

## Voter Registration: A Very Short History

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Voter registration laws initially appeared in a handful of states (mostly in the Northeast) during the first half of the nineteenth century, and they became widespread nationally between the 1870s and World War I.<sup>1</sup> The stated rationale for these laws was administrative: requiring voters to register in advance of election day permitted public officials to maintain accurate lists of eligible voters (thereby preventing fraud) and to avoid delays, confusion, and conflict on election days. Prior to the adoption of advance registration laws, voters simply showed up at the polls with whatever documents (or witnesses) that they might need to establish their eligibility. Eligibility requirements, which varied by state and over time, could be complex and could include taxpaying and durational residency requirements as well as proof of age, citizenship, physical address, and literacy. Unsurprisingly, advance registration procedures were first implemented in cities: population growth in urban locales meant that election officials could no longer be expected to be personally acquainted with everyone who showed up at the polls or to know whether they met the eligibility requirements to vote. To meet that challenge, voters themselves were obliged to take the active step of registering before election day.

Benign as the administrative rationale for such laws may have been, they also had another thrust: to make it more difficult for poor, less educated, and immigrant citizens to cast their ballots. (It was not a coincidence that registration laws tended to appear only after property requirements were dropped in most states between 1820 and 1850.) New York's first registration law (1840), which applied only to New York City, was widely regarded as a partisan effort by the Whig Party to limit the political participation of Irish immigrants many of whom lacked the time, resources, and education to comply with the registration process. Under pressure from Democrats, the law was repealed two years later. (65-6) In numerous states during the antebellum period, controversial proposals for registration laws were denounced as attempts to hurt the Democratic Party while infringing upon the rights of immigrants and the less well-off.

Despite the controversies, most states adopted registration laws, often applicable only to cities, between the 1870s and 1920. This was a period of rapid social and political change - thanks to immigration and urbanization in the North and the enfranchisement (for a time) of African-Americans in the South - and concerns about electoral fraud mounted among traditional elites who feared losing political power and suspected that immigrants (or blacks in the South) were being mobilized to vote illegally. Strong registration laws, they argued, would help to "preserve the purity of the ballot box": advance registration requirements would give election officials the time needed to verify the eligibility of all prospective voters while placing on potential voters the burden of establishing their eligibility before the election.

Almost invariably these laws were embedded in partisan politics and imposed significant burdens on lower income and - in the North - immigrant voters. In New Jersey, for example, an 1866 law promulgated by Republicans required all voters to register on the Thursday before each election day. (Needless to say, most workers could not take time off on Thursdays.) That law did not last long, but it kicked off forty years of see-sawing conflict that culminated in laws that required in-person registration (in cities) on one of only four days; a potential registrant was obliged to provide the names of his employer and landlord, as well as a description of his dwelling place; registrations had to be renewed whenever a voter moved or failed to vote in an election. In Chicago, beginning in the 1880s, potential voters had to appear before an election judge in their precincts on one of two Tuesdays to file affidavits of eligibility that were then investigated by clerks and the police. If a voter moved to a different precinct (which was common because the precincts were tiny), they had to go through the process again. In California, a prospective voter had to appear in person before a county clerk, at least three months before an election, and establish his eligibility (and citizenship) through documentary evidence or the testimony of two legal voters. In San Francisco, beginning in 1878, voters had to register in person, in their precinct, before every general election. New York City's 1908 law mandated registration on Saturdays (the Jewish sabbath) or on the high holy day of Yom Kippur. (152-7)

To no one's surprise, these registration laws contributed to the remarkable decline in electoral turnout that occurred during this period; scholars have estimated that at least one third of that decline

can be attributed to registration requirements. Registration requirements effectively turned voting into a two-step process, obliging voters to carry out the first step weeks or even months before election day. To be sure, the impact of these laws varied from place to place (and over time), but in some places it was immediate and sharp. New Jersey's early twentieth century laws were believed to have disenfranchised thousands of eligible voters. An almost simultaneous Pennsylvania law, applicable only to Pittsburgh, cut the voter rolls in half. (158) In the South, complex registration procedures, coupled with numerous other restrictive measures, prevented most African Americans from voting for more than a half century.

The history of registration laws, in sum, is not simply - or even primarily - a chronicle of administrative practices necessitated by population growth, urbanization, and the geographic mobility of an industrial society. Adopting advance registration interposed a new set of barriers between the voter and the polls, and those barriers were all too commonly designed to hinder the participation of certain groups of citizens - often identifiable by their ethnicity, race, class, literacy, and partisan preferences.

Although registration processes have changed considerably in the course of the twentieth century (and are less overtly discriminatory), they continue to serve as obstacles to the participation of many citizens. Carrying forward practices from the nineteenth century, most states leave the responsibility of getting registered entirely in the hands of prospective voters.

Recently, however, some states have taken steps to minimize the negative effects of advance registration laws by making the process truly automatic – a feasible goal given modern technologies and information sharing. In Colorado and Oregon, for example, if documentary evidence provided during a DMV transaction indicates that an individual satisfies the requirements for voting, that individual will simply be added to the list of eligible voters, with no need for him/her to take further action. (see Colo. Rev. Stat. § 1-2-213.3; Or. Rev. Stat. § 247.017) Breaking the template of the original registration laws, these states shift the responsibility of registration from the individual to the state – making the process seamless for voters while maintaining reliable lists of eligible voters. For the large numbers of people who interact with these state agencies, the process of voter registration will cease to be an obstacle to participating in elections.

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<sup>i</sup> Except as otherwise noted, this account is drawn entirely from my book, *The Right to Vote: the Contested History of Democracy in the United States* (New York, 2000); see especially pp. 65-67, 107-111, 115, 151-162