

## The Four—Yes, Four—Types of State Primaries

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There is a common—and understandable—error in many introductory American Government textbooks, which is usually found in the obligatory chapter on elections and voting. These books distinguish well between open and closed primaries. They then explain the *blanket primary*, in which all candidates are placed on one primary ballot,<sup>1</sup> but—as with the traditional open and closed systems—results-by-party are kept separate for purposes of advancing two opposing candidates to a general election. This is where the mistake usually occurs.

Though they describe the blanket primary system correctly, textbooks often attribute it to three states: Alaska, Washington, and Louisiana. The purpose of this essay is to make an important clarification: Alaska and Washington, yes; Louisiana, no. Since 1975, Louisiana has used what has become known as the *nonpartisan* primary statewide, and it is different enough from the open, closed, and blanket systems to warrant being presented as the fourth type of primary system used in state elections.

The blanket primary in use by Alaska and Washington<sup>2</sup> effectively guarantees voters a Democrat-versus-Republican general election out of a unified, “nonpartisan” primary ballot. In Louisiana, it is also true that all candidates for an office, regardless of party, are placed on the state’s one official primary ballot. The Bayou State’s primaries, however, use a majority-rule system, which provides for the possibility of runoffs between the first and second place finishers for an office.<sup>3</sup> Results are not separated by party affiliation at any time during the election process, even during the general election—which, in Louisiana, is widely referred to as the “runoff.” If one candidate receives a majority of all votes cast in the primary, he or she is declared the primary winner, and will assume office at the beginning of the term. Otherwise, first and second place finishers—Democratic, Republican, Martian, whatever—face each other in the second election. As

such, Louisiana’s system has three unique features which distinguish it from the blanket primary: (1) runoffs are possible (and indeed frequent); (2) a primary candidate can win office outright on the first ballot<sup>4</sup>; and (3) in a runoff, the two candidates may be of the same party—or of no party at all. This system is used in all state and local elections in Louisiana, and was extended to congressional elections several years after passage of the original legislation.<sup>5</sup>

### Examples

Because of the growth in G.O.P. strength in the state, as well as strategies adopted by state party organizations in response to the nonpartisan primary (Kuzenski 1995), many Louisiana elections continue to feature a seemingly traditional Democrat-Republican battle for office. This is not a *fait accompli*, however. In the 1987 gubernatorial election, incumbent Democrat Edwin Edwards, with a second-place 28% of the primary vote, was to face in the runoff *Democratic* Congressman Charles “Buddy” Roemer, who came in first with 33%. The lone Republican in the race, Congressman Robert Livingston, finished a poor third place with 19%. Edwards, however, kept a campaign pledge to pull out of the runoff if he did not finish first in the primary, leaving Roemer to claim the office. In the infamous 1991 election, Roemer got his comeuppance. Edwards finished first in the primary to reclaim the office, and the incumbent governor—by then a Republican—was shut out of second place (and therefore, the runoff election) by nouveau-Republican David Duke. Duke still would have made the runoff with Edwards had Duke run as a Democrat, however, there was even some early speculation in various circles that if Edwards faltered during the primary, the runoff could have been a two-Republican affair (Roemer vs. Duke). This would have been a particularly notable event in a state with

such a long history of Democratic dominance.

### The Louisiana Primary: What’s in a Name?

Act I of the 1975 Louisiana state legislature (now Louisiana Revised Statutes Title 18, Section 401) changed the state’s primary system for state political officers from a traditional closed primary to a wholly unique creature in American state politics.<sup>6</sup> It clearly is not a blanket primary, at least insofar as that term describes the workings of the system in Alaska and Washington. It has often been referred to as an “open primary” in some of the best of the admittedly sparse literature on the subject (Hadley 1985; Kazee 1983), but this nomenclature overlooks the confusion with a traditional open primary—in which any registered voter may vote, but party primaries are nevertheless separate contests—that may result.

Perhaps no name is perfect, and calling the Louisiana system the “nonpartisan” primary certainly has its limitations. In traditional nonpartisan primaries, which have been used in local elections for ages, candidates are generally not allowed to list a party affiliation; in Louisiana, they are allowed to do so. But the structure and result of these elections are the same—they effectively “throw all comers into the pot,” and in so doing, presumably neutralize the significance of the party affiliation of the candidates.<sup>7</sup> This is why the “nonpartisan primary” label has come into widespread usage among the state’s party officials, media and voters. It is not a truly party-blind nonpartisan primary, but it is at least structurally nonpartisan. As such, I contend there are four basic types of primary systems used in the American states: open, closed, blanket, and *nonpartisan*.

This is not, to be sure, a major revelation that will shake the discipline to its roots. The misperceptions evident in a reading of the

available literature, however, indicated a need for clarification to benefit professors and students of electoral politics. In method, party strategies, and results, Louisiana's nonpartisan primary system is best described as its best-known politician, Huey P. Long, once described himself: "Oh, hell, let's just say I'm *sui generis*, and leave it at that."

## Legal Challenges to the System

Every year since its inception, Louisiana's current primary system has come under attack, in either the legislature or the courts. In the 1996 case of *Love v. Foster* (No. 96-30429, U.S.C.A., 5 Cir.), critics of the system had their most productive day in court to date. Having had their original case dismissed by summary judgment in U.S. District Court, the appellants argued before the Fifth Circuit Court of Appeals that the nonpartisan primary preempted Congress' attempts to establish a national uniform election day on which all winners of congressional seats would be chosen. Because the Louisiana Election Code provided no need to list a candidate on November's election day if he or she won a majority in the October primary—"a candidate who receives a majority of the votes cast for an office in a primary election is elected" (L.S.A.-R.S. 18:511)—the Fifth Circuit ruled that the system circumvented the will of Congress and was therefore unconstitutional.

Rumors of the nonpartisan primary's demise as a result of this decision (Wyman, 1996) appear to be somewhat overstated. The Fifth Circuit did not provide any of the relief appellants sought in *Love v. Foster*, which included a request that the court issue an injunction which

would have stopped the 1996 Louisiana congressional elections. Rather, it offered the state legislature a chance to repair and/or rewrite the invalidated sections of the Election Code, and remanded to the Federal District Court for the Middle District of Louisiana enforcement powers thereof. Since the Court of Appeals' central objection was that the nonpartisan system allowed the selection of a winner in October's primary rather than November's general election, the only change theoretically required in this system is the date set for the primary. Were the primary scheduled for election day in November, there would be ample time to hold runoffs in early December.

The Louisiana state legislature will likely take action on the matter during its summer 1997 session; it is unlikely, pending further developments in this case, that the nonpartisan system will be scrapped or radically overhauled. In a state that prizes its cultural and political uniqueness,<sup>8</sup> it is foreseeable that the system will remain the same, and only the dates will be altered.

## Notes

1. Thus, in the blanket primary, a political partisan can not only cross over into another party's primary, as in the open primary system, but additionally he or she can vote for candidates of different parties in different races from the same unified ballot.

2. *Constitution of the State of Alaska*, Section 15.25.100; *Revised Code of Washington*, Annotated, Title 29.

3. Theoretically, a blanket primary could also operate under a majority-election rule; both Alaska and Washington, however, use the plurality rule.

4. As did Democrat Edwin Edwards in the 1983 gubernatorial primary with 62% of the vote, against a primary field of three other Democrats, two Republicans and three formally unaffiliated candidates.

5. In presidential contests, Louisiana still uses its pre-1975 closed primary system.

6. Mississippi briefly flirted with the idea of adopting such a primary system, but did not. For a more in-depth analysis of the effects of the system on Louisiana state politics, see Kuzenski (1995), Hadley (1985) or Kazee (1983), among others.

7. Ross and Levine (1996: 194) note that the nonpartisan urban election, without any party labels, was considered crucial to city reform movements in past decades, but that one critical dilemma has been that "the absence of party labels confuses voters." At the very least, it can be safely said that Louisiana's system avoids this problem, since most candidates list their party affiliation on the ballot.

8. To say nothing of the fact that many sitting legislators view the nonpartisan primary as an "incumbent protection act." See Kuzenski (1995).

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