

TESTIMONY OF JULIAN PALMER  
EXECUTIVE DIRECTOR  
NEW YORK STATE COMMON CAUSE  
ON

LOCAL LAW 8 (PUBLIC CAMPAIGN FINANCING)  
BEFORE THE NEW YORK CITY CAMPAIGN FINANCE BOARD  
DECEMBER 13, 1989

Mr. Chairman and members of the Board, I appreciate the opportunity to testify today on behalf of New York State Common Cause. Before I address the topic of today's hearing I would like to say that my organization deeply appreciates the excellent work the Board and its staff have done interpreting and implementing the City's new campaign finance law. You have been called on to administer the nation's second largest public campaign financing system and make many difficult decisions and you have responded admirably.

What impact did Local Law 8 have on this year's municipal elections? According to the new law's declaration of legislative intent its purpose is to combat the "reliance of candidates on large private campaign contributions" which "gives rise to citizen apathy and cynicism." The law was further designed to promote democracy by ensuring that "citizens, regardless of their personal wealth" or "access to large contributions" are "enabled and encouraged to compete effectively for public office."

In our view, Local Law 8 represents a dramatic improvement in our democratic system. Because of the new law, control of the campaign financing process in New York City has shifted from Daddy Warbucks to John and Jane Q. Public. The "little guy" who makes a small contribution is much more important now because his or her contribution is matched by public funds up to \$500 while "fat cats" and special interest PACs play a much smaller role due to significantly lower contribution limits and the fact that PAC and corporate contributions are not matched.

Local Law 8 accomplished its major objectives without falling into the pitfalls its opponents predicted would undermine reform. The Law's successes included the following;

1) The role of large contributors was vastly diminished. According to a study conducted by State Senator Franz Leichter, the average contribution made by the fifty largest contributors was over \$20,000 per candidate. Due to the limits in the new Law, the average contribution by this year's largest contributors could not possibly be more than \$6,000 for the primary and general elections combined. This represents a reduction of over 200% in the average amount given by the fifty largest contributors compared to last year's elections.

2) The importance of small givers was increased. Because the new law matches the first \$500 of individual contributions, citizens of modest means were encouraged to contribute. This increased political participation by expanding the pool of

contributors. This is evidenced by the fact that the Dinkins campaign received over 21,000 contributions, surpassing Mayor Koch's highest total of 18,000 contributions (received for his 1981 campaign) by a wide margin.

3) Campaign spending was controlled. With the notable exception of Ron Lauder, all the major candidates for citywide or boroughwide office stayed within the spending limits of Local Law 8. The campaign spending caps had their most obvious effect in the Democratic primary, where Mayor Koch spent \$3.8 million, or 36% less, than he did when he spent \$6.0 million during the 1985 Democratic primary. The spending cap reduced Mayor Koch's fundraising advantage as an incumbent and gave Mayor-elect Dinkins a fair chance to compete as a challenger. Mayor Koch outspent Mayor-elect Dinkins by a ratio of 5 to 4 in this year's primary as opposed to his 7 to 1 fundraising advantage over his nearest challenger in 1985. Once Mayor-elect Dinkins defeated the incumbent his financial edge as the Democratic nominee and leader in the polls was also reduced by the spending cap, as I will further explain in the next paragraph.

4) Two party competition was encouraged in a traditionally one party City. The Democratic Party front runner was limited to spending \$3.5 million for the general election although he reportedly raised close to \$4.5 million. The spending limit substantially narrowed his financial advantage over his Republican challenger who raised \$2.9 million for the general election. Borough President-elect Guy Molinari also used public funds to become the first Republican to be elected to the Board of Estimate in over a decade. Campaign finance reform helped level the playing field and contributed to the City's most competitive general election in decades.

5) Women and minority candidates appear to benefit from public financing. Although there are obviously many reasons why some groups do not have political representation in proportion to their numbers in the general population, the campaign finance process is clearly a significant factor. Common Cause released a study last June entitled "Changing State, Unchanging Legislature" which documented that the increasing difficulty challengers are having running against incumbents has prevented women and minorities from gaining their fair share of representation in the State Legislature. We believe public financing makes campaign funds available to candidates outside the "old boy" network and enables women and minorities to compete for office more effectively. All four officials elected to a new citywide or boroughwide office this year using public funds come from groups that have been historically underrepresented in New York City politics; two are women, one is an African-American and one is a Republican. A female African-American social worker also used public funding to defeat an incumbent Councilmember who rejected public funding.

In addition to its positive accomplishments, the Law also did not realize its detractors dire predictions.

1) Local Law 8 is not an incumbent protection act. Two out of six incumbent members of the Board of Estimate were defeated. (The first Board members since 1977 to be defeated) and an incumbent Councilmember was defeated. All three losing incumbents were defeated by challengers using public funds. Compare these results to the 1985 City elections when no incumbents were defeated.

2) The cost of public financing did not spiral out of control. Although Local Law 8 foresaw providing up to \$28 million in matching funds, the Board disbursed only \$4.2 million to candidates this year. Over a four year election cycle that amounts to less than 15 cents per year per New York City resident. This is a wonderful investment in a cleaner electoral system in which candidates are free from their reliance on well heeled individuals and special interest groups.

Despite the manifest successes of Local Law 8, it can clearly be improved, particularly at the Council candidate level. According to a list from the Campaign Finance Board, only 17 of 34 Council incumbents participated in Local Law 8. Sixteen non-incumbent Council candidates signed up for the law. Although this year's elections were clearly more competitive than those of 1985, (particularly at the citywide and boroughwide level) 97% of incumbent councilmembers were nevertheless re-elected. Another disturbing fact is that the number of primary candidates running for City office declined. According to one press account, the total number of primary candidates declined from 82 in 1985 to 51 in 1989. This means that the law should be changed in order to increase the number of participating candidates and give Council challengers a fair chance.

The major thrust of the changes should be to simplify reporting requirements and provide additional resources to candidates so that hard pressed challengers will be able to mount more effective campaigns. We recommend the following proposals to reach those objectives;

A) Match the amounts raised by a candidate to reach the threshold for qualifying for public funds. There is no more important step that could be taken to help typically underfunded challengers. Matching threshold amounts will particularly help candidates at the margin of the threshold who would receive a tremendous boost from an infusion of public matching funds.

B) Consolidate spending limits for campaign spending, fundraising costs and pre-election year spending. Local Law 8 unnecessarily complicates the spending limits by having so many categories of spending. We recommend combining the \$60,000 primary limit for Council races with the \$20,000 fundraising limit and the \$50,000 limit for the year before the election into

primary limit for Council races with the \$20,000 fundraising limit and the \$50,000 limit for the year before the election into a single \$130,000 primary limit. We would repeat the \$130,000 limit for the general election. Creating a single spending limit for the entire primary election cycle would close the current loophole which allows unlimited spending in the first two years of a four year campaign cycle. California voters even approved a total ban on non-election year fundraising (it is currently being appealed to the State Supreme Court). No other public campaign financing law that we know of allows for unlimited spending in the first two years of a four year election cycle. This a pro-incumbent loophole which allows incumbents to raise and spend money years before a challenger has even decided to run. We ask the Board to request that the Council create a unitary spending limit for an entire election cycle or use its authority under Section 3-706(6) to issue a regulation stating that campaign funds spent in the first two years of an election cycle will count towards the spending limit for the next election. It may also be necessary to raise the spending limit above \$130,000 to allow for more competition but more study is needed to see if that is necessary. We also favor consolidating different categories of fundraising limits for citywide and boroughwide offices. We would retain the exemption for compliance costs.

C) Eliminate the exemption for petition challenges. New York has the worst ballot access laws in the nation. 200 candidates were denied access to the ballot during the 1986 elections in New York State. Challengers and other underfunded candidates face a proportionally greater burden in paying expensive legal costs to defend their nominating petitions in Court than their better funded opponents. A law that is intended to promote electoral competition should not encourage the use of New York's notorious ballot access laws to throw candidates off the ballot and deny voters a choice. We support an exemption for the cost of defending petitions against challenges but we are strongly opposed to continuing the exemption for petition challenges.

D) Increase the match for contributions at a rate of 2 to 1 up to \$500 or perhaps only up to \$250 to hold down costs and place even greater emphasis on broad-based grassroots fundraising. As you know, the 2 to 1 match is now triggered only when a participating candidate is running against a non-participating candidate. In order to make opting in relatively attractive, it is very important that candidates who opt in continue to receive additional benefits when they are running against non-participating candidates. If the regular match is increased to 2 to 1 than the match for candidates running against non-participating candidates should be increased to 3 to 1 or 4 to 1. (Or perhaps the participating candidate should be eligible for matching funds up to 100% of the spending limit for that office instead of the current 50%).

E) Provide standardized computer software to help candidates comply with the Local Law 8's reporting requirements.

allow candidates to use them for public outreach instead of going over forms. The Board may also want to consider the notion of providing (or renting for a nominal fee) computers to participating candidates to ensure that all candidates could use the standardized software.

F) Require all participating candidates to engage in broadcast debates. Front-runners have a vested interest in avoiding a debate which could threaten their standing in the polls. Although debates are imperfect, they are often the only opportunity members of the voting public have to see the candidates explain their views in an unrehearsed situation. Debates are an accepted part of the modern political landscape and we think the public would be well served by requiring candidates who accept public matching funds to debate. New Jersey requires candidates who accept public funds to debate at least two times. A provision similar to New Jersey's would prevent the kind of maneuvering which stopped a debate until a few days before this year's mayoral election. It would also eliminate the confusion over which candidates should be invited by establishing an objective standard (raising the threshold amount to qualify for matching funds) to determine which candidates should participate. We propose that the Campaign Finance Board should be empowered to find the debate sponsor who offers the best format and promises to reach the widest possible audience of the voting public.

We believe the preceding changes would strengthen the law significantly. Before concluding, there are two changes we understand are being considered which we would consider disastrous. First, it would be a terrible mistake to raise the Law's contribution limits beyond inflation. Local Law 8 already provides for a contribution cost of living adjustment by March 1, 1990 and that should be sufficient. During the debate prior to the passage of Local Law 8, Common Cause and other civic groups favored a \$2,000 contribution limit for candidates for the Board of Estimate and \$1,000 for Council candidates. The federal election law limits individual contributions to \$1,000 per election. To raise the contribution limits above what the law currently provides for (\$3,000 plus cost of living adjustments for citywide candidates, \$2,500 for boroughwide and \$2,000 Council) would undermine the Law's greatest accomplishment, i.e., reducing the influence of large contributors on the electoral process. Raising the limits would increase the political influence of special interests and big money at the expense of the public at large. (We also see no evidence that the campaign spending limits for citywide and boroughwide candidates need to be raised. They appear to have allowed candidates to run competitive and adequately funded campaigns.)

The other danger we see would be reducing the Law's financial disclosure requirements in the name of simplifying compliance. The information the law provides regarding contributors' employers is an indispensable aide in detecting attempts by a particular PAC or corporation to exceed the law's

contribution limits. We urge the Board to vigorously monitor this provision and periodically disclose lists of employers whose employees have collectively given more than the contribution limit to a particular candidate.

In conclusion, we believe New Yorkers should be proud of our new campaign finance law. There is no doubt that it can be strengthened but it is a very positive first step. New York is the first American City with a population over one million to adopt such a reform and already Los Angeles is seriously considering similar legislation. At a time when people all around the globe are fighting for free and fair democratic elections, Local Law 8 is proof that we can still take steps to help fulfill the promise of participatory democracy in our own backyard. New York State Common Cause will continue to offer our suggestions and ideas to you as the law evolves. Thank you for the opportunity to testify.