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19th CENTURY BALLOT REFORM IN CALIFORNIA: A STUDY OF THE HUNTINGTON LIBRARY'S POLITICAL EPHEMERA COLLECTION

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19th Century Ballot Reform in California: A Study of the Huntington Library's Political Ephemera Collection

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Abstract

Ballot reform is an important part of the American political process. During the 1800's, ballots changed drastically. At the beginning of the century, voters wrote the names of the candidates for whom they wished to vote on a piece of paper and put that piece of paper into the ballot box. Legislation followed that allowed voters to cast professionally printed ballots, which opened the door to political parties providing their supporters with pre-printed ballots to cast. Towards the close of the century, the Australian ballot, also known as the secret ballot, was introduced to America and over a two decade transition period was implemented nationwide. Each of these reforms caused controversy and threatened the political system by introducing new methods for committing fraud. By studying the Political Ephemeral Collection at the Huntington Library, it is possible to see how the ballots actually changed over the years as new laws were passed. Studying how ballot reform laws impacted ballot design and voting patterns in the past can aid in determining how modern day ballot reform legislation may impact the political scene in America.

Introduction

Problems seem to be arising with elections in America nearly everyday. Whether its is the butterfly ballot in Florida during the 2000 presidential election, or the Texas Democrats fleeing their state to prevent redistricting that would effect congressional elections in the future, or the California county registrars grappling with designing a ballot with 135 certified candidates on it for a single race during the

2003 gubernatorial recall election, America is facing many challenges to its electoral process. One particularly challenging aspect of holding a legitimate election is properly designing the ballot. A ballot is more complicated than a simple list of races and candidates. Which race should be listed first?¹ What order should the candidates be listed in?² Should the partisanship, profession, etc. of each candidate be listed?³ What font should be used so that the voter can easily read the ballot? Should languages other than English be included? These questions, and others must be addressed by election officials, and the decisions made can influence the outcome of the election in question.

This is why, when I learned of the Huntington's Political Ephemera collection, I jumped at the opportunity to study the historical ballots in the collection. As the assortment of political paraphernalia from throughout American history is quite extensive became necessary for me to narrow my focus. I chose to examine the collection of 19th California ballots, ranging in dates from 1851 to 1890.⁴ I chose California for a number of reasons. At the beginning of the summer of 2003, with a gubernatorial recall looking increasingly likely in California, it seemed appropriate to look at the design of California ballots in the state's history to see what other challenges the state's electoral system has faced. Another factor in my choice was the fact that of all the ballots that the Huntington has, California is the state with the widest representation.

History

L.E. Fredman begins the first chapter of his book, The Australian Ballot: The Story of an American Reform, with a history of the word "ballot", including the word's derivation and its place in a number of historically important events.⁵ According to Fredman, the word ballot comes from the Italian *ballotta*, which means "little ball". In Italy, during the 16th century, there was apparently a method of holding a vote where the votes cast were secret, that entailed using items such as colored balls or even beans. Peoples as far back as the Romans had used this system, and while there were occasionally problems with fraud, the system worked well enough that the term "ballot" eventually spread to England during Middle Ages. Fredman goes on

¹ Should local races and ballot measures be listed before state or national races? Or vice versa?

² Alphabetical? Should the incumbent be listed first? Should the names be randomized?

³ Should incumbency be indicated? Hometown?

⁴ There is nothing magical about this time period (1851-1890), so much as this is the range of the ballots that the Huntington has in its collection.

⁵ For those wondering what an Australian ballot has to do with America, an Australian ballot is a secret ballot, named for the country that first used the form that we still use today.

to discuss how the ballot was and was not used throughout England's history, but I found this earliest history the most interesting, and in many ways, the most pertinent to studying ballot design in 19th century California.

Even in America's youth, the ballot was commonly used to cast a vote. The form that a ballot could take, however, varied widely until the early 19th century. Prior to this time the colonies, and later the states, used everything from beans and corn, to "voice voting" to various forms of paper balloting as methods of representing a voter's choice. Early in the 19th century, there were many states that permitted constituents to vote by handwriting their choices. As one might imagine, this presented a variety of challenges, not the least of which was reading each voter's handwriting. Soon, the parties, seeking to have more control over how their followers voted, started printing ballots of their own, for the voter to use in place of handwriting his own. There are several references in the literature about this transition to court cases concerning the legality of a printed ballot provided by a political party. Massachusetts was one of the earliest states to deal with this issue in its courts. In *Henshaw v. Foster*, a voter participating in the 1829 election used a printed ballot to indicate his vote for 55 different races. The ticket was rejected because Massachusetts law stated that "every member of the House of Representatives shall be chosen by *written votes*." ⁶ The voter went to court, and the judge ruled that printed ballots qualified as written. Clearly there was considerable controversy over whether or not printed ballots should be permitted, or if handwritten votes were the only acceptable method.

It is at this point in American history that the Huntington Collection becomes valuable. Prior to the parties taking over the production of the ballots, there is no voting material to be saved and therefore no voting material to look at nearly 200 years later. There is some literature about what these ballots looked like, and what their pros and cons were, but since there is a collection of said ballots available to study, I prefer to begin by looking at this collection, and seeing what can be observed.

⁶ Emphasis added. The quote and information concerning the case were taken from Eldon Cobb Evans' dissertation entitled "A History of the Australian Ballot System in the United States."

Research

The earliest California ballots that I found in the Huntington collection were from roughly 1851, and continue through the 19th century to 1890. Unfortunately, not all of the ballots were clearly labeled with the date of the election, so some of the years are estimated. In some cases I was able to use other resources⁷ to pinpoint the year more

accurately. The earliest ballots are all local elections for judges and mayors, but as the century matures, there are more and more ballots for state and national elections. The use of drawings or etchings of images, such as a patriotic eagle, the American flag, or faces of recognizable⁸ men of the time were also commonly used. Another ballot even has a red, white, and blue flag in the background, over which is printed the names of the candidates. I found the use of colored inks quite remarkable, as I can only assume that it presented a higher cost to the party, much as it would today.

The names of the parties listed at the top of the ballots vary quite a bit. The Democratic and Republican parties are prevalent in the collection, although often their ballots are titled "Regular Democratic" and "Regular Republican." I did not run across an explanation for this, but I would propose that it is due to the high prevalence of third parties. For example, there was a state election in California in 1859 in which it would seem that factions of the Democratic Party splintered off in the Tenth District⁹, due to the events that occurred in Lecompton¹⁰. Not only did this splinter appear, but it only affected the state wide races. If you compare the city nominations, they are identical. A typical ballot from this time period will identify itself as the ticket of the party distributing. (for example: Union Ticket) This format initially made me think this was merely an informative flyer, educating party members as to whom the party was supporting for office, so that the voter could cast his vote accordingly. As a voter who came of age in the 1990's, I am accustomed to the government providing me with a ballot, uniform in appearance to every other voter's ballot in my region. However, at this time in history, there was

⁷ www.politicalgraveyard.com is a website, seemingly intended for people interested in locating the gravesites of past politicians. However, I found it exceedingly helpful for identifying obscure politicians that held even more obscure offices during the time period in question.

⁸ It might be a bit presumptuous for me to say "recognizable," since I could not recognize quite a few of these images. However, those that I did recognize (images of Jackson, Lincoln, and George Washington) were such, that I am making the leap that those I did not recognize were either poorly rendered images or more local celebrities/politicians and thus too obscure for me to recognize.

⁹ I would assume that this is the tenth assembly district, but I do not know for certain.

¹⁰ The Lecompton Convention in Kansas ended in the decision that slavery should be permitted in Kansas.

no uniformity. Any piece of paper indicating a preference was accepted. Thus, I categorized any such list from this time period as a ballot.

Also of interest to me in my research was any sort of directions to the voter. Directions not only indicate the how, what, where, and when of voting at the time, but a desire of the party and/or the government (depending on who is providing the instructions) to educate the voter as to the proper manner of voting. On one of the earliest ballots from 1851, this note (right) was at the bottom of the ticket.

In all of the California ballots from this period, I found only one other ballot with instructions, and it was an 1864 presidential election ballot. If the reader will recall, in 1864 Abraham Lincoln was running for reelection and the country was in the midst of a brutal civil war. Thus, the note at the bottom of this ballot seems even more important (left).

I have summarized my observations of each of the ballots that were in the collection in tables at the end of this report. For those ballots of particular interest, I have included images, with the permission of The Huntington Library.

Ballot Design Reforms

During the 19th century many election reforms took place. Ballot design was a particularly heated issue at the time, and it was during the late 19th and early 20th centuries that America transitioned from the “vest-pocket tickets” or party strip tickets to the Australian ballot with which voters today are familiar. Britain first established Australia as a penal colony in 1788. However, by the mid-19th century, the continent was no longer a dumping ground for Britain’s criminals, and was trying to set up a formal government. Australia was facing many social problems at the time that it passed the first Australian ballot law, and Australians felt that a secret ballot was important if they were to put behind them the corruption and the vote buying common in both Britain and Australia’s past. Thus, the term “Australian ballot” became synonymous with “secret ballot.”

Having examined the ballots in the Huntington Collection, I noted things like color of the paper, color of the ink, printing on the back, etc. Today these seem quaint and interesting, but these characteristics were included in the ballot design for a very specific reason – to destroy the ballot’s secrecy. To appreciate how this is possible, it is necessary to be familiar with the rituals involved in voting in America 150 years ago. First of all, there were a number of ways a voter might obtain a ballot. His party’s local leaders might deliver it to him prior to the day of the election

or he might accept a ticket from one of the many ticket booths outside of his (and every other) polling place on Election Day. Once he had possession of a ticket, he would enter the polling place, and in California the following would occur:

“Whenever any person offers to vote, the inspector shall pronounce his name in an audible voice, and if there be no objection to the qualification of such person as an elector, he shall receive this ballot, and in the presence of the other judges put the same, without being opened or examined, into the ballot box.”¹¹

A similar method of casting votes was employed in other regions of the country as well. Clearly, the voter only had a semblance of secrecy in his vote. Because this was the common practice, and politics being what it is, parties soon found a way to manipulate the system so that it was possible to buy votes. This is why many of the tickets are so colorful and ornate. If an individual sold his vote, it was necessary to ensure that he did indeed vote in that manner, so by making the ballots easily recognizable and distinguishable from a distance, parties were able to gain even more control over the outcome of elections.

To combat practices such as vote buying, some states passed laws that required the ballot to be in an envelope when it was presented to be counted. However, when new administrations came into power, many of these laws were changed so that the envelope was optional, which of course negated its ability to prevent vote-buying. Another method of dealing with this issue was to require that ballots be printed on white paper. However, parties soon simply began varying the type of white paper they used. For example, one party might use a bright white paper, while another might use more of a cream colored paper. The solution to this was for the government to provide the paper, to ensure uniformity.

However, vote buying was not the only problem faced by electoral system at the time. There was also the problem of literacy. Not all voters were literate, and this was a particular problem once slaves were freed and given the right to vote¹². In many ways, images on the top of the ballot helped significantly with this problem, while in other was it hurt the electorate. For example, there are reports of parties, not supportive of slaves being freed and gaining suffrage, putting images of Abraham Lincoln at the top of their tickets to trick black voters into voting for their candidates. Another practice common at the time was the use of pasters. For an example, look

¹¹ Garfield and Snyder, *Compiled Laws*, 1853, ch. 140

¹² Recall that most slave owners not only didn't want their slaves to learn to read, but would punish harshly any slave who did.

at the ballot on the right. A “paster” is essentially a slip of paper with a name on it, pasted over the name that was originally on the ticket. You can see that this has occurred with Louis R. Lull’s name on this ballot.¹³ While there may well be good reasons for having to change the name of the candidate after the ballots have been printed,¹⁴ there are a number of more sinister reasons as well¹⁵.

Clearly, by the 1880’s and 1890’s it was becoming more and more apparent to Americans that there was a need for electoral change. It is at this time that many states begin passing laws to implement the Australian ballot. In California, as in many states, the change did not occur overnight. In fact, it took nearly twenty years for the Australian ballot to be completely integrated into the state’s election system.¹⁶ However, after years of legislative fights and court cases, California had a method of electing its officials that allowed the voter to vote secretly.

Conclusions

Today, as we face new challenges to our electoral system, it is important to remember how far we have come. Issues like fraud and poor voter education are not new to American politics. We have confronted them before, and found ways to improve the system. Ballot design changes are necessary to improve our election processes and to ensure that as many people have the opportunity to have their votes counted as possible. If we never made any changes, we would still be voting by handwriting a list of candidates on a scrap of paper. Need I point out what a disaster that would be?

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¹³ You might recognize this ballot as one of the ballots from the Lecompton issue mentioned earlier in the paper. In fact, another interesting thing about this pair of tickets is that Louis R. Lull’s name is pasted onto both ballots!!

¹⁴ Death or serious illness of the original candidate, for example.

¹⁵ For example, taking advantage of voters illiteracy or ignorance of the candidates, to replace the name of the listed parties candidate with a candidate from another party.

¹⁶ I have included a table, documenting the ballot laws, and other related events that occurred in California during this period. INSERT REFERENCE HERE!!!!

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