



ALBANY LAW SCHOOL

GOVERNMENT LAW CENTER

WARREN M. ANDERSON



Voting in the 2020 Elections

Summary by Richard Rifkin, Government Law Center Legal Director

On April 20, 2020, the Government Law Center offered a Warren M. Anderson program that was different in several ways from its many previous similar programs. First, it was presented online, as the state's rules stemming from its efforts to fight the coronavirus prevented the usual live format in the Assembly Parlor in the Capitol. Second, it had a listening audience far larger than any previous Anderson program.

The program's topic was voting in the 2020 elections. The speakers set forth the election changes that had been already been made due to the coronavirus, and focused their presentations on what is possible or likely to take place going forward. They all recognized the immense uncertainty unique to the particular moment in time.

The program featured four speakers with expertise in elections. **Jennifer Wilson**, deputy director for the League of Women Voters of New York, discussed the view from Albany. She reviewed the executive orders issued by Governor Cuomo that modified state election laws in various respects. She then discussed the difficulties and problems that are likely to arise in implementing these orders. Implementation is the responsibility of the County Boards of Elections, and each Board is going to have to figure out how best to change its procedures to be able to proceed under the new rules created by the Governor's orders.

With implementation being a county problem, **John Nonna**, the Westchester County Attorney, followed Ms. Wilson by

speaking about the specific problems faced by these local governments. For example, many polling places are in schools, which are unlikely to be open on June 23, the date of the primary elections. Many inspectors will be reluctant to spend the day at the polls, meaning a significant shortage is likely. Mr. Nonna also noted that while the dates for the primary and general elections were set, no dates had been set for holding local and school district elections.

The next two speakers turned to some of the issues presented at the federal level. **Jerry Goldfeder**, Special Counsel to Stroock & Stroock & Lavan, discussed how federal constitutional and statutory provisions would affect the general election. He noted that it had to be held, as there is a void as to what would happen on January 20, 2021, the last day of President Trump's current term, should there have been no election. However, he also noted that Congress has the power to change the date of the election. Mr. Goldfeder also discussed some issues concerning the electoral college.

Finally, **Hilary Jochmans**, a consultant in Washington, D.C., discussed what is going on in Washington. She pointed out some of the pending bills in Congress concerning the election process, and also discussed the problems Congress itself is facing, as it has never adopted procedures to meet a situation like the one it now faces. Finally, she mentioned the uncertain role of the federal courts in response to actions that might be taken by both the federal and state governments.

In a period of great uncertainty, the speakers, while not answering many of the questions that they suggested, gave the audience a good sense of the issues that

governments at all levels are going to be facing as they attempt to provide for meaningful elections to be held at the time of a national health emergency.