Elite Statecraft and Election Administration:

Bending the Rules of the Game

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Palgrave Macmillan

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<th>Full Form</th>
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<tr>
<td>DOJ</td>
<td>U.S. Department of Justice</td>
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<td>EC</td>
<td>Electoral Commission</td>
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<td>EONI</td>
<td>Electoral Officer for Northern Ireland</td>
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<tr>
<td>EPLE</td>
<td>European Parliamentary and Local Elections (Pilots) Act</td>
</tr>
<tr>
<td>FPTP</td>
<td>First-Past-The-Post</td>
</tr>
<tr>
<td>HAVA</td>
<td>Help America Vote Act 2000</td>
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<td>HI</td>
<td>Historical Institutionalism</td>
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<td>NI</td>
<td>New Institutionalism</td>
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<td>NIR</td>
<td>Northern Ireland</td>
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<tr>
<td>NRG</td>
<td>Natural Rate of Governability</td>
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<td>NVRA</td>
<td>National Voter Registration Act 1993</td>
</tr>
<tr>
<td>OPCS</td>
<td>Office of Population Census Surveys</td>
</tr>
<tr>
<td>OLS</td>
<td>Ordinary Least Squares</td>
</tr>
<tr>
<td>ROPANI</td>
<td>Representation of the People Act (Northern Ireland)</td>
</tr>
<tr>
<td>RPA2000</td>
<td>Representation of the People Act 2000</td>
</tr>
<tr>
<td>PPS</td>
<td>Personal Public Service Number</td>
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Chapter One

Election Administration and Electoral Studies: Theories, Frameworks and Anomalies

‘It’s not the voting that’s democracy, it’s the counting’
Tom Stoppard, Jumpers (1972) act 1

Introduction
The 26th of February 2007 was a historic day for the ancient institution of democracy. At 9am that day, voting began in the parliamentary elections in the small East European state of Estonia. These elections were unique. It was the first time that binding parliamentary elections had ever been held through the internet. Six days before the polls opened as normal, citizens were able to cast their vote from the comfort of their own home using their PC, an electronic smart card reader, their national identity card and a password which had been sent to them. Over 30,275 people did so – about one in 30 registered voters. Internet voting had been tested before in Estonian local elections in October 2005 and other countries had held pilots, but this time the e-votes cast would determine the composition of the national parliament, and the balance of power within Estonia. The public reaction to this historic day appeared positive. A 24-year old IT
worker described the process as being ‘pleasant and simple’. Speaking to a TV news network he said that: ‘I moved quite recently so I am still registered in my old home town. This means that to have voted, I would have had to returned home’ (sic) (Cowan, 2007). Tarvi Martens from the National Electoral Committee which organised the election was the Project Manager of i-voting. According to him: ‘internet voting is [here] to stay… there is no way back’ (Martens, 2007). Academic observers suggested that the scheme did appear to work well, but this was due to the small size of the state, the high degree of centralization and the less partisan nature of elections (Alverez, Hall, & Trechsel, 2009).\(^1\) A citizen casting a ballot paper, in person, at a polling station has been an emblematic image for democracy. The innovations in Estonia suggested that this image was under threat.

Estonia at the turn of the twenty-first century represents a case of rapid reform. Estonia is not alone, however. Around the world the way in which elections are run is being changed, or subjected to a new critical review. Radical reforms or experiments have been introduced replacing procedures which have often been in place since the 19\(^{\text{th}}\) century. Brazil and India have introduced electronic voting terminals. Other electronic pilots have taken place in France, the Netherlands and Switzerland. Reforms do not always involve new technology. The U.K. intends to introduce individual rather than household registration by 2014. In the U.S. voter identification laws have proliferated since 2000. Patterns of change, however, have been uneven and not uniform. Some countries have been sluggish to introduce reform and keen to maintain procedures for much the twentieth century. So why does reform occur? What explains the choice of election administration?

Electoral laws and institutions are not neutral. They advantage some individuals, groups or interests and disadvantage others (Grofman & Lijphart, 2003; Rae, 1967). If elites are proactive in picking and choosing the rules which govern elections for partisan

\(^1\)There was a later backlash against e-voting in Estonia. See: (Rikken, 2011).
gain, then it follows that there are consequences for the legitimacy of democracies. How and why electoral laws change is, therefore, central to who has power in the state and Dahl’s (1961) question of ‘Who Governs?’. There have been some popular and academic claims that politicians have sought to bring about or prevent changes to election administration. Whether political elites strategically manipulate election administration for partisan interest has not been explored in a comparative context, however. Some have accepted the rhetorical claims from politicians’ claims that reforms have been introduced to ‘save’ democracy’, ‘modernise elections’ or ‘reduce fraud’.

The book seeks to address this gap. It seeks to establish how, when and why the reform of election administration has been led by partisan political interests. The book advances a theoretical model for understanding change in electoral institutions by re-developing the statecraft approach, originally outlined by Jim Bulpitt (1986). This is argued to be a useful organising perspective for understanding change which may offer insights into the reform of other political institutions. This introductory chapter explains what election administration is, why it is important and identifies a number of schools of thought which have sought to explain why it has been reformed.

The understudied domain of election administration

Clearly, before we can begin we require a lucid definition of election administration.\(^2\) This research area has been the subject of limited academic attention until recently and consequently an operational definition is needed to identify the domain of enquiry for this book. Election administration is the administrative procedure used for casting votes and compiling the electoral register. This includes the times available to vote; whether postal, in-person or electronic ballots are used; whether citizens can register online and whether they require photographic identification to do so. As Louis Massicotte et al. note, there

\(^2\) ‘Election administration’ is the term used in the U.S. This is often known as ‘electoral administration’ in many other English speaking countries such as the U.K. The U.S. term is used for the remainder of this book.
is ‘no unique way to conduct free and fair elections’ (Massicotte, Blais, & Yoshinaka, 2004: 158). While some countries require citizens to provide photographic identification to vote, others do not. While some countries allow electors to post their vote, others make them visit a polling station in person. While some countries update their electoral register\(^3\) on a continuous basis, some only update them every electoral cycle.

Election administration is therefore a discreet area of electoral institutions. As table 1.1 suggests, it can be distinguished from a range of other categories of electoral laws/regulations such as those covering: electoral systems, suffrage legislation, electoral boundaries, party finance, ballot initiatives and electoral governance.

<table>
<thead>
<tr>
<th>Category</th>
<th>Broad Scope</th>
<th>Example Key Works</th>
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<tbody>
<tr>
<td>Suffrage legislation</td>
<td>The criteria for who is legally enfranchised to vote.</td>
<td>Uggen and Manza (2002)</td>
</tr>
<tr>
<td>Electoral boundaries</td>
<td>The number, shape and size of electoral constituencies.</td>
<td>Handley and Grofman (2008)</td>
</tr>
<tr>
<td>Electoral finance</td>
<td>The rules for how political parties are funded in elections.</td>
<td>van Biezen (2004)</td>
</tr>
<tr>
<td>Electoral systems</td>
<td>The formulae for rules how votes are converted into seats.</td>
<td>Rae (Rae, 1967), Farrell(2011), Renwick (2010)</td>
</tr>
<tr>
<td>Ballot initiatives</td>
<td>The circumstances under which referenda can take place on a policy issue and/or citizens can remove an elected representative from office.</td>
<td>Parkinson (2001), Qvortrup (2005), Schlozman and Yohai (2008).</td>
</tr>
<tr>
<td>Electoral governance</td>
<td>The institutional legal-political regulation of electoral institutions. For example, does an independent electoral commission exist? Does it run or just regulate elections? Or does no such body exist?</td>
<td>Mozaffer and Schedler (2002), Hartlyn et al. (2008) Lopez-Pinter (2000)</td>
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*Table 1.1: Aspects of electoral institutions*

\(^3\) Often referred to as the ‘register of electors’ in some countries.
The importance of election administration

Election administration may seem like a parochial and unimportant topic for both political science and contemporary politics. When researchers have sought to understand why electoral institutions change they have focused on electoral systems, because these are seen as ‘meta-constitutional’ aspects of the constitution (Flinders, 2009: 19). As a result it has seen less academic attention than the other aspects of electoral rules in Table 1.1. Why is election administration so important?

Firstly, as problems in a number of high profile elections testify, administrative errors in election administration can compromise faith and trust in democratic institutions. Most famously, in the 2000 U.S. Presidential election, problems with the design of the ballot in one area of Florida caused voters to inadvertently cast their ballot for the wrong candidate. Elsewhere in the state, huge numbers of ballots were rejected because administrators were not able to agree whether the punch card machine had adequately marked their ballot. Later American elections, such as the Presidential election in Ohio, revealed other controversies (Fitrakis, Rosenfeld, & Wasserman, 2006). Bruce E. Cain et al. recently cited a 2006 survey in the U.S. which revealed the levels of distrust in elections. Some 32 percent of unregistered voters had little or no confidence that their vote would be accurately cast if they were to have voted in the November election of that year. Nor should we think this to be a purely American problem.

Secondly, some procedures systematically make fraud more likely. For example, in the U.K., some have claimed that household registration has made fraud more likely (see Chapter 4). Electronic voting systems have been criticised for being ‘unsafe’ or prone to hacking. If this is the case then such election administration could compromise the integrity of the election and eventually the legitimacy of the democratic system.

Thirdly, election administration can affect levels of political participation. There have been many changes in patterns of political participation in established democracies over
recent decades. In particular, there has been an overall downturn in voting turnouts at elections across Western Europe and North America. Such has been the downturn in participation that some theorists have questioned whether we are witnessing a ‘crisis of democracy’ or asked whether states are plagued by ‘democratic deficits’ (Hay & Stoker, 2009; Norris, 2011; Putnam, 2000). Chapter 2 shows election administration can raise or lower electoral turnout. It is not the only determinant of voting since trends in political participation result from a range of complex political and social processes. In many states electoral participation changed dramatically during the twentieth century but election administration remained constant. We therefore should not expect election administration to single-handedly reverse any democratic malaise. However, it is an important area of study for scholars interested in democracy and democratic institutions.4

Fourthly, under some circumstances, election administration can affect electoral outcomes. This happens when procedures are implemented unevenly and unfairly. Most famously, election administration determined the result of the 2000 U.S. Presidential election (Mebrane, 2004). There is good evidence that election administration can affect electoral outcomes by increasing turnout. This higher turnout may affect the relative share of the vote gaining by particular parties or candidates. More research is needed here as well, but it seems that the chances of election administration affecting an election are much higher in plurality voting systems, where there are few parties and where the electoral contests are close. Additionally, higher turnout may also affect policy outcomes or the political agenda. Higher turnout, for example, has been correlated with higher spending on social welfare.

A fifth point follows on from this. In representative democracies elections are the main mechanism through which citizens can hold the government to account to ensure that it

4 There is a rich literature on the determinants of whether an individual might cast their vote. It is not, by any means, suggested here that election administration is the only determinant. For an overview of the literature, see Geys (2006).
acts in their interests, rather than its own. If a government has the ability to manipulate and change these voting procedures then the democratic legitimacy of the state is undermined. By making it easier or harder to vote, a government can influence turnout and therefore the result by enfranchising particular elements of the electorate. Election administration can thus be seen as a policy instrument through which elites can manipulate the political system to maintain power and ensure elite renewal. Election administration is therefore an important area for study since it is a key site of struggle between elites and citizens for power.

**Existing approaches to election administration**

How has election administration been studied so far and what does this book add to the subject? By and large, election administration has been overlooked. In most countries, outside of the U.S., the area is given very little attention with most texts on elections entirely ignoring the topic. There is also a lack of comparative analysis. This chapter now outlines some of the existing approaches that have been taken to election administration, before outlining some of the weaknesses of the existing literature. The existing work can, broadly speaking, be categorised into scholarship from the perspective of ‘old’ institutionalism; behaviouralism; technological determinism; cultural anthropology; the ‘radical’ theorists; and the rational choice approach. Combining aspects of some of these approaches, this book later makes the case for a critical realist approach to understanding change in electoral institutions. Having reviewed the existing approaches, this chapter outlines the book ahead and the research methodology used.

**‘Old’ institutionalism and constitutional contentment**

From the turn of the twentieth century until the 1950s, the study of politics was divided into two core camps: political philosophy and the study of institutions (Leftwich, 1984: 16). Indeed, the empirical tradition was dominated by a study of institutions to such an extent that institutionalism was political science. Political scientists were engaged in a
process of ‘describing constitutions, legal systems and government structures, and their comparison over time and across countries’ (Lowndes, 2002: 90). Key theorists included Walter Bagehot (1967 (1876)) Herman Finer (1932), Woodrow Wilson (1956) and Nevil Johnson (1975). These scholars used an approach that was descriptive-inductive, formal-legal and historical-comparative (Rhodes, 1995: 42-57). The approach, retrospectively titled ‘old institutionalism’, would describe and compare different institutional arrangements around the world and make normative prescriptions about the desirability of one set of institutions over another.

In British political science, certainly most work on election administration has traditionally fitted this description. In the nineteenth century a number of scholars wrote mostly legal works which described the law and practice of elections at the time, occasionally within the context of a historical narrative (Carter, 1890; Clark, 1857; Mattinson & Macaskie, 1883; Warren, 1852). Amongst these was a book from Herbert Asquith (1884), who, as a barrister in 1884, prior to becoming a politician, published a text on the proper conduct of elections. Meanwhile, Gross (1898) documented the historical origins of the secret ballot, arguing it to be more wide spread than originally thought and dating it back to the fourteenth century.

In the twentieth century, Charles Seymour (1915 [1970]) and Cornelius O’Leary (1962) published narratives of the reforms to British electoral practice during the Great Reform Acts which sought to eliminate corrupt practices and extend the franchise. David Butler (1963) and Martin Pugh (1978) provided accounts of later changes from 1906-1948. In 1995, Robert Blackburn noted the paucity of academic interest in electoral law in the U.K. and attempted to provide ‘both a description and an evaluative study of the electoral system’ (1995: xiii). Described by Lord Plant as ‘the best study of the British electoral system’ the book exhaustively details every aspect of the electoral process from the timing of elections, and process of campaigning to arguments about electoral reform. The approach is mostly hyper-descriptive of the electoral process as it was in 1995, but
includes some prescriptive arguments for reform (and continuity) and fragments of historical background on some aspects of electoral practice. More recently, Bob Watt (2006) provided an account of a number of aspects of U.K. law. This is descriptive of current practice, but also provides some historical narrative of the evolution of the law and some recommendations for reform. In all of these accounts the focus is one a range of electoral institutions, not just EA.

In the U.S. too, many historical-legal studies have outlined the procedures and legal framework used for elections at various points in time. A significant number cluster around the turn of the twentieth century. For example, McCrarry (1875) provides mostly a legal work aimed at providing ‘aid [to] the bar and bench in the preparation, trial, and decision of cases of contested elections, but also to diminish the number of such contests by furnishing information both to election officers and to voters, as to their respective powers, right and duties,’ (ibid: p.v). Harris’ (1934) seminal study documents the election administration used at the time, provides a historical context and makes recommendations for reform. McCauley (1916) provided a strong critique of contemporary provisions and the need to tighten up to prevent fraud, warning that: ‘Revelations in Terre Haute, Indianapolis and elsewhere prove conclusively that a great deal of ballot thievery is going on’ (p.4). Bishop (1893) provided an historical account of elections in the American colonies and McKinley (1905) provided an historical account of suffrage.

A great deal of literature charts the developments leading to the adoption of the Australian ballot system. Most of these studies focus solely on the U.S. (Albright, 1942; Evans, 1917; Fredman, 1968), or even states within the U.S. (Dana, 1911), however, in some cases the process of policy transfer from Australia and Britain is charted through a number of cross-national studies (Wigmore, 1889). Saltman (2006) provides a historical

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5 Also see: (Rawlings, 1988)
6 See also: Lewis & Putney (1912) and Lynch (1831) and Ludington (1911)
account of the use of various different forms of technology in election administration in the U.S. However, as in the U.K., most recent reviews note the absence of much contemporary literature on election administration (Hayduk, 2005).

Studies less frequently occur from Ireland, with academic literature on the Irish political system seemingly by-passing election administration until the merits of the registration system began to be discussed relatively recently. Most typical books on individual elections or Irish democracy make no or very little reference to the actual procedures used to vote (Gallagher & Marsh, 1993, 2008; Gallagher, Marsh, & Mitchell, 2003; Marsh & Mitchell, 1999; Sinnott, 2005), although in some cases passing reference is made to this as one, amongst many, factors which might affect electoral turnout (Lyons & Sinnott, 2003). One recent chapter on the rules of the electoral game in Ireland makes no reference to election administration at all (Sinnott, 2005). Instead, more attention is given to the mechanisms through which votes are transferred to candidates in the transferable vote electoral system (Sinnott, 1995: 199-208). Some further literature discusses the merits of this voting system as a whole and the case for reform (Laver, 1998).

**The behavioural revolution and American behavioural political science**
A second broad approach to political science, which has influenced work on election administration is behaviouralism. The origins of behaviouralism as an analytical movement lie before 1945, but it was the post-war era of the 1950s and 1960s when it began to assume an important position in political science. At least in part, it must be understood as a revolt against the approaches to politics that had dominated up until then, and which focussed on either narrow institutional sites, largely using historical description, or the history of ideas, using normative speculation. Its emergence was also in the context of the development of economics and psychology as predictive sciences. Behaviouralism thus set out to develop an inductive science of politics capable of
generating predictive hypotheses on the basis of the quantitative analysis of human behaviour at an aggregate level (Sanders, 2002).

Behaviouralism still dominates political science and electoral studies in particular. As Chapter 2 shows, most studies of the effects of election administration adopt a quantitative-positivist approach. However, there have been relatively few direct attempts to explain election administration change through a behaviouralist lens. One key application of the behaviouralist method to election administration reform is from Fitzgerald (2001). She analyses the statistical relationship between election administration reform at the state level and a range of cultural and demographic factors (population density, population size and population diversity). Each of these, she argues, is positively and significantly related to election administration reform. Some 18 out of the 20 Frontier states have used some form of alternative voting technique, compared to 8 out of the remaining 27. These states, she claims, have a reputation for being “pioneers” in administrative reform. States with lower population density are more than three-times more likely to have alternative voting methods – the logic being that voters have further to travel to polling booths. Population size is also reported to be significant: 70% of the states with the largest population had used alternative methods compared to only 30% of the lowest (Fitzgerald 2001: 80-5).

Fitzgerald also suggests factors such as the previous experience of states are also important. Some citizens in Kansas, for example, were forced to wait 2-3 hours at the polls in the 1992 presidential election. As a result there was a political consensus to force through early voting procedures. At this stage, her analysis appears to move beyond behaviouralism towards a focus on history and ideas. The support of key legislators and administrators is also an important factor, she claims.

One other key work on election administration is that of Louis Massicotte et al. (2001; 2004). They undertook a comprehensive survey of procedures used for 63 established
democracies by reviewing constitutional and legal documents and undertaking interviews with experts in each country under study. This included both franchise rights and election administration. They provided a topographical analysis of the data which reflected the state of procedures in 1999. According to them, some individual procedures correlate with whether or not a state was a British colony and the length of time over which the democracy was established. However, broadly speaking they stress the diversity in the procedures that are used and a lack of obvious patterns. While this is the most comprehensive study of election administration to date, one clear conclusion of their research was the need for future enquiry.

New Institutionalism

New Institutionalism emerged as a reaction to behaviouralism that had came to dominate political science by the 1960s and 1970s. New institutionalist theories were critical of behavioural approaches for seeing institutions as nothing more than ‘aggregated interests’. Institutions are not passive objects or merely a site of conflict, new institutionalists claimed, but have a dynamic and causal role of their own over policy outcomes. They argued that ‘the organisation of political life makes a difference’ (March & Olsen, 1984: 747) and therefore that political analysis should bring the ‘bring the state back in’ (Skocpol, 1985). However, new institutionalism also wrote in reaction to ‘old’ institutionalists who defined institutions narrowly as ‘the rules, procedures and formal organisations government’ (Rhodes, 1997: 68).

One sub-discipline with political science, which the rise of new institutionalism, is associated with is public administration. There are the beginnings of a ‘public administration turn’ in the study of U.S. election administration. Robert S. Montjoy (2008a, 2008b) has suggested that theories from public administration could be used to explain and solve problems with election administration. There are a number of key

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7 For a discussion on some of the problems often identified in new institutionalism see: James (2011c).
examples of this approach. For example, Moynihan (2004) draws from ‘normal accident theory’ to suggest that some high-technology solutions to election administration may be error prone. Alvarez and Hall (2006) suggest that problems with the implementation of election administration can be understood through a principal-agent approach. Alvarez and Hall (2008a) suggest that procedures could be improved by using standard operating procedures. Strict chains of custody for election materials, they argue, could ensure greater transparency and confidence in the process. Hale and Slaton (2008) suggest that exploring the capacity of networks involved in election administration for identifying and solving problems. This approach offers a significant opportunity to advance our understanding of election administration. It also marks a radical departure in how electoral procedures are studied. Yet, there are only a few applications of the approach so far. Moreover, it doesn’t yet directly the question of why procedures are reformed.

**Technological determinism: computer scientists and the e-government agenda**

One further explanation, implicit in some recent scholarship, is that advances in technology have brought about change in election administration. A number of scholars have noted how governments have been using new technology to reform the delivery of public services electronically (Dunleavy & Margetts, 2006; Hudson, 2002). Some scholars have suggested that these same technologies have opened opportunities for new forms of democratic participation (Norris, 2002). Internet voting has become a reality because of an increase in the diffusion of access to the web. International companies, such as Diebold, have therefore used new technologies to produce and market new voting machinery to governments worldwide. As will be noted in Chapter 2, research on the use of technology in election administration has become a rapid growth area with a range of studies and research centres being dedicated to i-voting and e-voting schemes (Alvarez, Hall, & Hyde, 2008a; Hall & Alvarez, 2004).
The purpose of these studies is not to explain change. Artificially implanting a ‘straw-model’ of change within this scholarship would therefore be unfair. There are also scholars who suggest that technology will not inevitably drive change because some technologies are inherently unsuitable for the task of administering elections. These scholars therefore advocate alternative voting systems which have more robust security measures. This is often paper forms of voting (Everett, 2007). We should remember that there are many scholars who warn against attributing a too causal role to technology in social change as the resulting analysis would otherwise be overly deterministic (Bijker, 1995; MacKenzie & Wajcman, 1999; Street, 1992). Technology is culturally, political and economically mediated as a causal force.

Overall, this research provides important insights into election administration since it helps practitioners to develop more robust and advanced equipment to administer elections by pointing out important flaws. But there is often an assumption that technology is paramount in driving change.

Cultural, anthropological and interpretive studies
Theorists as such Sabatier (1998), Hall (1992) and Rhodes and Bevir (2002, 2003; 2003) have recently argued that an understanding of ideational domain politics is essential to explaining policy change. These writers have often stressed the utility of ethnographic methods – by understanding the meaning that agents attach to their actions we can be better positioned to explain change. One application of this broad methodology to election administration is undertaken by Bertrand et al. (2007), who consider how the particular ‘technology’ of the secret ballot emerged and became embedded in democracies. They consider cases as diverse as nineteenth century Britain and America, late-Colonial Tanganyika, Post-Suharto Indonesia, and end of the twentieth century rural Mexican-Indian communities. The juxtaposition of these cases, they claim, enables the decentring of the concept of the secret ballot which is often ‘fetishised’ as the ‘self-
evident tool of representative democracy’. Organisations such as the World Bank and the IMF present the secret ballot as essential to their efforts to spread ‘good governance’. However, the case studies suggest to them that a different set of historical trajectories, ideas and combinations of interests are important to explain why some procedures are valued and others are not. For example, in Britain a debate followed about whether the mechanism would be able to prevent electoral fraud; in the southern states of the USA the secret ballot was a mechanism to effectively disenfranchise large proportions of the lower-class black vote; while in France ‘the emphasis on individual choice and freedom emerged from the mutual interest of state and political entrepreneurs in standardising the ballot, rather than the other way around’ (2007: 2). The secret ballot therefore has a complex genealogy which will vary by case study and can be best understood ethnographically. They introduce the idea of ‘cultures of voting’ ‘to counter the idea that there is such no thing as a universal or a-cultural way of voting realised in the institutions of representative democracy in general and by voting by secret ballot in particular’ (2007, p. 6). Researchers should therefore focus on understanding the meaning that agents involved in reforming institutions attach to these, since they will vary. To understand why election administration changes, we should try to understand the meanings attached to different procedures.

Monnoyer Smith (2006) also uses an anthropological perspective. She considers the cultural construction of voting in France and how the introduction of e-voting interacts with this. Vital to the notion of democracy in France is the voting booth, which is a symbol of political legitimization in the contemporary nation-state. She argues that e-voting, introduced through pilots for the purposes of convenience and efficiency, requires a ‘rethink of the relevance of the symbolism of the pre-existing procedures’. In many cases it will be seen as ‘pure sacrilege’ against the popular conception of democracy. The result is that new procedures are difficult to embed into political culture and will therefore face political resistance from the electorate. Overall, this body of research is useful for reminding us of more positivistic perspectives such that
meaning is important and needs to be understood when we consider institutional change.

**Rational choice theory**
The rational choice (RC) approach has not been applied to election administration reform, as far as the author is aware, but a number of theorists have sought to use a pure RC model to explain electoral system reform. Examples include Bueno de Mesquita’s (2000) study of electoral system reform in Israel and Sakamoto’s (1999) study of reform in Japan. Benoit (2004: 363), meanwhile, uses rational choice theory to construct his own theory of change. According to him:

…Electoral Laws will change when a coalition of parties exists such that each party in the coalition expects to gain more seats under an alternative electoral institution, and that also has sufficient power to effect this alternative through fiat given the rules for changing electoral laws (Benoit, 2004: 363).

The approach however has a number of critics (Andrews & Jackman, 2004; Rahat, 2008). According to Rahat, for example, the approach focuses too narrowly on the role elites play at the expense of other extra-parliamentary forces and oversimplifies the complexities involved such as ‘unstable preferences, non-unitary actors, imperfect and biased information’ (Rahat, 2004: 461-462).

**‘Radical’ work on election administration**
A number of studies which chart the process of the evolution of election administration can be separated from those outlined so far on the grounds that they see the rules used to govern elections as a site of political struggle. In contrast to previous work, they, broadly speaking, see the procedures as mechanisms through which elites can maintain political rule. Either implicitly or explicitly, these studies criticise the liberal democratic
conception of the state in which the rules of the game are politically neutral. The research methods used to establish this are mostly historical. This ‘school’ provides a number of key insights which depart from the existing literature and in many senses form the platform from which this book is launched.

These works began with the pioneering research of Piven and Cloward (1983; 1988b, 2000). In the seminal text *Why Americans Don’t Vote*, they claimed that members of the political elite, both past and present, had deliberately sought to use election administration in order to minimise turnout amongst particular groups in society; the groups that they were concerned about being minority and lower economic and education groups, mostly blacks and working class whites. Such deliberate demobilization is undertaken to eliminate any potential electoral threat and according to them, both the Republicans and conservative Democrats were guilty of such strategies. In *Why Americans Still Don’t Vote: And Why Politicians Want It That Way* the authors updated their argument to take into account contemporary debates regarding the proposed motor voter legislation on which they were actively campaigning.

Their work inspired a number of further studies. Groarke (2000) charts the evolution of the National Voter Registration Act in the U.S. She notes how Republicans vehemently opposed the bill since they thought it would enfranchise voters more likely to vote Democrat. Meanwhile many Democrats, especially from the Democratic National Leadership, were also opposed to the legislation on the grounds that they wished to move the party towards the centre and that they would be ‘hurt’ by over-associating with campaigns to add African American, Latino and urban and working class voters to the roll. Elsewhere, Hayduk (1996, 2005) charted the evolution of election administration in the state of New York from the mid nineteenth century through to the 2004 elections. He suggests that there has been a long history of electoral disenfranchisement through election administration. This disenfranchisement, Hayduk argues, has three complementary explanations: the financial and legal constraints
imposed upon electoral administrators; bureaucratic inertia, inefficiency and incompetence; and, very frequently, the partisan actions of incumbent politicians seeking to maintain power. Election boards are not neutral arbitrators of interests but have their own interests and the procedures they control are a site of hegemonic struggle (p.7-8). Meanwhile, Minnite (2000) considered the case of redistricting in New York to emphasise the highly politicised nature of election boards. Piven et al. (2009) argue that politicians have repeatedly sought to depress the Black vote in the U.S. and Minitte (2010) shows how politicians have sought to make false claims about electoral fraud as a way of introducing laws to achieve this. Keyssar (2009) provides a historical narrative of the movements towards and away from full voting rights in the U.S. Changes in election administration are inseparable from this. The key force driving enfranchisement was war and the key force preventing it was class struggle.

Collectively, these texts provide important insights into explaining election administration reform since they emphasise a) its highly political nature in a way that is not done so by much of the literature (particularly that which ignores it as a legitimate area of study); b) the role of entrenched interests in resisting reform; and, c) the role of elite agents in triggering change for reasons of political pragmatism rather than ideology or national interest.

Problems with existing accounts of change in election administration
It is argued here that there are a number of problems with the literature trying to explain why election administration is reformed and there is therefore a need for a new theoretical model. Not all of these problems have been apparent in every approach to election administration, but each has one or more, which provides the space for a new approach: one based in critical realist accounts of institutional change.
No explanation of change?
Firstly, many accounts do not spend much explicit time trying to explain why particular electoral institutions come into being in the first place and why they might change. This is certainly the case with the literature on election administration described above as being of the ‘old’ institutionalist school. For those within this field the aim is to provide descriptions of particular institutional procedures and some recommendations for reform. There is no attempt to use the empirical material to develop broader generalisations about politics that could predict change. At best, there are some narratives available of the course of events leading up to change (such as Butler and O’Leary) but providing an overarching explanation of change is not the aim.

Nor does much of the literature in the other schools of thought try to explain change. A great deal of public research has sought to establish which procedures are ‘best’ in terms of efficiency, accuracy and security. This is especially the case with those scholars writing about the use of technology in the voting process and to date, the new institutionalism. However, there appears less of a need to try to explain why a given set of procedures are used and what factors might prevent reform.

‘Bloodlessness’
Election administration can have considerable effects on the electoral and political system but its political nature is not always reflected in the literature on electoral institutions or theories offered to explain change. Often election administration is ignored by the literature because it focuses on more ‘important’ electoral rules such as electoral systems. As a result, there is arguably a tendency to understate political variables in the analysis. Thus, Fitzgerald’s analysis focussed on demographic and related factors rather than say, the political party in power. Massicotte et al. (2004) explore factors such as whether a given state has a history of colonial rule and how democratic the country is. However, they do not consider the political and ideological characteristics of previous governments. Conversely, the role of ideas is often overstated with the effect that the role of politics and power are underestimated. For
example, Bertrand et al. (2007) discuss the cultural aspects of voting, but perhaps underplay the importance of power politics involved in the debate. New Institutionalist have often been criticised for overlooking power in their analysis of change (Hall & Taylor, 1996). Power politics is not the focus of the work on election administration from within public administration. In the U.K., only Curtice (2003) attempts to consider, briefly, whether reform has been the result of party political interest or demographic and societal change. Much more in-depth, systematic and comparative analysis of this type is needed in order to understand and explain change and continuity.

The absence of theorisation
Thirdly, there is often a lack of theorisation in providing an explanation of change. Many writers within the tradition of old institutionalism are reluctant to extrapolate from their historical studies towards generalisations about human behaviour. Nor is there much explicit theorisation in some of the more power-centred work from Piven, Hayduk, Minnitee and Groake. These scholars suggest that laws cannot be separated from the political context from which they are created and remain sites of political struggle. They suggest that there are therefore some inherent problems with a liberal democratic conception of the state. However, what rival theory should be provided in their place? In short, perhaps the key is to seek to develop theoretical models which are sensitive to the unique historical trajectories of each country.

The lack of comparative focus
Fourthly, there is also a lack of comparative focus in the literature. Comparative analysis enriches political science by allowing researchers to assess whether phenomena in one country are found elsewhere and therefore have some wider generalisability for the study of politics. However, to date, most studies have been almost exclusively either, for example, American or British. Mendez and Trechsel (2004) do provide a cross-national account of some e-voting schemes within the E.U., but this is limited to
this one particular technology amongst an array of different forms of election administration.

**Imprecise agents**

A fifth issue with much of the literature on election administration (and on electoral reform in general) is that it is imprecise on who the key agents are in the reform process. For example, when reform is enacted, who exactly was key to pushing this reform? Often the role of political leaders, cabinets and the party within the legislature are conflated into one actor. Blais and Shugart (2008: 190-191) note, in their analysis of electoral system reform, that there is merit in being more precise on who the actors under discussion are since their interests and roles may often be in conflict.

**Structure and agency**

A sixth problem, which sweeps across much of the literature, is a lack of analytical balance in the attention given to the role of agents and structures. Broadly speaking, too much priority is given to objective structures and social processes. Institutions, demographic features and social processes such as technological innovation are suggested to bring about change. However, there is no accompanying theory of agency. Individuals or agents (such as politicians or key civil servants) are often not given a causal role themselves in determining political outcomes or controlling institutions. Such a theory of agency would assist in explaining why, with all of these ongoing social processes, agents in one country might take a particular route over another. In contrast, there are those which offer too much agency to individuals and thereby fail to offer sufficient analysis of the context in which decisions are made. One way of illuminating this problem is through the debate on structure and agency. This debate concerns:

> ...the extent to which we as actors have the ability to shape our own destiny as against the extent to which our lives are structured in ways out of our control; the degree to which our debate is structured by external forces. Agency refers to individual or group abilities
(intentional or otherwise) to affect their environment. Structure usually refers to context; to
the material conditions which define the range of actions available to actors (McAnulla, 2002:
271).

The case for structure put forward by Althusser, for example, is that the economic
determines the political so that agents are only ‘bearers’ of structures. According to him:

The structure of the relations of production determines the places and functions occupied and
adopted by the agents of production, who are never anything more than the occupants of
these places (Althusser & Balibar, 1970: 180).

The case for agency (or ‘intentionalism’) is that individuals remain reflective,
independent agents who have some ability to choose their own course of action. In its
purest form individuals ultimately control structures which are of their own making
(Bevir & Rhodes, 2003).

This discussion has been important to social scientists for some time, but attention has
grown in the field of political science. More recent and advanced analysis in the
literature on structure and agency, however, suggests that the two are mutually
involved in a dialectical relationship, both capable of exerting influence over each other.
For Giddens (1979, 1984) structures constrain what individuals can do, but also enable
particular actions. For example, membership of the EU means that citizens are subject to
particular rules, but also able to benefit from particular mechanisms such as directives
on working conditions. Structure and agency are treated as two sides of a coin.
Meanwhile Jessop (1990) develops the ‘strategic-relational’ approach and Hay (1996: 89-
134; 2002) the ‘context versus conduct’ approach. They argue that actions take place in
strategically selective terrain which favours some strategies over others. Thus no
context has a level playing field and actors have to formulate strategies on the basis of
limited structural knowledge. However, it is possible to develop strategies to overcome these particular structures. As Hay (1995: 189) notes ‘every time we construct, however tentatively, a notion of social, political or economic causality we appeal, whether explicitly or (more likely) implicitly, to ideas about structure and agency’. In short, when considering why electoral institutions do or do not change we need to have an understanding of the forces of both structure and agency. Most existing accounts do not provide this.

The contribution of this book
This book aims to make empirical-descriptive and theoretical contributions to the existing literatures. An empirical-descriptive contribution is made by providing in-depth case studies of continuity and change in election administration in three democracies: the U.S.A., U.K. and Ireland. The above literature review has identified a number of pieces of research which chart some of the changes made during discreet periods of time in some countries. This book gives a detailed picture of the reforms made and events leading up the reforms. It identifies when and where partisan interests have influenced the behaviour of politicians in each case. Significant evidence that election administration is a tool of partisan interest was found in the U.S.A. and, since 2000, the U.K. Less evidence was found in the U.K. before 2000, and in Ireland. This evidence is from heretofore unpublished primary evidence including private interviews which were conducted as part of the research and from archival searches of cabinet minutes and discussions. The book therefore offers new accounts of the reform.

The book also seeks to make a number of significant theoretical contributions. Firstly, it offers new conceptual practical-analytical vocabulary for election administration. It claims that forms of election administration can be categorised as being either expansive,

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8 As far as the author is aware, this book is the first to chart the changes made in Ireland. There are some accounts of limited periods of change in U.K. and the U.S.A.
restrictive, or neutral effects on participation. In their pioneering text on electoral laws, Massicotte et al. suggest that ‘as with the study of electoral systems, scholars need to start by defining relevant dimensions and categorizing each set of rules on those dimensions’ (2004: 158–9). This article makes such a categorization. These concepts and the continuum is a useful tool for practitioners seeking to identify the likely effects of proposed reforms. It is also useful for political scientists who are interested in political participation.

Secondly, it is the first major comparative study into why election administration might change. Inspired by the major changes in electoral systems in Italy, Japan, New Zealand and Israel in the 1990s, research has proliferated on why electoral reform occurs and the role that elites play (Benoit, 2004; Blais, 2008; Lundell, 2009; Rahat, 2008; Renwick, 2010; Renwick, Hanretty, & Hine, 2009). Electoral systems were previously thought to only change in established democracies during moments of great exogenous shock such as after the Second World War or during the Algerian crisis (Katz, 1980: 123). However, the literature has primarily focussed on explaining electoral system reform and overlooked other electoral rules. In their review of the literature on ‘electoral reform’ Leyenaar and Hazan, suggest that adopting a more comprehensive definition of electoral reform is necessary to ‘advance the study of electoral change’ (2011: 448). According to them:

‘there is no reason, nor has there ever been, why changes in legislation regarding the (financing of) campaigns, pre-voting and smart voting systems, ballot access or polling, etc. should not be defined as electoral reform and included within the scope of research on this topic’ (2011: 447).

This book is such a study. This is important not only because it fills such a gap, but because, as will be shown, the reform process for different electoral institutions interact. Understanding the reform process for election administration may therefore increase our understanding of electoral system reform.

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9 This continuum is also produced in James (2010a)
Thirdly, it offers a new layered framework to understanding the causes of policy reform in election administration from an elite perspective. This model may be applicable to other electoral laws. The new model is derived by identifying patterns of how, when and why elites use election administration for partisan reasons. It argues that elites have often sought to use election administration to (dis)enfranchise and (de)mobilise various aspects of the electorate to win elections. Typically, left-wing elites have sought to introduce expansive procedures while right-wing elites have sought to introduce restrictive procedures, foremost for the purposes of political expediency. They have also proposed reforms to election administration as alternatives to more radical overhauls of constitutional systems which might threaten their power base. These behaviours, however, are often dependent on political and institutional environments. Firstly, an issue trigger may be required to bring election administration on to the elite’s policy agenda. Five such triggers are extrapolated from the cases. Secondly, the systemic institutional features of the political systems shape and refract the (non)politics of election administration by altering the incentives, opportunities for and constraints upon elite action. Elite interest in and action on election administration is influenced by the electoral system, party system and constitutional control over procedures. Thirdly, the elite’s strategy on election administration is influenced by the reform process of other electoral institutions. These findings are significant because they change our understandings of electoral systems.

Lastly, the book proposes and re-develops a leading approach that can be used to study political elites. This is the statecraft approach, as originally developed by British academic, Jim Bulpitt. It is argued that this offers a critical realist account of institutional change which overcomes a number of problems in the existing literature by focusing attention on the interests of key political actors in the process of change. The book adapts the theoretical model so that it can be used for the studying of how political
institutions change. The revised statecraft approach, it is argued, provides a useful organising perspective for understanding change and a theory of elites.

As such, the book breaks new ground in our understanding of political elites, elite theory and comparative electoral laws.

**Research methodology**
Explaining change in electoral institutions using macro-scopic quantitative analysis can provide important insights. However, they are best accompanied with case study research of particular countries. Case study research can identify local dynamics and processes which are not apparent in macro-scopic studies. Macro-scopic quantitative studies are also not sensitive to theories of agency and meaning. Through case studies we can establish who the key actors are in pushing or preventing change and the meaning that they attach to their actions. Chapters 4, 5, and 6 provide longitudinal comparative case studies of reform. These include the use of primary data collected through in-depth qualitative interviews with key agents, extensive newspaper report searches, use of legislative documents, cabinet meeting minutes and a range of other commentaries. Access to the relevant documents and secondary literature was made possible through an ESRC institutional visit to Trinity College, Dublin and a Scholarship at the Library of Congress in Washington, D.C.

Case studies were chosen on the basis of a ‘most-different’ research design. The U.K. was chosen on the basis that this was the polity which the statecraft approach was built to explain. Ireland and the U.S.A. were selected on the basis that they had entirely different constitutional structures from that of the U.K. If the statecraft approach was capable of explaining change here too, it would be proved to be a strong model. An

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10 For an the application of this approach to electoral system reform see: Lundell (2009).
inability to explain change in these different contexts would suggest that the geographical reach of the approach was limited.

Organisational structure
The arguments which follow are organised into the following chapters:

Chapter two seeks to establish in more detail why election administration matters, but more importantly, why election administration might matter for researchers of elite statecraft. It is argued that different forms of election administration have different effects, not only on electoral turnout but also on electoral outcomes in close elections. The chapter conducts a meta-analysis of research on election administration and voter turnout to show that it is possible to generate a continuum on which procedures can be placed, ranging from those that have an expansive effect on participation to those that have a restrictive effect. This continuum is argued to be of significant utility for researchers and policy makers as it can act as a heuristic device in locating the likely effects of particular reforms on participation. This could therefore assist policy-makers in the proposal of reforms. The chapter identifies the circumstances under which higher turnout, caused by higher electoral participation, might affect electoral outcomes. Using the existing literature, some hypotheses are then suggested to predict the behaviour of political elites towards election administration. These will be returned to in Chapter 7.

Chapter three offers a new organising perspective for understanding how elites interact with electoral rules. The chapter begins by outlining the Statecraft theory in the context of classic and contemporary theories of elites. It discusses its shortcomings and argues that the approach requires greater theoretical development to move from a largely descriptive model of British politics to an abstract explanatory model capable of understanding politics, leadership and political change in the field of comparative politics. The chapter proposes a way in which it can be adjusted for this purpose.
Chapters four, five and six then provide three historical-comparative case studies charting the evolution of reform. Chapter four explains how the Victorian foundations of election administration in the U.K. represented a political compromise and also that from 1918 to the 1980s, election administration was rarely a partisan issue. This changed a little under the Wilson and Thatcher administrations. The latter reduced the number of citizens on the electoral register indirectly through the introduction of the ‘poll tax’. This reduction was disproportionately high amongst Labour supporters. However, it was under New Labour that substantial reform was initiated, and this reform was very often inspired by partisan interests. The Blair government introduced a series of innovative pilot schemes, whilst permanent changes brought in more expansive procedures. The chapter provides original evidence that the elite thought that Labour would gain politically from these. Moreover, some proposals for more restrictive procedures, which would increase security, were rejected by government elites since it was felt that they might undermine the party’s future electoral prospects.

Chapter five shows how the U.S. has a much longer history of elites seeking to manipulate election administration for political advantage. Republicans and Southern Democrats often saw election administration as an alternative mechanism through which specific ethnic and economic classes could be excluded from the franchise when the right to vote was gradually extended across the country. Civil rights campaigners were successful in fighting some of the most discriminatory practices in the 1960s as part of a broader civil rights campaign. However, many of these practices remained in place and the political struggle for their removal continued into the 1970s and 1980s, despite attempts at reform by President Carter. Republican politicians (and Presidents) resisted further reforms. However, Bill Clinton facilitated the passage of the National Voter Registration Act of 1993 when he came to power. This effectively extended the franchise to citizens thought to be more likely to vote with the Democratic Party. Election administration drifted from the national policy agenda after the mid-1990s but the 2000 Presidential election re-ignited national interest in the policy area. Republicans in
Washington, during this period, tried to prevent ‘1960s style’ legislation being passed that would establish strong federal control over election administration. Republican networks in the Justice Department also co-coordinated efforts to insert politically friendly State Attorneys into state governments to help to prevent the voter registration drives being organised by opponents of the Bush administration. Before coming to power, President Obama had vehemently campaigned for more expansive forms of election administration.

Chapter six argues that Ireland does not demonstrate the same historical of a battle over electoral procedures that occurred in the U.K. and U.S.A. The issue has historically been a technocratic one which has attracted little public or high level political attention. Since 2000, the issues of electoral registration and electronic voting have become politicised. In this case, it is difficult, however, to sustain the view that changes were made for party political reasons. Instead, in time, they become issues of competence, with the opposition parties criticising the government on the grounds that they felt they could gain political capital by claiming that Fianna Fáil were mismanaging EA. That said, some original evidence is presented that recent reform of the voter registration system was a response to the electoral threat posed by Sinn Fein. Original evidence is also presented of Republican politicians manipulating the electoral register at the inception of the Irish Free State.

Chapter seven returns to the key research questions in the light of the case studies. It reviews the evidence of elite manipulation of election administration in each case. It considers the conditions under which political elites will use election administration as a means of achieving political statecraft. In so doing, it builds new meso-level concepts for the statecraft approach. The ebb and flow of elite interest across the cases is explained by a new innovative framework for conceptualising the elite policy agenda. Firstly, an issue trigger may be required to bring election administration on to the executive’s policy agenda. Five such triggers are identified in the cases. Secondly, the
systemic institutional features of the political systems shape and refract the (non)politics of election administration by altering the incentives, opportunities for and constraints upon elite action. Executive interest in and action on election administration is influenced by the electoral system, party system and constitutional control over procedures. Thirdly, the executive’s strategy on election administration is influenced by the reform process of other electoral institutions. These findings have implications for our understanding of the policy process, the effects of different electoral systems and need for more research on electoral governance.

Chapter eight reviews the conclusions from the book. It suggests that the redeveloped statecraft approach sets a research agenda for applying it to the reform of other electoral institutions and political institutions.

**Conclusions**
The way in which elections are being run is changing. All around the world, states have reformed their procedures or have put them under critical review. However, there has been a systematic failure to examine why election administration changes in democracies. Empirically, this book seeks to contribute towards the international literature on election administration by outlining the changes that have been made to election administration in three established democracies. Theoretically, it offers a new conceptualisation of electoral procedures. It also proposes a new approach for understanding how political elites interact with electoral institutions and establishes when and where elites may be more interested in election administration. The book first turns to establish why election administration is so important.
Chapter Two

Election Administration – A Tool for Political Statecraft?

‘The whole balance of power in the political system could be overturned by a massive invasion of the political system [of non-voters]…[T]he unused political potential is sufficient to blow the United States off the face of the earth’

Elmer Eric Schattschneider (1960: 98-111)

Introduction – election administration matters

On the morning of Wednesday 8 November 2000, the world’s attention turned to election administration. The previous day, Al Gore had conceded the U.S. Presidential election based on media network predictions, but subsequently withdrew his concession after networks put Florida back into the ‘too close to call’ category. The initial count in Florida was won by George W. Bush but Gore requested a manual recount in the four Democrat dominated counties of Broward, Miami-Dade, Volusia and Palm-Beach, as permitted by Florida state law. There then began a series of legal contests in both state and federal courts which led to the final judgment in the Supreme Court. This effectively gave the election to Bush. During this time, global media networks, politicians, citizens and academics quickly became aware of a range of new concepts and
terminology, previously only used by election anoraks, such as ‘hanging chads’, ‘butterfly-ballots’ and ‘the clear intent of the voter’ (Ceaser & Busch, 2001; Pomper, 2001). The seemingly mundane processes by which an individual could register and cast their vote, and the processes by which this vote was counted, had suddenly been elevated into an enormous international issue. Speaking in Nigeria in 2009, Secretary of State, Hillary Clinton, attempted to identify with her audience by referring to America’s own struggles with democracy. She pointed out that the brother of President George W. Bush was governor of Florida at the time of the election dispute, and implied that Bush’s 2000 ‘victory’ was illegitimate (Neuman, 2009). The election in 2000 therefore certainly left a long-lasting bad taste in the mouth of supporters of American democracy. It also demonstrated that election administration deserves systematic scrutiny by policy makers and academics.

Almost a decade on, election administration no longer holds the same popular attention outside of the U.S. Generally speaking, it has only received sporadic attention from political scientists and is ignored in most textbooks on elections, voting or constitutions. Only when there is a high profile ‘disaster’ with election administration in close elections such as the 2000 or 2004 U.S. Presidential elections\(^\text{11}\) do we focus on the mechanics of election administration and election laws.

This chapter warns against overlooking election administration. It surveys the literature on election administration and voter turnout to demonstrate that it can affect whether some voters cast their ballot. It suggests that procedures can be categorised according to whether they have expansive or restrictive effects on electoral participation. A continuum is proposed which could assist political scientists and public policy makers concerned with election administration and electoral participation.

\(^{11}\) i.e. Florida in 2000 and Ohio in 2004.
Election administration may also affect political outcomes. Implementing procedures unevenly can depress or exaggerate turnout. For example, recruiting fewer poll staff in one precinct rather than another could cause delays and discourage citizens from voting. If these problems occur in electoral districts thought to be more likely to have favoured a particular party, then the relative share of votes by the party may be affected. Election outcomes may therefore change, as they did in Florida in 2000. Expansive forms of election administration may also bring about a higher turnout which can subsequently affect election results, policy agendas and broader political outcomes. However, election administration is more likely to be decisive in electoral contests under particular circumstances – namely where there are close elections using plurality voting systems. Politicians are not all-knowing. We cannot expect them to perfectly foresee the result of any proposed change in the procedures used for elections since they have no crystal ball. We can understand why risk-adverse politicians might be guided by electoral concerns when designing democratic institutions, however.

The chapter begins by remarking on the characteristics and genealogy of the literature on election administration and electoral turnout before outlining the research on each aspect of election administration. It then introduces the aforementioned continuum and explains how this might be useful for future research. Lastly, it discusses whether election administration can affect electoral outcomes.

**Political science, election administration and voter turnout**

Four characteristics are striking about the research on election administration and voter turnout. Firstly, the literature has a parochial bias, since it is based almost exclusively on U.S. elections. The extent to which the findings of the literature may travel outside of the U.S. has therefore not always been clear. The focus on U.S. elections reflects not only the strong discipline of political science within the country but also that state level
control over many procedures make it a natural ground for testing the effects of inter-state difference.

Secondly, while it has been a recent growth area, it is not as new as one might assume. Interest mushroomed after the 2000 Presidential election, but work exploring the relationship between the ‘nuts and bolts’ of elections and voter participation can be traced back at least as far as Gosnell (1927), Harris (1934), Key (1949) and Kelley et al. (1967), all of whom made important contributions to the field.

Scholarly interest in election administration increased as turnout in U.S. elections declined. Rosenstone and Wolfinger’s work is often cited as the pioneering study on election administration and voter turnout. The impetus of their research was variation and innovation in procedures at the state level from the 1960s onwards, as policy makers sought to investigate whether election administration could increase turnout. States such as Michigan, for example, made it easier for individuals to register to vote by making forms available when applying for a driving licence. Noticing the uneven nature of procedures across the U.S. and using this as a data-source by which to compare levels of participation, researchers began to investigate whether there was a correlation between the two variables. Further studies were conducted by Piven and Cloward (1983; 1988b), Teixeria (1987) and others.

A second wave of research took off in the 1990s when the National Voter Registration Act (NVRA) was passed in the U.S., which, amongst other reforms, enforced the national roll out of ‘motor voting’ schemes (see Chapter Four). Researchers now speculated on the effects of the legislation on levels of registration and turnout and later evaluated its impact (Franklin & Grier, 1997; Knack, 1995). Before this line of enquiry had begun to fizzle out, the 2000 Presidential Election highlighted a number of problems with election administration used in Florida. This caused policy makers across the U.S. to re-examine their procedures to prevent ‘a repeat’.
A third wave of scholarly interest was therefore re-ignited which sought to examine which were the ‘best’ procedures. These research interests were institutionalised in new research centres such as the MIT/CalTech Voting Technology Project and election law blogs run by leading academics in the field. While the first and second wave of research focussed only on the effects on turnout, the remit of research now became much broader. Research began to also consider whether new electronic procedures were ‘safe’ and ‘secure’. The broadened remit was partly due to new complexities posed by advances in technology. A new IT sector developed in the late 1990s and early 2000s which manufactured electronic voting equipment and marketed it to governments around the world. The expanding diffusion of the internet also enabled internet voting. The participation question did not disappear with new studies such as those by Wolfinger et al. (2005). However, it was no longer the only research question being investigated.

A fourth wave emerged in the U.S. which sought to identify the constitutionality of voting identification laws. These were introduced in Indiana and other states in the run up to the 2008 U.S. Presidential election and culminated in the Supreme Court case of Crawford vs. Marion County Election Board (2008). Research therefore sought to investigate whether requiring voters to provide identification would make them less likely to vote and whether there would be a disproportionate effect on certain social groups. This research became particularly important after the Supreme Court ruled in April 2008 that the requirement was constitutional because there was no evidence that it denied a basic right since the burden was minimal. However the Court left the case open for the possibility of re-litigation if new empirical evidence became available. Researchers have thus sought to find this evidence (Barreto, Nuno, & Sanchez, 2009; Barreto & Pump, 2007; Sobel, 2009). Election law blogs and journals now contain

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12 Key examples of the blogs include Elections Updates (http://electionupdates.caltech.edu/) by Michael Alvarez, Paul Gronke, Thad Hall and Robert Krimmer; Election Law Blog (http://electionlawblog.org/) by Rick Hasen; Election Law @ Moritz (http://moritzlaw.osu.edu/blogs/tokaji/) by Dan Tokaji.
considerable analysis on whether forms of election administration are consummate with the U.S. constitution.

**Rational choice theory**

A third observation about the research on election administration is that it has so frequently been implicitly or explicitly premised around rational choice theory and the work of Anthony Downs (1957). In his seminal text he suggested that individuals make rational decisions based on the costs and benefits of a particular course of action. These assumptions can be used to model whether an individual will vote or not. The probability that an individual will vote can be expressed by the formula: \( pB + D > C \). In this model:

- \( B \) represents the benefits the voter will obtain only if the voter's candidate of choice wins the election;
- \( D \) represents the satisfaction that the voter receives from the act of voting itself,\(^{13}\) regardless of who wins the election; and,
- \( C \) represents the costs involved in voting.

Rational choice theory provided the initial theoretical framework for Wolfinger and Rosenstone:

...we find it useful to think in terms of the benefits and costs of voting to the individual... The easier it is for a person to cast a ballot, the more likely he is to vote (Wolfinger & Rosenstone, 1980: 6-8).

\(^{13}\) Originally called ‘democracy’ by Downs, but re-conceptualised as ‘citizen duty’ by Riker and Ordeshook (1968).
Forms of election administration therefore produce different costs to votes. The size of these costs, such as the time taken to travel to the polling booth, or the need to ensure that the citizen’s name is on the register, can be identified through quantitative analysis.

It should be noted that not all of the literature on election administration and voter turnout uses the rational choice model. Some scholars are ardentely opposed to many of its assumptions about human behaviour. One common criticism is that it does not take culture seriously. That is, critics argue that rational choice theory reduces individuals to purely calculating rational agents. The cultural context which conditions decisions is therefore neglected, with the influence of social structure, ideologies and societal norms being ignored (Hindess, 1988; Lukes, 2005; Zey, 1992). With respect to election administration we might argue that rational choice theory therefore underestimates the cultural meaning that individuals attach to different procedures. These understandings of procedures will affect outcomes. Schaffer (2008: xii-xiii) also argues that participation is not just a function of the properties of electoral procedures since the same reform can have different effects in different situations. Attention should therefore be paid to the context within which reforms are introduced including the motives of those actors involved in implementing election administration and the way in which changes are implemented.

Rational choice analysis is not essential for understanding how rules affect individuals. Most institutionalist theories are premised on the idea institutions affect agency. Leca and Naccache (2006), from a critical realist perspective, detail how institutions and institutional logic affect individuals, entrepreneurs and organizations. The continuum produced below therefore represents a matrix of institutional logics which affects voting behaviour. These institutional logics are based primarily on logics of incentivisation given limited time. However, they are invariably mediated by cultural contexts and a range of historical variables. This means that in different contexts the effects may have a
greater or lesser importance but these institutional logics do still permeate through context and affect political behaviour.

**Quantification**

Fourthly, existing studies almost exclusively use quantitative methods. This includes aggregate level analysis of participation levels in U.S. states and individual level analysis of survey data and voting behaviour. These provide a rich source of information on the relationship between procedures and voter turnout. There would therefore be considerable advantages in supplementing the existing literature with qualitative studies of voting behaviour which could include ethnographic studies of voters using interview analysis.

**Election administration procedures and voter turnout – a review**

Over three decades since Rosenstone and Wolfinger’s seminal study, what has the literature established about the relationship between election administration and voter participation? Voting is a two-stage process. An elector’s name appearing on the register is a necessary, but not sufficient condition for voting since being on the register does not guarantee their participation. Nonetheless, some procedures make it less likely that a citizen’s name will be on the registration list, which in turn, can lead to a reduction in turnout. This will be discussed first.

**Poll taxes and literacy tests**

Procedures which force citizens to pay a poll tax or pass a literacy test to be eligible to vote are amongst the most restrictive forms of election administration and a number of scholars chart how these have depressed electoral participation, often deliberately (Filer,

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14 This review and continuum is documented in James (2010a).
15 Ironically, in some countries an increase in names on the voter register could cause ‘official turnout’ to decrease if this is calculated by dividing the number of valid votes by the number on the electoral register (as is the case in the U.K.). An increase in non-voting registrants will cause ‘official’ turnout to fall, without any decline in participation.
Kenny, & Morton, 1991; Kousser, 1974; Piven & Cloward, 1988b). For example, Rusk and Stucker (1978) studied the barriers that were introduced in the U.S. Southern States from the 1890s. They claimed that the rate of turnout decline increased by an average of 15 percentage points after poll taxes were adopted, and by 9 percentage points when they adopted literacy tests. Filer et al. (1991) developed a range of regression models to analyse the impact of the 1965 Voting Rights Act on participation in America. Their models suggested that on average imposing a poll tax of $1.99 lowered the probability of voting by 13 percentage points (ibid p.377). The removal of a poll tax will cause turnout to rise but it may take some time for this to take full effect. Their analysis of turnout in all U.S. counties during 1948-1980 suggested that literacy tests altered the probability of voting by 8.1 percentage points (ibid p.378). This was as much as a 15 percentage point change in probability for the 1948 election. However, the literacy test became less important over time. By 1960 its effect was insignificant because education levels had improved (ibid p.382). The impact of literacy tests therefore depends on their difficulty level proportionate to education levels.

**Registration procedures**

A plethora of research identifies how registration procedures can affect participation. Rosenstone and Wolfinger (1978; 1980) compared registration practices to levels of participation in the U.S. states to calculate the changed probabilities of an individual voting. They suggested that, depending on the existing probability that an individual would vote, imposing a 30-day registration deadline could reduce the probability by between 3 to 9 percentage points. A 50-day deadline reduced the probability by around 17 percentage points, for those who previously had a 40 to 60 percent likelihood of going to the polls. Irregular Registrar office hours (defined as less than a forty-hour week) made a 2 to 4 percentage point difference. Where offices were closed on a Saturday and

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17 Many studies calculate the estimated effect of a particular form of election administration on the probability of voting. Probabilities are presented as percentage points rather than decimals in this chapter.
18 Also see: Nimmo and McCleskey (1969)
a weekend the probability was 2 to 6 percentage points lower. If absentee registration procedures are not provided, the chances of voting are reduced by between 2 and 4 percentage points. If procedures used in all U.S. states were as liberal as they were in others then the turnout at the 1972 general election would have been 9.1 percentage points higher. Some 6.1 of these percentage points would have been accrued just from the elimination of registration closing deadlines.

Mitchell and Wlezien (1995) extended Rosenstone and Wolfinger’s analysis with expanded datasets. They found statistically significant relationships between voting and registration closing dates, the frequency of registration list purges and the presence of extended registration hours (ibid p.185-6). They estimated the increase in voter turnout probabilities which would result from each procedure. The national average for closing registration dates was 3.8 percentage points, registration purges was 2.1 and extended registration hours was 1.9. If all procedures were liberalised, voter turnout would increase by around 7.6 percentage points (ibid p.191).

Research on the effects of registration procedures was developed by a number of studies on the 1993 “Motor Voter” Act. This forced U.S. states to provide registration facilities at public agencies, introduce universal mail registration, allow citizens to register at the same time as applying for/renewing a driving licence and prohibited officials from purging electoral registers of non-voters. As such it reduced the need for citizens to make a separate trip to register and thereby reduced the cost of participation. A number of studies predicted that this could have an indirect positive effect on participation by increasing registration levels (Knack, 1995). Franklin and Grier (1997) analysed the relationship between turnout and motor voter laws across U.S. states in 1992 and 1996. They suggested that motor voter procedures increased registration by 2.3 percentage points and turnout by 2.1 percentage points (ibid p.111). Wolfinger and Hoffman (2001) also found that NVRA had a positive effect and that this was higher than some sceptics

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predicted. Piven et al. (2009) suggested that the impact of NVRA could have been much greater had the Department of Justice been more proactive at enforcing it.

Further research has pinpointed the effects of the registration purges that NVRA was designed to prohibit. In some countries, registration lists are purged of those who do not vote and/or re-register each year. In contrast, other countries do not purge their registers at all. Groarke (2008) documented how some U.S. states have used a number of mechanisms for removing electors from the register to ‘mop up errors’, often for partisan reasons. One study of turnout in 1987 suggested that removing the purge would have increased turnout by 2 million voters nationally (Committee for the Study of the American Electorate, 1987). Groarke reports a preliminary estimate that between 1995 and the end of 2006, more than 71.4 million voters’ names have been removed from the registration rolls (Groarke, 2008: 9). Mitchell and Wlezien’s (1995) analysis suggested that voting purging had a significant impact on registration levels but only altered the probability of voting by 2.09 percentage points. Its effects are stronger on infrequent voters. Davidson et al. (2008), however, suggested that voter registration purges are also targeted at those whose legal entitlement to vote is ‘dubious’ and that its effects might be much more significant at a local level.

Continuous registration was introduced to the U.K. in 2001. Prior to this, some eligible voters might have been prevented from participating because they would have to wait until the next annual register to be included on the new register. James (2011a) notes that analysis by the Electoral Commission suggested that continuous registration did not increase net registrations greatly but did increase the accuracy of the electoral register. He also noted that a change from household registration to individual registration (which was introduced in Northern Ireland) appeared to shrink the register by approximately 10%. Further interviews with elections staff in local authorities suggested that introducing individual rather than household registration would cause significant declines in the electoral register. This decline would be highest among the
young (James, 2011b). However, no estimation of the effect on turnout has been attempted. James’ interviews

When citizens are concerned about how the register is used by the government their propensity to register may be affected. Knack (1993) reported that living in a U.S. state which selects jurors from the registration list reduced the probability of being registered to vote in the 1988 election by about 9 percentage points and voting by up to 7.9 percentage points (ibid p.105). Knack’s (2000) study of the 1990 election supported this. There is also some anecdotal evidence that when the register was combined with the social security system in Northern Ireland, some individuals working in the ‘black economy’ avoided registering (Electoral Commission, 2003a: 52). Bennion and Nickerson (2010) have argued that using electronic rather than paper registration forms can depress registration rates too.

There are other aspects of the registration process which remain under researched. For example, we would expect compulsory rather than voluntary registration to increase turnout. We would also expect that putting statutory responsibility for registering onto the government, rather than the citizen, would increase participation. However, further studies are required to clarify this.

**Postal voting**

While the initial attention may have privileged how registration procedures can affect turnout, there is also a considerable academic literature on how post-registration procedures – those by which individuals cast their ballot and it is counted – can affect turnout.

In many countries voters are required to attend a polling station in person to cast their vote, but many also offer the opportunity for them to cast their vote via another means.
For example, in some countries, the citizen can cast their vote via the post. Sometimes this option is provided just to those who meet certain categories (i.e. they are ill, or on holiday). However, when postal-voting on demand\(^\text{20}\) is in place, any citizen can cast their vote through the post, although they usually have to apply for a postal vote first. The measure does not appear to be that effective at increasing turnout. Oliver (1996) studied the effects of various postal voting laws in the U.S. states on turnout. He found that ‘expanded’ eligibility, where the elderly were automatically able to vote by post, increased turnout by around 2 percentage points (\textit{ibid} p.508-10). However, universal eligibility did not change turnout by itself. Turnout only increased when procedures were in place which enabled parties to mobilize supporters, such as the availability of registered voter lists. According to him ‘liberalized state absentee requirements do not uniformly correlate with an increased likelihood of voting absentee; rather absentee voting is partially dependent upon the involvement of political mobilizers’ (Oliver, 1996: 506). Universal absentee postal voting was introduced in the U.K in pilot form in local elections and then on a permanent basis from 2001 in all elections. James (2011a) suggests that the 2000 pilots appeared to bring about a mild increase in participation, although definite conclusions prove difficult. Rallings et al. (2010) suggested that the liberalisation of postal voting procedures led to a substantial rise in postal voting at the 2005 general election. However, it had a ‘broadly neutral effect’ on overall turnout. The effect may be more pronounced in low-salience elections. In short, the procedure appears to have a marginally expansive effect.

In contrast, all mail elections can have a major effect on turnout. In such elections votes can only be cast by mail: the option to vote in person at a ballot box is removed entirely. For example, in Oregon, USA, all elections are held via all-postal elections since a citizen initiative was passed in 1998.\(^\text{21}\) There is considerable evidence that this type of election can increase turnout significantly. Magleby (1987) used multivariate regression linear

\(^{20}\) Often also known as ‘no-excuse postal voting’ or ‘universal absentee voting’ in the U.S.

\(^{21}\) See Qvortrup (1988) for further comparative historical background on its use.
probability models and logit probability models on the turnout rates of all-postal elections in U.S. states in the 1970s and 1980s. He estimated that, holding other factors constant, all postal elections increase turnout by 19 percentage points. Studying Oregon, Southwell and Burchett estimated ‘that the all-mail format is a major stimulus to voter participation, second only to the impact of a presidential contest’, noting that it increased turnout by 10 percentage points (Southwell & Burchett, 2000). Subsequent to this, Southwell (2004) surveyed citizens in Oregon, five years after the first election for a state legislator by all-postal elections, and found that the system was still popular. Moreover, 29.3% of respondents said that they were more likely to vote under postal voting conditions. Only 4.1% claimed that they were less likely to do so (Southwell, 2004).22 Outside the U.S., Luechinger et al. (2007) analysed the effects of postal voting in Swiss canton elections between 1970 and 2005. Postal voting was introduced at different times in the cantons because of a decentralised constitutional system. They estimated that the effect of postal voting on turnout was approximately 4.1 percentage points. James (2011a) notes how experiments with all-postal voting in the U.K. 2000-4 all led to a considerable effect on turnout. Participation rose by at least 50% in most local election pilots, and in one case by as much as 137%.

Some research is more sceptical. For example, Christopher Hamner (2009) is much less convinced of the effects of postal voting on participation. Gronke and Miller (2007) studied the effects of postal voting in Oregon over a longer period than Southwell and Buchett (2000) and suggested that they significantly overstated the effects. Likewise, Gronke et al. (2007) undertook a meta-analysis of all-postal voting experiments and suggested that it increases turnout by only 4.7 percentage points in Presidential elections and by 4.4 in mid-term elections. Southwell and Burchett’s findings, according to them, were outliers. Karp and Banducci’s (2000) study of the Oregon reforms suggested that postal-voting only increases participation amongst those already pre-

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22 Also see: Hamilton (1988) and Berkinsky et al. (2001).
disposed to vote. Wilks-Heeg (2009) suggested that increases in turnout resulting from all-postal voting experiments in the U.K. may level off in the long term (ibid p.104). Nonetheless, despite these studies, the balance of research strongly suggests that all-postal elections are significantly expansive procedures.

**Internet voting**

Internet voting (I-voting) schemes allow citizens to vote using a PC from the comfort of their own home. They differ from electronic voting (e-voting) schemes which simply use electronic terminals instead of paper ballots in polling stations: the cost of physically having to come to the poll is therefore not removed. A third variety of electronic election allows citizens to cast a vote using a digital TV box (Alvarez & Hall, 2008b).

There have been many experiments with I-voting around the world. Krimmer et al., (2007) for example, located 104 electronic elections between 1996 and 2000. One I-voting scheme to have received much attention was the Arizona Democratic Party primary election in 2000, where citizens were able to vote either by post, in person, or over the internet. Gibson (2001) suggested that the election strengthened claims that internet voting could increase turnout. Most votes were cast via the internet and the election saw a record rise in turnout, especially amongst the young. The high turnout was notable for the fact that Al Gore’s main rival, Bill Bradley, dropped out of the race two days before internet-voting opened. However, Gibson compares this to the experience in the Republican Alaskan primary in January 2000. Here, only 35 internet votes were cast out of 3,500 who registered (ibid p.576).

Only Estonia has used internet voting for a binding national parliamentary election. In 2007, 3.4% of eligible voters cast their ballot this way (Alvarez, Hall, & Trechsel, 2009: 501). Experiments in 2002 and 2003 with internet voting in U.K. local elections also reported low-take up rates. However, James (2011a) reports that internet voting was
significantly higher when the scheme was not combined with all-postal voting and internet voting was available until the close of the ‘normal’ poll. Internet voting schemes are therefore still relatively new and research therefore remains relatively thin.\(^{23}\) Moreover, their impact on participation could vary substantially depending on how the scheme is implemented.

**Extension of voting hours**

In some countries voting hours are limited to a weekday (such as Thursday in the U.K.). In others, states may hold elections at the weekend or on holidays. Moreover, some countries allow voters to cast their vote before the election or have the election last several days. It should also be noted that absentee and postal voting are also forms of early voting.

Wolfinger et al. (2005) included polling hours in their study of the effects of post registration laws on voter turnout in the U.S.. They noted that 12 of the 42 U.S. states in their study offered early voting (defined as before 7.00am) and suggested that turnout was approximately 2 percentage points higher in these states. Likewise, in the 19 states in which polls were open after 7.00pm the turnout was higher. In general, they estimated that longer hours would increase turnout by 2.8 percentage points but black turnout by 3.3 and Latino by 4.3 \((ibid \ p.17)\). This is supported by Fitzgerald’s (2005) findings which show that early voting increases turnout by just below 2 percentage points. Analysis by Franklin (2006: 158-159) has suggested that Sunday voting could alter turnout by as much as 6.8 percentage points.

Neely and Richardson (2001), studying one Tennessee County, provide a more sceptical finding. They found that the ‘target population’, amongst whom early voting aimed to increase turnout, did not vote more frequently during the early hours than the rest of the population. They are therefore sceptical that it will increase turnout much. Instead,

\(^{23}\) However, also see Henry (2003).
they suggested that it would only make it more convenient for those who already voted.\textsuperscript{24} James (2011a) notes that U.K. experiments with early voting appeared to have only a mild effect at best since only 1% of the electorate used the early voting hours. Surveys conducted by the Electoral Commission have also suggested that voters who used them were likely to have voted anyway.

**Identification requirements**

As noted above, a considerable public debate has taken place in the U.S. on the effects of requiring voters to present photographic id at the polling station. According to proponents of the measure, identification is important to prevent voter fraud. However critics have claimed that it is an additional barrier to voting.

Vercellotti and Anderson (2006) looked at the effects of the many voter identification requirements introduced in the U.S. as a result of the Help America Vote Act. They attempted to assess the effects on the 2004 Presidential election and found that signature matching, non-photographic and photographic identification requirements all had negative effects on participation by reducing the probability of voting by 3-4 percentage points. Alvarez et al. (2008) used data from a range of elections to chart the difference. They found no effect at the aggregate level, however, with the individual level data from the Current Population Survey Voter Supplement they found that the strictest requirements (involving the presentation of an identification card and matching a signature on this to one on file) did affect participation when compared to the most liberal procedures (of simply stating one’s name). They also found that the stricter procedures have a disproportionate effect on the less educated and lower income populations. Further studies agree that voter identification laws can disproportionately

\textsuperscript{24} In other research, Stein and Garcia Monet (1997) use aggregate data from early and election day balloting in Texas counties for the 1992 Presidential election. Early voting was found to be high amongst new voter registrants, the wealthier and Hispanic voters. They suggest that a high number of voting sites at non-traditional locations has a positive effect on turnout. They also note how the Democratic Party were effective at registering and mobilising early voters for the Clinton camp.
reduce participation amongst racial and ethnic minority groups, often because such groups have less access to the necessary identification (Ansolabehere, 2009; Barreto, 2007; Barreto, Nuno, & Sanchez, 2008). Atkeson et al. (2010) found that in a 2006 election in New Mexico, Hispanic voters were more likely to be asked for identification than other voters. This confirmed their hypothesis that poll workers, who are 'street-level bureaucrats', may implement identification requirements in a discriminatory way.

There are some sceptical studies about the effects, however, Vervellotti and Anderson (2009) suggest that a learning curve may lessen the impact over time. Meanwhile, Mycoffe et al. (2009) suggest that ID laws have not had an impact on participation yet.

**Compulsory voting**
The claim that turnout is higher where voting is compulsory appears to be a truism. In her book on compulsory voting Birch (2009) noted that where it has been introduced the result is usually a considerable increase in turnout. The average turnout change following its introduction is 13.7 percentage points and 17.6 percentage points where sanctions are applied to non-voters (ibid p.85). Conversely, removing compulsory voting appears to reduce turnout by around 7.6 percentage points (ibid p.88). Other studies broadly agree. Tingsten (1963 [1937]) compared turnout between Swiss cantons during the period 1919 and 1931. Those which had compulsory voting in place were reported to have turnout levels between 5.4 and 9.8 percentage points higher. An analysis of variations in Austrian laws found the difference to be between 20 and 25 percentage points. By comparing election laws and turnout across democracies, Jackman (1987: 415) suggested that mandatory voting laws increase turnout by 13 percentage points. Hooghe and Pelleriaux (1998b: 420) analysed data from a Belgian election survey and noted that 30% of voters said that they would not cast their ballot without the compulsion to do so.25

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Compulsory voting can therefore dramatically increase turnout. But this is only the case if it is implemented with appropriate sanctions to non-voters. In those instances where sanctions were not applied there was virtually no effect (Birch, 2009: 85). This is significant because there is considerable variation in the range of sanctions that are applied against non-voters (Electoral Commission, 2006a; Gratschew, 2002).

**Ballot paper design**

Spurred on by the events surrounding the 2000 Presidential election, a number of scholars have researched the effects of ballot design. Wand et al. (2001), for example, show that the particular ballot design used in Palm Beach County, in Florida, in the 2000 U.S. Presidential election (the 'butterfly ballot'), caused over 2,000 voters to mistakenly vote for Pat Buchanan. This was larger than the Bush majority and effectively decided the election. A significant number of ballot papers were also rejected at the 2007 Scottish Parliament election as a result of poor ballot design. This affected confidence in the democratic process and may reduce future participation (Denver, Johns, & Carmen, 2009).

Reynolds and Steenbergen (2006) surveyed 134 ballot designs over a ten year period in 107 countries. They suggested that elaborate and costly ballots do not reduce spoilt voting and are not used by illiterate voters. Further studies assess the impact of adding photographs to ballot papers (Darcy, 1998; Lijphart & Lopez-Pinter, 1988) and the ordering of the candidates on the list (Lutz, 2010). These are often shown to have an effect on which candidate the voter casts their vote for, especially in low-information elections, but they do not necessarily alter turnout in anyway. Bannuchi et al. (2008) found that attractive candidates are more likely to be attributed the qualities associated with successful politicians. An experiment by Johns and Shephard (2011) found that putting photographs had a marginal impact on how citizens voted, but would favour
younger candidates over older candidates. The effect was greatest on the choices of
those least interested in politics and least likely to vote, and magnified a tendency. The
effect was enough to change the outcomes of marginal British constituency competitions
(also see: Johns & Shephard, 2007).

Voting centres
Voting centres are polling stations located in publicly convenient places such as
supermarkets. Rather than being assigned to a specific polling station, citizens can vote
at any voting centre. An electronic database of registered voters which can be updated
during polling day is a pre-requisite for such a voting centre. Stein and Vonnahame
(2008) evaluated the effects of voting centres in Carimer County, Colorado from 1992-
2004. They found them to have a ‘positive and substantial effect on individual
participation’ (p.495) increasing the probability of voting by around 2.6 percentage
points. In contrast, Juenke and Shepherd (2008) found no relationship between the use
of voting centres and voter turnout in their county level study of Colorado in the 2006
general election.

Other factors
A range of other procedures have also been investigated. Wolfinger et al. (2008: 10)
compared election laws in U.S. states with voter turnout to assess the effects of sending
sample ballot papers and polling place information to registered voters. In the nine U.S.
states where registrants were sent information about the location of their polling place,
turnout was 2.5 percentage points higher than in the other 33 U.S. states. Similar effects
were reported for sample ballots but these varied considerably across populations
within the electorate. They also considered whether granting citizens time off work on
election day would increase their likelihood of voting. When time off work was granted,
turnout was 0.2 percentage points higher amongst public sector employees, but, by ‘an
anomalous result’, 2.0 percentage points lower amongst private sector employees (ibid
p.8-9). In short, this made no difference. Gimpel and Schuknecht (2003) and Taylor (1973) assessed the importance of distance from the polling station to turnout, showing this to be important. Orford et al. (2011) found that the location of polling stations could alter probability of voting by up to 5 percentage points (also see: Orford, Rallings, Thrasher, & Borisyuk, 2009). Cain et al. (2008) examined the procedures used to allow overseas voters to cast their ballots. They reported that overseas military personnel found it difficult to vote from overseas and that the electronic availability of information and voting facilities was viewed favourably by these potential voters.

Election administration procedures – a public policy continuum

Having mapped out the contours of the literature on election administration and voter participation, continua of procedures can now be constructed (table 2.1 and table 2.2). Different forms of election administration can be placed onto these continua according to whether they have an expansive or restrictive effect on turnout. As well as modelling the directionality of these effects we can also estimate their magnitude using the predicted changes in voting probabilities from existing research.

[Insert table 2.1 and 2.2 about here]

The starting point for the continua is that there are a set of procedures which have been considered the ‘norm’ in many democracies throughout the twentieth century. This is a problematic but necessary assumption so that we have a constant against which we can compare variations. As Massicotte et al. (2004) document, the procedures used around the world actually vary dramatically country by country, and sometimes even within countries. The IDEA database was used to put the most commonly used procedures in the centre of the continuum.\footnote{In the majority of states votes are cast via the manual marking of paper ballots (82.4%), in person or at a specified polling station (79%), voting cannot take place in advance of an election (56.8%), it is}
‘baseline’ procedures were modelled on the U.K. Procedures around the world may not mirror those in the U.K., but it is the relative placement of procedures that is important. Like the cartographer drawing a map of the globe, we need to draw the map of electoral procedures around one point, even if this point is entirely arbitrary.

Procedures are then placed either to the left or the right of the ‘norm’ according to whether the existing literature identifies them as having an expansive or restrictive effect on participation. For example, since all postal elections are known to increase turnout, compared to in-person voting, it is placed to the right of in person voting thus indicating its expansive effect. On each side of the ‘normal’ procedures five different ordinal categories are identified according to the extent of the effect that various procedures have on electoral participation, according to the international literature. For example, some research has shown that ‘no-excuse postal voting’ has a marginal effect on turnout. While this is still an expansive procedure, it is not as expansive as postal voting.  

Some procedures have been marked in the central or ‘neutral’ column since the research suggests that they are unlikely to have an impact on turnout compared to ‘normal’ procedures. For example, there is little evidence that introducing assisted voting will increase turnout.

Predicting the exact effect that reforms will have across different spatial-temporal contexts is very difficult for a number of reasons. Firstly, as noted above, most of the compulsory to be on the electoral register (60%), the register is continuously updated (39%), registration requires visiting a registration office in person (57%) and don’t conduct door to door enquiries (77%). Information from IDEA (2010).

Rosenstone and Wolfinger argued that since voting is a discrete and qualitative choice it is best predicted through probit/logit and related modelling rather than OLS regression (Rosenstone & Wolfinger, 1978: 44-45). Most of the research described above used this method. The second line of table 1 and 2 therefore defines 9 ordinal categories by the predicted change in the probability of voting for each procedure. Of course, with so many different data-sources being used, and many other research methods being deployed, all research findings cannot be readily converted into one precise measurement. Placing them onto the continuum therefore necessarily involves an interpretation by the author of the research findings on each procedure. This interpretation is provided in the discussion of the research on each procedure provided so far.
literature is based on U.S. elections and it is unclear whether the effects would be exactly the same in different political and cultural settings. We might expect the same broad effects on participation in different countries but, as we have already noted, behaviour is also dependent on the cultural meanings attached to different procedures (Bertrand et al., 2007). Previous experiences with procedures may also be important. For example, public concerns about the security of e-voting in Ireland led to it being abandoned (Commission on Electronic Voting, 2004a). This may affect the number of citizens that would use internet voting, if it was to be used in Ireland in the near future.

Secondly, predicting the effects of different forms of election administration is also made difficult by possible interaction effects with other procedures. Much of the research attempts to isolate the effects of individual procedures and evaluate their contribution towards turnout. However, the relative impact of a procedure may be significantly contingent on the presence of other forms of election administration. As Knack notes, the potential effects of some procedures may be ‘crowded-out’ by other procedures. For example, the impact of introducing ‘motor voting’ may be significantly reduced if voters already have election day registration (1995: 809). Thirdly, the placement of different forms of election administration onto the continuums above should be subject to refinement with further empirical research and the fine-tuning of these procedures through the establishment of ‘best-practice’. Fourthly, the effect of a particular reform will also be subject to changes in other relevant variables identified by the political science literature.

The continuum therefore should be considered as a matrix of institutional logics which affect voting behaviour. These institutional logics are invariably mediated by cultural contexts and a range of historical variables. The continuum can therefore only be a heuristic device. But, ceteris paribus, we should still expect the calculus of these institutional logics to permeate through context and affect political behaviour.
The continuum makes a significant contribution to the literature for a number of reasons. Firstly, by offering a conceptual advance by providing scholars with a classification system for election administration procedures. In their pioneering text on electoral laws, Massicotte et al. suggest that ‘as with the study of electoral systems, scholars need to start by defining relevant dimensions and categorizing each set of rules on those dimensions’ (2004: 158-159). This continuum makes such a categorization which will be used for the remainder of the book. Secondly, the continuum also acts as a heuristic device to inform national and international policy debate about reforming election administration by identifying the likely effect of different procedures. It will therefore interest practitioners interested in reforming institutions around the world. Thirdly, it identifies areas for further research.

**Fraud and security**

A number of commentators and scholars have suggested that although some forms of election administration might encourage turnout, they might also encourage fraud and thereby compromise the voting process. If illegitimate votes are included in the final count then the legitimacy of the result, and even the democratic system, could be questioned.

These claims have been strongly made in discussion of electronic and internet voting. Critics have argued that these technologies are not appropriate for voting since there are a number of opportunities for misconduct.\(^{28}\) Firstly, citizens do not understand and cannot observe the internal workings of voting machines. Citizens cannot see electronic votes as they could paper ballots. Nor do they have the time or skills to understand the computer code involved in tallying the votes. There is therefore much legitimate scope for mistrust of the process (Blackbox Voting, 2010). Secondly, electronic voting often has few, if any, audit trials that can be followed. If no paper ballots are produced that

\(^{28}\) For a discussion of these criticisms see: Shamos (2004), Alvarez and Hall (2008a),
can be counted then elections cannot be adjudicated as accurate. Thirdly, there are often fewer separations of privileges. Most voting machines are manufactured by private companies who do not usually make their source code available to the public. There are therefore fewer checks and balances in the system. There have been some speculation that the manufacturers of these systems have their own political interests which they could implant into the system (Smyth, 2003). Fourthly, critics suggest that the voting process has become a target for external ‘hackers’. Voting machine code is often seen as a ‘challenge’ for these individuals to defeat. Analyses of Diebold code have often found vulnerabilities which might enable attacks from external users, software or viruses, vulnerability to malicious insiders and failures to protect ballot security (Calandrino et al., 2007; Davtyan et al., 2009; Hursti, 2006; Kohno, Stubblefield, Rubin, & Wallach, 2004).

Other procedures have also been criticised for enabling fraud. Postal voting has been criticised too. Wilks-Heeg (2008, 2009) has suggested that the introduction of postal voting on demand and all-postal elections have made U.K. elections more vulnerable to large-scale fraud. He argues that the U.K. system of household registration enables the ‘head of household’ to add bogus names to the register. Misconduct is easier with postal voting because it does not require the elector to visit the polling station in person. A criticism (of all forms of remote voting) is that it violates the principle of the secret ballot because electors cast their vote in a location unregulated by the state (such as at home or in the workplace). Other individuals or organizations could therefore exert an influence on their vote (Birch & Watt, 2004; 2008). Identification requirements have been defended as a necessary step to prevent ineligible or bogus voters being able to cast a ballot (Fund, 2008: 65-87).
There is no doubt that electoral fraud has occurred in democracies.\textsuperscript{29} It is less clear that certain forms of election administration systematically make election fraud. What is clear, is that the link has not been established by the existing research. There are some practical difficulties in measuring level fraud which has prevented this. Fraud is often an unobserved event and providing evidence that it has occurred is therefore not usually possible. Most analysis is therefore based on observed cases. Such analysis is useful but it is only an approximation of the number of actual cases. The two may differ substantially. The rate at which cases are reported and prosecuted depends on a range of factors. For example, it is quite likely that high-profile media coverage of one case of fraud, or a change in the procedures used to administer elections, will lead to greater media and public scrutiny of the procedures. This may then bring about the greater reporting of problems with election administration, even if the actual number of problems has not increased. Minnite (2007; 2010) therefore argues that most accusations of fraud are unsubstantiated and that this is an overstated problem. As Alvarez et al. pose the question:

\begin{quote}
\ldots are fraud accusations like airplane crashes—infrequent but focusing events that we remember; or are accusations of fraud more like car accidents, events that occur frequently but where only the most dramatic make the news? (Alvarez, Hall, et al., 2008b: 10)
\end{quote}

Furthermore, the improvement of procedures may also eliminate the opportunities for fraud which may currently exist. For example, proponents of electronic and internet voting schemes claim that the continual refinement of technology and coding can remove security ‘loopholes’.

Until very recently there was very limited literature on electoral fraud but there have been some significant recent attempts to establish methodologies for detecting fraud

\textsuperscript{29} For example, see: Hasen (2000), Riordan (1994), Rose-Ackerman (1999); Lehoucq & Molina (2002); Alvarez et al. (2008b: 7)
(Alvarez, Hall, & Hyde, 2008c; Herron & Wand, 2007; Lehoucq, 2003). For example, D. Roderick Kiewiet et al. (2008) have sought to use incident reports completed by poll workers during an election to detect fraud. The researchers then coded the problems reported on these forms into categories. This data, they argue, would allow officials to then investigate cases where, for example, long waiting times are produced. Such ‘denial of services’ could be classified as fraud since they could deter voters from casting their vote in particular regions which might have a party bias. Elsewhere, Michael Alvarez and Jonathan Katz, (2008) suggest a different approach. They begin with the claim that the outcome of most elections is predictable in advance of the poll on the basis of a ‘handful of variables, including the state of the national economy, incumbency and partisanship’ (p.149). Those seeking to identify possible cases of fraud should therefore identify and investigate outliers to this trend using regression analysis. This could be coded into software packages and made available to election officials. They applied this approach to the 2002 gubernatorial and senatorial elections in the state of Georgia where irregularities were often claimed to have occurred but suggested that there was nothing untoward about them.

In short, the relationship between forms of election administration and voter fraud remains to be established. There have been some recent methodological advancements which might make future analysis easier, but these are yet to be applied to many elections.

Election administration and electoral outcomes
Can election administration affect electoral outcomes? If we mean by this can election administration affect who wins the election then yes, there are examples of this happening. The 2000 U.S. Presidential election exemplified the logic of how this might occur. Firstly, if ‘flawed’ procedures are used which cause voters to not cast their ballot for the candidate that they intended, then final vote tallies will be affected. In 2000 problems were found with the voting equipment in the key marginal state of Florida
which meant that not all votes were included in the final tallies. Punch-card voting machines were found to have insufficiently marked voting cards so that the ‘clear intent of the voter’ was not clear and some votes were discarded. The ballot paper used in one region, subsequently named the ‘Butterfly Ballot’ was found to have misled citizens and caused them to mark their vote for the wrong candidate. Poll queues were reported in some regions which were so long that some individuals were deterred or not able to cast their ballot. If these problems affected the electorate evenly then relative vote shares would not be affected. However, in Florida problems were reported in areas of Florida with significantly higher proportions of Democratic Party voters. Some analysis has therefore demonstrated the problems with election administration affected the outcome of the election (Wand et al., 2001).

The Florida example is not unique. Writers on American politics have identified a number of elections in which politicians and/or their supporters have tried to use election procedures to discourage participation in areas of disproportionate partisan strength. For example Piven et al. document the cases of Mayoral elections from the 1960s, 1970s and 1980s where black candidates such as Richard Hatcher in Indiana, Harold Washington in Chicago and Carl Stokes in Cleveland often sought to increase registration rates where they had previously been low. Their rise to power was opposed by the Republican Party but also the Democratic Party. In these cases the party machines, who often controlled the election boards, sought to block the expansion of the register. This was achieved by prohibiting county committeemen registering voters outside of their precincts, reducing the registration hours in black areas, sabotaging voting equipment in black areas and challenging the legitimacy of names on the register in predominantly black areas (Piven et al., 2009: 48-97). Some electoral campaigns therefore floundered because of poor or uneven applications of election administration and micro-level tampering by partisan agents.
**Does higher turnout bring a different winner?**

If procedures were implemented evenly, across an entire electorate, would election administration produce different outcomes?\(^{30}\) One way that it might would be if election administration generated higher turnout which, in turn, might alter electoral outcomes. Lutz and Marsh (2007) suggest that the ‘standard view is that low turnout produces a class bias in electoral outcomes’. Those who do not vote tend to be from particular SES groups: the less educated, lower income and black and minority groups. Since these groups have traditionally voted for ‘left wing socialist and social democratic parties, low turnout should lead to a bias against left-wing parties and left wing policies’ (Lutz & Marsh, 2007: 540-541). As a consequence, introducing expansive forms of election administration which might increase turnout could favour left-wing parties and candidates.

Some of the leading scholars in political science have endorsed this view. Writing in 1960, Schattschneider (1960: 98-111) noted how only approximately 60 out of 100 million eligible voters in America cast their ballot. The last seven Presidential elections had been decided by less than one fifth of non-voters. Considering the possible effects of universal turnout he suggested that: ‘The whole balance of power in the political system could be overturned by a massive invasion of the political system... the unused political potential is sufficient to blow the United States off the face of the earth’ (p.98). In their seminal study of political participation, Verba et al. asserted that:

> The propensity to take part is not randomly distributed across politically relevant categories. As we shall show, disparities in political activity instead parallel the fault lines of significant political and social division in America. Thus, the voices that speak loudly articulate a different set of messages about the state of the public, its needs and its preferences from those that would be sent by those who are inactive. Were everyone equally active, or were activists

\(^{30}\) We should also note that there is a literature which suggests that ballot design can affect electoral choice, especially in low-information elections. This suggests that the appearance of the candidate and the logo can influence the voter (Katz, Alvarez, Calvo, Escolar, & Pomares, 2009), but not necessarily in a partisan *party* politics way. Instead, the literature focuses on whether higher turnout will bring a different winner.
drawn at random from across the population, an unbiased set of communications would emerge. What this means is that, even in the absence of legal barriers to political rights on the basis of property, race, or sex, participatory inequalities have implications for politics’ (Verba, Scholzman, & Brady, 1995) p.11

Likewise, according to Lijphart, unequal turnout is biased against ‘less well to do citizens’ (Lijphart, 1997: 1). For him, the answer would be to introduce compulsory voting.

If the ‘Lijphart thesis’ was true, we might expect parties of the left to make gains when higher political turnout occurred. Some studies from the U.S. have found this to be the case. The Democrats have often been reported to be mild beneficiaries of higher turnout. Despite criticism from Erikson (1995a; 1995b), Radcliff (1994, 1995) claims that the Democratic vote has increased in Presidential elections in line with turnout, especially since 1960. Wattenberg and Brians (2002) use data from a midterm National Election Study from 1918 to 1998 to show that registered non-voters are more frequently Democratic than Republican, especially in 1994 and 1998. The 1994 congressional election seat losses for the Democratic Party, they claim, can at least be partly explained by conservative voters going to the polls rather than these registered non-voters. DeNardo (1980) suggested that the Democrats attracted a high number of ‘peripheral voter – people whose rate of turnout varies with the level of political excitement’ (p.418). The party therefore suffers when turnout is low. However these voters are also ‘fickle’ and can cross party lines. The greatest effect of high turnout was therefore to hurt an incumbent.

Citrin et al. (2003) used exit-poll surveys to suggest that fuller participation would benefit the Democrats but the effects of this would have changed few elections. Brunell and DeNardo (2004) also found American non-voters slightly more likely to vote for the Democratic Party. Full participation may only have marginal effects but would have changed the 1980 and 2000 elections. Martinez and Gill (2005) agree, but note that
Democratic bias amongst non-participants has declined since the 1960s as class divisions have also declined. Herron (1998) focussed on those individuals who abstained from voting in the 1988 U.S. Presidential election and claims that they were primarily supporters of Dukakis. Dukakis would almost certainly have won the 1988 election, he claims, had the full franchise voted.

Outside of the U.S., Pacek and Radcliff (2003) used data from 11 EU nations between 1979 and 1999 to test the relationship between turnout and party vote and found that higher turnout benefits parties of the left in European elections. Likewise, Aguilar and Pacek (2000) used regression analysis on pooled time-series data from ten countries in Latin America, the Caribbean, Africa and Asia to show that increased turnout primarily benefits ‘working class/ economically disadvantaged oriented’ parties. Bohrer et al. (2000) considered a number of post-Communist states and found that increased turnout benefits left of centre parties, ‘particularly the successor communist parties, while adversely affecting conservative and nationalist parties’. McAllister (1986) claimed that the same was true in Australia, McAllister, Mughan (1986) the same for the U.K., and Nagel (1988) the same for New Zealand.

There is some counter-evidence from other studies which suggest that higher turnout causes little or no change on the left share of the vote. For example, Fisher (2007) assesses the relationship between turnout and the left share of the vote in national elections in 23 OECD countries 1960-2002, European Parliament elections and British constituencies 1955-2001 and suggests that the relationship is ‘largely mythical’. A positive correlation is found in national elections, but this is explained as the likely result of both variables declining independently. A relationship in the 1983 British general election is also explained as being limited to isolated cases and due to strategic reasons. Berngahen and Marsh (2007) estimated the outcomes of 28 elections in 25 countries if there had been full participation, finding few systematic gains from increased turnout for left-of-centre parties. Van der Eijk and van Egmond (2007)
estimated the effect of low levels of turnout on parties’ share of the vote in national elections in EU countries. They compared party share of the vote in national elections with that in European elections, where turnout is usually much lower. They reported only a few significant relationships. Rubenson et al. (2007) used the 2000 Canadian Election to identify different policy positions between voters and non-voters. They found that voters’ opinions were largely representative of the larger population and universal turnout would not have altered the election significantly. Birch (2009: 127-8) undertook OLS regression analysis of the impact of compulsory voting on support for parties of the left controlling for economic growth, levels of democracy and unemployment. The left’s share of the vote was found to increase with levels of democracy and decline with unemployment and GDP. Compulsory voting did not appear to affect left-right partisan support.

**Do different forms of election administration bring a different winner?**

The previous section has considered whether fuller participation would have an effect on election outcomes. What evidence is there that fuller participation, resulting from more expansive procedures, might affect electoral outcomes? There is a literature which does explore this narrower question. Piven and Cloward, who were both academics but also political activists, quickly became established in the U.S. as one of the leading exponents of the view that it could. Piven and Cloward pointed to how, for example, in the 1980 Presidential election when Reagan came to power, there was a 51% to 37% tilt towards Carter amongst non-voters. ‘[T]wo-thirds of the disenfranchised’ were poor, low-income Americans (Piven & Cloward, 1983). ‘If substantial numbers of nonvoters were enlisted [in the Democratic Party], the potential for a major electoral convulsion is evident...’ (Piven & Cloward, 1988b). They therefore championed measures to increase registration rates amongst these groups as a way to combat the ‘extremities’ of the neoliberal Reagan administration, and future right-wing administrations.31

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31 Meanwhile, Michael Avery suggested that ‘Nonvoters are overwhelmingly likely to vote Democratic.... If turnout were substantially increased, the Democrats would likely win overwhelming victories in nearly all elections’ (Avery, 1989: 117).
Some studies do show that the use of expansive procedures can reduce the Socio-Economic Status difference between those who do and do not vote. In their original work, Wolfinger and Rosenstone indeed noted that the increase accrued from more expansive registration procedures would be greater amongst blacks (11.3%) than whites (8.9), greater amongst those with the lowest category of education (13.2%) than those with the most (2.8%), greater amongst those with lowest category of family income (11.4%) than the most (6.2%) and generally greater amongst younger groups of voters. Much of the subsequent literature discussed above which identified the relationship between election administration procedures and turnout also reported different effects for SES groups. For example, introducing identity requirement for registration and voting has been found to disproportionately affect participation amongst minority groups (Ansolabehere & Konisky, 2005; Barreto et al., 2009). Internet voting has been found to increase participation more amongst young voters (Gibson, 2005; Solop, 2001).

Hooghe and Pelleriaux (1998a) put the Lijphart thesis about compulsory voting to the test. They argued that abolishing compulsory voting in Belgium would lead to an overrepresentation of citizens with higher levels of education in the electorate. Studies of Dutch elections (Irwin, 1974; Irwin & van Holsteyn, 2005) found that compulsory voting has reduced or prevents such an overrepresentation.

However, there are some more sceptical findings about the effects of different procedures on the make up of the voting electorate. A number of studies suggest that the demographic and partisan profile of those brought into the voting portion of the electorate will change little with different voting procedures. These tend to suggest that the effects are marginal or statistically insignificant. For example, in their seminal study, Rosenstone and Wolfinger contested the consensus that the extension of voting

According to Gerald Pomper (1989): ‘Nonvoting is most common among groups more loyal to the Democrats than the Republicans’.
procedures would bring about a new growth in Democratic votes. The effect of the changes, they suggested, would be modest when integrated into the rest of the voting population. For example they posited that

‘In 1972 people who had not graduated from high school comprised 29.7 percent of all voters. Relaxing registration provisions would have increased their share by 1.6 percent... In the south this increase would be 2.7 percent. This latter figure is the largest shift in the composition of the voting population that we could find in any descriptive category’ (ibid 1980:82).

In short, there would be little demographic shift in the overall make-up of the voting population. They also attempted to predict the partisan credentials of the hypothetical increase in turnout and suggested that the Democratic windfall would be 0.3 percent. This they argued as being entirely insignificant on the grounds that it could be accounted for by sampling error. Of the 200 state contests between 1964 and 1972 only one would have turned out differently as a result of this. Therefore ‘a future presidential election could be decided by a shift of 0.323 percent... this is not very probable’ (ibid, 1980: 86).32 Lastly, Wolfinger and Rosenstone also considered whether the hypothetical increase in turnout would alter the composition of the voting attitudes of the electorate on particular issues. They found ‘traces’ of this pattern but again suggested that they were insubstantial and less than the sampling error; for example, those who thought that the ‘Government should see that everyone has a job and a good standard of living’ would increase by 0.3% and support for local government health insurance would increase by 0.1%. The hypothetical increase in turnout would also be more conservative on issues such as marijuana use by a margin of 0.6 percent (p.87). Therefore while turnout might increase, there would not be a considerable political effect, the authors claimed (Wolfinger & Rosenstone, 1980: 72-78).

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32 The 2000 Presidential election, of course, proved otherwise.
A number of studies broadly support this. Teixerira (1992: 138-141) suggested that if all the most liberalized registration provisions were implemented, the demographic profile of the voting electorate would only change slightly. Citrin et al. (2003) investigated the impact of full turnout on Senate elections between 1994 and 1998 and suggested that it would have benefitted the Democrats by about one percentage point. Calvert and Gilchrest (1993) undertook an ecological regression model on country-level data from Minnesota in 1990 to suggest that Election Day Registration does not reduce a class bias amongst the voting electorate and may in fact benefit higher SES groups. Bennett and Resnick (1989) considered the effects of non-voting on the political system and whether non-voters had a skew on public policies. Using various survey data, they compared voter and non-voter attitudes over a range of policy issues in 1984, 1986 and 1988. They found non-voters to be more in favour of welfare state programs, government ownership of industry and of more egalitarian policies. However, many non-voters disproportionately formed large parts of the ‘don’t know’ categories on a number of policy issues. 

Some analyses have sought to map the political effects of compulsory voting on small parties and far-right right support. The evidence is mixed. Makerras and McAllister (1999), Jackman (1999: 43) and Belanger (2004) provide some evidence that smaller parties might gain from increases in turnout. For Mackerras and McAllister (1999: 229) this might occur because high turnout also mobilises disproportionately more swinging and uncommitted voters, who have usually defected from the major parties. Analysis from Birch (2009: 125-6) does not support this. Her OLS regression of the impact of compulsory voting on small parties during worldwide multi-party legislative elections between 1990 and 2006 suggests, if anything, the opposite: compulsory voting decreases small party vote share. However, the results are statistically insignificant. Some have also analysed the effects of compulsory voting on far-right support. Sometimes

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33 Also see: Berinsky et al. (2006), Brains (1999), Nagle (1996)
Compulsory voting has been advocated as a way to reduce growing extreme far-right support in democracies around the world. This claim is based on the assumption that supporters of extreme parties are more likely to vote than those of moderate parties. Birch disagrees. She points out that there remains little evidence to support such a conclusion. Using an OLS regression of the effects of compulsory voting on support for far-right parties suggested for 41 cross-national (2001-4) elections, she suggested that compulsory voting increases the far-right vote share by 4 percentage points. However, this is only the case when sanctions are applied and Belgium is included in the model. Without these, no significant effect was observed. Meanwhile Norris’ (2005: 122-123) analysis of far-right support suggested that the far-right might gain two to three percentage points with compulsory voting in place. Her results are not statistically significant. In short, so far, there is limited concrete evidence that the far-right or small party will be affected by higher turnout.

**Voter Caging**

One method of using election administration to affect electoral outcomes is voter caging. According to Davidson et al. (2008), this involves operatives identifying an area where votes for the opposition party are concentrated and writing to them. If the mail is returned as 'not known at address' the addressee's name on the register is challenged. The challenge often takes place at the polling station causing long delays (ibid, p.537-8).

The stated aim of voter caging is often to rid the register of inaccuracies but it can also cause partisan agents to disenfranchise legitimate voters. This is because letters can be returned because the postal service is poor, not because the voter is not living at address. If voters are challenged at the polling station delays can cause legitimate voters to leave the queue because of a frustrating wait. Moreover, voter-caging is often accompanied by tactics of misinformation and intimidation. Davidson et al. cite one example of where a sign was posted up saying that residents should pay parking tickets, motor vehicle
taxes, overdue rent and most importantly any warrants’ in one district in Baltimore in 2002 (ibid, p.537-8).

**New participants, new politics?**

In summary, the existing evidence about whether higher participation would benefit a particular party is mixed. However, this literature begins by comparing the voting intentions and attitudes of voters and non-voters. According to this, only if there is a difference high enough to alter the ‘winner’ might we expect electoral outcomes to change.

One problem with this method is that it mostly assumes an increase in voters would leave the political system unchanged. In fact, we might expect political parties to alter their policies in order to try to cater for the demands of new voters. The actual composition of parties may therefore change quite considerably. Jensen and Spoon (forthcoming) find that compulsory voting increases the effective number of parties in a political system and the ideological spread of voting. This might create considerable internal politics within parties and between parties as previously strong coalitions may be considered. We might also expect new policy issues to emerge onto the political agenda. In a system with new participants, information flows from the media and other actors might change and alter the views of the new voters. Very few, of these variables, are considered in many of the more sceptical studies outlined above. Incumbent politicians who are risk-averse and content with the political system which brought them to power, may be reluctant to change things.

What evidence is there that politics might change under fuller participation brought about by expansive procedures? Hicks and Swank (1992) produce evidence that policies might change. In their analysis of comparative trends in welfare spending, they argue that spending increases with turnout. Using pooled time series analyses of welfare
effort in 18 nations during the 1960-82 period they claim that electoral turnout, as well as left and centre governments, increase welfare spending. There is also evidence that policy-makers discriminate against non-voters from the U.S. For example, Martin (2003) argues that districts with higher voter turnout rates receive better allocations in Federal budgets with Members of Congress allocating resources strategically to those areas which will deliver them the greatest return in votes. Griffin and Newman (2005) find that the preferences of voters can be used to predict the aggregate roll-call behavior of Senators. Non-voter preferences cannot. Wielhouwer and Lockerbie (1994) note how U.S. parties contact just one-fifth to one-quarter of the electorate.

There is also evidence that income inequality is lower where compulsory voting is in place (Birch, 2009: 129-131). Mueller and Stratmann (2003) present cross-national evidence that increased participation is associated with more equal distributions of income but also larger government sectors. Chong and Olivera (2005) examined a cross-section of 91 countries during the period 1960-2000. They found that compulsory voting, when enforced strictly, improves income distribution, as measured by the Gini coefficient and the bottom income quintiles of the population. Birch undertook an OLS regression to assess the impact of compulsory voting on income inequality. Controlling for region, she found a strong relationship in Latin America and Western Europe.

There is much scope for further research on this topic. Studying how political parties, elites and policy agendas change under increased (or an expected increase) in turnout could bring many useful further insights. However, there is good reason to think that politicians may be concerned about the political effects of new entrants into the voting electorate.

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34 There is also a literature on the effects of expanding the franchise. For example, see Aidt et al. (2006)
**Higher voting turnout and institutional context**

One criticism of the existing literature on higher turnout and political outcomes is that it is reductionist. This argument is made by Kohler and Rose (2010). According to them the existing literature focuses only on the different attitudes of voters and non-voters and calculates the effects of non-voters voting. However, for them, the outcome of elections is dependent on a range of variables such as the interaction of electoral institutions, party competition and the behaviour of the electorate. They therefore argue that in order to predict the potential effects of higher turnout we need to analyse how each of these variables might be important (p.119). They develop five hypotheses which explain the circumstances under which higher turnout will be more likely to affect electoral outcomes (table 2.3)

<table>
<thead>
<tr>
<th>Hypothesis 1: If the electoral system is first-past-the-post rather than proportional representation, the greater the possibility that maximising turnout affects an election result.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hypothesis 2: The greater the leverage of non-voters, the greater the likely effect of maximising turnout on an election result.</td>
</tr>
<tr>
<td>Hypothesis 3: The greater the number of parties on the ballot, the less the likely effect of maximising turnout on an election result.</td>
</tr>
<tr>
<td>Hypothesis 4: The greater the difference between the party preferences of non-voters and voters, the greater the likely effect of maximising turnout on an election result.</td>
</tr>
<tr>
<td>Hypothesis 5: The smaller the gap between the leader and the second-place party, the greater the likelihood of maximising turnout having an effect on an election result.</td>
</tr>
</tbody>
</table>

*Table 2.3: Kohler and Rose’s hypotheses about the circumstances under which higher turnout might affect electoral outcomes.*

Two of their claims are particularly important for this study. Firstly, they claim that the impact of turnout on electoral outcomes will depend on the electoral system. When an election is run under a plurality electoral system the outcome can be decided by a very small number of votes. Elections are therefore often fought over a limited number of
key ‘marginal’ constituencies which can tilt an election. Likewise, U.S. Presidential elections require the winner to achieve a majority in the Electoral College. In these circumstances an increase in turnout in the key electoral districts could be decisive. In contrast, Kohler and Rose argue, higher turnout is likely to be less important under other electoral systems. In majority-run-off elections as used in French Presidential elections, second preferences are more important. In proportional systems, the effect might be a ‘marginal alteration in the distribution of parliamentary seats’ (ibid p.121).

Secondly, the impact of higher turnout would be greater if there are a smaller number of parties in the party system. Kohler and Rose suggest that all parties may expect to gain some additional votes from higher turnout. If the share of additional votes is distributed across a large number of parties then the net effect on outcomes would be marginal. However, if the new votes are distributed only over two parties, then the effect might be more considerable (p.125).

**Conclusion: rational politicians and expectations about election administration**

Election administration matters. This chapter has shown that there is considerable evidence that election administration can increase turnout. It has proposed a continuum on which procedures can be considered to be either expansive or restrictive according to their effects on turnout. The continuum has numerous practical-analytical advantages. Firstly, while it has often been recognised that certain forms of election administration have different effects on participation a conceptual advance is proposed. Thinking about procedures conceptually allows the researcher to identify types of electoral procedures in discussions of electoral institutions. Countries could be assessed using the continuum to identify whether their procedures are expansive or restrictive. Using appropriate data-sources, election administration could also be used as a control variable in quantitative studies of political participation. Secondly, the continuum can be used as a heuristic device by practitioners to inform policy debate. Policy-makers in
countries looking to increase participation can use the continuum to locate possible reforms. Elklit and Reynolds (2001) have provided a general framework for assessing election administration, suggesting that high levels of participation and registration are important performance indicators for the health of a democracy. This continuum compliments their framework by identifying which procedures might be best placed to achieve such levels of participation. Thirdly, the continuum is a call for further research to refine the position of certain procedures. There remains very little research on election administration outside of the U.S. We know little about the effects of procedures such as the impact of individual versus household registration and the impact of a house-to-house canvass.

The chapter has also suggested that, in certain circumstances, election administration might affect electoral outcomes. This could be the case if restrictive or expansive procedures are applied unevenly across an electoral jurisdiction so that participation in areas with a particular partisan bias is affected or if voter caging tactics are applied. However, expansive forms of election administration may affect outcomes by increasing participation. These increases in participation may reduce the socio-economic status gap between voters and non-voters, which in turn, may affect the share of the vote gaining by particular parties or candidates and affect which issues enter the policy agenda. More research is needed here while there is also some division in the existing literature. However, it seems that the chances of election administration affecting an election are much higher in plurality voting systems, where there are few parties and where the electoral contests are close.

The chapter has developed some hypotheses to explain how political elites might behave towards election administration. Assuming that they are self-interested actors with bounded rationality, we would expect political strategy, electoral system, election marginality and party system to affect their approach to election administration. These factors may determine whether or not election administration is used as a tool of
political statecraft. Politicians are reflective actors who learn from their political experiences. It is argued here that the academic literature does show an underlying relationship between electoral procedures and electoral politics. These currents manifest themselves in democratic elections around the world. We can understand why politicians might seek to reform election administration to maximise their chances of winning elections. However, politicians do not have perfect knowledge. They cannot anticipate the effects of all procedures in a complex world in which other factors are not held constant for their convenience.

These observations generate several questions for further research for the remainder of the book. Firstly, how frequently is it the case that reform is led by partisan interest? What factors might affect whether or not politicians are influenced by this? What theoretical model best helps to explain whether change will or will not occur? First, the book introduces a new theoretical model for understanding how elites might interact with political institutions.
Chapter Three
The Statecraft Approach: Bringing Political Elites Back In

‘[In British politics there is] the obsession with studying the parts or segments of the British polity rather than the whole... the ‘normal’ political science of British politics is currently in much the same position as economics before the Keynesian inspired macro revolution of the 1930s and 1940s.’ (Bulpitt, 1995: 511).

Introduction: In search of a theory?
Savage and Williams (2008: 1) write that ‘the last years of the twentieth century have seen the most rapid and dramatic shift of income, assets and resources in favour of the very rich that has ever taken place in human history.’ Yet in comparison, the social science literature on elites has been in decline. The study of elites was once an important focus for analysis. The work of Max Weber, Karl Marx, Pareto, Mosca and C. Wright Mills were in no doubt about the importance of elites. However, in the fields of social theory, public administration and comparative politics they no longer have such a central place (Evans, 2006b; Savage & Williams, 2008).
This chapter re-introduces one theory of elites which has been influential in the study of British politics: the Statecraft approach, originally developed by Jim Bulpitt. There has recently been a renaissance of interest in Bulpitt’s work following the re-publication of his text on territorial relations in the UK, Territory and Power (Bevir, 2010; Bradbury, 2010; Bradbury & John, 2010). The statecraft approach is redeveloped and proposes as an overarching theory that might have some useful insights to make about why election administration and electoral institutions in general might change.

The chapter begins, by contextualising Bulpitt’s approach within a longer lineage of concerns with political elites dating back to Plato. It then outlines Bulpitt’s approach and discusses some of the criticisms that have been or could be levied against it. It is argued that the approach could bring some useful insights into our understanding of the reasons why election administration has been reformed. Firstly, it offers the ability to link debates on election administration reform and other aspects of constitutional reform to issues of macro-governance and state and society relations. Secondly, it offers an analysis capable of considering the twin importance of structure and agency in processes of institutional reform and continuity.

Elitism: The State of the Academy
The power of political elites in democracies is dependent on winning elections. Elite theory is therefore a natural starting place from which to draw a useful theory for understanding change in electoral institutions. Reviewing the elite theories of the state, Evans comes to the conclusion that contemporary theories converge around four key propositions:

a) ‘The rulers of society are engaged in an ongoing process of competitive elitism;
b) While this group remains territorially based within a nation state, due to global imperatives it will have linkages and/or membership of global elite networks in order to maintain its power base in society;

c) The ruling elite remains ‘closed-off’ from the ruled; and,

d) The power bases of its members are selected by virtue of a broader range of resources – economic, political, ideological or technical’ (Evans, 2006b: 40).

Evans’ (2006b) survey of elite theory in political science traces elitism back to the classical theorists of Plato, Machiavelli, Pareto and Mosca. Modern work such as that by Michels (1911[1962]), Burnham (1941), Mills (1965), Hunter (1953), Gutsman (1963), Sampson (1971, 1982) and Scott (1991) continued to critique liberal democracy. Elites were brought in to focus in the 1980s when some theorists sought to make the case ‘to bring the state back in’ to political analysis. This reflected a belief amongst some authors that the state had dropped from the agenda. For example, Theda Skocpol (1985) argued that contemporary Pluralist or Marxist accounts reduced the state to an arena in which social and economic conflict took place between groups. These accounts failed to take seriously the role of the state as an autonomous and coercive actor in itself. Michael Mann (1986, 1993) meanwhile, attempted to assess the extent and nature of state power against other societal groups. More contemporary approaches such as epistemic communities (Adler & Haas, 1992) and policy networks (Dowding, 2001; Evans, 2001; Marsh & Rhodes, 1992) have some commonalities with this tradition.35

The study of elites has been in decline. Social theory, as Savage and Williams note, it has fell victim to the rise of positivist and post-postivist approaches. Public administration has witnessed the rise of ‘meso’ levels of theory in the forms of the new institutionalisms and new interpretivism which have formed a so-called ‘post traditional’ public administration (Davies, 2011). Comparative politics and political science have been

35 For a discussion on how the Statecraft approach transcends work on networks and the new institutionalism, see: James (2011c).
dominated by behaviouralist empiricism and rational choice theory (Marsh & Savigny, 2004). The elite tradition could be a helpful framework for the analysis of EA. As the previous chapters have noted, elections are one of the key institutions mediating citizen influence into government decision making. If these rules are manipulated by elites, as Piven and Cloward and others suggest, then there are important implications for the relationship between elites and citizens; state and society. While the critical implications for liberal democracy have been sketched out by Hayduk, no alternative theorisation of the state has been developed. This book seeks to address this knowledge gap.

The Origins of the Statecraft Approach
The point of departure from which Bulpitt penned his statecraft approach was in critique of the then contemporary theorisations of ‘Thatcherism’ (Bulpitt, 1986). A plethora of literature had developed in the 1980s to try to explain the development of this seemingly unique political phenomena (Marsh, 1995). The Conservative government elected under Mrs Thatcher in 1979 embarked on a radical agenda of market reform coupled with an apparent interest in centralising functions within the central state. Debate raged about the nature and extent of this reform but ‘Thatcherism’ was often claimed to be an ideological response to the problems of the overloaded British State (King, 1975) to which the answer was to ‘roll back the frontiers of the state’. A great deal of literature therefore characterised Thatcherism as an ideological project based around this ‘grand design’ (Hall, 1985; Hall & Jacques, 1983; Wolfe, 1991).

Bulpitt had two problems with these accounts. Firstly, the ‘Thatcherism’ debate assumed that the Thatcher government was much more of a radical break with previous Conservative governments than it really was. In fact, he suggested that it was the continuity that was striking with earlier periods, particularly between 1880 and 1918, and 1922 to 1961 where governments followed similar statecraft strategies, particularly with respect to economic policy (Bulpitt, 1986: 27-28).
Secondly, of more importance here, for Bulpitt the ‘Thatcherism’ debate overestimated the role of ideas and ideologies in determining policy. Rather than following pre-formulated ideational ideals, as we shall see below, he suggested that it was the art of governing and practical politics that concerns governments. For Bulpitt (1989: 57) ‘much of what is often regarded as significant in British politics – ideology or policy – is of secondary instrumental importance’. Neither is the study of particular policies a useful approach to studying government. Such an approach can be misleading as it overestimates the consistency and purpose of any administration. Instead, focusing on the broader strategy of a government is Bulpitt’s preferred approach (Bulpitt, 1986: 18). Analysing ideas and policies is studying a moving and distorted shadow. Governments adopt particular ideas or policies at a given moment in time to give them strategic advantages as a means to achieve the end of successful statecraft. They are not necessarily an accurate image of the real motivations and interests of the government. For Bulpitt therefore there is ‘no such thing as Thatcherism to be explained’ (Bulpitt, 1986).

In Bulpitt’s later work, a further concern motivated him. The statecraft approach was developed as a critique of mainstream British political science which he saw as suffering from, amongst other things, the compartmentalisation of the study of British politics. Bulpitt explicitly wrote in critique of approaches that only analyse one part of the larger polity. This, he claims, has become the trend in British political science by the mid-1990s. Thus, political parties, voters and the major institutions of government are discussed in separation from each other. He points to how standard text-books on British politics illustrate this. They are divided into on chapters ‘voters, parties, pressure groups, the major institutions of government plus, and these days, a number of policy case studies’ (Bulpitt, 1995: 511). The end result is either a failure to generate macro analysis integrating the polity as a whole or an inaccurate picture of the state as the arbitrator of these groups; in short, pluralism. Such analysis – based on a ‘bottom-up
methodology’ creates ‘sociologism’ (Bulpitt, 1995: 512). His alternative was a macro approach, which he admitted was difficult, since it involved ‘some knowledge about a lot of things. Hence, accusations of superficiality are always possible (and plausible)’ (Bulpitt, 1995: 515). But a macro approach would overcome the pluralist bias of traditional methodologies.

Arguably, there is still some relevance to Bulpitt’s claims. Electoral institutions are studied in immense detail by political scientists in the UK, USA, Western Europe and elsewhere. There are specialist networks of academics through which scholars produce world-class research on the nature, history and effects of different institutions. For example, the British Political Science Association has a specialist sub-group which focuses on the study of Elections, Public Opinion and Parties. Yet the work of colleagues of this sub-group rarely is fused with that of those working within the State Theory sub-group of the same organisation. While the work of the former is mostly inspired by positivist writings on the mechanisms of electoral politics, the work of the latter is informed by Marxist theory which seek to explore the ‘theoretical and empirical work that seeks to enhance our understanding of the nature and development of, and prospects for, the state’ (PSA, 2009). There are some important overlaps in what is being studied since the results of elections affects who has power in the state, and power is central to state theory. However the study of elections and state theory are often divided by the use of different methodologies, different ontological and epistemological assumptions and these are institutionalised into the organisation of networks of academics. Something is lost in between.

We should not therefore be surprised that an ‘election anorak’ issue such as election administration has ‘fallen through the crack’ and does not receive wider interest in political science. As the previous chapter noted, literature on election administration has often seen it as a micro-issue without linkages to broader issues of macro governance.
and state-society relations. The advantage of using the statecraft approach is that it allows us to attempt to bridge these connections.

**Core assumptions of statecraft**

So what is the statecraft approach? Essentially it is the claim that an inner core of politicians in the central state (who Bulpitt terms the ‘Court’ or ‘Centre’) will seek to follow their own interests and maintain power through winning elections. Importantly, they have interests which may be different from those of the rest of society. The core assumptions of this model are outlined in next section.

**The court**

Firstly, analytical primacy is given to the ‘Court’ or ‘Centre’. One of the advantages of using the statecraft approach for explaining change in election administration is therefore that it has methodological precision in identifying the agents under study.

Who is the Court? There is some ambiguity in Bulpitt’s writings. In his 1986 article, rather than using the terms Court or Centre, Bulpitt simply refers to the object of study as ‘the Conservative Party operating, temporarily, under Mrs Thatcher’s leadership’ (Bulpitt, 1986: 21). However in his article on the race issue in the same year Bulpitt bases the Court historically as the former part of the Court/County divide. Here is it described as ‘a political-administrative community of senior ministers and civil servants, operating in and around Cabinet’ (Bulpitt, 1986: 24). Later this becomes ‘party leaders’ in 1988 while discussing Foreign Policy under Thatcher, and the ‘Conservative Party elite’ in a 1989 discussion of local-central relations. While on the one hand analysing Bulpitt’s precise usage may appear to be squabbling over semantics there is a well established literature which debates where power exists within the central state. In the UK, for example, the Prime Ministerial-Cabinet debate (Hennessy, 1986; Madgewick, 1991) discussed whether power resides with just the Prime Minister, the Prime Minister’s
inner clique or whether the circle should be widened to include the cabinet as well.\textsuperscript{36} Similarly other elite theories of the state discuss at length who is in and out of the ‘political elite.’

However, in his later writing he seems to settle on a definition of the Court as to ‘include the formal Chief Executive plus his/her political friends and advisors’ (Bulpitt, 1995: 518). This is differentiated from key state/elite managers, the political elite, the government or cabinet, the political administrative community and core executive. It is therefore important to note that it is this latter definition that will be used for the remainder of the book.

\textit{The court as a unitary actor}

Secondly, Bulpitt assumes that the Court will act as a unitary actor – ‘through fear, greed, ambition or party pressures’. This is partly due its small size and social composition. It might be argued that any leadership group not demonstrating shared characteristics and coherence ceases to be a meaningful actor in its own right, and is nothing more than an aggregate of the individuals that are said to be associated with that group (Frey, 1985: 141-144). Of course, total unity within the group is not required at all times. There are likely to be many examples where divisions and rows take place within a leadership elite. That said, it is assumed that over a period of time (say, an election cycle) these differences are of less consequence than the shared interests and actions that define the leadership and hold it together.

\textit{Self-interest}

Controversially, Bulpitt argues that politicians are self-interested. According to him:

\textsuperscript{36} For a comparative perspective on the debate see: (Poguntke & Webb, 2005).
'...this ruling party elite will prefer to pursue their own interests and ... these may not be the same as the national interest or the interests of powerful domestic and external groups'

(Bulpitt, 1988: 184).

This is not to suggest that agents are without ideology and that ideology does not have some role on their actions. However, should they come into conflict, interests will prevail.

The assumption of self-interest (particularly combined with the assumption of rationality that will follow) have strong connotations in political science since they are the core assumptions of the positivist rational choice approach. But the statecraft approach should not be misinterpreted as a positivist approach. Bulpitt argues that those assumptions of politicians are justified because of the particular institutional and historical context in which elites find themselves in Britain. In particular, the following factors make for the need for the Court to undertake statecraft in government. The first is the plurality electoral system that rewards (in terms of vote won) winning parties with a relatively large share of legislative seats, while penalising third parties with extensive nationwide support. The second is the adversarial party system which guarantees continuous and relatively intense friction and competition in terms of party political rhetoric and actions. In one very real sense, a party’s whole term of office (or opposition) is a practice game for the next general election. Thirdly, that both Labour and Conservative parties have appointed ‘professional parliamentary leaders... who ... give up most of their time and ambitions to managing their parties’ (Bulpitt, 1996: 225). Fourthly, and finally, although institutional pluralism has always existed in Britain, it is arguably more limited in Britain than elsewhere. There is no powerful elected second chamber at Westminster, no elected tier of regional government or authoritative committee system in parliament. Those elements of institutional pluralism that do or
have existed (local authorities; nationalised industries) have rarely been viewed by national party leaders as reservoirs of power, even when in opposition. In short, these structural features have combined to ensure that British politicians are constantly concerned with winning national elections above all else. As Bulpitt puts it himself, Britain contains:

‘...a frenetic, preoccupied, restless, querulous set of national politicians. Party leaders must...aim to win general elections simply because the consequences of defeat...are so awful (Bulpitt, 1988: 188).

As a result, he concludes that:

In combination, these structural characteristics of modern British politics have produced party elites with common, initial, subsistence-level objectives, namely winning national office, avoiding too many problems while there and getting re-elected (Bulpitt, 1996: 225).

Thus, while politicians are assumed to be self-interested, this is a result of the historical and institutional context of British politics.

**Rationality**

Politicians are also assumed to be rational where rationality is taken to mean:

‘...the achievement of preconceived goals via the most efficient means: that the actors involved will learn from their past mistakes or those of others and that rationality can apply to procedures or decisions or both’ (Bulpitt, 1988: 185)

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37 The obvious exceptions in this context are the more recently created Scottish Parliament and Welsh Assembly.
For Bulpitt, rationality is ‘bounded’ – a concept borrowed from Simon (March & Simon, 1958; Simon, 1945). In this sense agents do not maximise, they ‘satisfice’. They do not have perfect knowledge – but apply rational analysis using the (however incomplete) knowledge that they have. Hence the Court, ‘is assumed to be pursuing strategies to benefit their own interests in predatory ways’ (Bulpitt, 1988: 185).

He accepts that using such an assumption is at times problematic. However, without it analysis will be reduced to ‘moralising, story telling, supplying simple shopping lists of relevant ”factors”, or, even worse, a weary and idle cynicism about the incoherence of government’ (Bulpitt, 1988: 186). Thus for him, ‘while elite analysis and the rationality assumption need not be married, of necessity, they should be constant bedmates’ (p.186).

**Structural framework**

The Statecraft approach posits that any leadership clique or political elite will be constrained by, but enjoy relative autonomy from, the structural context that surrounds them (Bulpitt, 1995: 518-519). Accordingly:

> Party leaders in office operate within a structural framework which, in terms of the political management of the external forces on domestic politics, yields both constraints and opportunities (Bulpitt, 1988: 183).

Thus, in more general theoretical language, agents and structures are mutually implicated in a dialectical relationship that unfolds across time and space. Agents are purposive entities whose behaviour constantly reproduces the world in which they live. At the same time, the world is made up of material and ideational relations, which constrain the autonomy of agents. There may be occasions where such structures offer significant opportunities for deliberate action (leadership), the results of which may feedback into the institutional environment and help to change it. At other times, agents
may be so constrained by their surroundings that ‘ad hocism’ and ‘muddling through’ may be the best that can be achieved under the circumstances. The advantage of this assumption is that it reminds us that individuals do not attempt to bring about change in a structural vacuum. There are important institutional, material and ideological constraints, which the historical institutionalists rightly point out. Autonomy is therefore not absolute. In fact, in his later work, he gives these ‘constraints’ a name: Natural Rate of Governability (NRG).

Unfortunately, Bulpitt did not specify of what the NRG was to be incorporated, simply suggesting that it was ‘to be tested’. How would the external environment offer opportunities and constraints for agents? Which aspects were more important than others? However, while there is arguably a need for this to be more explicitly developed, the general idea has advantages for understanding the reform of EA. In short it would allow a role to agents trying to reform EA, but also give a role for the changing context which might involve a cocktail of technological, ideological, economic and political constraints, all of which could be specified with further research. The absence of an appreciation of this in much of the existing literature on election administration was flagged in the previous chapter. The statecraft approach could therefore offer a significant advance in our theoretical understanding of election administration change.

**Open polity**

The last assumption of the approach was that Britain was argued to be an open polity in that it is not an insulated state in isolation from its external international environment. In this sense, Bulpitt pre-empted the many debates which followed in which it was argued that economic globalisation undermined state sovereignty and ability to manage its macro-economic affairs. However, conversely, Bulpitt suggested that that politicians are not ‘swamped by the many mechanisms of interdependence’ (Bulpitt, 1988: 183).
The inclusion of this assumption in his 1988 work was essentially to make the point that both spheres interact and more particularly, that Courts will management the external and as well as the domestic sphere to maintain governing autonomy, offering both opportunities and constraints (Bulpitt, 1988).

**Statecraft**

The culmination of all of the above assumptions is thus that the Court or Centre follows the pursuit of statecraft, ‘the means by which a country is governed’ (Bulpitt, 1988: 186), or the ‘art of winning elections and achieving some necessary degree of governing competence in office’ (Bulpitt, 1986: 21). They don’t (necessarily) try to govern in the national interest, or upon the basis of ideological views. What matters is winning, and winning again: power maintenance. It therefore becomes clear why statecraft might provide a useful framework for understanding change in EA. If the statecraft thesis seeks to explore how elites seek to win elections and maintain power then it appears logical to apply the approach to the rules governing elections themselves. Using the approach, we might expect rival elites to alter the electoral rules to maximise their chances of victory.

Importantly, Bulpitt went beyond a bland claim that elites will try to win power. He developed the model further so that statecraft itself involved a number of dimensions or practices through which successful statecraft could be achieved. It is noticeable here that there is some movement in the conceptualisations of these over time from Bulpitt. In his original 1986 article Bulpitt outlines five major dimensions of statecraft – methods through which effective statecraft is to be achieved. These are:

- ‘Party management’ – which includes management of parliamentary backbenchers, party bureaucracy, constituency associations and support pressure groups.
• ‘A winning electoral strategy’ – which includes ‘the manufacturing of a policy package and image capable of being sold successfully to the electorate [and] stimulate members belief that the party can not win an election but also govern reasonably effectively.’

• ‘Political argument hegemony’ – a ‘predominance of the elite debate regarding political problems, policies and the general stance of government.’

• ‘Governing competence’ – Bulpitt argues that government is about more than just policies but about creating a sense of competence.

• ‘Another winning electoral strategy’ – Bulpitt notes that statecraft will follow a cycle with a party starting from the opposition benches, winning an election and then winning another successful election (Bulpitt, 1986: 22).38

By 1995, however these instruments of statecraft had been crystallised into three core mechanisms through which Courts exercised statecraft: (i) ‘Governing Objectives’ – the ‘subsistent’ desire to win and maintain power by demonstrating ‘governing competence’, (ii) a ‘Governing Code’ which is a ‘set of relatively coherent principles or rules underlying policies and policy related behaviour’ which are developed to achieve the Governing Objectives and (iii) ‘polity management’ which is ‘a set of political support mechanisms designed to protect and promote the code and objectives’ (Bulpitt 1996a: 1097). These support mechanisms included the concepts of ‘political argument hegemony’ and ‘party management’ introduced in his earlier work. In addition however, Bulpitt would also dump policies and ideas (Bulpitt: 1995: 519). In his 1996 article Bulpitt also suggests that Courts may use foreign policy as a mechanism to gain domestic support. Thatcher associated herself with powerful leaders in order to present herself as a world leader and used her foreign policy ‘successes’ for promote domestic support (Bulpitt, 1996).

38 See Buller and James (forthcoming) on how these concepts can be operationalised empirically.
Bulpitt applied this theory to explain British ‘historical politics’ across the twentieth century by identifying three statecraft regimes (1922-1961, 1960s-1978 and 1979-1991) - sets of governing codes and political support mechanism which delivered successful statecraft.

![Diagram of Statecraft Approach](image)

**Figure 3.1: The Statecraft Approach**

**The Statecraft Model in Critique**

A number of criticisms can be raised against the approach. This section now considers these, identifies some legitimate responses and shows how applying it to election administration might usefully illuminate why change has occurred, and whether there are limits on the applicability of the approach.
Parsimonious reductionism
Perhaps one reason why the statecraft approach has received little attention from contemporary political scientists is that it is often seen as a rather crude and reductionist form of analysis. In short, by over focusing on the role of a small elite it is not sensitive to the broad range of causal forces in social phenomena. Such criticisms are levied by Marsh in his review of approaches to Thatcherism. He warns against uni-dimensional approaches to Thatcherism. Thus:

The chief problem with Bulpitt’s analysis is that it is totally politicist; policy change is driven by strategic political and electoral judgments, the economic context in which such choices are set is largely irrelevant (Marsh, 1995: 14).

In contrast to Bulpitt, rival approaches to understanding Thatcherism see it at least in part a result of a response to particular structural crises that were occurring in western capitalist economies (Coates, 1989; Jessop, 1989; Jessop, Bonnett, Bromley, & Ling, 1988). Theorists from this line of argument claim that neo-corporatist policies of the 1970s thus became unsustainable because of changes in the economic structure of society. Elsewhere authors such as O’Shea and Wolfe emphasise the importance of understanding ideology (O’Shea, 1984; Wolfe, 1991). Arguably an appreciation of the multi-dimensional nature of social phenomena is absent from Bulpitt’s approach.

Similarly those more sensitive to pluralist thinking would argue that there are a number of actors involved in decision-making. The expansion of international and regional organisations, globalisation, public sector reform and decentralisation have helped to highlight that a range of actors are important in the operation of government (Smith, 1999). These extend outside of the Prime minister and key cabinet members and each have complex interdependencies. Power is therefore distributed vertically across
government rather than horizontally as hierarchal Westminster models pre/describe (Smith, 1999: 15-17). Moreover, government can involve networks because decision making is made across contacts in informal institutions rather than just formal institutions (Dowding, 2001; Evans, 2001). By focussing just on the Court a more nuanced understanding of the policy-making process is forfeited.

However, Buller suggests that reductionism might not necessarily be a problem for the approach. Citing Frey (1985), he suggests that analytical priority has to be given to one actor above all others to prevent the analysis becoming mere description (Buller, 1999: 700). Indeed Bulpitt was aware of this problem and wrote on it explicitly – giving it a name ‘the principal actor designation’. It is a key issue for social theorists but is rarely given explicit consideration. As Buller notes this consideration is vital since a) it is not possible to provide a complete study of every actor – thus one must assume analytical primacy; and, b) without being ‘up front’ about the actor assigned this primacy the author runs the risk of simultaneously studying multiple actors at different stages of analysis. The result is description rather than useful theoretical development (Buller, 1999: 7).

Secondly, while the primary foci for study for Bulpitt is undoubtedly the ‘Court’, it would be misleading to suggest that Bulpitt claims that we can study Courts without consideration of other causal social forces. As has already been noted, one of the core assumptions was that the Court operated in a structural context. Little detail of this was provided, but this does give space for economic and other factors to play a role in the reform process.

Thirdly, Bulpitt saw simplification or parsimony as a necessary evil to achieve his aim of a macro theory of politics. Such an approach offered parsimony which avoided an unmuddled collection of data. Parsimony meant that ‘accusations of superficiality are always possible (and plausible)’ (Bulpitt, 1995: 515), but was an essential step in the
process of developing a more joined-up analysis of macro-governance. It allows the problems of sociologism described earlier in this chapter to be overcome.

**Moralism**

It could be argued that the approach has a view of leaders which many may not be normatively comfortable with. Many like to see leaders as capable of enacting change for the betterment of society and not governed by their own self-interest. Bulpitt was unremorseful on this point. Contra to Marx, Bulpitt claims:

> It is not the task of academics to change the world, but to explain it, warts and all, even if we don’t like it. Thus...there is no point analytically, blaming the Courts for being more than normally stupid or immoral, a common feature of media (And academic) comment. Such normative ‘crap’ must be excluded (Bulpitt, 1996: 1097).

While this may be a normatively uncomfortable working theory it arguably has the advantage of having a more realistic understanding of how elites act and the strategies they use to maintain power. Political scientists are more able to prescribe policies to prevent elites acting against the interests of the citizenry and hold politicians to account if they can better understand how and why they are likely to act.

**Lack of theoretical and empirical development**

One criticism that could be made of the approach is that it is an over-simplified approach which has lacked empirical application. Buller applies the approach to the Conservative government of 1979-1997 in Britain and in particular uses it to explain their policies and approach to European integration, suggesting that it provides a ‘parsimonious and stimulating contribution’ (Buller, 2000). Both Buller and Burnham also apply the statecraft approach to New Labour and their macro-economic policies (Buller, 2004; Burnham, 2001). Burnham identifies the continued use of rules based
economic management by New Labour. The statecraft approach has influenced the work of Buller and Flinders on depoliticisation in the British polity (Buller & Flinders, 2005). Stephens re-applies it the Thatcher and Major governments in Britain (Stevens, 2002). McKenna (2010) has used it to understand local participation initiatives in the UK.

As a result, some concepts, such as the NRG, remain underdeveloped. While Bulpitt introduced the concept of NRG to assist his explanation of the role the Court holds within the structure and agency relationship, it is clearly an underdeveloped idea. The concept, for example, provides no explicit information about what the precise structures are that agents face, how and why the hold of structures over agents is likely to in/decrease over time and what does this say about the power relationships between them.

However, this is not argument against using the approach – it is an argument for further empirical application to allow theoretical development. Buller and James (forthcoming) have developed a way of operationalising the support mechanisms so that it can be used to understand political leadership. In Territory and Power there are some clues as to what NRG may consist of. Bulpitt borrowed from new institutionalist concepts such as critical junctures and path dependencies as forces which influencing political development. These, perhaps, could be considered as part of the NRG. Nonetheless, further empirical application would stretch the approach further.

**Statecraft and falsifiability: Towards a critical realist perspective**

One further potential line of criticism is that the statecraft approach is theoretically flawed since its basic premises are empirically un-testable. Having decided that statecraft is the model to be used, how would you know if the approach was incorrect? For example, the statecraft approach claims that governments act in way that is self-
interested and rational in order to stay in power. But where there might be evidence to suggest that they might not be acting in this way, Bulpitt explains this away as being due to ‘miscalculation and error’. Bulpitt seems to accept this problem with his approach within his own writings when he admits that:

…the supporting data for many of these arguments is much less than perfect. And of course, the [statecraft] thesis [is] untestable, [it] cannot be disproved (Bulpitt, 1983: 239).

In short, there does not appear to be anyway to empirically refute or prove the approach. How could the researcher try to test its utility? The Statecraft approach, premised as it is on deductive assumptions about human behaviour is flawed as it does not meet the rules of the game of conventional social science. Thus, Rod Rhodes, for example, argues that one problem is that there is no counterfactual to the approach (Rhodes, 1998).

In response, it is necessary to realise that such criticisms are implicitly based on a particular ontology and epistemology. They follow Karl Popper who argued that any theoretical approach should be ‘falsifiable’ (Popper, 1959); that is we can test theories using empirical evidence. It rests on the assumption that the world exists independent of our knowledge of it, and that this world is observable. We can therefore use theory to generate hypotheses that can be tested by direct observation. All hypotheses should be testable to be of any utility.

Such criticisms are undermined, however, by essential flaws in the positivist ontology. For Positivists, knowledge can only be acquired through direct observation via the senses. However, as critical realists suggest our ability to understand the world is limited by our apprehension of it. For critical realists, such as Roy Bhaskar (1996), there are three overlapping domains of reality. As McAnulla (2005: 31) summarises, these are:
- ‘the empirical realm, which consists of experienced events;
- the actual realm, consisting of events and experiences (not all events are experienced);
- the real, which consists of mechanisms which may be unobservable’

The problem with positivist empiricism is that it focuses only on the directly empirical domain of reality and not the actual or the real. Archer (1995: 17) therefore claims that ‘there is no direct access to the “hard facts” of social life. As Marsh and Furlong put it, ‘…not all social phenomena and the relationships are directly observable. There are deep structures that cannot be observed and what can be observed may offer a false picture of those phenomena/structures and their effects’ (Marsh & Furlong, 2002). Often these ‘deep structures’ are cited to involve processes of capitalism, or class, race or gender politics. They may affect the empirical without our knowledge of them. Each of these generates constraints and opportunities that exert causal forces on political phenomena which are not always observable in the sense meant by Behaviouralists. Instead social scientists have to use a different set of tools to adjust to this separation between appearance and reality (Sayer, 1984). This involves a deeper analysis of the sociological mechanisms that influence outcomes where the observable should be considered as the ‘effects of these (unobservable) causal mechanisms’ (Savigny, 2007: 37). This is not to say that claims should not be tested against empirical evidence (Evans, 2006a), but research can be ‘empirical rather than empiricist’ (Hay, 2002: 252).

Why might the Statecraft approach be a critical realist approach? It is concerned with phenomena and activity which takes place in the actual and real domains. To take the actual first, one key problem that the researcher faces is obtaining access to the ‘Courts’ decision making process since it is under a veil of government secrecy. Decisions are not made in public forums, but often in informal settings, disguised by secrecy. This would include cabinet meetings, meetings with inner members of the core executive or Court, or meetings or telephone conversations between key individuals such as a minister and
the Prime minister or President. According to Hennessy (1990), writing on the British system of government:

‘Secrecy is the bonding material which holds the rambling structure of central government together. Secrecy is built into the calcium of a British policy-maker’s bones. Of all the values incorporated into the culture ... secrecy is primus inter pares. It is the very essence of the Establishment view of good government, of private government carried on beyond the reach of the faction of political party, the tunnel-vision of pressure group and the impertinent curiosity of the journalist.’ (Hennessy, 1990: 346).

Importantly, the researcher does not have access to the decision making process, or at least, all of it. Instead the researcher is using second hand accounts to reconstruct the beliefs of agents after the event. While they may be allowed to observe some decision-making activities, these are largely likely to be peripheral policy-areas, which would exclude, for example, decisions to go to war or key economic policy meetings. Where the researcher would be allowed to attend such meetings, how would the researcher know that decisions had not been made in advance?

The real domain of reality that the approach is concerned with is the structure of electoral constraint. As noted above, Bulpitt argues that the court has to act in a self-preservatory way because the nature of the political system. The furious pace of the party elite competition within Westminster means that they must with self-interest in mind. Politicians will always therefore have an eye on winning the next election. If they cannot stand again (because of ill-health/term limits etc) then they will have one eye on their reputation and legacy in office. In Bulpitt’s model, it is this structure which influences the behaviour politicians and the policy process. Yet it is not necessarily observable to the researcher and the politician themselves may not always be aware of how it might affect their actions.
The statecraft theory therefore does not use formal modelling or generate scientific knowledge in sense meant by behaviouiralists. As Flinders (2010) notes in his critical realist research on electoral systems the knowledge obtained is not falsifiable or definitive. However, it allows us to ‘explore complex issues...[identify] areas that are important and worthy of study... [and] provides a basis for future refinement’ (p.44). It has been used to make alternative research models into electoral system reform (Flinders, 2010) and political marketing (Savigny, 2007) amongst others. It also responds to a wider call for a more pluralistic discipline of political science, to challenge positivisms dominance (Marsh & Savigny, 2004; Monroe, 2005; Savigny, 2010).

A universal approach for political science?
One further criticism that can be levied against the statecraft approach is that, at least in the form outlined by Bulpitt, it cannot be applied outside of the UK (no research, to the authors knowledge has tried to do so). If this was true, this would be disappointing since one of the criteria that Bulpitt appealed to in developing a macro theory of politics was that could be applied to cases across many centuries. Such an appeal for universality would appear diminished if the approach could only be used with the UK. Bulpitt argued for an interest in ‘Historical Politics’ from a dissatisfaction with the state of the academic disciplines of British Political Science and history – and moreover, their interrelationship. According to Bulpitt these two academic subjects, shared (or should share) empirical material and analytical analysis but in short did not ‘speak’ to one another. Bulpitt was concerned that political science:

‘now has a less systematic and continuous interest in the past than sociology, economics, and, even, geography. Contemporary political science is confined to a laager called “the present”, which is increasingly and profitably penetrated by these rival disciplines’ (1995: 510).
However for him, ‘the 1190s are as interesting and as important as the 1990s’ (1996: 1094). Political science has developed a disease of ‘presentism’ limiting the basis of empirical research. The result is also the importing of ‘rented histories’ where political scientists borrow accounts of the past from historians to contextualise their own research of the present. The problem in doing so is that they are reliant other disciplines/researchers analysis and assumptions without including the past as part of the analysis. One example that Bulpitt cites is the ‘Post-War Consensus’ which he empirically disputes (Bulpitt, 1996), but which formed the basis of much contemporary analysis of Thatcherism and New Labour.

Bulpitt thus tries ‘to reformulate… [political science’s] connection with the past’ and gives this a name’: historical politics (Bulpitt, 1995, 1996). In particular he argues for ‘in-time’ analysis, which would take a snapshot approach to history. In this:

…the course of time is halted and the broad, and relatively unchanging, anatomy of the polity is studied. This approach would enable us to be interested in such diverse snapshots as say, England as Roman Province, the post-conquest Norman settlement, English authoritarianism in the 17th century…or the long Whig polity of the mid 19th century (Bulpitt, 1995).

In sum then, Bulpitt appears to be advocating a universalistic approach to political science which is equally applicable to the past. The implication is therefore that he is trying to develop a theory which is itself timeless. However, could the theory be placeless?

Bulpitt never applied the statecraft approach outside of Britain himself, but what evidence is there that it could not be applied outside the UK? In answering the question it is worth remembering why it is that Bulpitt claims that statecraft occurs. In short, the
particular institutional ensemble of the British polity creates conditions in which party leaders must attempt to win office above all other objectives. But one question that follows from this is would the ‘Court’ look to carry out statecraft if Britain had a different political institutional arrangement? If for example, there was a powerful second chamber and/or a multi-party system and/or a more strongly entrenched constitution? Does this mean that the statecraft approach could only be applied to countries with the same level of institutional pluralism as the UK? Could statecraft be applied to the USA or Germany for example? What about non-democratic regimes?

At present it could be argued that the statecraft approach has no answer to these questions. This is because a) Bulpitt or no other author has ever tackled these questions; and, b) the statecraft approach was never applied outside of Britain by Bulpitt and, that as far as the author is aware of, has only been done so once by one other author (Evans & Hai, 2004). This is disappointing, particularly since one of Bulpitt’s major concerns was to produce a universalist analysis – at least in terms of time. This is ground that will be broken with this book as it will be the first attempt, that the author is aware of, to apply the approach outside of the UK.

**Bending the Rules of the Game: Institutional Change as Statecraft**

A second major problem with the statecraft approach is that Bulpitt does not explain the existence of these particular ‘rules of game’ in the first instance or when/why they might change. He expects that elites will try to achieve effective statecraft *because of* the rules; the particular institutional terrain of adversarial Westminster politics meant that they needed to win elections or face the consequences. However could this relationship also be inverted? Could institutional rules themselves be argued to derive from political statecraft?
This is not considered by Bulpitt in his work on statecraft, but is implicit in his book *Territory and Power*. In this text he suggests that the Court (or ‘Centre’) will seek to manage its relationship with periphery in order to maximise its interests. In his writings the strategy described is for the court to seek to retain power over ‘high’ politics but seek to devolve power over ‘low’ politics to the periphery. This strategy is a response to the relative weakness of the power of the court over the periphery. It cannot supervise affairs in the regions. Nor will it be interested in doing so unless it affects its governing objectives of staying in power. Bulpitt stressed that the relationship between centre and periphery is frequently informal as much as it is formal. Nonetheless, he recognised that it did often have a legal-constitutional embodiment (Bulpitt, [1983]2008). In other words, the Court (or ‘Centre’) is a purposeful actor constructing and reconstructing its relationship with the periphery to maximise its perceived prospects of successful statecraft.\textsuperscript{40} It would therefore be a logical extension of his work to suggest that the Court will attempt to manage institutions of the state for reasons of political expediency.

The argument made here is therefore that, *contra* Bulpitt, the British political system may not be so unique in encouraging politicians to be self-interested and rational actors. Instead, all political systems are likely to feature rival elites in competition for power. The highly competitive nature of these struggles for the higher positions of office and over ‘high’ politics will require them to act self-interestedly and develop strategies for statecraft. It is therefore suggested that Bulpitt’s original model can be usefully revised by adding a fifth support mechanism: *bending the rules of the game*. The Court will seek to make changes to the institutional architecture in which they operate. These changes will be made with the aim of maintaining power, namely winning elections, easier.

\textsuperscript{39} This is defined as ‘control of the national economy, the general provision of social welfare security from external threats and internal law and order’. All else is “embellishment and detail”, low politics (Bulpitt, [1983]2008: 42)

\textsuperscript{40} Also see Bradbury (Bradbury, forthcoming) for a more recent application and development of Bulpitt’s idea on the territorial politics.
Using the work of Shugart and Wattenburg (2001) we can usefully distinguish between outcome-contingent and act-contingent elite considerations when they use this support mechanism.\footnote{These are heuristic terms which have become widely known in analyses of electoral reform. See, for example, Renwick (2010).} Outcome-contingent considerations encourage the Court to implement change because they think that they will benefit from the outcomes of new rules. The previous chapter identifies how elites might benefit. Different forms of election administration may affect the electoral prospects of a party by changing levels of electoral turnout at either an aggregate or local level. Elites do not know that this will affect their electoral prospects but we can see why they may think this.

By making changes elites would alter the institutional landscape, make this new landscape semi-permanent and set the conditions in which future political struggles are held. There is considerable empirical material from studies on the British constitution which have always been sensitive to how political parties may seek to enact reforms which might enhance their chances of winning maintaining power. Mark Evans, for example, suggests that the Labour Party’s policy position towards the constitution has been led by political expediency of the leadership. Constitutional reform was adopted in opposition partly as ‘a response to electoral despair and the perception by party elites of the need for political pragmatism to secure future electoral success’ (Evans, 2003: 315).

Outcome-contingent considerations will also cause elites to try to veto reforms that they perceive might adversely affect their chances of achieving successful statecraft. As many writers on the British constitution have also noted, Conservative and Labour governments have always been opposed to electoral reform. Some governments have considered reforming the electoral system prior to coming to power, but may resist them in office. For example, New Labour came to resist many constitutional reforms that they had previously supported. The majoritarian electoral system gave them disproportionate power and there were few other checks on executive power. After the
1997 election however, backed with a vast majority in the House of Commons, the Court dropped electoral reform from the agenda and became more cautious on other reforms (Bogdanov, 2009; Evans, 2003; Flinders, 2009).

Act-contingent considerations encourage the Court to implement change because they might benefit from the act of altering the rules. Flinders terms this as being about ‘style over substance.’ It refers to ‘the potential benefits of being seen as pro-reform by the public in order to benefit from perceived electoral support irrespective of whether or not any deeper attachment exists’ (Flinders, 2009: 41). In the case of election administration we might hypothesise that act-contingent considerations may manifest themselves in three ways.

- First, they may sense that a reform is (un)popular with the public and therefore look to adjust their policy to win public support.
- Second, and related, they may fear a loss of public opinion if their policy on election administration appears too Machiavellian. As Renwick notes of policies on electoral reform: ‘actors who are seen to try to block popular desire for reform or those perceived as trying to manipulate the system for their own private ends may suffer a backlash from voters’ (Renwick, 2010: 29). The prospects for successful statecraft may therefore be affected.
- Third, the court might treat election administration as a resource and therefore change it as part of negotiations with other actors perhaps as part of the formation of parliamentary coalitions. Farrell notes that the Labour Party offered AV in 1931 in return for Liberal support to retain in office. Evans describes New Labour’s support of the constitutional reform agenda in opposition in the 1990s as a ‘bargaining chip for coalition building across the British political spectrum’ (Evans, 2003: 315). A referendum on AV was key to the coalition agreement between the Conservative and Liberal Democrat parties in 2010. Election administration may not be as
decisive as the electoral system, but the case studies will tell us whether it has been used in this way for statecraft purposes.

![Diagram of the Revised Statecraft model]

*Figure 3.2: The Revised Statecraft model*

This chapter therefore proposes a new dimension to the statecraft model to recognise what constitutional historians have always known: the importance of elite constitutional system for determining who has power. The revised model is indicated in Figure 3.2. The focus of this book is on election administration. However, it is suggested here that the statecraft model can be applied both to broader electoral institutions and to constitutional laws (see figure 3.3). Moreover, the model could be successfully used to understand other aspects of constitutional design and, perhaps also, other broader sets
of political institutions. For example, Thatcher reformed Trade Union law, in part that it might benefit the country, but also so that it changed the political playing field in Britain to suit the interests of the Conservative Party. We now need close up, longitudinal studies of how ‘the rules of the game’ have been constructed, changed and altered and the relationship between this and statecraft. Election administration provides such an opportunity, having shown, in Chapter Two, the impact that it can have on elections and electoral outcomes.

![Figure 3.3: Bending the Rules of the Game: Possible Sites for Elite Strategy](image)

**In Conclusion**

The opening chapter of this book noted that there had been enormous change in election administration but that many of the approaches that have been applied to the study of election administration so far were in some way unsatisfactory. The argument that emerged from this review was that too little research has considered reform through the
lens of the interests of the political elite as a causal/preventative factor. In addition, most approaches failed to integrate debates on state-society relations into their accounts of EA, underplayed the importance of power relations, and either underplayed structure or agency. It has been argued here that the statecraft approach can overcome these deficiencies and can be put forward as a useful approach for understanding institutional change. The chapter has situated the statecraft approach within the context of contemporary elite theory. It has reviewed some of the criticisms of the approach but argued that the statecraft approach can bring some useful insights into the reason why election administration has been reformed. Firstly, it offers the ability to link debates on election administration reform to issues in macro-governance and state and society relations. Secondly, it offers an analysis capable of considering the twin importance of structure and agency in processes of institutional reform and continuity.

The lack of empirical application of the approach outside the UK raises the question of whether it can make sense of politics elsewhere. The model was developed to describe politics in response to the particular institutional characteristics of UK politics. There is therefore a need to apply it to new case studies of institutional change. The book now applies it to three case studies of election administration. Chapters five and seven apply the approach to the USA and Ireland respectively. Given the greater institutional pluralism in these states’ constitutions, we might expect the approach to struggle. They therefore present critical cases for whether the approach has any wider utility outside of the UK.

The cases have another significance for our research questions. Chapter one suggested that there have been many claims that elites have sought to alter election administration for partisan gain in the US. However, if it is a universal rule that elites seek to change these electoral institutions to partisan ends then we would expect this to apply elsewhere. The case of the UK and Ireland present an opportunity to test whether this is so.
Introduction
This chapter provides a historical narrative of the political struggle over election administration in the US. It has deeper historical roots than the other cases. It encompasses a range of complex and overlapping state and national level struggles. Three phases are discernable:

1. A historical battle following the formal enfranchisement of blacks in which election administration was used as a method of excluding these voters from the ballot through new means. Democratic Presidents eventually passed civil rights legislation in the 1960s to remove some more severe restrictive practices and win the political support of the civil rights movement and block black vote.
2. A new period of struggle from the mid-1960s to late 1990s which culminated with the NVRA 1993. This involved a black lash to the civil rights procedures by Republican operatives. They sought to introduce new restrictive practices. In contrast, many Democrats continued to push for further expansive procedures in the 1970s, 80s and 1990s. The 1993 Act, however, was moderate compared to the demands of reformers and liberal Democrats because the ‘new’ Democrats aspired to win over the centre ground of American politics.

3. A re-igniting of interest in election administration in the wake of the 2000 Presidential election. This involved partisan disputes about the contents of HAVA. However, it also spawned continued battles over voter ID laws and calls for audit trials for DRE equipment and voting ID laws. The Bush administration sought to use partisan control of the Justice Department to influence election administration during this period.

The chapter seeks to establish the role of the Court in seeking to change election administration at the national level for partisan level. However, in order to show the reach of the Federal government over election administration and in particular the ability of the Court to enact change, it traces how these changes have affected election administration in an internal case study: Virginia. What have been their political consequences of changes? Have local agents been forced to respond to national developments or have local factors been the ultimate or more important determinants of policy change? The case study is important since it provides an example of a state with a historical record of local elites using election administration for political purposes to maintain power. Therefore, if statecraft can be achieved from the position of federal government here, then we would expect it elsewhere too. The chapter covers the politics of election administration up until 2008.
The Backlash to Black Enfranchisement: New Barriers to Participation

It is impossible to separate the history of US election administration from the struggle for black and minority voting rights. America democratised by gradually removing barriers to the right to vote. Between 1790 and 1850 five states eliminated the property requirement for voting, and by the end of the 1850s property requirements had all but been removed. The Fourteenth Amendment (1868), Fifteenth Amendment (1870) and the Reconstruction Act (1867) prevented citizens being denied their privileges. (These were supported by the Republican party, at least in part because black suffrage was seen as a vehicle for building party support. As these barriers to voting were removed, elites erected new ones using election administration to reduce electoral participation of key groups, however. These groups were invariably black and minority voters whose vote could upset the established order. As one Democratic politician of the time bragged:

“the white and black Republican may outvote us, but we can outcount them” (DiClerico, 2004: 13).

Piven et al. (2009: 21-33) suggest that there were three periods of racial targeting and disenfranchisement. The first period was in the North. After the Revolution American Americans remained only a small percentage of the population in states such as New York, Pennsylvania, Rhode Island and Massachusetts. However, their enfranchisement sometimes made their vote pivotal in close elections. According to them:

‘In New York City municipal elections, for example, enfranchised blacks were allied with the Federalist Party, and this alliance provided the grounds for fierce Jeffersonian Republican racist agitation among the white immigrants’ (2009: 22)

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42 Exceptions included Rhode Island where those born outside of the U.S. were required to own property, and in New York where African-Americans needed to meet a property test in order to vote (Seper & Lambro, 2004) (p.8).
Black voters were subsequently harassed and had their eligibility questioned by Republican inspectors at polling places (see also: Malone, 2007).

A second period began in the South following the Civil war. White Republican politicians realised the effectiveness of using election administration to reduce black participation. The methods varied. A law was introduced in Georgia in 1873 to only new names to be added to the register during planting and harvesting time. This was when black agricultural labourers were unable to visit registration offices. This law was borrowed and adopted by elites in Alabama and North Carolina (Piven et al., 2009: 27). Polling stations were often closed or only open for limited hours in predominantly black areas. Sometimes polling stations were moved at the last minute, or placed much further away from black voters. Mandatory poll taxes and literacy tests were introduced more frequently where the proportion of potential voters was black. In 1890, Mississippi, whose population was characterised by a black majority, introduced these two conditions on voting with the result that only 9,000 of the 147,000 voting age blacks had the vote. South Carolina followed, allowing an exception for those with property of $300 or more. In 1898, Louisiana introduced a ‘grandfather clause’ which made exempt from the tests anyone whose fathers and grandfathers were qualified to vote as of 1 January 1867 – a date on which no blacks in the state were qualified to vote. The number of blacks on the register dropped from 130,344 in 1896 to 1,342 by 1904 (DiClerico, 2004: 13. Also see: Campbell, 2005; Keyssar, 2009; Kousser, 1974).

A third period of disenfranchisement took place in the North where the targets were Chinese, Italian and East European immigrants. The tactics deployed involved requiring naturalisation papers to be presented when voting. Delays were also introduced to issuing of naturalisation papers. Poll taxes and literacy tests were also applied. Here though, the perpetrators were often the Democrats (Piven & Cloward, 2000: 72-93).
Democratic politicians were also under attack from the ‘Progressive’ movement. In the North, administrators and politicians undertook attempts to ‘clean up’ government at both state and local levels. The aim of the ‘Progressivists’ was to target Democratic political machines which had risen to power in many cities on the back of immigrant working class support. Government had become, they claimed, rampant with corruption and many officials who were involved in the election process were open to manipulation to ensure that they held their own positions in power. As DiClerico summises:

These activities included encouraging loyal supporters to vote more than once, giving individuals ballots to cast that had already been marked, defacing ballots cast for opponents, correcting spoiled ballots, stuffing ballot boxes, and, if all else failed, misreporting the official tally of votes (DiClerico, 2004: 15).

A key method of attacking the party machines was the implementation of the Australian ballot, which allowed votes to be cast in secret. They would be prepared, distributed and tabulated by public officials. The ballot was first implemented in Louisville, Kentucky in 1888 but by 1910 it had been introduced into every state in the Union. As DiClerico notes:

To suggest that the Progressives were motivated solely by the high-minded principle of “clean-government” would be to misstate reality, for lurking beneath the surface were also concerns that working-class labourers in the cities and farmers in the rural areas were espousing views that potentially threatened the economic interests of established elites (DiClerico, 2004: 15).

Thus changes made to election administration were less about idealist notions of good governance, and more about elite concerns about the swelling numbers of labour and farmer groups who posed a political threat to the Party rule. In short, EA, played a key
role in early US history in allowing elites to control patterns of participation for their own suiting.

Discriminatory practices continued into the twentieth century. Poll taxes remained in place in most southern states into the 1940s. Literacy tests remained in 18 states into the same decade. As late as 1958 Georgia introduced a Registration Act requiring applicants unable to read or write to answer 30 difficult constitutional questions, that most American citizens would find difficult (Bernd & Holland, 1959: 498). Procedures were frequently implemented by local officials in a discriminatorily way. In Mississippi black voters were asked in 1955, ‘how many bubbles are there in a bar of soap?’ (Lewis, 1957: 338). Key observed that ‘the Southern literacy test...is rarely administered to whites’, and not even to all blacks (Key, 1949: 576-577). Some members of Congress had attempted to outlaw the poll tax in 1942 and 1944 sessions but they were beaten by mostly southern filibusters. The best it could achieve was to include an exemption from paying the poll tax in the Solidering Act, passed in 1942 to allow members of the armed forces to vote via absentee ballot.

Arthur Benjamin described a philosophy of skin and blood in which black skin became a symbol of inferiority. He further described how policies were socialized and institutionalized within the states. These policies were designed to prevent black people from voting. As a result, black people were disenfranchised and became a marginalized group in society. The state of Alabama even tried to extend the literacy test to include an ‘understanding and explaining’ of what was read, but this was declared unconstitutional by a lower court and the U.S. Supreme Court.

The Long Road to the Voting Rights Act of 1965

The Federal Voting Rights Act of 1965 was to be a decisive piece of legislation. It ruled for the suspension of literacy tests, authorization for the Attorney General to dispatch federal examiners to monitor elections in some states and gave the Justice Department instructions to challenge the constitutionality of the poll tax, which it successfully did in the Supreme Court in 1966.

The battle for the passage of this act was long and well documented (McGill Arrington & Taylor, c1992). Harry Truman was the first President to address the issue directly and set up a Committee on Civil Rights in 1946 which called for the elimination of the poll tax.

43 The best it could achieve was to include an exemption from paying the poll tax in the Solidering Act, passed in 1942 to allow members of the armed forces to vote via absentee ballot.
tax and all forms of discrimination in federal or state elections (U.S. Committee on Civil Rights, 1946). Following this, and Truman’s action against discrimination in employment practice and the military, the House of Representatives mandated voting rights legislation between 1953 and 1957 only for it to fail in the Senate. The Eisenhower administration initiated legislation which Congress passed in the form of the Civil Rights Act in 1957 which created a Temporary Commission on Civil Rights which would investigate instances of voting irregularities based upon race. This granted the federal government the authority to push for civil suits and obtain injunctions in cases where the right to vote was violated. The Civil Rights Act of 1960 extended the life of the Civil Rights Commission and federal courts were authorized to appoint voter referees. The administration also initiated the Voter Education Project which registered 287,000 blacks. The Kennedy administration failed to outlaw literacy tests in 1962, but by 1964 the Twenty-fourth amendment to the US Constitution was passed outlawing poll taxes. President Johnson appealed to a joint session of Congress to pass voting rights legislation following the arrest of Martin Luther King in a registration drive in Alabama. It did so in 1965 (DiClerico, 2004: 24-25).

The ability of Federal government to facilitate change in state law can be traced through the case of Virginia. As well as outlawing certain practices, federal changes also had the effect of triggering reviews of procedures around the country. Virginia saw a flurry of changes in electoral procedures in the early 1970s, at least in part in reaction to national agendas and legislation. As one document noted, ‘...in 1970, Virginia initiated its centralized voter registration system, strengthened the role of the State Board of Elections, and provided for a general registrar in each county and city’ (House of Delgates, 1998).

In 1971, a Special Session of the General Assembly passed resolution number 52 to create a commission to study Virginia’s election laws, in part in response to federal legislation and legal rulings. One of the key remits of the Committee was to study election administration ‘in the light of the Voting Rights Acts of 1965 and 1970 in order to
ascertain if any amendments are necessary to Virginia law (Election Laws Study Commission, 1973: 1)'

The committee made several recommendations for legislation. They included a recommendation to limit the role of the registrar so that they could not affect the outcome of the election. In particular, it was suggested that the registrar should not be permitted to actively solicit registration applications or ballots or to go beyond the borders of his/her jurisdiction to register votes. Legal changes were suggested to not require those seeking to apply for a postal vote from overseas to appear in person at the registrar’s office. In addition, the registrar would have to provide political parties with a list of voters who were removed from the register as part of any purge of ‘improper’ voters. The committee recommended that the length of the residency requirement be removed from the Virginia Constitution in line with a recent Supreme Court case ruling. The committee recommended that further consideration be given to the issue of absentee voting procedures.

The Act also produced a new strategy from Republicans. In supporting voting rights the Democratic Party had created forged a new electoral coalition. The party may have ‘lost the south for a generation’, but it won the black bloc vote for the party. The Presidential campaigns of Barry Goldwater (1964) and Richard Nixon (1968) employed a ‘southern strategy’ whereby the GOP tried to appeal to whites in former Confederacy states who were opposed to the abolition of Jim Crow laws (Davidson, Dunlap, Kenny, & Wise, 2004; Piven et al., 2009: 34-47).

This made the black vote a target for Republicans. Republican operatives therefore invested time developing new methods to reduce the numbers on the electoral register in black concentrated areas. Evidence from the nomination of William H. Rehnquist to the U.S. Supreme Court in 1971 and the office of Chief Justice in 1986 showed that voter caging was taking place in Arizona as early as 1954 but was more widely used in 1958
and 1962. In 1958, for example, the Republican Party wrote to 18,000 Democrats sent volunteers to ninety percent of Maricopa Country’s polling stations to challenge the Democratic votes (Davidson et al., 2008: 543-559). These fledgling experiences informed the Republican Party’s national ballot security program in 1964 called ‘Operation Eagle Eye’. This strategy aimed to help elect Arizonian Presidential candidate Barry Goldwater win office. Minority communities were targeted across the country. In Chicago, for example, 4,000 names were challenged in heavily Democratic areas with a quarter of these proving to be legitimate voters (Piven et al., 2009: 43).

The Democratic Party and the Extension of the Franchise in the 1970s
Efforts to pass legislation on election administration continued in Congress after the passage of the Voting Rights Act in 1965, during which time the Democrats held both the House and the Senate with successive Republican Presidents. In particular, Democrats sought to pass legislation requiring a national system of registration and in particular a postcard system of registration that would allow registration by mail (Crocker, 2003). This followed a number of states who had already begun to innovate in election administration with a view to increasing turnout. In the late 1960s, for example, three states had allowed mail-in registration. In the 92nd Congress, hearings were held in both the Senate and House on this issue but although a proposal came to the floor in the Senate it went no further. On 9 May 1973, during the 93rd Congress, the Senate passed a bill for a national postcard registration system to be administered by a new National Voter Registration Administration located in the Census Bureau, by a majority of 57-37 (S.352, S.Rept 93-91). However, the House blocked the advancement of the bill the following year on 8 May by 204-197 (H.R.8053, Kneath. 93-778), opposing the rules under which the measure was to be debated. A year later in 1975 the House approved a new version of the postcard registration measure, eliminating the requirement of mass mailing of postcards to every household. Instead, postcards would be made available at
Proposals were not just brought from individual legislators. Presidents and Presidential candidates were actively involved over this political struggle over electoral laws. The Carter Presidency often took a lead role in attempting to enforce Election Day registration universally across all states in the form of national standards as part of his 1977 legislative package (H.R., 5400, H.Rept 95-318). The National Uniform Registration Act sought to establish election-day registration – a practice already used in four states (Minnesota, Maine, Wisconsin and Oregon). According to Crocker, while ‘the proposal initially received strong support, negative reactions from local election officials appears to have caused support to evaporate’ (Crocker, 2003: 65). The Senate bill (S. 1072, S.Rept 95-171) was reported out of committee and neither it, nor the House bill, went to a vote. Further attempts to pass expansive legislation on election administration took place between 1983 and 1988 – again in the form of postcard and election day registration – however none of these made it to floor of either part of Congress for a vote. Exasperated after his voter registration bill was defeated, in 1977, President Jimmy Carter blasted: ‘The more senior and more influential members of Congress have very safe districts. To have a 25% or 30% increase in unpredictable new voters is something they don’t relish’ (Piven & Cloward, 1988a). Critics of Jimmy Carter’s election day registration proposal claimed, however, that:

The thinly disguised ulterior motive [for Carter’s proposal], freely if privately conceded on Capitol Hill, is to benefit the Democratic Party. This is a political power play, as brazen as any stunt ever pulled in the bad old days of Tammany Hall (Kilpatrick, 1977).

There was much speculation that the Left (the Democratic Party) would receive a windfall of votes from the more expansive legislation.
It is more likely that they [nonvoters] would lineup behind programs and candidates that would improve and expand the welfare state, end poverty and bring forth a greater measure of social justice and economic concerns for the welfare of the citizen . . . So it is the bottom of the social order who stand to gain the most from an expansion of the popular base of political participation’ (Amundsen, 1977: 136-137).

In Virginia considerable political interest in election administration took place during this period. Civil liberty groups sought to reform election administration to increase participation but their efforts were blocked by an unsympathetic Republican State Committee. In February 1985, both houses passed a resolution to establish a committee to examine such proposals. The Committee invited submissions from organisations and 26 speakers addressed the subcommittee. A report was published in January 1986, which ruled against reforms. The report denied that low-turnout and low-registration was a problem for Virginia. The state did rank 44th out of 50 states in terms of the percentage of voting age population registered to vote, it admitted, however the report suggested that ‘the national average for voter turnout is 53.25% compared to Virginia’s 51.07%. With allowance for statistical error, Virginia may be at the national norm’ (Joint Committee, 1986: 4-5). A number of organisations such as Common Cause of Virginia, Virginia Action, American Civil Liberties Union (ACLU), Foundation of Virginia and the Democratic Party had lobbied for the constitutional requirement to register in person to include mail-in registration, a statewide voter registration system, later registration deadlines and an increased use in satellite registration sites. However, these were opposed by the committee on the grounds that they might facilitate fraud or would increase administrative costs (Joint Committee, 1986: 5-31).

Some federal legislation on the administration of elections did, however, pass in the 1980s under the Republican President, Ronald Reagan, regarding disabled, overseas and military voters. The Voting Accessibility for the Elderly and Handicapped Act (P.L. 98-
435, 98 Stat. 1678) was passed in 1984, which established national requirements for making polling places accessible to the elderly and the handicapped. This required each state to provide ‘a reasonable number of accessible permanent registration facilities’, ‘make available registration and voting aids for federal elections for handicapped and elderly individuals’, and require ‘no notarization or medical certification…of handicapped voters with respect to an absentee ballot or application for such ballot’ (106th Congress, 1984). In August 1986 the Uniform and Overseas Citizens Absentee Voting Act was passed into law by Republican President George Bush. The Act required the creation of an official postcard containing a voter registration and absentee ballot application, required to ‘permit absentee uniformed service voters and overseas voters to use absentee registration procedures and to vote by absentee ballot’ in all federal elections, and required states to ‘permit overseas voters to use federal write-in absentee ballots in general elections for federal office’ except when the state provides a state absentee ballot that was the election (99th U.S. Congress, 1986).

Thus, by the late 1980s, there had been a long history of attempts at federal intervention into the management of the administration of elections. If states did use a myriad of procedures across the nation, then this was not because federal government could not intervene, but because the political battle to regulate elections had not been won within Congress by successive Democratic Presidents and Congressmen seeking to regulate elections and enforce expansive and uniform administrative procedures. Instead, the fact that states still had discretion over many aspects of election administration reflected the organized success of Republican efforts to resist further federal enforcement of expansive participatory mechanism – and maintain power.

‘Motor Voter’ and the Removal of Barriers to Participation?
Stronger Federal legislation did appear in the 1990s after a prolonged political battle involving Democrats and a broad coalition of national voting rights and other organizations. The National Voter Registration (table 4.1) was a moderately expansive
piece of legislation which was signed into law by Democratic President Bill Clinton on 20 May 1993 (P.L. 103-31, 107 Stat. 77). Amongst other provisions it required a voter registration application to be made available alongside a motor vehicle application (104th U.S. Congress, 1993). However, the eventual bill was born from a long struggle for reform.

| Arrangements for simultaneous application for driver’s licenses and voter registration; |
| Mail application arrangements for voter registration; |
| Arrangements to make applications for voter registration in person at designated government agencies, including public assistance agencies, agencies that primarily provide services to people with disabilities, and recruitment offices of the armed services; and, |
| States could not remove a voter’s name from the register for failure to vote and required certain notice and removal procedures to protect registered voters who had moved. |
| Exceptions were made for North Dakota, Wyoming, Wisconsin and Minnesota on the grounds that they already provided for election day registration or did not require registration at all. |

Table 4.1: Main provisions of the National Voter Registration Act

Efforts to champion more expansive electoral procedures gained momentum in the 1980s at the federal level. The organisation Human Service Employees Registration and Voter Education (Human SERVE) assumed the leading campaigning role. This was established in 1982 to promote the registration of voters at various public offices such as welfare offices and daycare centers, with the aim of promoting participation amongst groups where it was traditionally low – namely lower income groups. The organisation campaigned aggressively and worked with state and local government agencies to encourage them to allow registration at their various public offices. Michigan was the first state to experiment with this innovation, passing legislation in 1975 which allowed citizens to register when they applied for their driving license (DiClerico, 2004: 32).
A number of studies added weight to the cause. In 1988, the US Congress launched a comprehensive study to determine the primary causes for declining participation at elections (Congressional Digest, 1993). Shortly after this, during the 101st Congress, the Committee on House Administration held a series of public hearings on electoral turnout. During the course of these hearings a number of witnesses testified that procedures around the country were uneven, and that, although the 1965 Voting Rights Act had made the most restrictive of these practices illegal, e.g. literacy tests, poll taxes, annual registrations and race-based purging of the registration rolls, many complaints and problems remained. Meanwhile, the Federal Election Commission completed a series of studies which evaluated various innovations undertaken by states to use electoral procedures to encourage turnout. Other states enacted similar motor voter laws to Michigan throughout the late 1970s and early 1980s. By 1992, approximately half of the states used some version of the motor voter system (Federal Election Commission, 1992).

The Universal Voter Registration Bill was proposed in 1988 to establish a range of expansive measures for electoral participation and a role for federal government to benchmark these as national standards. Key provisions included registration by mail, registration at public agencies, motor registration programs and election-day registration in all 50 states. Introduced by Senator Alan Cranston (D-CA), it was supported by over 140 national organizations (Cranston & McConnell, 1988). Notably, the measure had the support of President Bill Clinton who had implemented similar policies as Governor in Arkansas. He spoke publicly in favour of its implementation in a speech given to the Leadership Conference Education Fund in 1988 (Clinton, 1992). Jesse Jackson also spoke out passionately about the need for voter registration reform (Jackson & McRobie, 1998). Republican opposition was led by Senators Mitch McConnell (R-KY) and Ted Stevens (R-AL). An aide to McConnell warned that the bill was a partisan attempt to protect incumbent Democrats (Piven et al., 2009: 116).
The NVRA failed to make it past a Republican President, however, a less radical proposal was therefore introduced. The first ‘motor voter reform’ was introduced during the 101st Congress by Democratic Representatives Swift and Annuzio. The bill would allow voters to register by mail, when they applied for driving licenses or other identification cards issued by motor vehicle authorities. The bill was approved by voice vote by the House Administration Committee on 3 May 1989 after some revisions. Co-sponsoring the bill with Republican Bill Thomas, Democrat Al Swift, the Head of the House Administration Committee claimed that voting procedures were one major reason why Americans did not vote. The bill was supported by many Black house members such as Democrat John Conyers Jr. who claimed that the bill was a historic extension of the Voting Rights Act of 1965, ‘Eliminating the registration barrier is particularly significant for African-Americans for whom registration, along with poll taxes and literacy tests, has historically served as an obstacle to exercising their constitutional right’ (CQ Press, 1993: 871). Civil rights groups such as the National Association for the Advancement of Coloured People (NAACP), the National Urban League, The League of Women Voters and former Presidential candidate Rev. Jessie Jackson also supported the bill, albeit with a preference for more expansive provisions.

The bill successfully passed the House with support from both parties including Republican’s Bill Thomas and Newt Gingrich on 6 February 1990 (289-132). However, ‘growing Republican misgivings, the constant threat of a presidential veto and the increasing pressure on Congress to complete its business and adjourn for the year’ (CQ Press, 1993: 871) meant that the bill did not appear in the Senate, although supporters promised to reintroduce the bill in 1991. As promised the National Voter Registration Act of 1991 (S.250) was introduced into the Senate by Senators Ford and Hatfield in the 102nd Congress. The bill cleared both chambers but was vetoed by President Bush (CQ Press, 1993: 871), who claimed that it would lead to voter fraud (Express-News, 1992).
A change in the Presidency, however, allowed the fortunes of NVRA to change. In 1993, Democratic President Bill Clinton came into office with a pledge to sign the ‘Motor Voter Bill’ (Honey, 1992). The provisions of S 250 were introduced into the House as H.R. 2 by Representative Al Swift and this was passed by a majority of 269-160 on 4 February 1993. Republicans claimed that the expansive provisions would lead to fraud and would be an expensive burden on the states. According to Rep, Henry Hydem R-Ill, ‘This is an invitation to fraud. Moreover, he claimed that the measure was a partisan effort to ”swell the ranks of the Democratic Party voters’ (Seattle Times, 1993).

Republicans continued to block the legislation through a two month filibuster. However, five moderate Republicans broke ranks and supported the bill. They had been persuaded by a compromise which removed unemployment offices from the list of agencies at which voters could register. Under the compromise, states were still to be allowed to offer voter registration at unemployment offices, but would not be required to do so as in an earlier version of the bill (Los Angeles Times, 1993). The law was signed by President Clinton who declared that:

The victory we celebrate today is but the most recent chapter in the overlapping struggles of our Nation’s history to enfranchise women and minorities, the disabled, and the young with the power to affect their own destiny and our common destiny by participating fully in our democracy…..Today we celebrate our noble tradition by signing into law our newest civil rights law… (Clinton, 1992).

**NVRA in Virginia**

NVRA had a significant impact on Virginian state law, electoral practice and state level politics. One committee was already considering electoral law before NVRA was signed by Clinton, however its passage pushed election administration up the political agenda and a new committee was established. In 1993 the General Assembly passed a resolution to establish a nine-member joint subcommittee to study ways to improve the
registration and election process and encourage voter participation (House of Delegates, 1993a, 1993b, 1993c). The subcommittee became a focus for calls for more expansive practices by organisations such as the League of Women Voters, the American Civil Liberties Union, and the NAACP. A considerable number of speakers spoke out in favour of introducing NVRA into Virginia for both state and local elections – rather than running a dual system, which would be expensive.

The 1994 Session of the General Assembly mandated the continuation of the study to include an evaluation of the likely impact of NVRA on Virginia. The committee was requested to recommend legislation to bring the state into compliance. A State Board of Elections’ National Voter Registration Task Force was established comprising primarily of general registrars and agency personnel. A House resolution charged the subcommittee to collaborate with the Taskforce in making its recommendations (Joint Subcommittee On Elections, 1996).

Implementing the NVRA in Virginia would involve substantial changes to its election laws and constitution. Virginia was granted additional time to do this by Federal government. The General Assembly proposed the necessary constitutional amendment in 1993 to remove conflicting voter registration and list maintenance procedures. This involved the removal of the requirement to register in person allowing postal registration forms to be accepted and abolished the requirement for the cancellation of a voter’s registration for nonvoting. In November 1994, these constitutional amendments were approved by the electorate by 919,058 to 826,363 votes (Joint Subcommittee On Elections, 1996: 8). A subcommittee drafted the legislation necessary to meet NVRA and this was introduced in January 1995 by Delegate Scott and Senator Gartlan into the General Assembly. The legislation:

- Provided for a single, simultaneous application process for a person to apply for a driver’s license and register to vote.
- The Virginia Employment Commission was designated as the required additional agency.
Opposition to NVRA

Considerable political effort was made to resist the changes being imposed from national legislators. During the 1995 session the Republican’s passed an ‘anti-fraud’ amendment which involved first-time voters who registered by mail having to vote in person one time before being allowed the absentee ballot (Joint Subcommittee On Elections, 1996: 8). Moreover, the Republican Governor George Allen used his office to veto the legislation claiming that the national act was an unfunded mandate and too expensive to implement. Democratic leaders accused him of trying to delay the rise in Democratic voters that might result from the act for the November elections (White, 1995).

Having failed, he sponsored a legal challenge to the implementation of NVRA in Virginia. The Attorney General of Virginia filed a complaint to the federal district court in Richmond contesting the constitutionality of NVRA on the grounds that it violated the 10th amendment and that Congress had exceeded its power under Article I. § 4 cl. 1 of the US Constitution. In addition, the Attorney General claimed that the Act violated the Appointment and Guarantee Clauses of the United States Constitution by unlawfully conscripted state employees to enforce federal law. The Attorney General requested that the Virginia courts permanently prevented it being implemented.

The US Government filed a counter claim suit on 3 July 1995 asking the court to force the State of Virginia to enforce NVRA. The Governor’s veto, it claimed, represented evidence that it had no intension to enforce the Act. The League of Women Voters and Richmond Crusade for Voters also immediately launched their own cases demanding immediate implementation. The District Court in Richmond heard and rejected the case
and ruled that the state should implement the act from March 6, 1996. The Republican Governor attempted to appeal to the US Supreme Court, but the case was dismissed.

Republican resistance was also felt in the implementation of the Act as a difficult working relationship between the DMV, SBE and Registrars emerged. In part the relationship was a political one. According to one source:

‘The DNV was resistant to it – of course the DNV Commission is a Gubertorial appointee – and is doing what his Govenor is telling him to do. So they are not going out of their way to be helpful to the State Board of Elections which is required to move this thing forward. There was a lot of problem and confusion in those early years’ (private interview, Arlington County Office of Voter Registration, 27 October 2007).

Nonetheless, NVRA had a considerable impact on elections in Virginia. Prior to NVRA an individual would have to go to the registrar’s office in person and fill out the registration form in order to register to vote, or go to a place where the registrar had formerly announced that there would be voter registration (private interview, General Registrar, Office of Voter Registration, Virginia, 27 October 2008), registration could now take place in a variety of locations such as DMV and seven other designated public services offices. Citizens could also apply to register via mail. Localities were also now freer to undertake localized registration drives. In Arlington County, for example, according to one source, registrar’s would co-ordinate registration drives, in association with other counties, at subway stations at rush hour. This initially brought in a considerable number of registrations, however, ‘it slowly started dropping off over the years to the point where we stopped doing it all together’ (private interview, General Registrar, Office of Voter Registration, Virginia, 27 October 2008). There was a considerable increase in registrations following the implementation of NVRA – a 19% increase within the first two years from 3,033,634 in 1996 to 3,596,589 in 1998. This was an increase from 65% to 71% of the voting population over the same period. There was
also a fundamental shift in where these registrations were coming from. In 1998, DMV accounted for 55%, 22% came in via mail, 10% from other sources and only 13% were handed in (Joint Legislative and Audit Review Commission, 1999: 27).

‘Bush versus Gore’ – Florida 2000

Interest in election administration was re-ignited with the infamous 2000 US Presidential election. The series of twisting legal battles which led up to Bush’s inauguration as President are well documented (Ceaser & Busch, 2001; Pomper, 2001). In short, election administration decided the election. Gore conceded the election based on media network predictions, however withdrew his concession after networks put Florida back into the ‘too close to call’ category. Although the initial count in Florida was won by Bush, Gore requested a manual recount in four Democrat dominated counties of Broward, Miami-Dade, Volusia and Palm-Beach, as permitted by Florida state law. This was contested by Bush and a number of legal battles followed in state and federal courts before the US Supreme Court ruled that no criteria existed for deciding the ‘clear intent’ of voter, given the differences in practices between counties in what constituted a vote. Bush appeared to strongly benefit from the influence of a number of partisan officials with the system. The judgment of the Court was split on entirely ideological grounds with the majority consisting of the five conservative judges and the dissenters were the liberal or moderates, leading many to question the political independence of the Court. Moreover, a key role was undertaken by Florida’s Secretary of State Katherine Harris who tried to enforce a state law deadline for counties involved in a recount to submit their returns on the count, and initially declared Bush the winner. Harris was co-chair of the Bush campaign team in Florida.

Following the 2000 election a plethora of studies emerged from academics and the media trying to establish who should have won and the effects of the procedures on the electoral outcomes, both within Florida and around the US. Many of these pointed out inaccuracies in the electoral process which is some cases, they claimed, amounted to
racial discrimination. According to the U.S. Commission on Civil Rights, in Florida, ‘Statewide, based upon county-level statistical estimates, black voters were nearly 10 times more likely than nonblack voters to have their ballots rejected’ (U.S. Commission on Civil Rights, 2001: 1). A study of Jonathan N. Wand et al. (Wand et al., 2001) showed that the butterfly ballot used in Palm Beach County caused 2,000 votes to be cast by mistake. This was enough to decide Florida’s Electoral College votes and the Presidency.

The Justice Department, however, under the leadership of the new Republican President, investigated the Florida election and was adamant that:

...there were relatively few voters who actually did not vote because of these problems...

[This] doesn’t reasonably cast any doubt on President Bush’s several hundred vote margin of victory in Florida...The Civil Rights Division found no credible evidence in our investigation that Floridians were intentionally denied their right to vote…’ (Washington Post, 2001).

**The ‘Carter-Ford’ National Commission on Election Reform**

After the 2000 election, several major groups were setup to ‘take the process apart and put it back together again’ These included reports from the National Association of Counties, by the National Association of Election Officials, The National Association of Secretary of States. However the most prominent of these was the Carter-Ford Commission (private interview, Executive Director, Electoral Assistance Commission, 3 October 2007). This Commission, more formerly known as the National Commission on Federal Election Reform (NCFER), was established to make recommendations to ‘to improve the process used for electing federal officials, namely the President, Vice President, and Members of Congress’ (The Century Foundation, 2001). According to one of its Commissioner’s:
...one of the purposes of this privately-funded, self-starting, non-partisan and bi-partisan Commission was to get a jump-start on these problems and come up with a set of recommendations that the Congress could move right into rather than appointing some study of its own. Some of the bills look to do nothing more than appointing a Commission which is nothing more than punting the ball down field and favor the status quo (National Commission on Federal Election Reform, Public Hearing 1, 2001: 6).

The commission was struck by the number of submissions making the case for radical reform. However, in its’ final report the Commissioners recommended that some minimal standards be introduced across all states. These would include: a centralized statewide electronic register, provisional voting and uniform standards for defining what should constitute a ballot. Congress should also pass legislation to enable elections to be held on national holidays and set national benchmarks for states – such as a maximum of 2% for non-counted ballots. Moreover, the federal government should pass legislation to enable an additional $300-400 funding to states for election administration on a matching basis and set forth policy objectives for states while allowing for the ‘discretion of the states’. It was also proposed that a national Election Administration Commission (EAC) be set up to undertake the federal responsibilities assigned in the report and facilitate best practice.

**Helping America to Vote?**

While the Commission’s investigation was ongoing civil liberty groups and Democratic Party members were proactive in trying to keep up the pressure for reform. A series of forums were organised by the Black Congressional Caucus (CBC), the first of which took place just hours before George W. Bush gave his first speech to Congress. In a joint statement with the Democratic National Committee, Chairman Terry McAuliffe a statement stating that there ‘is nothing more vitally important going on today in Washington than the examination of what went wrong in Florida and the search for
answers to ensure that no voter is ever again disenfranchised’ (Strausberg, 2001). Chairwomen of the US Commission on Civil Rights, Mary Frances Berry, claimed: ‘The issue is not going to go away. The right to vote is too important not to attend to these issues’ (U.S. Commission on Civil Rights, 2001; Zeleny, 2001a).

However, there is some evidence that certain politicians wanted to kick the issue into the long-grass. In the FCER hearings (National Commission on Federal Election Reform, Public Hearing 1, 2001: 4) a Republican congressman discussed proposals for the setting up of a Select Committee to look at election reform. Both the leadership in the Judiciary Committee and the House Administration House appeared to accept a select committee option provided that they had the final ability to take the bills to the floor. They would not seek to duplicate the work of the committee if it was setup, and instead would just hold hearings on those recommendations. One of the reasons for this was that they had ‘their own work to do, which frankly seldom involves much in the area of elections.’ The congressman understood that proposals were for a committee with one more member of the majority party than the minority party but that it would take two-thirds majority to include anything into the final report. Problems were noted by one Professor in the NCFER on trying to get the committee setup:

Congressman Blunt... [has] underplayed his role in Congress with the speaker’s office to try to get a bi-partisan agreement on a committee to look at many of the subjects...Unfortunately, for the reasons he suggested very subtly, it is not working out. There are some that would rather have this as an issue than have solutions. I think that is always a problem. You all that have served in office know better than I do (1,4,18).

Republican efforts to do this were facilitated by the post 9/11 environment in which election reform dropped down the political agenda.
Failed legislative attempts

A tirade of bills was introduced into congress aiming to ‘fix’ problems with election administration nationally. In March 2001, for example, it was reported that ‘two dozen legislative proposals’ had already been submitted into Congress, while an estimated 800 bills had been introduced into state legislatures (The Jacksonville Free Press, 2001).

After a number of false starts, House Administration Committee Chairman Bob Ney, R-Ohio and ranking member Steny Hoyer, D-Md introduced HR3295 to bring into force many of the changes suggested by the Carter-Ford Commission. The bill required states to comply with national standards such as introducing a measure for voters to cast provisional ballots by November 2002. $2.7 billion was authorized for states to ‘modernise’ their voting systems including $400million ear-marked for replace punch-card machines. In addition, by 2004, states were required to have statewide registration systems in place, a uniform definition of a valid vote for each type of equipment used and a reduction in the number of invalidated votes. Provision was made for the establishment of a federal commission that could develop standards for best practice but would not have the power to issue regulations. The bill would instead notify the Justice Department when states failed to comply with the minimal standards and would maintain error rate reports from the states (CQ Press, 2005: 727). The proposal was reported to the House as 107-329, Part D on 10 December 2001 and passed by 362-63 on 12 December 2001.

Some Democratic Representatives claimed that the bill marked a considerable reform of the voting process. According to James Langevin (D-R.I.), for example, ‘today's legislation will lay the foundation of a great new era in the public participation of our democratic process’ (Yan, 2001). Meanwhile John Lewis (D-Georgia) claimed that it was ‘the most important bill since the passage of the Voting Rights Act 35 years ago’ (Chicago Tribune, 2001). Many others accepted it as a pragmatic solution. According
to Rep. Bart Gordon, (D-Murfreesboro), it was ‘a good step forward. I don’t think that anyone would disagree that this is a good bill’ (Bivins, 2001a).

However, progress stalled as Congress was divided on party grounds. On the Democratic side, George Miller (D-Ca) and Sterny Hoyer (D-MD) were condemned by some liberal members for not insisting on ‘direct 1960s-model federal controls’ (Broder, 2001). Representative Jesse Jackson Jr. (D-III) claimed for example that ‘as a result of the short comings of our electoral system, we can reasonably expect more Floridas in close races in the future’ (Zeleny, 2001b). According the League of Women Voters the bill was not strong enough. Lloyd Leonard, Legislative Director of the LOWV claimed that it ‘fails to ensure that voting machines will work for all American voters...it also contains loopholes throughout’. These loopholes fail to provide clear direction to state and local administrators and were therefore ‘a prescription for continued confusion’ (Bivins, 2001b). Meanwhile, the Paralyzed Veterans of America (PVA) claimed that the language of the bill failed to ensure voting rights for all Americans, citing evidence that at the 2000 election 84% of polls surveyed in a government report had at least one barrier to voters using wheelchairs. More explicit measures were called for to protect the rights of disabled voters (PVA, 2001). ‘It’s toothless’, complained LaShawn Warren, legislative Counsel for the American Civil Liberties Union. Warren said the bill ‘reinvests authority, without meaningful federal oversight’ and allowed ‘gross civil rights violations’ to continue (Bivins, 2001a).

President Bush, who had remained largely silent on the issue of election reform, praised the House Bill as ‘a good start’ since it recognized ‘the primary role of State, County and local governments in elections’, and it had adopted the principles which he had outlined earlier in the year. However, he did not indicate whether he would sign it or not (Bush, 2001).
**Senate action**

While the bill passed the House, it was blocked in the Senate. The Senate Rules and Administration Committee Chair, Christopher J. Dodd (D-Conn) introduced S565 to offer states federal money in order to enact national standards for voting machines, access to polling places and the maintenance of voter rolls. States would be required to mail sample ballots to electors ten days before the election and offer provisional ballots in order to ensure that they had not made a mistake. Those voters whose registration status was in question should be allowed to cast ballots which could be included later.

A rival bill, introduced by Mitch McConnell, R-Ky, offered states $2.5 billion over five years to improve their voting systems if they were to offer provisional voting and meet standards for accuracy, accountability and accessibility set by the new federal Election Administration Committee (CQ Press, 2005: 727).

Negotiations, split deeply between Democrats and Republicans broke down at the Committee stage. At McConnell’s urging, Republicans boycotted a Rules Committee mark-up of Dodd’s bill on August 2, 2001, leaving Democrats to pass the legislation by a majority of 10-0. Dodd refused send McDonnell’s bill to the Senate for a vote and the two Democratic co-sponsors of the McDonnell bill (Schumer and Torrichelli) switched their allegiance and backed the Dodd bill. The breakdown stalled talks in the Senate for months (CQ Press, 2005: 728). Conyers claimed that the whole reform process was in danger of dying with lawmakers taking partisan positions. He wrote to Ney (R-Ohio) pressing the need to work out any disagreement and encourage Bush to sign the HR3295. According to Conyers:

> If we fail in this endeavor, our nation will once again face the spectacle of spoiled ballots and inaccessible polling places... Our disagreements should not be an excuse for inaction or a lack of accountability for failing to act.
Ney wrote back an angry letter, rejecting the vacation meeting and accusing Conyers of politicizing the stalemate by sending a copy of his letter to NNPA before Ney had received it:

I am becoming increasingly convinced by recent events that a decision has been made by some members of your party to politicize this issue as a way to mobilize your base and achieve a benefit at the polls this November…I can assure you that I will call a formal meeting of the conference only when I become convinced that members of good faith from both sides of the aisle are ready and willing to put politics aside and do what is necessary to enact this much needed legislation (Edney, 2002).

Conyers hinted that Republicans didn't want the bill to succeed at all. "I'm trying to get them to do the right thing," he claimed (Edney, 2002).

According to one source involved in the negotiations:

There were periods of time when we almost gave up. We really did not think that it was going to pass. The real clincher, when it got to the end, the last piece was the voter id piece, where there was a great deal of compromise on the part of both sides, to come up, the way they came up with that. It would be voter id for first time registrants who had never registered before. Because they just could not get it for everybody. So they at least compromised in that area. They compromised on a number of issues, but that was the big one. That was almost the deal breaker’ (private interview, Executive Director, Electoral Assistance Commission, 3 October 2007).

A centralist coalition was ultimately forged to develop legislative proposals in which a number of compromises were made on S565 (the Ney-Hoyer bill). This included national standards to be adopted by 2006 which were more explicit than the House bill. States would have to allow voters to verify ballots and correct errors. In addition, they
would need to provide: disabled or blind voters with the same accessibility and privacy as others; ballots in other languages; provisional ballots; information on how to cast the ballot in the polling station; and, election returns aimed at minimalising mechanical errors with the voting process. $3.5 billion in grants would be provided over five years to states, and a federal commission would be included to administer federal requirements and provide grants to the states. Security measures were also included as part of the package. States would have to provide a plan to the Justice Department of how they would identify, deter and prevent fraud in order to receive the funding. Voters who registered by mail would be required to present valid photographic identification when voting for the first time. Those who voted by mail would be required to submit a copy of photographic ID with their ballot (CQ Press, 2005: 728).

An entrenched party political debate, between those who sought to focus on enfranchisement, and those who sought to focus on combating fraud, continued. According to Democrats Schumer and Wyden for example, the bill would disenfranchise poor and disabled people. Instead, they proposed that new voters should be able to prove their identity with a signature which could be checked against local or state records. In contrast, Republicans argued that this would encourage fraud. Christopher S. Bond (R-Mo) attempts to kill Schumer’s amendment failed by 46-51 on February 27. Republicans then said that they would stop any additional work on the bill unless Schumer’s amendment was dropped and attempted (without success) to invoke closure and end the debates on 1 and 4 March.

Negotiations outside of Congress produced an agreement in which the Democrats agreed not to fight the anti-fraud mechanisms. In states where vote-by-mail systems were in place (Oregon and Washington) those who registered by mail would have to submit their driver’s license number or the last four digits of their social security number, then mark the ballot with the same details in order to validate their vote. Elsewhere, those who registered by mail would have to provide their identity at the
polling station with a driver’s license, utility bill, cancelled government check, or some other proof of residence or identity. The plan was accepted on 22 March. Upon resuming the debate on 11 April, the Senate adopted 56-43 a Pat Roberts (R-Kan) amendment to drop a requirement that elections officials notify provisional ballot voters whether their vote was counted or rejected. A Hilary Clinton (D-NY), amendment to require the government to set a ‘residual vote error rate’ was defeated by 48-42. The resulting S565 was passed by the Senate by 99-1 on April 11 and its language was incorporated into HR3295. Some further negotiations took place between House and Senate representatives over the final bill with Bond’s insistence on the anti-fraud measures and his support from other Republicans delaying the completion of the conference. The conference report was adopted by the House on 10 October by 357-48, and the Senate on 16 October by 92-2. The two dissenting senators were Democrats who claimed that the anti-fraud measures would discriminate against the millions of New Yorkers who did not have driver’s licenses.

One key provision was the establishment of the Electoral Assistance Commission (EAC). The body was to have four commissioners, two from each of the main parties, appointed by the President with the advice and consent of the Senate. Each would serve for four years with the possibility of re-appointment, however initially two were appointed for two years to enable two to be appointed every two years after that. The chair and vice-chair of the commission were to be appointed by the members themselves and they can serve for a term of one year only. The body was established without any federal regulatory authority. Instead its functions were to hold hearings; serve as a clearinghouse; implement national testing and certification programs for hardware and software for voting systems; advise on funding strategies on issues relating to elections; and, take over responsibility relating to the NVRA from the Federal Election Commission.
Congressional Black Caucus Chair Bernice Johnson (D-Texas) claimed the bill to be: ‘an enormous step forward. We are pleased that it contains centralized voter-registration and standardized balloting’ (Brooks, 2002). The League of Women Voters meanwhile warned that: ‘Fair implementation of this bill will be key to ensure that the votes of all eligible voters are counted and that all of the votes count the same’ (League of Women Voters, 2002). Concerns were also raised by the NAACP Legal Defense Fund and the Leadership Conference on Civil Rights (LCCR).

**Post-Florida reform in Virginia**

As Table 4.2 shows, an enormous number of election administration legislative proposals were put forward after 2000. Many states were reluctant to develop changes until Congress had clarified what federal support would be provided (Palazzolo & Ceaser, 2005), and therefore many proposals were not introduced until 2002. In Virginia, however, over 27 pieces of legislation were enacted in 2001 with nearly 20 adjustments in each of the following years.

<table>
<thead>
<tr>
<th>All States</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>Virginia</th>
<th></th>
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<tr>
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<td>Pending Legislation</td>
<td>Carried Over</td>
<td>Vetoed</td>
<td>Failed</td>
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<td>630</td>
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<td>702</td>
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<td>0</td>
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<tr>
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<td>0</td>
<td>813</td>
<td>16</td>
<td>891</td>
<td>16</td>
<td>0</td>
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</tr>
</tbody>
</table>

*Table 4.2 Legislation on Election Administration in the U.S. and Virginia 2001 – 2009. Compiled from National Conference of State Legislatures website.*

In Virginia, a resolution was passed by both Houses to set-up a committee to investigate the state election law. According to House Republican Delegate James K. O’Brien, who
was the main sponsor of the resolution to conduct a study and eventual joint subcommittee chair:

Florida was the driver behind the Joint Subcommittee bill. We needed to assess where we were. Legislators knew how to campaign and how to get elected, but only a few were familiar with recounts. So we needed to assess the situation because we didn’t know if Virginia was as susceptible as Florida was. The idea was to prevent Florida; bring in the experts and see what they knew (cited in Palazzolo, Whelan, & Peiffer: 111).

The Joint Subcommittee Studying Election Process and Voting Technologies was comprised of 16 members and met on 12 occasions in Richmond to discuss the state of the election process (Virginia Legislative Services, 2001). The subcommittee was largely Republican controlled, reflecting their ascendancy in the Assembly. Former Speaker of the House S. Vance Wilkins Jr. (Republican) appointed the committee with mostly Republican legislators and a ‘close ally’ as Chair. Moreover, the one Democratic citizen member, Anthony F. Troy was reported to have had close links with Wilkins (Palazzolo & Ceaser, 2005).

The overall conclusions from the taskforce was that Virginia’s election laws were generally in good health, in part because of the modernisation that had taken place from the 1999 review. Many of the ideas ‘touted on the national scene’ were ‘already in place in Virginia’s election process’ (The Joint Subcommittee Studying Election Process and Voting Technologies, 2002: 3)

For example, the committee noted that Virginia already had a statewide registration system in place, provisional or conditional ballots and recount procedures and standards. The Subcommittee did, however, recommend additional resources to increase staff numbers, improve polling place access for disabled citizens and the cleaning up of registration rolls.
Further reforms of electoral procedures were introduced into the General Assembly in 2002 and 2003, largely as a response to the Subcommittee’s recommendations. 34 bills were introduced in 2002 – 13 of which were signed into law and 6 of which were recommendations from the committee. In 2003, 57 bills and resolutions were introduced, 20 of which were brought into law by the Assembly. Amongst these was legislation which sought to improve poll worker recruitment, make minor ballot changes and minor changes to absentee ballot law (Palazzolo et al.: 110).

A National Voter Registration Coordinating Committee, created in 1999, was abolished on the ground that it had made no recommendations. In its place, the legislature sanctioned the Secretary of the Board of Elections to undertake efforts to reform the election process to comply with the Help America Vote Act. In one key restrictive measure, the state became able to cancel voter registration records after two years (previously four) and voter registration lists would be merged into a ‘poll book’ – a list of those who had voted (Palazzolo et al.: 110).

The most controversial issue proved to be that of recounting ballots for which a special joint forum had to be convened. Existing law stated that recount procedures should follow the ‘intent of the voter’. Republican members of the 2001 Subcommittee and other legislators were proactive at seeking to change this, however their attempts were blocked by Democrats who sought a broader definition. The Democrats eventually triumphed after a Republican senator was persuaded by the Democratic case (Palazzolo et al.).

Fiscal difficulties meant that the legislature was unable to implement some of these recommendations. Revenue shortfalls were predicted in 2001 which meant that some legislatures were unwilling to sanction further spending on election administration and the situation did not improve in 2002 and 2003. Thus, for example, the 2001 governor’s
budget included money to upgrade the statewide voter registration system, but an agreement could not be reached by the Assembly which meant that funds were not passed. Likewise in 2002, Delegate O’Brien put forward non-partisan budget amendments to allow upgrades in the statewide registration system, a full-time staff position for the State Board of Elections and grants to localities to improve voter accessibility. All of these were recommendations from the 2001 report, but none were passed. By 2003, O’Brien had given up, saying that he had no intention of making any new proposals: ‘I would if they had a chance of passing, but there is no chance’ (Palazzolo et al.: 113).

Crucially then, ongoing political battles at the state level show: (a) continuing divisions between Republicans and Democrats on expansive versus restrictive forms of EA; and, (b) that federal legislation can, if passed, allow significant change at the state level in EA. It is therefore a central site of struggle for elites trying to win elections.

**Post-HAVA debates – ‘Back to the Future’?**

Following the introduction of HAVA, two key debates continued over election administration in state and congressional legislation. Here again, the Bush administration played a quiet role – fearful perhaps of the political ramifications of being explicitly active in this sphere after 2000. An increasingly political issue, however, became the use of new electronic voting equipment in post-HAVA election administration as a number of individuals and groups questioned the security and reliability of some of the electronic voting procedures used in the US, and championed paper based systems and/or audit trails. Amongst these were the pressure groups MoveOn.org, People for the American Way, and Democracy for America –which were aligned with the Democratic Party, in addition to the Verified Voting Foundation and TrueMajority.Org (Keating, 2004).
A number of reported breaches of security added to the development of concerns. In July 2003, for example, it was reported that some computer scientists at John Hopkins University had ‘stumbled across’ coding on the Diebold website, which was used in many of their machines (Keiger, 2003). Using this coding they undertook an analysis of voting procedures and concluded that, ‘this voting system is far below even the most minimal security standards applicable in other contexts’ (Rubin, Kohno, Stubblefield, & Wallach, 2004). Their work received coverage in the New York Times and CNN.

In Virginia, the organisation Virginia Verified Voting, was formed to articulate the case for new safeguards in the voting process. They demanded a voter-verified paper audit trail, random post-election audits of paper records, and audit paper ballots during recounts (Verifiable Counting Coalition of Virginia, 2008).

Meanwhile, the Election Center, an organisation representing election officials around the country, setup a Taskforce to recommend further changes to electoral law. Amongst their proposals was a call for an independently verifiable audit trail for DRE voting systems (Election Center, 2004). This debate was reflected in legislative proposals in Congress. In March 2005, a number of Democratic members of the House of Representatives wrote to nine of the leading voting machine vendors calling for them to use a verifiable paper ballot and open and accessible coding. They asked representatives to ‘do everything in their power to encourage federal election officials to only allow the purchase of equipment from vendors who endorse and implement’ these principles. The response, issued by the Election Technology Council in April 2005, which represented seven of the nine vendors, was dismissive of open coding claiming that it was ‘unnecessary, impractical, and detrimental to the security of U.S. elections’. The use of paper receipts was possible, however, and they would be issued (Saltman, 2006: 214). A hearing was also held on June 21, 2005 by the US Senate Committee on Rules and Administration on whether VVPATs should be introduced (Saltman, 2006: 214).
Legislative proposals were also tabled by a number of Democratic Congressmen. Senators John Kerry (D-MA), Hilary Clinton (D-NY) and Barbara Rover (D-CA), and Representative Stefanie Tubbs Jones (D-OH) introducing the Count Every Vote Act in early 2005. The bill sought to establish voter verification for all citizens, to be used for the recounts. Additional provisions included making Presidential elections a federal holiday, setting uniform standards for provisional ballots and requiring the EAC to issue standards for uniformity to access to voting machines and trained education personnel in every community (DeBose, 2005). Separate legislation was later sponsored by Senators Barack Obama (R-Il) and Representative Rush Holt (D-N.J) in November 2006, and became the Voter Confidence and Increased Accessibility Act, which would mandate paper trails on electronic machines (Wolf, 2006). The bill had 212 sponsors in the House, just 2 short of a majority (Patriot, 2006).

In March 2007, Senators Hilary Clinton (D-NY) and Representative Stephanie Tubbs Jones (D-OH) re-introduced the Count Every Vote Act with the support of Demos. The act sought to establish election day registration, systems for registering new voters, combating long-lines at the polls, allow non-partisan election observers, re-enfranchise people with felony convictions and address problems with provisional ballots (Newswire, 2007).

Post-HAVA Debates – the Voter ID dispute
Secondly, voter ID requirements became increasingly controversial. Although a compromise was eventually reached in the HAVA Act requiring only those registering for the first time to provide photographic id, the debate about the need for more liberal or restrictive id requirements raged both at state and federal levels. Further attempts were made by Republicans at a Federal level to introduce legislation which would widen the need for photographic identification to be shown when casting a vote or registering to vote. For example, Senate Majority Whip Mitch McConnell (R-KY) and
Senator Christopher S. Bond (R-MO) introduced the Voter Protection Act in February 2005 to require photographic identification at polling stations. In addition, provisions were made for registration forms to be submitted within three days of receiving the applicant’s signature and states would be required to purge their rolls of non-voters. According to McConnell, ‘Our bill is a critical next step in providing the tools to improve accurate voter rolls and information at the polling places’ (DeBose, 2005). The proposals were heavily criticized by leading Democrats including Senator Barack Obama (D-Il) who claimed it was a ‘21st century poll tax’.

In Autumn 2007, Congressman Keith Ellison (D-MN) introduced legislation that would ban the use of photo identification as a requirement for voting in federal elections. He claimed that:

> In America, our right to vote is a sacred right, and a moral obligation. We must do everything that encourages, fosters and facilitates everyone's ability to exercise that right. While photo ids seem harmless, they are in fact – the modern day poll tax.

Civil Rights leaders Congressman John Lewis (D-GA) and Judiciary Chairman, John Conyers (D-MI) joined Ellison in sponsoring his voter id ban legislation (US Federal News Service, 2007).

However, forces for change eventually spilled up from the state level. The state of Indiana was widely acknowledged to have had the most stringent voter identification procedures in the US as voters were required to present an up-to-date photo issued by the federal or state government in order to cast a ballot. These procedures were challenged for being discriminatory in two cases: Indiana Democratic Party, et al., v. Todd Rokita and William Crawford, et al., v. Marion County Election Board, et al. It was claimed that the strict voter identification laws requiring official federal or state photo identification was effectively a poll tax and imposed an undue burden on certain groups, such as poor, racial minorities and the elderly. It was also claimed that the voter
identification laws exert an uneven burden on in-person voters compared to postal voters who were excluded from providing photo identification. The case was lost in the US Supreme Court and set an important precedent. (Barreto et al., 2008; Basile, 2009).

The Attorney Sackings and the Politicization of the Department of Justice
While the White House might have taken a backseat role in negotiations before and after HAVA with regard to Congressional legislation over EA, it was arguably proactive in trying to influence election administration through a different mechanism – the Justice Department. The Clinton administration had been criticized by some for using the Department of Justice for political purposes to enforce NVRA for partisan advantage. Under Attorney General Janet Reno, for example, the Justice Department sued a number of states for failing to enforce NVRA including California and Illinois, under criticism from Republicans who counter-sued on the grounds that the provisions would lead to fraud and were designed to swell Democratic voters (Francis, 1995). However, it was through the Justice Department that the Bush administration appeared to play a role in an attempt to curb voter registration drives.

The Republican leader and the Whitehouse would have been particularly concerned with a number of civil liberty and/or Democratic led registration drives organised around the country – often with the explicit aim of defeating George Bush. For example, organisations such as America Coming Together (ACT), the Service Employees International Union (SEIU), the American Federation of State, County and Municipal Employers (AFSCME) and MoveOn.Org played a considerable role in trying to raise voter registration under the umbrella group ‘America Votes’. They were reported in the media to have:

...played a key role in what election officials have called a massive increase in registered voters nationwide. In the past several months, coalition members have flooded minority
neighborhoods in an extensive door-to-door voter-registration drive, using bar-coded sheets to identify undecided and potential Democratic voters in Colorado, Florida, Iowa, Maine, Minnesota, Missouri, New Hampshire, Nevada, New Mexico, Ohio, Oregon, Pennsylvania, West Virginia and Wisconsin (Seper & Lambro, 2004).

The organisation ACORN, for instance, claimed to have registered 1 million new voters between July 2003 and the 2004 election, by using staff to knock on the doors of hundreds of thousands of low-income and working families and contacted potential voters at shopping centers, grocery stores, street festivals, sporting events, naturalization ceremonies and hip-hop concerts. This included 187,510 voters in Florida, 158,036 in Ohio and 120,862 in Pennsylvania (Seper & Lambro, 2004).

Republicans, such as Colorado Governor Bill Owens had criticised their tactics for encouraging fraud, suggesting that: ‘I am very concerned that such groups have registered people who are not qualified to vote’ (Seper & Lambro, 2004). It was reported that:

Mr. Owens demanded an investigation this week into accusations of widespread fraud after his secretary of state, Donetta Davidson, complained that state officials had not done enough to pursue suspected offenders. Mrs. Davidson said her office had questionable registration applications from county clerks since April, including forms with suspected forged signatures and others with similar signatures, but only one person had been charged and no other investigations were under way (Seper & Lambro, 2004).

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44 It was disclosed in the release of a Democratic Party campaign manual that the Democrats, during the 2004 Presidential election, were instructed to ‘play up cases of voter intimidation’. According to one news source: “If no signs of intimidation have emerged yet, launch a pre-emptive strike,” the manual said. The manual, dated November 2004, also said that Democrats should rely on party officials, minority organizations and civil rights leaders to denounce Republican tactics to discourage people from voting. It also said Democratic Party officials should assist in placing stories in the press by providing “talking points.” (Taylor, 2007).
What was the Bush administration response to this? A number of criticisms had been made of the Bush administration’s approach to enforcing civil liberties in a number of policy domains, but these were particularly fierce in the field of voting rights. Indeed, arguably, the administration used the Justice Department as an enforcement tool to clamp down on registration drives on the grounds that they promoted ‘fraud’, and meanwhile ceased to continue to enforce the implementation of NVRA across the states.

In October 2002, President Bush’s first attorney general, John Ashcroft, launched a ‘Ballot Access and Voter Integrity Initiative’ to ‘spearhead the Department’s expanded efforts to address election fraud and voting rights violations’ (U.S. Department of Justice, 2005). The main provisions of this were to:

- protect the integrity of the election process by increasing the Department’s efforts and effectiveness in combating election fraud by: publicizing election fraud convictions to deter similar crimes in the future; ensuring nationwide compliance with the federal laws protecting voting rights; and assuring the public that the Department will combat election fraud and voting rights abuses vigorously, fairly and effectively’ (U.S. Department of Justice, 2005).

The key elements included:

- Annual Training. Prosecutors serving as District Election Officers in the 94 U.S. Attorneys’ Offices are required to attend annual training conferences on fighting election fraud and voting rights abuses.
- State Coordination. Each U.S. Attorney is required to meet with the state Attorney General, Secretary of State, or other state official responsible for handling election matters in his or her district.
- Prioritization of Election Fraud Enforcement. The initiative requires that all components of the Department place a high priority on the investigation and prosecution of election fraud (U.S. Department of Justice, 2005).

Thus by prioritising fraud over enfranchisement – the department encouraged states to clamp-down on voter registration drives.
To facilitate this bias further, the administration also helped to replace existing staff within the DOJ and the states with those more ‘sympathetic’ to their priorities. Ashcroft, it was claimed, had appointed three Republican ‘operatives’ to work in a ‘secret new unit in the division’s Voting Rights Section’ which, according to a former employee, were there to hamper progress made with the HAVA (Gordon, 2007). Moreover, from 2007, strong evidence began to gather that the White House had, via the Justice Department, been involved in the firing of the State Attorney for partisan reasons.

The new Attorney General Alberto Gonzalez had introduced a measure into the re-authorization of the Patriot Act to allow him appoint ‘interim’ U.S. attorneys indefinitely – in other words, without Senate approval. While this provision received very little attention at the time, arguably, it soon became an instrument for the administration to remove existing attorneys and replace them with more sympathetic replacements. Amongst those who were claimed to be pushed out were Ed Cummins in Arkansas, Carol Lam in San Diego, Kevin Ryan in San Francisco, John McKay in Seattle, Geoffrey Fieger in Michigan, David Iglesias in New Mexico, Daniel Bogden in Nevada and Paul Charlton in Arizona. Many of these spoke out publicly that they felt that their dismissal was politically related. Former Michigan U.S. Attorney Fieger was reported as claiming that he was targeted because of his and his employees’ contributions to John Edwards’s 2004 presidential campaign. He:

...accused federal agents and prosecutors of terrorizing his employees to find out whom they voted for in the 2004 presidential election and details about their political contributions over the years. He also accused the government of using its anti terrorism authority to seize financial records of his employees and their families. “The Detroit office of the Justice Department is blatantly out of control,” Fieger said, alleging a federal probe of contributions to Edwards from Fieger and members of his firm is being spearheaded by Attorney General Alberto Gonzales (Ashenfelter, 2007).
U.S Attorney Todd Graves, U.S. attorney in Kansas City, Missouri., was reported by local press to have been sacked after ‘he resisted pressure to press charges against an admittedly sloppy voter-registration campaign by an anti-poverty activist group’ while a heated battle was ongoing for a marginal seat in the US Senate, eventually won by a Democrat (Buffalo News, 2007).

One prosecutor, John McKay, of Seattle, was reported to have told one news organisation that:

…local Republicans pressured him to launch a criminal probe of voting fraud that would tilt a deadlocked Washington governor’s race. "They wanted me to go out and start arresting people," … [he claimed]… After McKay was fired in December, he says he also got a phone call from a "clearly nervous" Elston asking if he intended to go public: "He was offering me a deal: you stay silent and the attorney general won't say anything bad about you." (Ashenfelter, 2007).

Joseph Rich was Chief of the voting section in the Justice Department’s Civil Right Division from 1999 to 2005. He claimed that:

Over the last six years, this Justice Department has ignored the advice of its staff and skewed aspects of law enforcement in ways that clearly were intended to influence the outcome of elections. It has shirked its legal responsibility to protect voting rights. From 2001 to 2006, no voting discrimination cases were brought on behalf of black or American Indian voters. U.S. attorneys were told instead to give priority to voter fraud cases, which, when coupled with the strong support for voter ID laws, indicated an intent to depress voter turnout in minority and poor communities. At least two of the recently fired U.S. attorneys, John McKay in Seattle and David C. Iglesias in New Mexico, were targeted largely because they refused to prosecute voting fraud cases that implicated Democrats or voters likely to vote for Democrats.
It was reported that the White House had a direct role in the firings:

Two senior Justice officials, who didn't want to be named discussing the dismissals, [claimed]... that Kyle Sampson, Gonzales's chief of staff, developed the list of eight prosecutors to be fired last October—with input from the White House. In a recent statement, the White House said it approved the firings, but didn't sign off on specific names (Ashenfelter, 2007).

Staff from the Justice Department claimed that the changes were 'performance related' and that no other motive was involved. Deputy Attorney General Paul McNulty initially claimed that 'when I hear you talk about the politicizing of the Department of Justice, it's like a knife in my heart' (Eggen, 2007).

The claims led to the establishment of a House of Representatives Subcommittee on the politicization of the Justice Department once the Democrats had gained control of Congress in 2007. The Committee voted to subpoena some of the replaced U.S. attorney with Republicans boycotting the proceedings. House Judiciary Chairman Representative John Conyers Jr. (D-Mich) claimed that 'we want to hear their stories, and we want the administration to address the charges head-on' (Schmitt, 2007).

In the subcommittee hearings former Arkansas Attorney Bob Cummings revealed that he had been contacted by Michael Elston, a top Justice Official expressing concern that he and his fellow Attorney’s were speaking to reporters about their experience. According to one newspaper report:

Elston, Cummins says, suggested this might not be a good idea; Justice officials might feel compelled to "somehow pull their gloves off" and retaliate against the prosecutors by publicly trashing them. "I was tempted to challenge him," Cummins e-mailed colleagues later that day, "and say something movie-like such as 'are you threatening ME??' " (Elston acknowledges he told Cummins, "it's really a shame that all this has to come out in the newspaper," but says "I didn't intend to threaten him") (Isikoff, 2007).
In April 2007, an anonymous letter was also written by a group of Justice officials to Congress alleging that political appointees were systematically screening our applicants who had worked for liberal groups or Democrats, effectively, ‘Politizing the non-political ranks of the Justice Department employees, offices which are consistently and methodologically being eroded by partisan politics’ (Savage, 2007).

A number of senior Bush advisors refused to take part in the hearings including key advisors Karl Rove and Attorney General Alberto R. Gonzales. Former Senior Counsel to Gonzales, Monica Gooding, was promised that she would be immune from criminal prosecution if she gave evidence to the Congressional hearings. She admitted that she had investigated the party affiliation and campaign contributions of applicants for prosecutors claiming that ‘I know I crossed the line’. She also contradicted Gonzales by claiming that he had been briefed and attended a key meeting when he had claimed in a March press conference that he had not seen any memos or participated in any discussions about the firings (New York Times, 2007). The Justice Department subsequently launched its own investigations. The report, published in July 2008, showed that Gooding and other officials had used politics to guide the hiring decisions, deliberately picking less-qualified applicants for important nonpolitical positions, and slowing the hiring process at critical times. Officials, employed by Gonzales, were shown to have used internet search engines including key terms such as ‘guns’, ‘homosexual’ and, of most relevance here, ‘Florida recount’ to assess their views on key issues. In interviews for key positions, applicants were asked why they wanted to serve President Bush and ‘Why are you a Republican?’ These procedures had been handed down to Gooding from previous officials. Gonzales denied any knowledge of this allegation (U.S. Justice Department, 2008).

A further ‘story’ to emerge was that on the night of Ashcroft’s operation, his wife took a call from Andy Card asking if her husband could be seen by Justice Department
Officials. Mrs Ashcroft refused, claiming her husband to be too ill. She then took a second call but this time she agreed for White House officials to meet her husband. ‘Who was the second caller, one with enough power to persuade Mrs Ashcroft to relent?’ some journalists asked (Isikoff & Thomas, 2007).

Despite attempts to use the Justice Department in this manner, the Bush administration appeared to run aground. In June, amongst the news coverage from the Hearings on the politicization of the Department, attempts were made in Congress to pass a vote of ‘no confidence’ in Gonzales to force a resignation (Considered, 2007). In August, as the hearing was coming to a close, Karl Rove announced his decision to resign to spend more time with the family (International Herald Tribune, 2007) and he was subsequently replaced by retired judge Michael Mukasey, who many hoped had the credentials to distance himself from the administration. In November 2007, the Department also appeared to have reversed its approach to NVRA by announcing that it would ask 18 states to provide evidence that they were complying with its provisions, include 10 key presidential and Senate ‘battlegrounds’ (Gordon, 2007).

The Race for the White House, 2008

Election administration remained important in the fight for the Whitehouse in 2008. Both Obama and Clinton held committees on election administration reform in their nominee campaigns for the Democratic Party presidential candidature. As Senator, Obama introduced a Deceptive Practices and Voter Intimidation Act to Congress. Having won the party nomination, Obama sought to bring a number of previously safe Republican seats into play, and voter registration drives were a key tool to this. In August 2008, it was reported that Virginia had added nearly a quarter-million registered voters since the 2004 elections, and about half of that growth came from the increasingly Democratic Northern Virginia (see Table 4.3). In Alexandria, for example, registration levels increased by 80% from the 2004 election. In contrast, many counties in southwest Virginia, which expected to remain Republican stronghold in the presidential race, saw
slight decreases in the number of registered voters compared with 2004. For example, it was reported that Wise County, had 1,070 fewer registered voters than it did when Bush was re-elected (Craig, 2008).

<table>
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<th>2008</th>
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<td>4,987</td>
<td>80%</td>
</tr>
<tr>
<td>Arlington</td>
<td>4,397</td>
<td>7,454</td>
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</tr>
<tr>
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<td>17,782</td>
<td>19,461</td>
<td>10%</td>
</tr>
<tr>
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<td>7,762</td>
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</tr>
<tr>
<td>Loudoun</td>
<td>7,474</td>
<td>9,162</td>
<td>23%</td>
</tr>
<tr>
<td>Norfolk</td>
<td>2,299</td>
<td>6,959</td>
<td>203%</td>
</tr>
<tr>
<td>Newport News</td>
<td>3,983</td>
<td>3,937</td>
<td>-1%</td>
</tr>
<tr>
<td>Petersburg</td>
<td>339</td>
<td>1,089</td>
<td>221%</td>
</tr>
</tbody>
</table>

NOTE: Numbers reflect newly registered voters minus those taken off the voting rolls because they died or moved away.

Table 4.3: Registered voters in Virginia in 2004 and 2008 from Craig (2008).

The voter registration drives were again criticized by Republicans, who claimed that widespread fraud was taking place. Republican often focussed on the role of ACORN. During the final Presidential debate, Senator McCain claimed that they were:

‘on the verge of maybe perpetrating one of the greatest frauds in voter history in this country, maybe destroying the fabric of democracy’ (Tokaji, 2009: 4-5).

Senator Obama, was heavily ‘associated’ with the organisation, McCain claimed.

The margin of Obama’s victory meant that election administration received little attention. However, analysis of voting in Indiana showed that more than a thousand citizens visited the polls and cast a provisional ballot due to a lack of valid identification and that the vast majority of those provisional ballots went uncounted (Pitts & Neumann, 2009).

In Conclusion

Partisan battles over election administration have been entwined with the development of American democracy. Historians have traditionally documented the role of local
politicians in the states or cities battling seeking procedures that would best suit themselves or their candidate. They have documented how party agents have sought to depress election turnout. However, presidents and presidential candidates have also directly or indirectly sought to influence the administration of elections for partisan benefit. Since 2000 there has been a reigniting of interest in election administration. The ‘Florida debacle’ triggered a wave of further reform and new tactics have been deployed by the George W.Bush administration. But the politics of election administration run deep and it has been a constant source of partisan struggle.
Chapter Five

‘Modernising’ Elections? Election Administration in the United Kingdom

There is a perfectly new element of political power – namely, the registration of voters, a more powerful one than either the Sovereign or the House of Commons. That party is strongest … which has the existing registration in its favour… The registration will govern the disposal of offices, and determine the policy of party attacks; and the power of this new element will go on increasing.’

Sir Robert Peel, private letter to Mr. Arbuthnot, November 8, 1838. Cited from Parker (1899: 369).

Introduction

Until very recently election administration had changed very little in the UK. Legislation for elections was decided by Westminster with officials in local government implementing procedures in each constituency around the UK in line with these laws. After WWII elections were administered by a small unit within the Home Office with half-a-dozen or so officials supervised, part time, by an Assistant Secretary and under the political control of a junior Minister, with the Welsh and Scottish Offices handling any respective problems. Local governments appointed Returning Officers who had
responsibility for implementing elections in each jurisdiction. In Northern Ireland, a Chief Electoral Officer acted as the Electoral Returning Officer and as an independent Crown official under the remit of the Northern Ireland Office (private interview, former civil servant, 8 February 2007). According to one former civil servant: ‘It was hardly ever described as a vibrant changing or even examined part of our governance. There was no one doing anything around it’ (ibid). As such the foundations for administering elections had remained in many respects unchanged since the Secret Ballot Act of 1872. Election administration was rarely seen as ‘political’.

Minor changes were made to UK election administration during and immediately after the major wars as election machinery was adapted for the disruption of the hostilities. Minor changes were made under the Wilson and Thatcher administrations. Major change, however, did not take place until the election of New Labour in 1997 when a fundamental review of the way in which elections were administered began. The results were a series of expansive reforms which radically altered the democratic process, and set the wheels in motion for even more radical change. The pressure for reform stated by ministers was the desire to modernise procedures for the twenty-first century. However, arguably, political objectives also drove their policy at varying points.

This chapter begins by tracing the development of the Victorian system before detailing the adjustments and attempts at reform made from 1918 to 1997. The politics of New Labour’s reforms are considered and the changes proposed by Coalition government in 2011.

**Administering Elections in the United Kingdom, 1832 to 1979**
**Nineteenth Century Reformers**

Changes made to UK election administration in the U.K. during the 19th century were both highly political and dramatic. Prior to 1872, according to Lord Denning the procedures of the time was:

‘by show of hands. But if a poll was demanded, the election was by poll…. A poll was taken in this way: the returning officer or his clerk had a book in which he kept a record of the votes cast. Each voter went up to the clerk, gave his name, and stated his qualification. The clerk wrote down his name. The voter stated the candidate for whom he voted. The poll clerk recorded his vote... It was open. Not by secret ballot. Being open, it was disgraced by abuses of every kind, especially at parliamentary elections. Bribery, corruption, treating, personation were rampant’ (Lord Denning, cited in Blackburn, 1995: 103).

Polls usually took place the following day and were open from around 8.00am to 4.00pm or 5.00pm. Often polls would last for several days and until 1785 there was no limitation on the length of the poll (where a fifteen day limit was imposed). However the 1832 Reform Act reduced polls to two days, which was later reduced to one day for borough polls in 1835 and county polls in 1853. The process of casting votes could also be slowed down by each side attempting to challenge the legitimacy of their opponents’ voters. Such a tactic could prevent the opponent from having all of their votes included by the close of poll. Records of polling books were also often published after the election, making public who had voted for whom (O’Gorman, 2007: 20).

Electoral registration did not formally exist prior to the Great Reform Act 1832\(^4\). The electorate was relatively small and the value of qualifications well known. Impersonation was therefore difficult. However, in some larger jurisdictions, a ‘self-made system of registration had grown up’ requiring electors took their land tax receipt

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\(^4\) An 1788 Act established electoral registration, but it was repealed within a year (Seymour, 1915 [1970]: 106-107).
to the poll as evidence of qualification (Seymour, 1915 [1970]: 105). The first registration system was proposed by the committee who authored the Reform Bill in 1831. It was accepted by the House with only a few amendments. The architects of the system claimed that it would make elections less expensive. The Whigs agreed that old system produced protracted elections, but the Tories insisted that it would cause greater problems (Seymour, 1915 [1970]: 106-110).

The parish officers who oversaw the poor were given the task of devising the register. They invited citizens to claim to be on the register in June each year. Claimants would be excluded from the register if they had not paid their taxes. A list was openly published in July and provision made for objections to be made about any name on the register. In the case of a dispute claimants and objectors would be required to attend court. If a claimant did not attend court or could not go to the bother of proving his qualifications, he was disenfranchised ("Representation of the People Act 1832", 1832: XXXVIII). A core concern of the architects of the system was to keep claimants down. As Seymour noted:

‘Russell admitted this in 1840, when he said that the system of 1832 imposed too many restrictions, in the fear that the country would be inundated with voter’ (Seymour, 1915 [1970]: 116).

Frenetic partisan activity took place within this system to ensure that the registration lists tilted in favour of the each party. Agents were proactive in boosting numbers on the registers with supporters. Many landowners achieved this by creating votes. They split larger properties into smaller freeholds and sold them to prospective voters. Often, ownership was retained after conveyance so that the property was only rented to the newly enfranchised elector. Prospective voters were recruited by proactive party machines. Seymour cites one example in Leeds where ‘a pigsty of four stones set upright, together with land of sufficient value, gave votes to three different persons’ (Seymour, 1915 [1970]: 125). In another case in Buckingham:
‘...the Duke, who held five thousand of the eighteen thousand acres included in the borough, covered his property with buildings of small value and was said to hold Buckingham under his control entirely through created votes’ (Seymour, 1915 [1970]: 125).

Conversely, parties also strategically challenged list of electors to remove the supporters of opponents (Seymour, 1915 [1970]: 133-164). This strategy was known to key national leaders. Lord Durham urged Earl Grey not to dissolve Parliament until the Whigs had reaped the benefits from the system (Seymour, 1915 [1970]: 125). As the quote from Peel at the start of the Chapter indicates, Peel too knew its importance (also see: O'Leary, 1962).

If election administration was seen as apolitical in the twentieth century, this was not the case in the nineteenth. The system of public voting came under criticism from radicals for allowing citizens to be open to social, financial or occupational pressures to vote for a particular candidate. It lent enormous power to the landowning elite to control the political system through electoral laws. The middles classes increasingly supported these arguments. In 1817 Jeremy Bentham published a *Plan of Parliamentary Reform* which included demands for the secret ballot and support swelled amongst radical groups such as the Chartists in the 1820s and 1830s. Daniel O'Connell moved resolutions in favour of universal suffrage in 1830 which included the demand for a secret ballot. The publication of *The Ballot* in January 1831 leant support towards the cause and that same year 280 petitions demanding the ballot were presented to the House of Commons. On 25 April 1833, George Gore made an hour long speech in favour of ballot reform as the only method of ceasing the corruption and bribery, and subsequently campaigned on the issue until 1839. In 1853 a Ballot Society was formed with annual motions for the Ballot being introduced by Henry Berekley between 1848 and 1866. However little progress was made with the entrenched interested of the Commons and Lords reluctant to make changes to their power base. (O'Gorman, 2007; O'Leary, 1962: 58).
Reform eventually came with the 1872 Municipal Elections Act. This introduced the secret ballot conducted with the use of the polling station, polling booth and numbered ballot papers. The aim of the legislation was to reduce the effects of rigging, patronage, friendship, vote buying, ‘treating’ and coercion (Seymour, 1915: 384-417). It should be understood as part of a programme of trying to remove ‘corrupt practices’ from electoral politics which took place, very incrementally over the nineteenth century.46

The Conservative and Liberal Parties continuously opposed so what explains its eventual passage? Firstly, the cases of bribery, malpractice and intimidation reported in the 1860s, particularly in the 1868 general election, created greater demands for reform. O’Leary describes the election as being complete with a ‘long campaign leading to excessive canvassing and expenditure…rowdiness and rioting…flood of petitions, and… trials in open Court’ (O’Leary, 1962: 58). As O’Gorman explains the industrial revolution created a new mass un-enfranchised working class which brought new demands for reform. Once the franchise had been extended again in 1867 to one million, discussion raged on about how these voters would be protected from undue influence. After the 1868 experience public opinion was now ‘largely, if in many places unenthusiastically, in favour of the measure’ (O’Gorman, 2007: 29). A crescendo of over 9,000 petitions were organised in favour of the ballot each year in 1870 and 1871. The Liberal government therefore agreed to the establishment of a Select Committee inquiry into electioneering at all levels. The Committee saw witnesses which included ‘election judges, returning officers, party agents, town councillors, members of Parliament with special interests, and experts on voting systems’ and suggested that the secret ballot be considered. Accompanying this was the recommendation that greater penalties should be imposed on rioters destroying property (O’Leary, 1962: 58-67).

46 Other legislation was passed with the same aim such as the Reform Act of 1832, the Corrupt Practices and Prevention Act 1854, the Parliamentary Elections Act of 1868, the Representation of the People Act, and the Corrupt and Illegal Practices Act 1883.
Secondly, according to O’Gorman, the passage owed everything to the new approach of the Gladstonian Liberal party which sought to attack the power of the landed and ecclesiastical interests and extend to their appeal to middle-class support. While the Conservatives continued to oppose the secret ballot (Disraeli claimed that the franchise was a privilege which should be freely and openly exercised), Gladstone said that the events since the extension of the franchise had given greater weight to the case for the ballot. Moreover, they hoped that the provisions would de-arm the arguments of the mob and give peace and tranquillity back to the election process – heading off further reform to the franchise (O’Gorman, 2007). Therefore its passage and the radical overhaul of election administration owed much to the political calculations of the Liberals. The bill was only enacted to last for eight years, however there was no opposition to annual renewal from 1880, and it would later be consolidated into the RPA1918.

**Twentieth Century Wartime Revisions**

The protracted with Germany from 1915-9 was a catalyst for the next major change in British election law. The war was widely regarded as the trigger for the extensions to the franchise in 1918 and 1928 but there was also an impact on election administration as officials sought to make it suitable for elections during hostilities. The Prime Minister, Herbert Asquith, claimed that the war had brought about the ‘greatest displacement of population in our history’ (Hansard, 1916a: c. 1449). These problems and the postponement of a general election, due in 1915, caused efforts to maintain the electoral register to go fallow. By 1916 the register was two years out of date. Government legislation to establish a new register floundered in the face of criticism since it raised a plethora of issues about the franchise and did not provide voting facilities for military personnel overseas, which was demanded by Edward Carson. The solution, proposed by the president of the Local Government Board, Walter Long, was the first all-party speakers conference (Hansard, 1916b: c. 1949). The conference recommended that a war-
time register for soldiers and sailors and that poll should all be held on the same day. The conference report became the blue-print for the Representation of the People Bill 1918. Parliamentary debate on the bill focussed on the changes proposed to the franchise and electoral system (Blackburn, 2011: 41-47). The new President of the Local Government Board, Hayes Fisher, reported little party opposition to the provision of proxy and postal voting for soldiers and sailors (Hayes Fisher, 1918a: 2). Yet a ‘general feeling was manifest in favour of direct as opposed to proxy voting’ (Hayes Fisher, 1918a: 2) so this became part of the legislation. The Act also enabled the count to be postponed for eight days after the close of poll for votes to be cast.

In May 1918 Hayes Fisher reported to the War Cabinet that there were problems compiling an accurate register. Electors ‘had found great difficulty in correctly completing the pinks forms, and that it was necessary for a house-to-house canvass to be held’ (War Cabinet, 1918a: 6). Problems were also experienced sending out postcards to personnel involved in the war (Hayes Fisher, 1918b). Hayes Fisher pleaded to the War Cabinet for more time to complete the canvass (War Cabinet, 1918a). County Registration Officers also telegraphed the War Cabinet to ask for more time. According to one: ‘if soldiers and sailors are to get on the register at all everything must depend on house-to-house canvass; if this is to be efficiently carried out more time must be given for printing and publication of lists’ (War Cabinet, 1918a). These requests were denied by the Prime Minister on ‘political grounds’. Aware that a general election had already been postponed several times, Bonar Law advised the Prime Minister in the War Cabinet that:

‘he would prefer an incomplete register to any postponement of the date on which the register should be ready...[if]...no election was possible owing to the lack of a register ...the political position of the Government [would be] more difficult every day’ (War Cabinet, 1918a: 7).
The Prime Minister, Lloyd George, agreed with Bonar Law that this was an issue of governing competence. Without a register,

‘not only was the Government at the mercy of the different factions’, but it could be ‘embarrassed and hampered in its action’ if it was not ‘in a position to say that it would appeal to the country for a decision’ (War Cabinet, 1918a: 7).

The President of the Local Government Board proceeded and reported to the Cabinet that the eventual register was approximately 10 percent ‘incomplete and inaccurate’, but that this was unlikely to draw criticism from the Commons (War Cabinet, 1918b: 3-4). Under this rickety system, the 1918 general election took place. The Conservatives won the most votes and seats but reformed a Coalition with Lloyd George Prime Minister, once again. Roughly 2,880,000 postal ballots were sent out, about 13% of all electors.47 The Times reported:

‘There were three dispatches daily. Special trains were run as far as Cologne for forwarding the ballot papers to troops in Germany. In France and Belgium special trains were not necessary, but arrangements had to be made for the conveyance of papers by road to places off the main lines of communication. In view of the great importance of guarding against the loss or delay of ballot paper, mail guards were provided on the journey from Harve and Boulogne. Instructions were also given that they should have priority over all other traffic, both on the way out and their way back’ (The Times, 1918).

The RPA1918 also provided that the more onerous task of electoral registration would be the responsibility of local government, not political parties. As David Butler noted:

47 Authors calculation based on the number of postal ballots reported in the Times (1918) and the electorate size (21,392,322) reported in Rallings and Thrasher (2007: 88)
'The names were to be found not from rate-books and claims but by ‘house to house or other sufficient inquiry’, and the cumbrous machinery of registration courts and revising barristers was abolished. The party agents who, by claims and protests, had been really responsible for maintaining the accuracy of the register were relieved of this burden by the efficiency and simplicity of the new system’ (Butler, 1963: 8-9).

Lastly, the RPA1918 made provision for two registers per year to be made, but this was reduced to one eight years later to save money as part of the Economy (Miscellaneous Provisions) Act 1926. This has been considered as part of the Representation of the People Bill 1922 after arguments from Lieutenant Assheton Pownall with the support of many fellow MPs (Pownall, 1922).

The War in 1939 re-opened the problem of maintaining an electoral register and enabling naval and personnel voting during hostilities. The Local Elections and Register of Electors (Temporary Provisions) Act 1939 froze the register from that year during wartime. A speakers committee was convened in 1942 under the chairmanship of Sir Sylvanus Vivian, the Registrar-General for England and Wales, to propose ‘improved methods and machinery’ for registration. Some MPs questioned whether a ‘committee on reform of the register is making a realistic contribution to the winning of the war?’ (Ward & Cazalet, 1942). Nonetheless, the committee continued and proposed that information from the local Food Offices was used to compile the register. The residency requirement should also be reduced from six to two months, it suggested. Their changes were implemented into the Parliament (Elections and Meetings) Act 1943. The two-month residency provision proved to be too complicated to operate with the depleted staffs of the Electoral Registration Officers, however. The Parliamentary Electors (War-Time Registration) Act, 1944 therefore suspended the two months’ residence qualification so that the register was based on a single qualifying date – 30th June, 1945 (Cabinet, 1945a). A Committee on Registration was set to look at electoral registration
Postal voting for the armed and naval forces was also revisited in November 1944 by the War Cabinet. The Prime Minister said ‘that the principle aimed at should be that members of the forces should, so far as possible, have as good a chance as other electors of taking an effective part’ in the forthcoming 1945 election (Cabinet, 1944: 213). The War Cabinet agreed that a committee involving the Home Secretary, Chancellor, Minister for Economic Welfare and the Joint Parliamentary Secretaries to the Treasury would establish a plan for implementing the Prime Ministers wishes. The scheme was not to be implemented ‘until the conclusion of hostilities in Europe’ (The Times, 1944). The Conference reported back in January 1945. Aircraft were to be used to deliver postal ballots in 17 countries but servicemen New Zealand and Australia could not be included due to distance (Conference on Postal Voting for the Forces, 1945). Before the war ended concerns were raised at the War Cabinet about the state of the electoral register after the Home Secretary received ‘representations from various quarters’ (Cabinet, 1945b). In January 1947 a Committee on Electoral Registration, chaired by Mr. G.H. Oliver, Under-Secretary of Home Office, reported on best practice after the war. Based on the recommendations, the Representation of the People Act 1948 extended the right to a postal vote to small categories of civilians. According to Watt ‘folklore’ suggests that the military vote was key to electing the Attlee government, however the figures do not bear this out (Watt, 2006: 66).

**Peacetime Changes**

Interest in election administration then waned until the 1960s after Speaker’s Conference on Electoral Reform was established (House of Commons, 1968). The Labour government opposed some expansive innovations. In 1965 in a debate on election reform an MP proposed making election day a statutory public holiday. Ian Mikardo,
replying for the Labour government, indicated that there was little support for an election day holiday.

“I have a horrible feeling” he commented, “that if polling day was an holiday out election workers of Preston North and Preston South might find themselves doing most of their knocking up on the beach at Blackpool” (laughter)’ (The Times, 1965).

Nor did the government support compulsory voting. Australian ballot papers, where voting was compulsory, were frequently spoilt by people who did not want to vote, he suggested. Often this was with obscenities.

‘I would not like to see that apply here because some of my friends in Poplar know some colourful language’ [laughter]. (The Times, 1965).

The government did introduce an extension to the voting hours from 9pm to 10pm as part of the Representation of the People Act 1969. James Callaghan, as Home Secretary pushed the case for extending voting hours by one hour claiming that ‘people who were shut out, and they should be given the opportunity to vote’ (The Times, 1968). Computerized voting systems were initially investigated to prevent a delays in the count (Noyes, 1968), although these were never introduced. The provision of extended hours was in opposition to the views of the Speaker’s Conference on Electoral Reform. The Conservatives opposed the extended voting time. Richard Sharples, a vice-chairman of the Conservative Party, led the debate from the Opposition front bench.

“”The House could only draw the conclusion”, Mr. Sharples said, “that the proposals had been conceived in spite. We look on this clause as a piece of political gerrymandering.”” (Noyes, 1968)

The amendment was rejected by 171 to 110.

<table>
<thead>
<tr>
<th>Date</th>
<th>Reform</th>
</tr>
</thead>
<tbody>
<tr>
<td>1832</td>
<td>Reform Act introduces electoral register</td>
</tr>
<tr>
<td>1872</td>
<td>Municipal Elections Act introduces right to vote by secret ballot</td>
</tr>
<tr>
<td>1918</td>
<td>Representation of the People Act 1918 introduce absent voting for servicemen and selected others. Local governments to compile the</td>
</tr>
</tbody>
</table>
electoral register.

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1926</td>
<td>Economy (Miscellaneous Provisions) Act 1926 requires only one register to be produced each year.</td>
</tr>
<tr>
<td>1945</td>
<td>Representation of the People Act 1945 makes temporary provision for postal voting for the armed services</td>
</tr>
<tr>
<td>1948</td>
<td>Representation of the People Act 1948 granted postal voting facilities to both service personnel and to certain groups of civilians including those who were physically incapacitated, those unable to vote without making a journey by sea or air or because of the nature of their occupation, and those who were no longer residing at their qualifying address.</td>
</tr>
<tr>
<td>1949</td>
<td>Electoral Registers Act. Persons of age between November and June each year to be included in the electoral register.</td>
</tr>
<tr>
<td>1969</td>
<td>Representation of the People Act. Close of poll extended from 9pm to 10pm.</td>
</tr>
<tr>
<td>1985</td>
<td>Representation of the People Act extends postal and proxy voting facilities to certain civilian groups.</td>
</tr>
<tr>
<td>1988</td>
<td>Local Government Finance Act links Poll tax to the electoral register.</td>
</tr>
</tbody>
</table>

Table 5.1: Key moments in Election Administration, 1832-1997. Also see: Rallings and Thrasher (2006: 104-105).

**Election administration and the Conservatives, 1979 to 1997**

The Thatcher administration made some minor changes to election administration. Election administration was first discussed when a report from the Office of Population Censuses and Surveys (1981) highlighted that the electoral register did not include 6.5% of those eligible to vote. This led to the Home Affairs Select Committee undertaking an enquiry into the Representation of the People Acts during 1982-3. One member of the Committee claimed to be ‘absolutely dumbfounded’ by the ‘extraordinarily slip-shod, careless and indeed highly inefficient way in which our electoral registration officers are working’ (Blackburn, 1995: 85). ‘Galvanised by this report’, the Home Office sought to strengthen its supervision of returning officers by offering greater guidance and gathering greater statistical information. However no fundamental reform was introduced.48 Instead the Conservatives introduced the Representation of the People Act 1983 which was just a consolidation Act of earlier law (Clayton, 1996: section 1.2)’ and

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48 Compulsory voting was also considered in the discussions of the committee but no recommendation was considered in its final report (Blackburn, 1995: 79), p.110
remained ‘the centrepiece of the modern law of election procedure’ (Watt, 2006: 7) for some years to come.

Significant changes were made in the RPA of 1985 which made provision for those eligible electors who were unable to attend the ballot box in person on the day of the election to cast their vote by proxy or post. These groups were those who were:

- in the armed services,
- no longer at their qualifying residency address (for example a voluntary long-term patient in hospital),
- unable to attend because of blindness or physical incapacity
- unable to attend because of the nature of their, or their spouses work (such as businessman, seaman, lorry drivers)
- an expatriate living abroad.

The first four of these changes were changes to administration - the administrative task of voting was made easier. There was little suggestion at the time that the effect of these changes would benefit a given party. However, enabling an expatriate living abroad to vote was different. This was a change to franchise legislation, since it was allowing them to vote when they were previously ineligible. The 1985 Act allowed those who had moved overseas within the last five years to vote. In 1989 the Conservatives again extended this eligibility to those who had been living abroad for up to 20 years.

One indirect change made to the electoral register was the introduction of the Community Charge, more popularly known as the ‘poll tax’, introduced in Scotland in 1989, and England and Wales in 1990. The tax replaced the domestic rates system by imposing a flat rate charge on every adult at a rate set by the local authority. It was a highly regressive tax and often attributed as causing Margaret Thatcher’s downfall. However, it was soon also used as a means of checking the accuracy of the electoral
The Home Office issued circulars to returning officers asking them to check the poll tax register to see if names were missing from the electoral register, but also ‘some names which are on the electoral register will not be on the community charges register’ and there should be an ‘annual comparison of electoral and community charges registers to identify differences (Home Office, undated). A number of concerns were voiced about individuals from lower SES groups avoiding electoral registration in the hope of avoiding the poll tax. The Office of Population Census Surveys (OPCS) noted that a drop in registration levels between 1990 and 1991 of around 100,000 although not all of this could be attributed to the poll tax, the OPCS report noted (Blackburn, 1995: 86). Analysis by Smith and McLean suggested the drop was approximately 600,000 (1994: 238). Moreover, their analysis confirmed suggestions that those who were now not registering were more likely to be Labour supporters. According to them, without the Poll tax the Labour Party would have won as many as seven more seats in 1992 and the Liberal Democrats three (1994: 241).

The Home Office setup a working group to consider the process of compiling the electoral register after concerns had been raised about the state of the register following the 1992 general election. The Working Party, made up of Home Office Officials but with representatives from the Association of Metropolitan Authorities and the Association of Electoral Administrators, considered rolling registration but recommended against it on cost grounds. They also recommended against extending the franchise to the homeless. Legislatively, proposals had been introduced by Labour MP Harry Barnes for a rolling register as a Private Members Bill. However the legislation, introduced in 1993, failed to make it to a second reading after Parliament was insufficiently quorate (Hansard, 1992-3).

EA was raised on a few other occasions in the 1990s. The Home Affairs Committee (1991), under the chairmanship of Sir John Wheeler, published a report on Electoral Counting Methods after receiving representations from a US-based voting machine
producing firm. The report suggested piloting the systems, but as far as the author is aware, no piloting took place. A Hansard Society Commission noted how electoral arrangements dated from 1918 and made a number of recommendations including the call for an independent electoral commission (Hansard Society, 1991) and did so again in a King Hall paper in 1998 (Hansard Society, 1998). In 1993 the Labour Party developed a commitment to a review of electoral procedures in the publication of its Plant Report. The prospect for reform remained low, however. The current arrangements, as far as they benefited anyone, suited the Conservatives. They had maintained restrictive provisions of in person voting and an annual registration system and made little efforts to redress problems of under registration, exacerbated amongst lower-income groups through their introduction of the poll tax. In contrast they had sought to extend the franchise to groups more likely to vote Conservative.

The 1997 Post-mortem and the review of Election Administration

The 1997 British General Election elected the first Labour government for almost two decades. New Labour had already set forward a range of manifesto commitments to constitutional renewal, however shortly after the election they moved to include election administration as part of this as four committee reports put forward the case for the reform of election administration.

The Howarth Committee

On 21 January 1998 the Working Party on Electoral Procedures chaired by George Howarth, Minister of State at the Home Office met to discuss electoral arrangements. The Home Office undertook reviews of electoral practice after each parliamentary general election but in 1997 the Home Secretary, Jack Straw:

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49 Blackburn notes that: ‘In 1988 the Home Office provided £569,000 for its entire domestic electoral registration publicity and advertising campaign for that year. In contrast, it might be noted that it supplied £750,000 for the one-off campaign to publicise the new voting rights of the relatively far smaller number of overseas voters.’ (2003a), p. 87
made clear that on this occasion the review should be a fundamental re-examination of our
electoral process. In particular, you asked that the review should have regard to the
Government’s concerns that interest in the democratic process, as measured in part by
participation in elections at all levels, had shown a steady decline over a number of years
(Howarth, 1999: 1.1).

For the first time the committee was chaired at ministerial level, emphasizing the
importance that the government attached to it.

The Committee’s terms of reference was to consider current arrangements, including
legislation which ‘will lead to more open and fairer electoral procedures, command the
trust of electorate and contribute to the democratic renewal of the United Kingdom’
(Howarth, 1999: Appendix A). The committee included members of the Labour,
Conservative and Liberal Democrats, but was dominated by a wide range of local and
national civil servants and electoral administrators and interested organisations.
Following committee meetings, the Party also reported to a political parties forum
chaired by a Home Office civil servant.

The Party concluded that ‘practices which were largely laid down at the end of the 19th
century are in need of urgent reform if they are to retain credibility as we move into the
21st century’ (Howarth, 1999: 1.5). To combat rising levels of non-registration and
decreasing turnout at the ballot box it made a number of recommendations for the
‘modernization’ of the electoral process. These included a number of expansive
measures. Firstly, the registration system should change from an annual update to a
continuous or rolling registration process. Secondly, adjustments should be made to
who should be included into the register. The homeless should be entitled to register,
they suggested, if they provided a declaration of locality, which is a statement that they
have a significant link with a locality. The Party advised that those in psychiatric
hospitals should be entitled to register to vote although not if they were there as part of
a criminal sentence. The party also found against adjusting the entitlement to convicted prisoners serving a custodial sentence.

The key recommendations however were a range of mechanisms to make voting easier, which once adopted, dominated debate for the next decade. The Party considered a range of innovations such as varying the polling hours and days, and allowing early voting. Mobile booth voting, postal/proxy and electronic voting were also considered. The Party recommended that each the government passed legislation to enable the Secretary of State to authorise pilots using one or more of these schemes. It also recommended that restrictions on postal votes be removed to enable postal votes on demand.

There is conflicting evidence about the level of disagreement during the committee’s discussions. According to one member of the committee:

I don’t think that anybody really produced a dissenting report. The report itself I seem to remember was written by civil servants whose language was very bland and embracing everyone’s feelings and eventually we got to this. I would not say that there was anyone on the Howarth Committee who violently spoke out about things (private interview, 3 July 2007).

However, according to the committee report it had:

...not always found it easy to achieve full agreement about the preferred way forward, but that the recommendations in this report reflect the strong consensus we reached despite some of the continuing concerns on the part of some individual members (Howarth, 1999: 1.8).

Meanwhile, according to Jack Straw in the Second reading of the subsequent Representation of the People Act 2000 (RPA2000):
I know that the Conservative representative on the working party had reservations about the proposals for the homeless. That was the only one of the working party’s representations that did not secure unanimous support (House of Commons Debate 1999: c.116).

Conservative MPs complained afterwards in debates on the passage of the Representation of the People Act however that they were constrained by the presence of the one Conservative MP on the committee. His involvement on the committee, Tory MPs felt, had bound them to accept the provisions of the bill, even though they did not agree.

Concurrent to the Howarth Report, the Home Affairs Select Committee chose electoral law and administration as one of its first full inquiries after being set up after the 1997 election giving further impetus to reform, which largely reinforced the recommendations of the Howarth Committee (Home Affairs Committee, 1998: A7). In addition, The Department for the Environment, Transport and the Regions also expressed concerns at electoral turnout and was enthusiastic at ways to transform electoral procedures in its Green Paper. The paper considered schemes as amending the voting hours and days, the place of voting and also electronic voting schemes (DETR, 1998; Office of the Deputy Prime Minister, 2000) (Office of the Deputy Prime Minister, 2000).

Distinct party divisions are notable in the evidence given to the committees. The Labour Party claimed that current practice was ‘antiquated and is in need of quite radical overhaul.’ Meanwhile, on behalf of the Conservatives, Lord Parkinson claimed that the committee should not seek to ‘totally restructure… we are talking about how can we improve it at the margins’ (Home Affairs Committee, 1998: 361). The Conservatives opposed the reduction of overseas voters and universal postal voting, while the Labour representative spoke in favour of both reforms. When asked whether the Labour Party
had considered the party political advantages of compulsory voting, the Labour representative suggested:

‘I think there may have been speculation, but I would not like to comment further. It is clear in the General Election and in local elections, as a matter of clear, academic record, that Labour voting areas—particularly Labour heartlands—do have lower turnouts. There is generally lower turnouts where there is not so much competitiveness, but there are much lower turnouts in Labour voting areas than there are in Conservative voting areas. So I suspect that while, if you had had compulsory voting, the overall Labour vote would have increased and the Conservative vote increased less, I do not think it would have made too much difference in the marginal constituencies where the overall level of competitiveness means people are far more likely to vote anyway.’ (Home Affairs Committee, 1998: q377).

A final report of influence over election administration reform was the ‘Neill Committee’. On 12 November 1997 Tony Blair extended the terms of the Committee on Standards in Public Life to review issues relating to the funding of politics parties. This followed a continued period of public interest in their funding following the ‘Cash for Questions’ episode under the Conservatives but also the Ecclestone affair under New Labour. The Committee therefore first met under the chairmanship of Lord Neill to consider the regulation on party donations on 17 December 1997 and published its report in October 1998. The Committee concluded that:

The extensive changes we propose have convinced us of the need for a totally independent and authoritative Election Commission with widespread executive and investigative powers, and the right to bring cases before an election Court for judgment... we envisage the Commission taking over responsibility for the registration of political parties and, in conjunction with the existing network of returning officers, having broad oversight of the conduct of elections (Committee on Standards in Public Life, 1998: s.10).
Specifically the Neill Committee suggested that the Electoral Commission played a monitoring role, publishing reports on the conduct and administration of each major election or referendum, advising the government on the modernisation and revision of electoral law (Committee on Standards in Public Life, 1998).

In summary, by 2000 there had developed a general interest amongst civil servants and Labour politicians to consider the case for reform of election administration and a widely held concern amongst them that current provisions were ‘out of date’ for modern times with three reports mostly in agreement about the prescriptions for change. In addition a number of academics were pushing for a reconsideration of the arrangements for election administration (Butler, undated). According to one former civil servant, ‘…there had not been a fundamental look so in ’97, new broom...they just came in and said, right, let’s have a look at elections…’ (private interview, former civil servant, 8 February 2007).

While it was the government and Jack Straw in particular who had initiated the first of these reviews, outside groups such as the Association of Electoral Administrators seemed to have been important in pushing for change. According to Sam Younger of the Electoral Commission:

…pre 97 and up until the 2000 Act, in so far as there was a driver in government it was the Home Office. But I think the Home Office didn’t do any driving….it tended to be that the pressures came from the administration world, the academic world and the politicians between them (private interview, Chairman of the Electoral Commission, 30 May 2007).

The Representation of the People Act 2000

Following these lengthy discussions the government initiated legislation to reform election administration in the form of the Representation of the People Act 2000. According to Curtice the reforms would constitute the ‘most radical overhaul since 1918’
(Curtice, 2003: 489). All of the reforms were expansive and aimed at increasing participation. These for the large part accepted the recommendations of the Howarth and Home Affairs Committees.

The Bill proposed allowing every citizen to apply for a postal vote without having to fit certain criteria, rolling registration and gave powers to the Home Secretary to invite applications from local authorities to pilot different methods of voting in local elections.\textsuperscript{50}

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<tr>
<th><strong>Representation of the People Act 2000</strong></th>
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<td>Granting of pilot schemes</td>
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<tr>
<td>Registration allowed six days before poll</td>
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<tr>
<td>Rolling registration</td>
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<td>Universal Postal voting on demand</td>
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<tr>
<td>Right to have name removed from public register</td>
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<td>Individuals allowed to opt out of the saleable register</td>
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<td>Legal basis for pilot schemes</td>
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<th><strong>Political Parties, Elections and Referendums Act 2000</strong></th>
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<td>Establishment of the Electoral Commission</td>
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<th><strong>European, Parliamentary and Local Elections Pilot Act 2004</strong></th>
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<td>Extension of the pilot schemes to European Parliamentary elections</td>
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<th><strong>Electoral Administration Act 2006</strong></th>
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<tr>
<td>National Electronic Electoral Register</td>
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<td>Allows registration upto 11 days prior to election</td>
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<td>Allows children into the polling station</td>
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<td>Gives Returning Officers new powers and</td>
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\textsuperscript{50} The bill also proposed extending the franchise to a number of previously excluded groups such as the homeless.
### Political Parties Act 2009

| Individual Registration on a voluntary basis | Restrictive |

Table 5.2: New Labour Reforms to Election Administration 1997-2009

While being open minded about rolling registration, Conservative MPs claimed that:

> The Bill is a wolf in sheep's clothing. Its principles may seem benign and unobjectionable, but the devil is in the detail. The Bill could have far-reaching consequences beyond those intended by the working party whose recommendations the Bill seeks to implement. Indeed, the Government propose that the House should write the Home Secretary a blank cheque to amend the rules not only for local elections but for future parliamentary elections. The Bill could therefore pave the way for changes to the conduct of a general election about which there has been no discussion on the Floor of the House or in the wider community, which would be affected.

Another Conservative MP claimed that:

> We are passing what is, in effect, a Henry VIII clause entitling the Home Secretary, after having considered the results of the pilot schemes, to implement or make such changes as he sees fit subject to approval by the House on a short resolution (Straw, 1999: c.220).
In the Commons, the Conservatives also claimed that they had not been sent details of the Bill in advance of the second reading in parliament:

We received a faxed copy of the letter late last night, but the date on it is 20 September, not "months and months" previously, as the Home Secretary claimed on 23 November...should point out that my right hon. Friend the Member for Maidstone and The Weald says that her office asked the Home Secretary's office for a copy of the letter, but copy came there none, until the faxed copy was received last night. Overnight, we have examined the letter with some interest. The letter merely restates the objectives and conclusions of the working party; it does not mention the detail of the Bill. Therefore, even had we received the letter, it would hardly have constituted a thorough consultation. The importance of the letter is that we can deduce precisely from it the Government's intention of making changes to the conduct of general elections.

Thus, despite Jack Straw calling for a consensual approach to the bill, voting was split entirely on party grounds. It was opposed by the Conservatives, Democratic Unionists and Ulster Unionists but supported by all Labour, Liberal Democrat, Plaid Cymru and Scottish Nationalist MPs at the second reading. These divisions remained at later readings, providing the Home Secretary with a majority of 189.

**Accelerating Expansive Election Administration: The 2004 European Elections Act**

The electoral pilots began in 2000, ran in different elections over a period of seven years (see table 5.3), and quickly demonstrated that turnout in British elections could be increased by reforming EA. The pilot schemes were evaluated by the Electoral Commission from 2001 (it was not setup in 2000) who in turn generated reports making recommendations to government about the future of EA. Crucially, of the various pilots

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51 For a full review of the impact of the changes on participation, see James (2011a)
it was only all-postal ballots which appeared to make a significant impact on turnout. In
the first year of pilots (2000), all-postal voting took place in wards in seven local
authorities, and turnout rose in every instance on the previous year, in most cases by at
least 50% (Rallings & Thrasher, 2000: 16-24). The largest increase was in the Bensham
ward of Gateshead, where turnout increased by 137.4%. In the remaining boroughs of
Gateshead, where all-postal voting was not implemented, turnout rose by only 2.7%
(Rallings & Thrasher, 2000: 18). An additional thirteen all-postal elections were held in
2002 and the Electoral Commission again reported a universal increase in each case
against the previous comparable election (Electoral Commission, 2002: 25). Its
evaluation claimed that turnout doubled in South Tyneside and nearly doubled in
Chorley, Gateshead, and the piloting wards in Crawley. The average turnout for all-
postal elections was 47.5%, which was fifteen percentage points higher than the non-
pilot elections (Electoral Commission, 2002: 25). A further thirty-two local authorities
used all-postal voting in May 2003, with five multi-channel pilots\(^\text{52}\) also allowing postal
voting as an option. Significant increases were again obtained.

<table>
<thead>
<tr>
<th>Election</th>
<th>Years in Use</th>
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<tbody>
<tr>
<td>May 2000 English Local Elections</td>
<td>Weekend Voting, Freepost delivery of election addresses, Early Voting, Electronic Counting, Extending postal vote entitlement, All postal ballot, Extending voting hours, Mobile voting facility</td>
</tr>
<tr>
<td>2001 English Mayoral Elections</td>
<td>All postal elections</td>
</tr>
<tr>
<td>May 2002 English Local Council and Mayoral elections</td>
<td>All postal, electronic counting, early voting, multi-channel Telephone, SMS, Remote Electronic</td>
</tr>
<tr>
<td>May 2003 English Local Council</td>
<td>Electronic counting, all-postal voting, internet, text message, telephone, kiosk, voting hours, All-postal elections in four regions</td>
</tr>
<tr>
<td>June 2004 European and English Local Elections</td>
<td>All-postal elections in four regions</td>
</tr>
<tr>
<td>May 2005 General Election</td>
<td>Universal postal voting on demand</td>
</tr>
<tr>
<td>May 2006 English Local</td>
<td>Advance voting and electronic counting, plus other</td>
</tr>
</tbody>
</table>

\(^{52}\) Multi-channel pilots are elections in which citizens can vote through a variety of mechanisms. The effects of multi-channel elections on turnout are discussed separately below.
After their review of the 2003 pilots, the Electoral Commission suggested that:

[O]verall, our evaluation of the all-postal pilot schemes suggests that this approach is very effective in boosting participation rates at local elections – to an extent that was largely underestimated when the pilots process first began, and which appears to be sustainable. … There should be a statutory presumption that all local elections be run as all-postal ballots unless there are compelling reasons why an all-postal ballot would be inappropriate or disadvantageous for a group or groups of electors (2003c: 24)

As a result of this, ministers became attracted to the idea that all-postal balloting could be used as a method of increasing turnout, and possibly as an alternative to increasing turnout via a switch to proportional representation. The author understands that some interviews that the cabinet saw this as ‘the answer’ and capable of increasing turnout by 10% overnight (private interview, former civil servant, 8 February 2007). The government thus put forward the European Parliamentary and Local Elections (Pilots) Bill (EPLE) give authority to use pilots at European elections. They also saw this as a stepping stone to:

…a general election that will offer voters the chance to choose from a range of new voting methods...The eventual aim is to hold a general election at which voting is available in a number of ways, using both conventional and new technologies... some time after 2006.

(Hansard, 2003: c.517-518).

The EPLE Act obliged the Secretary of State to consult with local authorities and the EC, but it was clear that such ‘consultations’ could be ignored by the government. The EC
had made recommendations to the government that pilot schemes run in only two of the European regions. On 16 December 2003 the government announced that it planned to accept the Commission’s recommendations and hold all-postal pilots in the North East and the East Midlands regions. However on 21 January 2004 the Government added a further two regions, the North West and Yorkshire & the Humber. The Electoral Commission was so concerned that the Chairman, Sam Younger, wrote to Lord Falconer, the Lord Chancellor, urging him to scrap the plan in the European Parliamentary and Local Elections (Pilots) Bill or introduce tough measures such as making it an offence for a candidate or an agent to intimidate a voter or help to fill in a postal ballot (Hurst, 2004). However, the government still proceeded.

The bill was opposed by Liberal Democrats and Conservatives in both Houses and subject to parliamentary ping-pong which almost resulted in what one minister called ‘an almost unprecedented constitutional situation’ (Rentoul, 2004). In the Lords peers demanded an amendment that would reduce the number of pilots used down to the Electoral Commission’s recommendation of two again. However, the government refused to back down and passed the bill back to the Lords on six occasions, before the Lords finally capitulated and passed the bill by a majority of 138 to 108. Caroline Spelman, the Shadow local and devolved government secretary, said: “What is the point in asking an independent Electoral Commission to make rulings on the suitability of areas for postal voting if you then bully and override them?” (Rozenberg, 2004)

Why was the government so insistent on reform? Despite the narrative that government was producing publicly, there appeared to be a high degree of consensus amongst those involved in the policy community that the bill was an act of political expediency. The author understands from interviews that John Prescott in particular ‘was out on a limb’ on the issue, despite concerns of cabinet colleagues, because he had his sights on the referendum on regional government in the same regions.

According to one government advisor:
John Prescott had this vision of regional government in England and what he’d committed himself to in that rather bizarre Local Government Act was to do this a majority of the electorate have to say they want it. And his advisors I think once again on the back of the previous argument about why Labour wanted to do this so much was that the best way to ensure a simple majority in regional referenda was to do them by post. There was this pervasive logic that was beginning to apply to postal voting.

The use of postal voting could be used as a ‘primer’ for Labour voters for the forthcoming regional referendum in the North-East. According to another advisor:

...And the really interesting thing then was, well, where were you likely to hold the first referendums for the regional government? And it was the Northeast, the Northwest and Yorkshire and Humberside. East Midlands only got dragged in because the regional returning officer in the East Midlands, a guy called Roger Morris from Northampton, was a very organised guy and on the basis of possibly being included he had set up a very good structure with commercial contractors to enable them to do it. And that’s the reason those four got chosen, I’m fairly convinced of it. So they’d got a barometer of if in the autumn we’re now going to run these regional referendum a) can we get a simple majority, in other words can we get the Labour vote out? Because they believed it was the Labour voters who were going to sign up for this......

There was the belief amongst members of the government that all-postal voting would be more likely to increase the turnout of Labour voters more than any other party, so the party would benefit generally in an election where the Party were becoming increasingly unpopular on the back of the Iraq War.
The Backlash
The use of postal voting in 2004 yielded further increases in turnout (James, 2011a: 43). The government was quick to praise the levels of turnout that the scheme generated. Peter Hain, the Leader of the Commons, said it had been ‘the biggest exercise in spreading democratic opportunity anywhere in Britain and probably anywhere in the world’. The Deputy Prime Minister, John Prescott, in PM questions claimed that:

The evidence is clear now that the amount of people participating in the election is considerably higher than it was. It must be the wish of everyone in this House that as many people as possible vote (Morris, 2004a).

However, allegations of electoral malpractice also begin to accumulate. A year before the European elections The Times reported that police officers were calling for tighter monitoring of postal-votes to avoid vote rigging (Norfolk, 2003). The Mail on Sunday meanwhile reported that a government minister, Patricia Hewitt, was alleged to have been present when a candidate urged a voter to hand over postal votes on their doorstep (Morris, 2003). In September 2003, according to The Times, a leading returning officer wrote to the Local Government Minister claiming that:

‘The current position runs the risk of the whole electoral process being discredited….Confusion already exists among electoral practitioners and election agents, and a major scandal could bring representative democracy into disrepute. It would be far too late to try to restore confidence once the damage had been done’ (Kennedy, 2005).

According to The Times, ministers met with the returning officer and others who issued similar warnings. In addition information released under the Freedom of the Information Act reveals that senior civil servants warned ministers:

‘The present postal voting on demand system is seen to be open to greater abuse than previously (when a reason for application was required). … “The practice has also arisen for large numbers of postal ballots to be sent to a single address. This is a practice which local
political parties have adopted in garnering postal-vote applications while canvassing for votes. It is alleged that this increases the potential temptation for fraud’ (Kennedy, 2005).

Notably, *The Times* also reported that, ‘The Office of the Deputy Prime Minister is withholding some information from *The Times* because it would “prejudice” the convention of the collective responsibility of Ministers’.

The EC noted concerns about fraud, especially in the West Midlands and in its 2003 *Modernising Elections* document recommended a host of measures to tighten security for postal voting. These included new offences for electoral fraud and most notably a move to individual rather than household registration (Electoral Commission, 2003c).

The late passage of the EPLE Act caused a number of well-publicised administrative problems for local authorities. In the run-up to elections logistical problems with the sending out the ballot papers dominating the media coverage of the election. In some authorities ballots had to be reprinted and the government missed the legal deadline for the public to receive their postal votes in some regions (Morris, 2004b; Woolf, 2004). Moreover, cases of alleged fraud began to dominate the media in 2004 prior to the 2005 General Election in 2004, the most significant of which was in Birmingham which was brought to an election court in February 2005 (Stewart, 2006). In two wards postal vote turnout had risen disproportionately to the rest of the council (from 3% to 46% in Small Heath and from 6% to 27% in Ashton). Electoral petitions were raised against the returning officer and the Labour Party. The judgement ruled that in one ward up to 2,000 postal votes had been bogus, and 1,000 in another. The judge claimed that:

> I found that corrupt and illegal practices have extensively prevailed at the election of the authority for which the election was held…In summary, there was extensive personation by the fraudulent alteration of postal ballots improperly obtained from the true voters for the same ends… On the evidence before me it was reasonable to conclude that the Labour Party had engaged in a concerted campaign to use fraudulent votes in problematical or marginal
wards, particularly those where Muslim voters might vote against the Labour Party in protest against the Iraq war. ... the evidence of fraud ..would disgrace a banana republic.’ (Paras 715-717).

Cases of fraud also emerged elsewhere in the country. In Blackburn, Mohammed Hussain was jailed for stealing 233 postal votes in the 2002 local elections in a marginal ward (White, 2005: 58-59). Cases also emerged in Cheshire, Hull and Burnley. Thus, in the run-up to the 2005 general election postal vote scandals thus had a high public profile. On April 16, 2005, *The Independent* reported that up to 15% of the electorate could be voting by post in May. It reported that, for example:

In Cheadle, Greater Manchester, where the Liberal Democrats are defending a majority of just 33, applications have soared to 485 per cent of their level in 2001, reaching 8,226 so far, compared with 1,695 at the previous election (Morris, 2005).

On 10th April *The Times* questioned whether the general election would in fact be won by fraud. According to some newspaper sources, political parties were even hoarding ‘war chests’ to fight court battles to win key marginal seats in the courtroom should they have grounds to contest the result (Bloomfield, 2005).

**Election Administration Reform After 2005**
New Labour was re-elected in 2005 and continued to show an interest in expansive EA. However, it had to adjust to a new environment in which there were demands for more restrictive measures. Following ‘Birmingham’ and the 2005 General Election, the EC took a much more cautious approach to reform and in conjunction with a number of other actors tried to push for legislation to focus on security rather than participation. In a policy review document in 2003 the EC recommended a change to individual rather than household registration and a marked register and allowing observers into polling stations (Electoral Commission, 2003d). In a review of the 2004 elections, *Delivering*
Democracy, political participation went down the agenda with a new emphasis on security. It recommended against the use of all-postal ballots on the grounds that it limited choice and that there was insufficient public confidence. In addition, the EC insisted on a number of security measures that have previously been made in reviews in 2004 (Electoral Commission, 2004). A 2005 document, Securing the Vote, brought together a range of recommendations made to secure public confidence, notably including individual registration, new powers for electoral officers to investigate fraud. Individual registration was vital, even though it was appreciated that a move towards introducing individual voter registration forms may carry with it a risk of falling registration rates (Electoral Commission, 2005c: 42).

A number of other reports were issued in the light of 2004/5 experience that would exert additional pressure on the government to introduce new security measures. The Committee on the Office of the Deputy Prime Minster launched an enquiry in postal voting which reported in May 2004 under the chairmanship of Labour MP Andrew Bennett. In the light of the accusations (most made without evidence at the time of the report) the committee recommended the introduction of individual registration, increased resources to the returning officers to investigate fraud and that a framework of electoral offences be introduced as the EC recommended (Office of the Deputy Prime Minister, 2004). In addition, in response to an invitation from the Delegation of the United Kingdom of Great Britain and Northern Ireland to the Organisation for Security and Co-operation in Europe (OSCE), the OSCE Office for Democratic Institutions and Human Rights deployed an Election Assessment Mission (EAM) to the 5 May 2005 general election. The report which followed claimed that:

The introduction of postal voting on demand in 2000, without the need to present a reason for the application, has demonstrated the vulnerability of any trust based electoral process (Office for Democratic Institutions and Human Rights, 2005: 1).

A key recommendation was the introduction of individual registration to combat this.
The government response, issued by Lord Falconer and John Prescott, appeared happy to accept many of the recommendations from the EC and other committees that were put forward to improve public confidence in the electoral system, as long as they did not stand to decrease turnout. Thus in its response to *Voting for Change and Delivering Democracy* it accepted the case for a nation-wide electronic register, new electoral fraud offences and allowing observers into polling stations. The government continued to play down the significance of fraud, and ruled out using all-postal elections in the future (Department of Constitutional Affairs, 2004a, 2004b).

According to several sources, the government had prepared individual registration as part of their Electoral Administration bill which would be introduced after the election but it was dropped because of fears amongst the Labour Party that a move to individual registration would effectively remove many of their voters from electoral register and would be catastrophic for their majority in the future.

An event that may have changed the government’s position towards individual registration was the report from the Northern Ireland Affairs Committee, published in December 2004, which evaluated the impact of the Electoral Fraud (Northern Ireland) Act 2002 (2004). Indeed the government appeared to delay its response to the EC’s Delivering Democracy and 2003 documents until this committee report had been published. The 2002 Act introduced individual rather than household registration, the abolition of rolling forward names on the register from the previous year, new electoral offences and a requirement to provide a national insurance number at the time of applying to the register. The Committee claimed that this brought a more transparent electoral system in Northern Ireland that had significantly reduced fraud. However, this had been at a cost of significantly reduced levels of registration to just 84% of the eligible electorate - a drop of 10%. Moreover, they reported evidence that particular groups
were underrepresented, particularly the young, and socially and economically depressed social groups.

According to one source it was Labour backbenchers that revolted against the idea of individual registration:

‘There was a reaction on the Labour backbenches led by a terrific guy, this guy called Chris Ruane, who’s a Labour MP for a North Wales constituency. And put in a nutshell, and this is something that persuaded Harriet Harman who was then the minister in charge, was effectively saying the Electoral Commission itself published research in the summer of 2005, research showing that there are up to 3.5 million people who are eligible to be on the register and aren’t. This is a far greater problem than the small number of accusations of electoral fraud that there are…. The subtext of that I think was the calculus that said there were a lot of Labour members of parliament whose constituency majorities having been safe in 2001 became unsafe in the aftermath of 2005 and went and told a rather crude bit of maths, you know, if we have individual registration the register in your constituency is going to go down by 10 per cent, like in Northern Ireland, and most of those will be Labour voters, and in the next general election your majority will disappear. So there was the sort of self interested and self preservatory element to it as well’.

Another source concurred:

‘My belief was that ministers were persuaded by this argument and were wanting to do it but backbenchers on the Labour side of the House didn’t. Why? Because individual registration in Northern Ireland had seen a 10 per cent drop in the register, which was not surprising. And the reality is of course that the 10 per cent who disappeared never existed in the first place in that sense. Labour Party backbenchers started to look at what it could mean for them if 10 per cent of the register in their constituency were to disappear. And they were concerned that the sort of people
who might not be on the register if you went to individual registration would be their natural supporters.’

According to one government advisor the debates were considerably higher within the cabinet:

‘When election work went to the Lord Chancellor’s Office, DC area, Charlie Falconer, people like Prescott and Reid … said … He [Charlie Falconer] was coming at it like a lawyer and saying if you get everyone to sign their names you know, it sounds good. Reid and Prescott were saying you don’t know how it works. These forms go into people’s houses who are our traditional voters… they can’t be bothered to fill these forms because they are too busy watching Coronation Street.’

Following the May General Election, the DCA published a policy paper inviting consultations on a variety of electoral reform issues. In October 2005 it published legislative proposals from the consultation, which crystallised the government’s position so far, and introduced the Electoral Administration Bill for its first reading in October 2006 (see table 6.2 above). The Act therefore contained measures to continue to extend public participation in the form statutory obligation on returning officers undertake a canvass. Performance standards for local authority election staff were introduced to maximize electoral registration. In addition the national electronic register may be seen as a pre-cursor to national electronic voting. While the Act contained new security measures, those likely to have had a considerable impact on electoral turnout were left out by the government in spite of political opposition.

The Conservatives opposed the bill in the Commons on the grounds that it failed to:

‘… introduce necessary and sufficient measures to restore public confidence and integrity in the electoral system, owing to … the Government’s continuing preoccupation with electoral
modernisation that has undermined the UK’s reputation for free and fair elections’ (Hansard, 2006: c.203).

The Liberal Democrats supported the bill claiming that it had some omissions, but that it was necessary to tackle low turnout. The bill thus passed the second reading with a majority of 375 to 166 with all MPs voting on strict party lines. Most Conservatives also called for the bill to require national insurance numbers to be included on registration forms. An amendment raised by the Conservatives and supported by the Liberal Democrats, to introduce personal identifiers was defeated by Labour MPs by 283 to 201.

In the Lords, Conservative and Liberal Democrat Peers tried to press an amendment to insist that citizens provided the same details when registering to vote and individual registration. The government overturned this twice in the Commons, with Liberal Democrats and Conservatives voting in favour of the amendment. The government claimed that they wished to see how the reforms to postal voting went before accepting identifiers for registration. Moreover, it was more important to raise electoral registration to include the 4 million voters who were not on the register from socially excluded groups than see electoral registration plummet further, as had occurred in NIR. Eventually a Labour peer moved for an amendment to allow personal identifiers (for example, date of birth and signature) to be added to postal vote applications which was accepted by a cross-party consensus and subsequently by ministers in the Commons. This was accepted by ministers and the bill was passed.

**Gordon Brown’s Expansive Procedures**

Gordon Brown became Prime Minister in 2007. Interest in election administration and low turnout continued within the government. That year, a new range of pilots took place in 12 councils and included remote electronic voting at Sheffield, Rushmoor, South Buckinghamshire and Swindon (James, 2011a). In evaluating the pilots, the Electoral Commission recommended putting the breaks on further piloting.
The Commission believes that piloting has achieved its objectives for a number of electoral modernisation activities – in particular, signing for ballot papers at polling stations and advance voting – and that the required learning has been achieved. We recommend that further pilots are not necessary in these areas. The Commission recommends that there should be a gap of at least one year before consideration is given to any further piloting of electoral innovations at local government elections. This period of time should be used to develop and debate a robust electoral modernisation strategy that would review progress, propose a new way forward and instigate a public and policy debate (Electoral Commission, 2007: 4).

No pilots were scheduled for 2008. The government instead launched a new agenda for constitutional reform in the ‘Governance of Britain’ green paper. This included plans to consult with local authorities about switching polling days from Thursday to weekends permanently in order to increase turnout (Ministry of Justice, 2007). The consultation paper was launched in June 2008 with submissions requested by September 2008 (Ministry of Justice, 2008). The Junior Minister Michael Wills indicated a continued desire to implement expansive forms of election administration to reduce turnout:

> The right to vote is the basis of our political system. Strengthening our democracy requires the removal of barriers to the exercise of that right. (Wills, 2008).

With attention on the financial crisis of 2007, no change occurred.

**Towards Individual Registration**

The Brown government remained subject to criticism over EA, however. A Council of Europe report claimed that the system was ‘childishly simple’ to fraud, keeping the
agenda open for further reform (Council of Europe, 2008) while a report from the Joseph Rowntree Trust pinpointed the scope for fraud in the existing system, putting politicians under pressure to reform the system (Wilks-Heeg, 2008, 2009). Eventually the government conceded to the case for individual registration and legislated to introduce it on a voluntary basis for those wishing to register after July 1, 2010 in the Political Parties and Election Act (PPE). The Act also mandated the Electoral Commission to evaluate the impact of this change and required Parliament to consider whether it should be made compulsory after a review in 2014 (James, 2011a: 41).

What explained this acceptance? According to one source:

‘I think it was just the sheer insistent battering of argument that sort of finally sort of wore it down. You know, because I mean quite a lot of people accepted it, I mean a lot of key people accepted it in 2006, including senior, you know, senior ministers. But just couldn’t, you know, the backbenchers just, you know, faced it down’ (private interview, 8th April 2011).

Timing was crucial. The political agenda was taken over by the financial crisis and the expenses scandal. The details of MPs expenses claims had been publicised by The Telegraph. This cast parliament in a shadow of dispute and indirectly reignited an interest in electoral system reform (Renwick, Lamb, & Numan, 2011). The PPE Act sought to address this and so the government was less concerned about EA. On the other, the government may have accepted individual registration, but the Act would not implement it until after the 2010 election and only on a voluntary basis. If re-elected it would have the opportunity to revisit the legislation. If it wasn’t re-elected it would probably have been introduced by a Conservative government anyway. Labour MPs were subsequently more accepting. According to one source:

‘when it got to 2009, it was clear nothing would take effect from the 2010 General Election and the one after that was too far away for it to have a sort of political immediacy for backbenchers. So I just think it didn’t have the same, you know, didn’t have the same salience at that point politically’ (private interview, 8th April 2011).

According to another, accepting that Labour might not be in power after 2010:
‘...they took the politically expedient decision let’s frame what the new system will look like plus the methodology for getting to it while we have still got the chance rather than having it saddled on us by those wretched Tories who will make sure it does us down (private interview, 8th July 2011).

When the Coalition government was formed in 2010, individual registration was part of the agreed programme of policies (Coalition Government, 2010). A White paper was published in June 2011 proposing that individual registration was fast-tracked before a 2015 general election. The bill would make individual registration compulsory and would also require electors to provide national insurance numbers and date of births when registering to vote. There would be an end to the annual canvass and voting would be made entirely voluntary (Deputy Prime Minister, 2011). Evidence to the Select Committee on Political and Constitutional Reform from the Electoral Commission, AEA and a number of academics predicted that these restrictive changes would reduce registration levels considerably. The Pollster Roger Mortimore, from Ipsos MORI, predicted that the fall in registration levels would be highest amongst Labour voters. Members of the Committee expressed ‘genuine shock’ at the effect that proposals could have on the register. On the proposal to introduce voluntary registration, one advisor to the government suggested that:

‘You might say that is a very enlightened and liberal approach working with his new coalition colleagues he has been persuaded or a cynic might say of course that it is likely to favour the Tories given that their supporters are more likely to be registered etc. and all these other people who don’t to be that’s fine, we are not going to chase you, we are not going to fine you and beat you with a stick (private interview, 8 July 2011).

At the 2011 Labour Party Conference Harriet Harman and Ed Miliband promised to oppose the Conservative’s plans. According to Harman:

‘The Tories are hoping if they take away the right to vote from students, young people living in rented flats in our cities, people from ethnic minority communities... if fewer of them can vote it will help the Tories win’ (Telegraph, 2011).
The partisan advantage, however, could be heightened because of changes that the Coalition planned to make to the electoral boundaries. Their Parliamentary Voting System and Constituencies Act 2011 required boundaries to be recalculated so that constituencies were of an equal size. This would benefit the Conservatives by making their vote to seat conversion more efficient (Balinski, Johnston, McLean, & Young, 2010). However, the Act also required boundaries to be drawn up based on the number of people on the electoral register. A reduction in the register may therefore require a further redrawing of the boundaries for 2020. These boundaries were predicted to reduce representation further in those areas where the register fell, such as urban areas. These have traditionally been Labour voting areas which would give the Conservatives

**Election Administration in Northern Ireland**

Unlike the rest of the UK, arrangements for election administration in Northern Ireland are administered centrally by the Chief Electoral Officer and the Electoral Office for Northern Ireland (EONI) as prescribed by the Electoral Law Act (Northern Ireland) 1962. The Chief Electoral Officer is appointed by the Secretary of State for Northern Ireland who has responsibility for electoral law and policy. Like mainland Britain, there has been major reform since 1997.

New Labour took a different approach to reforming election administration in Northern Ireland. Immediate changes were initiated in 1997. The subsequent Representation of the People (Northern Ireland) (Amendment) Regulations 1998 changed procedures so that the EONI had more time to scrutinise postal vote applications. It also required those attesting the application of another on the grounds of ill health to state that they had seen the applicant and had observed their medical condition. However, in March 2001 the Secretary of State for Northern Ireland presented a more comprehensive White Paper entitled ‘Combating Electoral Fraud in Northern Ireland’ which proposed a
number of restrictive measures (Secretary of State for Northern Ireland, 2001). The White Paper was the premise for the Electoral Fraud (Northern Ireland) Act 2002. Key changes included a move to individual rather than household registration and the use of personal identifiers such as the social security number. This would subsequently allow the EONI to check the social security numbers provided on registration forms against the Department of Work and Pensions database allowing them to throw-out any application that did not match. A requirement for citizens to show photographic identity (a current passport, current drivers licence, a senior citizens smart pass, or an electoral identity card) at the polling station was introduced. The identity card was developed as part of the bill in recognition that some people, especially those amongst the younger and lower socio-economic groups would not have any of the previous forms of identification. The card was to be issued free of charge to those who were already on the register by the EONI. Unlike the rest of the UK there was no universal access to postal votes because of fears of fraud. The Labour government accepted in the White paper that this focus on security and restrictive measures were very different to the expansive approach taken in the rest of United Kingdom (Secretary of State for Northern Ireland, 2001).

The key trigger for changes to election administration in Northern Ireland was the allegations of electoral fraud, which had been voiced in Northern Ireland for decades.\(^5\) However, three key reports were published after the 1997 general election which gave momentum to reforms focussing on combating election misconduct under New Labour. Firstly, the Northern Ireland Forum for Political Dialogue, which was set up under the Northern Ireland (Entry to Negotiation, etc) Act 1996 to consider and examine issues relevant to promoting dialogue and understanding within Northern Ireland, published a report on electoral reform in October 1997. The Commission decided to review electoral

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\(^5\) A report by the Electoral Commission (2003a: 15) was unable to trace any statistical information on the actual numbers of cases of fraud. However, their research suggested that there was broad perception of fraud. According to Unionists this was a ‘well organized nationalist activity such as activities as fraudulently securing postal votes’. According to members of the nationalist community it had occurred on both sides of the community in the past, but was ‘less prevalent today’.
procedures following claims of “irregularities” during the May 1997 general and local elections. The Forum’s report suggested that ‘[t]here is nothing therefore to stop anyone from adding fictitious names to the registration form.’ (Northern Ireland Forum, 1997: 12). The Forum recommended that registration forms were collected in person and followed up any mismatch between the number of registrants and the house type did not match. Further recommendations included random checks, further ‘more meaningful’ penalties for electoral malpractice, greater information sharing between public agencies, and made the recommendation for personal identifiers to be used. In addition, the report claimed that the ‘postal and proxy vote system is susceptible to abuse by those applying for fraudulent votes’ (ibid, p.29). Measures that could combat this included an earlier deadline so forms could be checked and the inclusion of further identifier information on the form.

Simultaneously the report also suggested measures to increase registration amongst those who are eligible. It claimed that:

> The Committee believes that the failure of the Electoral Office to be proactive on the issue of under-registration is failing the democratic process. The Committee believes that public information regarding registration should be made more widely available in banks, Post Offices and public places’ (ibid, p.20).

It also recommended that further public awareness campaigns should be made about electoral registration and should investigate any apparent gaps in the electoral register. In addition, the report condemned the current provisions for disabled voters.

Almost simultaneous to the publication of the Forum’s report; the Northern Ireland Affairs Select Committee investigated allegations of fraud. The Committee’s report documented four main ways that the Chief Electoral Officer had cited that fraud may be
talking place – multiple registration, impersonation, absent voting abuse, and undue influence.

The report recognised that generating sufficient evidence of fraud on which findings could be based was difficult especially since there were many contradictions in some of the evidence received. However, it suggested that:

‘On the basis of the wide experience of those active in political life in Northern Ireland and, in particular, the product of police searches and enquiries revealing organised arrangements for forging medical cards and abuse of absent voting applications, there is sufficient evidence of organised voting theft to indicate that the problem of electoral malpractice in Northern Ireland is serious’ (Northern Ireland Affairs Select Committee, 1997).

A range of possible solutions were considered by the report which included signatures on registers, personal identifiers on in person and postal vote applications, a rolling register, and new universal registration cards (Northern Ireland Affairs Select Committee, 1997).

A third report was issued in October 1998 following a review by the Secretary of State for Northern Ireland in July 1997. The report also noted the difficulty in identifying concrete evidence of fraud but concluded that ‘a level of abuse exists which is unacceptable. In the case of the absent voting facility, it is clear that from the RUC’s investigations, instigated by the Chief Electoral Officer, that there is evidence to show a high level of malpractice’ (Northern Ireland Office, 1998). Proposals therefore included: an electoral smart card; signature verification at every stage of the electoral process; more identifier information on the registration form; a new IT system to enable more thorough checks; publicity to encourage registration; increased security for postal ballot such as personal identifiers, and more staff training programmes.
New Labour therefore presented their changes as a response to large-scale perceptions of electoral fraud, which did not exist in the rest of the UK. As one official from the Electoral Commission noted:

‘The problem is that electoral fraud was a perception that people had. It was perceived on the Nationalist side that the Unionists were fraudulent and it was perceived on the Unionist side that the Nationalists were fraudulent. …. But that being said; perception in this case is reality, and therefore this perception was almost eating away at the confidence of the democratic process’ (private interview, 1 November 2007).

However, the fact that these allegations had existed for a long period of time suggests that other factors were prominent, the foremost of which was the rise of Sinn Fein as an electoral party and the broader ongoing peace process in Northern Ireland.

One source claimed:

I think that you have got to look at the background. … There was a very delicate balancing act the whole time about measures that would keep the Unionists onside without upsetting the Nationalist-Republican community too much. Now this is something which Unionists and at least some within the SDLP had been asking for at least for a number of years so whether it was actually a great desire by the government to clean up the electoral process in Northern Ireland or whether it was ‘here are some sweeties that we can give to them to keep them onside’, I don’t know. I suspect the latter.

According to another anonymous source:

The key agents behind the bill really was some of the political parties, particularly the SDLP who were quite pestiferous in their views about electoral fraud and Sinn Fein. And the
Unionist Party also felt that there was electoral fraud ongoing. And a lot of that became about because of the growth of Sinn Fein and its vote. The number people supporting Sinn Fein grew very dramatically in the 1980s and now it is the biggest nationalist party. At the argument that was made was that they were stealing votes. And therefore there was a big demand put on the Northern Ireland Office to do something about it and resulted in the 2002 Electoral Fraud Act (private interview, Senior Official from the Northern Ireland Electoral Commission, 1 November 2007).

The impact of the Act
Those implementing the Act hailed it as a success in discouraging electoral misconduct and increasing confidence in the system. According to one official:

‘...the allegations of fraud and counter-allegations of fraud after every election right? It was notorious here. Since the introduction of the Electoral Fraud Act in 2002 I have not heard any allegations of fraud. I have spoken to the police, I have spoken to political parties. And all of this business is now a thing of the past in NIR. It was all about the Electoral Fraud Act and probably the changing political climate as well. And that people’s suspicions are not as great as they once were...’ (private interview, Senior Official from the Northern Ireland Electoral Commission, 1 November 2007).

The EC commissioned interviews before and after implementation which showed an increase in confidence in the system. But the new system also appeared to have an impact on registration numbers (figure 5.1). To maximise registration the EONI doubled the numbers of staff employed in the canvass. A significant amount of money was also invested into media campaigns and a network of application centres were setup (Electoral Commission, 2003a: 24). Despite this, in December 2002, when the first canvass register was published using the new system, the register had declined from 1,192,136 to
1,072,346 – a ‘loss’ of 119,790 names or approximately 10% of the electorate – and a registration rate of 86%. Subsequent reports by PricewaterhouseCoopers (PwC) commissioned by the EC continued to chart the numbers on the electoral register who noted further declines. The canvass in September 2003 included 1,097,558 names, and the third register in September 2004 published 1,075,439 – just 82% of the eligible population (Price-Waterhouse Coopers, 2006: 3-4). Some reports also suggested that the decline would have been greater was it not for the simultaneous introduction of rolling registration. According to a August 2005 PwC update report; ‘rolling registration.. has acted to offset this’ (Electoral Commission, 2005a). Furthermore registration may have been boosted by the ‘looming election’ effect in 2003, 2004 and 2005. According to one report, political parties, particularly in nationalist areas had put considerable resources into ensuring that potential resources were on the register (Electoral Commission, 2005a). Indeed initial research pinpointed the downward spiral as being worse amongst particular groups (Electoral Commission, 2003a).

Debate raged about the possible cause of the decline. For some the decline represented the successful elimination of names that should have not appeared on the register because they were either fraudulent or inaccurate. Moreover, the Electoral Commission report argued that ‘the December 2002 register in fact provides a much better indication of actual levels of non-registration than the old register. In short, the old register did not provide an accurate record of the percentage of adults on the register because it over inflated the numbers entitled to be registered’ (Electoral Commission, 2003a: 41). The new measures had successfully deterred attempts at electoral misconduct. According to the EONI:

So there was a marked drop in the register. The question is, is that a bad thing? I mean what did it actually represent? Well to some extent, it cleaned up the register and removed from it a number of people who should not have been on it (private interview, Electoral Officer for Northern Ireland, 25 January 2008).
Unionist politicians insisted that the decline was due to the end of Sinn Fein fraud. The EONI and the EC claimed, however, that while it was possible that fraud and errors accounted for some of the reduction, other factors were also important (Electoral Commission, 2003b: 44).

Others suggested that the removal of the carry forward might have been responsible for this decline. Evidence given by the EONI to the Northern Ireland Affairs Select Committee suggested that 10% of households did not return the form each year meaning who were then carried forward to the register the following year. This facility continued in Scotland, Wales and England. The types of voters that may therefore have been excluded from the register therefore included those who had not completed a form, those who had relocated outside of Northern Ireland in the previous year, possible duplicates arising from moving houses, fraudulent voters. One survey by the Electoral Commission suggested that of those who were not on the register in April 2003, 72% claimed to have been on the register the previous year (Electoral Commission, 2003b: 45).

Some political parties suggested that the new system was poorly understood and some criticisms were made of the EC’s publicity campaign. One journalist claimed that, ‘the people who have not returned their forms tend to be the least educated and living in the poorest areas, people who are unable or averse to filling in forms (Electoral Commission, 2003a: 47)’. According to one canvasser quoted in a newspaper there ‘was a lot of irritation, even resistance in working class areas, especially Protestant ones. Many had ‘lost’ their forms, and many didn’t know their national insurance number’ (Electoral Commission, 2003a: 47).

A further concern raised in the initial EC report was that many people were concerned about handing over their personal identifiers – concerned about how they would be
used – with a number of people working in the black economy. Roughly 5% of deliberate non-registrations said in a survey that they did not register since they were reluctant to give away personal identifiers (Electoral Commission, 2003a). However while the initial focus was on security measures, to some extent, the focus was reoriented towards participation and including those excluded from the register.

The argument was therefore made by the Chief Electoral Officer in 2003 that the carry-forward should be returned to the register since it could potentially disenfranchise 150,000 electors. The EC countered this claim by suggesting that the removal of the facility had created a ‘more accurate and robust register with potentially greater longer-term benefits’ (Electoral Commission, 2003a: 45).

Some politicians claimed that the removal of the carry forward along with individual registration and the new photographic i.d. requirements created unnecessary bureaucracy that was disenfranchising legitimate voters. There was a ‘fatigue effect’ which would gradually grind the electoral register downwards.

**Reinstatement and Continuous Registration**

EA in Northern Ireland did not stay still for long. The government introduced expansive measures as the extent of the drop in electoral registration became clear. The Electoral Registration (Northern Ireland) Act 2005 allowed the temporary reinstatement of those who had been removed from the register. The Act, which was used on two separate occasions, reinstated electors onto the register who had previously been registered but had not re-registered. Thus all those who failed to re-register in the 2004 annual canvass but whose names were on the 1 September 2004 register were included into the 1 April 2005 register. This boosted the register by 70,283 electors – and the effect ranged from 9.9% of the electorate in Belfast North to 4.4% in Fermanagh & South Tyrone and being stronger in more urban constituencies (Electoral Commission, 2005a).
Reinstatement was used a second time in December 2005, adding 95,000 names to the register. A PwC report noted that of those who were reinstated in April 2005 one in two had re-registered for the following canvass with re-registration lower in more deprived geographical regions, particularly within urban areas. The reinstatement added 3% to the electoral register which would be lost in the future canvasses (Price-Waterhouse Coopers, 2006).

A second expansive measure was announced in November 2004. The government proposed an end to the annual requirement for the electoral register to be updated each year with a canvass (Electoral Commission, 2006b). The Northern Ireland (Miscellaneous Provisions) Act 2006 replaced the annual canvass with continuous registration. The last annual canvass was compiled during the period September to November 2006. Canvasses would then only take place at statutory intervals of ten years. The returning officer would be able to make a recommendation on whether or not there should be a canvass although in introducing the bill the Secretary of State suggested that it would only be in exceptional circumstances. Those who register in response to the final canvass will not need to do so again and would remain on the electoral register.

Figure 5.1: Registrations and Voting Age Population in Northern Ireland 1976-2010. Sources: Registration data from EONI (2011); VAP calculated from NISRA (2011).
register. This was in spite of an EC report in May 2005 suggesting that a move to a 3 or 4 year canvass would mean the increase in a number of inaccuracies – perhaps as high as 12% (Electoral Commission, 2005b).

The Act also included other provisions, some of these expansive, some restrictive (see table 5.4). There is no data on whether these brought about increases or decreases. However, after their introduction, according to the EONI, Northern Ireland’s registration levels;

... are now back to the same level of registration that we were before the introduction of individual registration, but with the big difference that we are now confident that the people who are on the register now exist and are entitled to be there (private interview, Electoral Officer for Northern Ireland, 25 January 2008).

<table>
<thead>
<tr>
<th>Data sharing between public authorities including the Health Service, Department of Work and Pensions and the Northern Ireland Housing Executive</th>
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<tr>
<td>EONI to receive information on construction of new buildings</td>
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<tr>
<td>Address changes at doctors, dentists, opticians or A&amp;E department this would be fed back to the EONI on a two-monthly basis.</td>
</tr>
<tr>
<td>Principals of any school to provide the name, date of birth and address of all pupils so that they can be targeted for sending electoral identity cards.</td>
</tr>
<tr>
<td>Citizenship lessons for new registrants in schools</td>
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<td>Prize draw for registrants</td>
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The new provisions were partly designed to pacify some politicians. Sinn Fein had responded angrily to the publication of the first new register under individual registration, with President Gerry Adams describing it as ‘a scandal’. According to him:

This brings the total to 187,683 people eligible to be on the register who do not appear. This is a seriously-flawed registration process and a mess of gigantic proportions. It will affect supporters of all political parties but particularly those who come from a disadvantaged background (Breen, 2003).

Adams prescribed a number of remedies to boost the register including registration media campaigns, clinics to help complete forms, and the issuing of forms to sixth-formers in schools (Breen, 2003). Perhaps un-coincidentally it was Adam’s constituency of West Belfast in which registration had dropped the most.

After reinstatement had been used for the last time and names would be removed from the register in time for the 2007 Assembly elections, Sinn Fein attacked new registration system:

Tens of thousands of voters have been ripped off the register by the actions of the registration office....I intend to urgently speak to the British government and demand that the previous register should be rolled over to allow for its use in any Assembly election in March (The Irish Times, 2006a).

In summary, the UK government took an entirely different approach to reform in election administration in Northern Ireland. Reform appears to have been driven by two key factors. Firstly, the wider peace process in which election administration reforms were a pawn to be used to pacify the SDP and Unionists who were concerned about the rise of Sinn Fein. Secondly, unlike the rest of the UK, the Labour Party had
none of its own Westminster seats at stake in NIR. It was therefore free to implement restrictive procedures without fear of the electoral consequences.

In Conclusion
In the late nineteenth century, election administration was given a radical overhaul in the UK as the secret ballot was developed in response to popular demand. At the close of the twentieth century, election administration faced a radical overhaul once again. However, this time the pressures were not from below, but from above. Concerned about growing political apathy and declining rates of electoral turnout, the Labour government began a course of radical reform to electoral procedures. It has sought to use innovative new technology to modernize electoral procedures using technologies to enable e-voting and mobile phone voting to take place in pilots at the local level. Rolling registration has been introduced across the UK, but perhaps the most significant long term effect has been to enable postal voting on demand. After significant pressure, New Labour eventually set the ball rolling for individual registration but only after the 2010 general election.

Four reasons can be suggested as motivating New Labour to support reform, in addition to any altruistic concerns about modernisation and the health of democracy. Firstly, there was a perception that increased turnout would favour the Labour Party. Secondly, there was a perception that postal-voting could be used to boost the ‘yes’ vote in the North-Assembly Referendum and the Labour vote in the 2004 European election. Thirdly, individual registration (a restrictive measure) was vetoed, despite political pressure, since it was perceived as a threat to the parliamentary majority of the Labour Party. Finally, it is also possible to claim that election administration reform seemed a useful way for the Labour Party to increase turnout, without having to enact reform of the voting system – something which the Court became increasingly opposed to, once in power.
New Labour was not the first and will not be the last to take partisan positions on election administration. The Conservatives were happy to let registration levels decline as a result of the poll tax. The Coalition government plans to introduce individual and voluntary registration will reduce the register again, for a likely partisan gain.
Chapter Six

‘Our silly aul’ pencils’: Election Administration and the Republic of Ireland

‘Regrets? I’ve had a few. My biggest single regret, lookin back, was dat I didn’t manage to bring in e-votin and get rid of de stupid oul pencils. I hate pencils. We’re de Laughlin stock of the world wit dem. Sometimes I lie awake at night listening to de world laughin at us and sayin: “Ha, Ha! Look at the Irish. Still using pencils!”
De Collected Diaries of a Nortsoide Taoiseach 1997-2008, p.7

Introduction
Irish election administration has been almost entirely ignored by scholars of electoral laws. The absence of an academic literature on election administration in Ireland is unsurprising however, since unlike the US, it has rarely featured as a high-level political issue. For example, on 15 December 1994, the government established a commitment to establish an all-party committee of the Oireachtas to review the constitution. The Committee considered the electoral system at length and concluded that ‘the present PR-STV system has had popular support and should not be changed without careful advanced assessment of the possible effects’ (Constitution Review Group, 1996: 60).
However, like many debates surrounding electoral laws the constitution during the life of the Irish Republic, no consideration was given to election administration.

Yet at the start of the twenty-first century it became a political ‘hot potato’. First, a number of accusations were made by politicians and political commentators about the accuracy of the electoral register. Second, the government appeared to be intent upon implementing a highly controversial and criticised method for casting and counting votes: e-voting. All of a sudden, election administration was at the centre of a political storm. The quote at the start of the chapter, taken from a spoof memoir of Bertie Ahern, illustrates how the Taoiseach was parodied for being obsessed with e-voting, at whatever political cost.

The Irish case is of particular interest since it highlights the evolution of election administration within a different institutional context. The electoral system in Ireland creates a distinctly different party system to that in Britain and the USA\(^{54}\), which makes for interesting opportunity to apply the statecraft approach into territory with which it is not familiar: multi-party politics. Under the system 166 TDs are elected from 43 constituencies, each returning 3, 4 or 5 deputies. Voters are asked to rank candidates in order of preference. Ballots are then counted to calculate a Droop quota which is the minimal number of votes that guarantees election. This is the number of total votes by one more than the number of seats to be filled. Should not all the candidates be elected (they rarely will be), then the next step is to have a series of counts or stages in which the lowest placed candidate is eliminated. If a candidate receives more than the quota their surplus votes are transferred to other candidates according to the next stated preference on the ballot (Weeks, 2008). For much of the Irish Republic’s lifetime, Fianna Fáil remained in power, mostly through coalitions. However, there were two periods of independent rule for Fianna Fáil (32-48 and 57-73).

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\(^{54}\) Although there is, of course, a literature on whether the electoral system does create the party system as Durgerver suggests, or whether the causal process is the other way around.
This chapter charts the historical evolution of election administration in the Republic of Ireland, from its inception in 1922 to 2008 (see table 6.1 and 6.2 for summaries) drawing extensively from original archival research and private interviews. It argues that there is some evidence of governments having a keen eye on election administration and its own electoral interests. However, it has much less often been a source of statecraft since there is less evidence that successive Courts have stood to gain from the proposed reforms. The consequences of the case study for the theory of statecraft are discussed in the following chapter.

The Historical Foundations of Election Administration in Ireland
The Constitution of the Irish Free State 1922, drawn up under the watch of the British government, was introduced on September 18 and finally approved on October 25, 1922. This created an elected President and Parliament known as the Oireachtas via the ‘principles of proportional representation’ but was otherwise silent on the niceties of EA. Until this date, electoral procedures were subject to British law. Thus for example, the introduction of the Representation of the People Act in 1918 had the same effect in Ireland that it did in Britain in requiring reformed procedures and creating a new electorate. As John Murphy noted:

The Irish electorate as a whole jumped from 701,475 to 1,936,673. Dublin City increasing from 35,353 voters to 124,829, Belfast from 57,174 to 170,901, Cork from 12,296 to 45,017, Limerick from 4,875 to 17,121 and Waterford from 2,972 to 12,063. It has been estimated that two-thirds of those on the 1919 Register were able to vote for the first time’ (Murphy, 1975: 4-5).

Once the Dáil Éireann was established, one of the early tasks of the Provisional Government was therefore to create its own electoral machinery. On the 19th September 1922, the Dáil was of the opinion that:
...the preparation of the register will take several months... [therefore] desirable steps should be taken forthwith to prepare such register... if any difficulty arises as to the preparation of the Register, the Minister of Local Government may, by Order, do any matter or thing which appears to him to be necessary for the proper preparation of the Register' (Dail Eireann, 1922).

However, ministers already seemed to be engaged in this task having already acted to consider the suitability of the electoral register for any forthcoming election. They also seemed to have a keen eye on how it could be used to further its own interests. The cabinet had already met and considered an Inspectors report on the state of the register. One confidential report from the Ministry of Economic Affairs from before this date documents the cabinet’s view. It reported that the Court was against establishing a new register and that, ‘Instructions were given through Sinn Fein Clubs and other sources, to have everything possible done to bring the Register up to date in Republican interests’ (Minister for Economic Affairs, 1922). For example, in one constituency (Caran) the Inspector, who the Ministry of Economic Affairs had commissioned to undertake an evaluation of the register, reported that:

No attempt has been made here to bring the Franchise lists up to date... The secretary assured me that in case of an Election, though out of date, they will be quite safe from a Republican point of view as far as East and West Caran are concerned’ (Minister for Economic Affairs, 1922).

The government also soon sought to amend and consolidate British electoral law into a new Irish Act. The Provisional Government decided at a cabinet meeting on 26th August 1922 that ‘Adult Suffrage would form the subject of a resolution to be submitted, at the earliest opportunity, to the new parliament’. The Minister for Local Government submitted memorandums to the cabinet on the 2nd and 7th of November 1922 outlining his plans for a Franchise Bill. His memorandum defended the use of STV, and also suggested that ‘Voting by post is not effective to any great extent, and it is doubtful
whether the system merits the trouble and expense involved’ (Minister for Local Government, 1922).

The following year, the Dáil approved the Electoral Act 1923. The key provisions of the Act, which would be the cornerstone of election administration for the remainder of the century, included:

- There would be an annual register of electors. The qualifying date for the first register would be 15th October, with the qualifying date for future registers being 15th November. The register would come force on 1st June and remain in force until 1st June 1924.
- Registration officers would be responsible for compiling the register, under the direction of the Minister for Local Government. Funds would be reimbursed by the Minister of Finance. The superintendent registrar of births and deaths may be required to furnish to the registration officer lists of or other information about deaths of persons in his area.
- Members of the Garda and the Defence Forces will have the right to vote via post (but no one else would).
- Registration officers should maintain the secrecy of the ballot. However ballots would contain numbered counterfoils – thus technically meaning that ballots could be traced.
- Elections would only be held on one day, not less than 30 days after the dissolution of the Oireachtas. This day would be a public holiday. The Hours of the poll would be 9am to 7pm.

One document outlines how the Minister of Finance would issue Public Rules and Orders to set scoping figures for the expenditure that the central government would give to local authorities to run elections. The Ministry of Finance Order, 24th May 1922 prescribed maximum charges of Returning Officers at the Election. For example, in a contested election, a returning officer in a county constituency was granted five shillings ‘for every complete 100 of the electors on the register for the constituency up to 20,000 electors’ and 4 shillings beyond 20,000 electors. The Returning Officers were due for ‘the dispatch and receipt of ballot papers of absent voters one pound and five shillings for every 100 absent voters’. Returning Officers would only receive one third of the above, should the election be uncontested. Four pounds and four shillings was allocated for each Presiding Officer used and one pound and 15 shillings for one poll clerk for each Presiding Officer (Minister of Finance, 1922).
In 1927 a constitutional amendment was passed which removed the need for elections to take place on public holidays and amended the hours of the poll. The Minister for Local Government and Public Health wrote to the Executive Council on the 17th December 1926 suggesting the requirement for a public holiday be changed. In addition, future elections would take place on Wednesdays:

The Minister is of the Opinion that if the day of Election is not to be a public holiday, Monday is most unsatisfactory as a polling day. Presiding Officers will in most cases receive their boxes on Saturday, and the boxes cannot everywhere be protected against interference over the week-end. It is considered that “Wednesday” should be constituted for “Monday” in the Section.

In addition, the Minister suggested that the hours of the poll should be extended from the existing provision of 9am to 7am since it ‘cannot be said that any particular hour is universally slack’. The new times should be 9am to 9pm.

The Executive Council, under the premiership of Fine Gael’s Cosgrove approved these changes although it stated that:

‘It is not considered desirable, however, that any particular day of the week should be stipulated in the Act….The Council are [also] of the opinion that a sufficient extension of the hours of polling would be provided by fixing them at from 9am to 8pm’ (Executive Council, 1927).

In addition, it allowed the register to include those who would have reached 21 by the 15th April qualifying deadline rather than those who were on the registration application deadline of 15th September – enfranchising an estimated 23,000 young voters.

In the Dáil, the Minister claimed that the initial reasoning for making polling day a public holiday had been to ensure that every elector would be free on that day to record his vote. In fact, it was found that, instead, hardship was caused to workers and some
employers through the loss of a day’s work. It was also suggested that people saw polling day as an extra holiday and tended to go away for the week-end, without voting.

Broadly speaking, from this point until the 1960s, little evidence was found that election administration had been considered of political salience. In 1928, for example, a report on the Joint Committee of the Constitution of Seanad Éireann considered the number of members of the Seanad Éireann but did not consider the method of electing each TD (Joint Committee on the Constitution of Seanadd Eireann, 1928). Indeed, when Fianna Fáil came to power in the 1932, it worked quickly to amend the constitution, as it was originally designed to meet British interests than its own. Changes included the abolition of the Oath in 1932, the Seanad and the office of the Governor General in 1936, before Fianna Fáil leader Eamon De Valera drew up a full new constitution which was passed in 1937. Article 12 of the 1937 Irish constitution specified that ‘the President shall be elected via direct vote of the people…The voting shall be by secret ballot and on the system of proportional representation by means of the single transferable vote,’ but gave little direction beyond that, relying on earlier electoral laws for the finer details of EA.

The Review of Electoral Law in the 1960s
In the 1960s election administration was revisited when a Joint Committee on Electoral Reform was established to examine whether the law and practice needed some modernisation. The committee issued three interim reports, and one final report whose recommendations were accepted by the Minister of Local Government, the Taoiseach and the Oireachtas. On 9th November, the 1960 Electoral Bill was proposed which made provision for the postal votes for Gardi and the Defence forces, as well as a re-consolidation of law on postal voting more generally and allowed for a ‘companion’; to mark the ballot for those ‘so physically incapacitated that he is unable to vote without assistance’. These provisions largely accepted the interim reports’ proposals but also resulted from the National League of the Blind making representations to the Minister
for Local Government. Few objected to the Bill as most TDs accepted it as an inevitable modernisation of ‘archaic’ practices.

The final report suggested that:

- The introduction of a supplementary register such that ‘where a person’s name is omitted from or incorrectly entered in the register due to a typographical or other administrative error, the registration officer should have power to issue a supplementary list of corrections’ (paragraph 18)
- Postal voting should not be extended to prisoners or any other categories. The Committee suggested that ‘if postal facilities were extended to one class of persons it could be argued that it should be extended to all classes similarly circumstanced, including those who move their residence from the address at which they are registered, and possibly even persons on holiday on polling day. The numbers involved in such an extension would be very great. The Joint Committee does not consider that the resulting greatly increased risk of abuse would be justified.
- The Committee proposed to amend the Electoral Act 1923 and 1941, to recommend that polling hours should be from 10am to 10pm.
- Not reversing law so that elections took place at weekends or on public holidays. The Committee agreed with the 1927 decision that making election-day a holiday would encourage voters to go away on holiday and actually reduce turnout.
- Any attempt to make voting compulsory would be unconstitutional. (Joint Committee on the Electoral Law, 1961).

At a cabinet meeting on the 21st April 1961, it was agreed that legislation should be drawn up along the lines of the recommendations of the committee, subject to some minor alternations, the only one of which relating to election administration was that ‘the age-qualifying date for electors to be the same of the date of the publication of the register’.

In addition, the Electoral Act, 1963:

- Consolidated existing law.
- Gave responsibility to ‘each council of a county and corporation of a county borough to prepare and publish the register of electors’. Previously this had just been ‘registration officers’.
- Made each council responsible for an annual register of electors
- Ruled that polling ‘shall continue for such period, not being less than twelve hours, between the hours of 8.30 a.m. and 10.30 p.m. as may be fixed by the Minister’.
- Outlined corrupt and illegal practices.
- Repealed the disenfranchisement of those who had been convicted of corrupt or illegal practices (Houses of the Oireachtas, 1963).
On 17 February 1969, the Minister for Local Government wrote to the Government to request some further legislation. According to him:

The electoral law was modernized and, to a considerable degree, consolidated by the Electoral Act, 1963. Since that measure was enacted however, it has become evident that some further amendments of the law would be desirable and the general scheme of the bill attached purposes to make these changes’ (Minister for Local Government, 1969).

Firstly he suggested that amendments were made as to the ordering of candidates on the ballot paper:

At present the names of candidates at Dáil elections are set out alphabetically on the ballot paper and without regard to party affiliation. This was logical enough when party affiliations were not printed on the ballot paper but now that there is legal recognition of the extension of political parties and of the need to enable voters to identify the candidate of each party, it is highly desirable that the candidate of each party should be grouped together…accordingly…candidates will be grouped according to party affiliation (the order of the parties on the ballot paper being determined alphabetically) and within each party group the names of candidates will be listed alphabetically (Minister for Local Government, 1969).

Secondly, although the Joint Committee had recommended that no extension is given to postal voting, this was re-considered in the light of further pressure for reform. In 1965 Deputy Clinton introduced a private members Bill which proposed, amongst other things, that commercial travellers be given a postal vote. The then Minister for Local Government (Deputy Blaney) gave an undertaking that the question of extending postal voting to various categories would be considered and the private members Bill was withdrawn. The Department of Local Government therefore examined the viability of granting a postal vote to any person who was unlikely to be able to vote in person at an election by reason of the nature of their occupation, membership of a religious order, or physical incapacity. This study suggested that if postal voting were to be extended,
eligibility would have to be decided at election time not at the time of registration, otherwise the whole purpose of postal voting would be defeated. However this proposal was heavily opposed by Returning Officers on the grounds that up to 50% of the electorate could claim a postal vote and that there would be enormous scope for personation (Minister for Local Goverment, 1974a). Reporting on the matter to the government in February 1969, the then Minister for Local Government (Mr. Boiland) indicated that he was strongly of the opinion that no extension should be made:

If the principle of extending postal voting were accepted, it would be necessary to cover persons unable to vote in person because of illness, or the nature of their occupation. Experience in Britain and the Six Counties shows that these concessions would be difficult to keep within reasonable limits and with a high proportion of the electorate voting by post the possibility of abuses would be multiplied. This is not too critical in Britain or the Six Counties because most of the candidates win by substantial majorities but in this country, where many seats are determined by a handful of voters the possibility of such abuses (or even the possibility that there would be allegations of such abuses) could not be tolerated’ (Minister for Local Government, 1969).

The postal voting debate in the 1970s
In the 1970s, the postal voting debate continued. The Taoiseach received a number of letters from members of the public who were unable to vote because they were unable to attend the polls. For example one letter dated 11th May 1972 explained how a supporter of the government could not vote in the referendum since they were away on business, and that he expected that the government would lose votes as a result. The issue was referred to the Minister for Local Government. Representations had also been made to the government from organisations from ‘such groups as commercial travellers, lorry drivers, bus drivers and conductors, emigrants, embassy staffs, hospital patients, invalids, citizens abroad at election time, prisoners, members of religious orders and air transport staffs’ (Minister for Local Goverment, 1974a). Finally, in reply to a question in
Parliament from Deputies Andrews and Creed on 3rd May 1973, the Minister for Local Government agreed to re-open the question again. On 1st February 1974 he wrote a memorandum to the Government recommending an extension of the facility of postal voting claiming that ‘It is clear that postal voting would provide much improved opportunity for such persons to exercise their constitutional right to vote’ (Minister for Local Government, 1974). Under his proposals any elector would be entitled to a postal vote if they could not attend the polls due to ‘occupation, employment, etc., physical disability or change of address since the register was compiled’. Applications would be made to the returning officer, and would require a certifying official to attest their identity. These officials should be drawn from restrictive categories, ‘say gardai, doctors... ambassadors or heads of missions’ (Minister for Local Government, 1974). On the 8th March he suggested to the government that this system be used at the June 1974 local elections and these were agreed by the cabinet at its meeting on the 12th March. These were drafted in the form of the Local Elections (Postal Voting) Regulations, 1974, which were approved by the cabinet and subsequently the Oireachtas in April.

A total of 30,869 persons applied to vote by post at the local election. Overall this averaged out at 1.52% of the electorate but in certain areas applications represented a much higher proportion of the electorate, for example, in the Millford electoral area in Donegal, the figure was 10.71%. The government’s own evaluations reported few problems with the system. In September, the Minister for Local Government outlaid plans to make the extension of postal voting a permanent provision in electoral law in the form of the Electoral (Amendment) Bill, 1974:

Because of the satisfactory manner in which the scheme operated and because, in general terms, more stringent security to prevent abuse would, in effect, deprive some electors of their votes, the Minister is satisfied that no fundamental changes should be made to the system which operated at the local elections. He proposes that postal voting should be available for
the same categories as at the local election and that the system generally should operate in the same way (Minister for Local Goverment, 1974b).

In addition, the Minister sought approval to allow the extension of the supplementary register:

...immediately prior to election and referendum containing the names of any qualified electors omitted from the register proper where such omissions come to notice. At present the register is final and conclusive subject only to the power of the registration authority to correct errors of a clerical or typographical nature which come to notice within 14 days after the publication of the register and to the right of any person aggrieved by a County Registrar’s decision to appeal to the Circuit Court’ (Minister for Local Goverment, 1974b).

In reply, a letter from the Department of the Taoiseach agreed that an extension of postal facilities was ‘desirable in principle’. However, it expressed reservations about the security of the system on the grounds that ‘there is still one very obvious weak link in the system; there is no confirmation that the ballot paper is completed by the person who is entitled to cast the vote’. According to the Department:

I think that the government have an obligation to balance the right to vote with some system of authentication, particularly in a system where seats and Governments are decided on the transfer of a handful of votes. If such a system of checks is not incorporated, it may lead to allegations of electoral malpractice at each election, with the consequent devaluing of Parliamentary democracy. It might be useful to elicit the Opposition’s views on the matter at this stage, but certainly if they want an authentication system, when the Bill is going through the Houses, they should get it. Electoral Malpractice are frequently alleged, without setting up a system that invites problems.

However, concerns about governing competence on the issue seemed paramount. One factor which might have persuaded the Taoiseach towards caution was representations
from local parties. The Taoiseach received a letter from the Fine Gael Party branch in Ballaghaderreen, which claimed that voting irregularities took place as a result of the availability of postal voting at that this swayed the election in favour of the opposition.

Without going into detail the direct result of the abuses was the loss of a seat for the party in Ballaghaderreen Town where we returned the first councillor for Fine Gael and subsequently at the general election helped to gain a seat in the constituency and thus helped considerably to return the National Coalition Government (Ballaghaderreen Fine Gael, 1974).

The party members demanded a fresh election and a reconsideration of the extension of postal voting.

It was requested that the Minister give far more emphasis in the draft legislation to consider the mechanisms by which security would be improved. While most ministers were satisfied with the changes, the Minister for Finance was opposed to the introduction of postal voting until the safety of the system had been proved at another local election. He also disputed the system by which local authorities would be subsidised for the system which would cost an estimated 200,000 pounds. From consultations the County Registrar Associations also rejected the drawing up of the postal voters register at election time since this would put an unnecessary burden on election staff. Instead, it should be drawn up at the time of the main register. However the minister rejected this proposal on the grounds that most would not be aware of their need for a postal vote, until just before the election. On 11th February 1975, the cabinet sanctioned the approval of a bill along these lines. However this never appeared to make it into the Statute book or even the Oireachtas.

Another blow was dealt to postal voting in 1979 when in a High Court case, *State (Comerford) v. Govr. Mountjoy Prison*, the High Court refused an application for an order
to the Governor directing him to provide facilities for a remand prisoner to vote in the forthcoming European Assembly Elections.

**The 1980s reviews of election administration**

The failure of a prosecution case in 1982 of double voting led to the Prevention of Electoral Abuses Act 1983, which re-defined the act of personation. However, independent of this, election administration was given further consideration in the early 1980s. On 3 June 1982 the Minister for the Environment established a committee with a remit to make recommendations on the registration process, a scheme of postal voting for disabled persons and others who may be unable to vote in person at an election, and access to polling stations for disabled persons (Working Party on the Register of Electors, 1983: 3). The Committee, which was made up of civil servants from the Department of the Environment and officers from local authorities such as County Sheriffs and County Registrars, met on twelve occasions between June 1982 and March 1983. Written submissions were invited and advertised for.

The committee report provides a useful snapshot of procedures at the time. The register of electors was defined as:

...a list of persons who are registered at the addresses at which they are normally resident on 15 September and who will have reached the minimal age of 18 years on the following 15 April. The register identifies those who are entitled (arising out of nationality) to vote at the various types of elections and is broken down into subsidiary units which identify the constituency, local electoral area, polling district involved. At present there are approximately 2.3 million persons who are qualified as electors.

The report identified a number of inaccuracies in the register which occurred due to a failure to operate the system properly and those which accrued from the actual system. Problems included the omission of qualified persons from the register due to error,
double registrations, registrations of deceased persons, registration of persons from former addresses, inclusion of unqualified persons, omission of 18 year olds, and administrative complexity arising from the different eligibility requirements for the different elections. Factors contributing towards these inaccuracies included problems with fieldwork such as electors declining to be added and improper supervision of the fieldwork. The qualifying date was noted to cause problems because of the gap between it and the date it comes into force, meant that it was already out of date once it was being used.

In trying to solve these problems, the committee ruled out a number of ‘radical’ measures including election day registration which ‘would be so [administratively] formidable as to rule it out’, (p.17). Publishing a register immediately before an election, would be administratively impossible, it suggested. Compulsory registration was ruled out on the basis that it could ‘cause hardship in particular circumstances’. The report warned against ‘any radical departure from the present method stressing the importance of the available advice in the ‘Memorandum for Guidance of Registration Authorities’ issued by the Department of Environment for establishing good practice. However it suggested that:

- The register should be prepared within a shorter time period.
- A draft register should no longer be produced.
- Extra resources should be devoted to ensure that sufficient field workers are employed.
- The register should try to include voters who change residence between November and January.
- The register should publish a supplement to the register to correct errors.

Postal voting facilities at Dáil, Presidential and European elections were restricted to members of the Garda Siochana and members of the armed forces. These voters were compiled onto the electoral register and marked with a ‘P’. Postal voting facilities were
provided to those who were unable to attend the poll due to ill health, physical
disability or employment reasons at local elections, since the Local Elections (Postal
Voting) Regulations 1974. It was noted that these provisions appeared to ‘have operated
satisfactorily’ (p.36) despite a small number of prosecutions for fraud. It considered
opening out postal voting to all electors, but, mindful of the risk of fraud, suggested that
it would be beneficial to only allow those voters who could use postal voting for local
elections to have the facility initially.

Finally, having considered a number of submissions which had claimed that some
disabled voters suffered ‘possible embarrassment and distress’ in gaining access to the
polls, the report recommended a number of measures to improve facilities for these
individuals. This included, for example, the provision of additional ramps and holding
polling stations at institutions such as hospitals (Working Party on the Register of
Electors, 1983). Calls for reform were also made with the publication of a report by
Keogh and Whelan (1986: 1) who drew attention to a number of inaccuracies in the
 electoral register.

Additional publicity surrounding the issue of disabled voters arose when Mrs Draper, a
registered voter, who suffered from advanced multiple sclerosis and could not go to a
polling station to vote’ took her case to court in Draper v Attorney General (Supreme
Court of Ireland, 1984). She claimed that the State was in breach of Article 16.1.2 in
failing to provide postal votes for persons like her and that by giving postal votes to
some citizens but not to persons like her, the State had violated the equality guarantee of
Article 40.1.

The Supreme Court ruled against her claim. The court pointed out that Article 16.7
stipulated that elections were to be regulated by law, and observed that the right to vote
was contingent on compliance with the electoral law. The later specified clearly that the
voter must mark the ballot paper at the polling station. In making a regulating law, the
court said, the State had to strike a balance which would serve the common good. Since postal voting on a wide scale could lead to a high risk of abuse, the court was satisfied that the existing law struck a reasonable balance’ (Casey, 2000).

Despite the failure of the case, the government decided in favour of change. The Electoral (Amendment) Act 1986 provided for the provision of a ‘special voters list’ which would include those met the following conditions:

(a) he is unable to go in person to vote at the polling place for his polling district by reason of physical illness or physical disability suffered by him;

(b) the physical illness or physical disability is likely to continue for the period of continuance in force of the register of electors in respect of which the application to be entered as a special voter is made; and,

(c) he is of sound mind and understanding and is capable of comprehending the act of voting.

These voters could vote at alternative stations, would be given additional assisting in casting their vote, would be allowed to vote by post if they requested it.

Two further legal cases also took place which affected electoral law. Firstly, in 1986, O’Reilly v Minister for the Environment, the system of list candidates alphabetically on the ballot paper was challenged on constitutional grounds in that it violated the principle of equality. The judge accepted that those higher up the ballot would benefit but that the system also held ‘a practical advantage – particularly in a constituency where there are a number of candidates – that the voter can quickly find any particular candidates (Supreme Court of Ireland, 1986). Secondly, while the Constitution prohibits a person voting more than once at a given election, a court ruled in 1990 that double registration was possible. In Quinn v City of Waterford, a group of students argued that they were ordinarily registered in Waterford during the academic year and at their home address out of term time. The court agreed with them and held that Article 16.1.4 prohibits
double voting, but not necessarily double registration. This was subsequently upheld by the Supreme Court which ruled that the a person could be ‘ordinarily resident’ in more than one place within the meaning of the Act (Supreme Court of Ireland, 1990) (Whelan, 2000: 7).

The 1990s consolidation of election administration

In the 1990s, two more pieces of legislation on electoral law were passed. The first of these, the 1992 Electoral Act consolidated law so that for the first time it was drawn into one Act. In addition, further minor changes were made which included allowing authorities to prepare and publish a supplementary register. The authorities are required to notify the publish of this register when an election or referendum is called so that they can arrange to be on the supplementary register. The timings of elections would become 8am to 10.30pm and new regulations were introduced for the activities of political parties outside polls (Whelan, 2000: 10).

Five years later, the Electoral Act 1997, was passed. This gave the postal vote to ‘persons whose occupation, service, or employment means that they are unlikely to be able to go to their local polling station or election day’ (Whelan, 2000: 11). The Act also created a framework for the funding of political parties and established the Constituency Commission to regulate changes to electoral boundaries on a statutory basis - rather than the previous ad-hoc arrangement.

Thus, broadly speaking, until 1997, the there had been very limited discussion of election administration in the Irish Republic since its foundations. Very little change had occurred, with most legislation simply consolidating earlier British Acts, or involving technical change. Certainly, there had not been the higher level of politization that there had been in the UK or the USA. Political efforts to reform the electoral rules had focussed on the broader constitution, and in the domain of electoral laws, the electoral system, boundaries and financing. Thus the debate and provisions of the 1992
and 1997 Electoral Act centred around the financing of political parties, not EA. This chapter now turns to the period of 1997-2007 during which time reforms focussed on two areas: the accuracy of the register of electors and failed efforts to implement e-voting by Fianna Fáil. Each are now discussed in turn.

<table>
<thead>
<tr>
<th>Year</th>
<th>Change</th>
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<tbody>
<tr>
<td>1922</td>
<td>Irish Free State Constitution Enacted</td>
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<tr>
<td>September 1922</td>
<td>Dáil orders the preparation of the first electoral register</td>
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<tr>
<td>1923</td>
<td>Electoral Act Passed</td>
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<td>1960</td>
<td>Electoral Act 1960</td>
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<tr>
<td>1963</td>
<td>Electoral Act 1963</td>
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<tr>
<td>1974</td>
<td>Local Elections Act allows use of postal voting in 1974 local elections. Ministers discard plans to continue with the scheme.</td>
</tr>
<tr>
<td>1986</td>
<td>Electoral Act</td>
</tr>
<tr>
<td>1990</td>
<td>Court Case</td>
</tr>
<tr>
<td>1992</td>
<td>Electoral Act 1997 consolidates electoral law for the first time</td>
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</tbody>
</table>

*Table 6.1: Key moments in the consolidation of election administration in Ireland, 1922-1997*

**The (non)-reform of the Electoral Register***

While there was a deep rooted history of reports from Northern Ireland about electoral fraud, with Sinn Féin often being accused (Cleary, 1997; Tanny, 2001), issues with the electoral register in the Republic appear to have been less frequent.⁵⁵ Debates about the electoral register were widely reported (Breen, 2003; de Breadun, 1998; Moriarty, 1997; Unsworth, 2000). There were some cases of criticism. In 1997 an Fine Gael TD claimed that upto 2,000 people were excluded from his constituency at the last election and feared that the true number may have been up to 5,000. The response of The Minister for the Environment and Local Government, Mr Dempsey, was to accept that errors...

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⁵⁵ A newspaper search certainly revealed far fewer cases of public criticism or accusations of fraud.
occurred but to stress that the margin of error was about 1.2 per cent (The Irish Times, 1997).

**The Sunday Tribune report**
The ‘problems’ with the register in North and the British government response in the form of the Electoral Fraud (Northern Ireland) Act 2002 spilt over into the South and in November 2003 the Cabinet was reported to have been considering a review of the electoral register with a view to combating fraud, within the lifetime of the government. According to a spokesman for the Minister of the Environment. ‘There hasn’t been a body of work carried out on the register of electors for a considerable time now, and it is something that will be done.’ The experience in Northern Ireland ‘had been noted’ and amongst the proposals that they were expected to outline were photographic id and the use of personal security numbers (Reid, 2003). However, it arguably only became an important national political issue within the Republic from 2004 after an independent councillor in Kerry County Council claimed that ‘a number of people who had been dead for years’ were still on the electoral register at the last election. Moreover, a review from the local authority, which was widely reported in the national media, claimed that there was ‘some difficulty’ in deleting the names of all those who had deceased from the electoral register as fathers and sons with similar names often lived in the same house ‘and the wrong person could be deleted’. The report claimed that, ‘mobility and change within communities is such that local knowledge gathered from parish priests, gardaí and other local contacts is less effective than before’ (Lucey, 2004).

The issue was put under further limelight after a political analyst writing for the Sunday Tribune in June 2005, claimed that there was extensive over-registration across Ireland. By comparing the electoral register against the census, he claimed that the electoral register in 2002 overstated registration by between 675,000 and 800,000 voters. Flynn was reported to have spot-checked one road in Kildare with 25 houses and 61 voters to find that:
- three houses are not on the register;
- one house on the register does not exist;
- 10 registered voters have not lived on that road for 5 years;
- 2 registered voters are unknown to the long-time occupants of the house at which they are registered; and,
- 3 houses have both current & past residents of those houses registered (Coleman, 2005).

According to Flynn, ‘If just 1% of the polling cards, sent in error, are used, it would mean that between 6,000 and 8,000 unauthorised votes are being cast . . . enough to dramatically change the result of a general election’ (Coleman, 2005). The report received considerable political attention. Labour TD Eamon Gilmore used the analysis to suggest that the ‘electoral register is out of date and threatens the integrity of the next general election’. He recommended that the government should use the census in April, to compile an accurate and reliable register of voters for the next general election (Brennock, 2006). Gilmore drew up his own private members bill to enact this, but it failed in the Dáil. According to Gilmore the government was not interested in fixing the register since it ‘suited them’. He was reported as saying that, ‘You have to wonder at this stage, if there isn’t a government agenda that it suits them to have an inaccurate register’ (Coleman, 2006b). The Labour Party also initiated a bill to set up an independent commissioner to overhaul election registration. This commissioner was proposed to have powers to manage ‘performance by registration authorities of their obligations in the preparation and publication of electoral registers’. The Environment Minister claimed that the legislation seemed to be introducing compulsory electoral registration, which would require much more discussion (O’Halloran, 2006a).

The government did not deny that there were problems with the register. Speaking in the Dáil the Minister for the Environment blamed a slowness to remove the names of dead people, the increase in the number of second homes, and people moving without
advising the local authority. Responsibility, he claimed, was with the local authorities. Responsibility for the electoral register, Roche claimed, lay with local authorities. According to him:

I do not think that local authorities are doing their job in this respect sufficiently well. In some cases the work is excellent, but in others it is appalling...I will make it clear to local authorities that if they do not clean up their act, I will look for someone else who will do it for them. . .Arrangements must be put in place to ensure that the current scenario does not recur (Coleman, 2006a).

In some, he suggested, "there is good practice, while in others it is very clear the practice is not good enough" (O'Halloran, 2005). Calling for a ‘cross-party approach’, he suggested that he wanted to ‘see the matter resolved in the very near future’. ‘Strong legislation must be mirrored locally by vigilance on the part of polling staff’ (O'Halloran, 2005). Ahern himself was reported to have said that there is scope for voter fraud unless the register was updated before the next General Election (The Irish Times, 2006b).

The Secretary General of the Department of the Environment was reported to have met the Director General of the Central Statistics Office to discuss the potential use of the 4,500 census enumerators once the population count is completed. However the government claimed that this would not be possible, citing legal and industrial relations problems. Under the Electoral Act, the 34 local authorities are responsible for preparing and publishing the register of electors. As a result, legislative change may be necessary in order to use other staff. Also, use of staff other than those used or contracted by local authorities could lead to industrial relations problems (O'Brien, 2006a).

It was also reported that Roche met with the Department of Social and Family Affairs and the Office of the Attorney General to discuss the use of Personal Public Service Number’s (PPSN) but that this was but that this was not pursued for legal reasons
(Coleman, 2006a). However guidelines were sent to local authorities in the Summer of 2005 to ensure that local authorities were compiling the register correctly. In March 2006 the Government Chief Whip was said that the Minister was assigning new resources to the area, including an increase of €57 million in total general purpose grants to local government (O’Brien, 2006b). Further measures included the launch of a website (www.checktheregister.ie) in November 2006 to allow members of the public to check to if their name was on the electoral register, and to provide links to the necessary forms, should an individuals name not appear (Department of the Environment Heritage and Local Government, 2006a) (figure 6.1). A number of information campaigns were also run to encourage members of the public to check the register (Department of the Environment Heritage and Local Government, 2006b, 2007) (figure 6.2).
Figure 6.1: Register of Electors Online Enquiries
Partly as a result of this guidance and partly as a product of their own initiative, local councils began to tidy up their registers in advance of the 2007 General Election. Many councils employed workers to visit houses to check that people were in or would write to voters asking them to confirm their registration status. One estimate suggested that councils had removed 600,000 people who have died or moved house from the register. With this in mind, the Minister for the Environment became placed under intense pressure to extend the deadline for registration from local authorities. While initially resisting this, the deadline was eventually extended from 25th November to 29th November 2007.
December, describing the process of renewing the register as ‘the most intensive in the history of the State’ (Edwards, 2006). In November of 2006, Fine Gael demanded a further registration deadline extension until January, but this was denied by the government.

However, the government and local authorities were increasingly criticised as some of the ‘clean-up’ techniques appeared to begin to cleanse the register of some eligible electors. For example, Dún Laoghaire Rathdown Council was put into the public limelight after it reported that it intended to remove the names of up to 20,000 people that it has failed to make contact with from the draft electoral register for the Dún Laoghaire constituency (Wall, 2007). Meanwhile, an Independent TD, Jackie Healy-Rae, accused Fianna Fáil party activists of trying to remove some 37 names from the register of electors in Kilgarvan (Lucey, 2007). In February 2007 Roche claimed that his Department’s statistics showed that ‘some 555,000 names were removed from last year’s register and 523,000 names added’ and that ‘satisfied that there has been a very significant improvement in the accuracy and comprehensiveness of the register’. But he was under continued criticism from Opposition politicians and the media who suggested that registration was now both overstated, but also missed out some valid electors (O’Halloran, 2007). At the 2007 General Election there was a number of reports of valid electors turning up at the polls and not being able to vote (Carroll, 2007; Hayes, 2007). One outgoing Minister suggested that their department was ‘literally full of messages about the register’ (Logue, 2007)

The 2008 review of election administration
At a Joint Committee on the Environment, Heritage and Local Government meeting on 31st October 2007, the committee elected to compile a review of the current administration of the Electoral Register. It suggested that the register had been unsatisfactory for a number of years. It suggested that there were discrepancies between the 2006 register and 2006 census. These, and the reported errors that had come to light
in 2007 which denied legitimate voters their ballot, made the need to review procedures paramount.

The committee made a number of recommendations, mostly taking Northern Ireland as ‘best practice’. Firstly, the report found that responsibility for election administration was very fragmented. The Department of the Environment, Heritage and Local Government had only policy control over issues pertaining to the electoral system generally and the creation of legislation. Responsibility for preparing and maintaining the register remained with the 34 local authorities. Moreover:

> Updating the register and making preparations for elections is not a core function of local authorities, and is not something that is given priority every year. The level of priority afforded to this task varies from authority to authority (Joint Committee on the Environment Heritage and Local Government, 2008: 8).

The Committee therefore suggested that a single Officer should be appointed to run a National Electoral Office, similar to that run in Northern Ireland. This should report annually to the Dáil Éireann. Secondly, having heard from witnesses about the introduction of personal identifiers in Northern Ireland, the report suggested that ‘The use of PPS numbers will greatly facilitate the smooth transfer of a person’s vote from one constituency to another’. It therefore asked the Department of Social Security to investigate the practicalities of sharing social security numbers for the purpose of registration. Legislation should also be enacted to empower the electoral authority to use PPS numbers.

Thirdly, an IT solution should be purchased which would enable continuous and computerised registration. It also suggested that online registration would be possible, although did not recommended this feature. Other measures included introducing:
• a range of anti-fraud mechanism should be introduced such as photographic identification;
• an ability for the National Electoral Officer to promote activities to maximise registration and turnout;
• improved measures for postal voting;
• investigations into measures to reduce the number of spoilt ballots; and,
• the creation of a national returning officer (Joint Committee on the Environment Heritage and Local Government, 2008).

In June 2008, the government published the Electoral (Amendment) Bill 2008 (Department of the Environment Heritage and Local Government, 2008).

Towards E-voting (and away again?)
While the government were reluctant responders to the problem with the electoral register, the government was proactive at trying to introduce one reform: electronic voting. A decision in the Department of Environment was made to introduce electronic voting for elections in Ireland in 1999 on the rationale that it would speed up the election process and would save money (private interview, member of the Commission on E-voting, 5 September 2007). Shortly after this, the Local Elections (Disclosure of Donations and Expenditure) Act 1999 made provisions for research on the feasibility of e-voting, using counted ballots from the 1999 European and local elections. The provisions saw little public discussion, with debate instead focussing on whether and which limits should be imposed on candidate expenses at elections. The government announced its intentions to redraft legislation to facilitate e-voting and invited tenders for pilots in June 2000 and in December 2000 the Minister for the Environment, Noel Dempsey, announced that electronic voting machines will be used for the first time in a selected number of constituencies at the next general election. Once satisfied that they worked, they would be used nationally in the 2004 local elections (O'Brien, 2005).
At the 2002 general election, electronic voting was used for the first time in three pilot constituencies of Dublin North, Dublin West and Meath. Three main benefits were stressed by the government: easier voting for the public, earlier and more accurate results and an overall improvement in administration. Less emphasis was initially placed in increasing turnout by either the government or the software manufacturers (Gleeson, 2001), although the Minister of the Environment, Noel Dempsey, did later stress that the paper ballot system did not encourage citizen to vote (Collins, 2002). An information campaign was launched with leaflets were delivered to every elector involved in the pilots and a road show was also touring the constituencies.

Few complaints were raised about the change of procedures in the e-voting pilots and turnout appeared not to have been affected. Proponents were able to point towards the ability of the system to provide a quick result, although it was not a quick as might have been hoped, as it took longer to bring the e-voting modules to the central counting point. With counting having started at 10.30pm on 17th May, the final results were expected before midnight, however they were released at 2.30am. This was still significantly faster than usual (Weeks, 2002).

However, some negative publicity was generated from the pilots from the fashion by which candidates were given the results. Candidates and the public were told the results simultaneously which prompted, ‘anger that it did not give the losing candidates time to prepare for their result. In particular, the public manner in which Nora Owen learned that she lost her seat after 21 years [was] criticised’ (O’Brien, 2005). According to one newspaper, ‘The television pictures of Nora Owen breaking down after her brutal dismissal from the Dáil by a computer on the night of the election was a good argument against electronic voting’ (Collins, 2002). More serious criticisms began to emerge however which questioned the security of the system. According to one source, increased public focus on the security of the systems being installed in the US:
...basically permeated into Ireland and the IT community got quite mobilized with the possibility that e-voting might not be secure or accurate. And that gathered quite a political momentum here in Ireland (private interview, Joe Murphy, Independent Commentator and Associate of the Irish Citizens for Trustworthy e-voting, 14 August 2007).

Rebecca Mercuri, Assistant Professor of Computer Science at Bryn Mawr College in Pennsylvania, who was at the time advising the British government was reported in October 2002 of suggesting that e-voting was insecure (Sunday Tribune, 2002a). Shortly afterwards, in December 2002, a company called Zerflow undertook an examination of the Powervote system and claimed that it could not ensure the integrity of ballots. They claimed that:

Voters can easily be duped into voting for the wrong candidates by simply taping a fake ballot to the front panel of the voting machine... This could allow somebody to interfere with the ballot card and cause voters to select the wrong candidates. This action could very easily to go unnoticed and compromise the entire election in that constituency (Hennessy, 2002).

These criticisms were added to by a report by Computer Scientists J Paul Gibson and Margaret McGaley from National University of Ireland at Maynooth which was widely publicised by the media. According to them, the system used by the government did ‘not reach a satisfactory standard’ was vulnerable to attack, and was unable to detect if an attack was mounted on it (Coleman, 2003). It was later reported that nobody outside of the Department of Environment would be checking the systems (Mage, 2003).

During the Summer of 2003, the government insisted that, despite these criticisms, the systems would be safe and that they would be in place for the 2004 European and local elections (O’Brien, 2005). However they soon came under political pressure from the opposition parties in the light of these reports. Bernard Allen, Fine Gael’s environment
and local government spokesman in November 2003 claimed, ‘I am not against electronic voting. There has been no consultation with the Oireachtas on this, a part of our democratic process; no details of the technology or the security have been given’ (Mage, 2003). The Chairman of Fianna Fáil, Mr Seán Power, wrote to Minister of the Environment to outline his concerns. The Kildare TD, who chaired the Joint Oireachtas Committee on Environment and Local Government, asked the Minister not to spend anymore money on the system until the Committee had finished examining the project (Beesley, 2003).

The Joint Committee subsequently met in December 2003. Computer scientists Joe Murphy and Margaret McGaley gave evidence criticising the security systems built into the voting equipment (Joint Committee on Environment and Local Government, 2003). Meanwhile McGaley, who was key in forming a political group Irish Citizens for Trustworthy E-Voting (ICTE), demanded a paper trail of all votes, the facility to spoil votes as part of the constitutional right of protest, the establishment of an independent panel to oversee the introduction of electronic voting and an Electoral Commission to oversee its use (Doyle, 2004).

The system seemed to be set to go ahead however after the Committee voted 9-4 in favour of using the system after Fianna Fáil and Progressive Democrat members gave their support to the system. In February 2004 the Minister for the Environment, Martin Cullen, announced that a 4.5million Euro public information campaign would be launched informing the public how to use the systems in advance of the Local and European elections that June (O’Brien, 2005). The government stressed that the system was secure and had been rigorously tested by a range of German, Dutch and Irish companies who certified its reliability. Ahern warned that legislation would be forced through to enable e-voting to take place as a priority (Hennessy, 2004a).
However, further criticism ensued with the opposition uniting against proposals. That month the Ombudsman, Ms Emily O’Reilly, claimed that it may be worth postponing the introduction of the system until an audit trial is possible and therefore until after the June election (Lally, 2004). Fine Gael, Labour and the Green Party jointly proposed a Dáil motion ensure that it was not introduced until an independent electoral commission had been set up to reduce public concern about the new system (O’Brien, 2005). A few days afterwards the Taoiseach appeared to do a complete U-turn and announced that there would be an independent statutory body to assess the integrity of the system. As one commentator noted:

…things only really began to spin out of control after the formal launch two-and-a-half weeks ago of a public relations campaign designed to reassure voters that the system could be trusted. The PR company running the campaign is headed by two senior Fianna Fáil figures, Jackie Gallagher and Martin Mackin, who played a key role in the last general election. Fine Gael leader, Enda Kenny, echoed the views of many when he raised queries in the Dáil during the week about the propriety of awarding them a contract reputed to be worth 1.5m. The awarding of the PR contract fed into a growing level of distrust and even paranoia about electronic voting and contributed to the government’s difficulties (Collins & Looney, 2004).

It was reported that at the cabinet meeting on 17th February 2004, before Dáil business began, there was a discussion about e-voting. Before the meeting the Tánaiste, Mary Harney (leader of the Progressive Democrats – in coalition with Fianna Fáil) suggested to the media that she might be willing to meet some of the demands of the opposition. Some of the cabinet saw this as an attempt to distance the two parties on the issue. However, the government may have began to accept that some rethinking was needed. Nonetheless, the creation of an independent commission was the compromise (Collins & Looney, 2004). However the government appeared to maintain faith in the system with the Minister for Finance, Mr McCreevy stating that the system would still be in place for the June election (Lally, 2004).
The Committee on E-Voting

The new body was to be headed by High Court Judge, Mr Justice Matthew P. Smith. Other members of the committee were to include Mr Kieran Coughlan, clerk of the Dáil; Ms Deidre Lane, clerk of the Senead; Mr Danny O’Hare, the former head of Dublin City University; and Mr Brian Sweeney, Chairman and former chief executive of Siemens Ireland and former Chairman of Science Foundation. The Commission would be established on an ad-hoc basis to begin but the government stated its intension to give it a statutory footing and thus introduced the Electoral (Amendment) Bill 2004 initiated in Dáil Éireann on 23 March 2004.

There was some disquiet about the appointment of the committee. Labour Party Leader Mr. Pat Rabbitte, criticised the government for not consulting the Opposition on the appointment of the committee. One Fine Gael TD in Parliament as a ‘Fianna Fáil hack’, and another claimed that the committee would suffer from its vague terms of reference (O’Halloran, 2004). The Commission was asked to prepare reports for the Ceann Comhairle (the Chairman of Dáil Éireann) on the secrecy and accuracy of the chosen electronic voting and counting system i.e. the Powervote/Nedap system. One report was required by 1st May (Commission on Electronic Voting, 2004b: 9).

The Commission gave some pretty damning conclusions on the proposed IT equipment. In its interim report published on 1st April the Commission included a review of tests already carried out on the system and documented the results of some further tests carried out as part of the study. The full findings were not realised for legal reasons, until the Commission was put onto a statutory setting. Seemingly fatal for the electronic voting project it claimed that:

On the basis of its review of expert reports, submissions received and other relevant information to date, the Commission finds that it is not in a position to recommend with the
requisite degree of confidence the use of the chosen system at elections in Ireland in June 2004


Importantly, the report did not suggest that it had found the system not to work. Instead the Commission had not amassed sufficient evidence that be satisfied that it would work, noting that the threshold for ‘proof required to support its recommendation against the use of the system is much lower than that which would be required to recommend in its favour’ (Commission on Electronic Voting, 2004a: 7). There was insufficient time before June to conduct a full software test of the final version of the software which would be required to recommend the equipment. The full version of the source code was not made available to the Commission, its accuracy was unknown and there appeared to be a way for the secrecy of the ballot to be compromised, the report suggested, since the machines ‘beeped’ at the point of casting the vote – and it may be possible for ‘an insider to overcome the randomness of the method used for the storage of votes in the ballot module’ (Commission on Electronic Voting, 2004a: 8). The first full report was released in December 2004, with its main findings remaining unchanged (Commission on Electronic Voting, 2004a).

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Figure 6.3 Commission on Electronic Voting Website (Commission on Electronic Voting, 2007)
The political consequences of the report

The report was seized upon by the media and Opposition politicians. The Irish Times claimed that the report was ‘scathing’, ‘Government attempts to dismiss the opponents of its electronic voting system as Luddites fell apart in spectacular fashion yesterday as the Commission on Electronic Voting published a scathing report on its strategy’ (Smyth, 2004).

Members of the Opposition called for the resignation of Mr. Cullen who described the publication of the report as a ‘bad day’ for himself. The Labour Party spokesman on the Environment said that the government was trying to do ‘a Robert Mugabe’ on the Irish people’ (Hennessy, 2004b). Fine Gael’s Mr Bernard Allen said:

"Minister Cullen pushed ahead with this system in an arrogant manner and refused to allow any comprehensive debate. Yet the commission has now deemed that this very system is unacceptable...He has fiddled around recklessly with the most important part of our democracy, our electoral system. Anything between €40 million and €50 million of taxpayer’s money has been committed to machines which will not be used..."But even more serious is the fact that this Government was trying to foist an unreliable and unsecure voting system onto the electorate (Hennessy, 2004b)

Further criticism came from the Comptroller and Auditor General who claimed that the government should not have outlayed so much expenditure on the system until it had been fully tested.

Previously bound by the recommendations of the Commission, the government could not use the system in the June 2004 elections, and later decided not to use in by-elections in Meath and Kildare in early 2005. However the government decided to continue with a programme of testing with the machines and that they could be used in a future referendum on the EU constitution, which in June 2004, was expected to have been 18
In September 2005, the spokesman for the Minister of the Environment said that he did not envisage their use in the next general election, which would take place no later than 2007. However there was no expectation that they would be scrapped since they had a lifetime of 20-30 years. ‘The intention is that they will be used, unless we’re told otherwise by the commission’ (O’Brien, 2005). However the public debate dragged on. In October 2005 the Democracy Commission launched a report in favour of e-voting, but recommended that a paper trial should be introduced and that results should be staggered across the night. These proposals were criticised by the manufacturers themselves, NeDap, who warned of massive costs increases if the audit trail was introduced for their 7,000 machines (Reid & Donnellan, 2006).

**The second report**

In July 2006, the Commission on Electronic Voting published its second and final report. It claimed that the voting machine hardware was of ‘good quality’ and their reliability was demonstrated by use elsewhere for many years. The embedded software was declared to be of adequate quality, requiring just a few minor modifications followed by further testing. It was also recommended that improvements be made to the methods by which sensitive election data is stored, transported and accessed on ballot modules and CDs. However the report found that the security of the PC that would be used for aggregating and counting the results was ‘inadequate and need to be improved’. In addition the election management software used for this task was problematic since it was under continuous development and ‘not of sufficient quality to enable its use to be confidently recommended’. Testing revealed programming errors and the documentation and processes underpinning the processes. However, the Commission suggested that it was likely that alternative election management software compatible with the existing voting machines could be developed at a reasonable cost (Commission on Electronic Voting, 2006: 7). Some further operational security measures were also recommended that did not require a change of the software. Concluding, the report suggested ‘in terms of secrecy and accuracy, the paper system is moderately superior
overall to the chosen electronic system as currently’ (Commission on Electronic Voting, 2006: 8). The government were then reported to have recruited a number of international experts to undertake the tasks that the Commission had recommended (Whelan, 2006).

At around the same time an organisation called The We Do Not Trust Voting Computers Foundation in Holland published a documentary about how they could hack into the system and steal votes, just before the Dutch election. This was the same system that was to be used in Ireland. A member of the group told the Irish media that:

The Irish Government would be very wise not to use these machines in an election. Its commission on electronic voting has already found serious problems with the machines in e-voting Ireland… fact, the best thing your Government could do is send the machines back to The Netherlands (Smyth, 2006).

Ahern continued to defend the e-voting system. A return back to a ‘our silly aul’ paper voting system would be ‘romantic but it’s a spurious solution since fraud is possible in any system’, he claimed (O’Halloran, 2006b). Ahern and Labour Leader Pat Rabbitte clashed on the issue in the Oireachtas. Ahern claimed that had felt embarrassed a when he watched France, a country with a population of more than 60 million, receive the results of its highest poll ever - 85 per cent of the population - within two hours. He said that he had to apologise to the people of Meath because, despite Ireland being a modern, technology-driven country, it was reverting to the humble pencil: ‘With a bit of luck, our election results will be available within about five days, as we count and check the bins and buckets to see if a vote blew off the file. It is an embarrassment’ (O’Regan, 2007). As the opening quote of this chapter highlights, Ahern was characterised as being obsessed with e-voting. However, at the time of leaving office in 2007, the system remained unused at an election.
Other changes
Some other changes were enacted to election administration during the period covered by the case study. The 1997 Electoral (Amendment) Bill provided for the general election in 1997 to take place on a Friday rather than a Thursday, on the basis that young people living away from home would be able to get back to vote. However anecdotal evidence suggests that the strategy did not work and the turnout declined further, to 66%, the lowest proportion of eligible voters to cast their ballots since the 1920s.

In 2002, the Fianna Fáil chairman, Michael Moynihan, called on the Taoiseach and the Minister for the Environment, Noel Dempsey, to allow elections to take place at the weekend to increase voter turnout, yet these demands were resisted (Sunday Tribune, 2002b). Again, in 2007 Ahern ruled out a move to a Friday election, claiming that five years ago ‘it did not work’. This was criticised by Fine Gael’s Mr Fergus O’Dowd. He claimed that:

   Every voter must be given the maximum opportunity to vote and Friday polling is one way to do this as is opening the polls earlier and closing them later. Holding the election on a Thursday will effectively disenfranchise thousands and Fianna Fáil must answer the question of why they think it is beneficial to disqualify so many from the vote (The Irish Times, 2007).

A student organisation Youth Work Ireland also called for a weekend election, claiming that it would be difficult for many young people to return home on a Thursday to vote (Hegarty, 2007).

The Electoral (Amendment) (Prisoners’ Franchise) Bill 2005 meanwhile provided a mechanism by which prisoners could exercise their vote. While this was not removed as a result of incarcerations, prisoners were not able to leave prisons to use their vote. The Act made provision for postal voting facilities.
Election Administration and Ireland – Evidence of Statecraft?
According to the politicians enacting the reforms, the ideas governing their implementation of electronic voting was underpinned purely by the need to modernise procedures. In the case of the electoral register, reforms were introduced to ‘improve accuracy’ in the register. There is less evidence in this case study of the government reforming procedures, or trying to reform procedures, for partisan advantage. A number of possible partisan motivations are now considered, but it is suggested that little evidence of statecraft exists in the Irish case study.
<table>
<thead>
<tr>
<th>Year</th>
<th>Change</th>
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<tr>
<td>1997</td>
<td>1997 Electoral (Amendment) Bill provided for the general election in 1997 to take place on a Friday rather than a Thursday</td>
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<tr>
<td>1999</td>
<td>Local Elections (Disclosure of Donations and Expenditure) Act 1999 allows for research into electronic voting</td>
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<tr>
<td>2002</td>
<td>E-voting piloted in three pilot constituencies of Dublin North, Dublin West and Meath</td>
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<td>2003</td>
<td>The Joint Committee meets to discuss e-voting with Joe McCarthy and Maraget McGauley giving evidence</td>
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<td>2004</td>
<td>The Minister for the Environment, Martin Cullen, announces a 4.5 million Euro public information campaign on e-voting</td>
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<td>2004</td>
<td>Government announces that an independent commission will be set up</td>
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<td>2004</td>
<td>Publication of first report of the Commission on Electronic Voting. E-voting postponed</td>
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<tr>
<td>2005</td>
<td>The Electoral (Amendment) (Prisoners’ Franchise) Bill 2005</td>
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<td>2005</td>
<td>Sunday Tribune news report highlights ‘problems’ with the electoral register</td>
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<td>2005</td>
<td>Guidelines issued to local authorities to tidy up the electoral register</td>
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<tr>
<td>2006 July</td>
<td>Publication of second report of the Commission on Electronic Voting</td>
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<tr>
<td>2006-7</td>
<td>Attempts by local authorities to tidy the register.</td>
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*Table 6.2: Key moments in the evolution of election administration in Ireland 1998-2007*
**Fianna Fáil and the Gregory System.**
The implementation of electronic voting may have an effect on electoral outcomes. Under the PR-STV system in place in Ireland, votes are transferred between candidates until candidates meet the electoral quota. Under the paper ballot system not all votes are included in the transfer – only a selection – meaning that the system is quasi-random, not entirely random. Using electronic voting the Gregory system could be used ensuring complete randomness.

One private interviewee suggested that Fianna Fáil politicians might have believed that they might have benefitted from the change in system (private interview, Joe Murphy, Independent Commentator and Associate of the Irish Citizens for Trustworthy e-voting, 14 August 2007). However there is no evidence that any systematic benefit would have accrued from such a change. Liam Weeks’ analysis of vote transfer patterns from 1980 finds that is a ‘undesirable degree of arbitrariness’ which could determine election outcomes. However, no one party is systematically advantaged.

**The elimination of spoilt ballots**
One of the arguments put forward for e-voting was that it would eliminate the number of spoilt ballots at elections. Would this have any effect on electoral outcome? According to one analyst, it might, since Fianna Fáil was receiving a greater number of spoilt ballots when he examined ‘the number of spoilt ballots by party and percentage’. The number of spoilt ballots was especially high since many voters would mark an ‘X’, or three ‘1’s rather than using the correct numbering system for preferences (private interview, Joe Murphy, Independent Commentator and Associate of the Irish Citizens for Trustworthy e-voting, 14 August 2007).
The end of ‘collective heart attacks’ for politicians

Many commentators suggested that politicians, collectively, would gain from the reducing the amount of time that it would take to calculate the results from elections. The drawn out nature of the counting process, because of the STV-PR system, received ‘blanket coverage on radio and television, serves a function of capturing the public’s attention and humanising the political process’ according to some (Weeks, 2002). When e-voting was announced, many commentators bemoaned the potential loss of ‘the great traditions of Irish elections, the long counts, the tallies, the pencil chewing, the suspense, shocks, passion, drama, and, above all the sorcery of the experts’ (O’Rourke, 2007: 39).

As one commentator noted:

It’s all about saving on forms, pencils, rubber bands, twine, sealing wax, stamping instruments and much more. At least that’s what the explanatory leaflet about electronic voting to be found on the Department of the Environment website declares. So anybody who suspects that it’s about protecting candidates from coronaries in constituencies with protracted recounts where the results hang on six disputed votes is just being cynical (O’Brien, 2002).

Whether this would be one of many factors for which contributed towards the government’s interest in electronic voting, is difficult to ascertain. Certainly, there is little evidence of this. Moreover, since this would not benefit one party over any other it cannot be considered evidence of statecraft.

E-voting as an issue of governing competence

Arguably, as the government became under increasing criticism for their investment in e-voting technology which was sent to have had questionable security provisions, the issue became about governing competence. It may well have been that Ahern, who was proactive in promoting Ireland’s image as a high-technology economy found the paper-
based voting system embarrassing because the STV-PR system made the counting process so contracted. A commitment to e-voting was in line with a number of broader e-government initiatives which the government had launched. According to one of the largest critics of the government:

I think that it was Ahern’s [idea to introduce e-voting]. He made a number of statements in support such as Ireland is a system “stuck with silly old pencils”. I think that he thought it would look wonderful if a new system would be introduced. Ireland was on back of dot.com boom (private interview, Joe Murphy, Independent Commentator and Associate of the Irish Citizens for Trustworthy e-voting, 14 August 2007).

Having made the commitment to e-voting and invested the money, a climb down was politically problematic.

**Who benefited from the registration system?**
More evidence perhaps exists that reform of the registration system was, in part, politically motivated. The process of tightening up on the electoral register was, no doubt, in part a response to the publicity generated by the Sunday Tribune newspaper report on the high number of inaccuracies which was picked up on by the opposition and held against the government to demand reform. Other contributing factors included the Democracy Commission report which suggested further reform for this same reason. There are issues of competence here. However, part of the explanation was also that politicians, in all of the main parties, were concerned about the rise of Sinn Fein. Sinn Fein had taken their first seat in the Dáil in 1997, then took five in 2002, it has seen their share of the first preference vote had risen from 1.9% in 1987 to 6.5% in 2002 (Coakley & Gallagher, 2005: 466-467). According to one source:

The Growth of Sinn Fein in the last few years… of course it is mainly a Northern Ireland phenomena, but nonetheless it is an all-Ireland party… and a number of political parties were
concerned at the level of influence that they were having in working class areas and constituencies and were a bit apprehensive that they might actually get to the point of gaining the balance of power. Now there was a belief, widely held, that Sinn Fein, engaged a lot in electoral personation as a result of the inaccuracies of the electoral register. And the attack in trying to update the electoral register was as much an effort to defeat that as anything else. That won’t be spoken about too much, but that is the truth, and that was quite successful at the General Election. They had been expected to make quite considerable breakthrough but in fact they didn’t (private interview, 1 November 2007).

Thus, it could be argued, that the government was happy to respond to opposition concerns about the electoral register since it would help to eliminate the electoral threat of Sinn Fein at the 2007 and subsequent elections. However, further evidence of this was difficult to find.

**In Conclusion**
The Ireland case study does not provide the same evidence of historical battles over electoral procedures that was present in the UK and USA. The issue in Ireland has historically been a technocratic issue which has attracted little public or high level political attention. Uniquely since 2000, the issues of electoral registration and electronic voting have become politicised, however it is difficult to trace evidence that changes were made for party political reasons. Instead, in time, they become issues of governing competence, with the opposition parties criticising the government on the grounds that they felt they could gain political capital by claiming that Fianna Fáil were mismanaging election administration. There is, however, some suggestion that reform of the voter registration system was a response to the growth of Sinn Fein.

What are the theoretical consequences of finding limited evidence of statecraft in Ireland? This is discussed in the next chapter.
Chapter Seven
Agendas, Systems and Processes: Elite Strategy and Election Administration in Comparative Perspective

‘electorates are much more the product of political forces than many have appreciated… within limits, they can be constructed to a size and composition which deemed desirable by those in power.’

(Kelley Jr. et al., 1967: 373)

Introduction
This book began by noting that there has been enormous change in election administration in some democracies, but much less in others. Moreover, the drivers for continuity and change are not well understood. In particular, how political elites are involved and interact with process of reforming election administration has not been studied in-depth. This is a notable oversight given the growing literature on electoral system reform. The book argued that most existing accounts of change were poorly
developed, not theoretical or neglected the role of elite activity as a causal force for change. The book introduced a revised statecraft approach as a new framework for understanding how elites interact with electoral institutions and used research on election administration to demonstrate why it might interest them. The book then introduced historical narratives of the politics of election administration in three established democracies.

This chapter now returns to our original questions. It argues that there is strong overwhelming evidence that elites seek to manipulate election administration or maintain particular practices in order to maximise their chances of winning elections. Nonetheless, the cases reveal that rival elites are not always trying to manipulate election administration for partisan gains. There are ebbs and flows in their interest and strategies. Moreover, there is relatively little evidence of partisan statecraft in Ireland. Using election administration as a political tool is more common in the USA than UK. This is explained suggesting that elite strategy varies according to three factors. Firstly, an issue trigger may be required to bring election administration on to the executive’s policy agenda. Five such triggers are identified in the cases. Secondly, the systemic institutional features of the political systems shape and refract the (non)politics of election administration by altering the incentives, opportunities for and constraints upon elite action. Executive interest in and action on election administration is influenced by the electoral system, party system and constitutional control over procedures. Thirdly, the executive’s strategy on election administration is influenced by the reform process of other electoral institutions. The chapter thereby develops a new layered framework for understanding when and where statecraft strategies may involve election administration.

The chapter reviews the evidence of statecraft from the cases, introduces the above explanation and then reflects on the relative prevalence of act-contingent and outcome-contingent strategies.
Election Administration as a tool for Statecraft

The statecraft approach claims that the Court will seek to achieve its governing objectives, which are to win elections and maintain power, above all else. To what extent does election administration appear to be a widely used tool to achieve statecraft in established democracies?

USA

Disenfranchising voters through election administration is a tactic with deep roots into American history. As the franchise was gradually extended across the US, elites developed more subtle mechanisms to discourage black and working class participation at the ballot box by using restrictive forms of election administration. These included increasing the distance between polling stations and black and minority voters, introducing poll taxes and literacy tests. This was a common strategy for Democrats in the South. In the North, Republicans used reforms to election administration to clean up government and target Democratic machines through reforms such as the Australian Ballot (Piven & Cloward, 1988b, 2000). Both parties were therefore guilty of using this approach.

The potential advantage of manipulating election administration for party advantage seems to be most widely recognised amongst politicians. As one senior official involved in the negotiation process for NVRA and HAVA suggested:

‘any time that you have election legislation, regardless of whether it is state legislation or federal legislation, the members of Congress or members of state take an extra special look at that. Because lets face it, they were elected based on the laws on the books. They are very comfortable with those laws’ (private interview, 3 October 2007).
A common perception held by politicians since the 1960s has been that the ‘left’ (i.e. liberal Democrats) has stood to gain from expansive procedures because they reduce the socio-economic status (SES) difference between voters and non-voters. Conversely, it was often felt that parties of the ‘right’ (Republicans, but also conservative Democrats) might gain from restrictive practices since they exaggerate the SES gap. Since the 1970s, thinking that they could strengthen their party base, many from the left of the Democratic Party gave congressional support to Human SERVE’s and ACORN’s campaign to make voting easier. Support was also given by the administration. The Carter Presidency took a lead role in attempting to enforce Election Day registration universally across all states in the form of national standards. The next Democratic President, President Bill Clinton, was more successful at introducing reform. NVRA was a significantly expansive piece of legislation which was signed into law on 20 May 1993 (P.L. 103-31, 107 Stat. 77). Upon entering office, President Obama was a long-term supporter of attempts to make voting easier (Craig, 2008).

Elites from political parties on the ‘right’ in the US have remained opposed to expansive procedures. President Bush vetoed the Democratic sponsored Universal Voter Registration Act in 1988 which sought to establish a range of expansive measures for electoral participation and a role for federal government to benchmark these as national standards. Key provisions had included registration by mail, registration at public agencies, motor registration programs and election-day registration in all 50 states. President George W. Bush’s ability to support legislation in Congress directly was substantially restrained by his partisan involvement in the legal debates on election administration after the 2000 election. He deployed different tactics. It was widely reported that the Bush Administration used the Justice Department to curb voter registration drives through sacking ‘difficult’ State Attorneys and replacing them with sympathetic ones and prioritising fraud rather than enfranchisement though schemes such as John Ashcroft’s a ‘Ballot Access and Voter Integrity Initiative’ (U.S. Department of Justice, 2005). Meanwhile, Republican Congressmen remained adamantly opposed to
more expansive forms of election administration in the negotiations over HAVA (and subsequently legislative proposals) instead supporting more restrictive voter id requirements. HAVA, for example, only passed as a result of a centrist coalition. According to one source:

‘There were periods of time when we almost gave up. We really did not think that it was going to pass. The real clincher, when it got to the end, the last piece was the voter id piece, where there was a great deal of compromise on the part of both sides, to come up, the way they came up with that. … They compromised on a number of issues, but that was the big one. That was almost the deal breaker’ (private interview, 3 October 2007).

Republican support for restrictive practices and Democratic support for expansive procedures, all for partisan gain, is an important fault line of contemporary American politics. However, historically, the position of parties has been more complex. The development of the ‘Southern Strategy’ in the 1960s meant that it was the Republicans who have sought to stem the tide of the black vote since it was aligned with the Democratic Party. Meanwhile, the Democrats have sought to expand participation. Election administration was the mechanism over which politicians fought. But restrictive forms of election administration were inseparable from the Jim Crow laws and Southern Democrats were as guilty in seeking to perpetuate these as many Republicans. In the nineteenth century, elites within both parties were keen to preserve white rule. They were also concerned about the rise of ‘third parties’ and used election administration to suppress such voters (DiClerico, 2004: 16). Democrats favoured restrictive practices to head off challenges from black liberal candidates in city politics, even in the 1960s and beyond (Piven et al., 2009: 48-97). Conservative Democrats were also reluctant to introduce expansive procedures in NVRA or HAVA.
Statecraft in the UK
There is some evidence of statecraft in the UK. The foundations of modern electoral law in the UK partly reflected partisan politics at the time. The Secret Ballot Act came into being, in part, because of the Liberal Party’s attack on landed and ecclesial interests to extend their own middle-class appeal. It also hoped to disarm the ‘mob’ and prevent more radical change. Political concerns were paramount when Lloyd George accepted an inaccurate war-time electoral register. The concern was that governing competence may be questioned if no register was available for an election.

More recently, as in the U.S., there is evidence that recent politicians have thought that expansive procedures might favour the ‘left’ and restrictive procedures the ‘right’. Margaret Thatcher only made minor direct reforms to election administration, in the form of an extension of the right to a postal ballot to certain groups. Her main impact was indirect. The introduction of the ‘poll tax’ caused registration levels to drop and this disproportionately advantaged the Conservative party to the tune of seven seats in the 1992 general election. The Coalition government under David Cameron has pushed hard for very restrictive registration procedures – individual and voluntary registration.

In the 1960s, the Wilson government was happy to push for extend voting hours and was accused of doing so for partisan reasons. New Labour reforms were inspired by party political motivations. Interview evidence revealed that governing elites thought that the party would benefit from increased turnout. According to one advisor to the government:

‘…there was a theory amongst the Labour Party that… and it goes way back…before your study…
Harold Wilson always wanted longer hours for voting because he said that most of his supporters were working in factories and if you made it 8 til 9 then they could not get there before their shifts started or finished’ (Private interview, government advisor, 24 July 2007).
The Party therefore promoted expansive measures such as all-postal voting which could increase participation in ‘Labour areas’. Conversely, they resisted some restrictive procedures which they were under political pressure to introduce. According to interviews, the government had prepared individual registration as part of their Electoral Administration Bill which would have been introduced after the 2005 general election as a response to claims that fraud was widespread in the 2004 elections. However, it subsequently changed its position to being more concerned about the importance of ‘maintaining a simple and clear system, and comprehensive registers’ (Department of Constitutional Affairs, 2004a: 16) after reforms in Northern Ireland suggested that introducing individual registration, amongst other reforms, could cause the register to drop by around 10%. New Labour also saw election administration as a useful tool to boost turnout in specific contests. Deputy Prime Minister John Prescott fought hard to use it in a regional referendum in 2004 thinking that it would boost the ‘yes’ vote. By comparison, New Labour was happy to introduce individual registration and voter identification in Northern Ireland, where it not un-coincidentally had no MPs to lose.

**EA Reform in Ireland**

Chapter six provided new evidence of the founders of the Irish Free State having a watchful eye on the electoral register in the run up to elections. After this date, however, election administration was largely seen as a technocratic, low-salience issue which saw little partisan conflict. This changed under Bertie Ahern. However, compared to the US and UK, there is less evidence that rival politicians in Ireland have reformed election administration to try for partisan advantage. Ahern’s two reforms of e-voting and efforts to improve the accuracy of the electoral register are relatively neutral procedures in terms of participation and would have little anticipated effect on turnout or election outcomes. Instead, they were mostly issues of governing
competence. The government became damaged by spending significant amounts of public funds on a high-profile project that was scrapped.

That said, interview evidence revealed that politicians, in all of the main parties, were concerned about the rise of Sinn Fein. Sinn Fein had taken their first seat in the Dáil only in 1997 but then took five in 2002, and has seen their share of the first preference vote rise from 1.9% in 1987 to 6.5% in 2002 (Coakley & Gallagher, 2005: 466-467). Interview evidence suggested the government (and other major parties) were happy to respond to opposition concerns about the electoral register since it would help to eliminate the electoral threat of Sinn Fein at the 2007 and subsequent elections.

Explaining variation in statecraft strategies

The variations in the strategies adopted by the Court’s in each case pose a puzzle. Why did some Court’s use election administration to try to achieve statecraft whereas others did not? The chapter argues that elite agency in election administration is shaped by three overlapping forces: issue triggers, the institutions of the political system and the reform process of other electoral institutions (see table 7.1 below).

<table>
<thead>
<tr>
<th>Presence of partisan strategies</th>
<th>USA</th>
<th>UK</th>
<th>Ireland</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy Triggers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technology</td>
<td>Strong</td>
<td>Mild</td>
<td>Weak</td>
</tr>
<tr>
<td>Declining turnout</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Administrative ‘failure’</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>External policy streams</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Judicial/Citizen Challenge</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Decentralised</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constitutional</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constitutional System</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Electoral system</td>
<td>Plurality</td>
<td>Plurality</td>
<td>STV</td>
</tr>
<tr>
<td>Socio-economic based party system</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Change sought to electoral system by elite</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Table 7.1: Findings and factors from three case studies
The Importance of Elite Agenda Triggers
As scholars of agenda-control teach us, some issues will reach the policy agenda and some will not (Downs, 1972; Kingdon, 1997). An issue trigger or ‘focussing event’ (Birkland, 1998) may be required to put a given topic onto the agenda. This is especially important for election administration because it is often considered a low-salience issue which does not command public attention in the way that some other issues might. With limited time and resources a trigger is often necessary to make elites aware of its importance.

It is necessary to make a distinction between the public policy agenda, as is generally conceived by the broader public policy literature, and what is considered in this book as the elite policy agenda. The public policy agenda refers to those problems and ideas which are discussed publicly by politicians, campaigners and the press. This is readily observable. Cobb and Elder usefully introduce the concepts of systemic, institutional and decision agenda. The systemic agenda consists of any possible issue which could become part of an agenda. The institutional agenda is 'that list of items explicitly up for the active and serious consideration of authoritative decision makers' (Cobb & Elder, 1983: 85-86). This is a much more limited range of items than the systemic agenda because of constraints of time and resources. A smaller proportion of items reach the decision agenda. These are those items that a government body is due to make a decision upon.

The literature on agendas usually conceives of a public policy agenda as those issues which are in the public sphere because they have been publicly discussed. In contrast, the elite’s policy agenda refers to those policy problems and possible solutions that the executive is aware of at any given moment in time. This may also have three levels: systematic, institutional and decision. However, unlike the public policy agenda this will be heavily influenced by the electoral interests of executive as well as national interest. Also, unlike the public policy agenda, it is not always observable. Proposed or
enacted policy changes provide direct evidence that election administration is on the agenda of the executive. However, if the executive discusses an issue in private but does not act, there may not be any observable evidence of such a decision.

The elite can raise issues onto the public policy agenda by proposing legislation or making speeches. Issues can feed from the public policy agenda onto the elite agenda via number of triggers. The cases suggest the presence of five key triggers in the domain of election administration. Not all items in the public policy agenda will enter the elite agenda either because they are not sufficiently aware of the issue or they do not consider it important. Not all issues will feed from the elite to public policy agenda because of limited access to the decision making process. The public policy agenda and the elite policy agenda are therefore clearly related, but not the same.

**Technological innovation**
Firstly, the availability of new technology put election administration on the agenda offering alternative mechanisms for administrating elections. The availability of new electronic voting machines in the U.S., after punch card systems had seen to be discredited in the Florida 2000 Presidential election, strengthened the case for reform and their merits were widely cited in discussions or policy reports.56 In the U.K., reform of election administration was linked to the modernisation of other public services through the use of technology with an E-envoy Office taking a lead role (private interview, civil servant, 2 February 2008). In Ireland, a desire to achieve administrative efficiency and reduce costs from officials within the Department of Environment, Heritage and Local Government appears to have been an initial trigger for reform but technology offered an alternative way of delivering elections (private interviews, former civil servant, 2008).

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56 See, for example National Commission on Federal Election Reform (2001)
Declining Turnout

Secondly, suggestions that election administration should be reformed were inextricably linked with declining electoral turnout. Declines in turnout often fuelled debate about the mechanisms through which public participation could be increased. When New Labour won the 1997 and 2001 general elections by landslides there was much comment about turnout. This had declined from 77.7% in 1992 to 71.3% in 1997. In 2001 this fell again to 59.4% which was the lowest recorded since 1918. There was also a general trend of declining turnout in local and European elections in the 1990s which continued into the early years of the New Labour administration. Low turnout was one of the stated reasons why the Howarth Committee was established. Reforms were later legitimised as remedies to ‘democracy deserts’ where the government thought that pockets of low turnout around the country existed (Harman, 2005).

Low and declining levels of participation in the U.S. was one of the stated reasons that U.S. states began to innovate with election administration in the 1960s (Commission on Registration and Voting Participation, 1963). Low turnout has been a perennial problem in federal elections too and this was often cited by politicians and policy-makers as a reason for action (National Commission on Federal Election Reform, 2001).

The launch of independent think tanks such as the Democracy Commission (2005) and the Taskforce for Active Citizenship (2007) to investigate low turnout is indicative of similar concerns in Ireland. In the 2002 general election turnout had declined to the lowest in the Republic’s history at 63% compared to an average of 76% in the period between 1969 and 1981. Election administration reform was frequently proposed as a partial solution. The reports of the Democracy Commission and the Taskforce for Active Citizenship both discussed the merits of reforming election administration. The Minister of the Environment and Local Government (1997-2002), Noel Dempsey, often suggested that the paper ballot system did not encourage citizens to vote and that the e-voting system would remedy this (Collins, 2002).
Administrative Failure

A sense of ‘administrative failure’ may act as a trigger for putting election administration on the agenda. In the U.S., the 2000 Presidential election put election administration reform high on the agenda across the country. In Ireland, the *Sunday Tribune* newspaper reports on inaccuracies in the electoral register was important for triggering debate about election administration. In the U.K., cases of alleged fraud after the 2004 election illustrated the need for reform, according to *The Times* and the Conservative Party.

This trigger is strongly driven by the agency of other actors. What constitutes ‘administrative failure’ is discursively constructed by political agents including elites within parties. The ‘problem’ may exist for some time but may not be reported upon and, therefore, will have no consequence for the policy process. In Ireland, for example, inaccuracies in the electoral register may have existed for a long period of time, however it required agency for the issue to be brought to the limelight. Likewise, under registration was a well reported issue in the U.K. in the 1980s and 1990s before New Labour took any action in 2000. Also, in many cases limited information is known about the extent or nature of ‘failure’. For example, in each case, many accusations were made about fraud existing in the system with an attached claim that the electoral system would benefit from more restrictive practices. However, very limited objective information is known about the extent of fraud (Allen & Allen, 1981; Alvarez, Hall, et al., 2008a), and, while there is more information about the effects of restrictive practices on registration and turnout rates, what constitutes ‘failure’ is highly contested. For some, ‘failure’ is the disenfranchisement of a given number of voters from the roll, for others it is the casting of fraudulent votes (Minnite & Callahan, 2003). In short, the politics of problem definition and the role of political agents in this is vital for understanding change.
We should note that ‘administrative failure’ may arise because of the unintended consequences of particular policies or administrative systems. One example that illustrates this well is, in Virginia after NVRA because elections became more expensive to administer as a result of federal legislation. An evaluation in 1999 detailed a rise in the State Board of Elections expenditure from around $7 million in 1994 to $8,382,717 in 1998. Around 60% of this expenditure was direct payments to localities for staff salaries, 28% went on the Verified Voting Systems, 12% on State Board elections operations and 10% on local election board compensation (Joint Subcommittee On Elections, 1999: 6). The implementation of NVRA also had consequences for the data quality issues arose with the registration forms. While applicants were required to attend in person at the registrar’s office applications were checked for missing or incorrect information with the registrar able to check the information before the applicant left the office (private interview, General Registrar, Office of Voter Registration, Virginia, 27 October 2008; private interview, General Registrar, Richmond City, 11 December 2008). The problems enabled another radical review took place in Virginia. In 1998, the House passed a resolution directing the Joint Legislative and Audit Review Commission to undertake a review of the State Board of Elections, including the relationship of the State Board with the local registrars, and the automated system used to maintain the registered voters list (1998). This suggested the need for a radical overhaul of procedures including a plan for the electronic linkage of the Virginia Voter Registration System and the Citizen Services System maintained by DMV (Joint Legislative and Audit Review Commission, 1999: v). In short, existing and past policies may generate pressures for issues to enter the agenda.

We should also note ‘administrative errors’s might be quite likely. Moynihan (Moynihan, 2004) and Montjoy (2008b) suggest that Perrow’s (1999) theory of ‘normal accidents’ applies to elections. Natural accident theory argues that complex systems make accidents inevitable. Elections are an example of such complex systems, argues Montjoy, because of the intricate arrangements of 'networks of people, tasks,
organizations, and relationships’ involved in delivering them (p.788). One minor administrative error may be enough to bring an election into disrepute.

Changes in External Policy Streams
Change in external parallel policy streams may act as an issue-trigger. In an age of globalisation – no country is entirely isolated and the experiences of one country are reported to communities around the world. For example, concerns voiced in the U.S. about electronic voting machines were reported in the Irish media, and these encouraged members of the IT community to question Ireland’s facilities. According to one source, increased public focus on the security of the systems being installed in the U.S.:

basically permeated into Ireland and the IT community got quite mobilized with the possibility that e-voting might not be secure or accurate. And that gathered quite a political momentum here in Ireland (private interview, Joe Murphy, Independent Commentator and Associate of the Irish Citizens for Trustworthy e-voting, 14 August 2007).

In the U.K. civil servants were part of an EU network of officials sharing interests in developments on election administration. One official suggested, however, that although representatives were keen to share and listen to overseas practices, once returning to their own institution the local political dynamics would dictate what change was possible (private interview, civil servant, 2 February 2008). In the U.S., change permeated less from other nation-states and more between states at the sub-national government level and from states upwards to the federal level too. For example, state led reforms in the 1960s and 1970s, led to demands in Washington for federal reform. A number of other countries sent their own parliamentary subcommittees to act as observers in the U.K. to witness good practice. IDEA and IFES produced a number of reports on different aspects of election administration used
around the world. While there is no direct evidence from the case studies, it is likely that these were consulted by officials. To some extent there is therefore an element of international policy transfer (Dolowitz & Marsh, 2000; Evans, 2004). However, meetings between officials from different governments were very irregular and national trajectories remained paramount.

**Judicial and Citizen Challenge**

Other actors may advocate change and thereby bring election administration on to the agenda. Political parties and party elites are not the only key actors involved in advocating reform. In Ireland, the Irish Citizens for Trustworthy E-voting were particularly effective at putting pressure on the government since their claims about the poor security in the system generated newspaper headlines and the evidence that they gave to public hearings was seized upon by opposition politicians. Representations to the government from organisations for the blind helped raise the profile of election administration in the 1960s. In the U.K., the Association of Electoral Administrators (AEA) was pro-active in advising the newly elected Labour government that a review of election administration was long overdue in 1997 (private interview, government advisor, 3 July 2007). In the U.S., Human SERVE was particularly important in putting reform on the agenda in the 1980s. But as a whole, election administration has traditionally seen relatively little public interest because it was conceived as a technocratic issue.

Legal cases raised by individuals can also raise awareness of election administration. In Ireland, *State (Comerford) v. Govr Mountjoy Prison* raised issues relating to election administration in the 1970s and *Quinn v City of Waterford* raised issues in the 1990s. In the U.S. one prominent case was raised by the Republican Governor of Virginia George Allen who challenged the constitutionality of NVRA (White, 1995). Such challenges
may or may not directly alter procedures. They are likely to raise awareness of the importance of election administration to the executive.

Other actors, such as Electoral Management Boards (EMB), may play an influential role. However, of the case studies covered in this book, there was no EMB in Ireland and the UK and USA only established EMBs very recently. In the US the Electoral Assistance Commission was set up with powers only to provide grants and information as part of HAVA (Montjoy & Chapin, 2005). The UK Electoral Commission was also set up primarily with powers to advise government and not to have a policy lead. That said, for much of their early years from 2002 – 2004 the UK Electoral Commission produced a range of reports which encouraged the government to undertake pilots for expansive measures such as internet and postal voting. They were therefore an important source of ideas for the government on how election administration could be changed and institutionalised the modernisation agenda. It was also particularly influential in bringing some issues such as security checks, more offences for electoral fraud and the issue of individual registration onto the government’s agenda, even if their proposals were not always accepted. According to Sam Younger:

I think it’s actually fair to conclude that I doubt if that would have happened by now if we hadn’t been plugging away at this. If there hadn’t been an Electoral Commission and it had remained in the Home Office I don’t think the other cast of characters who might have had an interest in this would have coalesced sufficiently to put this at the top of the political agenda by then. Because without the Commission having been there, there wouldn’t have been that set of proposals from 2003 that government started looking at (private interview, former Chair of the Electoral Commission, 30 May 2007).

The government was entirely able to ignore the Commission, however, when it suited. The Labour government did so on a number of issues such as postal voting in the
European elections in 2004 and the introduction of individual registration. However, EMBs can certainly bring election administration into the elite’s policy agenda.

**Legal and Political Institutions and Variation in Elite Strategy**

Issue-triggers may cause election administration to enter the elite policy agenda via the public policy agenda but executives are much more likely to adopt partisan strategies in some contexts than others. The systemic legal and political institutional features of political systems help to shape and refract the (non)politics of election administration. They do so by shaping the interests of political actors and offering opportunities and constraints for strategic action.

Election administration is more likely to enter the policy and elite agenda in the U.S. because the constitutional system determines who has power over election administration. Article I, Section 4 of the U.S. Constitution gives state considerable power to set their own rules:

> ‘Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature there of, Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators’ (US Constitution: Article 2, Section 1).

However the federal government can pass legislation which significantly affects how Congressional and Presidential elections are run. While this theoretically leaves state administrators control over their own elections, many showed that they would not want to run dual systems because of the administrative costs of doing so. The result of this is that there are considerable variations in election administration across the U.S. One consequence of state-by-state variation has been that there is a much greater propensity for states to compare procedures with one another. Moreover, with so many elections in
the U.S. there is a much greater propensity for election administration to influence election outcomes, or at least be perceived as doing so. This generates controversy over procedures which ‘spills up’ to national level and influences demands for national reform.

Most of the federal proposals have ‘spilled up’ from state level innovations or politics. Attempts to introduce legislation in Congress in the 1970s-1990s such as election-day registration and motor voting registration had their origin in state level reforms. The 2000 Presidential election in Florida caused a prolonged national debate about which procedures should be used. The introduction of ID-requirements in some states also produced a national debate. Such local innovations were not legally possible in Ireland or the U.K. and this partially explains why election administration has been a less prominent issue there.

Secondly, the electoral system in each case appears to play an important role in refracting elite interest. The plurality electoral system in the U.S. and U.K. incentivises elite manipulate of election administration amongst the party leadership. As noted in Chapter two, Rose and Kohler (2010) argue that increases in turnout are much more likely to affect electoral outcomes in plurality rather than proportional voting systems. Under such plurality systems, electoral outcomes are more frequently decided by a handful of votes in a handful of marginal seats. The potential for election administration to decide these contests becomes much greater. In contrast, under proportional systems the chances that election administration would make a difference are much smaller. Florida 2000 demonstrated to politicians that election administration could decide the Presidency. Such incentives were less strong in Ireland because a more proportional voting system was in place. During the legislative debates, few, if any, Irish politicians suggested that election administration could decide who would become the Taoiseach or the party composition of the Oireachtas. We should note that the Irish system is not
a pure PR system as found in the Netherlands and Scandinavia, but it is nonetheless, much more proportional than the U.S. and U.K.

Yet the electoral system also has another importance. As Carey and Shugart (1995) have noted, the electoral system may also affect the interests, reputation and behaviour of individual legislators differently to the national party. The presence of a plurality system means that changes to election administration may have very different effects on some members of the party and not others. There could be situations in FPTP cases where electoral reform could potentially advantage some members of the party while simultaneously disadvantage other colleagues. Plurality systems might increase the likelihood that the governing party pursues partisan election administration reform, but the very same institutions might also prevent the reform from being successful by undermining the party discipline often necessary to carry the reforms to fruition. This is best illustrated by the US case. Conservative Democrats have often opposed more expansive forms of election administration proposed by Jesse Jackson and other liberal Democrats, fearful for the consequences for their own seats.

Thirdly, the nature of the party system appears to alter elite strategies and this may explain the relative absence of elite partisan strategy in Ireland. The dominance of the nationalist question throughout the history of Ireland meant that political support was not mobilized on socio-economic grounds. It has not traditionally been structured along left-right social cleavages. As Mair and Weeks note:

The two main parties, Fianna Fáil and Fine Gael, tend to converge around the centre of the ideological spectrum, often crossing sides between centre-left and centre-right, or occupying both simultaneously. This can result in the policy differences between them being indistinct and vague, such that it can at times be difficult to clarify what distinguishes one from another, much like Tweedledum and Tweedledee (Mair & Weeks, 2005: 136).
This meant that ‘signals’ for who would benefit from election administration reform were not clear because the effects of higher turnout were difficult to predict. This distinguishes Irish politics from the other case studies where left-right distinctions have been part of the historical basis of division between the parties. In this sense Ireland also differs from some other European systems where multi-party politics are in place, such as France or Germany, but left-right divisions are present. A further factor which might explain why Ireland has rarely seen partisan activity over election administration is the number of political parties in the party system. Again, as noted in Chapter two, Rose and Kohler (2010: 125) suggest that higher turnout is more likely to affect electoral outcomes where there are fewer parties. The larger effective number of parties in Ireland would have therefore meant that election administration reform would have been less likely to affect electoral outcomes than in the U.K. or U.S.A. This suggests that election administration may not be a partisan issue in other multi-party political systems. This could be tested with further research.

_Election Administration and the Reform of Other Electoral Institutions_

Variation in elite strategies is also contingent on the relationship between the _reform processes for different electoral institutions_. Elites may believe that their interests could be better suited and finite time better spent by reforming other electoral institutions. Fianna Fáil has historically sought to change the electoral system because of significant potential partisan advantages. Executives may be less likely to reform election administration when other electoral institutions are stacked in their favour. In the U.K. New Labour came to power in 1997 with the electoral system giving them a disproportionate number seats compared to votes and the boundaries in force made their vote distribution more efficient. The Democrats and Republicans have always been very happy with the Electoral College.
Ran Hirschl’s (2000) hegemonic preservation thesis suggested that self-interested, risk-averse political power-holders may seek to enact minor constitutional changes in order to maintain overall control of the political system. Election administration may therefore be a useful alternative to more radical change. Some interview evidence suggested that one reason why political parties were interested in election administration was that it offered an alternative to other more radical reforms to the political system. In the U.K., there was evidence that the Labour Party saw reforming election administration as an alternative to electoral reform for Westminster. A 1997 manifesto pledge for a referendum was abandoned on electoral reform once the Party elite had decided that they wished to govern alone, rather than with the Liberal Democrats (Evans, 2003; Flinders, 2009). However the government still needed to introduce some reforms to increase turnout at elections. By being innovative with election administration, they perhaps sought to disarm one argument for the introduction of PR: that it would increase turnout by making votes ‘count’. The author understands from private interviews that when realising the increase in turnout that all-postal voting brought, ministers saw this as ‘the answer’ (private interview). Broader constitutional change could thus be avoided (also see: James, 2010b). This logic could also apply to the U.S. in the aftermath of the 2000 Presidential election. George W. Bush was declared the winner of the election, despite the fact that Al Gore won the popular vote. Such plurality reversals can often contribute towards pressures for change (Shugart, 2008) and the election unsurprisingly brought out further calls for the Electoral College system to be reformed. While Republican politicians in particular were therefore reluctant to enact any reform of election administration after Florida for fear that it would be expensive, passing some reform was necessary to prevent more radical change to electoral institutions.
Bending the Rules of the Game: Lessons for Election Administration

Chapter Three introduced a revised statecraft model with a fifth political support mechanism: *bending the rules of the game*. It was envisaged that the court might seek to change or maintain election administration for either act or outcome contingent reasons. It is worth reflecting on the prevalence of these strategies in the case studies.

It is notable that most strategies have been outcome related – this outcome being influencing the number of votes cast. Perceptions that a given procedure might give a disproportionate boost to a party or candidate have guided strategies. The cases allow us to further distinguish between proactive and reactive outcome based strategies. Pro-active outcome based strategies are those where elites have sought to change the rules because of perceived electoral benefits. New Labour sought to introduce expansive measures to increase turnout. Republicans have sought to introduce restrictive measures such as voter identification requirements. Re-active outcome based strategies are those where elites have sought to block changes in the rules because of perceived electoral benefits. New Labour sought to block individual registration. Republican Presidents sought to block expansive reforms such as NVRA and expansive provisions in HAVA.

There is some evidence of act contingent strategies. On occasion elites have sought to introduce measures as a way of winning over support from rival political elites. New Labour introduced changes in Northern Ireland which would clamp down on suspected fraud, not because it would benefit the Labour party electorally, but because it was a useful bargaining chip in the peace process. Ministers saw it as a ‘sweetener’ for the Unionists.

Rival elites have also sought to propose change, not because they foresee outcome based gain, but because it is a useful way of criticising the government. By claiming that their
government policy is flawed and proposing an alternative, rival elites can question their governing competence, in statecraft terms. In Ireland opposition to electronic voting from rival courts would bring about little gain. However, by calling for the resignation of cabinet members such as Mr. Cullen and accusing the government of trying to do ‘a Robert Mugabe on the Irish people’ (Hennessy, 2004b), the Irish governments competency was drawn into question. Likewise, the Conservative Party accused New Labour of introducing reforms which made ‘electoral fraud’ easier. These claims, coupled with bad media coverage of elections, could ebb away at support for a government. Another example of act contingent strategy was in Northern Ireland.

 Nonetheless, there appears to be much more evidence of act outcome than act contingency strategies. According to Renwick (2010: 31), political elites may not seek to reform electoral systems for partisan reasons because they may suffer a backlash from the public if they are appearing to reform procedures for naked political interest. He cites Katz, who claims:

‘...even when parties have the capacity to tweak the rules to their advantage, the expected benefits may be outweighed by the potential [public] backlash’ (Katz, 2005).

However, while public interest in electoral systems is rarely high, it is much less so for election administration. It is often described by administrators and stakeholders as an ‘administrative issue’ or an ‘anorak area’. The result is that there are fewer ‘costs’ of taking an aggressive partisan statecraft in election administration compared to electoral systems or other policy areas. The political costs are particularly low when we consider that many elections are decided by how competent the government is on valence issues such as economic management (Clarke, Sanders, Stewart, & Whiteley, 2009; Clarke, Sanders, Stewart, & Whiteley, 2004). It can therefore be a wicked piece of statecraft if used effectively because it plays on poor public understandings of the system. There may be no need to settle for act contingent strategies.
Conclusions
This chapter has returned to the key research questions posed by the book. What are the drivers of the reform of election administration and what is the specific role of elites? The chapter has reviewed the evidence of statecraft from the three case studies, finding strong evidence in the US, mild evidence in the UK but weak evidence in Ireland. A layered model has been offered to explain the variations drawing from theories of the policy process. Elite strategies are influenced by elite agendas (and issue triggers), political systems and the reform processes of other electoral institutions. It has been noted that elites also tend to follow outcome based strategies because of the low salience of the issue in the eyes of public. The chapter then reconsidered the statecraft approach and argued that it provides a useful organising perspective for understanding change that opens up new research questions and provides new insights.
Chapter Eight

Conclusions and Lessons for Theorists and Constitutional Designers

“[research on electoral system reform is]… the research frontier for the twenty-first century.” (Shugart, 2001: 51)

‘In politics as in everything else it makes a great difference whose game we play. The rules of the game determine the requirements for success.’ E.E. Schattschneider (1960: 48)

Introduction

This book has argued for greater academic attention on election administration, an often overlooked aspect of electoral law and practice which is at the backbone of the democratic process. There is evidence that many states around the world are undertaking reform of election administration, but relatively little analysis of why. Specifically, there has been little analysis of the role of political elites seeking to maximise their own interests in the reform process. Their role is important, because, electoral institutions are not neutral. They advantage some individuals, groups or interests and disadvantage others. The book has shown that this is true as much of election administration as it is of electoral systems or other electoral institutions. If
political elites can bend the institutions that govern elections for partisan gain, then there are consequences for the legitimacy of governments. How and why electoral laws change is therefore central to who has power in the state and Robert Dahl’s (1961) question of ‘Who Governs?’.

The book has sought to address this gap by considering the role of political elites in three countries, often using new primary evidence to identify their role. Moreover, it has offered a new theoretical framework for understanding change. This chapter summarises the key findings from the book, their implications and sets out a future research agenda.

**Empirical Conclusions**
Three key broad empirical conclusions have been made in this book.

*Election administration is important*
Election administration matters. It has been largely overlooked by political scientists when they seek to chart constitutional change. Chapter two charted out a range of different procedures that can be used to run elections and through a review of a broad body of research, evaluated how they can affect electoral turnout and either directly or indirectly, electoral outcomes. It is claimed that it is possible to use the existing research to create a continuum, on which each procedure can be scored onto an ordinal scale. All postal ballots, election day registration and compulsory voting procedures stand out as having significantly positive effects on turnout.

Some of these procedures, many have claimed, encourage, or make fraud easier to commit, however, evidence confirming this claim is difficult to find. Different procedures do, however, appear capable of altering outcomes. Firstly, procedures affect turnout rates but increases and decreases in turnout rates are not neutral. While academic debate continues on this issue, the evidence appears to suggest that the ‘left’
can make marginal gains with higher turnout. Higher turnout will also bring in proportionately more voters from non-white and lower socio-economic and education backgrounds. Some US studies specifically suggest that some Presidential elections would have been different if different election procedures had been used and if voter turnout levels were different. In addition, some restrictive or expansive procedures can be targeted at particular groups for electoral advantage. Voter caging practices can reduce turnout in some areas, for example.

**Election administration is a site of political struggle**

The case studies show instances of rival Courts trying to use election administration to facilitate more easier statecraft. Elites have sought to use election administration to (de)mobilise or (dis)enfranchise those aspects of the potential electorate in which it seeks to build electoral support. That is, they have sought to bend the rules of the game, to try to make it easier for them to win elections with left-wing Courts pushing for expansive procedures and right-wing Courts pushing for restrictive procedures. Election administration is therefore not a neutral part of the state machinery, but often a site of political struggle. This book includes new evidence of this practice in the case studies.

There are two caveats to this. Firstly, some members of left-wing parties may sometimes pursue restrictive procedures. In the U.S. political struggle over election administration was inseparable from the struggle over the Jim Crow laws. Southern Democrats were as guilty in seeking to perpetuate these as many Republicans. In the nineteenth century, elites within both parties were keen to preserve white rule and therefore sought to restrict participation amongst black and immigrant groups. Restrictive practices were also a method to prevent the rise of ‘third parties’. Democrats have favoured restrictive practices to head off challenges from black liberal candidates in city politics, even in the 1960s and beyond. Conservative Democrats were also reluctant to introduce expansive procedures in NVRA or HAVA. Courts pursuing left-wing political strategies may therefore generally seek to use expansive procedures to maximize their electoral support.
but the specific approach to election administration is dependent on how they intend to develop a winning electoral strategy in a given context.

Secondly, the right will try to expand participation amongst particular groups that they think will support them. In the sphere of electoral franchise legislation (and hence outside of the domain of election administration) Margaret Thatcher sought to enfranchise overseas voters who were thought to be more likely to vote Conservatives. Outside of the case studies, Berlusconi was accused of similar tactics in advance of the 2005 Italian general election (Newell, 2006).

**There are cross-national variations in the use of election administration to achieve statecraft**

There is strong and overwhelming evidence that elites seek to manipulate election administration or maintain particular practices in order to maximise their chances of winning elections. Nonetheless, the cases reveal that rival elites are not always trying to manipulate election administration for partisan gains. There are ebbs and flows in their interest and strategies. Moreover, there is relatively little evidence of partisan statecraft in Ireland. This is an important research finding since it suggests that using election administration to achieve statecraft is a temporally and spatially specific phenomenon. It is not a case of ‘Only in America’, as previous studies on US politics may have implied, since there is evidence from the UK. It is important therefore for research to establish the circumstances under which it may take place.

**Theoretical Conclusions**

Three sets of theoretical conclusions are presented in this book.
Problems with existing accounts
The book has identified a number of problems with existing approaches to explaining election administration, which generally underestimate the importance of elites in the process of reforming or maintaining the procedures used for elections. To rehearse these shortcomings, the existing literature often: 1) underplays the importance of power politics in the reform process; 2) fails to integrate its concerns with debates on state-society relations; 3) lacks a comparative focus; and, 4) tends to ignore issues of structure and agency.

These problems reflect an absence of literature on the topic. They also reflect the way that electoral studies has developed. It dominated by positivism and behaviouralism and focussed on the observable and falsifiable. This book has taken a critical realist epistemology and ontology using elite theory. In so doing, it has shown the importance of elite interests as either a leading or mediating factor in change.

Electoral reform is more than reforming electoral systems
The findings are significant for the study of electoral reform. ‘Electoral reform’ has often been inferred to only been the study of how and why electoral systems change. Adopting a more holistic definition of electoral reform might be advantageous because other electoral laws are important too. Moreover, the article has suggested that the reform processes for different types of electoral laws may interact. Rather than researching how and when electoral systems or administration change in isolation from one another, all laws should be researched together to identify broader strategies of actors and any displacement of causes and effects.

(Another) Effect of Majoritarianism Electoral Systems
This book has build knowledge about different electoral systems. Gerrymandering is often associated with non-proportional electoral systems because they permit a high level of wasted votes, even though it does occur in some proportional systems such as
those that use STV (Farrell, 2011: 205; Mair, 2003). However, the findings imply that rule bending for partisan interest with election administration may also be associated with non-proportional electoral systems.

**In critique of the liberal democratic and pluralist view of the state**
The findings of this book also serve to question orthodox approaches to state and society relations of political science, found in the liberal democratic and pluralist conceptions of the state. According to many democratic theorists, free and fair elections are the key institutional feature of the liberal democratic conception of the state. They give sovereignty to the citizen rather than the ruler, and, in theory, ensure that they ultimately determine the policies and personnel of government. In addition, elections are a vital instrument in achieving pluralism – since they open up government structures. However, if elites can manipulate the rules which govern elections, then there are fundamental consequences for democratic theory. *State structures are not a neutral arbitrator, but a site of political struggle*. As Hayduk (2005) observes, rules can affect the strategically selective playing field by stacking the odds in favour of particular outcomes – in this case winning the next election and maintaining long term power. Competing Courts will seek to reform the rules in processes of statecraft. While this book has focused on election administration, it follows to hypothesise that this is also true of other constitutional rules.

**Re-conceptualising the Statecraft Approach**
The statecraft approach is a distinct, new approach to understanding continuity and change in electoral institutions and public policy more generally. It is an approach based in critical realism rather than behaviouralism or rational choice theory which have so far dominated electoral studies. By applying the approach to case studies of election administration reform the approach has sensitised us to the power politics involved in the case studies. It has remained sensitive to the complex interaction between culture
and calculus in elite decision making. The approach usefully interlinks policy areas often considered as meso and micro areas into broader macro accounts of change.

The book has argued that the approach needed redeveloping and has undertaken this task. Chapter three outlined the historical development of the statecraft approach and noted that it had rarely been empirically applied. Moreover, it had no conceptual tools for explaining how elites interact with political institutions to achieve statecraft. Statecraft occurred in the UK because of the institutional rules of the game. How elites changed the rules was not considered within the model. Chapter three therefore proposed that the statecraft model had a fifth support mechanism, bending the rules of the game, to reflect the fact that elites may wish to alter (or preserve) their institutional environment to make successful statecraft easier to achieve. It suggested that elites may try to alter this for act-contingent or outcome contingent reasons. This provided a new theoretical framework for understanding how elites interact with their institutional environment and vice-versa.

Chapters four, five and six represent the first application of the new model to empirical case studies. Chapter seven, analysing the cases, noted variations in the strategy of the Court towards election administration across the case studies. It some circumstances it was well used, but in others less so. It proposed a new layered framework for understanding when and where the court might use election administration for achieving statecraft. The propensity to use it is shaped by issues triggers, the political system and the reform process of other electoral institutions. This framework offers new meso-level concepts for the statecraft approach for understanding how the Court might interact with other electoral institutions.

We might speculate that issue triggers will be less important for the electoral system, since it will be foremost in the attention of the Court, unlike election administration. However, most policy areas need issue triggers because elites have limited time and
resources. In the UK, for example, electoral reform saw little attention between the 1930s and 1970s. It became increasingly discussed after that because the plurality reversal in the 1974 general election, the effects of divisive policies from the Thatcher administration and the role of Charter 88, amongst other reasons. Citizens had the chance to choose a new voting system in 2011 partly because the 2010 general election result gave the a third party a pivotal power in the political system and partly because concerns about the need for the reform being expressed after the expenses scandal (Renwick et al., 2011). The point being, policy triggers were also necessary for electoral system reform. For Shugart (2008) electoral systems have inherent conditions which mean that some democratic values must be traded off and there is a tendency for electoral systems to fail against these criteria. These are some of the likely policy triggers for electoral systems. The triggers for different electoral institutions (and public policies in general) may be different, but the importance of policy triggers and elite agendas remain important.

The statecraft approach may face some criticisms. As Chapter three illustrated it can be criticised on the grounds that by focussing on political elites the approach is reductionist. One reply is that parsimony has its attractions. We need to focus on one actor to avoid muddled description. Critics might respond that making this actor the Court is not well chosen. It could be argued that globalisation has made the study of national political elites less important. The imperatives of globalisation impose constraints on national decision makers which makes policy discretion less possible (Strange, 1996) or it extends the range of factors that can cause policy change (Evans & Davies, 1999). If we were to apply the statecraft approach to other policy areas reveal these deficiencies. However, as mentioned, a counter-veiling literature makes the case that the importance of globalisation on national policy discretion often exaggerated (Hirst & Thompson, 1999). National political elites remain important.
Scholars might be reluctant to use the approach because it is not necessarily a falsifiable and testable method. It does not lend itself to a series of hypotheses that can be proved one way to the other. It produces a narrative of events which might be contested. The approach is difficult to research. Finding evidence is challenging, and the information used in support of arguments is often less than perfect. There is a risk that finding evidence might become journalistic. In response, we should not be surprised that evidence of elite statecraft is difficult to find because it involves trying to get access to politically sensitive in information. But this is not necessarily a reason for pursuing a line of argument. Thinking more generally about how we assess theories, it may be necessary to question whether positivist tests are fair to approaches from different traditions. As Flinders writes, critical realist perspectives allow us to ‘explore complex issues...[identify] areas that are important and worthy of study... [and] provides a basis for future refinement’ (Flinders, 2010: 44). This knowledge is therefore not definitive, but it does advance our understanding by providing new insights which other approaches may not have.

Lastly, there might be concerns that the approach does not lend itself to application outside of the UK. It should be noted, however, that much of Bulpitt’s original work, which was focused on territorial politics, was conceived as a comparative framework (Bradbury, 2010). Moreover, the case studies do not raise any reason why the approach cannot be applied in states with more institutional pluralism. The central tenet of the model, that political elites seek to win office and maintain power, appears to be applicable across all political systems. There are variations in how they use election administration to do this, but this does not undermine the model. Rather it suggests that elites adapt statecraft strategies to fit the environment in which they find themselves.
Recommendations for Practice in Election Administration and Constitutional Designers

In the light of the empirical research made in this book a number of recommendations can be made for the practice of election administration.

Firstly, practitioners should explore new ways of increasing turnout with election administration. Chapter two has provided a continuum as a tool to do this. Some countries have been very innovative in reform election administration to boost participation, other much less so.

Secondly, there should be greater collaboration between practitioners, policy makers and academicians in this field. In the US, since the 2000 Presidential election there is evidence of a strong research community which has integrated well with politicians and practitioners. This co-ordination of knowledge and practice has often been led by the non-profit organisation ElectionLine.org but a range of other organisations have also been proactive such as the U.S. Commission on Civil Rights. However, this knowledge community remains territorially bound within the US and its influence outside of the US has been minimal, despite the launch of the ACE project and some reports by the UNDP (Lopez-Pinter, 2000). Moreover, few other states have this level of co-ordination. The UK Electoral Commission has devised performance standards to measure the quality of election administration undertaken by local authorities and to spread best practice (Electoral Commission, 2008, 2009). But these standards make no reference to any academic study on the effects of different forms of election administration on the practice of elections. Chapter two has demonstrated the insights that evidence-based research can make to help guide future practice. This should be more widely utilised.

Thirdly, there might be lessons for constitutional designers. If elites can pick and chose rules to suit their interests then their powers are enhanced over the citizen and voter. Procedures could be in place to prevent elite statecraft. In addition, to the usual
constitutional checks and balances within the state, there is a strong case for powerful electoral management boards (EMBs). These have often been put forward as a way of improving confidence in the democracy by taking decisions out of the hands of politicians with vested interests. The need for them would be stronger in states with non-proportional systems. Ironically, EMBs were established in the UK and USA recently but only with powers to advise government. Secondly, if variation in procedures across a political territory encourages the greater use of partisan strategies then there is a stronger case for uniformity in procedures. This finding is most relevant in highly federalized countries such as the USA or Switzerland.

**Future Avenues for Research**
A number of further avenues for research can be identified. Firstly, research on the effects of different forms of election administration on electoral turnout remains based on US elections. Further research should broaden the geographical reach of this to a range of other democracies. Investigating the effects of new expansive procedures such as internet voting technologies should remain a priority.

Secondly, this book should not be seen as the last word on how political elites interact with election administration changes since the conclusions open the door for much further research. It would be useful to see how historical-institutional legacies refract and help to shape conflict over election administration in different settings such as new and emerging democracies. The Irish case study is a system with a non-plurality voting system and suggests that this is significant. However, it is not a pure proportional system such as those found in Belgium, the Netherlands and Scandinavia. These cases may yield further insights which might bring about theoretical refinement.

Thirdly, if the statecraft approach can be successfully used to help to explain the reform of election administration, then it should also be helpful in explaining the broader
changes to the institutional structures of the state enacted by politicians. These would include not only the electoral system but broader constitutional and state structures. Subsequent research could therefore seek to apply the statecraft approach to broader empirical cases of institutional reform. For example, if political elites often seek to manipulate the electoral system to increase or maintain political dominance, applying the statecraft approach to electoral systems would intuitively be a fruitful area of enquiry. Fianna Fáil have twice put the electoral system to a referendum, seeking to reform a STV-PR system to a plurality based system in which their effective power would have increased within the Oireachtas. In the 1990s a number of states such as Japan, Israel, Italy and New Zealand successfully reformed their electoral system – can these also be understood as acts of statecraft? Can broader constitutional or regime change also be understood as statecraft? What about changes in other political institutions. For example, Thatcher reformed Trade Union law, in part because it might benefit the economic management of the country, but also because it transformed the political playing field in Britain to suit the interests of the Conservative Party. There is scope for a number of interesting new projects here. Having re-developed an elite theory there is scope for it to be applied to many new problems and debates.

Fourthly, as citizens we should be concerned about elites trying to aggressively manipulate constitutional rules to achieve successful statecraft. One possible mechanism to prevent this are electoral commissions, however, insufficient academic research has considered their role as a ‘watchdog’ of procedures and fair play, often because they are relatively new to most established democracies. A cursory search of the academic literature finds very a limited research base on the subject (Birch, 2010; Elmendorf, 2006; Hartlyn et al., 2008; Mozaffer, 2002; Norm, 2007). The key research questions here would include: why have extra-governmental electoral bodies been set up? Who were the key agents of change? What were their motives? What is their normative basis in constitutional and democratic theory? On what basis have they been
justified? How effective have they been? What institutional form should they take? And what explains the form that they have taken?

**Parting Shots: Election Administration Matters**

The study of electoral institutions is one of the richest and most advanced sub-disciplines of political science in the world. Yet there are often a number of distorting features of the existing literature. Firstly, election administration and other electoral institutions often receive less attention than electoral systems. This is especially notable in discussions of why electoral institutions change. Secondly, it is dominated by behaviouralist-positivism and there is little methodological pluralism. This book has sought to break new ground by firstly establishing why election administration matters. It can affect electoral turnout, outcomes and confidence in the democratic process. Secondly, it provided new accounts of how election administration has changed in three longitudinal case studies of the UK, USA and Ireland. While some accounts have been provided of the changes made in the US, little has been written on this in the UK and nothing (as far as the author is aware) has been said of Ireland. It has provided new evidence of statecraft from primary sources. It has also demonstrated spatial-temporal variations in the tactics taken by political elites. As a result, it has established that ‘electoral reform’ should be considered more broadly than just the reform of electoral systems since other institutions matter too. Moreover, the reform processes for different institutions can interact.

Thirdly, the book has put forward the case for using the statecraft approach, based in critical realism, as a new and useful theoretical model for explaining change in election administration. It has suggested that the Statecraft approach can make a number of useful insights into why reform does and does not occur. It is argued that it overcomes a number of problems in the existing literature by rightly focussing attention on the role of elites in the process of change and linking the reform of election administration macro
political struggles which are vital to help explain change. The case studies demonstrated how election administration can be a tool for elites to enfranchise and mobilise supporters and disenfranchise and demobilise the supports of opponents. The book has revised and amended the approach so that it can be used to explain change in electoral institutions and political institutions more generally. This opens up a research agenda to apply it to new settings and problems.

Fourthly, it has considered some possible consequences for constitutional designers. The role of Electoral Management Boards may be pivotal in preventing elite statecraft and further research is required on these. It may be no accident that elites in US seek to manipulate election administration for partisan ends so frequently. Rather, it is partly a function of how the constitutional system incentivises local variation and conflict over procedures to win contests which are often decided by a small number of key constituencies because of the majoritarian electoral system.
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