

★ CHAPTER SIX

★ Election Reservations

Elections in South Dakota are usually polite affairs, conducted with the kind of civility one often finds in rural states. But the 2002 election for U.S. Senate between incumbent Democrat Tim Johnson and his Republican challenger, Representative Jim Thune, was dramatically different. The stakes were high: Democrats had 50 Senate seats going into the election, Republicans had 49, and there was one Democratic-leaning independent. South Dakota's race could determine both which party controlled the Senate and whether Tom Daschle, South Dakota's other senator, would continue as the powerful majority leader.

Both parties poured in outside resources, workers and lawyers. Democrats mounted a massive voter registration drive that signed up 17,000 new voters in a state where fewer than 300,000 votes are cast. The signups drew fire after hundreds of voter registration cards and absentee ballot requests were discovered to have been forged. Two individuals who received payments, directly or indirectly, from the Democratic Party were charged with forgery. A total of 277 South Dakotans told the state Department of Criminal Investigations that their names had been forged on absentee ballot requests and the FBI reported 15 additional forgeries.

Democrats denied approving of any illegal behavior and said Republican complaints about registrations collected on Indian reservations were actually a veiled attempt to discourage Indians

from voting. If so, such alleged intimidation failed. On Election Day, turnout on the reservations soared by 10 to 15 percent. But the process left a sour taste in voters' mouths. There were complaints that some polling places in Democratic strongholds were held open for an extra hour, that illegal electioneering occurred in many polling places, that unregistered individuals were allowed to vote and that Democratic lawyers had interfered with the election process. In some counties where over half the people live below the poverty line, there were also allegations that money had changed hands in return for votes.

election night was a nail-biter, with Thune consistently taking the lead after midnight. At 3:41 A.M., Thune had a 3,729-vote lead with what Clifford Scott, the former chairman of the South Dakota Democratic Party, later called "all the no-reservation counties reporting. But either by accident or design, the majority of the reservation precincts . . . had not reported." At 6:38 A.M. on Wednesday, with just six of the state's 844 precincts left to count, Thune led Johnson by 949 votes. When three of those precincts came in, Thune's lead narrowed to 188 votes. The precincts still out were all in Shannon County, home of the giant Pine Ridge Reservation and the Oglala Sioux. When those were counted, Senator Johnson had carried Shannon with 92 percent of the vote and won statewide by 524 votes.

Because he wanted to remain active in state politics, Thune chose not to contest the outcome. But others who did study the results were appalled. Michael New, a postdoctoral fellow at the Harvard-MIT Data Center, analyzed the South Dakota returns and reported a series of startling facts to the *Wall Street Journal*. While Democrat Tim Johnson ran statewide about 12 percentage points behind what Tom Daschle had received in his 1998 Senate victory, in Shannon County he ran about 12 percentage points ahead, getting 92 percent of the vote compared with Daschle's earlier 80 percent. Nowhere else in the state did Johnson improve his vote share relative to Mr. Daschle.

Voter turnout for the 2002 Senate election was up 27 percent statewide compared with 1998, but in Shannon County turnout increased by 89 percent. Again, no other county in the state, including other largely Indian counties, showed comparable turnout

increases. Admittedly, Shannon County is heavily Democratic, but Thune got only nine more votes there than Daschle's opponent in 1998, notwithstanding the much larger turnout.

Democrats said that the increase in their vote was attributable to their successful efforts at signing up new voters and getting them to the polls. But Republicans signed up new voters in Indian country, too, and they wonder why only in Shannon County did so few of them show up. In the other three South Dakota counties where Indians constitute more than two-thirds of the population, Mr. Thune gained between 23 percent and 43 percent more votes than the GOP candidate in 1998. As Michael New concedes, "this could all be a coincidence." But "this trifecta of late results, high turnout and unusually strong support for the Democratic nominee should, if nothing else, arouse suspicion."

Suspicion about the 2002 election, stoked by the October scandal over forged voter registration forms, was running high even before Election Day controversies cast a cloud over the results. KELO, a Sioux Falls TV station, reported that a survey of six hundred voters found that 63 percent said "they were somewhat or very concerned voter registration fraud will change the outcome of the election."

Democrats in Indian County

Democratic efforts to target the 9 percent of South Dakotas who have Indian roots began in the spring of 2002. Terry McAuliffe, the chairman of the Democratic National Committee, told the *Sioux Falls Argus-Leader*, "we're actively going after the Native American community" By September, the Democratic Senatorial Campaign Committee was boasting that the "party has been working closely with the Native population to register voters and Senator Johnson has set up campaign offices on every reservation." After voter fraud problems were reported in early October, however, the Johnson campaign denied it had any offices on the reservations.

According to the Associated Press, "[W]hen a reporter called the Lower Brule Reservation, a woman said she was a field officer for Johnson's campaign and referred the reporter to Johnson's office. Johnson campaign manager Steve Hildebrand said that the woman

was mistaken and that she worked for the Democratic Party. After a Johnson spokesman denied the existence of any Johnson offices on reservations, Senator Johnson contradicted him by telling the *Washington Times*, "We do have campaign offices in Indian Country."

Later, despite claims by Democrats in May that the Johnson campaign and the Democratic Party were working "hand-in-hand to forward" registration efforts, Senator Johnson told *Newsweek's* Howard Fineman that voter registration was "the state party's business, not my campaign's."

The *Washington Post* reported, "For months, South Dakota Democrats have suggested that Native American voters might provide just enough votes to help Sen. Tim Johnson win." State Democrats told the *Christian Science Monitor* they expected ten thousand new votes from the Indian reservations that year. Russell LaFountain, the director of Native Vote 2008, said his organizers were encouraging "strong absentee balloting." But by October, the South Dakota Democratic Party was backing away from suggestions that aggressive voter drives on reservations were a key part of their strategy.

Despite last-minute efforts by Democrats to distance themselves from their efforts, the *Chicago Tribune* found the party's footprints all over the reservations. When it covered the opening of the Democratic voter registration office on the Crow Creek Indian Reservation, the paper interviewed one woman who said "They told us to vote Democrat, We don't vote Republican here."

In order to target Native American voters successfully, Democrats decided to pay \$3 per-head bounties for voter registration cards and absentee ballot requests, which in poor areas created incentives to commit fraud. The liberal *Sioux Falls Argus-Leader*, which endorsed Senator Johnson for reelection, criticized the practice of paying voter bounties and concluded that "such a system itself leads to fraud."

In Pennington County, where Rapid City is located, six dead people were registered to vote. Lyle Nichols, who "registered" the dead people, gathered his bounties by copying names from the phone book or from obituaries, according to the county sheriff. Nichols was on work release from jail and ironically, 25 percent of

the money he earned from the registrations went to the county to cover his room and board costs.

The bounty-hunting system created by the South Dakota Democratic Party resulted in the filing of five counts of forgery against Nichols, although prosecutors could have filed 226 counts of forgery. He had been paid by an organization that had been given \$2,500 by the Democratic Party. In July 2003, Nichols pleaded guilty to the lesser charge of possessing a forged instrument in order to avoid jail. Prosecutors dropped five forgery counts, each of which carried a maximum five-year prison term. Nichols told Judge John "Jack" Delaney that he had handed out cards to people he knew in the vicinity of Prairie Market at 11 New York Street. When Delaney asked whether Nichols' helpers were intoxicated as they filled out the cards, Nichols replied, "Oh, yeah. Definitely."

Another case of voter registration fraud involved Becky Red Earth Villeda, also known as Maka Duta, who was paid more than \$13,000 in bounties from the Democratic Party before she was terminated after county auditors discovered she had turned in hundreds of illegal registrations. Maka Duta put out a press release claiming that her work was directly overseen by supervisors at state Democratic headquarters.

As with Nichols, Maka Duta was not the most reliable employee the Democrats could have hired. In 1998, she had been accused of submitting a forged election petition during her campaign for a tribal office on the Flandreau Reservation. She was banned from tribal offices in February 2000. According to state investigators, Maka Duta was linked to as many as 1,750 questionable absentee ballot applications. By her own estimate she filled out 1,000 registration forms. As part of her job, she ensured that prospective voters registered as Democrats. One woman who witnessed Maka Duta signing up voters noted that on the registration card, "Democrat was already written there."

Some of the registrations were indeed creative. Denise Red Horse of Ziebach County died in a car crash on September 3, 2002. But both Ziebach and Dewey counties found separate absentee ballot applications from her dated September 21 in bundles of applications mailed from Democratic headquarters. Maka Duta had bought a county history book that contained many Dewey

County names. Some turned up in the pile of new registrations. Mable Romero says she received a registration card for her three-year-old granddaughter, Ashley. In both Dewey and Ziebach counties, the number of registered voters easily exceeded the number of residents over age eighteen counted by the 2000 census.

The forged registrations were collected by Duta, turned over to Democratic officials and then mailed directly to voter registrars from the party's offices. "All of those counties are being flooded with new voters," Dewey County auditor Adele Enright said at the time. "We just got a huge envelope of 350 absentee ballot applications postmarked from the Sioux Falls office of the Democratic Party."

At first, Democrats insisted that the registrations were valid. "A party official says absentee applications sent to their office by independent contractors get the once-over by party employees," reported KELO on October 16, as the scandal broke. If so, the oversight was spotty. Renee Dross, an election clerk for Shannon County, said her office received some 1,100 new voter registrations in a county with only 10,000 people, and "many were clearly signed by the same person." Some registrants actually lived in neighboring Nebraska. Steve Aberle, the Dewey County state's attorney, said many of the applications were in the same handwriting. When the problems became obvious, Democratic officials said they promptly fired Duta and then told reporters they were the first to bring the fraud to light. Adele Enright, a Democratic, called that claim untrue and "pure spin."

For her part, Maka Duta maintained she had always complied with instructions from the Democratic Party. But she nonetheless tried to cover her tracks when investigators came calling. Attorney General Mark Barnett said she had apparently tried to burn the original applications but then decided to retrieve them. Investigators suspect she tried to copy information from the original forms, including the signatures, onto new applications. "It gets stranger every day," Barnett said. "She claims they are the legitimate signatures [on the charred paper]." Maka Duta soon released a statement admitting that she had duplicated signatures for voters in Dewey and Ziebach counties but denied any wrongdoing, saying all her applications "were submitted to my supervisor at the South Dakota Democrat Party."

Auditor Enright discovered that the 350 absentee ballot applications that Dewey County got from the state Democratic Party all indicated that the signers would be out of the county on Election Day, a remarkable event in a jurisdiction with only 3,500 registered voters. She concluded that “there’s no accountability” with the Democratic Party’s management of the voter registration program.

The pre-election voting irregularities were so widespread that South Dakota secretary of state Joyce Valentine had to adopt special vote-counting procedures. On October 28, she announced in response to “actions that challenge our election system by introducing fraud” that election workers shouldn’t place any absentee ballots in the ballot box until after the polls had closed. This allowed any voter for whom an absentee ballot may have been fraudulently requested to vote in person and have their vote count. “It appears we were able to get (Maka Duta) stopped before she actually cast any fraudulent ballots,” said Larry Long, South Dakota’s chief deputy attorney general. “But it’s conceivable that she was able to get ballots cast that we don’t know about.”

Some fraudulent absentee ballots may indeed have been counted. In Todd County, on the Rosebud Indian Reservation, Noma Sazama, a Republican election board member, reported a number of ballots in which the votes “all looked like they had been signed by the same person, but the signatures matched what was on file, so they were counted.”

Maka Duta was ultimately charged with only nineteen counts of forgery, despite evidence that she had forged at least 277 documents. Tribal officials claimed that the attorney general lacked the power to serve subpoenas on tribal land to collect evidence in several of the cases, and the charges had to be dismissed. Maka Duta was then indicted a second time for eight counts of forgery, but these charges were later dropped altogether when an “expert” (a retired rural sheriff) concluded there wasn’t enough evidence to prove forgery. The individuals involved, of course, had already sworn that their names had been forged. A former lawyer for the Attorney General’s Office told me the case had been only reluctantly pursued with minimal resources, and the office was happy to be rid of the case, given the charges of racism that accompanied it.

Intimidation

Democrats quickly resorted to intimidation in order to turn the voter registration scandal in their favor. They bitterly attacked journalists who reported on it. After Shelley Keohane, a reporter for KSFY-TV in Sioux Falls, did a report on people who had applied for absentee ballots without their knowledge, Democrats met with the station's management and demanded that she and an anchorman be fired for bias. The station refused. Later it was learned that a station employee had been spying for Democratic operatives, giving them information and documents on the station's plans to cover the story. He was fired after the election.

Senators Daschle and Johnson toured the South Dakota reservations together just before the election and had staffers distribute flyers entitled "Don't Be Intimidated!!!" They proclaimed:

The Republican Party doesn't want Native people to vote. They know that when we vote, our voice is heard and Republicans lose. They have manufactured a handful of allegations and charged "massive voter fraud" on the reservations. This is just not true. Our people are proud, and we will not be intimidated.

The flyer concluded, "Empower yourself! Vote Democratic."

Copies of the flyer were found at the polls in Mission and posted on the door at the St. Thomas Hall polling place on Tuesday. "There's not supposed to be any campaign material in the building, and I picked one up in the building," reported Noma Sazama, a member of the election board in Mission.

In an eye-opening article in *National Review*, Byron York described how Democrats initiated an extensive voter-hauling operation on Election Day that in some places illegally commandeered polling places. Ms. Sazama told York that on Election Day her polling place was filled with Democratic lawyers. They quickly made the kitchen of St. Thomas Hall their transportation nerve center, coordinating the routes of dozens of vans that had been hired to bring workers to the polls. "It shouldn't be their right to run their campaign strategy from the polling place," said Ms. Sazama.

Delvin Meyer, a GOP poll watcher, concurred: "The buses were controlled from the kitchen. As far as I'm concerned, that's

illegal." Nancy Wanless, a Democrat who was the precinct's election supervisor, was also resentful that her polling place had turned into a campaign headquarters, with Democratic lawyers monopolizing the only phone. Her protests were ignored. "I felt like they were trying to intimidate me," she later complained.

Democratic operatives ran similar operations in dozens of other precincts. Each team leader had boxes of index cards, each of which included information about prospective voters. The cards were used to determine which voters had voted and then given to Democratic van drivers, who would seek out voters who had not been to the polls. While the prospective voters were in the Democratic van hauling them to the polls, they were given the flyers charging that "the Republican Party does not want Native people to vote." On the reverse side of the flyer were sample ballots with all the Democratic candidates' boxes filled in. Poll watcher Ray Stewart observed that "[p]eople delivered to the polls by the Democratically coordinated van operation carried the 'Don't Be Intimidated' flyers with them as they left the vans." The Democratic vans, in short, were used to instruct voters en route to the polls. The voter-hauling system did not work for Republicans. When an observer "asked the Democratic poll watcher to give a ride to St. Francis to a young Republican, Patrick Red Bird Wolfe, the Democratic poll worker responded that 'this is a partisan van pool, only for Democrats,' and refused to provide a ride to the young man."

After Hours

In one of the oddest twists in the election, the polls were kept open for an extra hour in Todd County, on the Rosebud Indian Reservation. Senator Johnson won Todd with 81 percent of the vote

Early on Election Day, the Secretary of State's Office received demands from out-of-state Democratic lawyers claiming that because some stations had opened later than 7:00 A.M., the time set for the start of voting, they had to stay open later at night. This surprised Todd County auditor Kathleen Flakus, who twice in late October had published a notice in the local paper announcing that on Election Day the polls would be open from 7:00 A.M. until 7:00 P.M. Central Standard Time. It has been a tradition in Todd County

to operate on Central Time, even though it is technically just west of the time-zone line that runs through South Dakota separating Central Time from Mountain Time (one hour earlier). Locals never give a thought to the discrepancy, but it caught the eye of some clever Democratic lawyers, who pounced on the ambiguity.

On Election Day, Iver Crow Eagle, a Democratic election official who was supposed to bring the ballot boxes to the St. Francis polling place in Todd County, showed up late, about 7:45 A.M.. That meant the polling place didn't open until shortly before 8:00. This didn't bother the locals because the precinct could still stay open for a full twelve hours under a South Dakota law that allows the county auditor to keep any precinct open late if there has been an unforeseen delay.

But Democratic lawyers stationed in Todd County leaped on the incident to demand that *all* precincts in the heavily Democratic county be kept open an additional hour, and made a similar demand for next-door Mellette County, which also is west of the time line but keeps Central Time. The lawyers argued that the law required that the polls stay open until 7:00 P.M. Mountain Time, which meant staying open for a total of thirteen hours rather than twelve.

Local election officials couldn't believe the interference was occurring. "I said, 'Why should people have to vote on Mountain Time when they live by Central Time?'" says Kathleen Flakus, a Democrat. "To me, it just didn't make sense. And it still doesn't." But the out-of-state Democrats who had invaded the area were adamant. They argued with state officials, who were forced to concede that Todd and Mellette counties were, officially if not in any other way, in Mountain Time. "I got a call from the attorney general's office that said you will be open until 7:00 P.M. Mountain Time, and if we don't we'll be in violation of Section Five of the Voting Rights Act," Flakus later told the *National Review*.

Nancy Wanless, the Democratic election supervisor in Mission, recalls the Democratic poll watcher from California who was on site to insist that the polls stay open, and "stuck her nose where it doesn't belong and I don't know what strings she pulled. . . . She makes phone calls and tells me that I am supposed to stay open until 8:00 P.M. [Central Time]. I said, 'I can't.' I was going by my book. She got mad and said, 'Well, you have to!'"

Local Republican leaders were paralyzed with indecision about what to do, recalls David Norcross, a lawyer from the Republican National Committee who had been sent to monitor the election. Late in the day, he finally convinced them to file suit to force the polls to close at the normal time. Their suit noted that state law requires that polling places be open from 7:00 A.M. to 7:00 P.M., meaning that the legislature clearly intended for voting booths to be open for twelve hours. "Allowing the polls to remain open thirteen rather than twelve hours would unconstitutionally and improperly dilute the votes of voters who voted during proper hours," the suit read. As a fallback position, the GOP requested that if the polls remained open, ballots cast after 7:00 P.M. Central Time be segregated from other ballots in case a judge later ruled in favor of the original closing time.

A state circuit-court judge dismissed the suit without comment, and the polls stayed open until 8:00 P.M. Central Time. Since the ballots were not segregated, it's not clear how many people voted during that critical extra hour, but it appears that the effect of the decision to keep the polls open in Todd and Melette counties could have been significant in a close race. A witness in the Mission precinct stated that in the additional hour the polls were open, "50 additional votes were cast." At the St. Francis precinct, another witness reported that 22 additional votes were cast in the extra hour. If the average of 50 and 22 votes is multiplied by the number of precincts kept open for an extra hour (36 votes times 13 precincts), a total of 468 votes could have been cast during the extra hour of voting in Todd County. Less-populous Mellette County, which also had its polls open an extra hour, saw an unknown number of additional votes cast.

Hide-and-Seek Voters

Another problem on Election Day had to do with "hide-and-seek" voters. Poll workers reported witnessing at least thirty incidents where voters were allowed to vote after a suspicious exchange with election officials. Barry Jensen, a GOP poll watcher in Mellette County, reported:

On many occasions during the voting process, I observed voters who presented themselves to election judges by stating their names. The election judges advised these voters that the name given was not on the official list of registered voters. On many occasions the election judges would then read several names to these voters, asking questions such as, "could it be under" a name entirely different than the name given by the voter. On numerous occasions, these voters would eventually (after one or more alternate names were suggested by the election judge) agree that one of the names suggested was in fact such voter's name. All of these voters were permitted to vote.

The honor system that South Dakota had traditionally relied on had a gap in it big enough to drive a truckload of chads through. All that was required to register and vote in South Dakota in 2002 was a signature, a mailing address and a physical address. No identification was required. That made it difficult, if not impossible, for county auditors to determine that voters were properly registered and that they voted only once. As Attorney General Barnett said in July, "It's pretty easy to register under a false name, send in an absentee ballot request, vote and send in the ballot and get it counted." That's why in 2003, South Dakota adopted a law requiring an ID to vote. That law is now a source of bitter partisan warfare.

Improper Counting of Ballots

Some South Dakota counties may also have counted ballots incorrectly. As many as three hundred ballots from Shannon County, for example, may have been incorrectly counted. The blank spaces opposite a candidate's name on many Shannon ballots were not filled in and therefore the ballots were not properly marked, according to Lance Russell, the Fall River County state's attorney. According to South Dakota election law, "if the voting mark does not touch the circle or square and is not on or in the circle or square, the vote may not be counted." In Shannon, John Thune received 8 percent of the vote, a near-record low for a Republican, despite winning 50 percent of the vote statewide.

In Davison County, election officials improperly counted overvotes. On ballots where two Senate candidates had been marked,

the election officials decided to block out the mark given to the candidate with the "lighter" mark. These marks were covered with small, round, white stickers. Election officials were videotaped blocking votes for Congressman Thune. Concerns were also raised in Davison County because operatives working for Senator Tim Johnson's office were initially granted access to the Democratic auditor's office and the computers without the consideration of opposing parties.

Interference with the Election Process

In addition to illegally distributing campaign literature and organizing voter-hauling efforts in the polling places, the numerous lawyers deployed by the Democrats were abusive throughout Election Day. "Some election board members claim the out-of-state poll watchers clearly interfered with their process," reported the *Todd County Tribune*. One poll watcher noted that a Democratic lawyer "told election officials that electioneering or reading materials could be brought into the polling place." When one election official made a call to the county auditor to find out if this was true, an out-of-state poll watcher asked her specifically what she had said to the auditor. Another challenged whether or not she had even made the call.

Marilyn Fokkers of Mission has served on her local election board for decades, but she said it would be a long time before she would be willing to serve again. "Don't get me started!" she exclaimed, recalling Election Day 2002. Todd County auditor Kathleen Flakus agreed: "I've never spent such a miserable day in my life. I don't think I've recovered yet. All these attorneys!" At the St. Thomas precinct in Todd County, at least six Democratic poll watchers were scrutinizing voters who came to vote at St. Thomas Hall in Mission and challenging election board practices throughout the day. Some people pressured some of the local officials to accept questionable ballots and questionable voter identifications. An elderly poll watcher in Charles Mix County encountered a lawyer from Minneapolis, two law students and a law professor who challenged the absentee ballots being cast by members of the Greenwood and Clearfield Hutterite colonies, who vote heavily

Republican. In Shannon County, one observer was so abusive that police arrested him. The exhausted county auditor in Shannon County, after receiving a call from a polling place about yet another irregularity, simply said, "Just let the person vote so nobody gets shot down there."

Inducements to Vote

For years, Democrats had given out free tickets to Election Day picnics for voters on the Pine Ridge Sioux Reservation. George Cunningham, a former chief of staff to George McGovern, recalled that the McGovern campaign once gave reservation residents who had voted raffle tickets to win a free television. "But we weren't the only ones involved in something like that. There were a lot of places giving free food, and nothing was said," he told the *Sioux Falls Argus-Leader*. Other giveaways included free cigarettes.

These practices prompted U.S. attorney Karen Schreier, a Democrat, and Attorney General Mark Barnett, a Republican, to write an unusual joint letter to county auditors in 1998 noting that "simply offering to provide" food or gifts "in exchange for showing up to vote, is clearly against the law."

In 2002, this opinion was ignored. There is evidence that inducements to voters may have involved something more than merchandise. One witness said he saw cash exchanging hands between a Democratic poll watcher and the driver of a van used to transport Johnson's supporters to the polls. "Right in front of me at one point," he said. "I had another gentleman there with me and he called it to their attention, that it was inappropriate. I said to [a Democratic poll watcher], 'Boy you're spending a lot of money today' in reference to the vans—there must've been 50 vans on the reservation. He said money was not an object, that they had unlimited funds."

A Parmalee poll watcher, a retired highway patrol lieutenant, stated: "You know what the going rate was around here? Ten bucks." Three individuals in Todd County originally signed affidavits saying they were "given a ride to the polls in a van with Tim Johnson for Senate signs in the window ... [and] promised \$10 if [they] would go vote," and, after receiving a ride back from the polling place, were "offered \$10 for voting."

Two of the three individuals later changed their stories. The man linked to all three affidavits, Ed Charging Elk, claimed that the affidavits had become part of a "misunderstanding." But Charging Elk admitted that there "was discussion on the street about the \$10," according to a report by the *Sioux Falls Argus-Leader*. "I mentioned it to a couple of friends of mine. People on the streets were saying you go vote, they would give you gas money, \$10, maybe a pack of cigarettes, and if you couldn't get there, they would give you a ride," he said. That seemed to make sense to some of them, he said. "That is normal procedure with tribal elections." Charging Elk also said that "Rosebud residents were a bit alarmed when a large group of outsiders converged on the reservation to begin a voter registration process. People were a little scared, nervous." Charging Elk did not know the visitors.

Charging Elk originally helped out when he was asked to register new voters. "I knew the people running Senator Johnson's office. They were paying people \$1 apiece to register 1,000 names. I'm fairly well known around here, so I sat there one day for two hours with them about six weeks before the election, and I helped them with the addresses, where to find them, but I didn't charge them anything." At one point, however, he got fed up with the politicization of the reservations by Democrats. "I'm a Democrat, but I voted for John Thune."

The Race Card

Meanwhile, Democratic officials at the state level refused to provide reporters (including me) with information on the number of registrations and absentee ballot requests mailed from their offices. They also declined to document the number of people paid voter bounties. They responded to these questions by making claims of racism and voter suppression. Democratic spokeswoman Sarah Feinberg said, "It is clear that John Thune has engaged in a clear and concerted effort to discredit this registration drive and to suppress turnout on the reservations." Senator Daschle made similar charges: "We are now seeing a concerted Republican effort to make allegations and launch initiatives intended to suppress Native American voting."

Senator Tim Johnson equated the voter fraud search with Senator Trent Lott's statement that the nation would have been a better place if Senator Strom Thurman had been elected president when he ran in 1948 on a segregationist platform. Referring to the statement, which caused Lott to lose his position as majority leader, Johnson said, "Senator Lott's remarks only served to divide Americans, just as some of the actions by Republican attorneys from Washington divided people in South Dakota with claims of voter fraud by Native Americans, claims that have been ruled to be fraudulent."

The racial scare tactics appear to have worked. Eight days after the election, John Thune announced he would not seek a recount or take other legal action to challenge the election. "Are there questions that need to be answered about the outcome of this election? I believe there are," he told supporters. "Did things happen that shouldn't have in some polling places around the state? I believe they did. Some of these issues would be resolved through a recount. However, others, though unethical, would not be righted through a recount."

Rather than contest the election and endure months of negative coverage painting him as a sore loser, Thune decided instead to challenge Senator Daschle himself in the 2004 election and has spent a great deal of time building relationships on Indian reservations he barely visited in 2002.

"Democrats charged Republicans with racism and a conspiracy to prevent Native American voting," says Ron Williamson, president of the Great Plains Public Policy Institute. "It worked in that no one wanted to go through the ugliness that would have ensued from an election challenge." But it also may have convinced Republicans that they need to make an appeal to voters they aren't automatically comfortable in courting.

Conclusion

South Dakota isn't Chicago or South Texas. Prior to 2002, the state's elections were largely clean. But with the political polarization of America intensifying and control of the U.S. Senate hanging in the balance, a flood of outside money and workers from both parties

entered the state. Like other states its size, South Dakota didn't have sufficient safeguards in place to ensure the integrity of the election. Most polling places were run by little old ladies and good-government volunteers. They weren't ready for the aggressive onslaught that confronted them on Election Day.

The 2002 election was a lacerating experience and it is no exaggeration to say that South Dakota will never be the same. The GOP-controlled state legislature voted in 2003 to require all voters to show an ID, a measure that Secretary of State Chris Nelson estimates 75 percent of the population supports. But Democrats have savaged the law as racist and vowed to file suit to have it annulled.

Meanwhile, in the run-up to the 2004 elections, problems have again surfaced. Two felons were revealed to be receiving payments to register only Democrats in Rapid City in April 2004. Kea Warne, the elections supervisor for the Secretary of State's Office, said, "We were informed they'd get more for a Democrat, less for an independent and nothing for a Republican." Another man in Rapid City who was being paid to register Democrats was found to have previously been convicted of murder in the state of Washington. The same month, a man was charged and found guilty of voter registration fraud in Watertown, South Dakota, and a prison inmate was found to have registered to vote in Sioux Falls. Auditors' offices were also receiving registrations in large envelopes with no return address, which generated additional suspicions.

After a June 1 special election for the U.S. House, a nonprofit Indian voting rights group, Four Directions, filed federal civil-rights lawsuits when reports surfaced that about forty people on Indian reservations claimed they were denied a ballot because they lacked a photo ID. They said they had not been offered the opportunity to sign an affidavit, a backup measure provided for in the voter ID law passed in 2003. In response, Senator Daschle promptly started the "Daschle Voting Rights Project" to prevent efforts to exclude Indians from the polls. Daschle also sent a widely publicized letter to the secretary of state about people "being denied the right to vote" and "harassment" on the reservations. Secretary Nelson says he still supports the photo ID law because it both protects against fraudulent votes and ensures that all qualified voters will

be allowed to cast ballots. Voters can show a variety of forms of photo identification, and if they lack that, they can sign the affidavits. "If there were problems the first time ever the law was implemented in the primary, we will fix that with better training," he says.

Everyone supports making certain that people's right to vote is fully protected, and that any vestiges of the days of poll taxes or literacy tests are stamped out. But dubious charges of racism or intimidation at the polls make it difficult to police the integrity of elections. People who don't want their good names sullied try to stay out of the line of fire, even if they have legitimate questions about the fairness of the election process. There is also the chance that members of the party accused of racism will respond to what they perceive as election irregularities not being properly policed by authorities with their own examples of corner-cutting. A vicious cycle of charges, countercharges and recriminations can soon transform even the most placid of states into a bitter battleground in a short time, as South Dakota has seen.