

Voting: A Solemn Trust

In the United States, voting is one of our most fundamental rights. The founders of our nation regarded voting as “one of the most solemn trusts in human society”¹ and a “rational and peaceable instrument of reform.”² In the centuries since our founding, women, people of color, Native Americans and the poor have fought to participate in the electoral franchise; today, political developments around the country and the continued significance of the Voting Rights Act remind us that the right to vote is not one that can be taken for granted. Nonetheless, national voter participation rates typically hover between 40% and 60% of the eligible population, and voter turnout in New York State is consistently ranked among the lowest in the country.

When I became president of the State Bar in June 2012, I designated voter participation as a top priority during my term and named a Special Committee on Voter Participation. The committee was charged with examining the barriers to voting in New York State and recommending legal reforms that could make it easier and more convenient for New Yorkers to register and vote. Aably chaired by former Assistant U.S. Attorney General and New York State Senator John R. Dunne of Albany (Whiteman Osterman &

Hanna) and Daniel F. Kolb of New York City (Davis Polk & Wardwell), the Special Committee has completed its work and recently submitted its report for consideration by the Association’s House of Delegates.

The Special Committee was constituted with an eye toward diversity in terms of politics, geography, practice setting, gender and ethnicity, and its membership is split evenly between Democrats and Republicans with one Independent member. The committee invited hundreds of relevant organizations around the state to contribute comments to inform its work, and committee members met personally with representatives of interested groups on five different dates. The committee’s final report includes several recommended reforms, including modernizing the registration process, pre-registering 16- and 17-year-olds, allowing Election Day and same-day registration, improving voting practices, and combating deceptive election practices.

The Special Committee concluded that modernizing the registration process could go a long way toward increasing voter participation, improving efficiency and accuracy in the voter rolls, and reducing costs. Its report recommends allowing online voter registration and affirmatively present-



ing citizens with an opportunity to register electronically any time they interact with a state or federal agency, making registration a seamless part of that agency’s process. In order to verify their identity pursuant to the federal Help America Vote Act, voters who register online would be required to present identification before they are allowed to vote. Similarly, the pre-registration of 16- and 17-year-olds is thought to be an effective way to increase voter participation among younger citizens. Reforms that would permit Election Day registration pose the greatest logistical challenges, because their enactment would require a state constitutional amendment. The Special Committee on Voter Participation is confident that this change would increase registration and participation and help to reduce frustration for citizens who have moved within New York, but who have not yet registered in their new districts. Until such a change is possible, the Special Committee recommended that the current law be changed to allow for registration up to 10 days before an election – the constitutional minimum – rather than the current 25-day cut-off.

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PRESIDENT'S MESSAGE

In addition to reforming the registration process, the Special Committee recommended several changes to voting practices in order to encourage participation. Early in-person voting would allow people the option of voting in person at a designated location before Election Day. This would make it possible for people to vote on a non-work day and thus reduce lines and waiting times at polling sites. The Special Committee also urged the

continuation of efforts to improve ballot design to make them clearer and more user-friendly, improvements to the recruitment and training of poll workers to enhance professionalism and thus make voting quicker and more convenient, and reforms that would combat deceptive election practices such as increasing penalties for conduct that suppresses votes.

We are pleased that the report has been adopted by our House of Del-

egates and is now the official position of the New York State Bar Association. I look forward to working with the Special Committee to advocate for the implementation of these important reforms in the coming months. ■

1. Samuel Adams, *The Boston Gazette* (April 2, 1781) (reprinted in *The Writings of Samuel Adams: 1778-1802* [1908]).
2. Thomas Jefferson, letter to Spencer Roane (September 6, 1819), available at <http://www.loc.gov/exhibits/jefferson/137.html>.



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