Election Policy Fundamentals: The Secret Ballot

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Provisions for a secret ballot appear in all states' laws or constitutions. Consensus that the ballot should be secret—that voters should not be able to be linked to their selections—is a somewhat recent development in American history. How to preserve ballot secrecy and balance it against other election objectives like promoting transparency, protecting against fraud, and ensuring accessibility for all eligible voters is also an ongoing issue, featuring in current election policy debates.

Origins of the Secret Ballot

Voting in the United States used to be a public process. Voters in early American elections often indicated their preferences by verbally announcing them, for example, or raising their hands.

Methods like voice voting had largely been replaced by written ballots by the middle of the 19th century, but those ballots did not necessarily offer significantly more privacy. Although voters could supply their own ballot, a more common approach was to use a political party-provided ticket (see **Figure 1** for examples). Parties' tickets were typically readily distinguishable from each other, such as by color, and handed to election officials in public view.
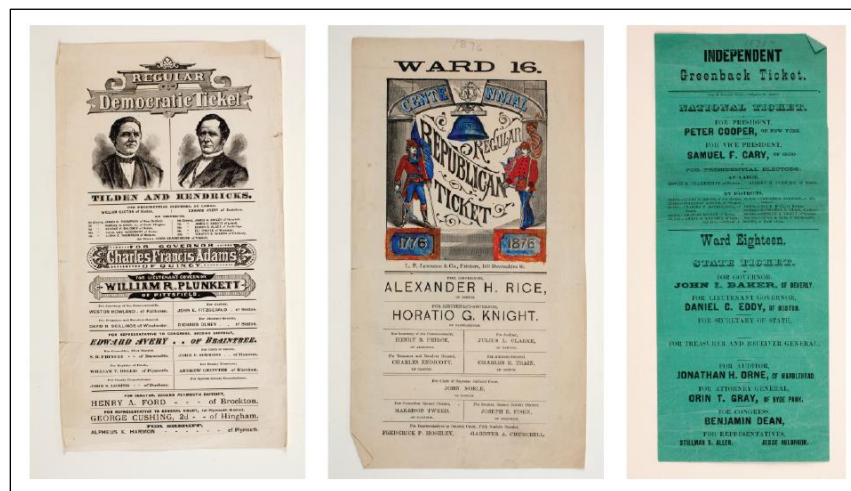
The lack of privacy enabled efforts to influence voters' choices. It made it easier for individuals engaged in vote buying to confirm that voters marked their ballots as arranged, for example, and harder for voters to shield their selections from people who might try to coerce or intimidate them into changing them.

Figure 1. Sample Party Tickets

Source: Courtesy, American Antiquarian Society.

Some states tried to limit such efforts by regulating party tickets. However, parties found workarounds for some of those regulations, such as using different shades when required to print on the same color paper, and legislators in some states rolled back others, such as requirements to use uniform ballot envelopes.

States found greater success with a more comprehensive change: shifting from individual- or party-provided ballots submitted in public to government-supplied ballots marked in private. Under that system, which is sometimes referred to as the Australian ballot, states and localities assumed responsibility for funding, printing, and distributing blanket ballots that included all duly nominated candidates (see **Figure 2** for examples). They also instituted other policies and practices aimed at ensuring secrecy, such as providing booths where voters could mark their ballots in private and prohibiting voters from sharing their ballots with intent to reveal how they planned to vote.

Figure 2. Sample Blanket Ballots

Source: Figure created by CRS.

Note: Many jurisdictions organize their ballots by the office being sought (office block), while some group candidates by party (party column).

Helping curb practices like vote buying and voter coercion was a primary attraction of the new system for many of its supporters, such as the reformist Mugwumps and labor organizations that hoped it would prevent worker intimidation. The system also appealed to other groups for other reasons. Some White southerners saw it as a way to disenfranchise Black voters, for example, and some party leaders wanted to transfer the expense of providing ballots or curtail the ability of local party officials to "cut" candidates in favor of their own choices.

The various motives combined to drive rapid spread of the Australian ballot. Louisville, KY, and the State of Massachusetts were the first to adopt it, in 1888. Thirty-eight states had implemented it by the end of the 19th century, and all had it in place by the middle of the 20th century.

Current Considerations

As this historical context suggests, "secret ballot" is often shorthand for a system of election procedures and technologies; ballot secrecy is a product of not only the ballot itself but also other parts of the election process, such as where and how ballots are cast. Choices by states, localities, or Congress about the specifics of that system can have implications for ballot secrecy.

Researchers and policymakers sometimes try to assess the risks a policy choice might pose to ballot secrecy. For example, officials in some jurisdictions have proposed responding to a post-2020 increase in demand for public access to certain types of election data by proactively releasing them. Those proposals—which aim to provide transparency, improve voter confidence, and address challenges the new demand has introduced for election offices—have prompted concerns for some that voters could be linked to their votes by cross-referencing the data against the voter file. Attempts have been made to calculate the share of votes that could be revealed through a commonly requested type of data in one jurisdiction and to check if voters can be connected to their selections via the publicly available data in another.

In some cases in which a policy proposal could pose risks to ballot secrecy, the risks might be mitigated by other policy or implementation choices. For example, election officials conduct checks to verify that ballots received by mail were submitted by the intended eligible voter. States have implemented safeguards, such as secrecy sleeves, to ensure that such checks are not used to link voters to their selections.

In other cases, where such risks are not easily mitigated, some have tried to identify alternative ways of achieving policy objectives that do not pose similar risks to ballot secrecy. For example, many states allow certain voters who face particular obstacles to voting—such as voters with disabilities, military and overseas voters, or Native American voters—to return their ballots via the internet. Some election security experts, concerned that internet voting poses risks to secrecy that cannot be fully mitigated, have proposed considering other possible ways to address accessibility challenges, such as by providing curbside or in-home access to accessible voting equipment.

Options such as those described above might factor into decisions about whether or how to balance potential implications for ballot secrecy against other possible costs and benefits of election policy proposals. Policymakers contemplating changes to election systems might consider whether the changes could pose risks to ballot secrecy, whether such risks could be mitigated by other policy or implementation choices, and whether there are other ways to achieve the intended objectives that would not pose the same ballot secrecy risks.

Acknowledgments

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