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*The Evolution of Voter Access in California*

EDITOR'S NOTE: *The upcoming presidential election and ongoing debate, legislation, and litigation concerning who is entitled to vote and how votes should be counted make this an appropriate time to look back at how Californians expanded the franchise over the past almost 175 years. This report, from the Luskin Center for History and Policy at UCLA, has been edited for style and, as necessary, footnotes have been added and links updated. Part I, in this issue, explores the 19th and early 20th century history of voter access. Part II, which will run in our Fall/Winter issue, carries the story to the present day. The Review is grateful to the Luskin Center for reprint permission and for the use of images that accompanied the original report.*

# Reckoning With Our Rights: The Evolution of Voter Access in California

## PART I

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### Introduction

FOR THE FIRST century of its existence as a state, California limited access to the franchise, excluding nonwhites and using the tools of voter suppression to prevent “voter fraud” by minorities and the poor. In the post-World War II era, the state changed its focus and worked hard to make it easier for all citizens to register and vote. Despite these efforts, California’s voters still do not reflect the diversity of its people. As the California League of Women Voters says, “California is a ‘majority-minority’ state (our population is majority Latino/a, Asian American, and other groups) with a conversely unrepresentative, older, white, wealthy electorate.”<sup>1</sup> A 2016 study underscores that point: Between 2004 and 2012, while California’s adult citizens voted in presidential races at an average rate of 61 percent, turnout among ethnic minority adult citizens was far lower, with Latino/a turnout of 51 percent and Asian American turnout only 48 percent. These differences persist even after controlling for age and social class.<sup>2</sup>

The first part of our study demonstrates how the state of California systematically discriminated during its first hundred years against different groups of prospective voters. In fact, the state employed some of the same tools used under the Jim Crow regime of the South in the 19th and early 20th centuries. These tactics were not aimed primarily at African Americans, who today vote at rates

slightly lower than whites (65 percent vs. 68 percent, according to the Advancement Project and UC Riverside).<sup>3</sup> Instead, for much of its early history, California directed discriminatory practices squarely at immigrants from China, who were banned from public and private employment and whose very presence was, according to the California Constitution of 1879, “declared to be dangerous to the well-being of the State.”<sup>4</sup> Also, early in its history the manner in which California implemented voter registration and other systems, ostensibly to check fraud, had the effect of barring access to the franchise for immigrants and the poor.

From 1849 until the Second World War, California sought to limit political power in these ways. Following the war, and especially after 1959, the pendulum began to swing the other way. State law has evolved since that time to make voting easier and broaden voting rights, while maintaining the integrity of voting systems. The last part of our study shows that although significant changes have been made to open new pathways to voting, the effective exercise of the franchise is not yet equally available to all.

### California’s First Hundred Years: Barriers of Race

California’s first Constitution, ratified in 1849, restricted the right to vote to white male citizens of the United States and to those white male Californios who had chosen to become U.S. citizens under the peace treaty that settled the Mexican War. As a concession to Mexican protocol, it allowed the legislature, by a two-thirds vote,

1. League of Women Voters of California (undated) “Voting Rights,” <https://lwvc.org/issues/voting-rights> [as of Jan. 22, 2024].

2. The Advancement Project and UC Riverside School of Public Policy (June 2016) “Unequal Voices: California’s Racial Disparities in Political Participation,” <https://www.advancementprojectca.org/wp-content/uploads/2016/07/Unequal-Voices-Single-Page-Low-Res-7-1-16.pdf> [as of Jan. 22, 2024].

3. *Ibid.*

4. Cal. Constitution (1879) art. XIX, § 4, <https://archives.cdn.sos.ca.gov/collections/1879/archive/1879-constitution.pdf> [as of Feb. 7, 2024].



Demonized figure of political corruption protecting Chinese cheap labor, dirty politicians, capital, financiers, etc. Aug. 1878–July 1879. U.C. Berkeley Bancroft Library.

to admit Indians to the suffrage (although such a vote was never taken).<sup>5</sup> Voters had to be 21 years of age, residents of the state for six months, and of “the county or district in which he claims his vote” for 30 days; the franchise was prohibited to any “idiot or insane person, or person convicted of any infamous crime.”<sup>6</sup>

In the midst of the Civil War, with President Abraham Lincoln facing a re-election battle whose outcome was far from certain, Republicans across the country looked for ways to allow soldiers to vote for their commander-in-chief. California enacted legislation allowing absentee voting for soldiers, and thousands of them cast ballots in state and local elections in 1863. However, the law was challenged by John Bourland, who lost the race for sheriff of Tuolumne County by fewer votes than the number of soldiers’ ballots cast. The California Supreme Court threw out the law, finding that the Constitution

granted suffrage on the basis of residence only.<sup>7</sup> A newspaper characterized the court’s decision as “intended to give aid and comfort to the Jeff Davis rebels.”<sup>8</sup> Later that year a second law was passed that resolved the conundrum by allowing soldiers to vote for only certain offices. In 1864 President Lincoln won re-election with 55 percent of the vote nationwide, and more than 70 percent of military voters.<sup>9</sup> Election returns from a cavalry unit stationed at Fort Humboldt in Northern California show that all but one soldier voted for Lincoln. The president won California’s five electoral votes narrowly, thanks in large part to soldiers’ support.<sup>10</sup>

5. Myra K. Saunders, “California Legal History: The California Constitution of 1849” (1998) 90 *Law Lib. J.* 447, 461. Mexican law allowed Indians who owned property to vote. One California delegate to the Constitutional Convention was himself half Indian. *Ibid.*

6. Cal. Constitution (1849) art. II, § 5, <https://archives.cdn.sos.ca.gov/collections/1849/pdf/convention-debates-reports.pdf> [as of Feb. 7, 2024].

7. *Bourland v. Hildreth* (1864) 26 Cal. 161. See Arnold Roth, “A History of the California Supreme Court in Its First Three Decades, 1850–1879” (2019) *Cal. Legal. Hist.* 293, 387 (ch 6). Roth observes that together with *Caulfield v. Hudson* (1853) 3 Cal. 389, the decision in *Bourland*, *supra*, established the power of the judicial branch to declare acts of the legislature unconstitutional, making it the *Marbury v. Madison* of California.

8. Sebastian Nelson, “Soldiers’ Ballots,” California State Archives digital exhibit (2018) <https://artsandculture.google.com/story/5QUhIVsZ0FNiLg?hl=en> [as of Jan. 22, 2024].

9. *Ibid.*

10. *Ibid.*



Union soldiers voting. *Harper's Weekly*, Oct. 29, 1864.

But there were many Confederate sympathizers in California before, during, and after the war.<sup>11</sup> Because California was admitted to the Union as a free state under the Compromise of 1850, delegates to the Constitutional Convention had not hesitated to declare in Article I that “[n]either slavery, nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.” Yet the California Legislature did not take a vote to ratify the Thirteenth Amendment, ending slavery, until two days after it had already become the law of the land in December 1865. The Legislature did not vote at all on the Fourteenth Amendment, guaranteeing equal protection of the laws, during the Reconstruction period; it became law without our state’s support. And California was one of only two free states to vote down the Fifteenth Amendment, guaranteeing the right to vote.<sup>12</sup> It was not until the early modern civil rights era that California reversed this record and voted to ratify

the Fourteenth, in 1959, and the Fifteenth Amendment, in 1962.

Nevertheless, the Fifteenth Amendment was ratified by the requisite number of other states and became law in February 1870. Although this amendment guaranteed the right to vote to all citizens regardless of race, Native Americans who maintained their tribal relations were excluded on the grounds that they were not citizens of the United States. This would not be overturned until 1924.<sup>13</sup> Ratification of the Fifteenth Amendment did make a difference for California’s 1,731 Black males 21 years or older, many of whom took advantage of the opportunity and registered to vote.<sup>14</sup> But the more urgent issue that had compelled California to oppose the extension of voting rights regardless of “race, color, or previous condition of servitude” was animus toward the 49,310 Chinese residents in the Census of 1870 — almost

11. In 1850, approximately 36 percent of U.S.-born residents of California hailed from the South. Stacey L. Smith, *Freedom's Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction*, Chapel Hill, NC: Univ. of North Carolina Press, 2013, 8.

12. *Id.* 213.

13. Jeanette Wolfley, “Jim Crow, Indian Style: The Disenfranchisement of Native Americans” (1991) 16 *Amer. Indian L. Rev.* 167.

14. Ralph E. Shaffer, “California Reluctantly Implements the Fifteenth Amendment: White Californians Respond to Black Suffrage, March–June, 1870” (unpub. paper 2020), <https://www.cpp.edu/class/history/docs/shaffer15thamend.pdf> [as of Jan. 22, 2024].

nine percent of the population, including 36,890 males of voting age.<sup>15</sup> Economic crises during the post-Civil War period had spurred xenophobia across the West and an anti-Chinese sentiment among white laborers, who feared their livelihoods would be undercut by Chinese immigrants willing to work for less. In California, this effort coalesced in the creation of the Workingmen's Party, whose slogan was "The Chinese must go!" Violent attacks on Chinese workers and communities ensued, including a massacre of Chinese immigrants in downtown Los Angeles in 1871.<sup>16</sup>

A state constitutional convention was held in 1878–79 with fully a third of its delegates representing the Workingmen's Party.<sup>17</sup> The delegates drafted an entirely new constitution for the state, which was adopted by a vote of the people in May 1879. This new constitution removed the words restricting suffrage to "white" citizens, while simultaneously providing that "no native of China . . . shall ever exercise the privileges of an elector in this State." A new article XIX, entitled "Chinese," forbade the employment of Chinese persons by any government body or any corporation, and stated, "Asiatic coolieism is a form of slavery, and is forever prohibited in this State. . . ."<sup>18</sup> According to author Stacey L. Smith, racially discriminatory measures passed in California during the Reconstruction era were cast as anti-slavery laws. Instead of excluding Chinese on the basis of race or national origin, lawmakers "claimed to break up the transpacific slave trade and to guarantee that only free laborers and voluntary emigrants came to the nation's shores."<sup>19</sup>

Chinese immigrants were not permitted to become naturalized U.S. citizens. Although federal law was revised during the Reconstruction era to grant former slaves citizenship and to allow Black immigrants to naturalize, it prohibited the naturalization of Chinese

and other Asian immigrants.<sup>20</sup> But even if they had been allowed to naturalize, they still would have faced discrimination under California law. The 1879 Constitution drew a distinction between native-born and naturalized citizens' voting rights.<sup>21</sup>

California also had a poll tax, although its history is ambiguous. The poll tax was adopted by the very first California Legislature, whose members "were convinced that there was in California a large floating population, with no real estate and very little personal property liable to taxation," who nonetheless enjoyed the benefits of residence in the state. The tax was set at \$5, at that time the equivalent of one half-day's wage.<sup>22</sup> The 1879 Constitution baked this into California law, imposing a poll tax on all males between the ages of 21 and 60 and exempting "paupers, idiots, insane persons, and Indians not taxed."<sup>23</sup>

Many Southern states used poll taxes to suppress the Black vote beginning in the 1890s, enacting laws that required payment of the tax in order to register and vote. The Nevada Legislature passed such a measure in 1898, but it was quickly struck down by that state's Supreme Court.<sup>24</sup> California considered a similar measure much earlier — in 1865 — but it was rejected by a vote of the people.<sup>25</sup> Nonetheless, in California payment of the poll tax was regularly linked to the exercise of the franchise in various ways. In his report for 1871, the state controller compared the percentage of poll tax payers to the total number of voters in each county, and reported that overall, less than 76 percent of the voting population paid the tax.<sup>26</sup> The Santa Clara County Board of Supervisors had an informal discussion about poll taxes in 1896, with one supervisor commenting that he "knew young men of age and past who would not register because the tax collector would then get their ages and they would have to pay the poll tax."<sup>27</sup> Newspaper advertisements for the opening of voter registration were

15. Shaffer, "Black Suffrage," *supra* 3; see also Campbell Gibson & Kay Jung, "Historical Census Statistics on Population Totals by Race" (Sept. 2002) U.S. Census Bureau Population Div., Table 19, California — Race and Hispanic Origin: 1850 to 1990, <https://www.census.gov/content/dam/Census/library/working-papers/2002/demo/POP-twps0056.pdf> [as of Jan. 22, 2024].

16. In October 1871, a mob of white Angelenos, motivated by racial resentment toward Chinese immigrants and a simmering, small-scale turf war involving three Chinese gangs, rampaged through the city and lynched some 18 people before order was restored. See generally, Scott Zesch, *The Chinatown War: Chinese Los Angeles and the Massacre of 1871*, Cambridge: Harvard Univ. Press, 2012.

17. Ralph Kauer, "The Workingmen's Party of California" (1944) 13 *Pac. Hist. Rev.* 278–91.

18. Cal. Constitution of 1879, art. II, § 1; *id.* art. XIX. One year after this constitution was ratified, a federal court found portions of article XIX to be unconstitutional (*In re Tiburcio Parrott*, 1 F 481, 500 (C.C.D. Cal. 1880) ), but it was not removed from the state constitution until 1953.

19. Smith, *Freedom's Frontier*, *supra* ch. 7.

20. Marian L. Smith, "Race, Nationality, and Reality: INS Administration of Racial Provisions in U.S. Immigration and Nationality Law Since 1898" (2002) 34 *Prologue Mag.* of the National Archives, <https://www.ilw.com/articles/2003,0519-smith.shtml> [as of Feb. 13, 2024].

21. New citizens could not vote unless they had been naturalized for 90 days prior to Election Day. Cal. Constitution of 1879, art. II, § 1.

22. W.C. Fankhauser, *A Financial History of California*, Berkeley, CA: Univ. Calif. Press, 1913, quoted in (1914) 9 *Transactions of the Commonwealth Club of California*, 255. In later years, the amount of the tax was adjusted to remain equivalent to one-half day's wage.

23. Cal. Constitution of 1879, art. 13, § 12.

24. "Poll Tax Law Void," *San Francisco Call*, June 28, 1898.

25. Fankhauser, *A Financial History*, *supra* at 256.

26. *Ibid.*

27. "THE SUPERVISORS. Native Californians Who Can Not Read or Write. They Never Pay Poll Tax — Why They Do Not Register." *San Jose Herald*, Aug. 11, 1896.

regularly linked to announcements that poll taxes were due.<sup>28</sup> However, it appears that although paying a poll tax was considered an obligation of citizenship, it did not function as an absolute determinant of voting rights. The author of an October 1911 article in the *Chico Record*, published shortly after women won the right to vote, noted that a number of laws would have to change to accommodate women voters:

[I]t may be assumed that the opponents of universal suffrage will insist that inasmuch as women have been granted all the privileges of full citizenship they should as well be compelled to bear its full obligations, and among these is paying poll taxes and sitting upon juries.<sup>29</sup>

Thus, paying the poll tax was an expectation, but failure to pay the tax did not abrogate a citizen's right to vote.

In 1914, Californians passed a ballot measure abolishing the poll tax, calling it “an injustice . . . a survival of despotism and a denial of democracy” because it fell almost entirely on working persons.<sup>30</sup> But unlike Nevada, California never explicitly tied voting and poll taxes together. In fact, during the 1910s and 1920s Californians considered a “slacker tax” on those who failed to vote.<sup>31</sup>

The poll tax also appears in California history as a means of oppressing the Chinese. Various forms of head taxes aimed only at “foreigners” and individuals “ineligible for citizenship” were enacted, including the Foreign Miners' License Tax Act of 1852, the Chinese Police Tax Law of 1862, and the Alien Poll Tax of 1920, which was quickly struck down as unconstitutional.<sup>32</sup> Poll taxes of any sort were fully and finally prohibited in California by Proposition 16 in 1946,<sup>33</sup> and poll taxes as a condition of voting were prohibited in federal elections through passage of the Twenty-Fourth Amendment to the U.S. Constitution in 1964 and in all other elections through the federal Supreme Court's 1966 decision in *Harper v. Virginia State Board of Elections*.<sup>34</sup>

In 1890, Southern states began amending their constitutions to require literacy tests for voting, thus peeling back the Reconstruction-era enfranchisement of former slaves. Racist and nativist attitudes carried this movement across the country, to California and beyond. A literacy requirement for voting was added to the California Constitution in 1894, mandating that every voter be able to read the U.S. Constitution in the English language and to write his name. The electorate approved this amendment by an overwhelming 84 percent. Newspaper editors joined in support, railing against the “hosts of immigrants pouring in from foreign countries” (*Los Angeles Times*) and “the crop of Chinese children growing up” and nearing voting age (*Oakland Times*).<sup>35</sup> Others stressed the good-government aspects of the literacy requirement and considered it a reform that would elevate the state of political debate in California. “Yet despite this high moral tone,” wrote scholars Roger Daniels and Eric F. Petersen in 1968, “it is clear that the anti-foreign climate of opinion, in the state and the nation, contributed to this change.”<sup>36</sup>

Those “Chinese children growing up” were benefited by the case of Wong Kim Ark, a California native born to Chinese parents in San Francisco who was refused re-entry to the United States on the ground that he was not a citizen. In 1898, the U.S. Supreme Court found for Wong and established the principle of birthright citizenship under the Fourteenth Amendment.<sup>37</sup> But many Chinese Americans did not reap the benefit of this decision. The census of Chinese residents in California declined by 24 percent from 1890 to 1900, and the Chinese share of the state's population dropped from almost 9 percent in the 1870s and 1880s to 6.1 percent in 1890 and only 3.8 percent in 1900.<sup>38</sup> It has been estimated that anti-Chinese xenophobia drove half the Chinese American population of the United States to emigrate to the land of their parents during the early 20th century.<sup>39</sup> California also received immigrants from Japan, Korea, and other East Asian countries during this period, but like the Chinese, they were not allowed to naturalize under federal law. All such immigration was choked off by federal legislation of 1917 and 1924.<sup>40</sup>

28. See, for example, advertisements in the *Sausalito News*, July 30, 1910, 2.

29. “Poll Tax, Jury Duty, and Suffrage.” *Chico Record*, Oct. 17, 1911.

30. Voter Information Guide, 1914 General Election, “Abolition Of Poll Tax. Initiative amendment to section 12 of article XIII of the constitution,” 54.

31. “Supervisor Urges Vote ‘Slacker’ Tax,” *Los Angeles Herald*, Aug. 4, 1920.

32. Sue Yong & Rob Vosslamber, “Race and Tax Policy: The Case of the Chinese Poll Tax,” (2018) 20 *J. of Aus. Tax.*, 147–64; see *In Re Heikich Terui* (1921) 187 Cal. 20.

33. “Repeal of Educational Poll Tax California Proposition 16” (1946), [https://repository.uclawsf.edu/cgi/viewcontent.cgi?article=1469&context=ca\\_ballot\\_props](https://repository.uclawsf.edu/cgi/viewcontent.cgi?article=1469&context=ca_ballot_props) [as of Jan. 28, 2024].

34. 383 U.S. 663.

35. Roger Daniels & Eric F. Petersen, “California's Grandfather Clause: The ‘Literacy in English’ Amendment of 1894” (1968) 50 *So. Calif. Qtrly.* 51, 55.

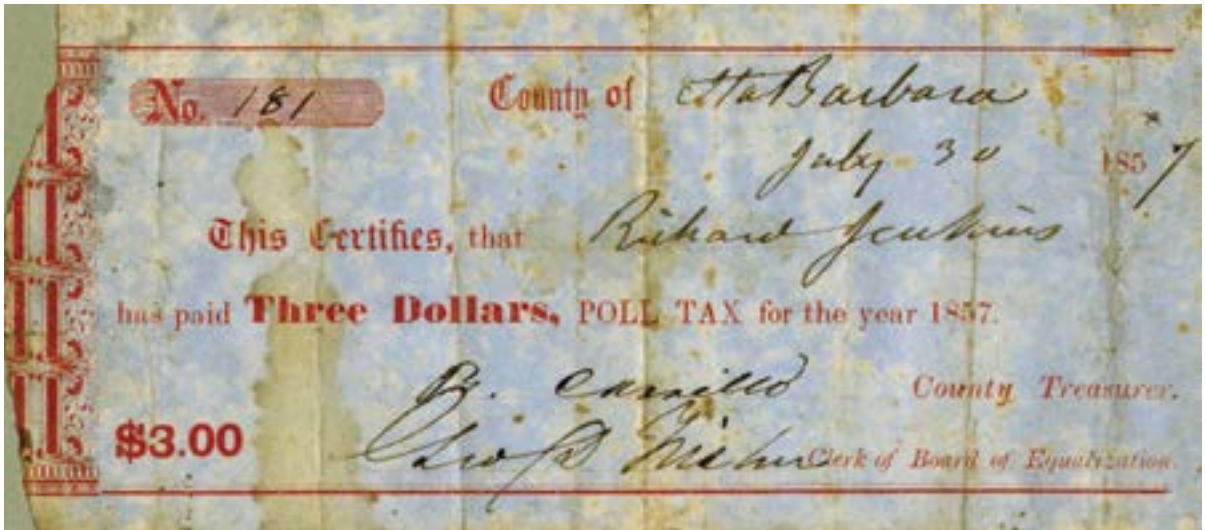
36. *Ibid.*

37. *United States v. Wong Ark Kim* (1898) 169 US 649.

38. Gibson & Jung, “Historical Census Statistics,” *supra* n. 15, Table 19.

39. Charlotte Brooks, *American Exodus: Second-Generation Chinese Americans in China, 1901–1949*, Berkeley, CA: Univ. of Calif. Press.

40. See the Asiatic Barred Zone Act of 1917, 39 Stat. 874, and the Immigration Act of 1924, 43 Stat. 153, which banned immigration of any “aliens ineligible for citizenship.”



Poll tax receipt dated July 30, 1857, issued to Richard Jenkins from the County of Santa Barbara for \$3.00. Edson Smith Photo Collection, Santa Barbara Public Library.

### California's First Hundred Years: Barriers of Class

During the mid-19th century, California began limiting access to the franchise in myriad other ways. Prior to 1866, an eligible voter could simply present himself at the polls and demand a ballot: “[A]nd if there be no objection to the qualification of such person as an elector” by any legal voter or poll worker, he could cast a vote.<sup>41</sup>

In many countries today, it's almost that simple: information supplied to one's motor vehicle department, or the draft, or the equivalent of the Social Security Administration is automatically reported to a voting database, and everyone is registered to vote.<sup>42</sup> But America is different. According to the Brennan Center for Justice: “The United States is one of few democratic nations that place the entire burden of registering to vote on individual citizens.”<sup>43</sup> That burden has fallen on California voters since the Registry Act of 1866,<sup>44</sup> which required a would-be voter to prove his eligibility to elections officials in order to be registered and thenceforth entitled to vote.

California enacted voter registration at this time alongside many other states, especially those in the Northeast that were heavily impacted by Irish and German Catholic immigration. Voter registration was considered “a good government reform, especially for the

growing cities.”<sup>45</sup> Indeed, voter registration was enacted by Pennsylvania and New York — but only for voters in Philadelphia and New York City.<sup>46</sup> This bias against urban areas suggests suppression of poor, immigrant, and minority votes. Author David Litt has argued that laws restricting voter registration were “among the earliest forms of voter suppression.”<sup>47</sup>

From 1873 until 1898 the law provided that once a person was registered, he remained registered, although over time the standards for identifying voters were tightened: In 1895, a would-be voter had to provide not only name, age, address, and date and place of birth and/or naturalization; he also had to describe his business or occupation, his height, complexion, eye color, hair color, and the location of any “visible marks or scars.” Concerns about voter fraud created barriers to the franchise for working people. In San Francisco, every landlord was required to deliver lists of tenants to elections officials<sup>48</sup> to avoid “colonization” — the term of art for packing people into rooming houses for the purpose of fraudulent voting.<sup>49</sup>

Residency requirements also were tightened. The 1879 Constitution increased the requirement for voting eligibility from six months to one year residence in

41. Cal. Stats. 1850, ch. 38, art. IV, § 25.

42. David Litt, “The Racist History of Voter Registration,” June 18, 2020, *Time*.

43. Jennifer Rosenberg & Margaret Chen, “Expanding Democracy: Voter Registration Around the World” (2009) Brennan Center for Democracy and Justice, [https://www.brennancenter.org/sites/default/files/legacy/publications/Expanding\\_Democracy.pdf](https://www.brennancenter.org/sites/default/files/legacy/publications/Expanding_Democracy.pdf) [as of Jan. 22, 2024].

44. Cal. Stats. 1866, ch. 266.

45. National Commission on Federal Election Reform (2001) “To Assure Pride and Confidence in the Electoral Process,” [https://verifiedvoting.org/wp-content/uploads/2020/09/NCFER\\_2001.pdf](https://verifiedvoting.org/wp-content/uploads/2020/09/NCFER_2001.pdf) [as of Jan. 22, 2024].

46. Gregory Downs, “Voter Suppression in the 19th Century North: The Other Disenfranchisement — and What It Tells Us About Voter Rights Today,” Humanities in Class Webinar, National Humanities Center, Oct. 15, 2019.

47. Litt, “Racist History,” *supra* n. 42.

48. Cal. Stats. 1895, ch. 186.

49. *Los Angeles Herald*, Dec. 1, 1916.

the state, and from 30 to 90 days in the county. It even added a requirement of 30 days residence in one's precinct.<sup>50</sup> The stated purpose was to ensure that voters had a good sense of community issues, but the effect was to exclude the transient and the poor.

Then in 1899 the law changed to require that every citizen reregister to vote every two years; that is, instead of being permanent, registration now had to be renewed for every election cycle.<sup>51</sup> Thus, by the turn of the 20th century voting required a great deal of economic stability. A citizen had to be willing and able to travel to the county clerk's office every two years to sign and swear to facts establishing his eligibility. One suspects that, during this *fin de siècle* period, only the most motivated of would-be voters exercised what we consider to be a fundamental right.

One more 19th-century change bears discussion. In 1891, California amended its constitution to require use of the "Australian ballot." Previously, ballots consisted of strips of paper bearing the names of one's preferred candidates, which a voter would bring to the polling place, having procured them from friends and associates. Under the Australian ballot system, the government printed ballots with the name of every candidate, and citizens would mark their choices in the privacy of the voting booth. This change was adopted in reaction to rampant fraud and corruption in late-19th-century electioneering, which included the buying and selling of votes and egregious violence at the polls. But adoption of this system effectively disenfranchised anyone who could not read English, including immigrants and the uneducated poor. It also fundamentally changed the way Americans experienced elections, as historian Jill Lepore noted. "Beyond effectively restricting suffrage . . . the Australian ballot dampened popular enthusiasm for voting by prohibiting the staging, at the polls, of heated political debates and ending the celebration of Election Day as a boisterous public holiday."<sup>52</sup> Voter turnout plummeted as a result.

By 1892 most states had adopted the Australian ballot as well as voter registration laws. According to U.S. Census data, voter turnout at presidential elections as a percent of the voting-age population fell steadily from around 80 percent in the 1890s to just 49 percent in 1924.<sup>53</sup> Economists and political scientists conclude

*One group of scholars concluded that turnout may have declined over this period "not because of changes in the interest of voters in elections, but because of changes in the interest demanded of them."*

that adoption of these two innovations are responsible for much of the decline, with the drop caused by the switch to secret balloting calculated at seven percent.<sup>54</sup> One group of scholars concluded that turnout may have declined over this period "not because of changes in the *interest* of voters in elections, but because of changes in the *interest demanded* of them."<sup>55</sup>

In 1911 California passed its signature Progressive Era reforms: the initiative, referendum, and recall. State voters that year also approved a ballot measure giving women the vote, nine years before the Nineteenth Amendment established this right in all 50 states. This change alone doubled the eligible voting population overnight.

Three years later, efforts began to amend the constitution to permit absentee voting. Opposition to this change was fierce, and proponents had to bring it to the ballot four times before they succeeded — in 1914, 1918, 1920, and, finally, 1922 when Proposition 22 was approved by a thin majority of 50.9 percent. At that point, 27 other states had already adopted absentee balloting. It was thought that 40,000 to 60,000 voters (less than 4 percent of total registration) would likely avail themselves of this option. Absentee voting was restricted to those who could show they would be absent from their home precincts on election day by reason of their occupation, "particularly traveling men, railroad men, soldiers and sailors."<sup>56</sup> These citizens could either vote in

advance at the office of the county clerk, or obtain their ballots in advance, vote on election day in the office of the clerk of another county, and mail their ballot. Either way, some election authority had to certify one's eligibility to vote.

The legislature refined the standard for absentee eligibility throughout the 1920s, and voters approved minor corresponding changes to the constitution in 1924, 1926, and 1928. In 1930, the detailed specifications concerning eligibility were removed and the class of citizens allowed to vote absentee was broadened to voters "who expect to be absent from their respective precincts or unable to vote

50. Cal. Constitution of 1879, art. II, § 1.

51. Cal. Stats. 1899, ch. 53.

52. Jill Lepore, "Annals of Democracy: Rock, Paper, Scissors," Oct. 13, 2008, *New Yorker*, <https://www.newyorker.com/magazine/2008/10/13/rock-paper-scissors> [as of Jan. 22, 2024].

53. Census data quoted in Wikipedia, "Voter turnout in the United States presidential elections," <https://en.wikipedia.org/>

[wiki/Voter\\_turnout\\_in\\_United\\_States\\_presidential\\_elections](https://en.wikipedia.org/wiki/Voter_turnout_in_United_States_presidential_elections) [as of Jan. 29, 2024].

54. Jac. C. Heckelman, "The Effect of the Secret Ballot on Voter Turnout Rates" (1995) 82 *Public Choice*, 107.

55. Stanley Kelley, Richard E. Ayres, & William G. Bowen, "Registration and Voting: Putting First Things First" (1967) 61 *Amer. Pol. Sci. Rev.* 359.

56. Voter Information Guide, 1922 General Election, "Proposition 22, Absent Servicemember Voting Amendment," [https://ballotpedia.org/California\\_Proposition\\_22,\\_Absent\\_Servicemember\\_Voting\\_Amendment\\_\(1922\)](https://ballotpedia.org/California_Proposition_22,_Absent_Servicemember_Voting_Amendment_(1922)) [as of Jan. 29, 2024].



therein, by reason of physical disability, on election day.”<sup>57</sup> The absentee voting law was a major improvement in voting procedures, but it required a great deal of planning and seems to have primarily served the well-educated, the settled, and the professional and wealthy classes.

Another initiative measure, in 1930, eliminated biennial registration and returned the state to permanent registration of voters as had been the case before 1898.<sup>58</sup> Like absentee voting in the prior decade, permanent registration was at that time under consideration across the country. Supporters were forced to use the initiative route when previous efforts to amend the law through the legislature failed, reportedly “because it would have affected adversely the salary of the county clerks, who are paid a fee for each new registration.”<sup>59</sup> This measure called for a new, complete registration of all voters beginning January 1, 1932. Registration would then be permanent unless the voter died, moved, or became ineligible to vote. However, beginning on the first of January in every odd-numbered year, clerks were required to cancel the registration of any voter who had not voted in either the primary or general election of the preceding year. Under what became known as the “purge,” these non-voters were to receive notice of their removal from the list and had to reregister if they wished to vote again.

The California Association of Clerks and Election Officials opposed the measure, claiming it would “open the door to fraud”; they said the whole purpose of the biennial registration law of 1898 had been to defeat fraud in the voting system. Supporters included the chief elections officials of the state’s largest cities, Los Angeles and San Francisco, who wrote that biennial registration “entails extravagance, inaccuracy, and is a nuisance. . . . We have a whoop and hurrah campaign to get the voters registered and then another crusade to get them to vote.”<sup>60</sup> After the measure was approved, opponents tried

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57. Voter Information Guide, 1924 General Election, “Proposition 18, Voter Qualifications Amendment,” [https://ballotpedia.org/California\\_Proposition\\_18,\\_Voter\\_Qualifications\\_Amendment\\_\(1924\)](https://ballotpedia.org/California_Proposition_18,_Voter_Qualifications_Amendment_(1924)); Voter Information Guide, 1926 General Election, “Proposition 13, Voter Eligibility and Absentee Voting Amendment,” [https://ballotpedia.org/California\\_Proposition\\_13,\\_Voter\\_Eligibility\\_and\\_Absentee\\_Voting\\_Amendment\\_\(1926\)](https://ballotpedia.org/California_Proposition_13,_Voter_Eligibility_and_Absentee_Voting_Amendment_(1926)); Voter Information Guide, 1928 General Election, “Proposition 18, Absentee Voting Rights Amendment,” [https://ballotpedia.org/California\\_Proposition\\_18,\\_Absentee\\_Voting\\_Rights\\_Amendment\\_\(1928\)](https://ballotpedia.org/California_Proposition_18,_Absentee_Voting_Rights_Amendment_(1928)); and Voter Information Guide, 1930 General Election, “Proposition 25, Voter Eligibility,” [https://ballotpedia.org/California\\_Proposition\\_25,\\_Voter\\_Eligibility\\_Amendment\\_\(1930\)](https://ballotpedia.org/California_Proposition_25,_Voter_Eligibility_Amendment_(1930)) [all as of Mar. 11, 2024].

58. Voter Information Guide, 1930 General Election, “Proposition 14, Voter Registration Initiative,” [https://ballotpedia.org/California\\_Proposition\\_14](https://ballotpedia.org/California_Proposition_14) [as of Jan. 29, 2024].

59. Joseph P. Harris, “Permanent Registration of Voters” (1928) 22 *Amer. Pol. Sci. Rev.* 349.

60. Voter Information Guide, 1930 General Election, “Proposition 14, Voter Registration Initiative,” [https://ballotpedia.org/California\\_Proposition\\_14](https://ballotpedia.org/California_Proposition_14).

unsuccessfully to overturn it in 1936. They were defeated by voters who responded to the message: “You like the Permanent Registration Law. Keep it as it is.”<sup>61</sup>

The text of, and arguments for and against, the 1930 measure show how, despite a significant loosening of the rules, suffrage could still be closely limited under the permanent registration scheme. The “colonization” provision had been extended to every county in 1899,<sup>62</sup> and county clerks were now required to compare the registered voter list with landlords’ lists of tenants. If they didn’t match, polling place officials were instructed to challenge all voters who had registered to vote using what were presumed to be fraudulent addresses.<sup>63</sup> The authors of the “no” argument quoted official figures showing that 30 percent of registered electors failed to vote at each general election, and that 40 percent moved every two years. They pointed out that such voters would be purged, leaving only “a small minority that would benefit by permanent registration.” These changes demonstrate the unspoken truth of voting in this era: that the franchise belonged not to everyone but to more educated and wealthier Californians. Tenants, casual voters, and undoubtedly many minority citizens found the system inhospitable and oblivious to their needs. ★

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[https://ballotpedia.org/California\\_Proposition\\_14,\\_Voter\\_Registration\\_Initiative\\_\(1930\)](https://ballotpedia.org/California_Proposition_14,_Voter_Registration_Initiative_(1930)) [as of Jan. 29, 2024].

61. Voter Information Guide, 1936 General Election, “Proposition 8, Voter Registration Amendment,” [https://ballotpedia.org/California\\_Proposition\\_8,\\_Voter\\_Registration\\_Amendment\\_\(1936\)](https://ballotpedia.org/California_Proposition_8,_Voter_Registration_Amendment_(1936)) [as of Jan. 29, 2024].

62. Cal. Stats. 1899, ch. 53.

63. This section of the law was repealed in 1939. Cal. Stats. 1939, ch. 26.