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Introduction: The California Top Two Primary

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Can a change in electoral institutions produce more moderate representation? Do some systems help elect legislators more likely to compromise? When Proposition 14 passed in June 2010, California voters embarked on an enormous democratic experiment, radically altering the structure of some of their primary elections, hoping the answer was yes to both of those questions. With Proposition 14's passage all primary election candidates for most statewide and legislative offices, regardless of party, compete in a single nonpartisan primary and the two candidates who receive the most votes advance to the general election. Supporters of the proposition, including the Republican state senator most responsible for referring it to the ballot, Abel Maldonado, frequently asserted that the "top-two" would produce more moderate or pragmatic legislators.

How could this reform be successful? One possibility was that the reform would open up the primary process to centrist, independent voters. They would be able to support more centrist candidates in primary elections and stage a revolt from the traditional party structure. We see little evidence of this in the empirical data.

Another possibility was that minority party registrants would be given more political voice. Suppose a district was highly skewed towards one party over another in terms of registered voters, like most districts in California (and many other states). Under conventional primary election rules, the minority party candidate would be unlikely to win a general election. Minority party registrants who voted in their primary election, then, would have little effect on the ideological predilections of their elected representative. With the top two primary election rules, minority party registrants have the opportunity to vote for a more moderate majority party candidate in the primary election. In the essays in this special issue, we see limited evidence that minority party registrants capitalize on this opportunity.

A number of assumptions must be valid for an example such as this to successfully produce more moderate representatives. First, there must be a pool of eligible candidates. Moderate candidates would need to compete in primary elections. Second, voters would need to be able to distinguish the candidates with respect to their ideology. In particular, voters would need to ascertain ideological differences between candidates from the same party, particularly when two co-partisans compete in a general election. Third, moderate voters need to participate in both the

¹ This introduction benefitted from comments from J. Andrew Sinclair.

primary and general elections. Finally, representatives would need to legislate responding to the preferences of a more moderate median voter.

The set of essays in this special issue of the *California Journal of Public Policy* examine the empirical evidence for an effect of the top two primary early in its implementation. The essays examine whether voters and candidates are likely to overcome the hurdles necessary to produce more moderate, pragmatic representation. The bulk of the research reaches common conclusions from different approaches.

There is a limited, if any, moderating effect as a consequence of the 2012 election, the first use of the new primary. Yet this research is fairly nascent; it provides a snapshot of what the baseline effect might be. Campaigns, candidates, and voters have had little time to adjust to the reform. Consequently future elections may demonstrate different findings and this essay concludes with a section of ideas for future research.

Is There a Top Two Effect? Building Knowledge Through Multiple Sources and Methods

How do we know if a law has an effect on electoral outcomes? Even more challenging, how do we know if a law has an effect on the polarization of democratic representation? These are difficult questions to answer. At this stage, all of the potential answers are characterized by some uncertainty. The key to building knowledge about the effect of Proposition 14 is to consider two factors: one, based on our theoretical knowledge of electoral institutions and voter behavior, on what populations should we observe an effect? Two, are there any populations who are eligible comparisons? That is, to know how much of an effect we can associate with the top two primary, are there individuals or legislators who should not have been affected by the top two primary reforms that we can use for comparison?

The essays in this special issue each rely on a different source of data to test hypotheses and build knowledge. In an ideal context we would have a way to conduct an experiment, randomly assigning some electoral contests a top two primary and others not. Yet, we do not live in such a sterile world. Thus our essays employ different strategies: for one, a survey experiment, where voters are asked to articulate their vote intentions using a randomly assigned sample ballot where some voters receive a top two ballot and others do not. This allows the researcher the opportunity to glean insights about the outcomes we might expect from a traditional ballot versus a top two ballot. Panel surveys allow us to evaluate changes in vote choices within each respondent – for example, to see if voters are strategic in the primary and general elections. Our essays use both of these strategies and more. Using a survey experiment, a panel survey, observational data on Google searches, and a series of proprietary campaign surveys these papers examine voter behavior before and after the top two primary was implemented in the 2012 election. By focusing on voter behavior, each of these essays evaluates the extent to which different types of legislators may be chosen as a consequence of this reform.

Two essays deploy different strategies. In one, measurements of legislative ideology are used to evaluate whether the legislature itself is more moderate after the 2012 election. If voters' behavior is changed, we hope to observe differences in legislative behavior as well. In another,

using a mix of turnout, registration, and survey data, our last essay turns to the 2014 election to compare to 2012.

Each of these papers approaches evaluating the impact of the top two with different degrees of external and internal validity. Each, on its own, is prey to criticism. Yet taken as a body of research together they produce remarkably consistent findings when evaluating the impact of Proposition 14 on the 2012 election.

Voter Behavior: Little Crossover, Abundant Abstention, And Not Enough Information

Three of the papers in this special issue focus on the role of voter information. Two of these measure voter behavior – one via a survey experiment and the other via a panel survey. Both conclude the top two primary had a limited effect in the 2012 elections, in part because of low information, abundant abstention, and little crossover voting. The third paper finds evidence of increased Googling ahead of a general election with co-partisans on the ballot, suggesting that where the top two has produced a different set of cues in the general election (no difference in party labels) some voters are forced to acquire new information before casting a ballot.

In their paper titled “Why Voters May Fail to Reward Proximate Candidates in the 2012 Top Two Primary,” Douglas J. Ahler, Jack Citrin, and Gabriel S. Lenz conduct a survey experiment of California voters in a mere ten days ahead of the June 2012 primary election. They ask potential voters to cast mock ballots for their district’s congressional race, randomly assigning the survey respondents either a traditional ballot or a top two ballot. This experiment produces two fairly counterintuitive findings. First, hypothetical election outcomes were indistinguishable between ballot types. That is, the average outcome under the traditional ballot was the same as the average outcome under the top two ballot. Second, voters were relatively unaware about the ideological positions of their choices, beyond that of party labels. These two findings suggest that not only will the impact of the top two primary be less than reformers expected, but also that the main barrier for its success was voter information.

Jonathan Nagler analyzes a panel survey of 2500 California registered voters from the same time period in his article “Voter Behavior in California’s Top 2 Primary.” The first round of the survey followed the 2012 primary and the second round of the survey followed the 2012 general election. This data allow him to establish some basic facts about voter behavior during the top two primary -- how many voters voted for a candidate of a different party and how many voters voted strategically (for a candidate who was not their most-preferred). He finds extremely low rates of crossover voting: 5.5% Democratic crossover (for a Republican) and 7.6% Republican crossover in state Assembly races. This is a lower rate than under the blanket primary. Additionally, he finds a very low rate of strategic voting (17.2% of crossover voters). With this discovery he concludes that in 2012 it is highly unlikely that the top two primary had a large effect since it did little to change the behavior of primary voters. Moreover, he does find systematic evidence in the general election of abstention from voters whose participation is most needed to drive a moderating effect. Orphaned voters – that is, voters who do not have a candidate from their party competing in the general election – are very likely to abstain. Nagler reports that 47.9% of orphaned voters abstained, opposed to 3.9% of non-orphaned voters. He

writes, “It could be that voters who say they are Democrats today are simply not willing to vote for Republicans: if they were, they would call themselves independents. Expectations of the impact of the top two also failed to consider closely abstention. If the voters who were expected to provide moderating influence instead choose to abstain, then the top two will fail to provide the expected result. Of course it is possible that voters simply need time to adapt.”

Consistent with Nagler’s finding of high rates of abstention, Betsy Sinclair and Michael Wray find evidence of increased Google searches in co-partisan general election Assembly contests in 2012. In their article, “Googling the Top Two: Information Search in California’s Top Two Primary” they rely on Google search data for the California Assembly candidates. They compare searching in two windows (ahead of the 2012 primary and between the primary and general election) and between two populations (those Assembly contests that paired two co-partisans in the general election and those that did not). They find strong evidence of increased search in the general election when co-partisans compete, a 13 to 15 percent increase in Google searches in this context, controlling for the competitiveness of the election, whether the legislator holds a leadership position, and the level of prior searching in the previous election. This suggests that when voters do not have different party labels as available cues they are forced to seek out new information.

These three essays, taken together, largely find that while the top two primary did provide voters with more opportunities to select moderate representatives it also imposed an increased cost for participation – the need to acquire more information – and that as of the 2012 election, voters, parties, and candidates had not developed the infrastructure necessary to easily communicate effectively about candidate ideologies to permit the kind of moderating influence from the top two primary the reformers had hoped.

When Will The Reform Be Successful?

In “Winning from the Center: Frank Bigelow and California’s Nonpartisan Primary,” J. Andrew Sinclair describes a case where the top two primary did change an election result and moreover details the scope conditions for the top two primary to have an effect. Sinclair focuses on the Bigelow v Oller election in California’s 5th Assembly district. As Sinclair writes, “This district can serve as a proving ground for the concept of the top-two for three main reasons: first, Bigelow and Oller differed on the very dimension on the minds of many pro-reform advocates. Second, this district has the characteristics of a sufficiently safe Republican seat that we can safely assume no Democrat would likely have emerged victorious in a more traditional general election. Third, the 2012 primary election results suggest that Oller would have won a traditional primary election.” Bigelow came in second in the primary yet won the general election. Sinclair describes how this happened in the Bigelow versus Oller election using proprietary datasets from the Bigelow campaign and consultants for independent expenditures spent towards electing Bigelow. This particular election validates the concept that a relative moderate can emerge victorious through a top-two primary – but it requires moderate voters to participate. As Sinclair states, “The moderate in a same-party runoff *will* benefit from a spatial position advantage; *how much* benefit the moderate receives depends on the extent the minority chooses to abstain from participation.” In this particular contest those moderate voters were willing to cast a ballot, yet

even in this case Sinclair observes a high rate of abstention: an average Democratic voter in this district would be thirty percent more likely to abstain than to vote for either Bigelow or Oller.

So when will this reform be successful? Only in cases where a relative moderate who would otherwise lose the party primary emerges in second place from the primary and can then move on to win the general election due to ballots cast by moderate voters. If those moderate voters are opposite partisans they are unlikely to be willing to research the ideological positions of the candidates to cast a meaningful vote and more likely to abstain. This suggests that while the reform has the potential to produce more moderate legislators there are barriers unimagined by its authors that are associated with party labels and the ways in which campaigns deliver information to voters. Some of this may change in the future.

What Can We Expect Moving Forward?

Two of the essays in this special issue speak to what we may see as longer-term consequences of the reform. In his paper “California’s Top Two Primary and the Business Agenda,” Eric McGhee analyzes the Chamber of Commerce scores over time to look for evidence of decreased polarization in the legislature after the reform. While we observe little evidence that the voters dramatically changed their behavior, it may be the case that the legislators changed theirs (to prevent entry of more moderate candidates in the future, for example). McGhee finds some support for a slightly more moderate legislature, although he acknowledges that he can find little evidence that this moderation is generated by electoral pressure. It is unlikely that we will observe legislative change if voters are frequently unwilling to cast crossover ballots.

Turning to the election outcomes in 2014, Thad Kousser relays that voters have yet to take full advantage of the top two primary in his paper, “The Top Two, Take Two.” Kousser documents that in June 2014 the California state primary experienced record low turnout and moreover, when focusing on the high profile contests -- for governor, secretary of state, and controller – there do not appear to be significant differences in outcomes than what the state would have expected under a traditional primary.

Directions for Future Research

As Nagler writes “The Top 2 was a radical change in the electoral rules, and it would be folly to draw inferences of where voter and party behavior will lead after just one election.” Yet the absence of high levels of strategic voting suggests the top two will be unlikely to dramatically alter the landscape of California elections without other changes. Strategic behavior alone will be insufficient to produce a large effect. In particular, voters seem unwilling to abandon their parties and many would prefer abstention then action in a general election composed of opposite party candidates.

To summarize, our articles find very limited support for moderating effects associated with the top two primary. To a large extent we observe voters constrained by their party identification and unwilling to crossover and vote for an opposite party candidate. It may be that this restriction is associated with the cost of obtaining political information from new sources, as traditional

campaigns have yet to target moderate voters with messages that allow them to distinguish the ideological platform differences between candidates. We do observe a top two effect when very specific conditions are met – that is, when the requisite number of moderate voters participates in a primary and general election, and a candidate who would otherwise lose in their party’s primary election (but comes in second in the top two) can muster sufficient support to win office. If a district is sufficiently skewed so that the moderate voters do not have to cross party lines this is more likely to occur.

Moving forward we hope future research will further investigate the relationship between a district’s distribution of partisan registration and the extent to which we observe crossover voting. We also expect that campaigns may be able to deliver information in new ways to instigate additional crossover voting and we are particularly interested in the role of parties in providing cues for strategic voting. California voters have embarked on an incredibly bold experiment with the adoption of the top two primary, and we look forward to the knowledge we may glean from their experience.