In addition, Jerome Koenig, Counsel to the Assembly Election Law Committee, and Gene Russianoff, Senior Counsel at NYPIRG, claim to have knowledge of particular Republican officials (including Richard Schwartz and Peter Powers) who may have supplied data and information to reporters. Thus, even though many of these stories were researched by the "New York Newsday Investigations Team" throughout the campaign cycle--appearing to be "internally generated"--and did help to expose and document problems at the Board of elections and related elections issues, much of the information reportedly emanated from Republican sources and served their purposes.[12]

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[12] Interestingly, a top ranking Board official revealed that campaign finance filings show the Giuliani campaign had paid an individual named Calderone. Moreover, subsequent to the election, Calderone was offered a position in the Giuliani administration as Director of Communications. The offer, however, was subsequently retracted. Daily News, March, 15, 1994.

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Conversely, alternative perspectives on the fraud concerns were lacking in these articles. Nor were alternative proposals to address the concerns raised in the articles represented in the reports. None of the articles reported the responses of voting rights advocates and reformers, who did, however, present information which countered the reported "evidence" of alleged "fraud," and who advocated a set of distinctly different measures to address the concerns raised. Advocates argued, for example, that effective implementation of agency based voter registration would help to eliminate "deadwood" and produce "cleaner" rolls, thus reducing the possibility for fraud; that further modernization and political reform of election administration--not merely managerial reform-- would produce a more efficient and effective system; and that greater public outreach and voter education would eliminate many of the errors registrants and voters commit which might look like "fraud". Nor were other problems highlighted related to New York's cumbersome election law or restrictive administrative procedures which often leads to disenfranchisement.

News Reports

An initial New York Newsday article expressly illustrates the above issues. Moreover, this article proved to be significant in that it generated further concerns regarding registration and vote fraud as well as increased scrutiny and activity to address these concerns (manifest in subsequent news reports and the Republican-led investigation by the State Senate Election Law Committee). The article, written by Joe Calderone and Tom Curran, reported that 1,247 Manhattan registrants had listed the address of the main post office at 390 9th Avenue in mid-town as their residence (as opposed to their mailing

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address), which violated state election law. The journalists noted that many of the registrations may have been welfare recipients and homeless individuals who use that address for the delivery of public assistance checks and other mail, and that 922 of the 1,247 had registered as Democrats.[13]

Noting that "rules governing registration have eased over the years to increase voter registration," the authors stressed that "critics say the [registration] system has opened the door to voter fraud. Supporters of Republican Rudolph Giuliani, who lost by 47,080 votes to Dinkins in the close 1989 race and who is virtually neck and neck with Dinkins in current mayoral polls, are particularly concerned about the integrity of the registration rolls." Richard Schwartz, Giuliani's Deputy Campaign Manager stated, "when you do that [i.e., create "a system that makes it easy to vote"], you have to be a great deal more vigilant about defending it against fraud and abuse. We're concerned that's not being done at this point." Another important Giuliani supporter, Ray Harding, a Liberal Party leader, stated, "It sounds like someone's orchestration to increase Democratic party enrollment."

The article highlighted that the "ability of 1,247 people to use the post office to register fuels concerns among some election law lawyers and experts that the operations at the Board of Elections are in disarray". Indeed, the journalists pointed out that the New York City Board of Elections was not even aware of the situation of the post office registrants, but that the Board should have been because it employs several mechanisms to

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[13]New York Newsday, April 4, 1993, p. 27. These figures were reported from an "analysis of Board of Elections records by New York Newsday".

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catch such instances. In this regard, the authors noted the two top administrators in the Manhattan office of the Board--Bart Regazzi, the Chief Clerk and Republican appointee, and William Perkins, the Chief Deputy Clerk and Democratic appointee--were notified by the central Board that they would be fired if they did not resign. (The Board ended up dismissing up to 20 of the over 50 staff at the Manhattan Board because of significant mismanagement problems. The article noted that Perkins, the Democratic appointee, would join the Dinkins campaign, suggesting possible involvement by Democrats and the Dinkins campaign.

Several advocates for the homeless and voter registration organizations, however, presented an alternate viewpoint.[14] They contended the charges of "fraud" were premature and implausible. In the first place, they pointed out the area around the main post office is, in fact, "home" to thousands of homeless people, because the area has countless soup kitchens, drop-in centers, and shelters nearby. Moreover, they contend it is likely--given the complexity of the voter registration form and procedures, especially for people with lower levels of education and English as a second language--that many registrants misunderstood the rules and mistakenly listed their mailing address as their residence. In this regard, the advocates also noted that the Board of elections does not always acknowledge a separate mailing address even when provided by registrants. This may happen for several reasons, including mistakes made by the Board's data entry clerks-

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[14]Three such advocates, Will Daniel, Director of Homeless Voter, Donna James, Director of Voter Registration Coalition for the Homeless, and Shakoor Aljuwani, Director of the Manhattan Voter Participation Project of the Community Service Society, responded to the Newsday article in a letter to the editor, dated April 5, 1993. This letter, however, was not published.

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-which potentially disenfranchises anyone who gets his or her mail at a post office box or at work--which occur frequently, especially during peak periods when the volume of registration applications increases and the Board hires temporary workers to enter data who are unfamiliar with the Board's unique computerized registration system and procedures. Thus, the advocates argued that the "evidence" presented in the article does not prove that any fraud was intentionally committed, nor that partisan motives or involvements were evident. Lastly, they contend fault may lie partly with the complexity of the registration system itself.

While it is theoretically possible that some of these registrations may have in fact been fraudulent, no clear evidence of fraud was ever produced. Moreover, as the advocates outlined, there are several other plausible alternate explanations. Nonetheless, the Board's response to the article--and to intervention by party officials--was to summarily cancel the registrations in question by claiming that these registrants had "illegally" registered. While acting within the election law, the Board could have notified these registrants of their need to re-register properly. Apparently the Board did not even attempt to contact these individuals to correct their registration nor to notify them of the cancellations, so these people were essentially disenfranchised. Advocates contended that the Board's response was inappropriate and unnecessarily harsh.

A month later, a second Newsday article reported that other "foul-ups and administrative mismanagement at the city Board of Elections have opened the door to potential voter fraud."[15] The article reports that a Newsday probe (including "a computer

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[15]May 12, 1993 by Joe Calderone and Russ Buettner.

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analysis of Board registration records, interviews and a review of internal Board of Election documents") showed more than 6,300 new voters appeared to have registered twice in 1992, including some who used the same address. The authors highlighted that duplicate registrations provide a basis for potential vote fraud--whether these registrants registered twice "by mistake or intentionally"--and that the system operated by the Board of Elections is "designed to catch such duplicate registrations" but suffers from mismanagement, especially in its Manhattan office. The article suggested that William Perkins, the top administrative Democratic appointee of the Manhattan Board, was principally responsible for the duplicate registrations by not following all Board procedures designed to identify and eliminate potential duplicates Again, the article noted that Perkins was fired by the Board and subsequently joined the Dinkins campaign. The article also reported that during the year prior to the 1992 elections massive voter registration drives were conducted, largely sponsored by the Democrats and Dinkin's allies (including Bill Lynch who left the Dinkins administration to head the Democratic Party's campaign in New York City). These registration drives reportedly produced 719,659 registrations in New York City, an exceptionally, and--by implication--suspiciously high number. Indeed, the authors quote two top Board officials who contend that "none of us can believe there were 700,000 new voters," further casting a cloud on the Democrat's registration activity.[16]

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[16]However, Board figures show that approximately 150,000 were re-registrations that resulted in a smaller total figure. Moreover, given that nearly 2 million eligible voters were unregistered in New York City in 1992, and that in other presidential races similarly large numbers of voters were registered by massive drives, the number of registrants is not exceedingly high.

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The authors highlighted that the central Board had known about administrative problems in the Manhattan office, citing the inability to effectively process all the registrations received during September of 1992 when "virtual chaos reigned in the Manhattan borough office." The article reported that the Manhattan office has an 11% "error rate" compared to about a 1% or 2% rate in each of the other four boroughs. The "error rate" refers to mistakes in the Board's computer records. These mistakes are detected by locating mismatches between the Board's computer records that (now under the SCRIBE system) generates the poll lists, and the original information on paper registration records. Such "errors" can translate into fraud at the polls on election day, or more commonly, cause confusion, delays and disenfranchisement. The authors noted that the Board hired an outside data processing firm (for $80,000) to "clean up" Manhattan's voter rolls. Moreover, the highest rate of errors were reportedly found in Central Harlem and Washington Heights/Inwood of 18% and 24% respectively, Dinkins strongholds.[17]

Lastly, the authors acknowledged the importance of the context within which this article appears: "Voter registration issues are taking on added significance this year because the two candidates are running close in the polls and because of the relatively small number of votes by which Dinkins defeated Giuliani in 1989--47,080 out of 1,814,739." The article quoted a Giuliani supporter (and subsequent appointee to the Giuliani administration), as Parks Department Commissioner Henry Stern, former president of the Citizens Union, who stated, "people have every right to be concerned

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[17]New York Post, May 29, 1993.

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about fraudulent voting."[18]

As with the first Newsday article, however, no alternative perspective was presented . For example, no mention was made that the 6,300 registrations in question were actually only potential duplicates, nor why even actual duplicate registrations may occur without any intent of committing fraud or any occurrence of double voting. For example, the article did not present any discussion of the fact that when one changes residence one must also re-register. Given that nearly 20% of all Americans move within one year--many of those being low income individuals who move within the city--elections experts and voter registration organizations routinely suggest re-registration to anyone who is not sure when they registered last or from where (a not uncommon circumstance) so as to better insure their registration. Moreover, numerous individuals exist in New York City with exactly the same name. It is possible that some of the potential duplicates were actually different individuals. So, plausible alternative explanations exist for the duplicate registrations, but the article only suggested the fraud possibility.

A third Newsday piece also raised fraud concerns connected to "lax" registration practices by the Board of elections, and about personnel in its Manhattan office.[19] "As part of an ongoing look at alleged irregularities" the article claimed that the Manhattan Board "broke state rules" by allowing 11,000 voter registration applications to be processed even though they were unsigned. The signature is used to verify a person's identity on election day. The report quoted a Board employee (Rosanna Kostamoulas, a Republican) who

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[18]Ibid.

[19]May 27, 1993.

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charged that William Perkins, the former Democratic chief clerk at the Manhattan Board who was fired and subsequently hired by the Dinkins Campaign, had authorized the processing of the registrations without signatures. Moreover, Kostamoulas charges that Perkins allowed unsigned "buff" cards to go to poll sites for the 1992 presidential election and for the 1993 Community School Board elections. (Perkins denied giving such instruction, and claimed he was "being used as a scapegoat for problems that are not unique to the Manhattan office".) Thus, the article suggested that these circumstances created the possibilities for vote fraud, and explicitly implicated the Democrats and the Dinkins campaign. Interestingly, Bart Regazzi, a Republican appointee and then chief clerk at the Manhattan Board was not mentioned in the article. The news report was accompanied by calls from Republican ranks for the cancellation of these registrants.

A subsequent inquiry revealed, however, that most of the "unsigned" registration cards in question had not actually been submitted without signatures as the article had suggested. Under pre-SCRIBE procedures, once a registrant's "buff" card is full the signature is supposed to be xeroxed and attached to a new buff card which then goes into the binders poll workers use on election day (i.e. the registration list). It appears that this procedure was not followed by the Manhattan Board for some of the registrants in question. Yet, these unsigned cards appear to correspond to actual voters. Therefore, canceling these registrations would have illegitimately disenfranchised these individuals. Nonetheless, Republicans argued that it was still possible for these cards to be fraudulent. Moreover, they argued that the Board violated state law (which it did). Following pressure from voting rights advocates and Democratic Board members, however, the

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Board did not cancel all the registrations.

Nevertheless, it appears that some of these registrants were disenfranchised. The SCRIBE system digitally scans the signature of the voter and reproduces it onto the registration list that poll workers use on election day to locate legitimately registered voters and verify their registration. Many of the signatures were not properly scanned (over 20,000 registrations in Manhattan alone did not contain signatures for several reasons, including lack of original signatures). As a result, the signature-less registrations were deleted from the poll list or marked "challenge". Election workers are instructed to "challenge"--or question the qualifications--of any registrant where indicated on the registration or SCRIBE list, including a voter whose registration does not have a signature. On election day, as we know from reports (outlined below), numerous legitimate voters--particularly those cited above in Manhattan--were told there was no record of their registration and/or they were challenged. While the precise number of such incidences are not known, hundreds of individuals reported experiencing this particular problem on election day including many who have been living in the same dwelling for many years and had voted in previous elections. In some cases voters were offered an "affidavit" ballot by poll workers, or told that they could obtain a court order by going to an administrative judge located usually at the borough Board of elections office. In such cases, the Board is supposed to subsequently verify the voter's registration and count the vote. In other cases, due to poorly trained poll workers or one of several other reasons, voters were not offered "affidavit" ballots (unless they were knowledgeable of their voting rights and asserted them). These individuals were told, improperly, that they could not

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vote. Thus, while this episode of unsigned registration cards was apparently due to Board mismanagement and technological failures of the SCRIBE system, a kind of "fraud" was perpetrated upon innocent voters who were, in effect, disenfranchised. (The affidavit process and the potential numbers involved are outlined below.)

Following these Newsday articles, a New York Post editorial highlighted what it characterized as "funny stuff at the polls".[20] Claiming that "investigations of electoral fraud by both The Post and Newsday have revealed literally thousands of examples of voters who registered twice, or who failed to indicate whether they are American citizens. Some *are*, in fact, illegal aliens. And some New York City residents, it appears, have acknowledged that they were paid to register more than once." The Post editorial cited mismanagement at the Board of elections, pointing out Perkins as the main responsible culprit. Revealing its partisan bias, The Post stated that the Dinkins administration "found the whole business less troubling than might have been hoped" and has hired Perkins, stating: "And his tasks include registering new voters". The editorial concluded that "It would be comforting to know that the Board of Elections is developing some sort of strategy to deal with the [overall] problem. For our part, we intend to keep our eyes trained [on] election fraud."

However, The Post did not to my knowledge ever produce any evidence of illegal aliens registering, nor people being paid to register twice. (The Post clearly supported Giuliani throughout the year, as evidenced by its editorials, news reports and endorsement.)

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[20]May 28, 1993.

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Analysis

While it remains theoretically possible that some registration and vote fraud were committed through the circumstances highlighted in the above articles, to date no substantial fraud in fact has been documented or proven.[21] Nor has any fraud been shown to exist in the previous mayoral election. Moreover, alternate explanations of the facts highlighted in the articles (as well as in the series of articles that followed, and in the Senate investigation) can plausibly account for these circumstances. More importantly, alternative measures could have been taken to address these circumstances which would not have resulted in the disenfranchisement that ultimately did occur.

While the articles highlighted important problems at the Board of elections--particularly at its Manhattan office--the overwhelming effect was to sensationalize and distort the issues raised, implicate the Democrats and Dinkins operatives and supporters, and fuel Republican concerns about potential vote fraud in the 1993 elections. The articles provided fodder for the subsequent Republican-led activities (including the Senate investigation and a "ballot security" operation, outlined below), and contributed to instituting restrictive practices by the Board during the 1993 elections. The fact that the impetus for the focus on alleged fraud, and much of the information, originated from Republican operatives--including officials at the New York City Board of Elections--suggests partisan motivations. And these events led to changes in practices the Board of

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[21]The only proven incidences of election fraud in New York City occurred in Brooklyn during several elections from 1968 to 1982 as outlined in a grand jury investigation under then District Attorney Elizabeth Holtzman. In this case, elections officials perpetrated fraud in conjunction with small groups or factions of the Democratic party in Brooklyn.

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elections, which in turn, contributed to voter disenfranchisement and low voter turnout.

Republican led State Senate Investigation

These initial news reports was followed by an investigation into voter fraud in New York City that was launched by Michael Nozzollio (R), Chair of the New York State Senate Election Law Committee (hereafter referred to as "Senate Committee"). The announcement of the investigation, which came at the end of May, cited "numerous reports and allegations of widespread election fraud and abuse in New York City...[which] have been widely reported in the media over the last few weeks". Subsequently, a public hearing was held on July 28, 1993, much of which focused specifically on the registration practices and operations of the Board of elections--particularly its Manhattan office--and upon registration activities by the Democratic Party and the Dinkins campaign, and its supporters.

The Senate Committee investigation was clearly Republican-led and focused on Democratic Party activity. The announcement stated, "The rampant election fraud and abuse in New York City that has been reported indicates a growing trend of voter fraud for partisan advantages... It would appear that New York's election laws are being abused in an effort to advance individual parties and candidates," Nozzolio said. "When thousands of people can register to vote more than once it is time to step back and demand some answers as to how this could have happened." The focus was sharply directed at the Board of elections. Indeed, following the announcement, discussions took place between the Senate Committee and the Board, and particular practices were instituted and changed as a result (as discussed below).

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Nozzolio (R) listed several of the alleged incidents reported in the media that "precipitated the need for an in-depth...comprehensive investigation and analysis of possible voter fraud and registration efforts in New York City. This investigation is intended to alleviate continued voter fraud in this year's upcoming citywide elections". Indeed, the Senate Committee seemed to have already reached a conclusion ("continued voter fraud") even before the ostensible start of the investigation. The Senate Committee's list of alleged incidents included news reports regarding:

* 6,300 duplicate registrants in 1992;

* 1,247 Manhattan registrations used the main post office, noting that 922 registered as Democrats;

* A New York City lawyer who admitted voting four times in the 1989 mayoral election, each time for the Democratic candidate;

* A "non-partisan" agency based voter registration plan by the New York City Housing Authority that was "organized" with assistance from members of the Dinkins campaign staff.

The last of these incidents--involving agency based voter registration--represented an additional focus of the Senate Committee, and is connected to another explicitly stated issue the investigation was intended to address: the matter of election law reform. Indeed, the announcement stated "Nozzolio noted that New York's election law has been relaxed in the last few years in an effort to increase voter registration. The State Assembly [dominated by the Democrats] has introduced numerous bills this year that would further liberalize New York's election law." Nozzolio concluded, "We cannot disregard the

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importance of protecting the integrity of the electoral system, the ideals of one person, one vote, in a symbolic rush to achieve election reform. This analysis will assist our efforts in trying to balance the integrity of the electoral process with increasing voter participation." In this regard, William Powers, New York State Republican Party Chairman, repeatedly stressed to editorial Boards and members of the legislature that a thorough and aggressive investigation into these allegations was critical to insure that the upcoming New York City elections would be fair and free of fraud, and that passage of election law reform before the issuance of the findings of the Senate Committee's investigation would be premature.

Assembly Democrats accused Republicans of using the fraud issue--they maintain fraud is not prevalent--to undermine efforts to pass electoral reform: "The Senate has for years balked at making it easier for people to vote," said Eric Vitaliano, (D) Chair of the Assembly Election Law Committee. "The real problem in New York City is getting people to vote once."[22] Vitaliano contended that Republicans were also laying the basis for weakening the forthcoming implementation of the National Voter Registration Act.

The New York City Board of Elections responded to the announcement of the Senate's investigation by seeking to minimize the allegations and focus attention solely on the Manhattan office and mismanagement by particular personnel (especially Perkins). In a press release the Board stated the "thrust of these allegations tend to include the entire Board of Elections and each of our offices in the five boroughs, when in reality the issues are centered exclusively in our borough office in Manhattan. It is the Board of Elections executive management that uncovered the laxity prevailing in that office and exercised

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[22]Newsday, May 28, 1993.

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immediate and appropriate action to remedy the situation. Our findings clearly lead to the conclusion that this is an issue of mismanagement. At no time was there ever evidence of intentional fraud."

Republicans maintained otherwise throughout the elections, however. "It goes beyond mere housekeeping," said Nozzolio (R) at the public hearing in New York City. "It leads to a clouding of election results, which in turn throws into question the integrity of the whole election process."[23] In fact, Nozzolio and other Republicans (in the Senate and city) continued to play a prominent role in pressing the Board to change its practices. Nozzolio "kept track of what the Board was doing" to step up security measures, particularly in identifying duplicate registrations, eliminate "deadwood," and remove registrants whose signatures were missing due to the transition to the SCRIBE system (particularly in Manhattan).[24] He held another hearing in September and attended meetings of the Commissioners and staff at the City Board to both "monitor the Board's actions" and to press for the imposition of further restrictive measures.[25] As we shall see, Republicans did achieve many of these desired changes which, in turn, "likely led to some legitimate registrants being knocked off the rolls."[26]

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[23]New York Post, July 29,1993.

[24]Jon del Giorno, Administrative Manager of the City Board, interview with the author.

[25]Ibid.

[26]Ibid.

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Additional News Reports

As the Republican-led state investigation proceeded, numerous new reports continued to appear on alleged registration fraud and vote fraud possibilities, and stressed the possibilities that fraud could mar the coming elections. From the time of the Senate's public hearing right up through election day, the issues and circumstances that these reports highlighted were incorporated into the investigation's proceedings and the public hearing the Senate Committee held at the end of July. Similarly, these reports and related Republican activity continued to bring pressure to bear on the Board to alter particular practices. Several of the alleged instances of fraud cited in subsequent articles reportedly also originated from Republican sources. I will briefly outline some of the issues that these additional reports raised, and discuss the related changes in Board practices which followed. First, however, it is necessary to note ancillary Republican activity which proved to be the source of some information used in these news reports and which also brought pressure to bear on the Board to alter particular practices.

Republican "ballot security" operation[27]

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[27]Information regarding the Republican "ballot security" operation was obtained from several sources including: officials of the Board of Elections, New York Public Interest Research Group, the New York State Democratic Party. For example, Jerome Koenig, Counsel to the Assembly Election Law Committee, was told by Richard Schwartz during July/August that Republicans were planning a vigorous poll watching operation and asked Koenig how one might legally go about it. Gene Russianoff, Senior Attorney at NYPIRG, also had several conversations with Schwartz about allegations of past fraud and concerns about future fraud during the upcoming mayoral elections. Schwartz mentioned Republican plans for a ballot security operation. It appears that the Republican statewide committee, Victory 93', was also planning to challenge voters at the polls. (The state Democratic Party later produced a copy of a letter from William Powers, Chair of the state Republican Party, as evidence of the state GOP's involvement in the ballot security operation, as discussed below.) Moreover, there is a precedent in New York

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During the months prior to the elections, Republican operatives organized a vigorous poll watching/ballot security operation that was implemented on election day in New York City, and which also contributed to disenfranchisement. Indeed, the growing specter of fraud--which Republicans were largely responsible for generating--was used to justify a "ballot security" operation which Republicans planned and organized concurrently. The planning of this operation reportedly entailed comparing updated address lists purchased from commercial vendors to the official registration lists of the Board of elections in order to locate voters who might have moved or false registrations.[28] The data obtained from this ballot security operation was reportedly provided to the

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State for Republicans challenging voters at polls. Republicans have challenged students at several campuses, including SUNY Purchase, and other campuses, as discussed in chapter three, and according to NYPIRG and the New York Civil Liberties Union (NYCLU)

Nor is such activity unique to New York. The Republican National Committee and other state Republican parties have been successfully challenged in court by the Democratic National Committee and state Democratic parties for various "ballot security" activities. Parallels exist to similar such Republican led "ballot security" operations in other states, as outlined in a consent decree and injunction against Republican National Party and several state Republican parties. And as outlined in an NAACP Legal Defense Inc. Fund memo, the U.S. Justice Department Criminal Division, which is charged with investigation and prosecution of election fraud cases, also contributed to the spread of such ballot security operations by shifted its definition of fraud and focus of its scrutiny during the 1980's. (Undated.)

Lastly, according to NYPIRG, Giuliani himself had challenged voters in the South earlier in his career.

[28]Ibid. Jerome Koenig, Gene Russianoff (op. cit.)and an election lawyer for the Dinkins campaign reported that in conversations with Republicans such as Richard Schwartz, Deputy Campaign Manager for Giuliani, that Republicans were engaged in such efforts to identify potential registration fraud and challenge voters on election day. By using other lists which may be more current and accurate including phone listings, utility lists, various mail order houses, COLES, a commercial vendor, and lists from political consultants, the Republican ballot security operation could effectively identify names of residents at addresses which potentially might not match the voter registration list. Therefore, the registrant could be challenged on election day.

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investigative journalists cited above which served as a basis for articles and analysis.[29] The data was also used to identify voters who might be illegally registered so they could be successfully challenged at selected poll sites on election day. William D. Powers, the state Republican Party chair said shortly before the election that the party would deploy thousands of volunteer poll watchers to help stop the fraudulent activity they anticipated.[30]

Both campaigns petitioned the Board of Elections and the police department for specific measures to assuage their distinct fears about election day problems each believed the other would perpetrate. Indeed, shortly before the election Mayor Dinkins and then candidate Giuliani engaged in what the New York Times called "bitter sparring" over what measures should be taken to insure a fair election. "The Dinkins campaign expressed concern that off-duty police officers supporting Giuliani might intimidate Democratic voters, while the Giuliani campaign demanded extra police officers to make sure no fraud occurred in polling places where the Mayor's [i.e. Dinkins] supporters outnumber the challengers."[31] Peter Powers, Giuliani's campaign manger had sent a letter to Raymond Kelly, the Police Commissioner, requesting Kelly to assign at least 2,700 officers to polling places to "help guard against illegal behavior." (Ibid.) Kelly announced that a cadre of 52 captains would be created to supervise polling places, and that 3,500 police

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[29]I interviewed and had meetings with several individuals who made this claim, including journalists in both print and television media, a Giuliani administration official who worked on the campaign, a Democratic official who claimed to be told by a Republican official, and a Board official.

[30]New York Times, November 1993.

[31]Ibid.

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officers would be assigned to sites. In addition, in response to requests from both campaigns, the United States Justice Department sent 113 observers to monitor 48 polling places in Manhattan, Brooklyn, and the Bronx for possible voter fraud.

Indeed, between 700 to 800 poll watchers were reportedly hired by the Republican Party and deployed to selected neighborhoods--largely low income and minority sites. Most of these poll watchers were from the uniform services, including off-duty police and transit officers and fire personnel. Testimony of election day observers subsequently revealed that these poll watchers also caused disenfranchisement by challenging thousands of voters, intervening in poll worker's activity and creating what has been characterized as "intimidating conditions, delays, and confusion."[32] Such incidents are cited in the reports of the Voter Assistance Commission, The New York State Democratic Party, and at a public forum conducted in Brooklyn that was organized by voting rights advocates and Democratic Party operatives. The U.S. Justice Department also investigated these allegations, but has issued no report to date. The general nature of this activity on election day is discussed below with special reference to Board personnel and practices which often worked in tandem with the Republican ballot security operation to produce disenfranchisement.

More News

One issue repeatedly highlighted in reports regarding alleged fraud possibilities was non-citizen registration and voting. "Acting on concerns expressed by Rudolph Giuliani's mayoral campaign, the city Board of elections has invoked a little known section of

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[32]Interviews with Jerome Koenig and Gene Russianoff (op cit.)

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election law in an attempt to determine if large numbers of non-citizens are improperly registered."[33] Peter Powers, manager of the Giuliani campaign, had pressured the Board's executive director, Danny De Francesco, to exercise this option. De Francesco asked the state Board of elections for a list of naturalized citizens from the Immigration and Naturalization Service (INS). This list would then be matched by computer against registrants whose forms indicate they had been naturalized. In fact, the state Board of elections indicated that such a request has been unprecedented. When the state Board requested the list from the INS, however, the INS refused the request because federal law prohibits releasing such information for reasons of privacy and potential discrimination against immigrants. Indeed, at the time when the request was made public, advocates for immigrants expressed grave concerns over any such action.

Nonetheless, the Board did institute measures to insure greater scrutiny of registration applications for citizenship information, and more vigorous "checks" in processing such applications. Moreover, immigrant advocates stated such news and activity had a strong chilling effect on registration (and naturalization) of immigrants, and on community based organizations which provide services to them. According to immigrant rights advocates, immigrant voters strongly supported Dinkins in 1989, and the Dinkins administration had inaugurated several programs aimed at aiding immigrants in New York.

In one instance, the intensive scrutiny of potential non-citizen registration and voting led to a probe by the city's Department of Investigation and the Manhattan District

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[33]Newsday, July 8, 1993.

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Attorney's office. The probe focused on alleged non-citizens registering and voting in 1989 for Dinkins, allegedly in exchange for illegal immigrant papers, and implicated the office of Councilman Guillermo Linares, a strong Dinkins supporter. Linares had denied such involvement and the investigation has to date not produced any conclusive evidence of illegal registration and voting or involvement by Linares.

One Newsday article clearly stated a long standing Republican concern about "the many loopholes in the voter registration system. Currently, a prospective voter need only fill out a registration card and attest to the accuracy of the information provided in order to register by mail. The Board of Elections conducts no identification checks or verification of citizenship."[34] Indeed, state Senator Guy Velella, (Rep-Bronx), and who also was the Chair of Victory 93', the State Republican Committee operation that sponsored the "ballot security" program on election day, recently announced that he would introduce an election law reform that would require every voter to obtain a new voter photo ID card. Presumably, this new form of identification would provide increased security against potential registration and vote fraud, including by non-citizens.

On the day of the Senate Committee's public hearing (7-28-93), New York Newsday reported that over 22,000 potential duplicate registrations existed, and that "the numbers of double registrations far exceeds earlier estimates" by the Board. Indeed, the initial Newsday article[35] that revealed 6,300 potential duplicates existed--coupled with the Senate Committee's investigation--directly led to the Board's own intensive efforts to re-

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[34]October 18, 1993.

[35]May 12, 1993.

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check all three million registrations for duplicates. These efforts by the Board revealed the new higher number. In the article and the public hearing, senior Board officials stressed that the duplicates identified would be stricken from the rolls before the end of August.

Still other Newsday articles highlighted additional registration issues involving the Board including: examples of potential registration fraud in Queens "indicating the problem of voter fraud is more widespread" than just in Manhattan[36]; that 300 dead New Yorkers were still listed as registered by the Board, "at least two dozen of them were dead before the 1989 mayoral election but still managed to vote"; possibly a thousand voters registered under phony names[37]; 700 registrants used Addicts Rehabilitation Center (ARC) in East Harlem as their residence, even though only 434 can be housed at any one time; 68 registrants used St. Mary's Church as their residence in West Harlem.[38]

Nearly all these reports carried commentary which questioned the integrity of the ballot and suggested the outcome of the elections might be altered because of fraudulent voting. Almost every article was framed in such a way as to implicate the Democrats, the Dinkins campaign, and their supporters. Most contained explicit statements by Republicans and their supporters to this effect, and urged that measures be taken to guarantee a fair election. To take one common example of such a statement, State Republican Chairman William Powers (no familial relation to Peter Powers, Giuliani's campaign manager and now Deputy Mayor), accused Democrats backing Mayor Dinkins

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[36]June 30, 1993.

[37]The New York Post, July 28, 1993.

[38]The New York Post, October 26, 1993.

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of planning "to stuff the ballot box in certain neighborhoods. We have to stop them."

As the election drew nearer, the level of scrutiny and the charges and counter charges escalated. Both mayoral campaigns--and other candidate campaigns, as well as voting rights organizations--petitioned and pressured the Board to respond concretely to each of the various concerns presented. Indeed, both mayoral campaigns also sought measures from the state Board of elections and the Justice Department. In fact, as a result of the level of "vote fraud furor," on election day the executive director of the state Board of elections and the chief Criminal prosecutor from the Justice Department were at the New York City Board of Elections and observed several poll sites--in both cases, unprecedented. The Justice Department also sent approximately 120 observers to poll sites in boroughs covered by the Voting Rights Act. In another unprecedented move, "After bitter sparring between Mayor David N. Dinkins and the Republican-Liberal mayoral candidate Rudolph Giuliani over how to prevent voter fraud at the polls," the Police Department created a special cadre of 52 police captains to supervise poll sites, along with the over 3,500 officers assigned to sites.[39] "The Dinkins campaign expressed concern that off-duty police officers supporting Giuliani might intimidate Democratic voters, while the Giuliani campaign demanded extra police officers to make sure no fraud occurred in polling places where the Mayor's supporters outnumbered the challenger's."[40] As a crowning element in what looked like an election in the South, approximately 100 "Reverse Freedom Riders" from the south were bussed into New York City by the

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[39]New York Times, November 1, 1993.

[40]Ibid.

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NAACP for the week of the election in order to increase voter participation, especially of African Americans.

DATA ANALYSIS

We can discern the outlines of a distinct pattern of events that contributed to low turnout during the 1993 elections--particularly in low-income neighborhoods--and which bears on my thesis and has important implications for past and future electoral politics: information was "leaked" to the newspapers by Republicans; the news reports, in turn, generated what a New York Post front page headline called "voter fraud furor"; a Republican sponsored state investigation and public hearing into such alleged fraud was launched which focused upon mismanagement and "lax" practices of the Board of elections; and further news reports and partisan scrutiny ensued. This pressure was brought to bear on the Board of elections and produced several changes in its practices. Indeed, the Board took what one senior official characterized as "extra-extraordinary" measures to insure that the election was fair and free of fraud. As a result of changes in particular Board practices and the Republican "ballot security" operation, disenfranchisement of legitimate voters occurred. My analysis of available data about the impacts of such activity indicates that those who were disenfranchised were primarily low income individuals and minorities.

Data Sources

In documenting these practices and the disenfranchisement which resulted, I have drawn upon the following sources:

- Data contained in reports obtained from the Board of Elections, the Voter

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Assistance Commission,[41] the Dinkins campaign, The New York State Democratic and Republican Parties, The Election Law Committee of the Senate, participants of a post-election public hearing sponsored by Democratic politicians and activists in Brooklyn ; and

- Interviews and discussions with several elections experts, including officials from the City and State Boards of Elections, voting rights advocates, political party members from the different campaigns, numerous election day observers and some voters at VAC's public hearing, and poll watchers from the Dinkins campaign (as discussed and identified in the introduction).

Board practices

The above sources show several distinct categories of practices that were likely to produce disenfranchisement.[42] The practices included:

- Introduction of measures designed to secure the "integrity of the ballot" (i.e. protect against or prevent forms of illegal or potentially illegal registration and

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[41]As previously mentioned, I was the Coordinator of the Voter Assistance Commission from February, 1993 until December, 1995. According to the City Charter, the Voter Assistance Commission is mandated to hold public hearings following each year's elections. The purpose of these hearings is to receive comments, complaints and recommendations regarding the electoral process. On December 1, 1993 at City Hall the Voter Assistance Commission held a public hearing on the year's primary and general elections, where over fifty people testified, including elected officials and representatives from a broad range of civic and community based organizations. In addition, numerous organizations submitted written testimony. There were a total of 163 complaints made by over 100 individuals. VAC obtained further information through VAC's voter information hotline and ongoing work with a wide range of community based organizations. Thus, VAC was able to obtain information about the experiences of many times more people than those who actually testified at the public hearing.

VAC conducted extensive outreach to publicize the Public Hearing on December 1, 1993. This outreach included, notices in the Campaign Finance Board's Primary and General Election Voter Guides (the CFB Voter Guide is sent to all households with registered voters); VAC mailings to over fifteen thousand community based organizations, voter registration organizations, government agencies, and all elected officials; VAC information phone line notices.

[42]As we have seen in the previous chapters which discuss earlier episodes, in general, the greater the number of restrictive administrative procedures elections officials employ to "secure" the vote, the greater the likelihood administrative disenfranchisement will occur as a result.

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voting, which would ostensibly inflate turnout) by increased scrutiny of voter registration procedures, and establishing additional "checks". This involved specific procedures and special instructions to workers who handled registration applications, processed them and maintained the data banks. Voter registration applications were increasingly and systematically held to "strict compliance" standards of election law requirements. For example, the Board switched its computerized registration system (EASY) from a "straight" process of entering registration applications to a "smart" process, which required that additional processes and data elements be examined on applications in order to insure that applications included complete and proper address information, were signed and dated, with complete citizenship information, etc.;

- Intensive efforts to identify potential duplicates and any "questionable" registrations, were instituted, and other procedures were instituted which either sought to verify the registration or cancel them. This involved re-doubling of efforts and detailed examination of registration files. It also including hiring a consulting firm for ($80,000) to specifically examine Manhattan's registration file. In fact, the company located approximately 100,000 errors in the Manhattan registration file out of over 800,000 registrants. Most of these potential problem registrations were either canceled or placed on a challenge list, while others were successfully contacted and updated. These procedures likely resulted in the cancellation of legitimate voters who only appeared to be "duplicates" or questionable. For example, in several episodes cited above, testimony of election day observers and voters (who testified at VAC's public hearing) revealed clear cases of legitimate voters being disenfranchised including: the cancellation of some registrants--most of whom were low income citizens--that used the main post office in Manhattan as their residence; Alcohol Rehabilitation Center (an alcohol and drug rehabilitation center) episode which involved posting a Board employee with a list of over "challengeable" registrants at a poll site in East Harlem as well as similar actions by the Board in other sites and circumstances;
- Routine "security" measures and procedures were emphasized and reinforced. These included the procedures used in completing affidavit ballots and subsequent validation or invalidation of such ballots; the way absentee ballot applications and absentee ballots were administered; the preparation of the voting machines and materials; the bi-partisan staffing of poll workers and interpreters; and the like. For example, requests for absentee ballot applications by registration organizations and voters in some instances were scrutinized or went unfilled. In contrast, the

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- Republican Party mailed absentee ballot applications to registered Republicans[43];
- a modified "challenge" process was adopted for election day, following a series of meetings with both mayoral campaigns and the city and state Boards. Under this new scheme, election inspectors were issued special instructions regarding when and how to challenge voters or when poll watchers could challenge voters, requiring the voter to make a written oath. Also, other security measures were reinforced, creating what some characterized as intimidating and complex procedures at poll sites which periodically resulted in substantial delays and voters leaving poll sites without casting ballots or not being permitted to do so.

Although the above measures were ostensibly introduced to allay fears of fraud and insure that the integrity of the ballot was secure, the result was also inevitable disenfranchisement. In fact, only a handful of examples of what might be construed as real fraud were produced. Out of the over 22,000 potential duplicate registrations city-wide--18,000 in Manhattan--identified as a result of the above measures by the Board, only 12 appeared to have possibly voted twice (these 12 were forwarded to the Manhattan District Attorney Robert Morgenthau's office for investigation and possible prosecution. The DA,

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[43]The following chart details the number of absentee ballots requested, distributed and validated. Given the different sizes of the populations of each borough, it is clear that a far larger proportion of absentee ballots were provided and cast in Queens and Staten Island, the two boroughs that Giuliani won handily.

Absentee Ballots by Borough, 1993

Borough	# Requested	# Returned	# Validated	% of Voters
New York	11,188	7,601	7,575	<1%
Bronx	7,816	4,014	3,646	<1%
Brooklyn	13,129	8,668	8,051	<1%
Queens	11,307	9,955	9,219	<0.01
Staten Island	4,762	3,803	3,602	<0.01

Source: NYC Board of Elections

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however, has not prosecuted any of these.

Impacts on registration and participation

In analyzing the above practices on voter registration and participation, I have employed a similar methodology as with performance measures of the Board in the previous chapter. Again, these measures exist that clearly indicate that Board practices resulted in some disenfranchisement, but it is impossible to precisely determine the total number of citizens who were disenfranchised because insufficient mechanisms currently exist to document all such instances. Nonetheless, based on analysis of specific documented incidences of disenfranchisement, we can identify the nature of each disenfranchising practice. In addition, we can determine the general frequency with which particular practices occurred. Taken together, an estimate can be deduced.

Poll site problems

Numerous problems at poll sites throughout the city were documented which graphically illustrate the disenfranchising consequences that issued from the above described administrative practices and Republican ballot security operation. I shall briefly review the available data, and then discuss several relevant facets of the election.

Public Hearing of the New York City Voter Assistance Commission (VAC)

VAC documented problems which occured on election day in 1993. The first chart summarizes the kinds of complaints regarding election day problems received at a public hearing VAC held just after the election. The second chart provides a breakdown of the

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assembly districts and cooresponding neighborhoods where such problems occured.[44] I have also produced five charts which detail the income and racial demographic characteristics of each assembly district in the five boroughs. Together, the seven charts show that low-income and minority areas experienced the highest proportion of election day problems.

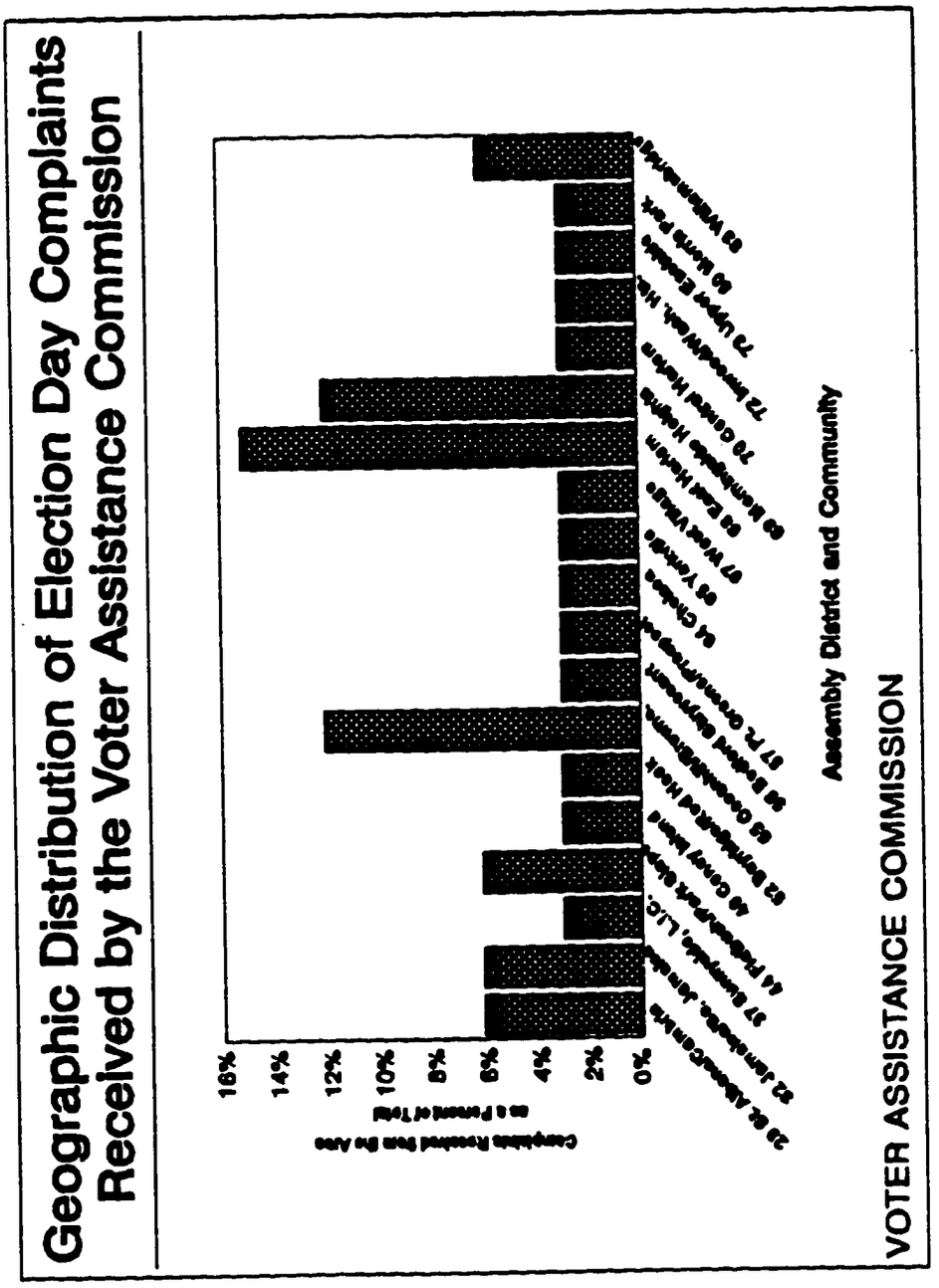
[44]These two charts (and portions of the following data analysis) were published in VAC's 1994 Annual Report and were produced by Jocelyn Sargent, Dirk Slater and I. The data in the charts represent 163 complaints made by nearly 100 people.

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SUMMARY OF TESTIMONY

General Election Day Problems	% Persons Who Made a Complaint about the Problem	% of Total Complaints Made
Pollsite/Pollworker Problems		33.1%
Pollworker Performance	22.2%	
Pollsite Operation	17.8%	
Pollsite Hours	8.9%	
Pollsite Changes	6.7%	
Pollsite Staffing	4.4%	
Pollworker Recruitment	1.1%	
Voter Specific Incidents		16.0%
Voter Intimidation	15.6%	
Voter Harassment	10.0%	
Voter Misbehavior	3.3%	
Balloting Problems		14.1%
Affidavit Ballots	14.4%	
Absentee Ballots	5.6%	
Ballot Inaccuracy	4.4%	
Emergency Ballots	1.1%	
Information Problems		12.2%
General Information	20.0%	
VOTE NYC Hotline	2.2%	
Registration / Scribe System	21.1%	11.7%
Machine Problems		10.4%
Broken Machines	13.3%	
Other Machine Problems	5.6%	
Other - Miscellaneous	4.4%	2.5%

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POPULATION, INCOME AND ETHNICITY BY ASSEMBLY DISTRICT
NEW YORK CITY

BOROUGH: QUEENS

ASSEMBLY DISTRICT	TOTAL POP	TOTAL VAP	HOUSEHOLD INCOME IN THOUSANDS (PERCENT OF POP)					ETHNICITY (PERCENT OF VAP)			
			UNDER $12	$12 TO $30	$30 TO $50	$50 TO $100	OVER $100	WHITE	BLACK	LATINO	ASIAN
23	121,977	96,965	20.94	20.35	20.63	32.42	5.65	78.16	6.85	10.81	3.71
24	121,972	99,697	8.31	15.14	20.93	45.02	10.86	78.08	3.69	6.50	11.53
25	121,971	97,052	19.31	26.03	24.42	26.37	3.87	41.31	6.54	19.24	32.52
26	121,970	101,102	11.26	16.45	22.20	40.21	9.87	84.08	1.91	6.19	7.69
27	121,972	97,754	13.54	20.34	25.50	33.40	5.87	67.66	7.14	13.48	11.40
28	121,971	104,740	16.25	22.07	23.75	30.25	7.68	79.20	1.73	8.59	10.25
29	121,974	92,367	14.78	20.89	21.71	37.62	5.01	17.73	60.22	14.05	7.03
30	121,977	100,918	18.22	27.26	23.75	27.96	2.82	61.63	1.76	20.97	15.13
31	121,977	86,136	22.58	22.04	21.23	31.11	3.04	16.64	60.22	18.23	3.88
32	121,977	90,216	20.97	26.81	25.29	24.67	2.25	22.20	57.48	19.22	5.11
33	121,974	92,211	10.14	16.75	23.57	44.82	4.72	20.69	63.98	9.96	4.83
34	121,974	94,685	19.98	30.01	26.39	21.51	2.11	25.43	3.65	54.49	15.86
35	121,975	95,941	21.24	29.73	25.93	21.19	1.91	18.65	22.93	31.37	26.38
36	121,983	101,935	20.03	28.85	25.43	23.58	2.12	71.98	1.15	17.92	8.32
37	121,977	94,514	31.51	29.36	22.42	15.74	0.99	48.53	10.12	29.27	11.57
38	121,977	96,738	18.30	24.97	26.77	27.40	2.57	79.90	1.26	13.46	5.01
TOTAL:	**1,951,598**	**1,542,971**	**17.96**	**23.56**	**23.74**	**30.20**	**4.48**	**50.74**	**19.41**	**18.35**	**11.26**

Data derived from the 1990 US Census, Urban Research Center, CUNY and the New York City Board of Elections
Percentages may not total 100 because of rounding. Census catagories Other VAP and Indian VAP omitted.

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POPULATION, INCOME AND ETHNICITY BY ASSEMBLY DISTRICT
NEW YORK CITY

BOROUGH: BROOKLYN

ASSEMBLY DISTRICT	TOTAL POP	TOTAL VAP	HOUSEHOLD INCOME IN THOUSANDS (PERCENT OF POP)					ETHNICITY (PERCENT OF VAP)			
			UNDER $12	$12 TO $30	$30 TO $50	$50 TO $100	OVER $100	WHITE	BLACK	LATINO	ASIAN
39	115,046	91,247	19.28	21.21	21.93	31.90	5.69	86.35	4.32	5.76	3.42
40	115,016	76,365	41.54	28.50	17.04	12.72	0.20	3.94	69.09	24.85	1.37
41	115,043	89,311	18.92	22.89	23.45	29.43	5.32	60.45	28.67	6.42	4.19
42	115,039	80,372	21.09	32.51	24.54	19.17	2.68	11.01	70.58	14.07	3.89
43	115,015	82,305	25.38	33.33	23.93	15.50	1.86	9.27	81.30	7.86	1.13
44	115,032	91,828	19.92	23.18	24.01	24.62	8.28	66.67	12.68	12.50	7.69
45	115,051	91,263	26.51	23.20	21.31	23.94	5.03	84.58	1.92	5.63	7.71
46	115,042	89,500	36.59	26.65	19.63	14.56	2.57	65.72	14.77	13.51	5.61
47	115,040	92,949	28.59	26.29	22.66	20.14	2.33	83.48	0.62	6.93	8.79
48	115,045	82,177	31.20	28.75	18.44	18.21	3.41	73.16	1.92	12.40	12.20
49	115,040	89,249	28.39	26.64	22.19	20.20	2.58	84.61	0.31	6.35	8.56
50	115,029	81,180	40.28	28.40	18.54	11.37	1.41	56.57	20.04	19.85	3.07
51	115,033	80,877	37.55	28.32	18.25	13.91	1.97	25.07	11.30	55.56	7.51
52	115,032	98,199	20.30	21.57	23.32	25.32	9.49	77.64	5.60	11.66	4.81
53	115,029	77,917	47.51	29.78	15.07	7.30	0.34	16.40	10.36	67.56	4.94
54	115,016	75,442	49.07	27.28	13.90	9.24	0.51	7.10	24.37	64.23	3.35
55	115,021	75,152	47.92	27.36	15.71	8.57	0.44	0.75	83.21	15.11	0.37
56	115,027	80,199	45.96	28.40	14.73	9.51	1.39	1.05	86.76	11.11	0.66
57	115,026	86,576	27.92	30.38	20.81	17.59	3.31	13.64	72.58	11.62	1.64
58	115,042	83,002	19.06	28.37	24.64	25.09	2.83	8.12	82.43	7.38	1.59
TOTAL:	2,300,664	1,695,110	31.64	27.15	20.20	17.91	3.08	41.77	34.14	19.01	4.62

Data derived from the 1990 US Census, Urban Research Center, CUNY and the New York City Board of Elections
Percentages may not total 100 because of rounding. Census catagories Other VAP and Indian VAP omitted.

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POPULATION, INCOME AND ETHNICITY BY ASSEMBLY DISTRICT
NEW YORK CITY

BOROUGH: STATEN ISLAND

ASSEMBLY DISTRICT	TOTAL POP	TOTAL VAP	HOUSEHOLD INCOME IN THOUSANDS (PERCENT OF POP)					ETHNICITY (PERCENT OF VAP)			
			UNDER $12	$12 TO $30	$30 TO $50	$50 TO $100	OVER $100	WHITE	BLACK	LATINO	ASIAN
59	126,328	93,354	18.00	19.75	20.37	36.38	5.49	68.12	16.38	11.20	3.91
60	126,323	96,731	13.08	13.20	20.04	43.77	9.91	85.88	2.26	6.03	5.65
61	126,326	94,830	7.02	8.17	19.22	55.77	9.83	92.23	0.83	4.21	2.64
TOTAL:	378,977	284,915	12.70	13.70	19.87	45.30	8.41	82.07	6.49	7.14	4.06

Data derived from the 1990 US Census, Urban Research Center, CUNY and the New York City Board of Elections
Percentages may not total 100 because of rounding. Census categories Other VAP and Indian VAP omitted.

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POPULATION, INCOME AND ETHNICITY BY ASSEMBLY DISTRICT
NEW YORK CITY

BOROUGH: MANHATTAN

ASSEMBLY DISTRICT	TOTAL POP	TOTAL VAP	HOUSEHOLD INCOME IN THOUSANDS (PERCENT OF POP)					ETHNICITY (PERCENT OF VAP)			
			UNDER $12	$12 TO $30	$30 TO $50	$50 TO $100	OVER $100	WHITE	BLACK	LATINO	ASIAN
62	123,972	100,734	34.23	30.44	17.25	13.81	4.27	32.53	6.27	18.90	42.03
63	123,970	105,581	22.39	22.29	22.48	22.56	10.28	63.99	7.84	21.22	6.60
64	123,946	114,441	19.15	22.89	21.40	22.99	13.58	73.29	6.58	14.20	5.58
65	123,965	112,358	11.56	17.63	22.93	27.78	20.10	86.19	3.45	5.51	4.66
66	123,969	114,386	16.48	20.29	21.96	25.36	15.91	82.41	4.25	7.29	5.74
67	123,948	111,271	15.94	19.35	20.65	25.00	19.05	78.45	6.20	11.41	3.65
68	123,956	88,973	46.04	25.73	15.06	8.87	4.30	11.66	35.86	50.30	1.66
69	123,946	105,460	24.59	21.91	21.77	20.70	11.04	54.52	18.72	20.05	6.28
70	123,951	91,777	48.44	28.96	14.47	7.31	0.82	2.48	71.36	24.88	0.79
71	123,983	96,323	34.33	30.48	19.84	13.53	1.82	22.98	37.54	36.87	2.13
72	123,983	87,190	34.89	31.85	20.87	11.41	0.98	12.85	9.28	75.61	1.82
73	123,947	112,215	7.86	13.14	17.57	25.11	36.31	89.14	2.01	4.45	4.29
TOTAL:	1,487,536	1,240,709	26.3%	23.74	19.68	18.70	11.53	50.87	17.44	24.22	7.10

Data derived from the 1990 US Census, Urban Research Center, CUNY and the New York City Board of Elections
Percentages may not total 100 because of rounding. Census catagories Other VAP and Indian VAP omitted.

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POPULATION, INCOME AND ETHNICITY BY ASSEMBLY DISTRICT
NEW YORK CITY

BOROUGH: THE BRONX

ASSEMBLY DISTRICT	TOTAL POP	TOTAL VAP	HOUSEHOLD INCOME IN THOUSANDS (PERCENT OF POP)					ETHNICITY (PERCENT OF VAP)			
			UNDER $12	$12 TO $30	$30 TO $50	$50 TO $100	OVER $100	WHITE	BLACK	LATINO	ASIAN
74	120,375	78,393	56.81	26.61	11.70	4.59	0.28	2.32	29.09	66.90	1.02
75	120,372	85,483	41.06	29.22	16.23	12.64	0.86	2.71	34.05	62.03	0.75
76	120,373	86,739	32.34	29.95	22.48	14.32	0.92	16.43	23.55	54.99	4.29
77	120,390	78,798	51.03	28.45	13.23	6.71	0.58	2.59	46.87	48.24	1.60
78	120,379	80,294	43.24	30.18	17.18	8.76	0.63	9.08	27.25	58.32	4.61
79	120,376	79,733	55.10	27.70	11.85	5.12	0.22	8.41	45.06	45.27	0.73
80	120,377	96,792	25.25	29.57	22.53	20.42	2.24	62.64	10.45	22.13	4.45
81	120,384	96,859	18.62	25.31	25.04	24.62	6.42	63.22	10.55	21.02	4.81
82	120,381	97,773	21.57	23.91	22.92	28.52	3.08	64.49	16.52	16.92	1.80
83	120,382	91,277	20.92	26.60	22.71	26.61	3.15	17.62	62.49	17.67	1.61
TOTAL:	1,203,789	872,141	36.59	27.75	18.58	15.23	1.83	24.95	30.58	41.34	2.56

Data derived from the 1990 US Census, Urban Research Center, CUNY and the New York City Board of Elections
Percentages may not total 100 because of rounding. Census categories Other VAP and Indian VAP omitted.

Pollsite/Pollworker Problems[45]

As the first chart shows, the largest percentage of complaints VAC received were concerning pollsite and pollworker problems. About one in three of every reported incidents involved issues concerning: pollworker performance, pollsite operation, pollsite hours, pollsite changes, pollsite staffing, and pollworker recruitment. Roughly 18% of the citizens informing VAC of election related problems criticized the way in which pollsites operated. Voters complained that their poll sites, had moved without proper notification,[46] had opened late, were inadequately staffed, or lacked sufficient supplies. There were also reports that machines had broke down. As VAC stated in its 1994 Annual Report, "Each of these problems represent the potential disenfranchisement of eligible voters.... These types of problems can lead to confusion, delays and disenfranchisement."

Over one fifth of individuals notifying VAC of election mishaps cited problems with pollworker performance.[47] Election personnel committed administrative errors,

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[45]While many incidents documented in the public hearing reflect ongoing problems in the Board's operations as outlined in previous chapters, the public hearing nevertheless highlighted additional problems which issued directly from the above described changes in the Board's practices and the Republican ballot security operation.

[46]Largely due to the revelation that many schools had asbestos problems which entailed their being closed for removal, last minute poll site changes and signs citing incorrect pollsite changes perplexed individuals attempting to vote.

[47]As previously discussed, approximately 20% of poll inspectors who work the polls every election--the line staff of the Board that voters interact with--do not receive training. Even though this rate is lower than during previous periods, lack of effective training appears to contribute to the occurrence of election day problems. Moreover, there are often shortages of inspectors on election day. Although the caliber of the training methods and materials now used have improved, even if one fails the test at the

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misinformed voters, or mishandled affidavit ballots. One problem people reported is that many voters signatures did not appear on the poll list (SCRIBE) or that poll lists arrived late to poll sites. In some cases voters were offered an affidavit ballot by poll workers, or told that they could obtain a court order by going to an administrative judge. In other cases, due to one of several possible reasons, voters were not offered affidavit ballots. These individuals were told, improperly, that they could not vote. Numerous individuals reported experiencing this particular problem on election day, including many who had been living in the same dwelling for many years and had voted in previous elections. Others reported that they had registered by the deadline and fulfilled other qualifying requirements but were not listed at their poll site as registered and eligible to vote. Voters reported that change of address forms filled out at previous elections were still not reflected on later registration lists at the pollsite. At some pollsites, workers ran out of affidavit ballots for one of two reasons: 1) the Board of Elections initial supply to the site was insufficient or 2) problems with registration lists (missing primary lists or wrong AD/ED) necessitated the overuse of affidavit balloting. Additionally, there is a general public perception that affidavit ballots "don't count." There were reports that election inspectors mistakenly allowed voters to cast affidavit ballots in the wrong election district (ED), even while the voter may have been in the correct polling site, which under election law cannot be counted as a validly cast vote. In other cases, legitimate registrants were

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end of the training--proving incompetence to perform necessary tasks--one can still serve as an election inspector on election day. In addition, as noted earlier the pay scale--$85 (up from $65)--for a 16 hour day does not provide sufficient monetary incentive to attract more competent workers.

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not informed by poll inspectors of their right to cast an affidavit ballot when no record of their registration could be found. Some of these legitimate registrants left without voting.

Some people perceived pollworkers as unresponsive or rude, and in many cases voters were given incorrect information. A few pollworkers described an inhibiting atmosphere of mistrust of Chinese interpreters by non-Chinese speaking pollworkers. Poor assistance was reportedly received by Chinese language voters, in addition to a scarcity of bilingual interpreters at pollsites.

Such experiences can lead to a general feeling of disempowerment associated with the voting experience. Indeed, many first time voters are likely to be "discouraged" by such administrative mismanagement. Unpleasant experiences can reinforce skeptical or alienated perspectives some voters hold of the political system, and lead them to conclude the costs out weigh the benefits of future electoral participation. As registration groups have attested, voters have cited such reasons for subsequent non-voting.[48]

Again, no comprehensive records of such occurrences are kept, so the precise number of individuals who were adversely effected by such administrative mismanagement is unknown.

Cancellation or Removal of Registrants

Before the election, Democrats and Republicans came into conflict about whether and how certain registrants should be canceled from the voter rolls. Republicans--both on the Board and at the state and city level--successfully pressed the Board to cancel

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[48]Such groups include the Community Services Society, NYPIRG, ACORN, and the Coalition for the Homeless.

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thousands of voters who Democrats believed were illegitimately removed from the rolls. Democrats, particularly Board Commissioners and those allied with the Dinkins campaign, argued that at least 10,000 of the registrants who were canceled should be reinstated before the general election. They maintained that 5% to 10% of mail check cancellations were erroneous.[49] Based upon analysis by Board Democrats of affidavit ballots cast in previous elections, particularly the 1992 election, a significant number of affidavit ballots cast which are invalidated are cast from the same address from which individuals were initially canceled, indicating that the registrant has maintained the address from which the affidavit was cast and therefore was improperly canceled. Indeed, one Board Commissioner stated that his analysis of affidavits cast in 1992 showed that 25% to 30% were erroneously invalidated by Board clerks or inspectors (either because they do not properly locate the voter's registration record at the Board or at the poll site.) Indeed, he demonstrated that for the fourth City Council district election that was contested, clerks were instructed to do more thorough searches for registration records to verify affidavit ballots and a much smaller number were invalidated.

Republicans rejected the arguments made by Democrats, countering that the Board's cancellation procedures were mandated by law and that they were necessary to protect against fraud, even while acknowledging that Board clerks or the postal service

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[49]To cancel voters, the Board sends a mail check (5-402) to every registrant each year. If this non-forward able mailing is returned to the Board, a second mailing is sent which is forward able. It requires the voter to respond within 14 days. If the voter does not respond, the Board changes the registrants's status from "A" (active) to "M" (moved). These registrants are designated as "challenge" on the SCRIBE poll lists that are sent to poll sites. Poll inspectors are instructed to challenge all such voters. If the voter does not go to their poll site to vote, the name is removed from the rolls (i.e. canceled).

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may be in part responsible for improper cancellations. In a straight party vote, Democrats voted to reinstate the 10,000 canceled registrants before the general election, while Republicans voted against. The deadlocked vote prevented any affirmative action. According to the Democratic Board Commissioner, 35% to 40% of the canceled voters were Republicans, with the rest largely Democratic, thus indicating that Dinkins was likely to be more negatively effected than Giuliani.

In an earlier episode, State Senator Michael Nozzolio (R), who had led the investigation into the Board's operations and fraud allegations in New York City, requested that the Board cancel up to 12,000 registrants whose records were missing a signature based on analysis of a Republican Party operative prepared for the public hearing he held. This time, however, the Democrats who hold the executive staff positions at the Board rebuffed Nozzolio by arguing that the records with missing signatures were due to the Manhattan Board's mishandling of the transition to the SCRIBE digitization of poll lists, and could instead be xeroxed onto the poll lists from the original registration forms. Nevertheless, the Board did institute more stringent checks on such records and a high proportion of cancellations did occur.

The below charts details the number of registrants who were canceled in 1993 by borough.

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Registrations canceled by Borough, 1993

Borough	Challengeable*	Canceled	Percent of Eligible VAP by Borough
Manhattan	74,356	62,545	4%
Bronx	31,252	24,748	3%
Brooklyn	50,792	38,595	3.5%
Queens	44,544	29,246	2.3%
Staten Island	7,759	4,374	1.5%

Source: Board of Elections

* "Challengeable" refers to registrants with "M" status (i.e. registrants whose mail check (5-402) is returned as undeliverable by the postal service to the Board of elections.) It is unknown how many of these "challengeable" voters were actually challenged by a poll worker or poll watcher at a poll site, but given the changes in the Board's challenge process and the allegations regarding the Republican ballot security operation, it is likely that nearly all of such challengeable registrants were challenged.

The point to be stressed here is that in 1993, as result of pressure put on the Board by Republicans to eliminate "deadwood" and to guard against fraud, the Board altered its practices--particularly in Manhattan--and produced more "challengeable" voters, and, in fact, canceled a larger proportion of voters in Manhattan (and Brooklyn.) Similarly, as the chart below shows, there was a higher proportion of total registrations canceled in 1993 compared to recent years, reversing the liberalizing trend the Board had been instituting as a result of the reforms discussed in chapter four. And while this shift is not exceptionally large, it does reflect the changes in the Board's practices in 1993.

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Registrations Canceled by Year

Year	Registrations Canceled	% of Total Registration	Total Registration
1994	159,509	5.1%	3,244,779
1993	208,703	6.3%	3,301,683
1992	182582	5.4%	3,360,586
1991	242,984^	8.2%	2,962,958
1990	215,819	7.1%	3,013,926
1989	219,001	7.1%	3,046,877
1988	314,156@	12%	2,614,470

Source: Board of Elections.

^ Due to the low level of voter registration in 1991, an larger proportion of registrants were canceled than normally.

@ Includes 183,329 canceled due to the four year non-voting purge, which was eliminated by an injunction the following year.

Allegations of Voter Harassment and Voting Irregularities

The second largest category of complaints received by VAC were reported incidents of intimidation, harassment, and misbehavior, primarily by groups of pollwatchers. Such incidents contribute to an atmosphere that inhibits voting. Individuals reporting voter intimidation represent approximately 16% of the respondents. Evidently, the presence of groups of off-duty police and some pollwatchers created a feeling of apprehension for a number of citizens. In addition, the "generally abrasive" manner in which pollwatchers delayed the election process, as they called for counts and systematically challenged voters, did little to comfort citizens patiently waiting to cast their ballots. There were also accounts of signs alerting voters they might be reported to or

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deported by Immigration and Naturalization Services or other authorities. Some voters were asked to present passports, birth certificates, identification and other types of citizenship documents. Eligible citizens attempting to cast their vote said they found these activities extremely disconcerting. Such reports, if valid, are illegal. The U.S. Justice Department had investigated these and other allegations,[50] but has not issued any report about these alleged incidents.

Despite the wide scale concern around election fraud, relatively few people, 3%, reported incidents of voter misbehavior to the Commission. One example of potentially fraudulent activity was caught by a pollworker who noticed that someone who was listed as having already voted presented himself to cast a vote.

The New York State Democratic Party and Dinkins Campaign Reports

Anticipating the potential negative impact of the Republican "ballot security operation," the New York State Democratic Party and the Dinkins campaign moved to develop plans to minimize such impacts. The Democrats deployed their own pollwatchers on election day to monitor Republican activities and the operation of the polls, and established an extensive phone bank staffed by lawyers to receive, document and respond to complaints.

Soon after the election, the New York Democratic Committee announced establishment of its formal "investigation into allegations of voter intimidation and

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[50]Richard Jerome at the Voting Rights Section of the Civil Rights Division of the U.S. Justice Department was handling this investigation. Similarly, allegations of voting irregularities have been forwarded by the Board of Elections to the District Attorney's Office and the State Board of Elections with no prosecution or report made to date.

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harassment at the polls in primarily minority communities on election day." Based on over 120 reports obtained by Democratic pollwatchers involving several thousand incidents, they charged that "this intimidation and harassment was orchestrated by the New York State Republican Committee and may have violated the civil rights of scores of New York City voters.[51] The incidents documented by the Democrats focus primarily upon voter intimidation and harassment by between 700 to 800 Republican pollwatchers and inspectors. Other incidents were also reported which involved Board employees (whether inspectors or coordinators). The reported incidents occurred primarily in poor and minority neighborhoods in Manhattan, Brooklyn and the Bronx. The kinds of incidents reported ranged from: the posting of signs on election day at and near polling sites in immigrant communities (particularly Haitian and Dominican) alleging that Immigration Department officials would be at polls, threatening voters with arrest and deportation for illegal voting; "unnecessarily" and "excessively" challenging voters, denying voters access to affidavit ballots, shutting down voting machines, and electioneering.

As at the VAC public hearing, the reported incidents by Democratic poll watchers revealed that numerous voters were involved in many of the incidents and not merely one for each incident. For example, several reported incidents involve challenging numerous

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[51]Letter to U. S. Justice Department from Al Gordon, Chairman, New York State Democratic Party, November 30, 1993. A press conference outlining the nature of reported incidents was also held the same day. The Democrats cited a fund raising letter from William Powers, Chair of the New York State Republican Party, and press reports which confirmed that at least $750,000 was spent on election day operations in New York City. As discussed, the U. S Justice Department had sent observers to New York City on election day, and had already begun an investigation into allegations of voter intimidation and harassment.

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voters to show proof of citizenship status--and by both Republican poll watchers and/or Board employees. In other incidents, poll watchers challenged dozens of voters over the course of several hours, resulting in some voters leaving without voting; or shut down machines, causing delays and confusion; or poll sites ran out of affidavit ballots or emergency ballots so that voters left without voting.

Affidavit ballots

As discussed in chapter four, the greater the use of affidavit ballots the greater the possibility of administrative error that may result in disenfranchisement. In the 1993 elections, there was a high degree of use of affidavit ballots. Moreover, as a result of the intensive scrutiny of the Manhattan office of the Board of Elections and above described changes in its practices, a disproportionally large number of affidavit ballots were cast in Manhattan in 1993.[52] The following chart illustrates disparities between the borough Board offices. In 1993, Manhattan's handled the most affidavits, followed by Brooklyn, Queens, Staten Island and the Bronx.

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[52]Recall the Manhattan office was the main focus of the Republican led Senate hearings. Indeed, the central Board responded to pressure from news reports and criticism of the Manhattan office's operations by dismissing 24 out of the 50 personnel. New York Newsday, 1993.

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Affidavit Ballots by Borough, 1993

Borough	Total	Valid	Invalid	% of Total Valid
Manhattan	15,993	7,046	8,947	44%
Queens	8,858	1,558	7,300	17.5%
Bronx	8,115	959	7,156	12%
Brooklyn	18,267	4,284	13,983	24%
Staten Island	1,426	204	1,222	15%

Source: NYC Board of Elections

The 55th Assembly District

Reports from VAC's public hearing, the Democratic Party and the Board of Elections show that numerous poll sites (PS. 5, PS. 219, PS. 335, Atlantic Tower, for example) did not receive the correct registration lists until late afternoon and early evening of election day (between 4 pm. and 6:30 pm.). This meant any individual who came to vote had to cast an affidavit ballot because poll workers could not verify their registration. As the previous analyses of affidavit ballots indicated, increased use of such procedures tends to increase the number of administrative errors by Board personnel and, thus, the number of duly registered voters who are disenfranchised. In addition, in several of these locations lengthening lines due to delays produced by completion of the affidavit process reportedly led voters to leave without voting at all.

Analysis of affidavit ballots cast in the 1993 elections indicates that approximately 13,000 of the 38,608 affidavit ballots which were invalidated were cast in Brooklyn, with a high proportion originating from the 55th AD. It appears that nearly 11,000 of these 13,000 invalidated ballots were cast by duly registered voters. Moreover, the recorded

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turnout from the 55th AD was approximately 3,000 votes lower than in 1989. Thus, while other factors might be at work which reduced turnout in the 55th AD, it appears that such poll site problems also may well have been a factor.

Lastly, the demography of the district suggests that political motives may account for this episode. The 55th AD is comprised predominantly of African Americans and Latinos, with only a small white population. Indeed, in 1989 the district delivered the overwhelming proportion of its votes to Dinkins, as it did in 1993. Certainly, if one wanted to suppress the Democratic vote, this episode suggests one method.

Poll Site Changes

Changing voters poll sites can sometimes lead to disenfranchisement. In September of 1993, for example, hundreds of public schools were closed due to an asbestos "crisis," necessitating changing poll sites for the primary and general elections. Even though most of the schools were re-opened by the general election date, numerous poll sites were changed. Some voters were reportedly not notified about such changes. In some cases, voters were unable to find their poll sites, or were inconvenienced to the point where they left without casting their vote. However, such poll site changes are not only connected to the sorts of unusual circumstances which occurred in the 1993 elections.

In general the location of a poll site can negatively (or positively) effect turnout--because sites may be long distances from or close to people's homes. Such selection is therefore subject to contestation by the dominant political parties and leaders. Indeed, any

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change of poll sites must be approved by both county party leaders.[53] Board personnel have reported that periodically poll sites are changed for such apparently political reasons. One episode in 1993, for example, involved the intervention of a Democratic county leader who successfully had moved a site from a nursing home, the residents of whom were perceived to be likely Giuliani voters, to a site ten blocks away. Similar interventions were reportedly also made by Republicans. Thus, there is an undetermined additional number of duly registered voters who may have been negatively impacted on by such poll site changes.

Who was disenfranchised

Data presented in VAC's report, in the State Democratic Committee's report, and in the Brooklyn forum indicate that those who were disenfranchised as a result of Board practices and/or the Republican ballot security operation were primarily low income and minority citizens. Most of the specific incidents cited above correlate with neighborhoods where predominantly low income and minority voters reside. Indeed, analysis of turnout in the 1993 election reveals that the areas which experienced the largest decreases in participation rates strongly correlate with the low-income and minority groups most adversely effected by the Board practices documented in this study, and with the areas targeted by the pattern of challenges and disruptions of Republican poll watchers.

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[53]Poll sites are ostensibly selected on the basis of several official criterion, including the number of residents in any area, proximity to other poll sites, whether the site is accessible to people with physical disabilities, and the cost of renting such a site to the Board.

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Overall, turnout in 1993 declined by .6% (or 11,272 votes) from 1989.[54] Declines in turnout, however, varied by racial group: Black turnout declined by about 2.4% in majority black Assembly Districts (AD's) or 8,524 votes (and 3.9% in majority black election districts); turnout in Latino AD's declined by about 5.6% or 6,409 votes from 1989; in "mixed minority" AD's turnout declined by 2% or 2,380 votes; and for white "liberals" by .1% or 174 votes.[55]

> The fact that disproportionately fewer blacks turned out thus made a major contribution to Dinkin's defeat... It is stunning that over half of the shift produced by the decline of black turnout occurred in Harlem, [Dinkins'] home ground...As a result, the 1993 mayoral election was slightly more white and less black and Latino than in 1989 and its preferences were also slightly more racially polarized. The higher the percentage of registered voters who were white, the less likely an ED [election district] was to experience a vote decline between 1989 and 1993...[56]

Much of the decline in turnout occurred in Manhattan and particularly within low income and minority neighborhoods. Given that much of the focus of potential registration and vote fraud was in Manhattan, and that the Board's efforts to eliminate such possibilities was greatest with regards to Manhattan's records, this finding is not

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[54]This data is drawn from Mollenkopf, 1994. His data is from the Districting Commission (1989) and Associated Press (1993). His data exclude, however, "blank" and "void" ballots, many of which result from the kinds of disenfranchising practices outlined above. Lastly, 1993 data do not include absentee ballots, which also produce a lower vote total than the final and official results. The majority of the absentee ballots, moreover, likely disproportionately benefited Giuliani because the Republicans did targeted mailings of absentee ballot applications to Republicans in New York City, as previously mentioned. Overall, there was a shift of 97,000 votes from Dinkins to Giuliani's to produce a margin of victory from 1989 to 1993.

[55]Ibid., pp. 210-211. By contrast, white Catholic and Jewish outer borough turnout increased by 1.2% or 15,444 and .2% or 971 respectively.

[56]Mollenkopf, 1994:210-212.

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unexpected. In the 1989 race, Manhattan was decisively a Dinkin's stronghold. It delivered the largest number of votes for Dinkins and the largest margin of victory. In 1993, however, it produced a significantly lower percentage of votes overall, and less for Dinkins. Similarly, parts of the other boroughs that had supported Dinkins in 1989 and which also reportedly had administrative problems associated with the Republican ballot security operation, also experienced declines in turnout. For example, the 55th Assembly District in Brooklyn experienced a significant decline from 1989 and experienced a disproportionate number of poll site problems. Thus, it appears that distinct partisan, racial, and class impacts directly resulted from the security measures the Board implemented and from routine Board practices, as well as the Republican's ballot security operation.

I do not wish to attribute these declines solely to the practices of the Board of Elections and the Republican ballot security operation. Certainly other factors may also have contributed to demobilization of these constituencies. And while it is not possible to tease out the precise amount of demobilization/disenfranchisement each variable is responsible for, nevertheless, the evidence presented in this chapter suggests that administrative disenfranchisement is one factor.[57]

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[57]Aside from the deliberate targeting of areas of likely Dinkins voters by Republicans, in general cumbersome bureaucratic procedures disproportionately adversely effect such groups: poor people reside in neighborhoods which receive poorer services; are less skilled at and feel less empowered to effectively maneuver through bureaucratic processes and deal with administrative agencies and officials, or put another way, experience greater barriers or costs, have less access to needed resources, and so on. Although the number of voters who are disenfranchised by administrative mismanagement is relatively small in proportion to the total number of registrants and voters, and while much disenfranchisement may result because of voter ignorance and the workings of

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Budget Cuts to the Board

On top of these changes to the Board's practices, Mayor Giuliani then made successive cuts to the Board of Election's budget and personnel lines that produced a reduction in services precisely at the time when the Board needed to gear up to implement the NVRA. While the Board's budget fluctuates depending on the number of elections within each year, its budget was reduced successively from the last year of the Dinkins administration. More importantly, the cuts fell hardest on personnel which not only compromises its capacity to fulfill its statutory obligations, but undermined some of the previous decades progress in the modernization of the Board's operations. Moreover, because of certain legal mandates, the budget reductions primarily limited the Board's capacities to conduct its minimal outreach and public information programs.

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registration law, significant numbers of legitimate voters may have been disenfranchised by the Board, and also by the Republican ballot security operation.

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BUDGETS OF THE NEW YORK CITY BOARD, 1982-1996[58]

YEAR	PERSONNEL	OPERATING FUNDS	TOTAL	CHANGE
1982	$6,303,600	$10,406,476	$16,710,076	
1983	$7,350,400	$13,311,501	$20,661,901	$3,951,825+
1984	$7,077,519	$14,890,458	$21,967,977	$1,306,076+
1985	$6,477,519	$12,743,538	$19,221,057	$2,746,920-
1986	$8,222,391	$15,931,823	$24,154,214	$4,933,157+
1987	$7,534,788	$13,244,130	$20,778,918	$3,375,296-
1988	$8,882,423	$23,103,723	$31,986,146	$11,207,228+
1989	$8,912,964	$20,949,395	$29,862,359	$2,123,876-
1990	$10,088,943	$18,475,393	$28,564,336	$1,298,023-
1991	$10,281,000	$20,005,234	$30,286,234	$1,721,898+
1992	$11,359.000	$24,837,926	$36,196,926	$5,910,692+
1993	$10,940,455	$19,544,409	$31,306,364	$4,890,562-
1994	$11,095,436	$19,889,021	$33,792,382	$2,486,018+
1995	$11,095,436	$19,889,021	$30,984,457	$2,807,925-
1996	$	$	$	$

Source: Office of Management and Budget

The proposed cuts for FY'96 were even more substantial than those of FY'95.[59] In

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[58]Budgets refer to the fiscal year which runs from July 1 to June 30 the following year. Thus, each fiscal year begins before the same number calendar year (for example, FY' 1996 refers to the calendar year July 1, 1995 to June 30, 1996.)

[59]The Giuliani administration proposed a cut of $3 million and 54 permanent staff positions and the elimination of its temporary and overtime budget, the latter used to augment the Board's staff during peak registration and election periods. This would have been on top of the previous reduction of 51 positions. Board memo, March 5 and 14, 1995.

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part because advocates were able to get the U. S. Justice Department to intervene and warn the Giuliani administration of the potential violations to the Voting Rights Act (VRA) and the NVRA if such cuts were sustained, the Giuliani administration reversed itself and restored $2.5 million of the proposed $3 million cut.[60] The Board stated that the proposed cut would "have a devastating effect on the services of the Board, the modernization program, and our ability to meet legally required mandates... The Board cannot absorb these additional Personnel Services cuts and is deeply concerned that the quality of voter services will revert to the days prior to the modernization of the Board's administration of elections and operations and the potential disenfranchisement of the voting population."[61] The Board detailed the estimated impact on the Board's operations if the full cut made, focusing primarily how it would effect minority communities. The Board noted cuts would specifically negatively impact the Phone Bank, which assists voters in the three languages mandated by the VRA (English, Spanish and Chinese) regarding voter registration, poll site information, absentee ballots, and the like; the Language Assistance Program that. at the recommendation of the Justice Department, translates materials, recruits and trains interpreters in Spanish and Chinese; the Training

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[60]Advocates, primarily Human SERVE, advised the Board to detail the anticipated impacts to specific services if the proposed cut were enacted. The Board wrote a memo on March 5, 1995. After advocates suggested a stronger focus on explaining how such cuts would especially negatively impact minority communities, the Board made extensive changes to incorporate these and wrote a subsequent memo on March 14, 1995. The letter was from Daniel DeFrancesco, Executive Director, to Louise Altman of Human SERVE. Soon thereafter, advocates expressed their concerns to the Justice Department and pressed them to warn the Giuliani administration of possible violations to the VRA if such a cut was enacted.

[61]Ibid.

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Department which trains the 22,000 poll workers and, due to improvements made over the years with NYCEP's help, has increased the number of workers trained and decreased the use of affidavit ballots and of administrative problems which produce disenfranchisement; registration processing, particularly during peak times in the months prior to the election, possibly leading to registration applications not being properly processed in time and names not appearing on poll lists.

The intervention by advocates--coupled with a favorably disposed U.S. Justice Department under a Democratic administration--led the Giuliani administration to reduce the cut to the Board's operating budget and services. Nevertheless, in the subsequent year, the Board's funds were cut again--particularly for advertising election information and outreach--and, more significantly, staff was cut from 363 in 1994 to 312 in 1996, or 15%. These personnel cuts led to service reductions including a reduction of its delivery of voter registration forms, thus requiring voter registration groups to pick up bulk quantities; a slowdown in processing voter registration forms producing a backlog; and a consolidation of election districts (ED's) in poll sites so as to reduce the number of poll workers required.[62]

Political Implications and Conclusion

What the foregoing suggests is that during the 1993 election, the news reports, the state investigation and public hearing, and the subsequent changes in election administration and ballot security operation, were coordinated efforts led by Republican party officials and directly led to significant disenfranchisement of thousands--perhaps tens

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[62]Jon del Giorno, Administrative Manager of the Board.

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of thousands--of primarily low income and minority voters. As exit polls revealed, the electorate was even more sharply divided--especially in racial and class terms--than in 1989.[63] Thus, the evidence strongly suggests that the Dinkins administration and their supporters were hurt most from the loss of the voters who were disenfranchised.

Conversely, Republican and Liberal Party interests benefited from these events. In addition, distinct factions of the Democratic Party that were subordinated by the temporary ascendancy of the Dinkins'/"liberal" faction benefited from these events. Indeed, from the outset these "fusion" political groups expressly united to defeat the Dinkins administration by reconstructing the "Koch coalition."[64] The Giuliani campaign fundamentally strove to appeal to distinctly middle and upper class concerns, and privileged particular racial and ethnic groups. Moreover, according to several analysts,

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[63]Voter Research Surveys, 1993; New York Times, November 9, 1993.

[64]The phrase "Koch coalition" is from Mollenkopf, 1992, describing the electoral and political constituencies that Koch forged--which elected him to office from 1977 until 1989, and groups which allowed him to form a governing coalition. "...an electoral base centered among white, ethnic, middle-class voters, augmented by support from the more conservative, property-owning elements of the black population and from the poorer but more conservative Latino population. His electoral popularity and strong support from the financial and real estate development interests that benefited from his policies gave him the base from which to convert an electoral coalition into a solidly entrenched governing coalition." (1992:4)

Moreover, members of former Mayor Koch's administration and their allies, particularly the "regular" party clubs and factions, supported Giuliani in the election. In fact, many of Giuliani's senior appointees are former Koch appointees and other Democrats that supported "fusion." Mollenkopf notes that "The Giuliani coalition of the 1993 general election closely resembles the Koch coalition of the 1989 Democratic primary election." Indeed, Mollenkopf notes that Giuliani's cause was aided by "endorsements from widely-admired Democrats like Ed Koch and the late Bob Wagner and open or covert support from white regular Democratic clubs." Mollenkopf, 1994.

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these "fusion" constituencies have been the primary beneficiaries in policy terms.[65]

Again, while there are certainly several factors that contributed to lower turnout in the areas of the city that experienced a decline--as well as areas that saw an increase--the disenfranchisement of eligible voters this study documents is one factor not well studied in the political science literature. Politically motivated administrative practices by Boards of elections (and "ballot security" measures) can significantly impact upon participation. Administrative practices and bodies such as the Board of elections--like election law itself--are sites of political struggle. Republicans successfully highlighted Board procedures and election law that might open the door to the perpetration of the kinds of fraud which would ostensibly inflate turnout (such as multiple registration and voting). They successfully pressed the Board to institute restrictive procedures and, in turn, contributed to increased disenfranchisement. They succeeded in reversing the achievements of voting rights groups that over the past decade had exposed restrictive Board procedures and provisions in the election law which, they contended, constituted a different form of "fraud" by producing disenfranchising effects and decreasing turnout. So, just as advocates had successfully pressed for election law and practices of the Board of elections to be "liberalized", which in turn, produced modestly increased access to registration and participation, so too the success of this Republican-led episode illustrates that politically motivated activity can bring pressure to bear to force more restrictive law and administrative practices.

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[65]Robert Fitch, 1994, 1995; Joe Conason, 1995; Reports by the City Project and the Community Service Society also present data to make this point.

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The Republican concerns for greater safeguards are once again firmly reflected in current discussions about election law and practice in New York. For example, Republicans in the state house, in the legislature, in the City Board, in the State Board and in other local boards, have repeatedly raised concerns regarding non-citizens, pressing measures (from the manner the NVRA is implemented, to the way registration forms are processed, to how votes are cast at poll sites) in order to protect against potential illegal registration or voting. In addition, Republicans (and some Democrats[66]) have continued to press for the reduction of "deadwood." While we might acknowledge that Republican concerns are not totally with out basis--it is theoretically possible to commit fraud, and Democrats may possess some means to perpetrate it in some circumstances (for example, at poll sites that are sometimes over staffed by Democrats due to Republican shortages/vacancies)--nevertheless, given that little or no fraud has ever been proven, Republican concerns appear unwarranted, at least in terms of the degree of their concerns. Yet, the City Board of Elections continues to reflect this shift in emphasis towards more restrictive practices to protect against possibilities of fraud. According to officials at the Board, it remains on "high alert."[67] Indeed, some officials contended that the Republican efforts to change Board practices were intended to extend beyond the mayoral election: not only with an eye toward effecting the 1994 gubernatorial and congressional races and 1996 presidential race, but also to shape the implementation of the National Voter

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[66]Jerome Koenig of the Assembly Election Law Committee has been one of the most outspoken advocate of the need to reduce "deadwood."

[67]Jon del Giorno, Administrative Manager of the City Board, interview with the author, May 30, 1996.

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Registration Act (NVRA).[68] Lastly, the budget and staff cuts to the Board have further affected registration and election day operations, and eroded some of the improvements made during the previous decade.

Thus, these episodes suggest that contending political groups attempt to affect the outcome of elections by affecting the manner in which elections are conducted.

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[68]Ibid. In addition, several Assembly Democrats and members of the Dinkins campaign held this position, as well as advocates.

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CHAPTER SIX
THE NEW YORK CITY VOTER ASSISTANCE PROGRAM (VAP) AND THE NEW YORK CITY VOTER ASSISTANCE COMMISSION (VAC): PROMISE AND PERFORMANCE

THE VOTER ASSISTANCE PROGRAM (VAP): 1986-1988

On December 8, 1986 Mayor Koch created the Voter Assistance Program (VAP) by executive order #101. VAP was created amidst continued criticism of the New York City Board of Elections, and also during Human SERVE's attempts to mobilize voter registration advocates to establish agency based registration programs in several states and cities around the country. With the inauguration of the Voter Assistance Program, New York City advocates claimed another victory in their efforts to broaden access to the franchise. As time passed, however, both VAP and its successor, the Voter Assistance Commission, have not achieved to their potential. While the creation of these agencies constituted an important step in shifting the burden of registration from individuals to government, the realization of their goals--to substantially increase voter registration and participation--have largely not been fulfilled.

The purpose of the VAP was to "provide access to voter registration forms for persons who utilize the services of New York City agencies and institutions." The executive order named nine city agencies[1] and any other such agencies as may be designated by the Voter Assistance Coordinator, who would supervise the administration

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[1] The agencies were the Department of Consumer Affairs, Department of Employment, Department of Health, Department of Housing Preservation and Development, Department of Parks and Recreation, Department of Personnel, Police Department, Department of Social Services, Department of Transportation.

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of VAP.[2] The Coordinator was also to "attempt to enlist the cooperation of other public agencies, not-for-profit institutions and private firms" to operate similar programs.[3] The executive order directed agencies to designate employees who were to "be available to assist the public in filling out the mail registration forms." Lastly, VAP was to "encourage registration with creative and ambitious approaches."

Housed in the Mayor's Office of Operations, one of the first steps VAP took was to introduce postage-paid mail voter registration forms.[4] This was an important step in advancing agency based registration, and also for facilitating community registration. With the government picking up the postage, part of the costs of registration to voters, non-profit organizations and agencies was reduced. VAP also helped to coordinate a mass mailing of nearly three million of these postage paid voter registration forms to all households in New York City during December, 1987 and January, 1988.[5] In addition, VAP asked the city's 35 private colleges and universities to follow the lead set by the City University of New York (CUNY) in promoting voter registration when students registered

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[2]Joel Cooperman was the first Coordinator and Rob Walsh succeeded him.

[3]Including Libraries, the City University of New York (CUNY), Board of Education, Health and Hospitals Corporation, New York Housing Authority, community boards, banks, and department stores.

[4]Mayor Koch provided the funds for this reform to the Board of Elections, which purchases registration forms, and the Commissioners of the New York City Board of Elections approved this measure in August, 1987.

[5]The mailing, accompanied by a copy of the U.S. Constitution to commemorate the bicentennial, was accomplished with the assistance of New York's two senators, Daniel Patrick Moynihan and Alphonse D'Amato, who Koch enlisted the senators to make their franking privileges available.

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for classes, and worked with the Board of Education to send a voter registration form to every high school senior and encouraged students to register their parents if they were eligible but unregistered. Working with the Food Merchants Association, VAP helped coordinate distribution of registration materials through supermarkets. VAP helped produce several Public Service Announcements for radio and television (WNET) to encourage registration and voting.

The establishment of VAP was significant: it legitimized a government role in expanding the franchise, and it did in fact facilitate a moderate increase in voter registration. A study revealed that in the first three to four months of the agency based voter registration program, which began implementation in November, 1987, 89% of the sites surveyed had introduced the program and two-thirds had voter registration forms available.[6] The study rightly concluded that such "results indicate that serious effort has been made to make voter registration an effective city program." Yet, the study revealed significant problems, including "a lack of staff awareness and participation in the program; inconsistent guidelines and understanding of job responsibilities by site and agency coordinators; minimal training; lack of written information for staff and clients; difficulties in communication; and lack of effective evaluation mechanisms." More fundamentally, the program's design was flawed. In the first place, the agency based registration programs promoted by VAP were largely "passive," using a counter display box in an agency site. Moreover, even though some 500 city employees involved in the program were trained in

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[6]The report, dated May, 1988, was written by Norman Segal, Niurka Arce, Marie Herb, Sangeetha Purushathaman and Julia Siverls, who were based at the New School for Social Research, Graduate School of Management and Urban Professions.

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1987, many agency sites often went without posters and display boxes, and generally employees did not provide assistance to clients.[7]

The number of people actually registered through agencies can only be estimated due to: a) the fact that no formal mechanisms existed to monitor and evaluate agency based programs and record the number of registrants; b) the simultaneous mass mailing of nearly three million voter registration forms to all households; and c) the significant voter registration efforts by non-profit and community based organizations to increase the rolls for the April 1988 Presidential Primary Election, particularly the mobilization surrounding the candidacy of Jesse Jackson of African Americans and Latinos by organizations such as "Countdown 88", a group of organizations that coalesced to conduct voter registration and education which included the Community Service Society (CSS), an anti-poverty organization, and the Commonwealth of Puerto Rico's "Atrevete" Program.

Nonetheless, voter registration figures suggest less than one might expect from this high level of voter registration activity. Only approximately 100,000 registration forms were submitted to the New York City Board of Elections between November, 1987 and the February 19th deadline for the April, 1988 Presidential Primary.[8] Of the three million

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[7]This was the general consensus (based on interviews and memorandum) of advocacy organizations that were monitoring and participating in such efforts such as Human SERVE, The New York Public Interest Research Group (NYPIRG), and the Community Service Society (CSS).

[8]Daily News, February 19, 1988. The New York City Board of Elections estimated that 4,000 were registered through Countdown 88' and another 1,000 by the Commonwealth by February 19. The New School study reported that 200,000 forms were submitted to the Board of Elections by May, 1988. It must be noted, however, that not all forms submitted reflect new registrants, as some are changes of address, name, party enrollment, or lack needed information or were rejected for other technicalities.

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forms mailed to New York City households, the New York City Board of Elections estimated that about 150,000 of the over 500,000 new voters added to the rolls in 1988 were registered through the mass mailing.[9] From VAP's initiation of agency registration in November, 1987 through October, 1988, they claimed "more than 600,000 forms were distributed to the public through 29 city agencies."[10] There is evidence, however, that not all 600,000 ended up in the hands of prospective voters, nor is the actual number known of individuals who were registered through agency programs.[11] Based on the most generous estimates of the number of registration forms returned as a percentage of those distributed, perhaps as many as 60,000 to over 100,000 voters could have been registered through VAP programs.[12]

Moreover, Countdown 88' claimed to have registered more than 4,000 by this date, though the number is unclear.

[9]The 5% rate of returned forms is higher than other Board estimates. The Board has estimated that 1-2% of the millions of forms they distribute each year are returned. The rate of forms returned from agency registration may be higher.

[10]Robert Walsh, Coordinator of VAP. Testimony before the Assembly Election Law Committee, October 18, 1988. Walsh concluded, "I believe we have developed one of the most creative and ambitious voter outreach programs in the country," as to their numerous initiatives and VAP as a whole.

[11]Observers, including agency personnel and voter registration advocates, have noted that forms were sometimes discarded by the agencies or the public, or used for other purposes such as scrap paper. Indeed, such occurrences continue in some agencies to this day.

[12]As noted, the Board of Elections has estimated that in general, 1-2% of forms it distributes are returned. The mass mailing produced as much as a 5% return rate (150,000 of over three million). "Hands on" voter registration efforts, by various organizations, have generally proven to be even more effective, and agency based programs in other cities and states, depending on program design, have also produced higher rates of registration to forms distributed. Thus, a 2% return rate of the 600,000

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Thus, VAP programs likely did produce limited increases in registration and, more importantly, served as a model for how to shift the responsibility for voter registration from the individual to government, much as in Canada and Western Europe. Indeed, VAP was generally regarded as moderately "successful." It received mostly good reviews from advocates, elections officials and elected officials, and other observers, being generally seen as a well run non-partisan operation.[13] Nevertheless, being a Koch initiative and housed in a mayoral agency, there was a perception among some of these individuals that such a program was or could be used to advance the mayor's re-election efforts. This concern--coupled with VAP's success--enhanced efforts by advocates and sympathetic officials to codify VAP's mission in the revisions to the City Charter in the fall of 1988, and create a permanent government led agency based voter registration program, the Voter Assistance Commission (VAC).

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forms VAP claims to have distributed yields 12,000 registration (likely a too low estimate), while a 10% return rate would have produced 60,000 registrants. Even a 20% return rate--a likely overestimation--would have only produced 120,000 of the over 500,000 people registered in 1988.

[13]Surprisingly, the increase in registration it achieved, albeit modest, apparently even elicited some compliments--particularly regarding its non-partisan nature--from even quarters which might have viewed VAP as a threat, such as several City Council members and Board officials as reported by advocates. Yet, some of these same officials, however, were quick to state that such efforts went beyond what was needed--that registration opportunities were prevalent enough or that citizens should show motivation to register themselves--and expressed scepticism that turnout would rise much from even modest increases. Some argued that the expenditure of resources on VAP could be better utilized elsewhere, by the Board of Elections for example.

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THE VOTER ASSISTANCE COMMISSION (VAC): 1989-1995[14]

> "The Voter Assistance Commission (VAC) is a nonpartisan government agency created in 1988 by the New York City Charter to facilitate voter participation. The first agency of its kind in the nation, the Commission stands as an important acknowledgment that government has an obligation to broaden and increase participation of all eligible voters in the election process. The ideal of extending the franchise to all citizens remains predominant in American political culture, reflected in historic struggles to ensure voting rights for all Americans. The Civil Rights Movement, the Women's Suffrage Movement, the Abolitionist's movement and the American Revolution are monuments to the struggle for political representation of all citizens.
>
> The impetus to create the Voter Assistance Commission was rooted in this tradition. The activities of contemporary voting rights advocates resulted in the establishment of the New York City Voter Assistance Program created by Mayoral Executive Order No. 101 in December 1986. The Charter Revision Commission proposed to expand and permanently establish a Voter Assistance Program. A majority of New Yorkers who voted in November 1988 to revise the City's Charter supported the provision that created the Voter Assistance Commission. Thus, VAC itself is a product of the democratic process." (1994 Annual Report)

The lobbying effort by reform advocates to create government policies and institutions whose mission was to expand the franchise resulted in both Mayor Koch's

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[14] This section of the chapter presents a bit of a dilemma for both me and you, the reader. I was the Coordinator of the New York City Voter Assistance Commission (VAC) for nearly three years, from February, 1993 to December, 1995. While this afforded me direct access to the most intimate details about the operations of the Commission, it presents me, however, with a problem: how to write about my experience at VAC without appearing self-serving or biased. How can I present the story of VAC as a participant observer with an acceptable level of objectivity?

I have attempted to achieve such a reasonable degree of impartiality by heavily relying on the input of others who were involved in the work of the Commission: other staff, Commissioners, agency representatives, non-profit and community based organizations, elections and elected officials, journalists, and interested observers. In addition, I provided draft versions of this chapter to some of these individuals for comment, making changes to the chapter based upon their feedback. I have also sought to disclose information to the reader about my views or actions where they differed from others. I believe these efforts have yielded a fair analysis of VAC. Lastly, I draw upon Hagedorn's (1995) insights into "involved observers and academic research."

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Executive Order 101 and VAP, and in the establishment of the Voter Assistance Commission (VAC). As discussed in chapter four, Koch acceded to the prodding by advocates amidst criticism of the Board of Elections and the spate of scandals which embroiled numerous Democratic officials. Reform advocates--particularly NYPIRG and Human SERVE--are widely acknowledged to be the prime movers in persuading city officials to create both VAP and VAC. In fact, Gene Russianoff, Senior Attorney of NYPIRG, and Linda Davidoff, then Executive Director of Human SERVE, effectively wrote the section of the Charter that created VAC. Observers have noted that "The agency was established by referendum in 1989 after a campaign by good government groups. The groups were frustrated by what they saw as the inability of the city's patronage-laden Board of Elections, which is controlled by the county political bosses, to register large numbers of voters or to institute voting reforms."[15]

The revised City Charter, which created VAC, codified and expanded VAP's mission. The Charter gave VAC greater power to carry out VAP's mandate, and explicitly to broaden the participation of under-represented groups. The Charter granted authority to the Coordinator of VAC, who is nominated by the mayor and hired by the Commission, to promulgate rules "establishing the content and format for city agencies to follow" in offering voter registration to the public. The Charter directed the Coordinator to "coordinate the activities of all city agencies in general and specialized efforts to increase registration and voting including, but not limited to, the distribution of forms for citizens who use or come into contact with the services of city agencies and institutions;

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[15]Martin Gottlieb, New York Times, December 9, 1990.

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mailings by city agencies to reach citizens." The Charter also requires that "Heads of mayoral agencies shall cooperate with the board of elections and the coordinator of voter assistance to encourage voter registration and voting by all residents of the city of New York eligible to vote, and shall prepare annually, in accordance with rules and guidelines of the coordinator of voter assistance, plans specifying the resources, opportunities, and locations the agency can provide for voter assistance activities." Thus, the new Charter provided VAC broader authority for a more aggressive and effective agency based voter registration program.

This was a significant advance. While VAP had made important initial steps under Koch toward establishing agency based voter registration, VAC provided the city with the opportunity to strengthen and institutionalize effective agency based voter registration programs as a permanent part of government.

Moreover, the Charter directed the Coordinator to "identify groups or categories of such residents who are under-represented among those registered and those voting and recommend methods to increase the rate of voter registration and voting among such groups and categories." Thus, the mandate to expand the franchise to incorporate those at the bottom of the social structure was made clear and integral to VAC's role. As previously stated, this has been one of the central strategies of Piven and Cloward and their reform organization, Human SERVE.[16] Indeed, the above quote regarding VAC's mission explicitly acknowledges historical struggles to expand the franchise which

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[16]For some reform advocates, expansion of the franchise was also seen as a means to achieve their larger goal of altering the balance of political power.

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impacted politics. In an attempt to insure that such a perspective would be maintained by the Commission, the Charter called for its members to be broadly representative of groups that are under-represented in registering and voting, and represent voter registration and civil rights organizations, disabled groups, and the business community. The Voter Assistance Commission consists of sixteen Commissioners who serve without compensation, three who are appointed by the Mayor, and six are appointed by the City Council and seven are Ex-Officio members.[17]

The Charter also directed VAC to hold public hearings each year on "voter registration and participation in New York City", and that the Coordinator "monitor voter registration and voting in New York City, and receive citizen complaints regarding such processes." Finally, the Coordinator and Commission are to "make such recommendations as it [the Commission] deems appropriate to the mayor, the council, the borough presidents and the board of elections for steps that could and should be taken by such officials or bodies or by city agencies to encourage and facilitate voter registration and voting." Some contend (i.e. advocates, some elected officials and elections officials, including members of NYPIRG) that this requirement means VAC is to assess factors which influence registration and voting patterns in the city, including monitoring the work of the New York City Board of Elections because the Board administers voter registration

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[17]The Ex-Officio members include the First Deputy Mayor, the Director of OMB, the President of the City Council (now the Public Advocate), the Executive Director of the Board of Elections, the Corporation Counsel, the President of the Board of Education, and the Chair of the Campaign Finance Board. As we shall see, the structure of political appointments to the Commission--while intending to give greater strength and balance--has contributed to its being mired in political conflict.

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and voting in the city and has an impact on voter registration and participation. This view--as well as the specific efforts by the Commission--to monitor the Board, however, have been contested by the Board.[18] Indeed, many observers have noted that "good government groups" led the campaign to establish VAC because such "groups were frustrated by what they saw as the inability of the city's patronage-laden Board of Elections, which is controlled by the county political bosses, to register large numbers of voters or to institute voting reforms."[19]

VAC's promise, however, has not been achieved. While several factors have prevented the full realization of its mandate--including sharp budget cuts, staff changes and bureaucratic inertia--a set political factors have been primary. Given the Commission's capacity to enlarge the electorate, it has come as no surprise to observers that VAC soon became embroiled in political conflict. Political conflict arose shortly after the Commission's inception between different political actors: between mayoral administrations, the City Council and the Board of Elections, or more generally between different factions within the Democratic party, and then under the Giuliani administration,

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[18]The original draft of the Charter language directed VAC to specifically monitor the Board. However, according to NYPIRG (who wrote this draft), the Board pressured the Charter Revision Commission, particularly Frank Macchiarolla, to delete the reference to the Board, and instead direct VAC to monitor elections more generally. Thus, the specific reference to the Board was removed from VAC's mandate. Nevertheless, since the Board is an integral part of the election system in New York, administering registration procedures and voting practices, and as testimony made before VAC's public hearing attests to its distinct impact on registration and participation, the Board inevitably is subject to some degree of overview by VAC. In fact, advocates and representatives of community based organizations and the public more generally have consistently urged the Commission to monitor the Board's performance.

[19]Martin Gottlieb, New York Times, December 9, 1990.

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between Democrats and Republicans.

The first instance of political conflict occurred between Commission members and staff appointed by the Koch administration in 1989, when the Commission was first established, and the Dinkins administration which came into power in early 1990. Conflict between the mayoral contenders led to the dismissal of several Commissioners and staff, including the first Coordinator, Ninfa Segarra. Soon thereafter, a second Coordinator, Eddie Bacca, who was a Dinkins' nominee, was appointed. Two months later, however, he was fired by the Commission. Six months later, in June, 1991, the Commission was de-funded. For its part, the City Council leadership, never a supporter of the creation of VAC from the beginning (largely reflecting its close ties to the Board of Elections), proposed the wholesale elimination of the Commission within one year of its establishment.[20] Funding for the Commission was re-established in late 1992 (at less than half the funding level) with new Dinkins appointees made to the Commission and a new

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[20]The Village Voice, July 10, 1990, p. 14. The City Council has variously proposed eliminating VAC, merging it with the Campaign Finance Board, or folding the independent non-partisan Commission into the party-controlled Board of Elections. Since the Council has maintained strong ties to the political parties--particularly the Council's leadership--it has preferred folding the Commission into the Board of Elections. (New York Times, April, 7, 1991) During the budget negotiations of 1990, the Voice rightly noted that the Campaign Finance Board, also created by the Charter to manage public financing of campaigns and produces a voter guide, "has nothing to do with increased voter enrollment." (In fact, at the time the Council also proposed slashing the budget of the Campaign Finance Board.) Moreover, the Council was not alone in calling for VAC's elimination. Reversing itself, in part due to the political controversy that soon surrounded the Commission and its ineffectiveness, the New York Times editorial board said that cutting $500,000 from the budget slated for VAC would mean "no real loss to democracy." (January 20, 1990) Finally, the City Board of Elections, always cool to the idea of VAC, quietly supported the Council's initiatives.

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Coordinator, the author of this study, hired in February, 1993.[21] Following the election of Rudolph Giuliani, however, political conflict between the Giuliani administration and the Commission ensued which effectively thwarted the Commission's nascent renewed efforts, and culminated in the resignation of all the staff and the dismissal of the third Coordinator in December, 1995.

What follows is a review of the brief history of the Commission. I will analyze its accomplishments and the political factors which have limited the scope of its achievements.

Political Conflict and the Rise and Fall of VAC

Under the 1988 Charter, the Voter Assistance Commission and the Campaign Finance Board were linked as one agency and both chaired by Reverend Joseph O'Hare, S.J., who was appointed by Mayor Koch. Charter revisions in 1989 separated them into two agencies. In January, 1989, Mayor Koch nominated Ninfa Segarra to become the first Coordinator of the Commission. Ms. Segerra was confirmed by the Commission in May, 1989. The task of hiring the remainder of the staff, acquiring office equipment, and establishing a framework for setting the Commission's agenda and work process preoccupied much of VAC's activity in 1989. In fact, because of the setting up VAC's office took time, the Commission facilitated very little actual voter registration during its first year.

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[21]VAC was not fully operational--provided with offices and fully staffed--until mid-summer, leaving the Commission effectively four months to affect the 1993 elections. Thus, VAC's reduced budget and limited life limited its capacity to have a significant impact on participation in the 1993 elections.

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During its subsequent five years, several factors impeded VAC's operations. These include political manipulation and conflict, budget cuts and de-funding, state and federal legal restrictions on voter registration activity (both in government agencies and non-profit organizations), and actions or lack of actions by the Commission and Coordinator which failed to produce well designed and effective programs, especially agency based programs. Commission-related short comings included the failure of the Coordinator, Ninfa Segerra, to promulgate regulations authorized by the Charter, and VAC's failure to promote, especially agency based programs, with the mayor's office and agency heads, and the like.

Politics and political conflict, however, undergirded all these factors. As alluded to above, the structure of the Commission created the potential for such conflict.[22] While the City Charter states that "there shall be nine members broadly representative of (1) groups that are under-represented among those who vote and are among those who are registered to vote, (2) community, voter registration, civil rights and (3) the business community," a majority of the sixteen member Commissioner, who act as a board of directors and set the agency's policy are appointed by the mayor and therefore tend to reflect Mayor's own

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[22]Indeed, the advocates--principally Gene Russianoff of NYPIRG and staff at Human SERVE--who lobbied for VAC's creation and helped shape the language embodied in the Charter which defined it, would later acknowledge that the Commission's political structure served to undermine its mission. While attempting to give broad and prominent governmental representation to the Commission--as well as political balance--the advocates did not foresee the kinds of political maneuvering key officials would be able to perpetrate.

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loyal constituents.[23] The City Council has six appointees, similarly made up of appointees loyal to the Council leadership. The Coordinator is also nominated by the mayor, though technically "hired" by the Commission. Thus, a mayor can theoretically control a majority of VAC's members and the agenda of the Commission.[24]

When the first transition from one mayor to another, from Koch to Dinkins occurred, the issue of the mayor's power became apparent. More accurately, what was clear to the incoming Dinkins administration was that ***they*** did not control the Commission, but former Koch appointees and Council appointees. The Dinkins administration took several steps to shore up its political control of VAC, and to shape its policy agenda. According to Dinkins officials involved and several voter registration advocacy organizations, the administration aggressively sought to move the Commission in a direction it believed would better fulfill VAC's mandate, particularly by implementing more effective agency based voter registration programs. For example, Dinkins

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[23]A mayor has three appointees and several Ex-Officio members who are mayoral appointees, including the First Deputy Mayor, Corporation Counsel, and the Director of OMB. Moreover, three of the four other Ex-Officio members are also beholden to the mayor: the president of the Board of Education, who has often been a mayoral appointee, and the Executive Director of the Board of Elections and the Chair of the Campaign Finance Board, who are at least predisposed to forging positive working relations with mayors due to the control mayors exercise over their budgets. The remaining member, the President of the City Council, now the Public Advocate, are independently elected and have varying relations to mayors (Andrew Stein was closer to Koch than to Dinkins, who he ran against for mayor for a period in the 1993 Democratic primary election, while Mark Green has been a sharp critic of Mayor Giuliani).

[24]Ex-officio members have generally not attended Commission meetings, instead sending a representative to serve for them. Advocates have characterized the Commissioners and Coordinators--from its inception to date--as generally "disappointing" and "lackluster," with few exceptions.

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Administration officials, particularly Hulbert James, former executive director of Human SERVE, engineered the hiring of a consultant, Joanne Chasnow of Human SERVE, in order to re-vamp VAC's agency based programs. In particular, they sought to enhance the city's programs by moving from a more "passive" registration process (providing registration forms on counter tops), to a more "staff active" registration process (training agency workers to verbally offer clients the opportunity to register to vote and assistance in completing the forms). The consultant was hired not only to provide expertise in designing effective agency based voter registration programs, but also to provide a mechanism to better monitor the commission's work and exercise influence. Observers noted that the Commission had not succeeded in establishing effective agency registration and urged the Mayor to issue a new executive order or for the VAC Coordinator to exercise their Charter authority to promulgate rules governing agency based voter registration. And while the city remained subject to certain federal and state restrictions prohibiting registration in some federally-funded government agencies, and feared that Republicans (the Bush administration) might take action against the City if the Commission violated current federal regulations, the Dinkins Administration and advocates contended, nevertheless, that the Commission could and should do more to establish effective programs.

What ensued, however, was a steadily deteriorating relationship and power struggles between the Dinkins administration and the Commission. Dinkins administration

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officials--led by Deputy Mayor Bill Lynch and Hulbert James[25]--orchestrated several changes to the Commission: they sought the replacement of the Coordinator, Ninfa Segarra and the three Koch appointed Commissioners[26]; had VAC administratively "housed" within the Mayor's Office; and strove to exert greater fiscal and policy control over the agency.

Ms. Segarra, the Commission's first Coordinator and a Koch appointee, was asked to resign by the Dinkins administration and eventually forced out of her position. At first, Segarra refused to resign, and voter registration advocates and civic groups came to her aid. Segarra said that the move by the Dinkins administration raised the question about "how independent the commission should be. We have contended that we are an independent agency and need to be treated that way."[27] Indeed, Gene Russianoff, "a drafter of the City Charter provision that set up the commission, said that 'if commissioners [and the coordinator] want to stay, they should stay.'"[28] However, Segarra eventually resigned in June, 1990, and Joseph Leary, the Deputy Coordinator under Segarra, became acting director from June, 1990 until September, 1990.

During this same period, the Dinkins administration also sought to replace all three

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[25] Lynch, a Deputy Mayor was an ex-officio member of the Commission (and who also headed up Dinkins' election bid in 1989 and 1993, and President Clinton's campaign in 1992) assigned Hulbert James to oversee VAC for the Mayor's office.

[26]The Commissioners were Gail Kong, Julia Rivera, and Charles Hughes. Hughes, President of Local 372 of District Council 37, AFSCME, was eventually kept on and succeeded O'Hare as Chair of the Commission in April, 1990.

[27]New York Times, March 30, 1990.

[28]Ibid.

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Koch appointed Commissioners. The administration was, however, only able to replace two Commissioners. The third Koch-appointed Commissioner, Charles Hughes, President of Local 372 of DC 37 AFSME, which was one of the only unions to back Koch against Dinkins in the 1989 Primary Election, was elected chair of the Commission in April, 1990. Hughes' continued tenure at once reflected a failed attempt by the mayor and an acknowledgment of the independence of the Commission. Nevertheless, Hughes remained embroiled in political controversy and conflict with the administration. For example, Hughes "was one of the most vocal critics of the mayor [Dinkins]" during a labor rally outside City Hall in October, 1990.[29] In addition, questions were raised about whether Hughes could simultaneously hold his VAC position and his position as a member of the city's Alcohol Beverage Control Commission. Under state statute, beverage control commissioners are virtually barred from serving in "any other public office."[30]

In September, 1990 Edward Baca was nominated by Mayor Dinkins and, by a vote of the Commissioners, became Coordinator. However, Mr. Baca was fired by the Commission in less than two months, in December, 1990. Baca had publicly accused the Commission of failing to register many voters, of inadequately monitoring the election system, and of being subject to overt political control by political appointees to the

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[29]Newsday, November 26, 1990.

[30]New York Times, December 9, 1990. This was investigated by the State Liquor Authority and the State Ethics Commission but apparently was not resolved before VAC was de-funded and he resigned in July, 1991.

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Commission.[31] Advocate organizations repeatedly called on the Commission and administration to "get its house in order," saying the Commission has been "plagued" by internal disputes and political manipulation which "have kept the Commission from doing its job."[32]

Unlike to its "sister" agency, the Campaign Finance Board, which is created and defined in the same section of the City Charter as an independent and non-partisan agency, VAC was placed within the office of the mayor.[33] Dinkins officials--particularly Bill

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[31]The Commission "rescinded its confirmation of Mr. Baca" during an executive session of its December public meeting, the same day Baca's criticisms appeared in the New York Times. Several Commission members claimed that Baca's indiscretion reflected a lack of "finesse to run such a highly political" agency (Newsday, December 5, 1990) The Chair, Charles Hughes, a Koch appointee, moved to remove Baca. Baca contended that he "was done in by the political forces on the Commission." He contended that Commission "members have vested interests in the political process," including the Chairman, Charles Hughes, a Koch appointee and the President of Local 372 of DC 37 AFSME, one of the only unions to back Koch against Dinkins in the 1989 Primary Election. Hughes' union is made up of school paraprofessionals "whose jobs are generally patronage positions." Baca contended that the low turnout in the 1989 school board elections (4%) reflected the interests of incumbents who tend to benefit from low turnout. Similarly, Baca claimed the Commission's Vice Chair, Jane Kalmus, who was appointed by the City Council Speaker, Peter Vallone (as were the other Council appointees) are beholden to the Board of Elections and therefore make the Commission reticent to criticize the Board's handling of elections. Baca said that Kalmus "stated in my presence at commission meetings that she thinks her role is to protect the Board of Elections." (The Executive Director of the Board of Elections, Daniel DeFrancesco, also sits as an ex-officio member of the Commission.) Baca also claimed that the Commission "does not reflect the city's population," particularly of Latinos. (Baca is Latino. He subsequently sued the city, charging he was dismissed on the basis of racial biased and that his civil rights were violated.) Joseph Leary acted as Coordinator in both of these interim periods. (Sources include internal memorandum and interviews.)

[32]Neal Rosenstein, NYPIRG, Newsday, December 5, 1990.

[33]The Campaign Finance Board, however, is structured differently than VAC, having only five Commissioners, appointed by the mayor and City Council, and is better insulated from direct political manipulation, as well as was always better funded and

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Lynch and Hulbert James--maneuvered to have VAC "administratively housed" within the office of the mayor, thus giving the mayor more direct control over the Commission's activities by virtue of exercising greater budgetary control and general oversight. Hulbert James, who was appointed by Deputy Mayor Bill Lynch to oversee the commission, then attempted to exercise more direct control over some of the agency's policy and finances.[34] These moves also contributed to further friction between the VAC Commissioners and staff previously appointed by the Koch administration. "They're acting as if we're their agency," said one Commission member.[35] Indeed, the Voice reported that Mr. James stated the Commission was never supposed to be autonomous; rather, the several mayoral commissioners reflected the intention of allowing strong influence from City Hall.[36]

Nor was City Hall the only government which was interested in the Commission's activities. During this period, VAC also came under scrutiny from Albany. In June of 1990, a representative of then State Senator Ralph Marino's office, the Republican majority leader, called the Commission to inquire about VAC's members.[37] Apparently, the Republicans recognized the potential threat VAC might pose to them if voter

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regarded. The Campaign Finance Board has had over 40 staff and a several million dollar budget. Lastly, editorial boards and good government groups have given the Board high marks for its professionalism and performance.

[34] James, for example, unilaterally let the contract in the spring of 1990 to hire the aforementioned consultant, Joanne Chasnow of Human SERVE. The contract was on a per diem basis not to exceed $10,000.

[35] New York Post, June 15, 1990.

[36] Voice. "Charter off Course", by Maria Laurino, July 10, 1990, p. 14.

[37] Ibid.

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registration actually significantly increased.

Lastly, budget cuts, reflecting not only the city's deteriorating fiscal situation but also its political priorities, drastically curtailed the Commission's capacity to meet its Charter mandate. The initial budget of the Commission was set at $750,000 which provided funding for nine staff (at a cost of $400,000).[38] As the recession deepened and the city's fiscal situation deteriorated, the Commission's was hit with successive budget cuts over its first two years from June, 1989 to June, 1991, from $750,000 to $523,944, or a 30.14% reduction.[39]

The impact of these budget cuts significantly reduced the effectiveness of the Commission. In written testimony submitted to the Government Operations Committee of the City Council, the Commission stated:

> "These cuts have drastically reduced VAC's ability to advertise elections and our 'hotline' number. They have additionally cost us three staff positions which has reduced our ability to contact and train city agency workers to conduct voter registration. The cuts have also impaired our ability to upgrade our computer capabilities. [Computer equipment is critical to the Commission's ability to conduct data analysis, including identifying the characteristics of the unregistered, tracking agency based programs, etc.] Moreover, the 30.14% of the budget reduction from the original budget of a year ago has forced the Commission to downgrade its original computer plans, reduce its plans to conduct videotaping for

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[38]VAC's funding and staffing levels subsequently declined precipitously, and it was including being entirely de-funded for over a year. (A chart presenting budget information is in the appendix to this chapter.) The year the Commission was de-funded, fiscal year 92', actually produced almost two calendar years--from June, 1991 to March, 1993--of inactivity by the Commission because no staff were hired to perform its tasks. Moreover, the Commission ceased meeting for most of this period.

[39] The Commission's budgets were as follows: FY'89 (calendar year July, 1988 to June, 1989) - $750,000; FY'90 (calendar year July, 1989 to June, 1990) - $644,492; FY'91 (calendar year July, 1990 to July, 1991) - $523,944.

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> training purposes with city agencies, and cut back on implementing agency based/staff active training in all city agencies for the calendar year 1991."[40]

Finally, the Commission was defunded in July, 1991.

VAC's Accomplishments: The First Two Years

What did VAC accomplish during its first two and one half years of operation? At best, the results were mixed. Most observers--particularly voter registration advocates that lobbied for VAC's creation--were greatly disappointed and dismayed. "We thought the legislative victory of winning VAC would translate into significantly increased registration, but boy were we wrong," as Gene Russianoff of NYPIRG summed it up. By their own admission, VAC's energy in its initial year was largely absorbed with hiring staff, obtaining office equipment and establishing a work plan. Thus, VAC did not produce much registration activity in 1989. VAC's first Annual Report, published in 1990 for the period from January, 1989 to December, 1989, states VAC facilitated the ***distribution*** of 47,000 voter registration forms to high schools and Adult Learning Centers. However, according to Human SERVE and NYPIRG who helped to establish the high schools program with a grant from the Diamond Foundation, such a claim is disingenuous because it takes credit for a program in which VAC played a small role. Moreover, the number actually registered through this and other Commission programs is unclear because no formal mechanisms were established to effectively document and

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[40]Testimony of Charles Hughes, Chair of VAC, and supporting documents submitted to the City Council Government Operations Committee, December 19, 1990.

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monitor such efforts.[41]

In 1990, despite the friction between Koch appointees on the Commission and the Dinkins administration and the Baca debacle, VAC made some headway and took several important steps. The Commission worked to establish modest registration programs in some city agencies--including producing a manual for agency workers which outlined modest "staff active" procedures. These entailed verbally asking agency clients if they wished to register to vote and offering assistance (previous VAC efforts involved a more passive program employing the use of display boxes to hold registration forms on counters). In addition, VAC staff conducted some training of agency personnel involved in such programs. The Commission's 1991 Annual Report claimed VAC helped to facilitate "the distribution of more than one million voter registration forms in 1990, as well as directly decreasing the number of eligible unregistered voters." However, at a City Council oversight hearing in December, 1990, the Commission acknowledged only "approximately 15,300 voters have been registered through Commission efforts. The Commission has reason to believe that the figure may be as high as 25,000. The calculations are based upon a conservative estimate of 1.5% of the approximately one million forms distributed by VAC. The Board of Elections has traditionally received a

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[41]As noted above, based on the number of registration forms returned to the Board of Elections as a percentage of forms distributed to the public (1% to 2%), less than a thousand students would have been registered. However, because the Board of Education's program was conducted in classrooms and in conjunction with a curriculum on the history and importance of voting, and implemented and monitored with assistance of Human SERVE and NYPIRG, the actual registration number may have been much higher. In fact, the Board of Education estimated that over 20,000 students were registered, based on their records and monitoring, which would be about a 45% rate.

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return rate on registration forms of below 2%. Methods utilized by VAC, however, differed from Board of Elections efforts and may have had a return rate that is higher by 1% or more."[42] Indeed, although an improvement over the Board's efforts, VAC's weak program design and ineffective monitoring mechanisms contributed to the failure of these programs to produce many new registrants. As mentioned, VAC's programs were largely passive in nature, merely putting forms on counter tops or in lobbies, when forms were to be found at all. VAC claimed to have distributed registration forms to the following city agencies: the Board of Education, the Department of Employment, the Police Department, Transportation, Consumer Affairs, Human Resources Administration, Housing, Aging, Health, and the Health and Hospitals Corporation--and to community organizations. While some agencies began these programs well intentioned and with some fanfare, most soon lapsed into business as usual. According to agency representatives and advocates who monitored these program activities, many of the agency sites either did not receive or distribute all (or any in some cases) of the forms to the public. For example, the Human Resources Administration's (HRA) program apparently never got off the ground at all. Because of the previously mentioned restrictions on voter registration activity with federal funds under the Reagan and Bush administrations, HRA's planned originally to use WEP workers (Work Employment Program, who receive general assistance) to conduct voter registration. The WEP workers were to be trained by the Commonwealth of Puerto Rico's Atrevete Program to distribute these forms in HRA sites. But WEP workers have

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[42]Ibid. VAC estimated that the number voters registered by the Commission "may be as high as 25,000." Even allowing for a 5% rate, VAC could only have claimed it registered 50,000.

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weak employment skills, are subject to work scheduling changes which left some sites unattended, received poor training and a lack of effective supervision, and the like, all contributing to HRA to abandon this strategy. HRA staff involved in the program reported that most of voter registration forms remained in HRA offices and were subsequently discarded. Similar reports about poor implementation in other agencies--due to these and other kinds of problems--contributed to little effective voter registration. Lastly, due to the poor monitoring mechanisms established by VAC, they had little means to know about these poor results until well into the programs implementation, nor the capacity to pinpoint where within agencies such problems emanated from.

The impacts on voter registration over VAC's first year reveal the poor performance of these programs. While VAC claimed that the number of eligible unregistered voters decreased from 1989 to 1990--which the Commission claimed responsibility for--in fact, registration figures show the opposite: in 1989 when VAC began its programs, registration was at 3,183,739. At the end of the following year--about a year and one half after VAC began its programs--registration had dropped to 3,052,260 for a total loss of 131,479 from 1989. Most of this drop off can be attributed to the annual "purge" of registrants (who may have moved, died, or been removed from the rolls for non-voting in a four year period). Controlling for the purge, we find that registration actually rose 39,103 from 3,013,157 on March, 1990 (just after the purge) to 3,052,260 on October, 1990. But, given the other community based voter registration and campaign activities associated with the City Council elections, the Commission clearly can not take credit for even this modest increase in registration.

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In April, 1991, NYPIRG issued a report on VAC in its publication, Council Watch. Human SERVE, which had worked with and monitored the activities of the Commission since its inception, was asked by NYPIRG to grade VAC. SERVE, represented by Louise Altman, Associate Director, gave the Commission a "D". (Only a few months earlier, Eddie Bacca, VAC's second Coordinator who was fired after only two months, gave VAC a "D plus".[43]) Altman stated:

> Sadly, as the commission enters its third year of operations we must report that none of the above mandates [sic] have been accomplished. To date, no agency-based registration programs are in place and to my knowledge the formal set of rules and regulations governing such programs have not been formally adopted by the commission... Most advocacy organizations had high hopes for the commission and were extremely patient with the slowness in which it became operational... we expected that it would take some time to sort out its policies and agenda. However, no one envisioned that it would still be struggling with the basics two years later.

Nor was such a negative perception particular to voter registration advocates. Prior to NYPIRG's publication of Human SERVE's assessment of VAC's work, during the 1991 City Council Oversight Hearing of the Commission, held by the Government Operations Committee, one Council member stated that VAC itself actually produced little voter registration, and in the end amounted to "a high priced delivery service" which did not produce much actual registration. The Commission's Chair, Charles Hughes, responded to NYPIRG's publication by writing a five page letter of outrage, contesting SERVE's charges. Contending SERVE disseminated misinformation about VAC, Hughes questioned SERVE's "real" agenda, which he stated was "to keep SERVE's funding intact." Hughes arguing VAC had met all its charter obligations and produced important

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[43]New York Times, December 9, 1990.

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gains, as presented in its annual report. He also countered SERVE's charge that VAC had done little to monitor the operations of the Board of Elections by stating that VAC had no such charter mandate.

Similarly, Hulbert James, Lynch's designee to VAC sought to defend the Dinkins administration's record on VAC's activities, particularly since the transition in administrations: "I think there has been some movement. It is not where I would like it to be, but there is some movement."[44] James listed registration efforts in shelters and schools, and promised registration efforts in welfare centers, Housing Authority maintenance offices and other city agencies which would be making registration available. Most of these goals, however, never materialized.

VAC, the City Council and the Dinkins Administration

Internal dissension and public criticism only fueled what ultimately brought down the Commission: political conflict. The Times wrote that VAC found itself "caught in one of the first power struggles between the new City Council and the Mayor..."[45] The Dinkins administration sought to orient VAC to more aggressively target under-represented groups which would likely benefit Dinkins, while the Council, more closely allied with the regular Democratic organizations in the outer boroughs and the Board of Elections, sought to blunt that focus. "Mr. Lynch would like to set up voter registration programs under his control within several departments dealing with the public like the Human Resources Administration. But, the Council, more oriented to political parties,

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[44]New York Times, April 7, 1991.

[45]New York Times, April 7, 1991.

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wants the commission activities folded into the party-controlled Board of Elections."[46] Ultimately, it was the city's deepening recession and fiscal crisis that provided both the Dinkins administration and the City Council--who searched "every nook and cranny to save money"[47]--with a palatable public explanation for eliminating the Commission's funding. During the 1991 budget negotiations City Councilman Herbert Berman, the Chairman of the Council Finance Committee, publicly acknowledged that VAC was "a candidate for termination."[48] Similarly, Deputy Mayor Bill Lynch stated "there is some question whether we can afford to put our resources" in the commission and that in a budget crisis "you have to make these kind of choices."[49] Lynch, however, tried to preempt criticism by noting that the Mayor would normally be the major beneficiary of VAC's voter registration efforts. Responding to criticism of the administration's handling of VAC, Lynch said in an article in the New York Times, "Why would this administration be opposed to registering those folks who are unregistered? I'm not just talking about African-Americans and Latinos, I'm talking about young whites?"[50]

Apparently, however, the Dinkins administration and the City Council had considered going further than merely de-funding the Commission. Even before VAC was de-funded, in the spring of 1991, the Mayor's office and Peter Vallone, the Speaker of the

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[46]Ibid.

[47]Ibid.

[48]Ibid.

[49]Ibid.

[50]Bill Lynch, New York Times, December 9, 1990.

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City Council, discussed the possibility of eliminating or "terminating" VAC altogether by local law. NYPIRG raised several legal questions with the city's Corporation Council that such a move would potentially violate the Charter and possibly the Voting Rights Act.[51] Thus, advocates successfully raised the specter of litigation to head off this attempt to thwart the VAC Charter initiative.

Nevertheless, in June, 1991, the Commission was de-funded. Charles Hughes resigned as Chair soon thereafter, charging Hulbert James, the mayor's liaison to the commission, of interference in VAC's affairs. In fact, the situation "degenerated to the point where the locks were changed on the commission offices."[52] Bill Lynch "made it plain that City Hall had no plans for a new chair or a staff."[53]

Advocates were dismayed by the outright de-funding of VAC. In fact, advocates had earlier charged that "the Dinkins administration has achieved less in the voter registration area than Ed Koch did in his final years. This is an irony. We hope for more."[54] Voicing the bewilderment of many advocates, Richard Cloward, executive director of Human SERVE and Columbia University professor of sociology and social work said, "We've puzzled a great deal about this. I don't understand why he doesn't push this. I don't understand it, which leads me to believe he's overwhelmed by other

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[51]Letter from Gene Russianoff to Victor Kovner, Corporation Counsel, May 17, 1991.

[52]New York Times, July 21, 1991.

[53]Ibid.

[54]Gene Russianoff, NYPIRG, New York Times, December 9, 1990.

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things... Only the Mayor can save this thing, make it work [referring to VAC just before it was de-funded]. Otherwise, its going down the drain."[55]

Why did the Dinkins administration pursue this course of action, and why did it leave VAC dormant for over a year? Indeed, on the face of it, Dinkins would be the likely beneficiary of effective registration efforts. One astute investigative journalist noted at the time,

> Why the Dinkins administration hasn't been more assertive [in pressing to increase registration and voting] has led even its supporters to reflect on such issues as the difficulty of a still young administration in getting its bearings, the overwhelming budgetary and crime problems that have consumed so much of its time and the political skill of the staff members to handle voter issues... Another question raised is the pedigree of the Mayor himself, who, while the beneficiary of registration and grassroots efforts, is a product of the clubhouse system, which often conflicts with them. The Mayor, who once served as the head of the Elections Board, may have voter registration efforts to thank for his victory, but he also has to spread the thanks to such traditional quarters as the Bronx Democratic County Committee, which backed him early against incumbent Edward I. Koch.[56]

Hulbert James, "the Dinkins administration point man on elections issues," said that "he had no objection to the various county political organizations naming the commissioners at the Board of Elections and that he had not given sufficient thought to whether virtually every employee from the mail room up should be a patronage hire."[57] Raising a question that has perennially perplexed advocates, NYPIRG's Russianoff asked, "Can you reform the political system through the political system? I don't know."

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[55]Ibid.

[56]Martin Gottlieb, correspondent for the New York Times, ibid.

[57]Ibid.

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Indeed, these factors may have figured in the actions of the Dinkins Administration. In addition, it may have been an expedient way to "clean house" and start all over again. Moreover, it seems that the Dinkins administration had little genuine faith that VAC--nor agency based registration--would substantively contribute to its re-election bid, and certainly not with the personnel it inherited who remained on staff in VAC. Nor did the Administration believe its fortunes were tied to VAC, having won without substantial contribution by the Commission, and having faith in their own capacity to mobilize a winning electoral majority. In fact, key Dinkins analysts maintained that not much more voter registration was necessary in order to win re-election, particularly after Clinton's 1992 campaign which was headed up by Deputy Mayor Bill Lynch and produced over 500,000 voter registrations.[58]

There were several reasons for this perception by the Dinkins administration. First, the poor performance of the Commission up to that point coupled with the failed effort to exert more direct control over VAC greatly contributed to the Administration's perception that VAC was "not worth the time, resources and effort" and was more of a "political minefield." A second and related reason is the administration did not want to publicly appear using the Commission for partisan purposes (which Republicans charged anyway). Third, the Administration had questions about the effectiveness of agency based registration as a strategy to register and mobilize voters, preferring the traditional community based approaches targeting African-Americans that it employed in 1989.

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[58]Interviews with several key officials in the Dinkins administration who chose to remain anonymous. The next section also draws upon these interviews.

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Fourth, the Dinkins administration planned to mount a similarly successful registration effort during 1992 through the Clinton campaign, thus minimizing the need to rely on VAC. Dinkins strategists also were reassured by data produced by the Districting Commission and the CUNY Wagner Institute which revealed a high rate of black voter registration (i.e. comparable to whites). Thus, many in the Administration felt little additional voter registration was necessary to re-elect Dinkins. This perception apparently contributed to the Administration's re-funding of VAC late in 1992, at less than half of its former budget. Indeed, a somewhat lackadaisical attitude led to VAC only becoming functional in the late spring of 1993, giving the Commission effectively only four to five months to mount agency programs, and little chance to have much impact. Dinkins strategists believed that whatever voter registration VAC could generate between the time it was re-established and election day would constitute a bonus. Indeed, the Dinkins Campaign itself did little voter registration in 1993.

Finally, the severity of the city's recession and fiscal crisis, coupled with Dinkins' other policy priorities (such as the commitment to improve the city's worsening crime problem by increasing the number of police, and the efforts to create community based health centers, and beacon schools) combined to produce enormous pressure on the Dinkins administration to reduce expenditures, which also contributed to VAC's defunding and low level of re-funding. This was evident in the budget negotiations with the City Council leadership whose orientation to VAC as noted, has been lukewarm at best.

Nonetheless, VAC proponents within the Dinkins administration eventually

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prevailed. "They saw the light," as one official put it, noting that almost all agreed the administration could benefit from a functioning VAC. The administration came to believe that now it could reconstitute the Commission as an entity that would be more responsive to it, and more capable of fulfilling its mandate.

The Second Incarnation of VAC

Despite numerous requests by advocates, the Dinkins administration did not re-establish VAC for almost two calendar years after it was de-funded. (The city provided funding for VAC beginning July, 1992, but the Commission was not fully staffed until July, 1993.) In fact, VAC was re-established only following requests by advocates who also implicitly threatened to embarrass the Administration by bringing a lawsuit against the city for violating the City Charter and the Voting Rights Act by de-funding VAC.[59] Finally, in September 1992 Dinkins appointed Dennis Walcott, the President and CEO of the New York Urban League, as Chair of the Commission. The Commission, however,

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[59]Human SERVE and NYPIRG led this effort, but there were other potential plaintiffs. Interviews with several key Dinkins officials corroborate this claim made by advocates. Indeed, according to legal experts, such a lawsuit would have likely been won by the plaintiffs because changes to charter mandated agencies and programs such as VAC require a vote by public referendum (as was the case for the 1988 revisions and VAC's creation), and possibly require pre-clearance by the U.S. Justice Department. Neither the advocates nor the Dinkins administration wanted such a legal battle which would have been politically embarrassing to the Dinkins administration since Dinkins would likely benefit electorally from a viable VAC. (Nearly all political analysts--including advocates, Dinkins officials and Giuliani supporters--acknowledged that Dinkin's electoral interests coincided with the mandate of VAC to register the unregistered who were/are predominantly low income individuals and minorities.) For the advocates part, they wanted to develop positive working relations with the Dinkins administration.

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had no offices,[60] nor staff, and was funded at only $215,000, down from $750,000 during its first year and $502,907 during its last year. It was not until February of 1993 that the Commission hired me as the Coordinator, and not until the end of July that three additional staff were hired. At that point, VAC had less than four months to increase voter registration before the October registration deadline, and a month to try to encourage participation in the 1993 municipal elections. With such limitations, VAC's accomplishments were not surprisingly minimal.

Nevertheless, the Commission made several modest improvements. Most notably, VAC worked to establish workable agency based voter registration programs during the summer and fall months in several key agencies,[61] culminating in the promulgating rules by myself in September, 1993 directing city agencies to provide year round voter registration to each member of the public that applies for and receives services from over twenty city agencies.[62] Additionally, with the funding assistance of the mayor's office, VAC

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[60] The Commission's computers and office furniture had been distributed within the office of the Mayor. The office furniture and computers were eventually replaced by the Dinkins administration.

[61]These agencies included the Human Resources Administration (HRA), the New York City Housing Authority (NYCHA), the Health and Hospital Corporation (HHC), the Department for Housing Preservation and Development (HPD), the Division for Youth Services (DYS) and the Immigration and Naturalization Service (INS).

[62]The Charter authorizes the Coordinator to "adopt rules establishing the content and format for city agencies to follow" and requires "heads of mayoral agencies" to prepare "plans specifying the resources, opportunities, and locations" the agencies will provide voter assistance activities, in accordance with the Coordinator's rules. The rules promulgated by myself, with assistance from Corporation Counsel were closely modeled on Human SERVE's draft legislation for states following the passage of the NVRA in May. In fact, the initial draft produced by Corporation Counsel were substantially revised when I requested changes in line with those outlined by Human SERVE. The rules

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coordinated the first ever mailing to all the 3.3 million registered voters of the city notifying them of their eligibility to vote in the 1993 community school board elections. Voter participation jumped from 7.2% in 1989 to 12.5% in the May, 1993 school board elections.[63]

The Commission's impact on the general elections, however, were more modest. City-wide, only 234,132 people were registered in 1993, with perhaps as many as 75,000 as a result of VAC efforts.[64] Indeed, ironically just as the Commission was well on its way to establishing effective programs and expanding their scope, the defeat of the Dinkins administration halted these tentative steps. The Commission under the leadership of Dennis Walcott and myself developed good working relations with voter registration advocates and civil rights organizations, and the consensus among such groups was that

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required agencies to amend their application forms to incorporate voter registration, and for agency workers to offer verbal assistance in completing the forms. However, because of restrictions in the 1993 New York State law and court cases (notably Clark vs. Cuomo), VAC was prevented from requiring agency workers from collecting voter registration forms and routing them directly to the board of elections. (Instead, clients were to be directed to deposit completed mail voter registration forms in postal boxes, which reduced the effectiveness of the program.) Lastly, again with the assistance of Human SERVE, VAC produced a detailed manual for agency personnel to implement the programs, and also provided training to agency personnel.

[63]While there were many factors that contributed to the increase--including the controversy surrounding Chancellor Fernandez and the Board of Education's multi cultural curriculum and the religious right's opposition to these--most observers acknowledge VAC's mailing played a vital role in producing the increase.

[64]A breakdown of the number of people registered through each agency is presented below. Comparison of the number of people registered in recent years reveals 1993 is slightly higher than three of the last four non presidential election years (187,718 in 1994; 148, 808 in 1991; and 167,371 in 1990 with 338,367 in 1989 during Dinkins first run and following the mobilization around Jessie Jackson's presidential campaign.

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VAC "was finally back on track."[65] With the election of the Giuliani administration, however, these renewed efforts were derailed. As several observers noted, it was a case of too little too late.

The Giuliani Administration

If the Dinkins administration's actions to institute effective government programs to increase voter participation in New York City came too late and half-heartedly--producing what one advocate characterized as "a missed opportunity"--the Giuliani administration actively thwarted this goal. Indeed, the Commission--and to a lesser extent also the Board of Elections--were "treated as enemies to be conquered," as one Commissioner put it, and soon came under fire from the new administration.

The nature of VAC's interactions with the Giuliani administration stand in sharp contrast to the those of the Dinkin's administration. VAC enjoyed a largely supportive, cooperative and open relationship with the Dinkin's administration. The Commission's programs and initiatives--such as agency based voter registration programs and a range of community based initiatives and media outreach--were almost universally supported by the Dinkins administration, and regular contact was maintained throughout. For example, when I requested that Corporation Counsel under Dinkins revise their draft of the rules governing how agencies were to design voter registration plans and implement programs, I was granted virtually all I asked for, and in a timely fashion.[66]

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[65]Gene Russianoff, NYPIRG. Interview with the author.

[66]The final version of the Coordinator's rules adopted by Corporation Council and VAC were substantially based upon Human SERVE's model legislation for states published in their NVRA manual. Indeed, Dinkins cooperated with advocates in actively

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By contrast, the Giuliani administration treated the Commission with disregard, suspicion and eventually open hostility. Specifically, the Giuliani administration attended only one of VAC's monthly meetings in more than a year and a half, maintaining only limited contact with the Commission (and primarily only at VAC initiation); the administration disregarded VAC's requests for the Mayor's Office to take specific actions to improve implementation of the city's agency based voter registration programs, including not sending memos to all agency personnel directing them to cooperate with VAC and undertake specific actions; furthermore, the administration rejected VAC's requests to revise my rules governing agency based registration to bring them into conformity with the state's NVRA programs; the administration severely cut the Commission's budget and "impounded" other VAC funds; the administration attempted to merge VAC with a mayoral agency, the Community Assistance Unit (CAU), a unit within the mayor's office which serves community boards; and finally, the administration sought several times to directly remove and eventually did replace the Commission's staff.[67] Moreover, the Giuliani administration stated that it "had no position on the

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lobbying for passage of the National Voter Registration Act in 1993, and for the inclusion of public assistance and disabilities agencies in the law.

[67]After Mayor Giuliani took office several attempts were made over the next month and a half to replace the Commission's staff and consolidate VAC with a mayoral agency. In one incident, representatives from the Mayor's Office, Marsha Lynn and Maggie Payton, contacted VAC's staff and said that VAC's offices were to be "incorporated into CAU." In another incident, the Mayor's Office attempted to directly replace me and appoint new staff. Interview with Grace de Fries, former Fiscal Officer for Mayor Dinkins. According to de Fries, who was retained by the Giuliani administration for several months into the new year to assist in the transition, Deputy Mayor Fran Reiter, who was given oversight responsibilities for VAC, requested to replace me with "one of their own people." Ms. de Fries reported to Deputy Mayor Reiter that the Commission

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NVRA".[68] For a period of several months, I had developed positive working relations with David Klasfeld, Chief of Staff for Deputy Mayor Fran Reiter. However, Mr. Klasfeld did not have broad authority to fashion policy, despite his best efforts to respond to VAC requests. Despite the efforts by the Commission to develop good working relations with the new administration, the Mayor's Office remained distant and grew increasingly and openly hostile.

Such developments, however, were not unexpected by the Commission and other observers. First, VAC was led by people appointed by Dinkins and the Democratic City Council, and staffed by myself (and the three staff I hired) who was also nominated by the

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was an independent and non-partisan Charter agency which hired me and that only the Commission could replace me. Shortly thereafter, Deputy Mayor Reiter sent Vinnie Lapadulo to VAC's offices to "begin work at VAC." According to Mr. Lapadulo, he was instructed by Deputy Mayor Reiter to work "on voting issues at VAC." Mr. Lapadulo, however, was informed by me that the Commission was not in need of staff--and unless he was to be an additional staff person to the current staff--should contact Deputy Mayor Reiter to clarify the situation. Deputy Mayor Reiter subsequently reported that "a mistake had been made," and that Mr. Lapadulo was instead assigned to the Office of Immigrant Affairs. Reiter then inquired with an attorney in the Corporation Counsel's office, Paul Rephen, regarding "the replacement/removal of VAC staff." Rephen reportedly replied that, the structure of the Commission in the charter language specified that only the Commission could hire and fire me, and that I had the authority to hire and fire staff.

Observers (elected officials, media representatives, advocates, city government personnel) believed that the Commission as a whole and staff in particular were spared by "the circling of the wagons by the advocates" who sent several memos to the new administration urging them to keep the Commission intact, and particularly to retain staff. Several articles appeared in the media also raising concerns that the new administration might interfere with the "independence" of the Commission and staff. (See for example, Village Voice, January 14, 1994.)

[68]I requested permission to participate in a meeting of elections officials and Congressional representatives in Washington D.C. to discuss the NVRA and was denied permission by Alice Tetelman, the Mayor's legislative liaison in D.C., because, according to Peter Powers, "the mayor has no position on the NVRA."

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Dinkins administration and hired by the Commission. Second, "bad blood" existed between the previous VAC Coordinator, Ninfa Segarra who was pushed out by the Dinkins administration and who now was one of Giuliani's Deputy Mayors. Third, the Commission's mandate, to facilitate voter registration and participation especially of "under-represented groups," was not perceived to be in the best interests of the new administration who had won an election by an extremely close margin (50,000 votes out of nearly two million cast) while nearly two million eligible New Yorkers remained unregistered, most of whom were low income individuals and minorities, and therefore likely Democratic voters.

While Giuliani publicly stated support for VAC's mission, the new administration failed to respond to requests by the Commission for support and to take specific actions.[69] Moreover, at other times the Giuliani administration actively thwarted VAC initiatives and efforts. There were numerous issues that VAC brought to the attention of the new administration for their action. One of the initial and most important matters VAC was the new Charter-mandated requirements for agency based voter registration programs by

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[69]In a pre-election survey of the candidates by NYPIRG, Rudolph Giuliani said, "I believe that the creation of VAC, along with the greater publicity by the NYC board of elections, have encouraged increased registration and participation in the electoral process." In January, 1994, at a public meeting of VAC, Deputy Mayor Reiter stated that the Mayor's Office supported the mission of VAC and hoped to develop good working relations with the Commission and interested parties. Minutes from VAC's January 27, 1994 Public Meeting. Soon there after she assigned David Klasfeld, her chief of staff, as her liaison to VAC. While VAC enjoyed generally good contact with Mr. Klasfeld who was very responsive to our requests and timely in his responses, he did not, however, have the authority to make decisions or answer our inquiries. Moreover, he nor Ms. Reiter, nor any other representative from the mayor's office ever attended another Public Meeting of the Commission thereafter, until over a year and a half later (as discussed below.)

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mayoral agencies in accordance with the rules I promulgated in the fall of 1993.[70] The Commission--particularly myself and staff--repeatedly pressed the new administration to take an active role with their mayoral agencies to insure effective implementation of these agency based voter registration programs. In addition, VAC informed the Giuliani administration of the passage of the NVRA and the impending implementation (January 1, 1995) of what would be an expansion of VAC's programs.[71] For example, VAC initiated a meeting with Ms. Reiter in January to discuss VAC's work, and to inquire about the new administration's views about the Commission's mandates and whether it had any specific plans in place or forthcoming. VAC expressed its willingness to develop good working relations with the new administration, and its need for cooperation by the Mayor's Office to insure that agency based programs would be effectively implemented. While Ms. Reiter indicated that she was willing in principle to work together, she

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[70]Other key issues which were brought to the attention of the Deputy Mayor for action included: the appointment of new commissioners to VAC, both from the mayor's side and the Council's side, an issue also raised with the Council on numerous occasions both before and after the election; the Commission's budget needs; and VAC's need for support for data analysis which had previously been provided by another city agency, the Department of Personnel (DOP).

[71]In fact, as discussed in chapter five, the Giuliani campaign had charged that vote fraud occurred in 1989, and in a pre-election survey of the candidates by NYPIRG, Giuliani indicated they possessed great concern about the potential for election fraud and saw a need to provide increased security in the election process. In response, immediately following the November elections, VAC invited all elected officials to participate in its Charter mandated annual public hearing on the elections which were held in December, 1993. Given the numerous allegations in the media and from the public about various irregularities leading up to and on the day of the election (as well as after), VAC made special efforts to invite Rudolph Giuliani and Peter Powers or a representative from their campaign, as well as from the Dinkins campaign. However, no response was forthcoming from either campaign.

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expressed concern, however, about whether agency based voter registration could be non-partisan (claiming it had not been in the New York City Housing Authority, NYCHA). Furthermore, she indicated that the Commission was likely to suffer budget cuts for FY'95, as would other agencies under her purview. VAC responded that, as per its agency based voter registration manual and the State Board of Elections Task Force Report on the implementation of the NVRA, of which I was a member, agency based registration can and has been non-partisan, it being one of VAC's roles to insure that such programs are non-partisan and effective. Furthermore, VAC indicated that any further budget cuts would be devastating to the Commission's capacity to carry out its Charter mandated duties. Another issue Giuliani administration officials expressed concerns about was a fear that agency registration programs might engender potential voter registration fraud, as also discussed in chapter five.

VAC requested of Deputy Mayor Reiter--on several occasions--that a memo be sent by her or from the Mayor or the appropriate deputy mayor to each of the mandated mayoral agencies under VAC's jurisdiction, instructing them to comply with their Charter duties to implement agency based voter registration programs in accordance with the Coordinator's rules. After some negotiation and several months had past, a memo was finally written. However, the memo was sent to the "wrong" agencies (it was sent to the office units within the Office of the Mayor under Ms. Reiter's purview, not the mandated city agencies). Once VAC became aware of this, the Commission requested the memo be re-sent to the proper agencies, and also requested a list of all to whom it was sent. (VAC supplied a list to the Deputy Mayor of the mandated agencies and the names of the agency

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representatives VAC had been working with up to then). However, despite several requests, VAC never received a revised memo, nor the list of agencies and personnel to whom it was reportedly sent, and several agencies reported never receiving such a memo.

From the other side, an example of one issue that the Giuliani Administration raised with the Commission was the description of the city's agency based voter registration programs in the draft of the Commission's 1994 Annual Report. The administration was concerned that the description of the status of agency programs--which indicated numerous agencies were in non-compliance with the charter mandates--might open the door to a lawsuit against the city.[72] VAC complied with the changes the administration requested.

As the Fall turned into Winter, communication between VAC and the Mayor's office, however, ceased almost altogether. In the beginning of January, 1995, Deputy Mayor Peter Powers was named First Deputy Mayor and thereby became a member of VAC, replacing Deputy Mayor Fran Reiter. (The Charter stipulates that the First Deputy Mayor is an Ex-Officio Commissioner.) VAC quickly sent a memo congratulating him on his appointment and requesting a meeting with him or his representatives to discuss the Commission. No response, however, to this request came for over two months. Moreover, it was not until June that Powers named a designee to VAC, Russell Harding, and that a meeting was held to discuss VAC. Yet, in April, the Mayor's Executive Budget

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[72] A lawyer for Human SERVE, Deborah Karpatkin, had already sent a letter to Deputy Mayor Reiter raising concerns about the status of the city's programs. In fact, a lawsuit was filed against the administration in the spring of 1995 for alleged non-compliance.

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proposed to merge VAC with the Campaign Finance Board (CFB), moving VAC's personnel services funds to CFB and eliminating VAC's $40,000 in operating funds.[73] The elimination of operating funds from VAC's budget, while the implicit assumption was that the CFB would absorb these, was a disproportionate cut to VAC compared to other agencies. Such funds were critical for VAC to let contracts for outside consultants to assist the Commission in its work, pay for printing costs, subscriptions, mailings and the like. VAC was never merged with the CFB and remains without the $40,000 in operating funds.

Also during this time, a lawsuit was filed against Mayor Giuliani and sixteen city agencies charging that the Charter mandated agency voter registration programs under VAC's jurisdiction were in non-compliance.

Further Budget Reductions

Successive reductions in the VAC budget by the Giuliani administration further hampered the Commission's capacity to fulfill its mission. VAC's budget was reduced from $215,000 (FY'93) to $209,900 in 1993-1994 (FY'94); and then to $181,950 for 1994-1995 (FY' 95), reducing funding for staff from four to three, with an additional mid-year reduction in operation funds (Other Than Personnel Services or OTPS funds) of $5,000 or 9% down to a total of $177,000. Furthermore, $13,000 in OTPS funds were "impounded" when the Giuliani administration failed to restore all the funding to VAC which had been frozen during a "fiscal emergency" in the spring. Finally, as mentioned,

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[73]The merger, originally proposed by the City Council, eventually was retracted by the administration due to opposition by the CFB. VAC's funds were originally moved over to the CFB, but were returned to the Office of the Mayor subsequently.

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the Commission was reduced to $140,000 in 1995 (FY'96) when the Mayor's Office eliminated VAC's OTPS funds pending a proposed merger with the Campaign Finance Board (which never ultimately occurred). Such significant reductions to the Commission ensued despite numerous indications by the Commission and voting rights advocates of the likely potential negative impacts on VAC's work. During 1994 and 1995, the Commission informed the Mayor's Office and the City Council several times[74] of the likely negative impacts of *any* reduction to VAC's budget on the Commission's capacity to meet its Charter mandated duties, particularly with reference to the impact on under-represented groups protected by the Voting Rights Act, which might lead to potential litigation.[75]

Indeed, VAC--and several other offices within the Mayors Office associated with the Dinkins administration, such as the constituency services offices (for Latinos, African Americans, Asians, Immigrants and People with Disabilities)--were apparently singled out for disproportionate budget cuts.[76] Conversely, other units within the Mayors Office, such as the Community Assistance Unit (CAU), a unit within the mayor's office which serves community boards and works with community based organizations, were spared severe

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[74] VAC repeatedly made this clear in several written memorandum to the City Council leadership and the Mayor's Office, in verbal and written testimony delivered to the Council, and during VAC's own public meetings.

[75] The counsel to Human SERVE, Deborah Kartpatkin, and several other organizations, including NYPIRG, had raised these concerns and issues with the Mayor's Office and the Commission during this period and led the Commission to highlight these issues with City Hall.

[76] Some of the constituency offices were in fact eliminated altogether.

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cuts.[77]

The FY' 95 budget reduction to VAC (in calendar year July 1994 to June 95)--eliminating funding for one of four staff members--particularly hampered the staff's capacity to meet all of the Commission's Charter mandated responsibilities, and severely limited the staff's ability to meet the plans the Commission established for the fiscal year. VAC avoided laying off staff by absorbing the budget reduction of $27,950 by reducing two staff to part-time. This limited the disruptive impact on the Commission's work and kept a more productive division of labor intact.[78] Nevertheless, the work of the staff as a whole was sharply reduced in quantity and quality.

The adverse impacts of these cuts were numerous. Specifically, the staff had less time to design, implement and monitor agency based voter registration programs effectively, the scope and number of various community based and media outreach programs was reduced. In addition, VAC's capacity to provide timely and useful public information was reduced requiring, for example, the cancellation of a range of informational and educational materials, as well as the delay of the 1994 Annual Report mandated by the Charter (the 1995 Annual Report was not completed by the time staff left.)

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[77]In fact, CAU received carpeting, painting, and some new equipment.

[78]I and the Director of Community Affairs, Jocelyn Sargent, switched to part-time status (24 hours and 23 hours per week, respectively) beginning with the start of the new fiscal year, July 1, 1994. I subsequently increased my hours to 30 hours per week in January, 1995 through a budget modification shifting operating funds to personnel funds when the Commission received an unexpected a windfall of $25,000 from the United Postal Service from an overpayment in connection to the city-wide mailing VAC conducted for the 1993 Community School Board Elections.

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Agency based voter registration

Due to the budget reductions VAC was less able to oversee the effective implementation of agency programs as mandated by the Charter. Specifically, VAC sharply reduced its efforts to insure that agencies submit plans and those plans were well designed, and that all agency personnel were properly trained to perform nonpartisan voter registration assistance. It conducted fewer training sessions and several agencies received no training. It was also less able to ensure that agency personnel who were responsible for programs received all the necessary materials and technical assistance, such as a sufficient supply of coded voter registration forms, employee manuals, posters, palm cards, and informational brochures. In fact, many agencies were delayed in receiving voter registration forms and related materials. It was not able to produce many materials for agency personnel and the public, or to translate such materials into languages other than English, thereby particularly impacting on under-represented groups. VAC was not able to monitor the implementation of agency programs through the data agencies were required to provide in submitting reports to VAC each month with information such as the number of people registered at each agency site. And it made fewer contacts with agency liaisons, and fewer direct site visits.

In addition, development of a data base on agency programs was curtailed, as was the development of additional training tools, such as a video for agency personnel. Finally, agencies which had initially been effective and enthusiastic in implementing agency programs under the Dinkins administration have received less ongoing technical support and follow-up, which in some circumstances led to program reductions in registration.

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For example, the Division of Youth Services, Homeless Services, and the Housing Authority and Health and Hospitals Corporation, (the latter two are not mayoral agencies specifically required to conduct voter registration) had been working with VAC to implement programs. Given these agency's capacity to reach hundreds of thousands of unregistered voters, the registration which occurred in these agencies under the Dinkins administration all but ceased under the Giuliani administration.

These reductions in VAC's activity, occurred while numerous agencies continued to be in non-compliance (in whole or part) with VAC's Charter mandated agency based rules, and more importantly, were reporting low rates of voter registration. Data presented in the Commission's 1994 Annual Report, agency reports, and data from the New York City Board of Elections revealed poor implementation by nearly all of the mandated agencies. Despite numerous attempts by VAC to have the mayor's office take action regarding this situation--and the City Council--no action was taken by either. Ultimately, non-action on the part of the mayor's office, the City Council and the agencies led to a lawsuit, Disabled in Action vs. Giuliani which was filed in the spring of 1995 (discussed below).

Community Outreach

Community outreach activities were also negatively impacted by the budget reductions, and to an even greater extent. Several initiatives were indefinitely postponed or canceled,[79] and, in general, the Commission conducted less outreach activities,

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[79]Three Borough Breakfast Forums scheduled for the summer and fall of 1994 on the causes and possible remedies of non-voting were canceled (only the Manhattan Forum and Bronx Forum were held). And a workshop series for community based organizations

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especially to under-represented groups--particularly Latinos, Asian-Americans and people with disabilities. VAC provided less technical and material assistance to community based organizations engaged in voter participation efforts. Finally, unlike in 1993, VAC was no longer able to work with organizations such as the City Volunteer Corps to conduct hands on and targeted outreach activities.

VAC was also not able to complete planned printed materials. A voter registration and get-out-the-vote resource manual for community based organizations, a guide to the political parties, and a guide to elected officials were left incomplete. Fewer voter informational materials were produced and were not translated into languages other than English as was done in 1993. VAC's newsletter which began in early 1994 was suspended. Lastly, VAC conducted fewer mailings, phone contacts, and media outreach.

Office Operations and Morale

Staff's productivity declined and overall operations suffered. For example, VAC is mandated to produce an Annual Report each year by July 30. The staff pulled together a draft of most sections of the report, but was unable to complete it. The necessary and timely general office operations--such as data collection, analysis, development of planned programs, maintenance of inventory, filing, and the like--were severely hampered.

Of course, staff morale was severely affected, which further reduced the Commission's productivity. The negative impact on staff morale and continued uncertainty about the Commission's future greatly contributed to the decision made by three of the

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was also reduced in number and scope.

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four staff to resign.[80]

To make matters worse, at the direction of the Chair and Vice-Chair, no new staff was hired to replace the resignees for several months, despite an extensive search for job applicants.[81] Thus, for at least half of 1995, the Commission was severely under-staffed, including several months with having one part-time staff person, myself, and therefore only minimal work was done.

Intensified Political Conflict

Throughout 1995, relations between VAC and the Mayor's office eroded further. Two significant developments occurred in 1995 which illustrate these deteriorating relations. First, as previously mentioned, the administration (through Corporation Counsel) prevented the Commission from revising my rules which would have brought the city's agency registration programs into conformity with the new state law under the NVRA, and thereby make the city's programs more effective. Apparently, the Mayor's

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[80]As their letters of resignation attest, staff stated the reason they left was that each became increasingly anxious about the future of VAC and the status of their position, feeling no confidence in the security of their position. Furthermore, each expressed a frustration and disenchantment with the Commission's increasingly laborious efforts to accomplish its charter mandated duties. In short, staff felt that they were unable to effectively carry out the mission of VAC, and felt that their efforts were thwarted increasingly by an unsupportive City Hall.

[81]The Commission's leadership felt it unwise to hire replacement staff at the time due to the uncertainty about the Commission's future (i.e. whether VAC would be defunded, or merged with the Campaign Finance Board, and issues surrounding the request for the Coordinator's resignation). In preparation for hiring, the Coordinator solicited applicants, receiving nearly 200 resumes for two positions, resulting in large measure from advertising in the New York Times for one of the positions. Moreover, the Coordinator conducted over thirty interviews with applicants--primarily for the agency based position which was vacant first--before the Commission leadership directed the Coordinator to hold off on hiring.

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office directed Corporation Counsel to delay and then cancel revision of my rules. Even as late as January, 1995 Corporation Counsel had cooperated with me in drafting a revised version of the rules modeled on the new state NVRA law and State Board of Elections regulations. This draft was intended to be finalized and published in accordance with the Charter in February, 1995. More importantly, the new rules strove to make the city's programs more effective by requiring agency workers to collect forms and rout them directly to the Board of Elections, and to strengthen the requirements for agencies to amend their intake and application forms to incorporate registration forms, to mention but two changes in its provisions. Lastly, the majority of the Commissioners of VAC supported revision of my rules.

After VAC notified all the agencies in February of the pending changes, however, Corporation Counsel balked and did not allow for their adoption. Initially, Corporation Counsel stated that the "rule making process was delayed." In March, a high level official in Corporation Counsel stated that the revision of the rules as drafted might "constitute an undue hardship on agencies in these fiscally hard times," and that there were several legal questions which needed clarification before the process could move forward.[82]

A court case is related to all of this. In late April several voting rights advocates sued the city to force the city to implement agency based voter registration programs

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[82]Specifically, he raised a questions regarding 1. Clark vs. Cuomo which prohibits collection of registration forms by agency employees; 2. Whether the Charter contemplates a role for VAC vis-a-vis the NVRA; and 3. Fiscal impacts.

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under the Coordinator's current rules (Disabled in Action vs. Giuliani).[83] The city responded by linking the issues surrounding the revision of the rules to the city's defense of the court case. In fact, Corporation Counsel ultimately adopted a legal position in the defense that argued for weakening voter registration efforts by VAC and undermining the authority of myself and the Commission under the current rules. Ultimately, Corporation Counsel stated that the rules would not be forthcoming at all.

In defending the city in the Disabled in Action vs. Giuliani case, Corporation Counsel not only disputed the claims of the plaintiffs and argued against a court order, but went much further. Corporation Counsel argued my rules under the Charter are not mandates on the agencies, but are merely "guidelines" for agencies to follow if they can.[84] In devising a defense for the law suit, Corporation Counsel also maintained that the Charter Revision Commission did not contemplate or intend me to have binding authority

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[83]The suit was filed by the Community Service Society for three plaintiffs: Disabled in Action of Metropolitan New York, which works to improve the legal, social and economic conditions of people with disabilities through political action; Human SERVE, a national non partisan voter registration reform organization discussed previously; and the Coalition for the Homeless, which advocates for and provides direct services to NYC homeless persons. The Mayor and sixteen Commissioners of mayoral agencies were sued. Disabled in Action vs. Giuliani concerned primarily two allegations: 1. failure of city agencies to submit annual plans to VAC in accordance with the City Charter and the Coordinator's rules (five agencies); and 2. failure to submit monthly reports to VAC (16 agencies). The Plaintiffs sought a court order to require compliance by the city with Charter rules, and Corporation Counsel argued against a court order. The case was adjudicated in the New York State Supreme Court, and Judge Lewis Friedman issued a ruling on October 19, 1995, ordering the city to submit annual plans, but ruling that monthly reports were not required.

[84]In fact, Corporation Counsel had earlier indicated to the Coordinator that the city's current fiscal crisis put additional budget constraints on agencies and made the added task of voter registration as outlined in my rules an "undue burden at this time."

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over agencies. Moreover, they contended monthly reports required by my rules were not necessary to monitor the agencies' registration activities. Thus, the position Corporation Counsel took in the litigation sought, in essence, to reduce the role and scope of my authority under the Charter, the mandates of my rules, and VAC's Charter authority vis-a-vis mayoral agencies.

The Plaintiff's case rested on the proposition that my rules, which became part of the Compilation of Rules of the City Charter, had the force of law to direct agencies to take the specified actions (submit annual plans, and monthly reports), steps which were consistent with VAC's Charter mission to increase voter registration among under-represented groups. Moreover, they maintained monthly reports were critical to allow me and the Commission to effectively monitor the agencies registration progress, and publish this data in our Annual Report as required by the City Charter. Indeed, it appeared that, in effect, Corporation Counsel took what appeared to be a contradictory position from its previous actions once the litigation began, and that this new position undermined my authority and that of the Commission, and the obligation of mayoral agencies as specified in the Charter, and most importantly, compromised the interests of the voters of the city. To be clear, Corporation Counsel (under the Dinkins administration) had assisted me in promulgating rules in 1993, and drafted a revised version the same in January, 1995 (under the Giuliani administration) which would have brought my rules into conformity with new state law and regulations drafted by the State Board of Elections. In fact, at my request, the revised draft of the rules included a section, 1-08, as an additional specified mechanism for me and the Commission to facilitate compliance by agencies with my rules.

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In June, however, after the lawsuit was filed, Corporation Counsel explicitly stated to me that my rules would not be revised--despite the Law Department's initial drafting of a revision of the rules--and the Chair of the Commission, Dennis Walcott, was told by Paul Crotty, the Corporation Counsel, that the rules would not be forthcoming because the Giuliani administration had not decided what they wanted to do with VAC altogether. Another aspect of my proposed rules that raised concerns by Corporation Counsel was the issue of the collection of voter registration forms by city agency employees related to a 1984 case, Clark vs. Cuomo. Even though the new state NVRA law requires agency employees to collect voter registration forms and directly rout them to boards of elections, and even though the State Board of Elections had offered VAC 500,000 state agency based voter registration forms to use in city agencies under VAC's jurisdiction, Corporation Counsel questioned whether Clark vs. Cuomo might still apply to New York City agencies and prohibit collection. Yet, a proposition (two) approved by the voters of New York on November 7, 1995 amended the state Constitution and eliminated the clause which was the basis of the Clark vs. Cuomo decision. Thus, the Corporation Counsel, by denying the Coordinator and the Commission revision of my rules and linking the rules to the court case, and by adopting the legal position in the litigation that the rules are not mandates but merely "guidelines" for agencies if they can follow them, coupled with the Commission's and my concern that City Hall had not demonstrated a serious willingness to work with the Commission and mayoral agencies to insure effective implementation--all this contributed to raising the level of conflict between VAC and the Giuliani administration, and the stakes for me and the Commission in the litigation.

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A second development which illuminated the deteriorating relations between VAC and the Giuliani administration, was that the Mayors Office again sought and eventually attained my removal. Tensions reached the breaking point between the Giuliani administration and VAC in the months following the submission of the lawsuit. In June, the Giuliani administration appointed two new commissioners, replacing one Dinkins appointee.[85] Soon there after in a meeting of the Commission[86] at the end of July, 1995, the representative for Peter Powers to VAC, Russell Harding, whose father is Raymond Harding, a close political ally and adviser to Mayor Giuliani, and two representatives for Corporation Counsel, openly attacked me in connection with the litigation. The Giuliani administration expressed deep displeasure with me for not cooperating with Corporation Counsel by signing an affidavit in their defense of the litigation, and for providing what

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[85]The new members were, Robert McFeely who works in the Staten Island Borough President's office and worked on Giuliani's campaign in 1993, and Morton Avigdor, the General Council of Aguduth Israel, an Orthodox Jewish organization. They replaced the only Asian Commissioner on VAC. Nor did the Commission now have any Latino member or staff, the other statistically most under-represented group of New Yorkers following Asians. This is significant because the Charter specifies that the Commission "shall be broadly representative of under-represented groups." Moreover, other Commission members perceived this move as a sign that the administration was preparing to move VAC in a new direction and would need to secure sufficient numbers of votes, including potentially to replace me. Lastly, three year term of the Chair, Dennis Walcott, the only remaining Dinkins appointee, was scheduled to expire in June, 1996, effectively exposing the Commission to more overt political control by the Giuliani administration.

[86] Executive sessions exclude members of the public and can only be held in conformity with the Public Meetings Law. This executive session was held to discuss litigation, Disabled in Action vs. Giuliani.

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they claimed was "damaging" information to advocates.[87] My refusal to submit an affidavit to Corporation Counsel did weaken the city's case. Moreover, the administration suspected that I assisted the plaintiffs in the litigation.[88] More generally, the administration stated that it had "some problems with the direction VAC had take in the last year," and "policy disagreements" with the Commission and the Coordinator.[89] The Giuliani administration maintained my behavior was confirmation that I was not a "team player," and that they "did not see eye to eye," maintaining I had "overstepped" his authority."[90]

I, however, maintained that I acted in accordance with my and the Commission's Charter mandate, and had not acted to undermine the city's position. Indeed, I--and several Commissioners--maintained the contrary. We charged the administration and Corporation Counsel had taken positions which were in conflict with the Charter mandate of myself, the Commission and the interests of the voters of the city. For example, the affidavit which Corporation Counsel wanted me to sign contained untruths and omissions.

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[87]I maintained, however, that all I provided to advocates was information made available at VAC's public meetings which all members of the public had access to. Moreover, I had repeatedly--for over one year--raised concerns with the administration that their continued non-compliance which was easily documented by advocates who monitored VAC and the city's programs, might result in such a lawsuit.

[88]Statements by Giuliani administration officials in the above mentioned executive session.

[89]The New York Observer, November 27, 1995. Russell Harding, the designee to VAC for First Deputy Mayor Peter Powers, also raised concerns about "how" registration should be done, especially in these days when "wine and roses" are absent, and in which agencies should registration take place.

[90]Ibid. The administration contended that my refusal to sign their affidavit was "unprecedented."

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Specifically, the draft left out my concerns--the poor record of the city's implementation of agency based programs, the lack of cooperation on the part of the mayor's office and city agency personnel--and instead stated that I was "confident" that the programs would be effectively implemented. In addition, the draft took the position that several agencies had not been properly designated by myself, contrary to my understanding.[91] Furthermore, I was asked to assess and sign said affidavit only within two days, which did not make it possible to work out a mutually acceptable statement with the Corporation Counsel.[92]

Moreover, I believed I was acting in the best interests of the Commission and the city. Given the city's poor record of implementation of VAC's programs--coupled with the poor implementation of the NVRA in New York City relative to the rest of the state (only one voter in New York City was being registered for ever four registered in the rest

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[91]My rules, which were duly promulgated with the assistance of Corporation Counsel in September, 1993, clearly state that other agencies "may be designated by the Coordinator of Voter Assistance after consultation with the agency." We sent memorandum to the five agencies in question stating our desire to have them participate in the voter registration program. All the agencies responded affirming their willingness to participate. Moreover, I was at no time ever informed about what would have constituted properly designating an agency, so we proceeded as if it did. Moreover, documentation outlining this process was forwarded to Corporation Counsel.

[92]Following an initial meeting with a representative of Corporation Counsel, Paul Marx, I was faxed a draft of my affidavit as written by Corp Counsel on Wednesday, June 27, 1995. That same day, I spoke with Mr. Marx on the phone, expressing some concerns and requesting several changes. Mr. Marx made changes to the draft and faxed back a revised version. It was agreed that I would sign the revised draft the following day, Thursday, June 28. However, I had second thoughts about signing the revised draft as written (based on the above considerations and those elaborated on below). Lastly, I did state to Mr. Marx my willingness to consider another draft of an affidavit which included concerns I raised with Mr. Marx in the initial interview and on that Thursday, June 28th, even providing Mr. Marx with my beeper number to insure timely communication in order to meet the Friday deadline to submit papers. However, Mr. Marx did not attempt to re-contact me.

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of the state through NVRA agencies)[93]--I maintained that the city's interests were being compromised. Moreover, I maintained that if this skewed pattern of registration continued, it could result in city violations to the NVRA and Voting Rights Act.

The Mayor's office, however, dug in their heels and maintained that I "must cooperate with Corporation Counsel" and that the Commission "should narrow its oversight role to agencies that have an impact."[94] The Commission's leadership, Chair and Vice Chair, quietly supported my positions and actions while at the same time sought to diffuse tensions and work towards resolution.[95]

Soon after the July Commission meeting, the Mayor's office again sought to

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[93]Data is from the New York State Board of Elections and a report conducted by Mark Green, Public Advocate, discussed in chapter three.

[94]Quote of Russell Harding, representative for First Deputy Mayor Peter Powers to VAC in July, 1995 Commission meeting. It was not clear which agencies Mr. Harding was referring to. Commissioners wondered, for example, if agencies such as the Division of Youth Services, Department of Homeless Services, Department of Employment, Department of Personnel, Housing and Preservation, and the like are not important and have capacity to reach large numbers of unregistered voters? These are agencies VAC has attempted to work with which have been named in the litigation as not complying with my rules and Charter mandates.

[95]Seeking to re-cast the issues as Commission issues--and not merely pertaining to me--the Chair, Dennis Walcott, said the Commission as a whole should have been informed of these issues as they arise and not after the fact, and that if Corporation Counsel and the administration had problems with my actions or inactions, then the Commission as a whole should have been involved and he as Chair should have been informed immediately. Walcott asked that such issues be directed to him in the future. The Chair and Vice Chair also sought further clarification from the Mayor's office about the administration's plans for VAC, particularly regarding the proposed merger, and VAC's rules. They expressed dissatisfaction at the lack of clear response regarding the status of VAC, and the poor interest in the Commission as evidenced by a lack of attendance by a representative from the mayor's office for over a year and a half, which coincided with when the litigation arose.

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remove me, requesting my resignation in August, 1995, and presumably to replace me with their own appointee.[96] The Commission's leadership initially took the tack of delaying discussions regarding personnel until other questions about the Commission's future were clarified (namely whether VAC would be merged with the CFB, its budget status, and enunciation of the Mayor's general position on VAC.) However, after several months of some negotiation with the Mayor's office on these items--which did not produce answers to all the issues--the Commission's leadership acceded to the request to replace me on the condition that a mutually acceptable replacement would be decided upon and that VAC's funding be restored to previous levels.. The Commission's leadership did so for a variety of reasons, not the least was because the administration's policy was making the Commission "ungovernable," and because of the inclination of the Commission's leadership to develop some workable relations with the administration. "My sole priority is to assure that VAC stays alive as a viable entity," said the Commission's Chair, Dennis Walcott.[97] Even before this, the Mayor's office sent Walcott

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[96]The Mayor's Office, which controls a number of votes on the Commission must have calculated that they would fail to win a vote of the Commission to dismiss me at the July meeting.

[97]New York Observer, November 27, 1995. Walcott is also President and CEO of the New York Urban League, and thus must deal with the administration on many issues, VAC being only one. His need to balance his other institutional needs, not the least of which are the numerous contracts with the city and state which the Urban League depends upon for survival, and an assessment of what battles are worth fighting and winnable, together with the fact that he maintains good relations with the Liberal Party and served on Governor-elect Pataki's transition team--all of this probably led Walcott to make peace with the administration on VAC and my dismissal. Similarly, the Vice Chair, Jane Kalmus, also must defer to the Council leadership which has chosen not to fight this out with the Mayor.

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two prospective candidates to replace me. Both these candidates were "not qualified" according to the Walcott and were rejected. Following these events, a candidate chosen by the Chair and Vice Chair was rejected by the mayors office. After a month of stalemate, the administration further pressured the Commission to act to remove me by removing the only temporary support staff left to the Commission in November, as well as scrutinizing my phone logs for personal calls. In addition, the Chair expressed privately to me and the Vice Chair that he also had long desired to resign.[98] All of this combined to lead the Commission to agree to dismiss me in December, 1995.

These developments are important because they reflect the direction in which the Giuliani administration sought to move VAC. The poor record of implementation of VAC's agency based programs had, in fact, already contributed to the further erosion of the city's voter registration and participation rates compared to the rest of the state (and country as a whole), particularly of low-income and minority voters.[99] The positions adopted by the Giuliani administration, including the appointment of two commissioners who represent important electoral constituencies for Giuliani, the refusal to revise my rules, the legal positions adopted in the litigation brought by advocates, and my replacement all portended an exacerbation of this trend, and could have a political impact

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[98]The Chair, Dennis Walcott, sought to resign due to the above developments, his increased responsibilities as president and CEO of the New York Urban League, and knowing he had only six months left to his appointment, which would ultimately expose me more fully to the direct control of the mayor's representatives.

[99]As discussed in chapter three, a report published by the Public Advocate, Mark Green in September, 1995 showed that motor voter was registering more voters upstate than in New York City--by a four to one margin. Moreover, a report by Human SERVE discussed the poor performance of New York relative to other states and cities.

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on the upcoming Federal and state elections in 1996, the municipal elections of 1997 and gubernatorial and state elections in 1998. As one advocate put it, it appeared that the Giuliani administration was attempting "to turn the Commission into some kind of re-election committee for the Mayor."[100]

Of course, this was what the Dinkins administration had done more or less indirectly. The not so insignificant difference was, however, that the Commission's Charter mandated facilitation of voter registration and participation of under-represented groups, which largely coincided with Dinkins constituencies and interests, while it ran directly counter to Giuliani's electoral interests. This must have been ever more abundantly clear to Giuliani strategists in late 1995 as polls showed an even more sharply racially skewed assessment of Giuliani than in 1993.[101]

Comparing Agency Registration in the Dinkins and Giuliani Administrations

Overall, few people were registered in city agencies under both the Dinkins and the Giuliani administrations, relative to the pool of potential registrants. Nevertheless, there were several significant differences between the two regimes. The following chart and discussion detail these differences.

The chart below illustrates three significant facts: first, VAC's agency programs

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[100]Louise Altman, Human SERVE, New York Observer, November 27, 1995.

[101]A Marist Institute poll conduced in November, 1995 showed that Giuliani's overall approval rating was 35% among registered New Yorkers, down from 51% a year ago, and that among Black and Hispanic registrants, 42.8% and 42.1% respectively rated the Mayor "poor" in his performance, 41.8% and 47.8% rated him "fair" and only 12.1% and 8.1% rated him "good." A significant loss of Hispanic support is evident from this poll. The Mayor even lost some support among white Catholics from a year ago.

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overall registered significantly more citizens in the several months of 1993 under the Dinkins administration than in the entire two years of 1994 and 1995 under the Giuliani administration (by a ratio of more than 5 to 1, or 70,091 in 1993, to 7,646 in 1994 and 6,657 in 1995); second, registration activity in agencies that serve low-income and minority individuals decreased from 1993 to 1994 and 1995 compared with registration activity in those agencies which reach middle class and predominantly white New Yorkers; and third, New York City agencies come into contact each year with millions of unregistered citizens, thus providing the city a way to institutionalize voter registration and greatly boost registration and voting rates of the nearly two million eligible but unregistered New Yorkers.

Importantly, the first two facts appear to reflect different partisan considerations of each administration. Indeed, interviews with key agency personnel confirmed examples of explicit directives from top mayoral officials from both administrations: from the Dinkins administration key agency personnel at targeted city agencies reported receiving directives to "vigorously implement" agency based programs in time to meet the registration deadline for the 1993 mayoral election, while Giuliani officials reportedly sent a counter message to agency personnel.[102]

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[102]To protect the identity of agency personnel, their names and agencies are omitted. A fuller discussion is presented below.

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NEW YORK CITY AGENCY REGISTRATION, 1993-1995[103]

AGENCY	#OF CLIENTS ANNUALLY	# REGISTERED 1993	# REGISTERED 1994	# REGISTERED 1995[104]
Department for the Aging	100,000+	0	0	0
Department of Buildings	50,000+	0	3	506
Department of Business Services	50,000+	0	18	19
Department of Consumer Affairs	50,000+	0	114	115
Department of Corrections	400,000+	0	72	156
Department of Cultural Affairs	?	0	0	0

[103]Number of "Annual Clients" are estimates based on information provided by the agencies to VAC, and reported in the Mayor's Management Report. Number of clients registered through VAC's agency based programs are compiled from two main sources: reports from the agencies to VAC, and data from the NYC Board of Elections. Both sources, however, are problematic. Regarding the agency reports, not all agencies provided reports to VAC, and where reports are available, they only provide the number of registration forms distributed to the public, not the actual number of people registered. Moreover, some of the agency reports apparently inflated the numbers of registrants, in order to make the agency program appear to be better functioning they actually were.

The Board of Elections' data, on the other hand, likely contains an undetermined amount of under-reporting of registrants. This is because the Board derives its figures from coded voter registration forms (one code that corresponds to each agency). However, for several reasons the Board did not print coded forms for all agencies, or in the necessary quantities, in each year. Moreover, according to Board officials, not all the coded registration forms have been consistently entered into its data base by the board's clerks, thus producing an under-count. Although the amount of under-counting is unclear, the Board instituted several measures in 1994 at VAC's urging to improve this item in its record keeping (including printing coded forms for all agencies, increasing the quantities ordered, and issuing special instructions--both verbal and written--to the clerks entering data.) So, the Board's 1994 figures are likely to be more accurate than its 1993 figure. However, in 1995 the Board consolidated agency codes in an attempt to reduce expenditures, combining all agencies into five codes.

Taken together--the slight inflation in the agency data and under-count likely in the Board's data which counter balance each other somewhat--the data presented in this chart is probably very close to the actual number of clients registered, and, at any rate, is the best number attainable given the above limitations.

[104]As of June, 1995 as reported by the Board of Elections. Because the Board consolidated codes for the agencies in 1995, these figures are incomplete.

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AGENCY	#OF CLIENTS ANNUALLY	# REGISTERED 1993	# REGISTERED 1994	# REGISTERED 1995
Board of Education (Lower Schools Program)	300,000+	2,000	442	522
Board of Education (High Schools Program)	50,000	918	3,771	2,604
Department of Employment	70,000	0	64	168
Department of Environmental Protection	15,000	0	374	27
Department of Finance	150,000	0	28	150
N.Y.C. Fire Department	30,000	0	0	0
Health & Hospitals Corporation	700,000+	7,000	500	100
Department of Health	100,000+	4	319	390
Department of Homeless Services	100,000 (approximate)	800	0	0
N.Y.C. Housing Authority	500,000	9,000	464	590
Housing Preservation and Development	50,000+	5,000	4	64
Human Resources Administration	1,700,000+	40,000	430	N/A[105]
Human Rights Commission	60,000	0	22	0
Department of Investigations	10,000+	0	780	322
Department of Mental Health	400,000+	0	409	485
Department of Parks and Recreation	20,000+	1,200	1,550	50
Department of Personnel	100,000+	100	189	279
N.Y.C. Police Department	31,000	69	1,706	590
Department of Probation	50,000+	0	17	15
Department of Sanitation	5,500	0	0	0
Department of Transportation	10,000	0	5	4
Department of Youth Services	200,000	4,000	10	108

[105]Beginning January 1, 1995, with the advent of the NVRA, HRA became subject to state oversight by DSS and the State Board of Elections. More rigorous program design under the NVRA led to the registration of 39,498 public assistance applicants in HRA in 1995 (September, 1995). Data from the State Board of Elections and Office of the Public Advocate, Mark Green.

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TOTALS	6,041,000	70,091	6,405	1,853

Despite these relatively small numbers, particularly in the 1994-1995 period, the number of clients served annually by these NYC agencies--over six million--suggests the potential of a well designed and implemented agency based voter registration program to reach the majority of unregistered New Yorkers. As the implementation of the NVRA nationally amply illustrates, millions of previously unregistered Americans do take advantage of the opportunity to register to vote when it is offered to them at government agencies. Even though a significant number of citizens decline to register to vote, with six million client transactions in New York City agencies annually, if only one quarter had registered to vote, it would still have produced nearly two million registrations, roughly the number of eligible but unregistered voters in New York City.[106]

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[106]The rate of declinations appears to vary slightly between states and agencies. (The average rate of declinations to registrations nationally is not known, though the FEC will begin to track this data in 1997.) In Florida, for example, for the months of July and August, 1995, as many as 60% of its DMV applicants declined to register to vote (Miami Herald, September 3, 1995). The rate in New York as of October, 1995 was approximately 57% in Public Assistance agencies and 91% in DMV agencies (source:State Board of Elections). There are several factors which likely contribute to these variations. One set of factors is related to why various individuals may decline to register, including already being registered to vote, or believing they are, a belief that registering will lead to unwanted jury duty, disaffection from the political process, etc. Another set of factors lies in the differences in the exact provisions of each state's law, the level and quality of training agency employees receive, agency funding and staffing levels, whether the agency transaction is an in-person transaction or mail transaction, and whether the agency uses a "combined form" for registration and other agency business. While it is unclear why there exists an alarmingly high level of declinations in New York State Department of Motor Vehicle agencies, nevertheless, several of the above probable causal factors likely figure into the New York situation, particularly the fact that DMV now conducts a high proportion of its business by mail transactions which eliminates direct assistance by agency workers. Moreover, it is likely that many who decline to register to vote at government agencies believe they are currently registered when in fact they may no longer be. (Unlike

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Regarding the aforementioned shifts in agency registration activity, the data clearly demonstrate a sharp decrease in the number of registrants in key New York City agencies from 1993, during the Dinkins administration, to 1994 and 1995, during the Giuliani administration. Even with the short time frame and limited resources the Commission had in 1993 to institute agency based programs, VAC targeted several key agencies which could reach the largest groups of potentially unregistered voters.[107] Specifically, VAC worked to establish programs in the Human Resources Administration (HRA), the New York City Housing Authority (NYCHA), the Division of Youth Services (DYS), the Health and Hospitals Corporation (HHC), and the Board of Education. While these programs reflected only tentative beginnings, they did produce tens of thousands of registrants. Indeed, during 1993, top officials in several of the largest city agencies--who were not civil servants and therefore who would most definitely be replaced by a Giuliani appointee if Dinkins lost--moved to quickly implement extensive registration programs. Several agency personnel said that some of these people who now became voter

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public assistance agencies, DMV does not collect data from applicants about whether they are already registered.) The need to re-register when one moves is not made explicit in the question on the registration application. The specific language is, "If you are not registered where you know live, would you like to register to vote here today?" Thus, while the requirement to be registered from one's current address is implicit in the question, informal interviews with clients reveal many clients do not understand there is a requirement to re-register when they move, and many fail to do so which would make them ineligible to vote on election day. Part of this problem will be alleviated by the "fail safe" provisions of the NVRA--which allows one's registration to remain current if the registrant provides the board of elections with change of address information, or the post office with change of address information, or if a voter updates his or her address through agency registration, or if a registrant goes to their new polling place on election day. The "fail safe" provisions became effective in New York in 1996.

[107]1993 Annual Report of the Voter Assistance Commission.

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registration zealots were the same individuals who only a few years back had taken a lackluster or conservative approach to agency registration. For, example, previously stated concerns about federal regulations restricting registration and the like were disregarded.

But these initial developments came to a virtual halt in each agency during the spring of 1994.[108] Following the 1993 election, the personnel who had been responsible for establishing programs in the agencies--generally top level administrators who are generally political appointees made by each administration--were replaced with new staff or shifted away from involvement with the agency registration program. And while changes in personnel during transitions between administrations is routine and traditionally causes some degree of disruption of services, the virtual cessation of voter registration programs in the agencies VAC targeted in 1993--which have the greatest reach to the unregistered population--was atypical. HRA's program, for example, virtually ceased operating altogether in 1994. Indeed, only after significant pressure was exerted by VAC and several voting rights advocates who sent letters of inquiry--which were in effect veiled threats of potential litigation--coupled with the fact that HRA became subject to the

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[108]There is one exception: the Board of Educations high school program. This non-mayoral agency, which increasingly came under attack by the Giuliani administration and whose key staff responsible to implement registration were by their own admission "strongly supportive of the program," were more receptive to efforts by VAC. In fact, the high schools program, which includes a curriculum component discussing the history of the franchise and the importance of voting, and therefore makes registration more effective--was developed in conjunction with NYPIRG and Human SERVE which had assisted the Board of Education in initially establishing the program with grant assistance from the Diamond Foundation for curriculum development. All these factors combined to produce an increase in the functioning of the program in high schools during the spring of 1994. However, during the fall 1994 and spring 1995 the program languished as a result of loss of key Board of Education staff people and severe budget cuts.

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NVRA in 1995 did it begin to move to prepare for implementation at the very end of 1994 (implementation did not begin, however, until the winter of 1995). Similarly, the programs at NYCHA, HHC, HPD and DYS ground to a halt.

Agency personnel reported that several factors produced such an outcome. Aside from changes in agency personnel, and budget and staff cuts to the agencies--which made voter registration an added "burden"--explicit directives and implicit messages from top level agency administrators had a "chilling effect."[109] Some agency personnel who had been either responsible for registration programs or who had been involved and were not quickly terminated with the change of administration--reported being "fearful for their jobs" and sought to distance themselves from registration efforts.[110] In one agency, several staff were dismissed in part due to their connection to the agency's voter registration efforts.[111] In another agency, the personnel who were responsible for the voter registration program were transferred to different units. In still other agencies, some staff reported that a shift in agency "priorities" had been enunciated by the new commissioners. Several agency personnel reported they were sent "unspoken messages," and that "everyone knew" what was expected and what and frowned upon. One worker

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[109]As discussed in the methodology and data section in the introduction, I conducted a series of semi-structured interviews and had numerous business meetings that I kept notes from with personnel from various city agencies on which I kept notes. To protect the identities of these agency personnel, however, the names and agencies are not identified.

[110]Indeed, several such staff were eventually terminated, while others took severance buyouts.

[111]Several staff of the Housing Authority, for example, were fired, and in one case, litigation against one individual was threatened by the Giuliani administration.

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said, "its not surprising given who our clients are. They [the clients] didn't vote for them [the Giuliani administration]. So, when it was suggested that we delay implementation of the registration program, I wasn't surprised." Personnel making these reports were from agencies with clients who were largely minority and low-income individuals, which corresponds to the race and class skewed pattern of the vote cast for the two mayoral candidates.

Lastly, several agencies which served predominantly white and middle class client populations began registration programs. For example, the Police Department, the Parks Department and the Department of Investigations produced among the highest number of registrants among the agencies which fell under VAC's jurisdiction during 1994.

In October, 1995, agencies were contacted by the mayors office and told to submit a copy of their voter registration plan to the office of Peter Powers and Russell Harding, Powers' designee to VAC. The agencies were also instructed not to submit monthly reports to VAC any longer, as the court had ordered. Furthermore, they were told to no longer report to VAC but instead to report directly to Russell Harding. Several agency representatives were called to meet with Harding to discuss their agency's plans. One agency representative was told that they were "too overzealous in your approach to register clients." This agency had recently been commended publicly by me as a model for how a cost efficient and effective program design could be emulated in other agencies.[112]

Advocates continued to press the Giuliani administration to improve implementation of agency registration programs, even while the Commission was without

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[112]Public meeting of the Commission in September, 1995.

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staff. NYPIRG and CSS requested access to the plans agencies are required to prepare each year by January 15 (the court order sustained this requirement.) The new agency plans, however, were stripped of much of the substance of previous versions, leaving brief statements of very minimal intent. In fact, all the agency plans now used the same language, as if a "template" had been used by each agency. Advocates who sued the city in 1995 and obtained a court order requiring the city to comply with Charter mandates to produce plans in accordance with my rules (minus the requirement for monthly reports, which the judge threw out), went back into court seeking an order of contempt. Thus, the new plans also reveal the Giuliani administration's apparent intent to do as little as possible regarding agency voter registration.[113]

Conclusion

There were important political differences between the Dinkins and Giuliani administrations toward VAC. While the Commission never lived up to its potential under both administrations, the Giuliani administration displayed a distinct contempt for the agency and its mandate. They argued in the courts to weaken the Commission's authority and voter registration efforts, and at best did little to nothing to insure even modest agency based programs functioned and at worst actively undermined VAC's attempts to facilitate agency registration. The poor performance of agency based registration during 1994 and 1995 are direct consequences the Giuliani administration's unfavorable predisposition and behavior. By contrast, the Dinkins administration at worst was clumsy

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[113]The order of contempt was denied by State Supreme Court Judge Lewis Friedman in May, 1996. CSS is contemplating an appeal or further action.

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and incompetent in its handling of VAC and agency registration, believing perhaps only "half-heartedly" in its potential, but nevertheless supporting such efforts at both the national and city levels, albeit too little and too late.

The City Council

Throughout this whole three year period, the Democratically controlled, leadership driven City Council maintained a "default" position on the Commission. The Council's leadership, particularly Peter Vallone, Speaker, Herbert Berman, Chair of the Finance Committee, and Mary Pinkett, Chair of the Government Operations Committee which oversees VAC (as well as the Board of Elections and Campaign Finance Board) allowed Mayor Giuliani to shape the city's policy towards VAC. Despite the modest attempts by some Council appointed Commissioners to VAC, and the more strident efforts of the Chair and myself--and in spite of efforts by several Council members who were favorably disposed to support VAC--the Council in essence did not act, and thus by default supported the Mayor's initiatives.[114] Specifically, the Council did not act on several key requests by VAC and/or the advocates: most notably, the Council failed to fill two vacancy appointments to the Commission or to re-appoint or replace the four other Council appointees to VAC; the Council did not support the Commission's pleas to not cut its budget, stating VAC was not "significant" enough to negotiate with the mayor on VAC's budget, nor the issue of my replacement; and the Council did little to nothing to

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[114]In fact, according to several Council appointees to VAC, Speaker Vallone stated that he would not take any action regarding VAC which would produce conflict with the Mayor because VAC "is so small and insignificant and unimportant that it is not worth the battle, and that whatever the Mayor wants regarding the Commission we [the Council] will go along with."

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deal with the problems of agency based registration and improve the city's programs.[115]

One exception has been the Public Advocate, Mark Green. Green grasped the importance of registration and participation issues--particularly the disparity between registration and turnout in New York City and the rest of the state--perhaps because of his campaign for Senate in 1990 and his future plans to running for statewide office. Currently, nearly two in every five citizens of New York State who are of voting age but unregistered live in New York City; only 63% of eligible New York City residents are registered to vote as compared to 76% in the rest of the state.[116] Green responded to advocates requests for monitoring of agency based programs, particularly NVRA programs, conducting a study of registration in public assistance agencies in October, 1995, and holding a press conference to publicize the disappointing findings which showed that half the public assistance agency sites surveyed were not offering voter registration to its clients. Moreover, his study also publicized the fact that the city's residents only

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[115]It must be noted that the unions also defaulted during this period. Despite efforts by VAC to enlist their support to improve implementation--particularly DC37 and 1199 which have most of the public sector workers--the unions did little to nothing. Specifically VAC requested that a letter be sent to their members explaining the political and institutional importance of agency registration programs for unions and workers, and urging them to cooperate with VAC and effectively implement these programs. (VAC also requested material support such as printing of materials and promotional items.) During this period, however, the unions did engage in modest efforts to register their own membership as has been their traditional role regarding voter participation. Ironically the one union which did send a letter to its members in 1993 and 94 was the UFT which had done this in past years as part of the Board of Education's own agency registration program.

[116]Data is from the New York State Board of Elections cited in a report by Green on the implementation of the NVRA in New York City, September, 1995. If the rates were the same between the city and the state, over 600,000 more people in New York City would be registered to vote.

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accounted for 25% of the new registrants in the state in the first eight months of the NVRA, further exacerbating the disparity between the city and state. Following this study, Green held public hearings on the status of agency based programs in December, 1995. However, since the Public Advocate has no formal authority in the Council, Green was not able to directly affect Council action with regards to VAC's status other than to highlight the issues. What Green did underscore was that with the poor implementation of NVRA agency registration in New York City--which is largely a direct consequence of state Republican actions and inactions discussed in chapter three--VAC's agency programs are now more vital than ever to insure that the city does not fall even further behind the rest of the state in registration and participation. He and the advocates have stressed that such a continued development could produce even more devastating consequences for both democratic and Democratic possibilities in New York.[117] Green concluded that "By not implementing NVRA [and VAC programs] in New York City, the Mayor and the Governor are both violating the law and allowing the institutions they govern to lose political power to other jurisdictions."[118]

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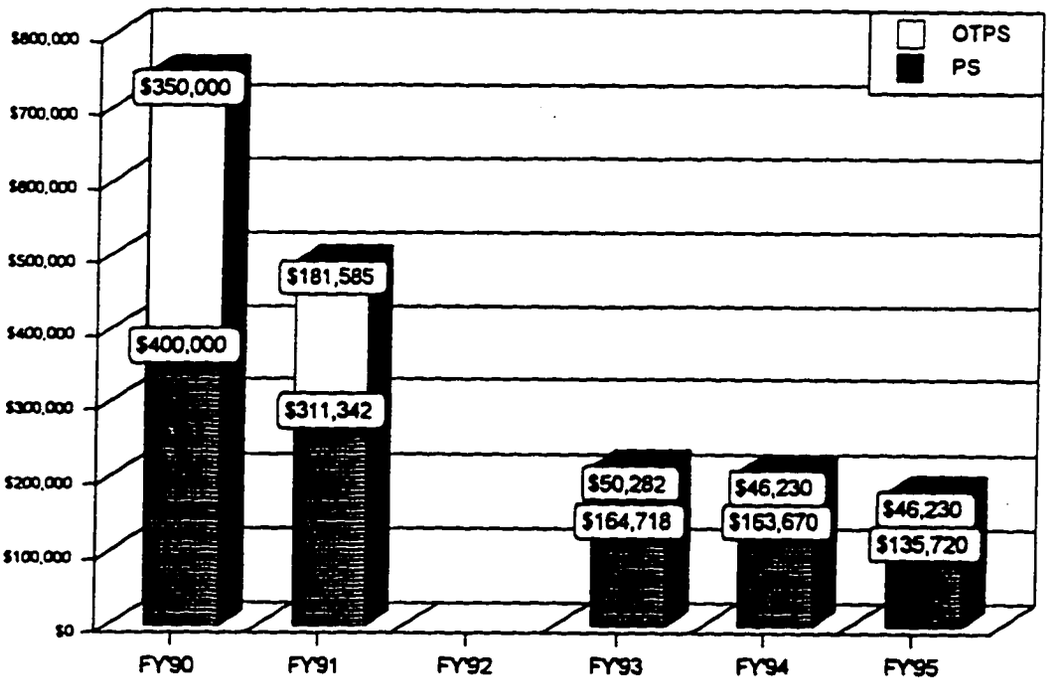
[117]As previously mentioned, there has been much discussion and some analysis of the consequences of the election of Giuliani and Pataki for particular constituencies, and on New York City more generally. For example, analyses by Robert Fitch, the City Project, The Institute of Puerto Rican Policy, and in the media (New York Times, City Limits, and others) show that low-income and minority groups have been disproportionately negatively effected in policy terms (including welfare, housing, AIDS, education, and so on.)

[118]Public Hearing, December, 1995.

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N.Y.C. Voter Assistance Commission

Budget 1990-1995



FY'90 9 Staff Total - $750,000	FY'91 7 Staff Total - $502,907	FY'92 0 Staff Total - 0	FY'93 4 Staff Total - $215,000	FY'94 4 Staff Total - $209,900	FY'95 4 Staff Total - $181,950
1 Coordinator	1 Coordinator		1 Coordinator	1 Coordinator	1 Coordinator (part time)
2 Deputy Coordinator	2 Deputy Coordinator		2 Dir. of Agency Based Affairs	2 Dir. of Agency Based Affairs	2 Dir. of Agency Based Affairs
3 Dir. of Research and Analysis	3 Dir. of Research		3 Dir. of Community Affairs	3 Dir. of Community Affairs	3 Dir. of Community Affairs (part time)
4 Dir. of Legislative Affairs	4 Dir. of Public Policy		4 Office Manager	4 Office Manager	4 Office Manager
5 Agency Based Voter Assistance Specialist	5 Dir. of Community Affairs				
6 Dir. of Community Affairs	6 Office Manager				
7Communications Director	7 Administrative Asst.				
8 Office Manager					
9 Receptionist					

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CHAPTER SEVEN

DISCUSSION AND CONCLUSIONS

As the end the twentieth century approaches, American democracy looks as enfeebled as at any time in our history. While mass voter participation is but one measure of the vitality of a democratic polity, it has reached new lows in the latter third of this century. Barely more than half the eligible electorate votes in presidential elections, and much fewer vote in state and local elections. It is worth noting that this trend is precisely opposite that of the latter third of the nineteenth century. Although participation will likely rise slightly in 1996, the future of the mass franchise in America is uncertain. Social scientists and surveys, politicians and pundits describe an electorate that is cynical about, disdainful of and alienated from the political world. People are anxious about their own and the country's future as the twenty first century approaches.

As this and other studies show, the social and historical dimensions of American nonparticipation suggest that electorates are political artifacts.[1] The stunted political and social development of the American electorate is, in part, a product of politics. This is particularly the case for urban, poor and minority communities whose political marginalization from the democratic process is further reflected in government policies which slight them. In a political democracy, such disparities raise problems for the legitimacy of public policy and governance.

This study hopes to contribute to the body of knowledge political scientists have

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[1]Piven and Cloward, 1988; Burnham, 1987; Kleppner, 1982. Wolfinger and Rosenstone, 1980; Avey, 1987.

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created about the causes of non-voting and methods to improve electoral participation. My study suggests that formal electoral arrangements are not neutral in their impact on electoral participation. Instead, my dissertation shows that electoral rules and institutions are sites of political struggle, and that the outcomes of such conflicts can have important consequences for electoral politics. Such has been the case in New York.

I have attempted to show that election practices matter: that particular voter registration procedures and practices of boards of elections can decrease or increase voter registration and participation, and that distinct political actors and interests are associated with the different procedures and administrative practices which can facilitate such increases or decreases. I have analyzed examples in New York where distinct voter registration procedures and board practices have restricted access and contributed to disenfranchisement, and conversely, examined other kinds of practices which have facilitated voter registration and participation. Moreover, in several instances, I have tried to show how particular constituencies have been disproportionately effected. My study demonstrates that New York's voter registration procedures and election administration practices have, in the main, acted as gates, blocking or facilitating access to the franchise. Lastly, I suggest that such outcomes have impacts on policy and politics in New York.

If nothing else, my dissertation has implications for debate in the political science literature about voting behavior. While there is little dispute among scholars about who the voters and the non-voters are, disagreement centers on questions about why such disparities exist, and, occasionally about what are the consequences of these patterns of participation, and also about what might remedy these circumstances.

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Following others, I have argued that scholars associated with the social psychological school might not see or understand the institutional conditions which affect voter participation. My study suggests that the relationships these social scientists have found between social variables such as income, education and race and non-voting may be a result of particular election practices.

Similarly, my study suggests that legal-institutional scholars may have failed to recognize the importance of the implementation of formal rules. Although some scholars have argued that electoral rules and arrangements can have an impact on participation,[2] this literature largely ignores examination of election administration, or the implementation of electoral rules.[3] While clearly other factors also contribute to low voter participation, or to variations in registration and turnout in particular locales, implementation of electoral rules and administrative regulations also matters, as documented in this study. Lastly, political-behavioral scholars may not sufficiently acknowledge that competition between parties and dominant politicians sometimes also revolves around contestation of election practices, and changes in such practices which might ensue, may, in turn, affect electoral participation.

In particular, my study supports the case made by Piven and Cloward who argue that restrictive voter registration procedures have constricted voter participation of lower

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[2]I refer here to scholars associated with the legal-institutional school cited in chapter one, p. 2, footnote 4.

[3]As previously discussed, I have drawn on the few exceptions to the lack of scholarship on this subject, particularly the work of Piven and Cloward. A recent study of contemporary agency registration programs and some election practices by Robert Montjoy, 1993, also examines the issue of implementation of election law and practices.

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strata groups in the U.S. during this century, and through interaction with other developments in party systems and political attitudes, have had an impact on politics. The partisan struggles at the turn of the century in New York I documented in chapter two regarding the inauguration of voter registration procedures and the establishment of bi-partisan election administration, revealed the stakes involved for the political actors and constituencies engaged in and affected by these conflicts, and contributed to the marked decline in voter participation during this century in New York. In chapters three through six I have argued that such restrictive registration procedures and election administrative practices, are both the legacy of these historical developments and--despite some liberalization--are used by contemporary political actors, particularly Republicans and conservative Democrats, to maintain low registration and turnout, and especially for low-income and minority voters. Lastly, these latter chapters also show that the suppression of registration and turnout produced by these election practices had electoral and policy consequences, contributing to the electoral defeat of Mario Cuomo in 1994, a liberal Democratic governor, and to David Dinkins in 1993, New York City's first African-American mayor.

In the remainder of this chapter I will discuss some of the scholarly debates to which my findings may have relevance. I organize this discussion around differing explanations for New York's voter registration procedures and election administrative practices.

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Possible Explanations for Restrictive Voter Registration Procedures and Board Practices

There are three general explanations for the disenfranchising practices which I have documented. These three explanations have been offered by different groups involved in New York elections: 1) elected officials and election officials; 2) election experts and investigative journalists; 3) voter registration advocates and reform organizations. While there exists some overlap between these groups in explaining board practices,[4] each group presents a particular perspective on why boards operate the way they do and why such disenfranchising practices occur. The first group, elected and elections officials, tend to attribute disenfranchising practices of election administration--when they acknowledge that they occur at all--primarily to legal strictures, requirements for ballot security and budgetary limitations. The second group, election experts and journalists, generally ascribe disenfranchisement to board's bureaucratic inertia, inefficiency and incompetence. The third group, advocates, focus on political relationships which they argue shape such practices and outcomes. Each explanation is reflected in the work of different scholars. In my discussion of each explanation, I shall refer to the scholarship to which it relates.

I believe that each explanation answers part of the riddle. Each group's perspective explains some portion or aspect of why and how the specific voter registration procedures and election administration practices occur in New York. I posit that these explanations

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[4]Unless otherwise noted, my discussion of election administration refers to both the New York State and City Boards.

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are not mutually exclusive, while placing emphasis upon the "political relations" explanation. Indeed, a more comprehensive approach seems to lie in delineating the inter-relationships between these explanations.[5] Let me take each explanation in turn in order to develop my synthesis.

I. Legal Constraints, Security Concerns and Budgetary Limitations

Some elected officials, board members and government officials have suggested that legal strictures, security requirements and budgetary constraints best account for specific voter registration procedures and board practices. They contend that boards generally operate satisfactorily and in line with reasonable expectations, given their restricted capacity within legal and budgetary limitations. To be sure, legal and budgetary limitations are many and are real. I have shown, the state's constitution and election law set the broad parameters within which boards can operate, assign mandates, delimit activity, and set time frames. My examination of New York's constitutional provisions, election statutes and court rulings reveals a long history of preoccupation with the particulars of voter registration and election administration. The specific data elements required on voter registration forms, the language and layout of such forms, the means of distributing and processing forms, the appointment and recruitment of board staff and poll workers, and the selection of poll sites and conducting election day operations are, more than less, detailed in such rules. In the case of the City Board, while being funded wholly by the city, it is a creature of the state and subject to oversight by the state.

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[5]In some instances or regarding particular practices, factors associated with one or another explanation may be more clearly at work.

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Several scholars have taken similar positions.[6] For example, I discussed in chapter one how Harris and Converse maintained that voter registration procedures and election administration are designed to deter registration and vote fraud. These scholars argue such restrictions on the franchise were necessary to eliminate the allegedly rampant fraud at the turn of the century, and are needed still to safeguard the ballot today. In fact, Sabato and Simpson argue that serious fraud exists today and is having a "blooming renaissance."[7]

> Contrary to the belief of some that voter fraud exists today only in isolated pockets, if at all, there is a persistent pattern of criminal fraud that is well-organized and pervasive. The strong suspicion among knowledgeable political observers is that some degree of vote fraud can be found almost everywhere, and serious outbreaks have occurred in every region of the country in the past few years.[8]

They argue that liberalization of some registration procedures over the past two decades or so has contributed to an increase in fraud. Sabato and Simpson contend that lifting non-voting purges, increasing access to absentee ballots, election day registration, and the like have increased fraud possibilities.[9]

Striking a tone reminiscent of turn of the century reformers, Sabato and Simpson conclude, "While electoral hanky-panky affects the outcome of elections in only a small proportion of political contests, even one fraudulent ballot is too many." They suggest that only in reversing the liberalizing measures cited above and reimposing more restrictive

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[6]Harris, 1929,1934; Converse, 1970; Converse and Rusk, 1974. Regarding the contemporary period, see Goldberg, 1987; Sabato and Simpson, 1996.

[7]Sabato and Simpson, 1996.

[8]Ibid.

[9]Ibid.

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practices will the ballot be adequately safeguarded. Moreover, these scholars hold that if such security measures cause any inconvenience to voters, this is an unfortunate and unintentional bi-product. Similar to Harris and Converse, they suggest that such restrictions on the franchise are motivated by an honest desire to insure fair elections and prevent less scrupulous people from perpetrating fraud. Yet, as I have documented in this study, the greater the safeguards on the ballot, the higher the number of legitimate voters who will be disenfranchised. Apparently, these scholars are either unaware of such different effects or are willing to trade access for security.

Just as we found with those earlier concerned with fraud in our discussion of the literature regarding electoral reform at the turn of the century, Sabato and Simpson offer largely anecdotal and somewhat spurious pieces of evidence for contemporary fraud. Indeed, according to many election experts, the few incidences of confirmed or proven contemporary fraud which exist are minimal, not widespread as they assert. Nor have such incidences been shown to have affected electoral outcomes. More importantly, the kinds of fraud they identify are primarily incidences perpetrated by elections officials, not average citizens. Yet, security measures are primarily aimed at average voters, not elections officials. In addition, they only cite Democratic elections officials when they identify the party affiliation of the alleged perpetrators of alleged fraudulent activity. Significantly, the safeguards to the franchise they are concerned are being unduly liberalized were promoted by voter registration reformers and liberal Democrats. Lastly, alternative explanations for some of the incidents they cite are not considered but might better account for the circumstances they contend imply foul play.

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Similarly, elected and elections officials maintain that safeguards on the ballot are necessary today, as they were in the past.[10] In fact, elections officials often say that a large part of their work activity is related to fraud prevention. And while they too offer little evidence of actual or proven fraud, they, nevertheless, maintain fraud does occur and could be significant.

Regarding the question of possible disenfranchisement, elections officials contend that if anyone is turned away on election day--or casts an affidavit ballot which is invalidated--these individuals are ineligible to vote as defined in the election law, and do not reflect practices of boards of elections. For example, election law in New York requires individuals to register twenty-five days prior to an election, and in a prescribed manner. If a person attempts to vote without registering in a proper and timely way, boards are required to disallow their ballot. Another example of a legal safeguard is the non-voting purge (which operated until 1990 in New York) requiring boards to remove the names of registrants from the rolls who had not voted within a four-year period in order to reduce "deadwood." And until 1992, election law required one to register sixty days in advance of a party's primary election in order to vote. In short, the argument is that if individuals are turned away on election day for failure to comply with such requirements, it is because they were not properly registered to begin with, and that such registration safeguards are necessary to protect the integrity of the ballot.

Even when boards acknowledge some administrative errors may have occurred,

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[10]This and the following positions were enunciated in interviews and meetings by top state and city elections officials with the author.

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they contend such errors are unintentional, few in number and of no significance relative to the number of people disenfranchised by the workings of the election law, or errors on the part of voter registration organizations. Furthermore, they argue that low rates of registration and participation are primarily due to other factors--such as voter ignorance, apathy, disaffection and the like--and not their security measures or lack of effective outreach efforts.

In addition, elections officials contend that boards have traditionally been under funded, particularly for programs which might expand the franchise. Elections officials consider themselves to be the "stepchildren" of government.[11] It is true that boards generally occupy poor facilities, lack effective technology, and underpay staff.[12] In fact, board employees contend that they are typically paid less than most other comparable

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[11]R. Doug Lewis, the Executive Director of The Election Center, an international service association of election and registration officials, wrote in a memo to elections officials in 1995, "We are continually asked to do more with less. And, because of what I call the 1776 Syndrome ('We've had elections since 1776 and never had to spend any real money on them but we keep having them.'), we are almost always the red-headed step-children of the budgetary process at almost all levels of government." Similarly, several of New York's leading election administration officials have also referred to themselves as "stepchildren" of government, and claim they have generally been under-funded.

[12]This characterization applies to most boards in New York State and in the country, according to election experts. There are, however, important exceptions. The New York City Board now has much improved facilities and pay scale compared to its former days and other jurisdictions, largely due to mobilization by reform advocates and criticism of the Board's operations as outlined in chapter four. Another exception is the Monroe County Board in upstate New York. As previously mentioned, in the 1970's and 1980's the more liberal Democratic Commissioners successfully attained funding from a sympathetic county administration to set aside money for modernizing the Board's operation and to establish some modest voter outreach programs. Lastly, the Board of Ethics and Elections in Washington, D.C. also made vast improvements during the 1980's largely due to its scandalously poor performance, coupled with initiatives by liberal administrators.

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government employees. Coming from working or middle class backgrounds for the most part, elections officials resent being "dumped on" unjustly by critics they consider to be "elitist" and "ill-informed," such as advocates, journalists and scholars, and some elected officials. Indeed, in many respects boards can be viewed as the "whipping boys" of such critics, especially elected officials.[13] Governor Cuomo, Assembly Democrats, Mayor Koch, and City Council members, all have periodically blamed elections officials for failures of election systems under their regimes. Election officials counter that strictures of election law and the inadequate funding for their operations are products of state and county officials, who then turn around and unjustly blame boards for inadequate registration and participation. Generally, increases in board's budgets are provided to accommodate additional elections in a given year, or for a presidential election, or for upkeep of equipment or technological improvements. Nevertheless, while boards have periodically made requests for budget increases, rarely have they made requests for outreach programs.[14]

While we can acknowledge the legal and budgetary straightjacket that boards find themselves in might contribute to restricting access to registration and voting, we have also analyzed how contemporary boards retain vast discretionary powers to shape the

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[13]The phrase is taken from Morris P. Fiorina, Congress: Keystone of the Washington Establishment, 1977, regarding Congress's treatment of federal bureaucracies.

[14]As noted in chapter four, according to budget analysts for New York City, the Board only began to use funds for outreach when advocates pressed then Mayor Koch and NYCEP to allocate funds for postage-paid registration forms and for modest advertising campaigns. Other funding increases the Board received during this period were primarily used for automation and technological improvements.

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implementation of such rules and funds. In chapter four I examined the practices of the New York City Board of Elections. I documented how particular practices employed by the City Board of Elections have disenfranchised voters. I argued that such disenfranchising practices reflect both the legacy of the turn of the century legal reforms discussed in chapter two, and the influence of contemporary dominant political actors who preside over the city's election system. Clearly, in some instances of disenfranchisement the fault may not lie solely with the Board of Elections. Yet, in most of the cases I analyzed the Board was responsible for such disenfranchising outcomes. I observed that while it was not always clear whether some disenfranchising outcomes might be the result of legal strictures, or lack of resources, errors, incompetence, bureaucratic inertia, or whether distinct political interests and relations were involved, nevertheless, I showed several episodes that revealed the involvement of Republican and dominant (regular) Democratic political actors in Board practices that had disenfranchising consequences, and, conversely, reform advocates and liberal Democrats who were involved in practices which led to a decrease in disenfranchisement and modest increases in voter registration and participation.[15]

I discussed how a host of restrictive practices including the distribution and processing of voter registration forms, the adjudication of affidavit ballots, the recruitment and training of board employees and poll workers, and election day operations--while

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[15]As discussed in chapter four, the Koch administration also provided a large increase in the Board's funding in the 1980's in order to facilitate the board's modernization and improvement, including providing for postage-paid voter registration forms, increased pay for poll workers, and significant allotments for computerization, automation and the purchase of electronic voting machines.

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specified in election law--allowed for discretionary measures which often reflected the ascendancy of particular political interests. For example, New York's election law does specify that party organizations are given a roll in the selection of board personnel. Yet, as we saw in chapter four, the New York City Board undertook changes in recruitment of staff, largely due to outside pressure. Now, the Board sometimes recruits staff and pollworkers outside the regular party channels, particularly for its technical positions. Regarding the provision in election law encouraging boards of elections to widely distribute voter registration forms, in chapter three we saw how some counties in New York limited distribution while other jurisdictions by comparison--such as Monroe County, New York, or the Washington D.C. Board--adopted policies that provided for wide distribution of forms and produced modest increases in registration and participation. We also discussed how the City Board and some boards in upstate New York have operated in highly variable ways with regards to determinations of the eligibility of particular registrants and voters. For example, students, prison detainees or the homeless were often treated with more scrutiny or disdain, or in regards to the processing of their registration forms and in determining their eligibility to vote at poll sites. Similarly, we found particular dominant political actors and interests associated with such practices. With reference to poll site locations, the courts (Hill vs. The New York City Board of Elections) forced boards to make all poll sites accessible to people with disabilities (by providing ramps for wheel chairs, and the like). Elections officials in New York generally claimed that such requirements necessitated a reduction in the total number of poll sites in each jurisdiction, and the number of sites state-wide and within the city have declined.

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Nevertheless, such outcomes were not, critics argue, "necessary" and alternative steps could be taken. Boards could have, advocates claim, searched more vigorously for alternative sites or ways to make more sites accessible. And, in fact, some jurisdictions have done more, some less. The rationale or justification underlying such episodes includes concerns regarding ballot security, or legal and budgetary limitations.

Similarly, regarding agency based voter registration programs we have seen how distinct policies and practices under different administrations were pursued, and how elections officials undermined and/or facilitated such efforts. In chapter three, we examined the role of Republicans in undermining the effort by Governor Cuomo (D) who issued two executive orders in 1984 and 1990 to expand access to the franchise, and how more recently Republicans have undermined the recent implementation of the NVRA. The Republican Party successfully challenged Governor Cuomo's 1984 executive order in court, and two Republican Commissioners on the State Board of Elections impeded implementation of agency based programs under Cuomo's 1990 executive order, both of which limited voter registration in the state for over a decade. Similarly, the potential to greatly expand the franchise under the NVRA has so far been effectively blunted by the Pataki (R) administration, and Mayor Giuliani (R) has also thwarted agency registration in New York City in both NVRA agencies and agencies under the jurisdiction of the New York City Voter Assistance Commission. Again, the stated concerns in these episodes were ballot security and budgetary limitations.

Indeed, even the argument regarding budgetary constraints of the State and City Board might more properly be viewed as reflecting the interests of these partisan and

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dominant politicians. As discussed in chapters three, five and six, Republican executives at both the state and city level specifically targeted programs in the State and City Boards, and other programs designed to increase the effectiveness of agency voter registration, various outreach programs and election day operations. Contemporary voter registration reform advocates have long held the perspective that dominant politicians have interests inimical to expanding the franchise.

> State and local governments allot only a tiny fraction of their budgets to election matters. We recognize there is a tendency among many public officials to give the election process low funding priority once they take office. Yet, elections are fundamental to government. They dictate its composition and, to a great extent, its decisions.... The costs of the changes [reforms] we've discussed are small in the general scheme of things and well worth it.[16]

> Why would elected officials want to allot significant funds [to agency programs or boards of elections] to expand the franchise when they were elected by a smaller electorate? It's not in their interest.[17]

Clearly, legal and budgetary restrictions or requirements to safeguard the ballot are real and do negatively impact on the State and City Board's capacities to carry out mandates, let alone expand the franchise. But the episodes I document demonstrate that different voter registration procedures and election administrative practices have distinct impacts, and are associated with different political actors and interests. Moreover, as discussed in chapters one and two, restrictive practices are part of the political legacy of past struggles. Taken together, this forms the context within which boards currently

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[16]Alan Rothstein, Citizens Union, Public Hearing of the Senate and Assembly Election Law Committees, March 13, 1984.

[17]Gene Russianoff, NYPIRG, interview with the author.

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operate.

Thus, my study shows that it is not only legal constraints, security concerns, and budget limitations which contribute to such disenfranchising practices. Or to re-frame the issue, legal constraints, security concerns, and budget limitations may have political considerations at their roots.

The episodes I have documented in this study also lends credence to the notion that political considerations are at work regarding the second explanation for disenfranchising practices.

Bureaucratic Inertia, Inefficiency and Incompetence

Several election experts, scholars, and good government groups have suggested that boards of elections are one more example of government ineptitude and incrementalism. Many of the problems I have documented that contribute to depress registration and turnout are often attributed by elections experts and critics to bureaucratic inertia. Similarly, the failure of New York's attempts to expand the franchise through agency based registration initiatives are often explained by the problems typical of bureaucracies. That is, they are slow to change and inefficient. Scholars of public administration and policy processes have produced numerous studies analyzing examples of inefficient and ineffective government agencies and policies.[18] Organizational theory also offers explanations for bureaucracy's continued resistance to change.

Some scholars have examined such bureaucratic inertia or the lack of effective

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[18]Wildavsky and Pressman, 1973; Ingram, 1990; Lindblom and Woodhouse, 1993. Indeed, some of the findings of these studies are often consistent with the generally negative popular perception of bureaucracies.

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implementation in election systems. As previously mentioned, a recent national study by Robert Montjoy found that some voter registration reforms in the United States have been ineffective in part due to poor design and/or implementation.[19] His examination of five voter registration reforms found wide variety, not only among the states, but also within states, in the design and implementation of such programs.[20] It bears repeating that 45% (or 76) of the jurisdictions in his sample claimed to have agency registration programs, but only 16% (or 12) had "active" programs. (i.e. most such programs had weak "passive" designs of such programs which made them highly ineffective in most places.) Montjoy found that "registration offices from thirty different states reported having agency programs, but in twenty-two of these states other offices reported that they did not have an agency program."[21] In contrast, Montjoy found a correlation between well designed and implemented programs and higher registration.[22] My findings on New York's agency

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[19]Robert Montjoy, "Implementation and Impact of Voter Registration Outreach Systems in the United States," November 5, 1993, prepared for the Southern Political Science Association, Savannah, Georgia, 1993. Montjoy conducted telephone interviews with state and local elections officials in each state, and as well as in 172 local offices and the District of Columbia, and he visited offices in ten states. Some of this data was published as "Motor Voter Registration Programs" with the National Clearinghouse on Election Administration of the Federal Election Commission (FEC) (1992); and as a second study with the FEC on mail registration programs (1993). In addition, Montjoy gathered additional data and examined three other voter outreach areas: deputy registrars, agency registration, and election day registration.

[20]Ibid. p. 10.

[21]Ibid.

[22]Montjoy found that "active motor voter programs seem to have made a difference in registration rates between 1980 and 1992. The variable that reflected to some extent variations in activity was more closely related to registration than were the variables which simply reflected the presence or duration of a program." (Ibid. p. 18) This

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programs are consistent with his study.

Montjoy's explanation for his findings is also important for my study. First, he notes the fragmented and decentralized structure of election systems in the U. S. allows for wide discretion by local officials and requires cooperation from the differing agencies who these registration programs are dependent on for successful implementation, a feat especially difficult where the dynamics of "street level bureaucracies"[23] with conflicting priorities or mandates operate. Secondly, Montjoy argues that the findings of implementation research in other fields also applies to election systems.

> A working hypothesis of this paper is that the success of such programs depends heavily upon implementation. This is a simple point which has been amply demonstrated in other areas by the now-vast literature on implementation (e.g. Ripley and Franklin, 1986). *Policies are not self-executing, and unfunded mandates frequently meet with resistance on the part of agencies charged with implementation* (Montjoy and O'Toole, 1979). The result is often minimal activity, if the mandating authority allows the agency to get away with it, or substantial conflict if the mandating authority has the will and ability to press for it.[24]

He concludes that "reformers and scholars need to pay attention to the design and implementation of registration outreach programs...[because] variation in implementation makes a difference."[25]

Another recent paper by Calvert and Gilchrist also suggests the possibility that

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is also consistent with the findings of Human SERVE in reports that analyze such programs during this time period.

[23]Lipsky, 1980.

[24]Ibid. p. 1.

[25]Ibid. p. 18.

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poor implementation of registration reforms may help explain their ineffectiveness.[26]

> There are many potential causes for the relative lack of association between some rules and participation. First, the existence of state laws which potentially increases turnout says nothing about *the will of the state to enforce the requirement* or the ability and energy of interested group, candidates, and local parties in using them. This is perhaps one reason why our comparison finds no evidence of positive increases with mail registration. Secondly, some reforms..., motor voter and agency based registration..., are of recent origin... [T]here are *rules that in general may be neither enforced nor advertised and present potential opportunities to increase turnout that are yet to be realized.*[27]

The episodes regarding agency based voter registration initiatives in New York I discussed in chapters three and six lend credence to these scholar's claims. Clearly, poor implementation of the state and city agency programs resulted in little registration over the past decade. It is only due to the very recently increased federal and state mandates of the NVRA and pressure from contemporary advocates that we find improvement in New York. Superior design of agency programs as required by the NVRA, and the improved implementation in 1996 has begun to produce significant increases in agency registration.

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[26]Calvert and Gilchrist, 1993, "Do the Rules Count? Election Law Reform and Voter Turnout in the 1988 Election," Paper prepared for the 1993 APSA Meeting in Washington, D.C. Their main argument, however, is that previous registration reform, such as shortening the deadline for registration, purging the voter rolls, or liberalized absentee ballot policy, has not significantly increased registration, particularly for lower socio-economic groups, nor will they produce partisan benefits as some scholars such as Piven and Cloward have argued. Calvert and Gilchrist then argue that the NVRA will therefore likely not produce much increase in registration and voting. While they argue that "laws do count", they place more weight on other factors they believe better account for turnout variation, especially for lower socio-economic groups, including "meaningful competition between candidates, parties and policies."

[27]Ibid. pp, 9-10. Emphasis added. They note that other such rules which exist but are little known, and therefore not used, including that in 26 states statutes allow employees to take time off to vote during the regular work day.

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But, the distinct political actors and interests associated with such practices suggests that patterns of implementation may reflect more than mere bureaucratic inertia or inefficiencies.

In chapters three and four in particular, I discussed problems which could be categorized as inertia, inefficiencies, errors and incompetencies of the boards in New York, particularly focusing on the City Board of Elections. The City Board in the early 1980's was characterized by advocates and journalists as stuck in the "stone age" and "Byzantine," staffed by aged political appointees who used outmoded equipment and followed routinized procedures developed decades ago.[28] These critics argued that the prominent role that political party leaders play in the selection of personnel contributes to the generally low caliber of the Board's staff, characterizing them as "patronage hacks" and "poorly qualified," and that the Board generally operates to a nineteenth century tune. Pressure to reform the Board in the mid to late 1980's, as discussed in chapter four (referred to as "modernization") was met with stiff opposition by the Board and the regular party organizations. Indeed, they made it clear they "resented outside interference" in the affairs of the Board, and, in fact, undermined some modernization efforts.[29]

Critics describe the political culture of the Board as one that reflects the influence of the dominant party organizations and clubs. Specifically, the political clubs that are

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[28]Gottlieb and Baquet, 1990.

[29]As previously noted, this was generally corroborated by NYCEP staff and several members of the Board.

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closely associated with the leaders of the county organizations are most represented in the Board's personnel, producing a similar demography (mostly middle and working class, and of Italian and Jewish ethnic background). This description is consistent with Adler and Blank's 1975 study of political clubs in New York City, which found that all the regular clubs, both Democratic and Republican, were comprised of 33% Italian members and 21% Jewish. They also found that most were "white collar" closely followed by "blue collar."

Some scholarship on local party organizations provides evidence that parties remain active and have important effects on electoral politics.[30] While parties may have been "transformed" and have declined, they continue to be important. The "Party Transformation in the United States," and the "Institutional Party" projects were

> the most systematic and broad-based research stud[ies] generated in this century to examine state and local party structures. Their 1984 research concluded that local party organizations, in responding to a changing political environment, did sustain a fairly high level of programmatic activity and that their findings '[di]d not support the thesis of party decline' so popularly touted by other scholars.[31]

Similarly, Frendris, Vertz and Gibson found additional evidence that "county party organizations are active and independent political institutions and that party organizations do have an effect on electoral politics. As we approach the twenty-first century, party

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[30]Frendreis and Gitelson, 1993.

[31]Frendreis and Gitelson, 1993:536. The quote they cite is from Cotter, 1984:57. The Party Transformation in the United States, and the Institutional Party project was conducted by Cotter, Gibson, Bibby and Huckshorn.

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transformation is not synonymous with party decline."[32] A collection of five case studies (Houston, Nashville, Detroit, Los Angeles, and Chicago) concludes "that the local parties are active in critical areas of campaigning, that they appear to be principal actors in the electoral process, and that there is no evidence of an atrophying of party activity or organization."[33] Such studies are consistent with Mollenkopf's findings discussed earlier that local party organizations in New York City also remain active and important in electoral politics.

These studies do not, however, explicitly delineate local party organizational ties to election administration, nor do they describe election practices in detail. Some of the studies discuss party activities such as candidate recruitment, fund-raising, campaign activities, voter registration, door-to-door canvassing, and election day get-out-the-vote drives. Yet, to the extent party organizations share interests and personnel with politicians who dominate urban regimes, they may also play an important role through election administration influencing election practices which may help shape patterns of voter participation, whatever the nature or structure of the electoral system or election administration (i.e. partisan or non-partisan, mayoral or city manager, and the like.)

In short, critics suggest boards of elections (and the City Board in particular) are vestiges of the now defunct political machines whose incompetent and ineffective practices reflect the influence of the dominant political organizations and politicians. Indeed, the disenfranchisement which results from inefficiencies and incompetencies generally

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[32]Frendreis and Gitelson, 1993:537.

[33]Crotty, 1986; 1993.

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functions to serve their interests. Thus, such conditions and outcomes might be better viewed as reflecting the stamp of dominant political interests who historically shaped the institutional environment of boards, and continue to influence the contemporary political context that they operate within.

Political Relationships

Several reform organizations, scholars and journalists contend that such entrenched political forces during both the historical and contemporary period best accounts for the State and City Boards disenfranchising practices.[34] They argue that dominant party organizations and leaders, who appoint board commissioners and employees,[35] infuse their political interests and motivations directly and indirectly into the policies and practices of boards. They contend that what might appear as legal and budgetary limitations, or security concerns, or bureaucratic inertia, inefficiency and incompetence really reflects the imprint of dominant politicians who historically forged disenfranchising rules and practices, and continue them because they have incumbency and patronage interests in maintaining a constricted electorate. In chapters three through six, I showed numerous instances where State and City Board employees responded to pressures of dominant politicians by reinforcing or fashioning restrictive registration

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[34]As discussed in the introduction and chapter one, this position in the scholarship is best developed by Piven and Cloward, 1988. Other references are listed in the introduction p. 8, footnote #22.

[35]Recall that even while the formal authority to appoint commissioners to boards of elections usually rests with a legislative body (such as the City Council in New York City), it is extremely rare for a recommendation by the county party leaders to be rejected. In fact, from the turn of the century to date there have only been a few instances of such rejections.

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procedures and election day operations which depressed registration and turnout, with the consequence that thousands of New Yorkers were disenfranchised in each election. My findings suggest that boards have and continue to function to serve the interests of dominant politicians in limiting opposition forces--whether potential voters or insurgent candidates--from gaining access and power.

Again, the historical perspective and developmental approach elaborated by Piven and Cloward is instructive here. My review of the genesis of voter registration procedures and election administration in New York in chapter two revealed that such practices reflect the interests of the winners of specific historical political conflicts. My discussion of the political struggles around the development of New York's voter registration procedures and election administration showed distinct partisan and factional actors and interests were involved. I have attempted to show that the interests of these dominant political actors are embodied in these rules and practices--as the institutional residue of past conflicts--and patterned the further development of these arrangements and of electoral participation.[36]

The scholarship and data I examined in chapter two regarding election law provisions in New York passed during the decades around the turn of the century suggests that these new voter registration procedures, and the creation of boards of elections resulted in increasingly restrictive election practices which contributed to a precipitous decline in voter turnout here. In the name of protecting against election fraud and reforming corrupt political machines, elite political interests successfully established an

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[36]Schattschneider, 1960; Piven and Cloward, 1988.

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election system--partly by design and partly by default--that perpetrated a bureaucratic form of fraud: restrictive electoral practices that produce political disenfranchisement. I argue that the political biases of the past set the trajectory for development of the electoral system of New York in the twentieth century. Not only did the actors involved in these charges of fraud and struggles over rules and practices believe the stakes were high, but these developments have proven significant for subsequent developments in New York.

For example, as described earlier, Republicans were able to maintain a dualistic registration system for the state until 1954, maintaining a provision requiring personal registration for only downstate and urban in New York. I discussed how this provision, coupled with the different practices of election administration, helped to produce a situation where upstate New York maintained vastly higher voter registration and participation rates compared to urban centers.[37] I argue that the disparity in registration rates between upstate and downstate voters--who provided the margin of victory for the Republican dominance of New York during much of the twentieth century--not only directly issued from the different registration procedures and election administrative practices governing upstate versus downstate regions, but also contributed to distinct electoral and political outcomes.[38] With a shrinking voter base at the turn of the century--

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[37]Scarrow, 1983:83. Recall that he notes that by 1950 in the 28 counties whose populations were in large part covered by the more lenient system, 88 percent of the voting-age population was registered. In sharp contrast, for the remaining dominantly urban counties with the more stringent procedure, the registration rate was only 58 percent.

[38]To be sure, other factors such as malapportionment also contribute to such outcomes.

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particularly in New York City--the urban/rural and suburban partisan split became even more pronounced and important politically. Republicans dominated upstate and rural New York for most of the latter part of the nineteenth century and continued to do so for much of the twentieth, while Democrats dominated its urban centers. As the twentieth century progressed, the shrinking voter base in New York City gave further advantage to Republicans who were able to control both houses in the legislature and elect Republican governors (Thomas Dewey, 1943-54, and Nelson Rockefeller, 1959-73.).[39] Moreover, within its urban centers such as New York City, such arrangements appear to have reinforced the power of regular party organizations and incumbents who controlled election administration.

Thus, contemporary critics argue that New York's voter registration procedures and election administrative practices not only reflect the interests of the victors of past struggles, but that contemporary political actors use these rules and institutions to perpetuate such arrangements and their incumbency. As one elected official, State Senator Bogues, asked Alan Rothstein of the Citizens Union,

> I'm curious, in view of the poor registration, poor voter participation in this state and certainly in the city, I'm curious in terms of the Citizens Union's evaluation and assessment of how this all came about and what is it really all about? You know, historically, years of elections throughout the state have been run, for the most part, by people who have been appointed to these jobs through the political process... There is also a perception which

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[39]Again, while this regional split was never complete, each party possessed an enormous edge in party enrollment and the ability to win legislative races in their respective strongholds. Once permanent personal registration was required statewide in 1967, however, eliminating the requirement for in person registration downstate, Democrats scored important gains in the legislature. By 1975, Democrats became the majority party in the Assembly, while Republicans retained their majority in the Senate.

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> is very very poor I think in politics that there are many ***incumbent politicos who would prefer that there not be extensive voter registration***. Hence, if there is an enlarged voter registration, it might affect their incumbency or whatever. In your judgement, that is, in the judgement of the Citizens Union, do you feel that there is any evidence to support this allegation or perception that prevails?[40]
>
> Mr. Rothstein replied, "I think I share your perceptions, I most definitely do... There is a concern that they've got to stay in office, and one way is that you don't change the rules of the game when you know the game and how it's been played... So, there's no outreach [to enlist new voters].[41]

My research appears to corroborate the claim made by several scholars that important aspects of "machine politics" have persisted in New York.[42] To be sure, a cash intensive, candidate centered politics comprised of campaign consultants and an apparatus tied to candidates and incumbents has largely displaced local party organizations. Such candidate and incumbent organizations primarily engage in fundraising activities, advancing campaign strategies, and maintaining access to the ballot. Yet, forms of more traditional "machine politics"--such as controlling patronage resources and selective voter mobilization and demobilization--remain part and parcel of their activities. The stakes of local elections remain significantly tied to patronage resources and relationships, such as control of important municipal agencies, commissions, judgeships, and the like. In chapters three and four I discussed how boards remain dominated by dominant incumbent party leaders and organizations, and engage in old-style political patronage as evidenced

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[40]Senator Bogues, State Legislative Public Hearing, March 13, 1984, emphasis added.

[41]Ibid.

[42]Wolfinger, 1972; Mayhew, 1986; Erie, 1988; Baim, 1983; Thompson, 1990; Mollenkopf, 1992; Shefter, 1994.

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by patterns of personnel appointments, and the dispensing to political allies of contracts for goods and services such as the purchase, service, storage, and transportation of voting machines, and the printing of ballots.[43] Moreover, while scholars of New York have noted that electoral challenges from reformers periodically were successful, elite political groupings and "regular" party organizations continue to be adept at dominating or re-capturing control of the electoral process in New York City.[44] My findings suggest that dominant politicians and groups may very well have survived such insurgent efforts or made comebacks because of their capacity to limit voting through their continued control of the State and City Boards of Elections.[45]

By contrast, party leaders and elections officials generally defend the bi-partisan structure of election administration and the "patronage system" of appointments. "I happen to believe in the patronage system very much because it has proven to work. It

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[43]As previously discussed in chapter four regarding the New York City Board, Newsday conducted a three month investigation and published a four part series by Ken Fireman in 1988 which detailed such arrangements. Similarly, in 1990, The New York Times also did a four part series by Martin Gottlieb and Dean Baquet. These investigations exposed patronage relations and criticized the Board's disenfranchising practices. More empirical work in other jurisdictions might reveal similar such practices and relations. Regarding the State Board, several pieces in the Times Union and several other newspapers and organizations have similarly criticized the State Board, including NYPIRG, Plunkitt, 1992, and in reports by Common Cause, the League of Women Voters, and Human SERVE.

[44]Baim, 1983; Mollenkopf, 1992; Thompson, 1990; Shefter, 1987;1994.

[45]In addition, regular parties continue to control access to the ballot through the selection of judges who run for election (and who in turn rule on ballot access challenges), and are able to raise critical campaign funds. Lastly, their ties to election administration appears to foster lax enforcement of campaign finance reporting requirements and prosecution of violations by incumbent or party candidates of such requirements.

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works in the selection of judges, truckers and board employees."[46] Elections officials claim that patronage "works" because party workers are "loyal," are more motivated and work hard for little pay under poor conditions. Regarding increasing efforts to expand the franchise, they generally maintain that plenty of opportunities currently exist for people to participate, and that people don't vote primarily because of ignorance or disaffection, not because of election practices. Moreover, in line with the concern regarding security of the ballot expressed in law and practice, elected and elections officials contend that the bi-partisan structure of boards and safeguards on registration and election day operations provides needed "checks and balances" on the election system. Indeed, they argue that breakdowns of these checks helps account for alleged instances of election fraud.[47]

This study, however, has shown that the greater the number of stringent procedures to safeguard the ballot, the greater the likelihood eligible voters will be barred from exercising their voting rights. To the extent the City and State Boards have employed restrictive procedures in response to explicit or implicit wishes of dominant political actors, they have commensurately effectively disenfranchised voters.

Moreover, my study has shown how such restrictive practices disproportionately effect low-income and minority citizens. Such practices not only reduce the size of the electorate and increase the bias toward middle and upper income groups, but also

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[46]George Friedman, Bronx Democratic Party Leader, quoted in Gottlieb and Baquet, 1990.

[47]Interviews with city and state elections officials and party leaders reveal this view is widely held. Harris, 1929, 1934; Goldberg, 1987; Converse and Rusk, 1974; Sabato and Simpson, 1996.

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contributes further toward reducing party competition, helping to produce oligarchic parties.[48] In addition, my study suggests that, as Piven and Cloward have argued, such developments may have in turn contributed to the emergence of the twentieth century phenomenon of low turnout among low socio-economic-status groups that the social-psychological school highlights. Thus, some portion of nonvoting in New York which issues from non-voters disaffection and apparent "lack of motivation" or "apathetic" attitudes may not be a cause of their marginalization from electoral politics, but rather may be a consequence of these other developments.

It hardly needs saying that practices which contribute to Republican electoral advantage in New York have also translated into distinct policy consequences. Republican state policy reflected in legislation crafted by the State Senate, and after 1994, under the Pataki administration, generally benefit upstate constituencies rather than those in New York City.[49] In the legislature, the two major parties divided control over the legislative branches after 1975--Republicans dominating the Senate and Democrats dominating the Assembly--continues to provide each party with an institutional power base. From their institutional base of power, dominant groups within each party can advocate distinct policy positions, exercise their leverage in negotiations over legislation, advance campaign

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[48]Similarly, restrictive ballot access measures worked to marginalize insurgents within the dominant parties or independent campaigns.

[49]Stonecash, "Political Parties and Partisan Conflict," 1994; Fuchs and Thompson, "Racial Politics in New York State," 1994, Colby and White, "Public Policy in New York State Today," 1994, and other articles in the collection entitled Governing New York State, 1994. See also Fitch, 1994, 1995; Publications of the Fiscal Policy Institute, The Community Services Society, and the City Project. (op. cit.)

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strategies, fund raise, and the like.[50]

However, my study also shows that New York's voter registration procedures and election administrative practices can vary, depending upon the specific constellation of political forces that may influence boards of elections. For example, in chapter three we examined how successful lobbying by voter registration advocates convinced Governor Cuomo to issue two executive orders requiring agency registration to expand the franchise, even though Republicans effectively thwarted that effort. In chapter four we examined how reform efforts by advocates in New York City--coupled with a series of damaging political scandals--successfully prodded Mayor Koch to support programs to improve the operations of the New York City Board of Elections, despite opposition from the Board and the county party organizations. Similarly, in chapter six we explored how the mission of the New York City Voter Assistance Program and Commission to expand the franchise--which reflected the goals and successful lobbying of voter registration advocates--was generally supported by Mayor Koch and Mayor Dinkins, but were undermined by Mayor Giuliani. In chapter five we discussed how Republicans brought pressure to bear on the City Board to increase restrictive practices, increasing disenfranchisement, and which remain largely in effect today.[51]

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[50]Stonecash, 1994. "Political Parties and Partisan Conflict," in Governing New York State, 1994.

[51]As previously mentioned in chapter five, according to Jon Del Giorno, Administrative Manager, the City Board remains on "high alert" in respect to its procedures for processing voter registration (using stringent measures to identify potential duplicates or fraudulent registrations and the like), and its election day operations. Interview with the author, May 28, 1996. Moreover, Board personnel maintain that cuts to the Board's budget and staff by the Giuliani administration continue to also negatively

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Thus, we found changes in board practices that tend to enhance access--reducing disenfranchisement and moderately increasing registration and turnout--associated with one of three factors: 1) increased strength and specificity of federal, state or city mandates; 2) the political party or chief executive that dominated the state or city perceived that increased participation of non-voters might benefit that party or official; or 3) sufficient pressure from outside forces (such as advocates), often involving criticism of election practices or political corruption, or litigation, brought to bear on such officials or the dominant party organizations and the Board of Elections to force reform of such practices.

Future Reform and Research

In order to better insulate boards of elections from dominant political groups and produce improvements, contemporary reform advocates often argue for non-partisan election administration with clear lines of authority and accountability, and standards of performance which readily measure boards operations.[52] Such contemporary reformers in New York and elsewhere have proposed various schemes to modify or eliminate the political structure of boards of elections. These proposals and my dissertation suggest that

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effect the Board's operations.

[52]Many of the groups listed in the appendix of the introduction take such a position. See also Wade, 1994; Plunkitt, 1992; and Smolka, 1974; 1976. Contemporary advocates are similar (and different) in several ways to some of the turn of the century reformers regarding elections. For example, contemporary reformers envision a more professional, civil-service-like agency and staff, much as some of the progressive reformers argued. This is in contrast, of course, to other reformers at the turn of the century who argued for bi-partisan election administration. Both sets of reformers also vary in terms of their class composition and ideological orientation.

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future study of such non-partisan or multi-partisan schemes in other jurisdictions (whether at the local or state level, or in other countries) might yield information to better assess such policy alternatives and prescriptions. Clearly, non-partisan electoral systems which exist in some cities in the U.S. and elsewhere offer good opportunities to examine such proposals. However, because political power generally flows down from hierarchically organized structures, even non-partisan systems may reflect some similar dynamics.

Scholars who have researched local party organizations strength, or those who have documented agency registration and other election practices--such as Montjoy's study and my own dissertation--suggest methods for further research in other jurisdictions. As indicated, however, there are a number of potential problems in doing research on the latter subjects. As previously discussed, researchers will need to grapple with the problem of the lack of mechanisms available to gather accurate and comprehensive data on the performance of election administration and agency programs.[53]

To conclude, legal constraints, budget limitations, security concerns, bureaucratic inertia, incompetence and inefficiency all may reflect--or augment--political considerations which also may be at work in constricting electoral participation. The kinds of election practices we found in New York may operate in other jurisdictions, especially since similar electoral systems exist in other urban centers and jurisdictions. My study suggests that

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[53]Establishing criterion to measure the performance of election administration as outlined by Smolka (1976), the Election Center, NYPIRG and as I have done in chapter four might provide some direction. In addition, the advent of the NVRA may help improve this current lack of information by providing specific reporting requirements by states to the FEC, and imposing procedures on election administrators for regular interaction with other local and state government agencies and officials, thus providing other potential sources of data.

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understanding the historical evolution and contemporary practice of voter registration procedures and election administration is important for a full understanding of election systems and voting behavior. My dissertation argues that the lack of study of election administration by social scientists points to a need for further research in this area. Such study may shed light on the debate in the political science literature concerning the causes of low levels of electoral participation, and may provide additional evidence suggesting directions for contemporary electoral reform policy. It is my hope that further research into voting behavior may benefit from this study.

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APPENDIX A

I obtained data for my dissertation from the following organizations I worked with in several capacities over the past five years.[1] Beginning with the most recent time period, the first grouping of organizations I worked with during the nearly three years I was the Coordinator of the New York City Voter Assistance Commission (VAC), 1993-1995. Through business meetings and/or interviews I obtained data for my study. The next group of organizations, The Statewide Coalition for Voter Participation, I worked as a participant observer during 1991-1992.[2] Similarly, I obtained data for my dissertation through meetings, lobbying efforts in Albany, and interviews with these individuals or other personnel from their organizations.

ORGANIZATIONS INVOLVED IN VAC'S COMMUNITY BASED EFFORTS

Asian American Legal Defense and Education Fund
Asian Americans for Equality
Asian American Federation
Breakthrough Political Consulting Services
Caribbean Women's Health Association
Chelsea Reform Democratic Club
Chinatown Voter Education Alliance
Chinese American Voters Association of Brooklyn, Inc
City Projects
Coalition for the Homeless
Coalition for Koreans American Voters
Community Service Society - The Voter Participation Projects
Community Access
Community Service of Greater Harlem
Creedmoor Civic Association Inc.

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[1]These organizations provided me with data as described above on page 24 footnote 53, and in chapters four and five below.

[2]This list includes the names of key personnel in each organization. Several of the member organizations of the Statewide Coalition are also listed in the first grouping.

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Cretans Association
Deep Dale Garden Community Council
Do the Right Thing Action Forum
Dominican Youth Union Club
East 79th Street Neighborhood Association
Edgecombe Avenue Block Association
Fortune Society
Gay and Lesbian Community Center
Grace Institute
Harlem Commonwealth Council
Homeless Voters '93
Hope Community
Hunger Action Network New York State
Hunters Point Community Development Corporation
Interagency Council
League of Women Voters
Midwest Northeast Voter Registration Education Project
NAACP
New York League of Conservation Voters
New York Public Interest Research Group (NYPIRG)
New York Urban League
North Belrose Civic Association
Northeast Brooklyn Association
Prospect Family Inn
Ralph-Lincoln Service Center
Ridgewood Older Adult Center
Second Calvary Baptist Church
Seniors Helping Seniors
South Bronx Churches
St. Albans Congregational Church
Stand-Up Harlem
Statewide Emergency Network for Social and Economic Security
Staten Island African American Political Association
Success Through Achievement Reinforcement
Travelers Hotel/Urban Pathways
We the People Block Association
West 96th Street Block Association
Wintrop Block Association
YouthForce

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The Statewide Coalition for

VOTER PARTICIPATION

Advocates For Children of New York - Norma Rollins
AFSCME, District Council #37 - Stanley Hill
AFSCME, District Council #1707 - Robert McEnroe
American Reading Council - Julia Palmer
Asian Americans For Equality - Doris Koo
Asian American Legal Defense And Education Fund - Margaret Fung
Association Of Puerto Rican Executive Directors - Jose Nicot
Bronx Women's Political Caucus - Willie E.P. Bowman
Center For Constitutional Rights - Vernice D. Miller
Church Of The Intercession - Canon Frederick B. Williams
Citizen Action of New York - Alan Charney, Karen Carpenter
Citizen's Union - Jeannette Kahlenberg
City Club Of New York - Stanley Turkel
Community Service Society - David R. Jones
C.S.S. Institute For Community Empowerment - Shirley Traylor
Community Food Resource Center - Liz Kreuger
Council Of New York Law Associates - Jean Berman Esq.
Countdown '89 - Selwyn Carter
Democracy Project - Mark Green
Disabled In Action - Anne Emerman
Food And Hunger Hotline - Christine Walker
Homeless Voter '89 - Will Daniel
Human SERVE - Louise Altman, Marilyn Clement
Hunger Action Network Of New York State (HANNYS) - Fran Sanders
Institute For The Puerto Rican/Hispanic Elderly - Suleika Cabrera Drinane
League Of Women Voters Of New York City - Laura Altschuler
League Of Women Voters Of New York State - Andree Marr
Legal Action Center - Paul Samuels
Medgar Evers College Center For Law And Social Justice - Esmeralda Simmons
Municipal Research Institute - Daniel McCarthy
NAACP, Mid-Manhattan Branch - Peter Norwood
NAACP, NYC Department Of Social Services Branch - Robert Flynn
National Nonpartisan Voter Registration Campaign - Jane Kalmus
New York Civil Liberties Union
New York Gray Panthers West - David Brown
New York Public Interest Research Group (NYPIRG) - Gene Russianoff, Neal Rosenstein
New York State Conference Of NAACP's - Hazel Dukes
New York State Rainbow Coalition
New York Urban Coalition - Glenn S. Pasanen
North Bronx Social Action Committee - Lee Heimlich
Progressive Dominicans Inc. - Guillermo Linares, Juan Gonzalez
Public Education Association
Puerto Rican Legal Defense And Education Fund - Arthur Baer, Rueben Franco
Queens Citizens Coalition For Political Alternatives - Lois Marbach
Rheedlen Foundation, Inc. - Richard L. Murphy
Local 1199, RWDSU - Dennis Rivera
A. Phillip Randolph Institute
Social Justice Group - Riverside Church
United Auto Workers, Local 259 - Sam Meyers
United Neighborhood Houses - Roy Leavitt
United Parents Association - Hazel Smith
Westchester People's Action Coalition (WESPAC) - Connie Hogarth

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APPENDIX B

A working definition of fraud is possible and threads of one are evident in the literature. However, problems arise around specificity. A scant perusal of the literature reveals numerous examples of how journalists and partisans have often used the word "fraud" in a nonspecific or vague fashion. One can find references to the "corruption against the ballot box", but little else to indicate just what they were referring to. Moreover, one encounters references to very different kinds of fraud charges, which sometimes means different actors doing different things with substantially different effects. (Recall my discussion of inflationary forms of fraud such as repeat voting, voting for the dead, false registration, etc., and contrast these forms to references of deflationary forms of fraud such as voter intimidation, paying voters not to vote, officials destroying ballots or changing vote totals, and the like.)

One of the earliest attempts to systematically define electoral fraud was made by James Bryce who in 1921 in his classic work Modern Democracies. Bryce classifies three types of electoral fraud: "The rational will which the citizens are expected to possess and to express by their votes may be perverted in three ways: by Fear, when the voter is intimidated; by Corrupt inducements, when he is bribed; by Fraud, when the votes are not honestly taken or honestly counted."[1]

In defining fraud, James Bryce highlights an important element that is violated--the "rational will" of the voter. Indeed, the most severe violation to the voters' "rational will"

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[1]Bryce, 1921, cited in Allen and Allen, 1981:156.

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is "Fear" which might include coercion, threats, or violence. This kind of fraud would have the impact of deflating the number of votes counted, relative to the pool of the eligible electorate. The second kind of fraud, "Corrupt inducements" would include voting for a party or candidate or changing a vote by inducements of patronage, bribery, whiskey, transportation to a polling place, etc., many of which--by our contemporary standards and practices--would not necessarily be a violation of one's "rational will". In fact, we can conceive how voters "willingly" accepted some forms of bribery.

Moreover, "Corrupt Inducements" might include bribing someone not to vote. Indeed, as discussed, Cox and Kousser take issue explicitly with Converse and show evidence of just this deflationary form of fraud. They contend that vote buying was probably pervasive, but that with the introduction of the Australian "secret" ballot between 1889 and 1900, the strategy of political managers shifted. Now they were likely to pay someone not to vote, since they could not monitor how one voted. So, Cox and Kousser conclude that the institutional change (introduction of the Australian ballot) did lead to a behavioral shift as Converse contends, but in the form of fraud and not necessarily in the extent. Further, they contend that this form of corruption is not really a perversion of the voter's judgement or "rational will", (though we might not concur).

The third kind, "Fraud", would include repeat voting, voting for the dead, stuffing ballot boxes, destroying ballots, and falsification of the vote count. This kind of fraud would generally tend to inflate the turnout statistics, though not exclusively. It does more directly violate the "rational will" of voters, and may pose grave problems in the outcomes of some elections.

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Allen and Allen have investigated this issue and have made a significant contribution to the resolution of these questions.[2] They reduce Bryce's categories of the kinds of fraud to two: 1. One that violates voter's intent--their "rational will"; 2. One that doesn't. The first kind includes: a) force and violence; and b) falsification of results - miscounting, destroying or altering ballots, (which can deflate the vote count) or "repeating", voting for the dead, stuffing ballot boxes, etc., (which inflates the vote count). While acknowledging the difficulty in verifying allegations, they nevertheless, review some of the published literature. In their review of the literature they maintain that this first kind of fraud is the most infrequently mentioned.

The second kind of fraud includes: vote buying, bribery, patronage, personal favors, alcohol, transportation to polling places, and "heavy-handed political campaigning" (like employers warning of unemployment during the 1896 campaign if the Democrats won). They contend that this type of fraud was probably more widely committed than the first kind, and is more commonly cited in the literature. They argue that even though this type of activity was "illegal", it does not violate the "intent" of voters (especially after the introduction of the Australian "secret" ballot).

Argersinger also concurs with the Allens that the second type of fraud (bribery, "heavy-handed political campaigning", and so forth that voters "willingly" accepted) was the "most frequently alleged in the late nineteenth century."[3] In fact, he cites new evidence

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[2]Allen and Allen, 1981.

[3]Argersinger, 1985-86.

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which shows vote buying and bribery were widespread. Some scholars[4] contend that vote buying was not so negative as the terms fraud and corruption connote, but actually can be seen positively as having served a "public service" of motivating people to go out and vote (though we would want to question this contention).

Jumping to the contemporary period, the Justice Department of the federal government defines electoral fraud broadly, but includes the main elements of Bryce's formulation:

> the paramount feature of the democratic franchise is the free expression of `electoral will' by each voter participating in an election. Thus, any pattern of conduct which has as its intended effect the improper manipulation of the balloting process for the purpose of defeating or ignoring the `electoral will' of individual voters should be considered [fraudulent].[5]

In terms of federal law, some methods of fraud are more clearly defined and are more heavily prosecuted. There are "several especially noxious methods of corrupting the electoral process" which have been made subject to specific criminal statutes. These are "vote buying, multiple voting, and false registrations."[6] However, other methods of corrupting the franchise, which "fit easily within the concepts of `fraud'", may be "less

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[4]Reynolds 1980, Gist 1961.

[5]Donsanto, 1988:10.

[6]Ibid., pp. 9-10.

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obviously actionable". These include "destruction of ballots, falsifying tally reports and intimidating voters." Moreover, the Department

> "has long held the view that federal involvement in election fraud matters should be confined to situations where there is a conscious attempt made to corrupt the process by which voters are registered, or by which ballots are procured, cast and/or tabulated."[7]

So, it appears that the position of the federal government with regards to defining and prosecuting electoral fraud is clearly in line with the dominant view of the Progressive era reformers. Certain kinds of fraud are assumed to be most prevalent and worthy of intervention and prosecution.

In a similar vein, Goldberg defines fraud as

> "any activity that has the effect or intent of subverting the rights of voters to cast ballots free of intimidation or improper influence and to have their votes accurately counted with out dilution by illegal ballots."[8]

Yet, Goldberg, whose definition of fraud is fairly broad and inclusive, goes on to say that fraud takes "four main forms: vote buying, fraudulent registration (often to facilitate multiple voting by "repeaters"), fraudulent use of absentee ballots, and falsification of election counts."

A number of contemporary scholars have suggested that various forms of procedural disenfranchisement and bureaucratic exclusion also fall within the parameters of the definition of electoral fraud.[9] For example, voter registration procedures

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[7]Ibid., p.10.

[8]Goldberg, 1987:180.

[9]Quinlivan, 1989; Barber et. als. 1988; Piven and Cloward, 1988.

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themselves, purges of registration rolls, and the like, have been shown to "have had an inherent and continuing disenfranchising effect,"[10] and one which disproportionately effects minority groups, thus constituting discrimination.[11] Moreover, they contend that there are alternative methods for addressing the problems of fraud which have less of a disenfranchising and discriminatory impact. Indeed, most of the European democracies manage to hold elections without charges of fraud marring the process, and which produce significantly higher rates of turnout. Voter registration advocates argue that the National Voter Registration Act (NVRA) will reduce the potential for fraud by reducing deadwood, through updating voters address changes and the like, and requiring more identification at government agencies (such as departments of motor vehicles and social services agencies) than allowed through registration by mail.

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[10]Quinlivan, 1989:2395.

[11]Barber et. als., 1988.

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BIBLIOGRAPHY

Abramson, Paul R., and John H. Aldrich. 1982. "The Decline of Electoral Participation in America." American Political Science Review 76: 502-521.

Adler, Norman M. and Blanche Davis Blank. 1975. Political Clubs in New York. New York:Praeger

Affigne, Anthony DeSales. 1992. "Voter turnout and democracy: Findings and implications of a statewide turnout study conducted at the local level." Ph.D Dissertation. Brown University.
------- and Katherine Tate. 1993. "The Limits of Urban Democracy: Voter Turnout, Politics and Race in U.S. Cities". Paper delivered at the 1993 Annual Meeting of the American Political Science Association.

Aldrich, John H., and Dennis M. Simon. 1986. "Turnout in American National Elections." In Research in Micropolitics, ed. Samuel L. Long. Greenwich, CT: JAI Press. Vol. 1.

Alexander, Dealva S. 1969. (1909) A Political History of the State of New York. 4 vols. New York:Ira J. Friedman, Inc.

Alford, Robert and Eugene Lee. 1968. "Voting Turnout in American Cities." American Political Science Review, 62, 3. (September).

Allen, Howard W., and Kay Warren Allen. 1981. "Voter Fraud and Data Validity", in Jerome Clubb, William H. Flanigan and Nancy Zingale, eds., Analyzing Electoral History. Beverly Hills, California: Sage Publications.

Argersinger, Peter H. 1980. "A Place on the Ballot: Fusion Politics and Anti-fusion Law". American Historical Review, 85 (April).
-------1985-86. "New Perspectives on Electoral Fraud in the Gilded Age". Political Science Quarterly, 100, 4 (Winter).

Arian, Asher, Arthur S. Goldberg, John H. Mollenkopf and Edward T. Rogowsky. 1991. Changing New York City Politics. New York:Routledge.

Association of the Bar of the City of New York:The Special Committee on Election Law. Ballot Access in New York. New York. 1989.

Avey, Michael. 1989. The Demobilization of American Voters: A Comprehensive Theory of Voter Turnout. New York:Greenwood Press.

Ball, Howard, Dale Krane and Thomas Lauth. 1982. Compromised Compliance:

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

Implementation of the 1965 Voting Rights Act. New York:Greenwood Press.

Banfield, Edward and James Q. Wilson. 1963. City Politics. Cambridge, Mass.:Harvard University Press.

Bass, Herbert J. 1961. "The Politics of Ballot Reform in New York State, 1888-1890." New York History, 42, 3 (July).

Barber, Steve, Jim Halpert, Mimi Wright, and Frank Litwin. 1988. "The Purges of Empowerment: Voter Purge Laws and the Voting Rights Act", in the Harvard Civil Rights-Civil Liberties Law Review, Vol 23.

Benjamin, Gerald. 1995. "Reforming New York's Constitutional System of Election Administration," in Effective Government Now for the New Century: The Final Report of the Temporary New York State Commission on Constitutional Revision. Nelson Rockefeller Institute of Government, SUNY, New Paltz.

Berelson, Bernard R., Paul F. Lazarsfeld, and William N. McPhee. 1954. Voting: A Study of Opinion Formation in a Presidential Campaign. Chicago: University of Chicago Press.

Blank, Blanche Davis and Norman M. Adler. 1975. Political Clubs in New York. New York: Praeger.

Brecher, Charles, and Raymond D. Horton, with Robert A. Cropf and Dean Michael Mead. 1993. Power Failure:New York City Politics and Policy since 1960. New York: Oxford University Press.

Brody, Richard A. 1978. "The Puzzle of Political Participation in America." In The New American Political System, ed. Anthony King. Washington, D.C.: American Enterprise Institute.

Bryce James. 1921. Modern Democracies. New York:Macmillan Co.
-------- 1924. The American Commonweal. New York:Macmillan Co.

Burnham, Walter Dean. 1965. "The Changing Shape of the American Political Universe". American Political Science Review 65, I (March).
-------- 1970. Critical Elections and the Mainsprings of American Politics. New York:W.W. Norton.
-------- 1974a. "Theory and Voting Research: Some Comments On Converse' `Change in the American Electorate.'" American Political Science Review 68, 3 (September).
-------- 1974b. "Rejoinder to Comments by Philip Converse and Jerold Rusk." American Political Science Review 68, 3 (September).
-------- 1982. The Current Crisis in American Politics. New York:Oxford University Press.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

Calvert, Jerry W. and Jack Gilchrist. 1993. "Do the Rules Count? Election Law Reform and Voter Turnout in the 1988 Election." Paper delivered at the 1993 Annual Meeting of the American Political Science Association, Washington, D.C.
------ 1993 "Suppose They Held an Election and Almost Everybody Came!" PS. December.

Campbell, Angus, Philip E. Converse, Warren Miller, and Donald Stokes. 1960. The American Voter. New York:John Wiley.
------- 1965. Elections and the Political Order. New York: John Wiley.

Carlson, Richard J. Ed. 1974. Issues of Electoral Reform, New York: National Municipal League.
------- 1976. The Effect of Voter Registration Systems on Presidential Election Turnout in Non-Southern States: 1912-1924. Ann Arbor, Mich,: University Microfilms International.

Cerillo, Augustus Jr. 1973. "The Reform of Municipal Government in New York City". The New York Historical Society Quarterly, vol. 57, # 1 (Jan).

Clubb, Jerome M., William H. Flannigan, and Nancy H. Zingale. 1980. Partisan Realignment: Voters, Parties and Government in American History. Beverly Hills, Calif.:Sage Publications.

Colby, Peter W. and John Kenneth White. 1994. "Introduction: Public Policy in New York State Today," in Governing New York State, eds. Jeffrey Stonecash, John Kenneth White and Peter Colby. 1994. Third Edition. New York: State University of New York Press.

Converse, Philip E. 1972. "Change in the American Electorate." In Angus Campbell and Philip Converse, eds., The Human Meaning of Social Change. New York:Russell Sage Foundation.
------- 1974. "Comment on Burnham's `Theory and Voting Research'" American Political Science Review 68, 3 (September).

Conason, Joe. 1995. "Guiliani Does New York: Police Mayor in FIRE City." The Nation. December 18, 1995.

Cox, Gary W., and J. Morgan Kousser 1981. "Turnout and Rural Corruption: New York as a Test Case", American Journal of Political Science, Vol. 25, No. 4, November 1981.

Crocker, Royce. 1992. "Voter Registration and Turnout: 1948-1990." Congressional Research Service.

Crotty, William J. ed. 1980. Paths to Political Reform. Lexington, Mass.:Lexington Books.
-------- 1991. Crotty, William, ed. Political Participation and American Democracy. New York: Greenwood Press.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

-------- 1993. "Political Parties in a Changing Age: Introduction," in The American Review of Politics, William Crotty, ed. Vol. 14. Winter.

Dahl, Robert. 1961. Who Governs? New Haven:Yale University Press.

Denardo, James. 1980. "Turnout and the Vote: The Joke's on the Democrats." American Political Science Review 74: 406-420.

DiGaetano, Alan. 1985. "Urban Political Machines: A Structural Approach." Doctoral dissertation, Boston University.
-------- 1985. With Harvey Boulay, "Why did Political Machines Disappear?" in Journal of Urban History, Vol. 12, 1, (November).
-------- 1988. "The Rise and Development of Urban Political Machines". Urban Affairs Quarterly, Vol 24, 2 (December).

Dorsett, Lyle W. 1972. "The City Boss and the Reformer: A Reappraisal." Pacific Northwest Quarterly, 63, 4 (October).

Donsanto, Craig. 1988. Federal Prosecution of Election Offenses, U.S. Department of Justice, Criminal Division, Public Integrity Section. Fifth edition, Washington D.C.

Downs, Anthony. 1957. An Economic Theory of Democracy. New York: Harper and Row.

Dugger, Ronnie. 1988. "Counting Votes", in New Yorker Magazine, Vol. 64. November 7, 1988.

Eisenstadt, S. N. and Luis Roniger. 1981. "The Study of Patron-Client Relations and Recent Developments in Sociological Theory," in Political Clientelism, Patronage and Development. Beverly Hills:Sage Publications.

Erie, Steven P. 1988. Rainbow's End: Irish Americans and the Dilemmas of Urban Machine Politics, 1840-1985. Berkeley, University of California Press.

Evans, Eldon Cobb. 1917. A History of the Australian Ballot System in the U.S. New York: Columbia University.

Felt, Jeremy P. 1973. "Vice Reform as a Political Technique: The Committee of Fifteen in New York, 1900-1901." New York History, 54, 1 (January).

Fink, Leon. 1983 Workingmen's Democracy: The Knights of Labor and American Politics Urbana, Ill. Griffen and Griffen.

Fitch, Robert. 1993. The Assassination of New York. New York:Verso.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

-------- 1995. "'Spread the Pain'? Tax the Gain!" The Nation. May 8, 1995.

Flanigan, William H. and Nancy H. Zingale. 1979. Political Behavior of the American Electorate. Boston:Allyn & Bacon.

Flick, Alexander C. ed. 1935. History of the State of New York. 10 vols. New York:Columbia University Press.

Frendreis, John P. and Alan R. Gitelson. 1993. "Local Parties and Political Mobilization," in The American Review of Politics, Vol. 14. (Winter)

Fuchs, Esther R. and J. Phillip Thompson. 1994. "Racial Politics in New York State," in Governing New York State, ed. Jeffrey Stonecash, et. als. New York: State University of New York Press.

Gans, Herbert 1988. Committee for the Study of the American Electorate: A Report. Washington, D.C.
------- 1990. "Rejoinder to Piven and Cloward." PS, June.

Gerson, Jeffrey. Building the Brooklyn Machine: Jewish and Black Succession in the Brooklyn Democratic Party Organization, 1919-1964. Ph.D Dissertation, Political Science Program, CUNY Graduate Center.

Gienapp, William E. 1982. "'Politics Seem to Enter into Everything':Political Culture in the North, 1840-1860", in Essays on American Antebellum Politics, 1840-1860, ed. by Stephen E. Maizlesh. Texas:Texas A&M University Press.

Ginsberg, Benjamin. 1982. The Consequences of Consent: Elections, Citizen Control and Popular Acquiescence. Reading, Mass. Addison-Wesley Publishing Company.
-------- 1985. "Critical Realignment? The New Politics, the Reconstituted Right, and the 1984 Election." In Michael Nelson, ed., The Elections of 1984. Washington, D.C.: Congressional Quarterly Press.
-------- 1986. and Alan Stone, eds. Do Elections Matter? Armonk, N.Y., M.E. Sharpe, Inc.

Glass, David, Peverill Squire, and Raymond Wolfinger. 1984. "Voter Turnout: An International Comparison." Public Opinion 6: 49-55.

Goldberg, Robert. 1987. "Election Fraud: An American Vice", in James A. Reichley, ed., Elections American Style, Washington D.C., The Brookings Institution.

Gosnell, Harold G. 1927. Getting out the Vote. Chicago:University of Chicago Press.
-------- 1937. Machine Politics: Chicago Model. Chicago:University of Chicago Press.
-------- with Richard Smolka. 1973. American Parties and Elections. Chicago: University of

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

Chicago Press.

Gottlieb, Martin and Dean Baquet. 1990. "A Perennial Maze:New York's Election System". New York Times, Oct. 18-21, 1990.

Griffith, Ernest S. 1974. A History of American City Government: The Conspicuous Failure, 1870-1900, New York:Praeger Publishers.

Grob, Gerold N. and George Athan Billias, eds. 1987. Interpretations of American History Vol.2 Since 1877. 5th ed. New York:Free Press.

Guinier, Lani. 1988. NAACP Legal Defense and Educational Fund, Inc. "Testimony" in Committee on Rules and Administration, U.S. Senate, May 12, 1988.

Haber, Samuel 1964. Efficiency and Uplift:Scientific Management in the Progressive Era, 1890-1920. Chicago:University of Chicago Press.

Hadley, Arthur T. 1978. The Empty Polling Booth. Englewood Cliffs, NJ: Prentice-Hall.

Hammack, David C. 1982. Power and Society: Greater New York at the Turn of the Century. New York:Russell Sage Foundation.

Harris, Joseph P. 1927. A Model Registration System. New York, N.Y. The National Municipal League.
-------- 1929. Registration of Voters in the United States. Baltimore, Md., The Lord Baltimore Press.
-------- 1934. Election Administration in the United States. Washington D.C. The Brookings Institution.
-------- 1974. "Election Reform: The Perspective of Forty Years", in Issues of Electoral Reform. New York:National Municipal League.

Hays, Samuel P. 1964. "The Politics of Reform in Municipal Government in the Progressive Era." Pacific Northwest Quarterly 55, 4 (October).
-------- 1980. American Political History as Social Analysis
Knoxville

Heidenheimer, Arnold and Michael Johnston and Victor T. LeVine, eds. 1989. Political Corruption: A Handbook. New Brunswick, N.J., Transaction Publishers.

Hershkowitz, Leo. 1978. Tweed's New York: Another Look. New York: Anchor Books.

Hill, Kim Quaile, and Jan E. Leighley, "The Policy Consequences of Class Bias in State Electorates." American Journal of Political Science, Vol. 36. No. 2, May 1992.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

Holli, Melvin. 1969. Reform in Detroit: Hazen S. Pingree and Urban Politics. New York: Oxford University Press.

Ingram, Helen. 1990. "Implementation: A Review and Suggested Framework," in Public Administration: The State of the Discipline, eds. Naomi B. Lynn and Aaron Wilavsky, Chatham, New Jersey: Chatham House Publishers, Inc.

Ivins, William. 1887. Machine Politics and Money in Elections in New York City, New York:Harper & Brothers.

Jackman, Robert W. 1987. "Political Institutions and Voter Turnout in the Industrial Democracies." American Political Science Review 81 (2): 405-423.

Karnig, Albert K. and B. Oliver Walter. 1989. "Municipal Voter Turnout During the 1980s: The Case of Continued Decline." Paper delivered at the Annual Meeting of Midwest Political Science Association, Chicago.

Kelly, Stanley, Jr., Richard Ayers and William C. Bowen. 1967. "Registration and Voting: Putting First Things First". American Political Science Review, Vol. 61, #2 (June).

Key, V. O. Jr. 1949. Southern Politics. New York:Vintage Books.

Kimberling, William. 1989. "The National Clearinghouse on Election Administration" in the Federal Election Commission Journal of Election Administration. Washington D.C.

King, James D. 1994. "Registration Laws, and Voter Turnout Among the American States." Publius. The Journal of Federalism, 24, (Fall).

Kleppner, Paul. 1982. Who Voted? The Dynamics of Electoral Turnout. New York:Praeger.

-------- 1987. Continuity and Change in Electoral Politics, 1893-1928. Connecticut: Greenwood Press.

-------- and Stephen C. Baker. 1980. "The Impact of Voter Registration Requirements on Electoral Turnout, 1900-1916." Journal of Political and Military Sociology. 8, 2 (Fall).

Knack, Stephen. 1993. "Does `Motor Voter' Work?:An Empirical Analysis of the National Voter Registration Act". The American University.

Kolko, Gabriel. 1977. The Triumph of Conservatism. New York: Free Press.

Kousser, J. Morgan. 1974. The Shaping of Southern Politics: Suffrage Restrictions and the Establishment of the One-Party South. New Haven, Conn.:Yale University Press.

Kraus, Jeffrey. 1988. The New Bosses: Machines and Electoral Systems in Urban America. Ph.D Dissertation, Political Science Program, CUNY Graduate School.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

League of Women Voters Education Fund. 1972. "Administrative Obstacles to Voting". (monograph).

Lewis, John. 1974. "Black Voter Registration in the South." in Issues of Electoral Reform, ed. Richard J. Carlson. New York:National Municipal League.

Charles Z. Lincoln. 1906. The Constitutional History of New York, 5 vols. Rochester.

Lindblom, Charles E. and Edward J. Woodhouse. 1993. The Policy-Making Process. Third Edition. New Jersey: Prentice Hall.

Lowi, Theodore. 1964. At the Pleasure of the Mayor. New York: Free Press.

McCormick, Richard L. 1986. The Party Period and Public Policy: American Politics from the Age of Jackson to the Progressive Era. New York:Oxford University Press.
-------- 1981. From Realignment to Reform: Political Change in New York State, 1893-1910. Ithaca, N.Y.:Cornell University Press.

McCormick, Richard P. 1953. The History of Voting in New Jersey: A Study of the Development of Election Machinery, 1664-1911. New Brunswick, N.J.:Rutgers University Press.

McGerr, Michael E. 1986. The Decline of Popular Politics: The American North, 1868-1928. New York:Oxford University Press.

McNickle, Chris. 1993. To be Mayor of New York:Ethnic Politics in the City. New York: Columbia University Press.

McSeveney, Samuel T. 1972. The Politics of Depression: Political Behavior in the Northeast, 1893-1896. New York:Oxford University Press.

Markovits, Andrei S. and Mark Silverstein eds. 1988. The Politics of Scandal: Power and Process in Liberal Democracies. New York: Holmes and Meier.

Matthews, Donald R. and James Prothro. 1966. Negroes and the New Southern Politics. New York:Harcourt, Brace & World, Inc.

Mayhew, David. 1986. Placing Parties in American Politics. Princeton:Princeton University Press.

Merriam, Charles E. and Harold Gosnell. 1924. Non-Voting: Causes and Methods of Control. Chicago: University of Chicago Press.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

Merton, Robert. 1968. Social Structure and Social Theory. New York: Free Press.

Milbrath, Lester W. 1965. Political Participation. Chicago: Rand McNally and Company.

Mollenkopf, John Hull. 1987. "The Decay of Reform: One-Party Politics New York Style." Dissent. New York.
------- 1989. The Wagner Atlas. New York:Robert F. Wagner, Sr. Institute of Urban Public Policy.
------- 1991. "Political Inequality," in Dual City:Restructuring New York. Edited by John Mollenkopf and Manuel Castells.
------- 1992. A Phoenix in the Ashes: The Rise and Fall of the Koch Coalition in New York City Politics. Princeton:Princeton University Press.
------- 1994. A Phoenix in the Ashes:The Rise and Fall of the Koch Coalition in New York City Politics. Princeton:Princeton University Press. (Paperback printing with afterward.)

Montgomery, David. The Fall of the House of Labor: The Workplace the State, and American Labor Activism, 1865-1925. Cambridge, Mass.: Cambridge University Press.

Montjoy, Robert S. 1993. "Implementation and Impact of Voter Registration Outreach Systems in the United States." Paper presented at the annual meeting of the Southern Political Science Association, Savannah, Georgia.

Muccigrosso, Robert. 1968. "The City Reform Club:A Study in Late Nineteenth Century Reform", The New York Historical Society Quarterly, Vol 7, #3, (July).

Munro, William B. 1928. "Is the Slacker Vote a Menace?" in the National Municipal Review, Vol. 17 (Feb).

Myers, Gustavus. 1917. The History of Tammany Hall. New York: Boni & Liveright, Inc.

National Municipal League. 1972. Issues of Electoral Reform. New York:National Municipal League.

Newfield, Jack and Paul DuBrul. 1977. The Abuse of Power:The Permanent Government and the Fall of New York. New York: The Viking Press.
------- and Wayne Barrett. 1988. City for Sale:Ed Koch and the Betrayal of New York. New York: Harper & Row, Publishers.
Ostrogorski, M. 1964 (1902). Democracy and the Organization of Political Parties. 2 Vols. Garden City, N.Y.:Doubleday/Anchor Books.

New York City Board of Elections. Annual Reports, 1901 to 1995.

New York City Elections Project. Monthly and Periodic Reports, 1986 to 1995.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

New York State Board of Elections. Annual Reports, 1974 to 1995.

New York State Comptroller, H. Carl McCall. 1995. Report on the New York State Board of Elections.

New York State Legislature, Election Law Committees of the Assembly and Senate. Public Hearings and Reports, 1984 to 1995.

Pateman, Carole. 1970. Participation and Democratic Theory. Cambridge: Cambridge University Press.

Peel, Roy. 1935. Political Clubs of New York City. New York: Praeger.

Phillips, Kevin P. and Paul H. Blackman. 1975. Electoral Reform and Voter Participation. Stanford, Ca.:American Enterprise Institute and the Hoover Institution on War, Revolution and Peace.

Piven, Frances Fox, and Richard A. Cloward. 1982. "A Movement Strategy to Transform the Democratic Party." Ideas for Action, #5, New York.
------- 1983. "Toward a Class-Based Realignment of American Politics: A Movement Strategy." Social Policy, Winter.
------- 1985. "Prospects for Voter Registration Reform: A Report on the Experiences of the Human SERVE Campaign." PS, Summer.
------- 1985 "The Registration Strategy" Parts I and II. The Nation, November 2, and 23 respectively.
------- 1988. Why Americans Don't Vote. New York:Pantheon Books.
------- 1989. "Government Statistics and Conflicting Explanations of Nonvoting". PS:Political Science and Politics. Vol. 22, #3. September.
------- 1990. "A Reply to Bennett". PS:Political Science and Politics. Vol. 23, #2. June.

Plunkett, Travis. 1992. "The Case Against the State Board of Elections". Empire State Report. November.

Powell, G. Bingham, Jr. 1982. Contemporary Democracies: Participation, Stability, and Violence. Cambridge, MA: Harvard University Press.
-------- 1986. "American Voter Turnout in Comparative Perspective." American Political Science Review 80 (1): 17-43.

Pressman, Jeffrey, and Aaron Wildavsky. 1973. Implementation. Berkeley: University of California Press.

Quinlivan, Mark Thomas. 1989. "One Person, One Vote Revisited: The Impending Necessity of Judicial Intervention in the Realm of Voter Registration", in the University of Pennsylvania

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

Law Review, Vol. 137.

Ranney, Austin. 1983. "Nonvoting is Not a Social Disease." Public Opinion, 6, 5 (October/November).

Reiter, Howard L. 1979. "Why Is Turnout Down?" Public Opinion Quarterly 43: 297-311.

Richman, Jeanne and Robert R. Outis. 1974. "State Control of Election Administration." in Issues of Electoral Reform, ed. Richard J. Carlson. New York:National Municipal League.

Riis, Jacob. 1890. How the Other Half Lives. New York:Dover Publications, Inc. (1971).

Roe, Charlotte, and Henry Maurer. 1974. "The Youth Vote: Difficulties of Extending the Franchise," in Issues of Electoral Reform, ed. Richard J. Carlson. New York:National Municipal League.

Rosenbaum, Allan. 1973. "Machine Politics, Class Interest and the Urban Poor", paper presented at the Annual Meeting of the American Political Science Association.

Rosenstone, Steven J., and John Mark Hansen. 1993. Mobilization, Participation, and Democracy in America. New York: MacMillan Publishing Company.

Rusk, Jerold G. 1970. "Effect of the Australian Ballot Reform on Split-Ticket Voting, 1896-1908" American Political Science Review 64, 4 (December).
-------- 1974. "Comment" American Political Science Review 68, 3 (September).

Sabatier, Paul A. and Daniel A. Mazmanian. 1983. "Policy Implementation," in Encyclopedia of Policy Studies, edited by Stuart S. Nagel. New York:Marcel Dekker.

Sabato, Larry J. and Glenn R. Simpson. 1996. Dirty Little Secrets: The Persistence of Corruption in American Politics. New York: Times Books.
-------- 1996. "Dirty Tricksters Never Die," The Washington Post, March 31, 1996.

Sauerzopf, Richard and Todd Swanstrom. 1993. "The Urban Electorate in Presidential Elections, 1920-1992: Challenging the Conventional Wisdom." Paper delivered at the Urban Affairs Association Annual Convention, Indianapolis, Indiana. April.

Sayre, Wallace, and Herbert Kaufman. 1965. Governing New York City. New York:W.W. Norton.

Scarrow, Howard A. 1983. Parties, Elections,& Representation in the State of New York. New York:New York University Press.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

Schiesl, Martin. 1977. The Politics of Efficiency:Municipal Administration and Reform in America, 1800-1920. Berkeley:University of California Press.

Scott, James C. 1969. "Corruption, Machine Politics and Political Change." American Political Science Review. 63 (December).

Schattschneider, E. E. 1960. The Semisovereign People. New York:Holt, Rinhart &Winston.

Schumpeter, Joseph A. 1942. Capitalism, Socialism and Democracy. New York: Harper & Row.

Shaffer, Stephen D. 1981. "A Multivariate Explanation of Decreasing Turnout in Presidential Elections, 1960-1976." American Journal of Political Science 25: 68-95.

Shefter, Martin. 1978. "The Electoral Foundations of the Political Machine:New York City, 1884-1897", in The History of American Electoral Behavior, ed. by Joel Slbey et. als. Princeton:Princeton University Press.
------ 1984. "Political Parties, Political Mobilization, and Political Demobilization". In Thomas Ferguson and Joel Rogers, eds., The Political Economy. Armonk, N.Y.:M.E. Sharpe.
------ 1985. Political Crisis/Fiscal Crisis:The Collapse and Revival of New York City. New York:Basic Books, Inc.
------ 1994. Political Parties and the State: The American Historical Experience. Princeton: Princeton University Press.

Silbey, Joel and Samuel T. McSeveney eds. 1972. Voters, Parties and Elections: Quantitative Essays in the History of American Popular Voting Behavior. Lexington, Mass. Xerox College Publishing.

Smith, Ray B., ed. 1922. History of the State of New York: Political and Governmental, Vol 3. New York:The Syracuse Press, Inc.

Smolka, Richard. 1973. The Costs of Administering Elections, New York:National Municipal League.
------- 1974. "Need for Performance Standards in Election Administration," Issues of Electoral Reform. New York: National Municipal League.
------- Election Administration Reports.

Stave, Bruce M. and Sondra A. Stave eds. 1984. Urban Bosses, Machines, and Progressive Reformers. Florida:Robert E. Krieger Publishing Company, Inc.

Steffens, Lincoln. 1931. The Autobiography of Lincoln Steffens. New York: Harcourt, Brace and World, Inc.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

Stonecash, Jeffrey, M. 1994. "Introduction: Political Conflicts and Their Representation," and "Political Parties and Partisan Conflict," in Governing New York State, eds. Jeffrey Stonecash, John Kenneth White and Peter Colby. 1994. Third Edition. New York: State University of New York Press.

Teixeira, Ruy A. 1987. Why Americans Don't Vote: Turnout Decline in the United States, 1960-1984. Westport, CT: Greenwood Press.
------- 1992. The Disappearing American Voter. Washington, D.C.:The Brookings Institution.

Thompson, J. Phillip. 1990. The Impact of the Jackson Campaigns on Black Politics in New York, Atlanta and Oakland, Ph.D Dissertation, Political Science Program, CUNY Graduate Center.

Tilden, Samuel J. 1873. The New York City Ring, Its Origin, Maturity and Fall. New York:T. Polhemus.

Tolman, William. 1895. Municipal Reform Movements. New York.

Verba, Sidney, and Norman H. Nie. 1972. Participation in America: Political Democracy and Social Equality. Chicago: University of Chicago Press.

Verba, Sidney, Norman H. Nie, and John R. Petrocik. 1979. The Changing American Voter. Cambridge, MA: Harvard University Press.

Voter Assistance Commission. 1993. Annual Report.
-------- 1994. Annual Report.

Wade, Richard. 1994. "End the Party at the Board of Elections." Daily News. February 20.

Ware, Alan. 1985. The Breakdown of Democratic Party Organization, 1940-1980. New York:Oxford University Press.

Wattenberg, Martin P. 1990. The Decline of American Political Parties: 1952-1988. Cambridge, MA: Harvard University Press.

Weinstein, James. 1968. The Corporate Ideal in the Liberal State: 1900-1918. Boston:Becon Press.

Welch, Susan and Timothy Bledsoe. 1988. Urban Reform and its Consequences: A Study in Representation. Chicago, Ill.: University of Chicago Press.

Werner, M. R. 1928. Tammany Hall, Garden City, New York: Doubleday, Doran, and Company, Inc.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

White, John K. 1994. "Political Conflict in New York State," in Governing New York State, ed. Jeffrey Stonecash, et. als. New York: State University of New York Press.

Wildavsky, Aaron and Jeffrey L. Pressman. 1973. Implementation. Berkeley:University of California Press.

Will, George. 1983. "In Defense of Nonvoting." Newsweek, October 10, 1983. P. 96.

Winger, Richard. "Ballot Access News" (newsletter).

Wolfinger, Raymond. 1972. "Why Political Machines Have Not Withered Away and Other Revisionist Thoughts", The Journal of Politics, Vol. 34.
------ and Steven Rosenstone. 1980. Who Votes? New Haven, Conn.: Yale University Press.

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