

HB

231

Alaska State Legislature
House of Representatives
Minority Leader

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Representative Ethan Berkowitz
District 13

Date: April 17, 2001

To: Representative John Coghill, House State Affairs Committee Chair

From: Representative Ethan Berkowitz 

Re: House Bill 231 hearing

House Bill 231 - "An Act eliminating the primary election, relating to the general election, and eliminating state recognition of political parties." - has a referral to the House State Affairs Committee. Copies of the sponsor statement and the bill are enclosed. Please schedule the bill for a hearing. I suggest teleconferencing the hearing to encourage public input.

HB 231 seeks to avoid the entire primary election problem arising from *California Democratic Party v. Jones* by adopting non-partisan elections without primaries – just one general election in November. This model has been followed in local elections. For example, in Anchorage, Fairbanks and Juneau, ballots for mayor and the local assemblies do not list party affiliation. Thus, removing the need for primary elections.

I look forward to working with you and your staff on HB 231. Please contact my aide, Phelan Straube, or me if you have questions. Thank you in advance for your consideration.

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Representative Ethan Berkowitz
District 13
House Bill 231

“An Act eliminating the primary election, relating to the general election, and eliminating state recognition of political parties.”

Sponsor Statement

HB 231 seeks to eliminate the need for a costly primary election by providing for a nonpartisan general election wherein each candidate will be nominated by petition. This legislation offers Alaska the ability to take an entirely new direction rather than simply reform the existing system.

A nonpartisan legislature would allow legislators to concentrate on Alaska's interests without influence from national party agendas. Campaigns would feature candidates and their individual ideas – not stereotypes attached to party labels.

This model exists quite successfully in local elections. For example, in Anchorage, Fairbanks and Juneau, ballots for mayor and the local assemblies do not list party affiliation. Campaigns are conducted based on ideas and individuals.

Political parties are essentially private organizations. We ought to question how they have achieved such a prominent role in our system and whether they deserve to retain that role. We should create an electoral system that serves Alaska's interests, not one that serves political parties. I would appreciate your support.

Current law

LOUISIANA REVISED STATUTES
TITLE 18. LOUISIANA ELECTION CODE
CHAPTER 5. PRIMARY AND GENERAL ELECTIONS

§ 401. Purpose and nature of primary and general elections

A. Purpose. Primary and general elections are held to elect persons to Congress and to all the elective offices in this state, except the office of presidential elector.

B. Nature. All qualified voters of this state may vote on candidates for public office in primary and general elections without regard to the voter's party affiliation or lack of it, and all candidates for public office who qualify for a primary or general election may be voted on without regard to the candidate's party affiliation or lack of it.

§ 402. Dates of primary and general elections

A. Gubernatorial elections. Elections for governor and officers elected at the same time as the governor shall be held every four years, beginning in 1983.

(1) Gubernatorial primary elections shall be held on the second to last Saturday in October of an election year.

(2) Gubernatorial general elections shall be held on the fourth Saturday after the second to last Saturday in October of an election year.

B. Congressional elections. Elections for members of Congress and officers elected at the same time as members of Congress shall be held every two years, beginning in 1982.

(1) Congressional primary elections shall be held on the first Saturday in October of an election year.

(2) Congressional general elections shall be held on the first Tuesday after the first Monday in November of an election year.

C. Municipal and ward elections. In all municipalities with a population of less than four hundred seventy-five thousand, elections for municipal and ward officers who are not elected at the same time as the governor or members of congress shall be held every four years.

(1) Primary elections for municipal and ward officers who are not elected at the same time as the governor or members of congress shall be held on the first Saturday in April of an election year, or on the second Tuesday in March of an election year, if the statewide

presidential preference primary election is scheduled on the second Tuesday in March of the presidential election year.

(2) General elections for municipal and ward officers who are not elected at the same time as the governor or members of Congress shall be held on the fourth Saturday after the first Saturday in April of an election year unless the primary election for such officers is held on the second Tuesday in March; in such case the general election shall be held on the third Saturday in April of an election year.

D. Parochial and municipal elections in a parish containing a municipality with a population of four hundred seventy-five thousand or more and in which the municipal and parochial elections are held at the same time. Elections for parochial and municipal officers in such a parish containing a municipality with a population of four hundred seventy-five thousand or more shall be held every four years, beginning in 1986.

(1) Primary elections for parochial and municipal officers in a parish containing a municipality with a population of four hundred seventy-five thousand or more and in which the municipal and parochial elections are held at the same time shall be held on the first Saturday in February of an election year.

(2) General elections for parochial and municipal officers in a parish containing a municipality with a population of four hundred seventy-five thousand or more and in which the municipal and parochial elections are held at the same time shall be held on the fourth Saturday after the first Saturday in February of an election year.

E. Special elections to fill newly created office or vacancy in office. An election to fill a newly created office or vacancy in an existing office, except the office of state legislator or representative in congress, shall be held on the dates fixed by the appropriate authority in the proclamation ordering a special election as follows:

(1) A special primary election shall be held on the first of the following days that is not less than eleven weeks after the date on which the proclamation calling the special primary election was issued:

(a) The second to last Saturday in October, when the special general election is held on the fourth Saturday after the second to last Saturday in October.

(b) The first Saturday in October, when the special general election is held on the first Tuesday after the first Monday in November.

(c) The first Saturday in April, when the special general election is held on the fourth

Saturday after the first Saturday in April or on the second Tuesday in March during the presidential election year, if the statewide presidential preference primary election is scheduled on the second Tuesday in March of the presidential election year; however, commencing in 1986 and every fourth year thereafter, this date shall not be applicable in a parish containing a municipality with a population of four hundred seventy-five thousand or more.

(d) The third Saturday in October, when the special general election is held on the fourth Saturday after the third Saturday in October of 1985 and every fourth year thereafter.

(e)(i) The first Saturday in February of an election year for parish and municipal officers in a parish containing a municipality with a population of four hundred seventy-five thousand or more.

(ii) The first Saturday in February of 1995, except in parishes and municipalities where an election on bonds, taxes, and other propositions or questions has been called and held in January of 1995. Notwithstanding the provisions contained in > R.S. 18:467 and 468, the qualifying period for primary elections held on the first Saturday in February of 1995 shall open on the third Monday in December of 1994 and shall close at 5:00 p.m. on the Wednesday following the third Monday in December of 1994.

(2) A special general election shall be held on one of the following days:

(a) The fourth Saturday after the second to last Saturday in October of 1983 and every fourth year thereafter.

(b) The first Tuesday after the first Monday in November of even-numbered years.

(c) The fourth Saturday after the first Saturday in April of any year unless the primary election is held on the second Tuesday in March; in such case the general election shall be held on the third Saturday in April; however commencing in 1986 and every fourth year thereafter, this date shall not be applicable in a parish containing a municipality with a population of four hundred seventy-five thousand or more.

(d) The fourth Saturday after the third Saturday in October of 1985 and every fourth year thereafter.

(e)(i) The fourth Saturday after the first Saturday in February in a parish containing a municipality with a population of four hundred seventy-five thousand or more, when the special primary election in such parish and municipality is held on the first Saturday in February of an election year for parish and municipal officers.

(ii) The fourth Saturday after the first Saturday in February of 1995, when the special primary election is held as authorized in R.S. 18:402(E)(1)(e)(ii) on the first Saturday in February of 1995.

(3) The secretary of state shall not include the name of any candidate on any ballot for a special election to fill a vacancy in any office to which this Subsection is applicable unless such special election has been called in accordance with the provisions of this Subsection and scheduled on one of the dates provided herein. Any elector who is eligible to vote in any such special election may apply for injunctive relief to prohibit the placing of the name of any candidate in an improperly called election on the ballot. Venue for such application shall be in any parish in which the election is called, and the secretary of state shall be the proper party defendant.

(4) Repealed by Acts 1999, No. 254, § 3, eff. Jan. 1, 2000.

F. Bond, tax, or other elections. Every bond, tax, or other election at which a proposition or question is to be submitted to the voters shall be held only on one of the following dates:

(1) The second to last Saturday in October or the fourth Saturday after the second to last Saturday in October of 1983 and every fourth year thereafter.

(2) The first Saturday in October or the first Tuesday after the first Monday in November of even-numbered years.

(3) The first Saturday in April or the fourth Saturday after the first Saturday in April of any year or on the second Tuesday in March or third Saturday in April during the presidential election year, if the statewide presidential preference primary election is scheduled on the second Tuesday in March of the presidential election year; however, commencing in 1994 and every fourth year thereafter, the first Saturday in April shall not be applicable in a parish containing a municipality with a population of four hundred seventy-five thousand or more.

(4) The third Saturday in October or the fourth Saturday after the third Saturday in October of 1985 and every fourth year thereafter.

(5) The third Saturday in January of any year, the third Saturday in July of any year, which dates, in addition to the other dates provided for in this Subsection, shall be exclusively for elections on bonds, taxes, and other propositions or questions and for no other kind of election, except for a special election called to fill a vacancy in the office of state legislator; however, commencing in 1994 and every fourth year thereafter, the third Saturday in January shall not be applicable in a parish containing a municipality with a

population of four hundred seventy-five thousand or more.

(6) For a parish containing a municipality with a population of four hundred seventy-five thousand or more, the first Saturday in February or the fourth Saturday after the first Saturday in February in 1986 and every fourth year thereafter.

(7) In case of an emergency, upon application to and approval by the State Bond Commission by two-thirds vote of its total membership, and with approval of the governor, the governing authority of a parish, of a municipality, or of a parish or city school board may conduct a bond or tax election on a Saturday which is not provided for in this Subsection.

G. Prohibited days. No election of any kind shall be held in this state on any of the days of Rosh Hashanah, Yom Kippur, Sukkoth, Shimini Atzereth, Simchas Torah, the first two days and the last two days of Passover, Shavuoth, Fast of AV, or the three days preceding Easter. If the date of any election falls on any of the above named days, the election shall be held on the same weekday of the preceding week.

§ 481. Candidates who qualify for a general election

The candidates who qualify for each office remaining to be filled in the general election are those who received the two highest numbers of votes, the four highest numbers of votes, and so on among those not elected in the primary election, until the maximum number of candidates for each office on the general election ballot is reached.

§ 482. Number of candidates who may qualify for a general election

Except in the case of a tie vote, the number of candidates for an office who may qualify for the general election is twice the number of persons remaining to be elected to the office.

§ 483. Effect of tie vote in a primary election

If, as a result of a tie vote in a primary election, the number of candidates who would qualify for the general election is more than twice the number of persons remaining to be elected to the office, all of the candidates who received the same number of votes in the primary election qualify for the general election.

Louisiana's Open Election Law

by Representative Charles D. Lancaster, Jr.

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In 1973, during Governor Edwards' first term in office, he proposed legislation which became Louisiana's open election law. Governor Edwards proposed our present election system because he was aggravated that after two Democratic primaries, he was still faced with a general election, at that time, against Congressman David Treen.

Louisiana's open election law did away with both the Democrat and Republican Party primaries. Instead of party primaries, Louisiana's open election law authorizes one primary election for all candidates, regardless of political affiliation or lack thereof, after which the top two candidates run off in what is referred to as a general election. Louisiana is the only state in the United States that does not preserve the right of both political parties to have either an endorsed or nominated candidate in a ballot position in the general election.

The long term impact of the open election system on both political parties, as intended, has been devastating. Initially, the Republican Party appeared to be the beneficiary of the change from a close primary to an open election system since many conservative Democrats, who had remained in the Democratic Party only for the purpose of being able to vote in that Party's primary, were now able under the open election system to switch their affiliation to the Republican Party.

However, the negative impact of the open election system has far outweighed the perceived benefits. Multiple Republican candidates' running against Democrats and one another for the same office at the same time has resulted in enormous divisions within the Republican Party, destroying both the structure and the cohesiveness of the Party. There can be no doubt that Bennett Johnston and Edwin Edwards would not have won their

last elections had the Republican Party still retained the right to select one nominee to face them in a general election.

The Louisiana State Republican Party has tried to come up with a selection system that would be acceptable to multiple Republican candidates, but thus far has failed in its mission. Multiple Republican candidates at all levels of government simply seek the Republican endorsement or ignore it, and then, regardless of whether they receive it or not, continue into the primary election, causing divisiveness and resentment on all sides.

Although, on occasion, this "numbers game" inherent in the open election law may benefit an individual Republican candidate, it certainly will never benefit the Republican Party as an institution. Instead, the Republican Party will simply be reduced to another political organization that endorses candidates for public office rather than nominating one candidate.

Only when the State of Louisiana recognizes the right of a political party to nominate a candidate for inclusion on the general election ballot will the political parties of this state regain the status that they enjoy in every other state and United States of America. Unfortunately, the outlook for any legislation that would restore to political parties their right to automatically nominate a candidate for the general election appears to be remote.

As a result of the failure of both the Republican State Party and the Louisiana Legislature to resolve this situation, the support of Louisiana Republicans will again be diluted among at least three Republican candidates for Governor rather than united behind a single Republican nominee who would then be in an excellent position to be elected Governor this year.

Circuit Breakers

(continued from p. 7)

\$400. For homeowners in the lowest income tax bracket (below \$5,099), eligible claimants can get a credit up to \$400. For those in the highest eligible bracket (incomes of \$13,500 to \$15,000) the credit is \$50. For renters eligible for the program, the maximum credit is 9.5% of total annual rent in the lowest income bracket, dropping to 2.5% for those in the highest bracket. These figures are adjusted each year for inflation.

Other Method

Pennsylvania has a circuit breaker rebate program to provide property tax relief to elderly or permanently disabled persons. The rebate is 100% of the property tax bill (up to a maximum of \$500 for claimants with less than \$5,000 in income), dropping to 10% of the tax bill for claimants with incomes of \$13,000 to \$15,000. Pennsylvania does not index these income levels or the rebate amounts for inflation. But to provide relief from inflation to those eligible, the state pays an additional rebate called an "inflation dividend" each year. It ranges from \$20 for income between \$13,500 to \$15,000, to \$125 for income under \$5,000.

Current Illinois Bill

House Bill 1568 (Schakowsky-DeJaegher-Rice-Balanoff) would increase the circuit breaker income ceiling from \$14,000 to \$16,000 next year. Starting in 1993 the income ceiling would be indexed to inflation using the Consumer Price Index for All Urban Consumers (CPI-U). The bill would also slightly change one of the limits for a circuit breaker grant from 4.5% to 4.25% of household income. The bill is on interim study in the House Revenue Committee. ■

Corina Bergschneider
Research Assistant

Open Primaries: Pro and Con.

The right to vote is considered sacred in a democracy, but more and more Americans have chosen not to vote since 1960. Nationwide turnout in presidential elections dropped almost 13 percentage points over the past 2 decades; just over 50% of the voting-age population voted in the 1988 presidential election. Turnout in non-presidential years has also fallen, to about 36.5% of the voting-age population—a decline of 12 percentage points since 1966.

Arguments for Open Primaries

Some believe the decline in turnout can be stemmed at the state level by amending election laws to allow "open" primaries, although the evidence is mixed. In an open-primary state, voters need not declare a party affiliation. They get a ballot for each party and, in the voting booth, choose one to vote on. Hawaii, Idaho, Michigan, Minnesota, Missouri, Montana, North Dakota, South Carolina, Tennessee, Utah, Vermont, Virginia, and Wisconsin have open primaries. Alaska, Louisiana, and Washington go further, having "blanket" open primaries in which voters get one ballot showing primary candidates for all parties. They can vote in one party's primary for some offices and in another party's primary for other offices, but cannot vote in more than one primary per office. "Closed" primary states such as Illinois require voters to declare a party affiliation to get their desired ballot.

Proponents of open primaries claim they raise turnout by making voting easier and more private. A voter's party choice remains secret, and

independent voting is facilitated.

Academic studies comparing voter participation in open and closed primaries have not consistently found higher turnout in open-primary states. A study of 619 contested congressional primaries held in 1978 and 1980

found no significant effect of the type of primary on turnout. Studies of presidential primaries also did not clearly find that the type of primary affected participation. However, two kinds of studies did find a connection between open primaries and turnout.

U.S. Senate Primaries

A study of 117 contested primaries for U.S. Senate seats from 1968 to 1980 in 43 states found higher participation in states with less restrictive primaries. The percentage of the voting-age population voting in open-primary states averaged about 5% more than in closed-primary states. The percentage voting in states with blanket primaries averaged about 7% higher than in closed-primary states.

Gubernatorial Primaries

Three surveys of gubernatorial primaries also found higher turnout in states with open primaries. One study examined gubernatorial primaries from 1950 through 1976, in non-southern states in which both the Democratic and Republican parties had contests. The range of turnouts (in this study, calculated as a percent of the entire voting-age population) was from about 20% to about 50%. Closed-primary states that did not allow voters to change party registration for at least 6 months before the primary, or (like Illinois) required a declaration of party affiliation at the polls, had the lowest average turnouts—about 24% and



VOTE ONLY ONE PARTY

DEMOCRATIC PARTY



REPUBLICAN PARTY



25% respectively. Other closed-primary states had average turnout around 32.5%. Average turnout in all the closed-primary states was about 27% of the eligible voting-age population. Open-primary states had average turnout of almost 34%, and 2 blanket-primary states (Alaska and Washington) had average turnout of 39%.

Another study, of 111 gubernatorial primaries from 1968 to 1980 in 44 states in which both parties had contests, examined the combined impact of several electoral conditions on turnout. The study suggested that a 9% increase in voter turnout could be expected if a state switched from a closed primary that, going farther than Illinois, requires voters to register with a party *before* the primary, to the other extreme of a blanket primary.

A third study, of turnout in gubernatorial primaries in 36 northern states from 1951 to 1980, found that open-primary states had higher participation for both parties, and especially the Republican party.

Other Factors Influencing Turnout
Although the type of primary may influence turnout in some states, many other factors could affect participation. The gubernatorial studies found no one factor alone explaining participation differences among states. But a combination of factors might explain a considerable part of the variation between states with unusually high and unusually low turnout. One study found that 7 of the 8 states with the highest turnouts (over 38% of the voting-age population) had two or more of the following characteristics: high turnout in the general gubernatorial

election; high proportion of primaries contested; open primaries; and a competitive two-party system. Nine of the 10 states with the lowest turnout (under 25% of eligible voters) had at least two of the following factors: low turnout in the general gubernatorial election; few contested primaries; and closed primaries. Other factors that can change a state's primary turnout include voters' age, education, and income; the balance of power between parties; the closeness of each primary race; and the presence of an incumbent in the race. In addition, registration requirements, party endorsements, and having the presidential primary on the same date or in the same year can affect turnout.

Arguments Against Open Primaries

Despite what can be said in favor of open primaries, there are considerable arguments against changing the primary system. Opponents of open primaries fear a loss of party cohesion and control of candidate nomination and selection. They say more voters could act as independents or as "cross-overs" who cast ballots in the other party's primary. These votes might change election outcomes because non-party members could select a different candidate than party members would. Crossover voters could intentionally "raid" another party's primary and vote for the weakest candidate, hoping to make that party easier to defeat in the general election.

Independent and Crossover Voting
Research to test the validity of these fears includes studies on the amount and effects of independent and crossover voting in open primaries. One

review of state presidential primaries found the number of independent and crossover voters to be higher in open than closed primaries. In the 1976 and 1980 presidential primaries in Florida and Pennsylvania, and the 1980 California presidential primary (all closed primaries), about 25% to 31% of primary voters were *either* independent or crossover voters. In Wisconsin (with open primaries) 43% to 49% were independents or crossovers. Crossover voters were 9% to 11% of primary participants in Wisconsin, and 3% to 6% of voters in the closed-primary states. The closed primary was believed to restrict *crossover* voting, but its effect on an apparently growing number of *independent* voters in California, Florida, and Pennsylvania was questionable.

When the candidate choices of independent and crossover voters in all 4 states were compared with party members' primary selections, the difference in candidate preference between the two groups ranged from small to significant. Primary results were tested to see whether different participation rules might have changed the outcome. Researchers concluded that the winners of the Wisconsin, California, and Florida presidential primaries would have been the same (although their winning margins would have been different). Researchers concluded the same for primaries in Pennsylvania, with one exception: In Pennsylvania's 1980 Republican and Democratic primaries, party members' choice between primary candidates was so close that independents and crossovers may have changed the outcome.

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Open Primaries

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One of the studies mentioned above, on gubernatorial primaries from 1950 to 1976 outside the South, compared Republican and Democratic turnout rates over time to see whether changes in levels of primary turnout *between* parties increased in open-primary states due to the greater ability of voters to move between parties. It found no greater variation in each party's percentage of the total vote in open-primary than closed-primary states. Six open-primary states had the same fluctuation in each party's share of the vote as five states that had closed primaries requiring each voter to register a party affiliation at least 6 months before the election. Blanket-primary states had the highest average variation in the percentage of primary voters per party, but only slightly more than in some closed-primary states. Democratic and Republican percentages of the total primary vote differed the most over time in states where the balance of power between the parties was changing. But even in those states there was a marked time lag between increased party competition and greater equality in the share of the primary vote between the parties. In states that had such changes in the balance of power, the variation in party participation rates was no greater if the primary was open.

Extent of "Raiding"

Studies looking for evidence of organized "raiding" in Wisconsin's open primary have found none. Raiding on a large scale is considered unlikely because it would require highly sophisticated voters, and if organized by a political party it would attract considerable attention.

Some pollsters questioned voters in the 1984 Wisconsin presidential primary

looking for inconsistent voting (which could indicate raiding) by individuals. The survey found that 2% of people who voted in the Republican primary and 9% who voted in the Democratic primary reported an intent to vote against their chosen primary candidate in the general election. When uncertain voters, or those unsure whether they would repeat their primary vote in the general election, were added, these percentages grew to 10% of voters in the Republican primary and 16% of those in the Democratic primary. The pollsters did not claim to know how much of this apparently contradictory voting behavior constituted intentional raiding.

Illinois Primary Election Law

To participate in an Illinois primary, voters must state their name, address, and party affiliation to the election judges, one of whom must clearly repeat the information in a voice loud enough to be heard by everyone in the polling place. If the voter is not challenged, the judge gives the voter a primary ballot of that party. If the voter is challenged, and is not personally known by the judges to have the necessary voting qualifications, the voter must sign an affidavit including a statement of affiliation with the chosen party. The affidavit is attached to the official poll record. A challenged voter must also display 2 pieces of identification showing a current address, or produce an affidavit signed before an election judge by another qualified voter in the precinct who is known or proven to the election judges to be a precinct voter. The affidavit must state that the challenged voter is known by the qualified voter to have resided in the precinct and state for the 30 days before the primary, and is believed to be a member of, and affiliated with the specified party.

A voter who signed a nominating petition for an independent candidate, or a candidate of a party, cannot vote in another party's primary. Primary voters must be at least 18, U.S. citizens, registered, and residents of their precinct at least 30 days before the primary.

In 1972 a federal district court upheld the Illinois requirement that voters declare their party affiliation before voting in a primary. The court said this requirement does not unduly burden a voter's right to privacy, free association, or voting, or violate the federal Voting Rights Act of 1965. The court said that whatever burden is suffered by a voter is outweighed by the state's compelling interest in preventing election fraud. The court *did* invalidate another provision in the Election Code that prohibited anyone from voting in one party's primary who had participated in another major party's primary within the last 23 months. That part of the decision was upheld by the U.S. Supreme Court in 1973. The Court declared this provision unconstitutional because it "substantially abridged" a voter's ability to associate effectively with a party, thus infringing on the right of free political association guaranteed by the First and Fourteenth Amendments to the U.S. Constitution. The provision is still in the Election Code but is not enforced.

Since 1953 the General Assembly has considered 41 bills to establish open primaries. All but the latest were tabled in committee in their house of origin. House Bill 15 (Curran-Woolard-Trotter), proposing a blanket open-primary system, is on interim study in the House Election Law Committee. ■

Gayle Turek
Research Assistant

LOUISIANA LEGISLATIVE COUNCIL

Memorandum

February 19, 1974

0306

RE: Open primary election systems

I. Introduction

This memorandum discusses the differing kinds of open primary laws adopted in other states which may be considered by the Joint Legislative Committee to Study Election Laws. Before the drafting of an open primary bill can be commenced, it is necessary that the committee formulate some basic decisions with respect to the type of open primary the committee plans to present to the 1974 legislature. Some of the basic decisions to be made are: (1) what is to be the system of registration, by party affiliation or not; (2) what is to be the system of casting votes; i.e., is cross-voting to be permitted; (3) what is to be the system of candidates qualifying and filing for office, i.e., do candidates qualify by party; if so, can the candidates cross-file; (4) how are the names on the ballot to be arranged - by party or by office; and (5) which candidates names appear on the ballot in the second election - the two receiving the highest vote for each office regardless of the party or the one party candidate for each office who received the highest number of votes. In order to assist the committee with these decisions this memorandum consists of an overview of procedures for conducting elections, registering voters, filing for candidacy, expressing party affiliation and other relevant questions. Also to be considered is the effect of open primaries on political party strength, voter participation and election costs for both candidates and the state.

Following the overview of primary election laws, commentary relative to possible abuses and benefits of the differing laws will be given. Finally, in light of the 1921 Constitution as well as the proposed 1974 Consitution, the question of whether it would be necessary to amend either constitution to adopt an open primary system will be considered.

II. Open Primaries

In most states the direct primary has replaced the political conventions as the method for choosing candidates. The primary allows the voter, as opposed to a convention delegate, to directly choose the nominee for office. Over the years two types of primaries and two different procedures for conducting them have arisen. The procedural differences involve primary runoffs. The primary runoff developed in the single party southern states to prevent a minority faction of the Democratic party from winning the nomination, which was tantamount to winning the general election. Northern states in general do not have primary runoffs.

The two types of primaries are closed and open primaries. As we know in Louisiana, a closed primary limits participation to the members of that political party.

Some states have adopted by law open primary systems. Three kinds of open primaries have developed: the regular open primary, the blanket open primary and the nonpartisan open primary. Briefly defined, the regular open primary allows the voter to keep his party affiliation secret and to vote either all Republican or all Democrat but not to vote for candidates of more than one party in the same election. The blanket primary allows the voter to vote for one person under each office heading regardless of the voter's or candidate's party affiliation. The nonpartisan open primary requires that the candidates on the ballot be listed without any

party affiliation and the voter is not required to indicate any party preference.

A. Regular Open Primary

Wisconsin, Utah, North Dakota, Montana and Minnesota have regular open primary laws. In Minnesota, Montana and Utah the voter does not state his party affiliation when he registers to vote. North Dakota does not require voter registration.

These states vary with respect to the procedures by which the candidate places his name on the primary ballot. In Minnesota and Wisconsin a candidate must file an affidavit of candidacy stating his name, address, party affiliation, office being sought and a statement indicating that he meets all requirements for the office. Also he must file a petition of nomination signed by 2000 people for state office and 1000 people for a congressional office and less for smaller districts. The signers of the Wisconsin petitions promise to support the candidate in the upcoming primary. In North Dakota the candidate files an affidavit with a certificate of endorsement from a state political party chairman. Or instead of the endorsement he submits a petition signed by 3% of the voters participating in the next preceding election. In Montana the candidate only needs to file a declaration of candidacy and for state elections pay a \$50.00 fee. In Utah each political party has a preprimary convention. The two leading candidates of each convention are placed on their respective party ballots. Independents are permitted to enter the primary by collecting a petition with 300 names.

For all states the form of ballot and voting procedure is quite similar. Each ballot is divided into a section for each political party. Candidates are listed by office under each political party. The voter may choose to vote for candidates in one or the other party but not both. Most of the states have a statement on the ballot to the effect that "The elector

cannot vote for more than one party." In all states the candidate for each office from each party who receives the highest number of votes advances to the general election to represent the party. This occurs whether or not a candidate has received a majority of the votes cast for the office. In North Dakota, the name of a candidate who is a primary loser cannot be placed on the general ballot. On the other hand in Montana a loser may run as an independent.

B. Blanket Primary

Both Alaska and Washington have blanket primary systems.

In Alaska the voter can register his party affiliation in the official voter registration book, if he desires. This is voluntary. In Washington no notice of party affiliation is given during voter registration. All Alaskan candidates for state executive, state legislative and national legislative offices are nominated in a primary election. To be placed on the ballot the person must file a declaration of candidacy stating his name, address, election district, office he seeks, name of his political party, date of primary, and a statement saying that he meets all requirements for the office. Also a filing fee must be paid to the secretary of state. No nominating petition is necessary. In Washington the candidate must also file an affidavit and declaration of candidacy. On the affidavit he states in which party he seeks nomination. Also a filing fee is to be paid. The Washington and Alaska ballots are the same. All candidates regardless of party affiliation are grouped under the office that they are seeking. In partisan elections the candidate's name is followed by his party's name. The voter votes for this choice regardless of voter or candidate's party affiliation and without a declaration of political faith. Only the major political parties are allowed on the primary ballot. The candidate who receives the plurality of

votes for his party is placed on the general election ballot. The general election ballot is divided into a normal Democrat vs. Republican contest. The Alaska laws have a system that allows independents to enter the general election by filing a nominating petition. Attached is a copy of the Washington blanket primary ballot.

III. Commentary

It goes without saying that the initial observation concerning the two election open primary system is the fact that a substantial financial savings results not only to the candidates but also to the state. The state and parishes will save from having one less election to hold and subsidize. Candidates will be spared the expenditure of time and funds required in a primary runoff. Said savings is of great value because of the constant rising costs of campaigning as well as the increasing cost of conducting elections.

When open primaries are mentioned, the question of cross over voting and raiding is usually also raised. Raiding is a tightly organized effort by one party to determine the primary results of the other party. If Louisiana were to adopt an open primary raiding would be unlikely. The Republican party is not populous enough to raid and effect the outcome of a Democratic primary. The factional Democratic party is not organized enough to raid the Republican primary. The interest generated by the Democratic primary also would prevent voters from crossing over to the Republican primary. Voters normally remain in the primary which will produce the winning candidate. Cross over voting and raiding are not common occurrences in the states with open primaries.

With a Republican in the Louisiana congressional delegation and the apparent demise of the Long - anti-Long bifactionalism in the Democratic Party, one could expect the Louisiana Republican Party to grow. Regular

or blanket open primary system is not likely to retard Republican party growth. All the states with open primaries have healthy two party politics. Alaska and Washington with the blanket open primaries appear to have the more balanced political party systems. The open primary election should not be considered an enemy of the two party political system.

One of the features of the blanket open primary is the increased participation in elections that it allows independents. The independent could choose to support candidates of either party, not just one party.

IV. Constitutionality

A. 1921 Constitution of Louisiana

No section in the 1921 Constitution indicates that a voter must register his political affiliation. The form of the application contained in Article VIII, Sec. 1(c) shows no place to be used for party designation. Section 17 solely states "The Legislature shall provide for the registration of voters throughout the state." This Section would not present a problem should the state adopt an open primary system.

Article VIII, Section 4 of the 1921 Constitution states that "The Legislature shall enact laws to secure fairness in party primary elections, conventions or other methods of naming party candidates. The power of the legislature to enact open primary election laws, however, is limited by the constitutional authority of the political parties to determine voting qualification. The constitution states: "No person shall vote at any primary election or in any convention or other political assembly held for the purpose of nominating any candidate for public office. Unless he is at the time a registered voter, and have such other and additional qualifications as may be prescribed by the party of which candidates for public office are to be nominated." Thus the political party has constitutionally derived powers to limit participation in their primaries by designating that Democrats

can only vote in a Democratic primary and Republicans in a Republican primary. Therefore, it appears that a constitutional amendment would be necessary to give to the legislature the power to establish all qualifications for participation in political party primaries.

Article VIII, Sec. 15 states: "All elections by the people, except primary elections...shall be by official ballot, printed and distributed at the expense of the state; and at the head and immediately preceding the list of names of the candidates of each political party or nominating paper, a specific and separate device adopted by such political party by which the political party and the candidates of such political party or nominating paper may be indicated."

Section 15 also states that voter should be allowed to vote a straight party ticket. This Section of the Constitution refers to the procedure to be followed in placing the name of a candidate on the general election ballot and in this statement of the procedure it refers to the "second primary". Since there would no longer be under any form of open primary, a second primary, Section 15 would necessitate an amendment. Other provisions of Section 15 could conceivably need amending, particularly those providing for the placement of names on the ballot, this, of course, would depend upon the type of open primary being proposed.

B. Proposed Constitution

Article XI, Section 1 of the proposed constitution states "The legislature shall adopt an election code which shall provide for permanent registration of voters and for the conduct of all elections." This gives the legislature the power to adopt any of the open primary systems discussed above. No constitutional amendment would be needed in the event the proposed constitution is adopted on April 20, 1974.

OPEN PRIMAAR
PACKET

STATE GOVERNMENT

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The Impact of the Louisiana Open Elections System Reform

By Charles D. Hadley

Election laws are used to produce desired political consequences. For example, election laws determine the number of political parties in a political system (Rae, 1971; Wildgen, 1972). Literacy tests and poll taxes, among other devices, removed blacks and poor whites from the southern electorate (Key, 1949; Rusk and Stucker, 1978), while the Voting Rights Act of 1965 and its amendments added blacks, poor whites, Hispanics, and American Indians to the electorate.

Perhaps the most significant reform to affect the functioning of political parties in the American political system was the widespread adoption of primary elections during the Progressive Era. In the short run, primary elections did create political competition—intraparty competition—in political subdivisions with one dominant political party, in the Solid South among Democrats and in the North among Republicans. The Progressive objective to undercut the power of political bosses, however, was never realized when primary elections were put into place. And, in the long run, primary elections weakened political parties by removing their monopoly over candidate nominations (Ranney, 1975; Key, 1956). More recently, the national Democratic party made a conscious effort to return the system of presidential candidate selection to the caucus/convention process; however, the new rules established for that purpose had unintended consequences—a renewed interest in and widespread adoption of primary elections (Ranney, 1974; Ranney, 1977. Cf. Crotty, 1983).

The Open Elections Law

While the national Democratic party attempted

to end presidential primary elections, the electorally dominant Louisiana Democratic party carried things one step further by eliminating the state's general election in all but name during the 1975 legislative session. Under the open elections system, which governs all elections except presidential (for which the national Democratic party requires closed primary elections), all candidates for an office face each other in a primary election. If no candidate receives a majority of the votes cast, the top two votegetters, regardless of party affiliation, if any, enter a run-off general election.¹

The open elections system was enacted despite widespread opposition from the state's major newspapers, the Republican party, prominent Democratic officials, and good-government groups such as the League of Women Voters and the Public Affairs Research Council. It was enacted through the persistent efforts of Governor Edwin W. Edwards who was elected four years earlier after three successive, hard-fought political battles—an eight-candidate Democratic primary that he led with 23.5 percent of the vote, a run-off primary that he won with 50.2 percent, and a general election won with 57.2 percent against a "fresh" Republican contender.

After its rejection by the U.S. Department of Justice following a review required by the Voting Rights Act of 1965, the open elections law was resurrected in the legislature near the close of the session by gutting a dormant bill to make the adjustments required by Justice. It was quickly signed by Governor Edwards, flown back to

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Washington, D.C., with the governor's executive counsel, and approved for implementation in the fall elections in which Edwards was running for reelection. Any Republican opponents were required to compete in the open primary election, and the general election was eliminated.

Inter-party and Intraparty Competition

An analysis of the election cycles before and after complete implementation of the open elections system reveals its impact on the state's political parties and the electoral fortunes of their candidates. Republican voter registration, while nearly tripling between 1976 and 1984 (3.7 percent versus 12.4 percent), remains far below the 30 percent figure predicted by Governor Edwards in support of the open elections law at legislative hearings. The increase, in fact, may be attributed partially to the continuation of closed primary elections required for the selection of delegates to the presidential national conventions. As well, during the 1980 and 1984 presidential election campaigns, the Louisiana Republican party made concerted voter registration efforts through telephone banks and targeted bulk mailings (with postage-paid voter registration change cards) from elected Louisiana Republican officials. At the same time, however, there has been a parallel growth in independent voter registration from 2.8 percent to 7.9 percent over the same period.

The new elections system initially worked against the Louisiana Republican party. The number of Republican candidates for the state legislature immediately was reduced to one-fifth for the Senate (17 in 1972 versus 3 in 1975) and to nearly one-fourth for the House (39 in 1972 versus 11 in 1975). The Republican party recovered somewhat, as evidenced by its increased candidacies for both the Senate (5 in 1979 and 7 in 1983) and House (17 in 1979 and 26 in 1983) in recent elections. However, candidates without partisan affiliations are beginning to seek election to both the Senate (3 in 1983) and House (4 in 1983), and one won reelection to the House of Representatives. The new elections system appears to have had little effect on the number of Republicans seeking election to the U.S. Con-

gress and on voter turnout in gubernatorial elections which respectively was 52 percent, 51 percent, and 54 percent for 1972, 1979, and 1983 (cf. Kazee, 1983).²

The new elections system has worked increasingly to the advantage of incumbents. Prior to its adoption, 1948-72, an average of 43 percent of the state Senate and 41 percent of the House incumbents were reelected. After the implementation of the open elections system, the percentage of reelected incumbent senators steadily increased from 56 to 72 and 82 over election years 1975, 1979, and 1983 as did the percentage of reelected incumbent House members (68, 74, and 76) (O'Connor, 1982: 53 for the pre-1983 figures). Incumbent Governor Edwards, moreover, handily won reelection in 1975 during the open primary phase with 62.3 percent of the vote (see Black, 1983: 603-14).

In adapting to the open elections system, the Louisiana Republican party developed a strategy to turn the apparent incumbent election security further to its advantage. After the initial election of four Republican House members in 1972, the continued Republican expansion in the state legislature came principally through the conversion of elected conservative Democrats to the Republican party. The process began in 1977 when three House members converted. An additional Republican House member was elected in 1979 and two House members, one just prior to the 1980 swearing in, converted. In 1983, Republican candidates captured two additional House seats in the newly reapportioned legislature, bringing their total to 11.³ The one Republican Senate seat was retained.

Sitting Republican state legislators and Louisiana Republican party officials became increasingly adept at courting and converting sitting Democrats. They targeted those with conservative political philosophies and those whose districts had conservative Republican voting profiles in presidential and gubernatorial elections.⁴ Furthermore, a promise was made not to run Republican candidates against them after they converted. Six additional members of the House and a senator converted to the Republican party during the 1984 presidential election campaign. Another five members of the House, in-

cluding a member of the Democratic National Committee and its former speaker under Republican Governor Treen, and a senator converted in 1985 bringing the party's totals to 22 of 105 House seats and 3 of 39 Senate seats.

With Governor Edwards constitutionally prohibited from seeking reelection,⁵ the 1979 gubernatorial election permits an assessment of Democratic party divisiveness. Among the gubernatorial candidates, all of whom were required to compete in an open primary election regardless of partisan affiliation, the Democratic field included Lieutenant Governor James E. Fitzmorris, Jr.; Secretary of State Paul J. Hardy; House Speaker E.L. "Bubba" Henry; Public Service Commissioner Louis Lambert; and State Senator Edgar "Sonny" Mouton. U.S. Congressman David C. Treen was the only Republican candidate. The top two votegetters were Republican Treen who led the primary field with 297,674 votes and Democrat Lambert who, with the backing of organized labor, ran a close second with 283,266 votes to edge out Fitzmorris by 2,506 votes. Fitzmorris alleged election fraud. When the electoral dust settled, all the losing Democrats backed Republican Treen, campaigned on his behalf, and, after Treen's narrow runoff victory (50.3 percent), received high-level appointments in his administration. In 1983, however, Treen was defeated for reelection in a basic two-candidate contest, losing to popular former Governor Edwards, who received 62.4 percent of the open primary vote.

Successful electoral efforts by Republican candidates is greater among the more minor political offices such as police jury (county commissioner) and school board. The number of Republican elected officials, including U.S. Congressmen, state legislators, district attorneys, sheriffs, police jurors, city councilmen, and school board members, increased from fewer than 50 in 1975 to 118 in 1981, 270 in 1983, and 345 in 1984, representing 8.5 percent of all officials elected in Louisiana.

Campaign Costs

The open elections system worked to the immediate advantage of Governor Edwards (and future incumbents) by refocusing the major campaign

effort and related spending from the general election—in the primary, runoff, general election series for Democrats—to the *open primary* election which could be won with a majority of the vote, thus negating the necessity and expense of a runoff general election. Republican candidates were forced to join the crowded field of Democratic contenders with varying degrees of political liberalism/conservatism. With this electoral refocus and intense competition, the 1979 Louisiana gubernatorial campaign became the most costly ever held in the United States up to that time.

The \$20.6 million spent put Louisiana far out front in all of the gubernatorial campaigns held between 1978 and 1980; the remaining top six state contests, in rank order, include California, West Virginia, New York, Texas, and Kentucky in which respectively was spent \$13.5 million, \$12.7 million, \$11.3 million, \$11.2 million, and \$9.3 million. The average gubernatorial campaign expenditure over the period was \$3.5 million which is further reduced to \$2.2 million by removing the six big spenders from the compilation. Recalculated on a cost per vote basis, however, Louisiana with \$15.03 ranks behind Alaska (\$19.35) and West Virginia (\$17.18). Per vote campaign costs for the other states were significantly less, the average being \$2.29 (Beyle, 1983: 188-90). The 1983 gubernatorial campaign was much of the same with Edwards reporting a record campaign expenditure of \$12.6 million to incumbent Governor Treen's \$6.4 million. In per vote terms, Edwards alone spent \$12.52 and Edwards/Treen together \$11.91.

Election Administration Costs

From an analysis of election administration costs over the four-year election cycles immediately preceding and following complete implementation of the new election system, election administration costs continued to rise despite the elimination of the third set of elections. The smallest amount spent by the state to administer elections prior to the new system was \$1,327,837 (1974) and the largest was \$2,317,503 (1973); the cycle average was \$1,871,284. In contrast, the lowest cost in the first cycle under the open elections system was \$1,936,472 (1980) and the highest

was \$3,554,635 (1979) when the 1982 figure (\$4,859,012) is recalculated for consistency by using 1971-80 costs (\$2,721,046).⁶ Louisiana's election administration costs increased 30 percent to an open elections system cycle average of \$2,662,616. In terms of constant dollars, which take into account inflation (1972=100), election administration costs, on the average, remained nearly unchanged over the election cycles before and after complete implementation of the open elections system (see Anderson and Hadley, 1983, for the figures, including a comparison with Kentucky).

Number of Elections

Louisiana eliminated one complete set of elections, yet there was no reduction in election administration costs. Why? One possibility, since changed, was the required holding of special elections to fill judicial, state, and local vacancies. However, the increase in judicial elections was modest—from an average of 30 to 38 from one election cycle to the next. The increase in other special elections, however, was more substantial—107 versus 150—but consisted mainly of municipal referenda not paid for by the state unless held in conjunction with state elections. Also, as required by state law, special elections to fill vacancies must be held in conjunction with regularly scheduled elections. The number of elections held increased by nearly 1,000 after complete implementation of the open elections system. From an inspection of available records in the Elections Division, Office of the Secretary of State, this change appears to be related to increased challenges to incumbent public officials, challenges which result in runoff general elections.

Political Party Role

Prior to the adoption of the open elections system, the Democratic and Republican parish executive committees "qualified" candidates who ran for office under their party label and collected candidate "qualification" fees. The committees also accepted recommendations and appointed poll commissioners, ran the primary and runoff primary elections, and tabulated and promulgated the election results. Prohibited from adding sur-

charges to the qualification fees by the 1972 legislature, the political party parish executive committees were left without any functions when the state assumed complete responsibility for the conduct of elections, including the professionalization of poll commissioners and candidate qualification, under the open elections system. Primarily to give the state Democratic party and Democratic parish executive committees financial stability, the 1982 legislature permitted the state political parties and parish executive committees to add surcharges to the candidate qualification fees imposed by the state. The collected surcharges are only permitted to be spent for organization maintenance. The income brought the state Democratic party back from complete bankruptcy as the gross fees collected in 1983, 1984, and 1985 amounted to \$265,000, \$90,000, and \$16,000 respectively. The wide variation in collected fees, of course, depends upon the offices up for election in each of the four years in an election cycle.

Summary and Conclusion

The open elections system, enacted by the legislature and implemented for the 1975 elections through the persistent efforts of Governor Edwin W. Edwards, served his pending reelection goal. Rather than having to mount a demanding election campaign through a primary and runoff primary only to meet a fresh, well-financed Republican candidate in the general election as he had in 1971-72, he easily won reelection in the primary phase of the new open elections system which required all candidates to compete regardless of partisan affiliation, if any.

Not only did the new elections system force Republican candidates to compete from the beginning of the elections process, it also dampened the growth of the fledgling Louisiana Republican party. Republican voter registration experienced steady but modest growth. The number of Republican state legislative candidacies initially were substantially reduced. The recent Republican state legislative seat gains became more attributable to the conversion of sitting conservative Democrats (15) than to changes in the election system. The new elections system, moreover, placed such a premium on the open primary

phase that election contests, such as that for governor in 1979, intensified Democratic divisiveness. (The 1983 gubernatorial election, while attracting nine candidates, remained a two-way battle between incumbent Governor David C. Treen and former Governor Edwin W. Edwards, who considered himself "governor in temporary exile.") Also, election administration costs did not recede under the new system even though the third set of elections was eliminated as increased intraparty competition during the open primary produced an increased number of runoff general elections.

From the standpoint of campaign finance, the new system, with its intensified primary election phase competition, gave birth to very expensive election campaigns such as the 1979 gubernatorial contest, which was the most expensive ever held in the United States. The 1983 gubernatorial contest, settled during the primary phase, was not far behind. Finally, to accommodate the open elections system, the ballot was restructured from a party column to office block arrangement to inhibit straight ticket voting. Party symbols—considered invaluable to illiterate and semiliterate voters and including the unique designation for the state versus national Democratic parties—were eliminated from the ballot. The conduct of primary elections was absorbed by the state from the political party executive committees which were left without functions in the electoral process.

Election rules changes are not neutral. While they may have immediate electoral benefits, they also have far-reaching and unforeseen consequences which significantly can affect the party system (e.g., Ranney, 1974: 72-74, 93). At a time of increased concern with the strengthening of party organizations (Cotter, et al., 1984; Price, 1984), the Louisiana ballot was restructured in a way to inhibit straight party voting, and Louisiana political parties lost a major role in the elections process. If the direct primary made "[political] parties even more decentralized than before" (Ranney, 1975), the Louisiana open elections system institutionalized multifactionalism—crowded electoral contests for the same office—described by Earl Black (1988) at the gubernatorial level. The possibility to win with 50 per-

cent of the votes cast has forced *all* candidates to refocus attention on and to intensify campaign efforts at the primary election phase. The elections system tends to produce increasingly crowded election contests at *all* levels of government for *both* the Democratic and Republican parties.

Notes

1. The U.S. Department of Justice, on complaint from the NAACP, twice rejected a similar electoral change for Mississippi on the basis of racial discrimination.
2. The 1983-84 figures were supplied by the Executive Director, Louisiana Republican Party, and by the Elections Division, Office of the Secretary of State, State of Louisiana.
3. Conservative political philosophy, too, separates Louisiana Democratic party professionals with respect to a return to closed primary elections.
4. Both the House and Senate had one Republican member elected in 1982 special elections.
5. A Louisiana governor is constitutionally limited to two consecutive terms of office.
6. Polling place rents and poll commissioner compensation were increased beginning 1981.

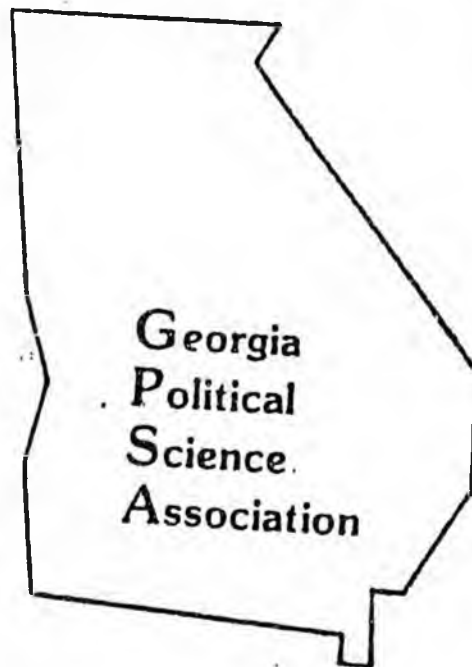
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SUPPORT FOR THE RETURN TO CLOSED PRIMARY ELECTIONS: LOUISIANA PARTY PROFESSIONALS ON THE OPEN ELECTIONS SYSTEM

Charles D. Hadley

Election laws are used to produce desired political consequences (Rae, 1971; Wildgen, 1972). For example, they were used to keep blacks and poor whites out of the southern electorate (Key, 1947; Rusk and Stucker, 1978) and, with the Voting Rights Act of 1965, to add both groups to the voting rolls.

Perhaps the most significant reform to affect the functioning of political parties in the American political system was the widespread adoption of primary elections during the Progressive era. In the short run, primary elections did create political competition--intraparty competition--in political subdivisions with one dominant political party, in the Solid South among Democrats and in the North among Republicans. The Progressive objective to undercut the power of political bosses, however, was never realized when primary elections were put into place. And, in the long run, primary elections significantly

*Without the assistance of Alan Abramowitz who generously shared the questionnaire and the cooperation of state party leaders Deborah A. Schaeffer, John B. Vinturella, Donna Akers, and Greg Beuerman this study would not have been possible. It was facilitated by research grants from the College of Liberal Arts and by support from the Computer Research Center, University of New Orleans. I also wish to acknowledge valuable advice from my colleague Michael D. McDonald and assistance from Deborah B. Haley.

weakened political parties by removing their monopoly over candidate nominations (Ranney, 1975; Key, 1956). More recently, the national Democratic Party made a conscious effort to return the system of presidential candidate selection to the caucus/convention process; however, the new rules established for that purpose had unintended consequences--a renewed interest in and widespread adoption of primary elections (Ranney, 1974; Ranney, 1977. Cf. Crotty, 1983).

The open elections system

While the national Democratic Party attempted to end primary elections, the electorally dominant Louisiana Democratic Party, through the persistent efforts of Governor Edwin W. Edwards, carried them one step further by eliminating the state's general election in all but name during the 1975 legislative session. Under the open elections system, which governs all elections except presidential for which the national Democratic Party requires closed primary elections, all candidates for an office face each other in a primary election. If no candidate receives a majority of the votes cast, the top two vote getters, regardless of party affiliation, enter a run-off general election.

The open elections system was enacted despite widespread opposition from the state's major newspapers, the Republican Party, prominent Democratic officials, and good government groups such as the Public Affairs Research Council. After being rejected by the U.S. Department of Justice in a review required by the Voting Rights Act of 1965, it was resurrected in the legislature by gutting a dormant bill to make the necessary adjustments required by Justice, signed by Governor Edwards, and personally carried by the Governor's Executive Council back to Justice for final approval in time for implementation in the Fall elections where Governor Edwards was

running for re-election. (See Anderson and Hadley, 1983a.)

Party professionals on the open elections system

From the analysis of party professionals--county chairmen, county executive committee members, PAC chairmen, and State Central Committee members--who responded to the Democratic Delegate Survey completed April 19, 1982, with a response rate of over 56% and the Republican Leadership Survey completed November 15, 1982, with a response rate of over 61%, there is wide agreement among Democratic and Republican Party professionals that the open elections system saves "the state money by having fewer elections" (76.5 versus 74.3%), saves "candidates both money and campaign strain by having fewer elections" (78.2 versus 71.0%), did not "undercut the growth of the Louisiana Republican Party because it was assumed that two Democrats would always be in the run-off elections" (73.0 versus 66.3%), and that the law does not discriminate "against any political party or group" (70.8 versus 91.9%) as shown in Table 1. Party professionals, however, disagree whether the law was a mistake "now that we have had some experience with the way the open primary law operates;" 52.8% of the Democrats and only 13.7% of the Republicans take that view. In fact, a majority of the Democratic Party professionals (54.1%) agree that an attempt should "be made to return Louisiana to the system of closed primary elections in which Republicans and Independents CANNOT PARTICIPATE such as in our presidential primary elections," a view held by only 14.0% of their Republican counterparts.

Despite the fact that Democratic professionals, who feel an attempt should be made to return to the system of closed primary elections, believe the open elections system saves the state money (67.2%) and

Table 1. State party leaders' perceptions of the Louisiana open elections system, 1902 (in percentages).

	Democrats			Republicans		
	Yes	No	(N)	Yes	No	(N)
When it was passed by the state legislature, did you think that the open primary election law would:						
Save the state money by having fewer elections.....	76.5	23.5	(119)	74.3	25.7	(101)
Save candidates both money and campaign strain by having fewer elections.....	78.2	21.8	(119)	71.0	29.0	(100)
Undercut the growth of the Louisiana Republican Party because it was assumed that two Democrats would always be in the run-off elections.....	27.0	73.0	(111)	33.7	66.3	(104)
Provide a stimulus for the growth of the Louisiana Republican Party	45.5	54.5	(112)	71.4	28.6	(105)
Now that we have had some experience with the way the open primary law operates, do you think it was a mistake?	52.8	47.2	(123)	13.7	86.3	(117)
Should an attempt be made to return Louisiana to the system of closed primary elections in which Republicans [Democrats] and Independents CANNOT PARTICIPATE such as in our presidential primary elections?	54.1	45.9	(122)	14.0	86.0	(114)
The way the open primary law is functioning, do you feel it discriminates against any political party or group?	29.2	70.8	(120)	8.1	91.9	(111)

saves candidates money and campaign strain (65.6%), they overwhelmingly agree that the open elections system was a mistake (89.4%) perhaps because they perceive that the law stimulates Republican Party growth (54.0%) and that it discriminates (50.8%) as shown in Table 2. When controlled for race, moreover, it is white rather than black Democratic Party professionals who feel that the law discriminates. Though few in number their Republican counterpart hold similar views with respect to the open elections system. Substantial numbers feel that it saves the state money (61.5%), saves candidates

Table 2. State party leaders' perceptions of the Louisiana open elections system, those favoring a return to closed primary elections, 1982 (in percentages).

	Agree an attempt should be made to return to the system of closed primary elections					
	Democrats			Republicans		
	Yes	(N)	No	(N)	Yes	(N)
When it was passed by the state legislature, did you think that the open primary election law would:						
Save the state money	67.2	(64)	86.8	(53)	61.5	(13)
Save candidates money and campaign strain.....	65.6	(64)	92.3	(52)	57.1	(14)
Undercut growth of Louisiana Republican Party.....	26.6	(64)	26.7	(45)	64.3	(14)
Stimulate Louisiana Republican Party growth.....	54.0	(63)	34.0	(47)	38.5	(13)
Open primary law was a mistake.....	89.4	(66)	8.9	(56)	68.8	(16)
Open primary law discriminates.....	50.8	(63)	3.7	(54)	46.2	(13)

* For the complete question wording see Table 1.

money and campaign strain (57.1%), was a mistake (68.8%), and that it discriminates (46.2%). Republican professionals who wish to return to closed primary elections, moreover, feel that the law undercut the growth of the Republican Party in Louisiana (64.3%). Not surprisingly, only 38.5% feel that the law stimulated party growth. Substantial numbers of Republican Party professionals take a contrary position as shown in Table 2.

Demographic and political characteristics

Given the strong sentiment to return to closed primary elections, it becomes important to identify the party professionals, especially among the electorally dominant Democrats, who hold those attitudes. The key demographic characteristics are education, family income, age, and place of residence as shown in Table 3. Support for a return to closed

Table 3 Demographic characteristics of Louisiana state party leaders who support the return to closed primary elections, 1902 (In percentages).

	Democrats	N	Republicans	N
<u>Education</u>				
High school graduate or less	39.1	(23)	--	--
Some college	58.6	(29)	18.5	(27)
College graduate	57.1	(70)	12.2	(82)
<u>Family income</u>				
Less than \$25,000	41.2	(34)	23.1	(13)
\$25-44,999	56.8	(44)	10.0	(30)
\$45,000 plus	61.4	(44)	13.4	(67)
<u>Age</u>				
18-39	67.3	(52)	19.4	(36)
40-49	47.6	(21)	13.8	(29)
50 plus	44.8	(49)	11.1	(45)
<u>Place of residence</u>				
City	62.2	(74)	15.0	(80)
Town	54.5	(22)	10.0	(20)
Rural area	30.8	(26)	14.3	(14)
<u>Sex</u>				
Male	55.9	(93)	11.4	(79)
Female	48.3	(29)	21.9	(32)

primary elections increases the more educated the Democratic Party professionals are (58.6% and 57.1% among those with some college education and college graduates) and the greater their family income is, the strongest support coming from those with family incomes of \$45,000 or more (61.4%). It decreases with increased age; the youngest age group, 18-39, has the strongest desire to return to closed primary elections (67.3%). Support, moreover, tends to decrease the less populated the area in which one lives; those living in rural areas have a support level of only 30.8% as compared with that of city dwellers (62.2%).

While the age relationship remains similar among Republican Party professionals, support for a return to closed primary elections diminishes as age increases, from 19.4% (age 18-39) to 11.1% (age 50 plus), it is reversed for education and family income. Support is greatest among those with some college education (18.5%) as opposed to college graduates (12.2%) and among those earning less than \$25,000 (23.1%) as opposed to those with the highest family incomes (13.4%/\$45,000 and over). Interestingly, it is the Republican Party female professionals, at a level nearly twice that of their male counterparts (21.9% versus 11.4%) in contrast to Democratic Party male professionals (55.9%), who support the return to closed primary elections.

Levels of party activity and political philosophy, too, among Democratic Party professionals, are related to support for the return to closed primary elections as shown in Table 4. Consistent with the age relationship examined earlier, the shorter the length of time one has been active in party politics, the greater the tendency is to support the return to closed primary elections (60% for those active less than 10 years as opposed to 45.5% for those active 20 years or more). Moreover, support is related to involvement in partisan politics either measured by the number of party, government, and campaign positions held (48.1%, 54.5%, and 73.9% respectively for categories 1-2, 3, or 4 or more) or by how often one was involved in recent state and national political campaigns (56.7%, all/most versus 45.8%, few/none). The relationships, however, do not hold up for Republican Party professionals. Political philosophy is another matter; conservative Democrats give the lowest level of support (39.4%) while the most conservative Republican Party professionals give the highest level of support (18.2%)--nearly twice that of those somewhat conservative (11.3%)--for the return to closed primaries.

Table 4 Political characteristics of Louisiana state party leaders who support the return to closed primary elections, 1982 (in percentages).

	Democrats	N	Republicans	N
<u>How long have you been active in party politics in Louisiana?</u>				
Less than 10 years	60.0	(50)	16.7	(54)
Between 10 and 20 years	55.2	(29)	10.5	(30)
More than 20 years	45.2	(42)	14.3	(21)
<u>How often have you been actively involved in recent state and national political campaigns?</u>				
Active in all/most	56.7	(97)	14.0	(100)
Active in few/none	45.8	(24)	15.3	(13)
<u>Summary of party, government, and campaign positions held</u>				
1-2	48.1	(77)	9.1	(44)
3	54.5	(22)	23.1	(26)
4 or more	73.9	(23)	13.6	(44)
<u>How would you describe your own political philosophy?</u>				
Very/somewhat liberal	55.7	(61)	--	--
Middle-of-the-road	70.8	(24)	--	--
Somewhat conservative	39.4	(33)	11.3	(52)
Very conservative	--	--	18.2	(44)

Summary and discussion

A majority of the electorally dominant Democratic Party professionals, perhaps due to the beliefs that the open elections system discriminates against a party or group and stimulates Republican Party growth, support a return to closed primary elections. They tend to share the common demographic characteristics of being younger, college educated, urban and having high family incomes and political characteristics of being most recently very active in party politics and having middle-of-the-road and liberal

political philosophies. There is a much lower level of support, but support nonetheless, among Republican Party professionals though the pattern is not clearcut; the overriding motivation may be the correct perception that the open elections system undercuts their party (Cf. Kazez, 1983).

Interesting⁷ Democratic and Republican party professionals misperceive the impact of the open elections system on Louisiana and its politics. The state did not save election administration costs through the elimination of one set of elections; in fact, average election administration costs increased from the last election cycle (\$1,871,284), 1971-1974, prior to the complete implementation of the new system to the election cycle immediately after (\$2,662,616), 1978-1981 (Anderson and Hadley, 1983b). Campaign expenditures remain among the highest in the United States. Five Democratic gubernatorial candidates and 1979 winner Republican David C. Treen spent a total of \$20.6 million (excluding in-kind contributions) (PAR Analysis, 1980); the 1983 expenditure totaled \$19 million when former Governor Edwin W. Edwards recently unseated incumbent Governor Treen.

The open elections system weakened Louisiana's political parties by requiring a ballot modification from party column to office block, making optional the necessity of party affiliation when running for political office, removing political parties from qualifying candidates for office, and institutionalizing multifactional candidacies over which the parties may be trying to get some control through candidate endorsements.

It remains to be seen whether the party professionals support for a return to closed primary elections will lead to future electoral reform.

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House Bill No. 1252 by Representative Lancaster

House Bill No. 1252 provides for a party primary election system with voting by any voters in the primary election of any party for any office. Representative Lancaster presented the bill.

Representative Lancaster explained that while House Bill No. 1252 retains the right of the major parties to nominate a candidate to the general election, it allows crossover voting by members of either political party and by independent voters in either party's primary election. He explained that a voter could cast some votes for one party's candidates and some votes for the other party's candidates but could cast only one vote per race. He stated that the bill seeks to remedy what he sees as the dilution of the importance of the party system.

Representative Copelin asked for clarification on the bill. Representative Lancaster replied that the three types of election systems in the country include an open election system such as is used in Louisiana, an open primary system such as provided for in House Bill No. 1252, and a closed primary system.

Representative Hebert announced that the fiscal note on the bill indicates increased costs to the state of \$6,876,985 for fiscal years 1995-96 and 1999-2000 and \$4,155,000 for fiscal years 1996-97 and 1998-99 due to the additional primary elections.

Representative Lancaster stated that while he favors a plurality vote determining the outcome of the first primary, the runoff primary elections would more accurately reflect the will of the people.

Ms. Elsie Cangelosi, Department of Elections and Registration, P. O. Box 14179, Baton Rouge, Louisiana, informed the committee that the fiscal note does not take into account the fact that every voting machine will have to be locked out in order to allow for crossover voting mixed between the two parties.

Representative Downer asked how such mixed voting would work as a practical matter at the polls and how independent candidates are not excluded from the system.

Representative Lancaster stated that the machines would not have to be locked out, because all candidates will be listed on the ballot and when the votes are counted, the top democrat and top republican for each office will enter the general election. He explained that an independent could get on the ballot through the use of the petition system as required by the U.S. Supreme Court.

Representative Copelin pointed out that, for instance, the republican in the general election could have received fewer votes in his primary than the second highest candidate in the democratic primary. Representative Lancaster acknowledged that this is the case with the open primary systems as used across the country, with the top democrat and the top republican facing each other in the general election at the conclusion of the primary elections.

Representative Bruneau noted that runoff elections would be held unnecessarily in cases where one candidate receives the majority of the total votes cast in the primaries. Representative Lancaster repeated that no other state has a system wherein the top republican and top democrat do not enter the general election regardless of differences among the various states' systems and that both parties have suffered under the open system by having less of a role in elections. He stated further that the open election system favors fringe candidates on the far left and far right political factions to the detriment of mainstream, moderate candidates of either party.

Representative Hebert announced that Mr. Jim Nickel, Louisiana Democratic Party, 263 Third Street, Suite 102, Baton Rouge, Louisiana, filed a witness card indicating the party's opposition to the legislation but did not testify.

Representative Copelin noted the necessity of technical amendments to the bill and further requested an amendment that would make the bill effective immediately. Representative Copelin offered a motion that the amendments be adopted to which there was no objection. Representatives Bowler, Bruneau, Copelin, Dorsey, Downer, Green, Guillory, Hebert, Lancaster, Stine, and Willard-Lewis voted yea, and the amendments were adopted by a vote of 11-0.

Representative Lancaster offered a motion that House Bill No. 1252 be reported with amendments to which Representative Copelin objected and made a substitute motion to defer action on the bill. The roll was called on the substitute motion which passed by a vote of 8-3 with Representatives Bruneau, Copelin, Dorsey, Downer, Green, Guillory, Hebert, and Willard-Lewis voting yea, and Representatives Bowler, Lancaster, and Stine voting nay. Action was deferred on House Bill No. 1252.

House Bill No. 2158 by Representative Vitter

House Bill No. 1576 by Representative Murray

House Bill No. 1576 provides for a closed party primary election system with candidates and voters participating in a first and second primary according to party affiliation, except the party state central committee may permit voting by unaffiliated voters. Representatives Murray and Lancaster presented the bill.

Representative Murray explained that the bill would allow voters to vote only for candidates who are members of their party in separate party primaries to determine who would be the candidate for that party in the general election. He noted that the bill would reinstate the system that was in place prior to the implementation of the open primary system.

Noting that only 21% of the registered voters in the state are republican, Representative Green pointed out that there was a democrat pitted against a republican in each runoff race in the last gubernatorial election, a fact he said indicates that the current system meets the same objective of a party system.

Representative Murray stated that the bill seeks to make party affiliation more meaningful and would lead to more moderate views on issues than in the past. He stated that rather than candidates of each party making statements designed to attract voters of the other party, candidates should adhere to party platforms and voters should vote according to the candidates' positions on certain issues. He added that Louisiana is the only state with the particular election system currently in operation.

Representative Green pointed that the provisions of the bill requiring a closed primary election for each party translates to 21% of the electorate automatically choosing one candidate in a runoff, while the larger portion of the voters would be excluded from choosing a preferred candidate in the primary if he happened to be a republican. Representative Murray pointed out that it would be a simple matter to switch parties in order to cast a vote for a candidate of one's choice in that case. Representative Green noted that many voters might prefer a candidate of one party for one office and of another party for another office. Representative Murray repeated that an intention of the bill is that voters express their support for candidates of one party or another.

Representative Green asked why the bill allows for crossover voting in the general election and not in the primary election under such a theory of party affiliation. Representative Murray answered that the voter would be able to choose the candidate to become the standard bearer for his party.

Representative Bruneau noted the need for technical amendments to the bill and offered a motion that the technical amendments be adopted. Representatives Bowler, Bruneau, Copelin, Dorsey, Green, Guillory, Hebert, Lancaster, Stine, and Willard-Lewis voted yea, and the technical amendment was adopted by a vote of 10-0.

Representative Bruneau noted that under provisions of the bill, independent voters would not be able to vote until the general election unless a particular party will allow the independents to vote in its primary, which he said would disenfranchise 200,000 voters. He noted further that the bills provides for a second primary election for each party followed by a general election and asked how much the additional election would cost.

Ms. Elsie Cangelosi, Department of Elections and Registration, P. O. Box 14179, Baton Rouge, Louisiana, informed the committee that one statewide election costs the state approximately \$3.5 million. Relative to the election cycle, she stated that the open primary would be held on the regular date, the runoff primary would be held on the regular date for the current general election, and the general election would be held in December.

Representative Bruneau stated that such system would not encourage voters to more actively participate in elections. He added that a candidate other than one who is running for political party office should present his philosophy to the entire electorate regardless of party affiliation. He noted that voter registration remains closed under provisions of the bill.

Representative Lancaster stated that rather than a primary candidate running for public office, he is running for the nomination of his political party, which would be followed by participation in the public general election.

Representative Bruneau responded that, whereas currently the majority rules, under the provisions of House Bill No. 1576 candidates who represent a minority of the voters could be in the general election, precluding the voice of the entire electorate from being heard in choosing its representatives.

Representative Hebert announced that the fiscal note on the bill indicates increased costs to the state of \$6,876,985 for fiscal years 1995-96 and 1999-2000 and \$4,155,000 for fiscal years 1996-97 and 1998-99 due to the additional primary elections.

Representative Bruneau stated his opinion that the motivation for the bill is that people were dissatisfied with the choice of candidates in the last gubernatorial general election.

Representative Copelin asked how the bill would benefit the parties. Representative Murray stated that many candidates run as democrats who do not have traditional democratic positions in their platform. He acknowledged that the Louisiana Democratic Party does not support the bill. Representative Lancaster answered that the party system has served the state and country well and that the republican party supports a system whereby each party is represented in the general election, with the addition of an independent candidate in the runoff using the petition process.

Representative Copelin pointed out that the U.S. Department of Justice has taken a position that states which change from an open system to a primary system must provide for plurality vote rather than majority vote and noted that the bill requires a majority vote. Representative Murray commented that it is difficult to predict rulings of the department because such rulings are sometimes inconsistent.

Mr. Jim Nickel, Louisiana Democratic Party, 263 Third Street, Suite 102, Baton Rouge, Louisiana, stated the party's opposition to the legislation. He pointed out that the open primary system has served to strengthen the republican party in the state and that the current system provides Louisiana voters with a free and unencumbered opportunity to participate in elections. He noted that a closed primary system would in many cases lead to runoff primaries which would in turn lead to increased costs of elections both to the taxpayers and to candidates. He noted that while Louisiana is the only state with an open primary system, it also has the highest voter turnout on a regular basis, which can be attributed to the open primary system.

Representative Copelin suggested an amendment which would make the bill effective immediately. He offered a motion that the amendment be adopted to which there was no objection. Representatives Bowler, Bruneau, Copelin, Dorsey, Green, Guillory, Hebert, Lancaster, Stine, and Willard-Lewis voted yea, and the amendment was adopted by a vote of 10-0.

Representative Lancaster offered a motion that House Bill No. 1576 bill be reported with amendments to which Representative Copelin objected and made a substitute motion to defer action on the bill. The roll was called on the substitute motion which passed 8-3 with

Representatives Bruneau, Copelin, Dorsey, Downer, Green, Guillory, Hebert and Willard-Lewis voting yea and Representatives Bowler, Lancaster, and Stine voting nay. Action on House Bill No. 1576 was deferred.

Ms. Cangelosi presented a number of recommendations made by the Department of Elections and Registration which she said would bring the law into compliance with actual election day procedures relative to conversion of automatic voting machines to printer type machines and to electronic voting machines since legislative authorization allowing new types of machines. She added that there are more and more parishes with voting machines capable of producing printer type or electronic election results and noted that in her opinion the proposed changes are technical.

Representative Irons proposed a motion that recommendations #3-7 and #10-13, which are the technical changes referred to above relative to voting machines, be adopted en globo. There was no objection to the motion which passed by a vote of 8-0 with Representatives Bowler, Bruneau, Dorsey, Green, Guillory, Irons, Lancaster, and Reilly voting yea.

Ms. Cangelosi noted that there had been a recommendation brought before the board relative to the form in which names may be signed on a recall petition that was no longer necessary in light of extensive discussion on the subcommittee bill draft on the subject.

The final recommendation presented by Ms. Cangelosi was made by the Department of State and relates to military absentee voting by mail. She explained that currently if a voter encloses his primary ballot envelope in the same return envelope with his presidential ballot, his primary ballot may remain sealed until the general election and not be counted. The amendment provides that such ballot envelope shall be marked "Presidential Ballot Only", she stated.

Representative Irons proposed a motion to adopt this recommendation. There was no objection to the motion which passed by a vote of 8-0 with Representatives Bowler, Bruneau, Dorsey, Green, Guillory, Irons, Lancaster, and Reilly voting yea.

House Study Request No. 15 by Representative Lancaster

Representative Lancaster presented House Study Request No. 15 of the 1993 Regular Session which requests the Committee on House and Governmental Affairs to study the feasibility and advisability of replacing the open election system with a party primary election system.

Representative Lancaster noted that the current system of electing officials in the state has now been in effect for 18 years and that Louisiana is the only state which does not retain the right of both political parties to have a nominee in the general election. He pointed out that the state's system is often erroneously referred to as an open primary system in which voters can vote as they choose, with the top Republican and top Democratic candidates engaging in a runoff. Representative Lancaster further explained that a closed primary system is one in which only those registered within a particular party can vote for the nominee in that party, with both parties running a candidate in the general election.

Representative Lancaster noted that Mississippi tried and failed to change to an open elections system when the U.S. Department of Justice determined that the open system discriminates against minorities. Representative Lancaster stated that he feels political parties lend stability to government and make the U.S. stand out among other democracies.

Professor Charles D. Hadley, University of New Orleans, Department of Political Science, New

Orleans, LA, appeared before the subcommittee to provide background information on the open election system. He stated that in his opinion the current system exists because Governor Edwards supported its implementation following the 1972 gubernatorial election to cut down on the effort and costs of campaigning. He noted that opposition to the open election system was widespread throughout the state at that time and that it was not precleared by the U.S. Department of Justice when first submitted.

Representative Bruneau stated that the system was not immediately precleared because of provisions allowing qualifying of candidates by petition.

Professor Hadley continued that the open election system cuts down on party competition and the number of initial candidates, as well as offering incumbents protection. He stated that the open system did not in fact reduce the cost of elections because the state assumed the responsibility of holding and promulgating the primary phase of elections and that it also rendered the role of political parties ineffective partly because party executive committees often automatically endorse incumbents. Professor Hadley noted that the political parties were helped by later legislation providing that political parties could add filing fees.

Professor Hadley referred the subcommittee to articles he had published on the subject of election systems and made them available to the members.

Representative Green asked the percentage of Republicans in the state's electorate. Representative Bruneau answered that Republicans make up 19.4% of the electorate under the open elections system. Representative Green noted that many statewide elections turn out to be matches between Republicans and Democrats under the present system and asked if this does not contest the argument that the open election system thwarts the efforts of Republicans to have a candidate pitted against a Democratic candidate in a runoff election. Professor Hadley responded that he believes the system discriminates against black candidates as well as Republicans. Representative Green noted that there does not seem to be an outcry from blacks or other minorities against the open election system. Professor Hadley agreed, but noted that in his opinion this is because Governor Edwards, who originally sought to implement the system, has always had solid support among the black community. He stated further that a closed primary system would enhance the growth of the Republican Party because more districts would probably run Republican candidates and more voters would register Republican in order to be able to vote.

Representative Bruneau stated that the state abandoned the closed primary system because of scandal in the 1978 congressional election. In answer to questions by him, Professor Hadley responded that up to that time Republicans made up only about 5% of the electorate and that there are many more Republicans in the legislature and in local office under the open primary system, as well as more blacks. Professor Hadley pointed out, however, that many Republicans in the legislature were elected as Democrats and converted to the Republican Party and that the reason there are more blacks in the legislature is because of the way districts are drawn.

Representative Bruneau stated that the open system allows for more public participation and choice by voters.

Representative Lancaster stated that from its onset he has thought the open system would weaken parties' influence on government and that this void of influence would be filled by

special interest groups' contributions to campaigns. He noted further that in his opinion the political party structure in Louisiana is as weak as any in the country and that historically under the party system many people registered as Democrats but voted as Republicans. Professor Hadley agreed with Representative Lancaster's assessments. Representative Lancaster stated that a strong party system would generate accountability and allow for something other than personalities and special interest groups to run the state.

Representative Lancaster noted that in the most recent gubernatorial primary, the Republican candidates garnered a total of approximately 70% of the vote, so that presumably a Republican should have been elected. He added that under the party primary system the votes would not have been split and that the Republican in that runoff election was not the Republican Party's choice of candidate.

Mr. Jim Nickel, representing the Louisiana Democratic Party, 263 Third Street, Suite 102, Baton Rouge, LA testified that there is no clear consensus among Democrats on the issue of election systems. He stated that the Democratic Party has concentrated its efforts on winning elections under the current system rather than changing the system and consequently has not acquired a wealth of knowledge on the issue to share with the subcommittee.

In response to inquiry by Representative Bruneau, Mr. Nickel stated that under the open election system, the Democratic Party has been able to develop a staff, a research component, an ability to actively engage in elections in many areas, and an ability to raise and expend funds as a party.

Representative Lancaster asked how the Democratic Party chooses the candidates it supports. Mr. Nickel answered that the bylaws provide for a majority vote of the state central committee to endorse candidates for state and federal office. He added that the parish committees have the responsibility to endorse candidates for local offices. Mr. Nickel stated further that the party attempts to assist Democratic candidates in races where it can make a difference rather than helping every Democratic candidate in every race. In response to Representative Lancaster, he stated that the party has never during his career endorsed a challenger against an incumbent Democrat.

Mr. Nickel agreed with Representative Lancaster that special interest has as much or more impact on campaigns than either party, which he said is why the Democratic Party supports as many incumbents as it does.

In response to questions by Representative Lancaster, Mr. Nickel stated that he would personally prefer not to be limited to a closed primary system.

Mr. Nickel commented that in his opinion it is the fault of the Democratic Party and not of the system in general that has weakened the party. Representative Lancaster stated that the same is true of the Republican Party, but that the current structure is difficult for both because of lack of impact of either party.

Mr. Dud Lastrapes, representing the Louisiana Republican Party, 209 Englewood Drive, Lafayette, LA, testified that the Republican Party has grown substantially as a result of the open primary system. He remembered that in the past people were discouraged from registering as Republicans because they couldn't vote in primaries. He agreed with Representative Lancaster that political parties lend stability to the political process, and that

the present system tends to blur the differences between the parties and the issues in a campaign so that voters vote for personalities. Mr. Lastrapes said a stronger party system would eliminate confusion for voters in determining what candidates stand for.

Representative Lancaster asked Mr. Lastrapes to describe the difficulty of the Republican Party in trying to formulate a procedure whereby a gubernatorial candidate is selected. Mr. Lastrapes answered that the state central committee is the policy making body of the party and determines the process. Representative Lancaster noted that the endorsement procedure has resulted in running candidates who do not always do well in the primary under the open elections system. Mr. Lastrapes agreed that the endorsement procedure presents a challenge and stated his preference for a party system of election.

Representative Lancaster commented that the state would be better served under a party system because the wide divergence between factions of both parties moves the focus away from political issues and philosophies.

Representative Bruneau commented that the majority of the voters should have the say in an election. He said that a party primary system would not necessarily guarantee a majority consensus.

IV. OTHER BUSINESS

Representative Bruneau reminded Ms. Cangelosi of his request that the commissioner of elections follow up on complaints made by voters that the bell on the new electronic voting machines in Orleans Parish is not loud enough to signal the end of voting. She answered that the voting machine company had been contacted and is reviewing the situation.

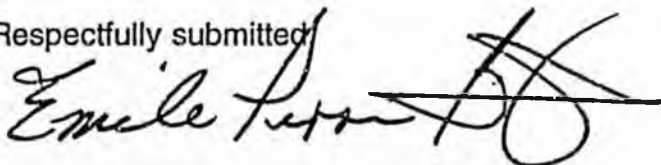
V. ANNOUNCEMENTS

Representative Bruneau commended Ms. Cangelosi for her continual efforts in the maintenance of the Code of Elections.

VI. ADJOURNMENT

The meeting was adjourned at 11:40 a.m.

Respectfully submitted,



Emile "Peppi" Bruneau, Jr., Chairman
Subcommittee on Elections of the
Committee on House and Governmental Affairs

Date Approved: _____

December 16, 1994

Open primaries

BY MARY BONE

Which states have open primaries? Voters are not required to register as members of a political party in the 25 states with some form of open primary, according to the Federal

Election Commission. In Alaska, California and Washington, voters participate in blanket primaries, listing all candidates of all parties for all offices. Voters may vote for one candidate for each office and are not restricted to voting in one political party. States with closed primaries enforce party discipline, prohibiting voters from voting for candidates outside of their own parties.

States also have unique approaches to primary voting. Indiana's primary is partially open. Voters are not required to list their party when registering to vote. At the polls they are asked for which party they are voting and given a ballot for that party.

Louisiana has a "unitary" or nonpartisan primary, in which the candidate who receives more than 50 percent of the vote is elected to the office; there is no election for that office in the general election. If no candidate receives the majority of votes, the two candidates with the most votes go on the general or runoff election ballot. The U.S. Supreme Court declared Louisiana's elections unconstitutional this year, ruling it violated federal law by not holding national elections in November. A federal judge ruled that Louisiana will have its state and local primary on Oct. 3. The runoff for that election will be on Nov. 3 and will also include a primary for national candidates. If a runoff is declared for national candidates, that election will take place Dec. 3.

For more information, contact the States Information Center. The SIC provides an inquiry and reference service to the states. Its staff responds to information requests from state government officials and staff on a variety of issues. Contact the SIC at (606)



Voters may cross party lines in open-primary states.

States with open, blanket and unitary 1998 primaries



Open primaries

Blanket primaries

Unitary primaries (nonpartisan)

Source: Federal Election Commission

Mary Bone is manager of CSG's States Information Center.

US Supreme Court Strikes Down Blanket Primaries in CA

The US Supreme Court on Monday, June 26th, struck down the California blanket primary system as a violation of the First Amendment rights of the state's political parties. The case involved a challenge by the state's Democratic, Republican, Libertarian and Peace and Freedom parties to the primary system put in place by Proposition 198 which was adopted by voters in 1996. Under the blanket primary system, each party held a party primary, with candidates of each respective party seeking that party's nomination for various offices. The winner of each of the party primaries, along with qualified independents, then ran in a general election. Voters were not restricted to voting in one party primary, but could vote for candidates for various offices in different party primaries. The issue fueling the challenge was the practice of allowing anyone, regardless of party affiliation, to vote in any of the party primaries; i.e., registered Democrats could vote in the Republican gubernatorial primary, and vice-versa. This allowed non-party members to have a say in who the party nominated for governor.

The various parties challenging the provisions of Prop. 198 asserted that as political parties they had, as an element of the constitutional freedom of speech and association, the right to determine who was eligible to participate in the party's process of selecting a nominee. The nominee was, the parties urged, the duly appointed standard-bearer for the party and non-party members should have no part in his selection. This practice is what has been termed "cross-over voting", a phrase popularized recently in the Republican presidential nomination process, where Sen. McCain was believed to have had the ability to attract non-Republican voters into the Republican presidential nomination process.

The Court held that, while the states may have some compelling state interests in conducting fair and open elections, this blanket primary system was to great an infringement on the freedoms of speech and association of the parties and their registered membership to justify the interference of the state. The Court reiterated the permissible infringements, such as prohibiting parties from denying registration or participation on the basis of race, but struck down the practice of cross-over voting in party primaries.

Louisiana operates what is described by the Court as a nonpartisan blanket primary system. (The term "open primary" as used in many other states does not refer to the same system as is used in Louisiana. Rather, "open primary" in these other states refers to a party primary system in which voters select the party primary in which they will participate at the time of voting.) In Louisiana, while political parties are free to endorse candidates, using selection methods adopted internally *by the party*, there is no real "nomination" process which is designed to pit one party's nominee against another party's nominee in a general election -- in other words, in Louisiana there is no party primary. Rather, all candidates who meet some basic qualifications, which are applicable across the board, run in a primary. In the event that no one candidate gets a majority of the total vote cast, the two highest vote getters participate in a run-off. The Court spoke to the constitutionality of what it terms a "non-partisan blanket primary" where parties can nominate candidates for a primary, through internal means, who are joined in the primary by qualifying independents. The top two vote getters, regardless of party affiliation, proceed to a run-off. The Court cites the "non-partisan blanket primary" as a possible constitutional alternative to the California system.

The decision (by Justice Scalia), along with the concurrence (by Justice Kennedy) and the dissent (by Justices Stevens and Ginsburg) can be found at:

<http://supct.law.cornell.edu/supct/html/99-401.ZO.html>.