

Electoral Reform and Party Response

A Case Study of Proposition 14 and California's Minor Parties

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Abstract

In 2010, California voters enacted Proposition 14, the Top Two Candidates Open Primary Act, which changed California's electoral system from single-member, plurality district elections to a top-two (majority) runoff system. Although literature in comparative politics and formal theory suggests this change should help third parties in California, almost 80 percent fewer minor party candidates filed for office 2012 than in 2010. Indeed, 2012 saw the smallest number of minor party candidates in California since 1966. Employing a mixed-methods approach, this paper examines different explanations for the decline in minor party candidacies. Although most observers argue that Proposition 14 directly discouraged minor party candidates from filing for office (because they likely would not make the runoff ballot), I argue that the decline results from three other factors: (1) A long-run decline in the California Libertarian Party, (2) a legislature-driven increase in the filing fee required from minor party candidates, and, most importantly, (3) party elites foregoing candidate recruitment in 2012.

Keywords: Elections, California, Proposition 14, third parties, top two primary

In June 2010, by a 56-44 margin, California voters enacted Proposition 14, the Top Two Candidates Open Primary Act. Explicitly modeled after the system created by Washington State’s Initiative 872, Proposition 14 fundamentally changed the nature of primary elections in California from party-nomination elections to “voter-nomination” elections.¹ California’s voters—not its political parties—would now nominate candidates for public office through a top two runoff system.

Proposition 14’s supporters hoped it would result in more moderate candidates winning election to the state legislature (c.f. the June 2010 California Voter Guide). Like many, they believed that closed, partisan primaries resulted in more ideologically extreme candidates, contributing to the perceived dysfunction in the state capitol. Switching to the top two system, they hoped, would force candidates to appeal to a broader range of voters and allow more moderate candidates to win office. In this goal, Proposition 14 followed other recent reforms seeking to change the partisan culture in Sacramento, including term limits (1990), the blanket primary (1998), and nonpartisan redistricting (2008 and 2010).

Although it is still too soon to assess whether the new system will lead to more moderates elected to the legislature (although for some insight into the possibilities see Alvarez and Sinclair 2012; Donovan 2012; Gerber and Morton 1998; Kazee 1983; Masket 2012; McGhee et al. 2011), there are other, related effects that can be assessed at this point. In the lead-up to the June election, for example, Proposition 14’s opponents claimed that it would hurt—if not lead to the end of—California’s minor parties. Typical headlines included “Will Proposition 14 Kill Third Parties?” (Seiler 2010) and “Proposition 14 Would Weaken Democracy, Voter Choice” (Feinstein 2010).² These claims were in contrast to common predictions in comparative politics and formal theory that the shift to a majority run-off system should lead to more, not fewer, minor parties.

As Table 1 shows, there was a significant decline in the number of minor party candidates and the number of districts they contested at the primary stage following the adoption of Proposition 14. Between 2010 and 2012, the number of minor party candidates and the number of districts they contested each fell by 78 percent. In 2010, 77 minor party candidates contested 59 different legislative districts (House, Assembly, and State Senate)—just over half of the House races and

¹ The Washington system was explicitly designed to pass constitutional muster after the Supreme Court’s decision in *California Democratic Party v. Jones*, 530 U.S. 567 (2000), which ruled the blanket-primary system unconstitutional because it forced parties to associate with non-partisans and other parties’ members (Donovan 2012).

² More recent commentators have echoed this claim (Levinson 2011; Richman 2012). See also the website, stoptoptwo.org.

roughly a third of the state legislative races. In 2012, just 17 candidates contested 13 districts. Fewer than 10 percent of Assembly and State Senate districts were contested by minor party candidates. In all, 2012 saw the smallest number of minor party candidates file for office in California since 1966 (Winger 2012).

[Table 1 here]

This paper explores a number of hypotheses for why the number of minor party candidates declined in 2012 using a mixed-methods approach. Is Proposition 14 responsible for the decline shown in Table 1? I argue here that Proposition 14 has had a significant impact on California's minor parties, but the story of its impact is more complex than is commonly assumed. Proposition 14 affected the behavior of candidates and party officials, but the larger effect was to discourage party officials from recruiting candidates. At the same time, the legislature independently tightened California's ballot access restrictions after the adoption of Proposition 14, which led to fewer candidates. I also argue that Proposition 14's effects were dependent on each party's strategy for recruiting candidates; the minor parties responded differently to Proposition 14's changes, and much of the decline in Table 1 is concentrated in just one party: the Libertarian Party. Going forward, Proposition 14 may make it harder for minor party candidates to contest California elections by forcing some of the parties from the ballot.

This paper contributes to our understanding of minor parties in U.S. politics by documenting the reactions of minor party officials and candidates following significant electoral reform. As a case study of minor party reactions, it also illustrates the complexity inherent in predicting the consequences of any electoral reform. Not only were the minor parties responding to several changes at once, but the minor parties also had different goals and strategies for contesting legislative elections. These differences affected their responses to the electoral changes.

The paper proceeds in three parts. First, I review the changes made to California's electoral system—the set of laws that regulate electoral competition—by Proposition 14. Here I argue that the new system is more properly thought of as a majority runoff system rather than the variation on single-member plurality elections that most observers believe it to be. Second, using a mixed-methods approach, I evaluate four major hypotheses for why the number of minor party candidates declined in California: a substitution hypothesis, a discouragement hypothesis, a filing

fee hypothesis, and a major-party resurgence hypothesis. I then conclude with some thoughts on the future of minor party candidates in California.

Before discussing Proposition 14 and its potential influences on the number of minor party candidacies, it is necessary to define what a minor political party is. Rosenstone, Behr, and Lazarus (1984, 9) define minor parties as those which (a) do not run candidates for state and federal offices in a majority of the states and (b) do not have “one of the two largest blocs of seats in the House of Representatives.”³ Minor political parties by this definition do not necessarily have automatic ballot access—i.e., they are not all parties that are guaranteed lines on the presidential ballot and that candidates can affiliate with (express a preference for) on the ballot—but in this article I focus on those that do.⁴ This distinction allows me to focus on those parties that appear on the ballot and run candidates for legislative office.

Currently there are five minor political parties in California: two on the ideological left, two on the ideological right, and one in the middle. The two right-leaning parties are the American Independent (originally part of George Wallace’s segregationist movement) and Libertarian parties. The two left-leaning parties are the Peace and Freedom (an explicitly socialist party) and Green parties. The Americans Elect Party, which gained its ballot status in 2012, is positioned in the middle. In 2012, however, no candidates ran for legislative office as members of the Americans Elect party as it was only interested in contesting the presidential race. Two other minor parties have also had qualified ballot status and run candidates for legislative seats within the last two decades: the Natural Law (left-leaning) and Reform (right-leaning) parties. Both lost their ballot status in the early 2000s.

What Does Proposition 14 Do?

This section describes the changes made to California’s electoral system by Proposition 14 and their potential impact on minor party competition. Because Proposition 14 uses the language

³ While Rosenstone, Behr, and Lazarus (10) use the terms “minor party,” “third party,” and “independent” interchangeably when talking about candidates, I distinguish between independent candidates and minor or third party candidates in this article.

⁴ Californians are not constrained to register with just the qualified parties, and roughly one percent of all registrants are registered as members of some other party. Four other minor parties, in addition to those discussed in this paper, formally sought ballot qualification status in 2012: the California Pirate Party, the Constitution Party, the Moderate Party, and the We Like Women Party. The most successful of these, the We Like Women Party, had just 381 registrants prior to the June 2012 election (California Secretary of State 2012b).

of primaries (e.g., the “Open Primary Act” and “voter-nomination primary”) and because its supporters presented it as an incremental reform to the extant system rather than something completely new, it is difficult to step away from the traditional language used to describe California elections. Indeed, most observers—whether in campaigns, the media, or the public at large—continue to talk about California “primaries,” those elections that occur in June, and the general election, which happens in November. Proposition 14, however, changed California’s electoral system from one with single-member, plurality district (SMPD) elections to a form of majority run-off elections.

Under California’s old primary system, candidates for partisan office were nominated in a series of closed or semi-closed (depending on the party, the contest, and the year), state-run primaries. So long as a party met the state criteria for qualified parties (discussed below), each party was guaranteed a primary ballot. Registered partisans, and in some cases Decline to State (i.e., nominally unaffiliated or independent) registrants, voted in their party’s contest (each was an SMPD election) to pick its nominees. For example, Republican voters selected among Republican candidates, while Greens voted for Green candidates. The winners from each of these partisan contests then appeared together on the November ballot, where they faced each other in an SMPD election.

Proposition 14 made three major changes to California’s electoral system: (1) who nominates candidates, (2) how candidates appear on the ballot, and (3) how many candidates move on to the fall election. In describing these changes, I use the example of California’s 31st congressional district (CA-31), which is located in Southern California. According to most observers, the new CA-31 leans Democratic: Democrats have a six-point registration advantage (41–35) over Republicans (California Secretary of State 2012a), President Obama would have carried the district 58–42 in the 2008 election, and Democratic Governor Jerry Brown would have won 49–42 in 2010 (Redistricting Partners 2011). Despite these numbers, no Democrat appeared on the 2012 CA-31 November ballot.⁵

The first major change made by Proposition 14 is that, with the exceptions of the office of the presidency and party committees,⁶ it is voters and not political parties who now “nominate”

⁵ Admittedly, the 2012 result in CD-31 is unique. As a reviewer helpfully pointed out, the outcome of every other California contest matched the district partisan registration balance. Many believe that the failure of a Democratic candidate to appear on the ballot stemmed from the Democratic Party not sufficiently coordinating around a single candidate. Others lay the blame for the outcome on the stronger Democratic candidate, Pete Aguilar. It is unlikely that the outcome observed in 2012—two Republicans and no Democrats appearing on the ballot—will be repeated in 2014. Still, CA-31 provides a useful example of the possible outcomes under the majority runoff system.

⁶ As with Washington’s Initiative 872, Proposition 14 made an exception for the presidential contests and party

candidates for partisan office in California’s statewide “primary” election. Specifically, Proposition 14 amended Section 5 of California’s Constitution to read:

A voter-nomination primary election shall be conducted to select the candidates for congressional and state elective offices in California. . . . A political party or party central committee shall not nominate a candidate for any congressional or state elective office at the voter-nominated primary.

The responsibility for selecting candidates to appear on the November ballot now rests with all voters, not with the separate parties. Under the Proposition 14 system, any voter may cast her ballot for whichever candidate she chooses (again, except in the case of the presidency and party committees), regardless of both her own party affiliation and that of the candidate. The top two vote-getters from this “voter-nomination primary,” regardless of their party affiliation, are the “nominees” and face each other in the November election.

The second, related major change made by Proposition 14 is how candidates appear on the ballot. Under the prior system, each registrant, when she went to the polls in the primary, was given a ballot that listed only her party’s candidates for each office. Now, since voters rather than parties select “nominees,” when a registrant goes to the polls she sees all of the candidates seeking each office listed together in an office-bloc format.⁷ Figure 1 comes from a sample ballot in San Bernardino County and shows the candidates who contested CA-31.⁸ In this case, there were four Democratic candidates and two Republicans. All voters—whether registered with a major party, minor party, or as Decline to State—saw the same list of candidates and could cast their ballots for one candidate.

[Figure 1 here]

committees in order to pass constitutional muster (see Donovan 2012). The national parties control the rules governing how delegates are selected to their nominating conventions, but states and state parties are free to decide the exact form of the contests. The California Democratic Party allows unaffiliated (Decline to State) registrants to participate in its presidential primary, but the California Republican Party restricts participation to just those people registered as Republicans. Both parties’ by-laws require that only aligned partisans or unaffiliated registrants be allowed to participate in their nominating contests (c.f. Charter of the Democratic Party of the United States Art. Two, Sec. 4(e)). Open primaries and caucuses are allowed because they force participants to affiliate with a given party, if only for that day, by limiting participation to a single party’s contest.

⁷ Again, the new system does not apply to is the presidency and to party committees. Registered partisans continue to receive different ballots for these contests.

⁸ The order of candidate names is determined by a random draw.

The third major change from Proposition 14 is that only the top two vote-getters in the first election, regardless of their party affiliation, will appear on the ballot in the second.⁹ Before Proposition 14, the number of parties on the fall ballot was a function of the number of candidates seeking nomination by the various parties. If candidates contested just one party's nomination, for example, then only one party with one nominee would appear on the general election ballot. If candidates sought six parties' nominations, then six parties with six nominees would appear on the ballot. Under the system established by Proposition 14, in contrast, there will be at most two candidates on the November ballot. If the top two vote-getters are candidates from the same party, then the party will be guaranteed that seat.

Table 2 shows the results for the CA-31 contest in the June 2012 election. Under the prior system, Pete Aguilar would have been the Democratic nominee and would have faced incumbent Republican Gary Miller in the general election. In this election, though, the top two candidates were both Republicans. Aguilar received just 22.6 percent of the vote compared to the second place Republican, Bob Dutton, who received 25.0 percent of the vote.¹⁰ Representative Miller ultimately won re-election with 55 percent of the vote. As a result of Proposition 14, then, a district which most observers expected to be a Democratic pick-up in November 2012 continues to be represented by a Republican as no Democrat appeared on the November ballot.

[Table 2 here]

There are important differences between California's top two system and those of Washington and Louisiana. First, in Washington candidates are free to affiliate with any party of their choosing (real or not) on the ballot. In 2008, for example, a candidate affiliated with (i.e., expressed a preference for) the "Salmon Yoga Party." In 2010, candidates affiliated with the "Lower Taxes Party," the "Prolife Democrat Party," the "Conservative Party," and the "Independent Party."¹¹ In

⁹ The specific language of Proposition 14 states: "The candidates who are the top two vote-getters at a voter-nominated primary election for a congressional or state elective office shall, regardless of party preference, compete in the ensuing general election."

¹⁰ The astute observer will note that the Republican percentage of the vote in Table 2 totals more than the Democratic vote. For a variety of reasons, including the fact that the Republican presidential primary was the dominant race in the election and that primaries tend to have relatively more Republican voters, one should not take this total as a sign that the district is really Republican and not Democratic.

¹¹ Other parties listed by candidates include the "Progressive Dem Party," the "Tea Party," the "Independent Dem. Party," the "Reluctantly R. Party," and the "(R) Problemfixer Party."

California and Louisiana, in contrast, candidates can only express a preference for qualified political parties or appear as No Party Preference.¹²

Second, the first round of elections in Washington and Louisiana happen much later in the year than they do in California. California's top two primary is held in early June (June 6 in 2012). Washington's top two primary is held in early to mid-August (August 7 in 2012). In Louisiana, the first round of elections is the November election. Moreover, there is no guarantee of a second round in Louisiana as there is in California and Washington. If a candidate wins a majority of the vote in November, she is elected to office. If no candidate wins a majority, then the top two candidates face each other in a December runoff election.

Classifying the Proposition 14 System

Although there is some debate about the exact classification of California's new electoral system, most scholars would identify the Proposition 14 system as a variant of majoritarian runoff elections.¹³ Riker (1983, 754), for example, defines such a system as one with "three or more candidates with two ballots, in which at the first ballot the winners are the two candidates with the largest and second largest number of votes, and, at the second ballot between exactly these two, the winner is the candidate with a simple majority." Lijphart (1995, 18) refers to both the Louisiana and Georgia systems as majority runoff systems (see also Norris 1997; Engstrom and Engstrom 2008).¹⁴ Cox (1997) labels these electoral systems "single-member dual-ballot" systems.

The general finding, both in formal theory and comparative politics, has been that majority runoff systems tend to support more political parties than do plurality systems. Cox (1997, 123-124) argues that majority runoff systems can support $M + 1$ parties where M is the number of parties that can qualify for the second ballot (see also Rae 1971; Taagepara and Shugart 1989).¹⁵ In runoff

¹² Louisiana has an "Other" category that allows candidates to express a preference for a non-qualified party, but the party name will not appear on the ballot as it does in Washington.

¹³ Shugart (2012), for example, argues that the new system is best described as a two-round, single, non-transferable vote system. His reasoning is twofold: First, the Proposition 14 system allows two candidates from the same party to face each other in the second round of voting. Second, co-partisans cannot share votes with each other to ensure one of them makes it to the second round.

¹⁴ In Georgia, candidates must receive a majority of the votes to be nominated for political office in a primary and must receive at least 45 percent of the vote in the general election in order to win election. If no candidate meets these conditions in either election, a runoff is held among the top two vote getters.

¹⁵ Cox refers to candidates not parties in his work, but his operating assumption is that parties define the field of candidates. His argument, specifically, is that: "First, . . . strategic voting plays a role in dual-ballot elections similar to that it plays in single-ballot plurality elections: acting to limit the number of viable first-round candidates. Second, the limit theoretically applied on the number of first-round candidates is $M + 1$, where M refers to the the number of

systems where two candidates appear on the second ballot, three parties are theoretically possible. Lijphart (1995), in his comparison of advanced democracies, finds that majority runoff systems average 2.8 “effective political parties” while plurality systems average just 2. (The “effective political parties” measure accounts for the ability of parties to win meaningful representation in the legislature, not just the number contesting elections.¹⁶) Norris (1997), using a broader set of cases, finds a slightly higher average of 3.1 effective parties in majority systems.

More effective parties are possible in the majority runoff system because what Rosenstone, Behr, and Lazarus (1984) call a “constitutional bias” against minor parties under single-member, plurality elections is largely absent. As Riker (1983, 759) explains,

In the runoff majority system a candidate who initially has the second most votes can ultimately win, provided the supporters of eliminated candidates vote for her or him at the second ballot. Hence, if a group of politicians can see a chance to come in second or third, it is often worthwhile to form a new party. In the plurality system, on the other hand, this positive incentive is turned into a disincentive because it is rare for the prospective builders of a new party to see a chance to come in first past the post.

Thus, because Proposition 14 created a majority runoff system in California, one might expect it to help rather than hurt minor parties; in those places where minor party candidates can come in second, there exists the opportunity to join with voters from other parties to form a majority in the second round of voting.

The case of the last minor party candidate to win election to the California legislature, Audie Bock, is an instructive example. Bock, a Green Party candidate and political neophyte, won a 1999 special election in Assembly District 16 (Oakland).¹⁷ In doing so, Bock was the first minor party candidate to win a seat in the California legislature since 1917 and the first Green Party candidate to win state office nationwide (Rodriguez 1999b).

first-round candidates that can legally qualify for the second” (123).

¹⁶ As would be expected given the general body of literature on the relationship between electoral systems and party systems, none of California’s minor parties meet the definition of an “effective party” because none have representation in the state legislature.

¹⁷ There was actually a chain of special elections leading to this one. Congressman Ron Dellums (D) retired before his term expired. Then–State Senator Barbara Lee (D) won a special election to fill his term. Assemblyman Don Perata (D) then won a special election to fill her term. This contest was to fill Perata’s term.

While the election in which Bock won her seat was not technically a majority runoff election, it took on many of the characteristics of one. If a candidate won a majority of the votes in the initial election, which took place on February 2, that person would be elected. If no candidate won a majority of the votes, the nominees from each of the parties would face each other in a March 30 runoff. Since just the Democratic and Green parties contested the election, the election became a quasi-majority runoff. In the initial round of voting, Bock received just nine percent of the vote. Her opponent, Democrat Elihu Harris, received 49 percent of the vote.¹⁸ In the runoff, which saw unusually low turnout (just 15.5 percent), Bock won by 372 votes (Scott 1999).

What happened? In the aftermath of the election, two primary story lines developed. First, the Harris campaign never took Bock's candidacy seriously and, as such, did not engage in a normal level of campaign activity (Scott 1999). Indeed, most inside the Democratic Party saw the contest "as a foregone conclusion" (DelVecchio 1999). Second, in what became known as the chicken-dinner theory, or "chickengate," voters may have turned against Harris because of actions the state Democratic Party took on his behalf (Rodriguez 1999a; Scott 1999). Before the initial election, the Democratic Party distributed about 5,000 coupons for a free chicken and potato salad dinner to predominantly African-American registrants in low-turnout areas of the district—a move that was seen as a boost to Harris's chances. (Harris is African American.) Voters who took their ballot stub and the coupon to a participating supermarket would receive the free dinner. The coupons—and by extension Harris—received significant criticism after the election, both for violating the spirit (though not the letter) of state laws against vote buying and for its perceived racial stereotyping.¹⁹

There was a third story line, however, that did not receive as much media attention but which illustrates Riker's logic: Lacking a candidate of their own, and sensing an opportunity to embarrass the Democratic Party, Republican and conservative groups rallied behind Bock in the runoff election (Les 1999). Though Bock was probably further from conservatives' preferred policy positions than Harris, Republicans saw her election as a way to weaken Democrats in the eyes of voters and in the legislature (Rodriguez 1999a). Moreover, many Democratic voters who had opposed Harris in the

¹⁸ Harris fell about 500 votes shy of avoiding the runoff election (DelVecchio 1999).

¹⁹ It should be noted, however, that this latter criticism came predominantly from outside the local African-American community. The give-away also became a running joke in news stories about the contest. For example, a *San Francisco Chronicle* explained Harris's unwillingness to debate Bock this way: "All Harris could do at this point in the campaign is open his mouth and insert a whole chicken" (Johnson 1999a).

initial election chose to cast their votes for Bock in the runoff.²⁰

Thus, Bock was able to create a voting majority that extended well beyond her Green Party base. Admittedly, the circumstances surrounding Bock’s election were unique, but her case demonstrates that in a runoff election groups that otherwise would work against each other in a plurality election can join forces to form a voting majority against a less preferred candidate. Bock’s election illustrates that it is possible under a majority runoff system for a minor party candidate to win election.²¹

Callander (2005), however, offers a cautionary note about extending these findings to situations, like California’s, when the electoral system changes from a plurality system to a majority runoff system—the switch does not necessarily lead to a larger number of effective parties. When the two-party system is well established, as it is in the United States, it is possible for the two parties to continue to exclude challengers.

Washington’s recent experience transitioning to the top two system illustrates this challenge. The history of Washington’s primary systems is more complex than California’s (Beck and Henrickson 2012), but, as Table 3 shows, the average number of minor candidates contesting elections under the top two system is significantly lower than it was before before the system was implemented.²² While the first year of the top two system saw an increase in the number of minor party candidates, up from zero in 2006, there has been an average of just nine minor party candidates from 2008 to 2012 compared to an average of 19 during the three prior election cycles.

[Table 3 here]

The number of minor party candidates under the top two system in Table 3 is somewhat deceiving. As noted earlier, the connection between candidates and parties is looser in Washington than in California. Candidates are free to express a preference for any party, and many of the

²⁰ The intra-party fight was between lower-income Democratic voters in the Oakland flatlands and richer Democratic voters in the hills. Harris’s primary Democratic opponent (Frank Russo) was from the hills as was Bock, who lived in the City of Piedmont. Many viewed the election as a referendum on Harris, who had previously served in the Assembly and recently been mayor of Oakland, as well as a rejection of the local Democratic machine (Akizuki and Ostrom 1999; Johnson 1999b).

²¹ Also illustrating the biases against minor party candidates inherent in the plurality system, before her re-election campaign Bock switched her party registration from Green to Decline to State in an effort to do better in 2000’s blanket primary contest. She then later switched her party registration again, this time to the Democratic Party.

²² The data for Table 3 come from the election results available on the Washington Secretary of State’s website (https://wei.sos.wa.gov/agency/osos/en/press_and_research/PreviousElections/Pages/default.aspx). Candidates who included some variant of “Democratic” or “Republican” in their party affiliation were counted as members of those parties.

minor party candidates that now appear on the Washington ballot do not affiliate with parties that have a significant national presence (for example, whose presidential candidates could theoretically win at least 270 electoral votes). Nationally, the three largest minor parties are the Constitution, Green, and Libertarian parties. While the number of minor party candidates has remained roughly constant over the period that Washington has used the top two system, the number of candidates affiliating with these three parties has declined—from six candidates in 2008 to five in 2010 to just one (Green) in 2012. In contrast, the Libertarian and Green parties accounted for all 57 of Washington’s minor party candidates in 2002 and 2004.

Explaining the Post-Proposition 14 Decline

Here we face a puzzle, then. Proposition 14 shifted California’s electoral system from single-member, plurality district elections to a majority runoff system. The general prediction is that, all other things being equal, runoff systems make it easier for third parties to contest elections and therefore we ought to see more parties winning seats in the legislature after Proposition 14’s passage. Despite this expectation, as in Washington, the number of minor party candidates contesting elections under the majority runoff system is significantly lower than under the SMPD system. Fewer minor party candidates filed for office in California, and only three minor party candidates appeared on the November ballot as compared to 76 in 2010. There are at least four explanations for the decline in the number of candidates: a substitution hypothesis, a discouragement hypothesis, a filing fee hypothesis, and a major-party resurgence hypothesis. This section explores each of these hypotheses in turn.

The data for this section come from two major sources. First, the data about candidate filings and voter registration statistics come from the California Secretary of State’s website (sos.ca.gov). Using the California Secretary of State’s Official List of Certified Candidates, I recorded the number of major party candidates, minor party candidates, and No Preference candidates seeking nomination in each district. I am interested in how many candidates in each party put themselves forward for office in three types of legislative districts: Congressional districts (n=53),²³ State Assembly districts (n=80), and State Senate districts (n=20 each cycle).²⁴

²³ There were 52 congressional districts prior to the 2000 reapportionment.

²⁴ Like members of the House of Representatives, Assembly members face re-election every two years. Members of

In addition, I interviewed and had email conversations with a handful of officials from three of California’s minor parties: the Green Party, the Libertarian Party, and the Peace and Freedom Party.²⁵ I was not able to contact anyone from the American Independent Party as part of this project. I also spoke with Richard Winger, a noted observer of and participant in California minor party politics, who facilitated contacting some of the minor party officials. These officials were selected because of their roles in their respective parties (e.g., members of the recruitment or central committees), because they are local party chairs in districts that have traditionally had candidates seek legislative office, or because they were referred by other party officials. The officials reside in both northern and southern California, and so the interviews were conducted over the phone with some follow-up conversations taking place by email. The interviews were mostly open-ended; the conversations generally began with me asking why they thought fewer minor party candidates ran in 2012 relative to 2010.

No Preference Substitution

The first explanation for the decline in third party candidates—the substitution hypothesis—begins to highlight the fact that not all other things were equal in 2012 compared to 2010. One consequence of the shift to the top-two system is that candidates could choose to express no party preference on the ballot. Candidates could run as independents before Proposition 14,²⁶ but Proposition 14 allows any candidate, even those registered as members of a political party, to appear as a No Preference candidate on the ballot.²⁷ In all, 36 candidates ran in 31 districts as No Preference candidates. Given the stigma that minor parties carry in the eyes of most voters (Rosenstone, Behr, and Lazarus 1984), perhaps disaffected majority party candidates who otherwise might have switched to run as a minor party candidate did not do so because the No Preference option was available. Alternatively,

the State Senate are elected to four-year terms, with half of the membership up for election every other cycle.

²⁵ The interviews took place between August and October 2012.

²⁶ The last independent elected to the California legislature was Quentin Kopp in 1994.

²⁷ In California, candidates and not the parties control their party affiliation on the ballot. If a candidate wants to run as a Republican, provided she can get the requisite number of Republican signatures (40) on the nomination papers, she is free to do so. The Republican Party cannot prevent the affiliation. The Proposition 14 regime imposes two limitations on the ability of candidates to affiliate with parties, however. First, in the language of Proposition 14, candidates can only “express a preference” for qualified political parties—i.e., those that have met the ballot qualification requirements and are therefore recognized by the state. This limitation keeps candidates from affiliating with even smaller parties, such as those seeking ballot status, or, as might happen in the future, those that have lost their ballot status. Second, in order to “express a preference” for a qualified party a candidate must be registered with that party. This limitation keeps Republicans from running as Democrats, Democrats from running as Greens, Greens from running as Republicans, and so forth.

perhaps minority party candidates concluded they stood a better chance running as a No Preference candidate and so filed for office this way.

At least three factors work against the substitution hypothesis. First, switching to a minor party to seek office is not as simple as it sounds. Each of the minor parties requires that its candidates be registered (and, in some cases, dues paying) members for at least one year prior to the election in order to seek their nominations. The party officials I spoke with said the parties care about maintaining their reputations and only want candidates who are really part of the party. Would-be candidates who are not already party members are not recruited and are generally rebuffed if they put themselves forward. At the same time, given their relatively small numbers in any given district, gathering the number of necessary party members' signatures for the nomination petition is difficult absent the party's support. Although a minor party cannot formally prevent a candidate from affiliating with it, the party officials I spoke with said that relatively few candidates who are not already affiliated with the one of the minor parties seek their nominations.

Second, all 36 of the candidates who listed their party preference as No Preference were registered as having no party preference. Proposition 14 required all candidates to provide, and the Secretary of State to publish, their party registration histories for the last ten years. The histories are self-reported, and there are some gaps in the reported data (e.g., missing years for individual candidates), but this requirement likely deterred candidates from trying to hide their party affiliation on the ballot. Twelve of the 36 No Preference candidates had been registered as such for more than two years prior to the elections; 24 changed their partisan affiliation.

Third, among those candidates who changed their party registration status in the lead up to the 2012 elections, there is not a clear pattern of major or minor party candidates seeking to run as No Preference candidates. Table 4 presents the patterns for candidates changing their party registration between 2010 and 2012.²⁸ In all, nine registrants changed their voter registration away from a minor party between 2010 and 2012. Five switched to a major party (two to Democratic and three to Republican) and four switched to No Preference. Thirty-three candidates switched their registration status away from one of the major parties. Three became minor party registrants (two Democrats became Greens and one Republican became Libertarian), ten switched major parties (six Republicans became Democrats and four Democrats became Republicans), and twenty became

²⁸ The data for Table 4 come from candidate filings in 2012. The data do not include write-in candidates.

No Preference registrants. Finally, twenty No Preference registrants switched to a party preference. Two affiliated with the Green Party, and eighteen affiliated with a major party (eleven Democrats and seven Republicans).

[Table 4 here]

There was a small, though not disproportionate, shift away from the minor parties between 2010 and 2012: among the candidates that switched, there were four fewer minor party registrants and four more No Preference registrants. Major party registrants were more likely to switch to No Preference than minor party registrants (61 percent compared to 44 percent), but given the small numbers of minor party registrants this difference does not seem overly significant (only nine changed their party registration status compared to 33 major party candidates). At the same time, a handful of major party and No Preference registrants changed their status to the minor parties. This net loss of four registrants, moreover, does not account for the dramatic decline in minor party candidates. While the availability of the No Preference option may have played a role in the decline in minor party candidates, it seems it only played a minor one. As confirmation of this conclusion, none of the minor party officials that I talked with mentioned the No Preference option as a reason why their parties had fewer candidates in 2012. Each did, however, talk about the remaining explanations.

Discouragement of Candidates and Parties

A second hypothesis is that the minor parties and their candidates were discouraged from competing in 2012 because of Proposition 14. Given that the largest minor party, in terms of voter registrations, has an average of just 2.5 percent of the registrants in any legislative district,²⁹ the odds that a minor party candidate would be one of the top two vote-getters are small. Recognizing the long odds, according to this hypothesis, the parties and their candidates chose not to compete.

There are actually two versions of the discouragement hypothesis: a candidate-centered version and a party-centered version. The candidate-centered version of the discouragement hypothesis

²⁹ This number likely *greatly* overstates the party's level of support in any given district. The party is the American Independent Party, originally part of George Wallace's segregationist party, more recently affiliated with the Constitution Party (an explicitly Christian theocratic party), and currently aligned with the Tea Party movement. Many people likely register with the party because it has the word "independent" in its title. The average percentages for Green, Libertarian, and Peace and Freedom registration—parties which are better known in California politics and have better defined national alliances—in contrast are, respectively, 0.6%, 0.5%, and 0.3%.

puts the onus for the decision to seek office on the candidate herself. Here, candidates evaluated the likelihood of making the fall ballot post-Proposition 14 and chose not to file for office. Political science has long emphasized the candidate-centered nature of modern elections, and thus it is natural that the candidate-centered version receives more coverage. Winger (2012), for example, succinctly summarizes this version of the discouragement hypothesis: “Proposition 14 makes it virtually impossible for minor party members to participate in the general election, so many candidates decided not to file” (McGhee and Krimm 2012 echo this sentiment). Note, the claim is not that candidates were discouraged by the fact that they were unlikely to win election, although minor party candidates are sensitive to electoral opportunity (c.f. Lem and Dowling 2006; Dowling and Lem 2009). Instead, the claim is that the candidates were discouraged by the fact they were unlikely to participate in the November election.

A true test of this version of the discouragement hypothesis would require interviewing or surveying potential minor party candidates about their decision to seek office, much as Maisel, Stone, and Maestas have done in their candidate emergence studies (c.f. Maisel and Stone 1997; Maestas et al. 2006). Such an effort was not possible in this case as the project was begun after the June 2012 election. It is possible, however, to gain some insight into whether Proposition 14 had an effect on the decision of potential minor-party candidates by looking at the historical trends in the number of minor party candidacies.

First, was the decline in minor party candidates in 2012 different from past years? If the discouragement hypothesis is correct, the 2012 decline should be different than any changes observed in prior elections. Table 5 shows the aggregate change in third party candidacies over the last two decades, and it does not provide a clear answer here. While the decline observed in 2012 is large relative to other cycles in terms of absolute numbers, two other years saw larger declines: 1994, with a loss of 66 candidates, and 2002, with a loss of 106 candidates.³⁰ The 2012 cycle, however, did see the largest relative decline in minor party candidacies with a 78 percent decline. The next largest decline was in 2002, with 50 percent fewer candidates. In both cases, though, the decline in 2012 continues a trend since 2002 of fewer minor party candidates.

³⁰ The 2000 election saw the most minor party candidates in the last two decades. Much of decline in 2002 can be attributed to the disappearance of two minor parties in California, the Natural Law Party and the Reform Party. The Natural Law Party, in particular, as Figure 2 shows, ran a significant number (74) of candidates in 2000.

[Table 5 here]

Second, was the decline in 2012 a general decline—that is, was it spread out equally among all the minor parties—or was it concentrated in a single party? Although there is no *a priori* expectation that the decline ought to be a general one, any concentration within a single minor party raises the possibility that other influences on minor party candidate emergence are driving the observed decline.

The aggregate changes in Table 5 mask significant variation in the number of minor party candidates. Figure 2 shows the number of candidates running in each of California’s minor parties between 1992 and 2012. The pattern here raises more doubts about the candidate-centered discouragement hypothesis. Most minor parties run very few candidates in most years. The 2012 cycle was no different in this regard. Since 2002, with the exception of the Libertarian Party, the minor parties averaged just seven candidates.³¹ In 2012, these parties ran eleven candidates.

[Figure 2 here]

Within the last decade, the only party to field a significant number of candidates in an election cycle is the Libertarian Party, and, as Figure 2 shows, the decline in Table 1 is largely concentrated there. There were 60 fewer minor party candidates in 2012 than in 2010. The Libertarian Party accounts for two-thirds of that decline (41 candidates). Moreover, while each of the minor parties had fewer candidates in 2012, the loss was not consistent across the different parties. The Libertarian Party had an 87 percent decline (from 47 to 6 candidates), the American Independent Party saw a 100 percent decline (from 8 to none),³² the Peace and Freedom Party saw an 83 percent decline (from 12 to 2), but the Green Party saw just a 10 percent decline (from 10 to 9 candidates). Taken together, the data in Table 4 and Figure 2 suggest that while some candidates may have been discouraged from running, other factors likely contributed to the declines as well.

My interviews with minor party officials likewise indicate that the top-two system likely discouraged some candidates but that other factors were also important. When asked, each of the officials

³¹ I use 2002 as the starting point for this comparison because it is after the collapse of both the Natural Law and Reform parties in California.

³² The number of candidates seeking an American Independent nomination was unusually high in 2010, however. Between 1992 and 2008, the party averaged just four candidates. In the 2000s, the party averaged just two candidates per cycle. The likely cause of this increase in 2010 is discussed in the major-party resurgence section.

said that Proposition 14 had a “dampening effect” on candidates’ willingness to run. One official said that candidates have to approach the first election as if it were the November election, which makes everything more expensive, but fewer people are paying attention in June. In the words of another, the “general election is the larger election and the more important election. Running in the primary is not as attractive. You don’t get to campaign at the height of activity.” Candidates were therefore less interested in putting their names forward. At the same time, however, every official that I talked with raised at least one other cause for the decline in minor party candidates and, generally, each placed greater emphasis on some alternative explanation.

The second, party-centered version of the discouragement hypothesis, in contrast, focuses on the efforts of the minor parties to recruit candidates for office. Here, parties concluded that it was unlikely that their candidates would make the fall ballot and therefore chose not to recruit any candidates. The party-centered hypothesis focuses on party elites’ efforts to encourage, discourage, and otherwise try to control the kinds of candidates that seek office (c.f. Fox and Lawless 2004; Kazee and Thornberry 1990; Knudsen Dominguez 2005; Maisel, Maestas, and Stone 2002; Masket 2011).

The role of the party in encouraging candidates to seek office may be especially important for potential minor party candidates. Minor parties lack a ready pool of ambitious candidates (Aldrich 2011; Schlesinger 1966). Those candidates that are available tend not begin with the same set of resources and expectations for potential victory as major party candidates (Rosenstone, Behr, and Lazarus 1984). As such, they may need extra encouragement from a party before deciding to file for office. In an email, noted ballot access and third party advocate Richard Winger wrote:

The truth is that a typical minor party member doesn’t want to run for Congress or state legislature. First, it is somewhat embarrassing to run for important public office and not have a big campaign. One fears ridicule. Also, if one does want to do a good job, one must devote lots of mental energy [to] studying the issues, and also lots of mental energy trying to organize a campaign. So, the party has to work to persuade people to run.³³

Absent this party encouragement, candidates who otherwise might file choose not to.

³³ Personal communication, September 18, 2012.

There is some evidence for this version of the discouragement hypothesis. In prior elections, the Libertarian Party—which, as noted above, was the biggest contributor to the decline in minor party candidacies in 2012—engaged in a centralized candidate recruitment effort. A party official would identify potential candidates in each of the districts using party (dues-paying) membership roles and the voter registration database. He would then personally call and encourage party members to file for office (or, in his words, “twist arms”). In an email, the recruitment coordinator for the California Libertarian Party wrote:

I recruited candidates from the 1988 through 2010 election cycles, and had pretty good luck most of those years, including 100 candidates in 2000. But after [Proposition] 14 passed, I saw no reason to conduct a recruitment effort in 2012. First of all, the cost of running would be too high for most of the candidates, and second and most importantly, there was little chance of moving on to the November ballot. We still had [seven] self-recruited candidates, none of whom got into the Top Two.³⁴

Because he did not believe it was worth a potential candidates’ effort in the top two system, and in contrast with his efforts over the last two decades, the official said he did not engage in any candidate identification or recruitment in 2012. Thus, though there is likely some overlap between the two forms of discouragement,³⁵ roughly two-thirds of the decline in Table 1 (41 of 60 candidates) can be attributed to one minor party being discouraged by Proposition 14 from recruiting candidates rather than candidates being discouraged from running for office.

Filing Fee Increases

A third possible explanation for the decline in minor party candidates relates to an increase in the filing fee paid by minor party candidates enacted by the California legislature through Proposition 14’s implementing legislation. The above statement by the Libertarian Party’s recruitment coordinator about the cost of running hints at this change. All candidates for partisan office in California are required to pay a filing fee equal to one percent (for all but statewide offices) or two percent (for statewide offices) of the annual salary of the position they are seeking. The filing fee for a

³⁴ Personal communication, September 18, 2012.

³⁵ That is, some candidates who might have been approached to run for office had the coordinator run a recruitment campaign may have declined to do so because they would not make it to the November election.

candidate for the House of Representatives, for example, is one percent of \$174,000 or \$1,740. For the California State Assembly and State Senate, the filing fee is \$952.91.

As required by *Lubin v. Panish* 415 U.S. 709 (1974), candidates have the option of submitting petition signatures in lieu of the filing fee. In 2010, candidates seeking a minor party's nomination for any partisan office could to submit petitions with at most 150 valid signatures from fellow registered partisans and avoid paying the filing fee.³⁶ Democratic and Republican candidates, in contrast, had to submit petitions with at least 1,500 (for the Assembly), 3,000 (for the State Senate or House of Representatives), or 10,000 (for Governor, U.S. Senator, other statewide office) valid signatures to have the fees waived. Candidates could also buy down the filing fee with the in-lieu signatures if they failed to gather the full number (each signature was worth between \$0.32 and \$0.58, depending on the office).

Subsequent to Proposition 14's passage, the California legislature increased the number of in-lieu signatures for minor-party candidates through AB 1413.³⁷ The Secretary of State had ruled that Proposition 14 voided the previous disparity in signature requirements between the minor and major parties, so the legislature equalized them (Richman 2012).³⁸ It chose to do so, however, at the higher levels required for major party candidates rather than at the lower levels required of minor party candidates. As a measure of relief to the minor parties, the in-lieu signatures no longer have to come from registered party members but can be from any registered voter in the district.

Whether the change is considered an increase in the filing fee or the signature requirement for filing for office, the predicted effect on minor party candidates is the same: it reduces the number of candidates who seek office. Stratmann (2005), for example, finds that an increase in filing fees reduces the number of major and minor party candidates, but the effect is larger for minor party candidates. A \$1,000 increase in the filing fee reduces the number of minor party candidates by 43 percent compared to just 4 percent for major party candidates. Stratmann finds no effect from higher signature requirements on the number of minor party candidates, but using a different

³⁶ Technically, candidates seeking the nomination of the American Independent, Green, Libertarian, or Peace and Freedom parties could "submit petitions containing signatures of 10% of the registered voters in the district in which the candidate seeks nomination, or 150 signatures, whichever [was] fewer" (California Secretary of State 2009).

³⁷ Introduced on March 14, 2011, and chaptered on February 10, 2012, AB 1413 made a number of statutory changes to the California Elections Code to bring it in line with Proposition 14's constitutional changes and to fix issues created by the hastily written SB 6 that had accompanied the initiative.

³⁸ Since parties no longer nominated candidates and it was now possible to run as a No Preference candidate, the Secretary of State held that all candidates must be treated equally and the state could not provide relief to the minor parties.

measure (signatures as a percentage of the electorate) Burden (2007) finds that relatively small increases in candidate signature requirements can dramatically reduce the number of third party candidates contesting a district.

The minor parties view this in-lieu signature increase as a *de facto* filing fee increase. In 2010 most minor party candidates did not have to pay a filing fee; all of them had to pay some portion of one in 2012. Officials from each of the minor parties indicated it was relatively easy to get the 150 signatures required prior to AB 1413, and frequently the number was much lower. The requirement could often be met by passing the petition around a local party committee meeting, for example. Gathering 1,500 to 10,000 signatures, however, is a much larger, and frequently in their eyes impossible, task. A Libertarian Party official indicated that the new requirement required the candidates to burn through the local organizations' meager resources just to get on the June ballot, likely exhausting the efforts of the local volunteers.

The parties approached the problem of paying the filing fee differently. The Green Party's rules preclude it from contributing to candidates before they qualify for the ballot, so it could not help candidates pay the filing fee.³⁹ The Libertarian Party made no effort to fund its volunteer candidates. Thus, in these parties, any candidate who wished to run was responsible for either paying the filing fee or gathering the necessary signatures on her own. The Peace and Freedom Party, however, chose to help make up the difference between what a candidates could raise or buy down with in-lieu signatures and the total cost of the filing fee. A Peace and Freedom official indicated that their most successful candidate, who was retired and therefore could devote the time to gathering signatures, was able to gather just 750 signatures—half of what was required for that office. Most fell much shorter in their efforts.

When asked about the difference in recruiting candidates before and after Proposition 14, each of the officials that I spoke with said that the increase in the signatures in lieu of the filing fee had a chilling effect on the willingness of party members to run for office. What had been a relatively simple, inexpensive process became significantly more difficult and much more expensive. Officials from the Peace and Freedom and Green parties indicated that there were people who ran in 2010 that chose not to run in 2012 specifically because of this change.

³⁹ Specifically, neither the state nor the local party can contribute unless the candidate has been endorsed by the county committee. The county committee cannot endorse a candidate until the candidate qualifies for the ballot.

The Peace and Freedom Party was able to use a novel approach to avoid the filing fee increase in three districts. The candidates filed to run as write-in candidates for the first ballot, which do not require a filing fee, and ran against otherwise unopposed incumbents—bringing the party’s total to five candidates. These three candidates are the only minor party candidates in California to appear on the November ballot. The party official who described this strategy, however, does not think it will be available in 2014. First, each of the minor parties will be looking to do this same in the next cycle. Second, he thinks the major parties will run candidates in more districts.

Major-Party Resurgence

The final potential influence on the number of minor party candidates is the strategic behavior of the major parties. Rapoport and Stone (2007) argue for a push-pull theory of minor party success: minor parties are successful when the major parties push voters away because they are sufficiently far away on policy or are otherwise unattractive and when the minor parties present attractive alternatives for policy or candidate-specific reasons. Rosenstone, Behr, and Lazarus (1984, 162) write, “The story of why people vote for third parties is a story of major party deterioration. . . . [O]verwhelmingly, it is the failure of the major parties to do what the electorate expects of them . . . that most increases the likelihood of voters backing a minor party.” When voters disapprove of a major party, they and candidates are more likely to support an ideologically proximate minor party.

Major parties can minimize the influence of the minor parties, however, by co-opting their policy positions. In this vein, Hirano and Snyder (2007) argue that the decline in U.S. third-party voting over time has more to do with the Democratic Party co-opting the policy positions of minor, left-wing parties than any specific institutional reform. Meguid (2005) similarly demonstrates that the spatial positioning of major European parties has a greater influence on the number of minor parties within a political system than any other factor. Thus, part of the explanation for the decrease in minor party candidates in 2012 could be because of major-party resurgence—i.e., relative to the major parties, the minor parties were less attractive to candidates in 2012 than in 2010.

The first evidence that major-party resurgence may be part of the story comes from Figure 2. As Figure 2 demonstrates, while the number of candidates for most of California’s minor parties has remained relatively constant, the number of Libertarian Party candidates has declined since 2000. With the exception of the 2010 election, the Libertarian Party has averaged 23 fewer candidates

each successive election cycle. Moreover, though it is not shown in Figure 2, the pattern of decline is consistent across district type.

Although the relationship is not perfect, as Figure 3 shows, at least until 2010 the number of Libertarian candidates has moved in concert with the number of Libertarian registrants. In the early 1990s the Libertarian Party was able to recruit more candidates relative to its proportion of all registrants. Between 1998 and 2010, however, the two moved more or less together. As the number of registrants declines, so does the number of candidates. When there is an increase in the number of registrants, the number of candidates also increases. Figure 3 suggests that if the party had engaged in a candidate recruitment drive in 2012, it likely would have had more candidates than in 2010.

[Figure 3 here]

Why the changing fortunes of the party post-2000? Despite consistently running large numbers of candidates, no Libertarian has been elected to legislative office in California during the last two decades. Given the demonstrated lack of success, and the lack of success by third parties nationwide post-Ross Perot, the party likely lost some of its attractiveness (Rosenstone, Behr, and Lazarus 1984). At the same time, the ideologically-proximate major party, the Republican Party, was the majority party nationally during this period. Whatever attractiveness the Libertarians held as an opposition party may not have been present when it was part of the ideological majority.

More recently, the Republican presidential contests have also affected the fortunes of the California Libertarian Party. Ron Paul's candidacy, fueled in part by his prior affiliation with the Libertarian Party—he was the party's presidential nominee in 1988—and his policy positions, has contributed to the party's decline. A party official said the party has been fighting a losing battle over the last two presidential election cycles to keep people in the party. It has lost registrants and, more importantly, candidates because people that otherwise would be part of the Libertarian Party switched their registration so that they could vote for Ron Paul in the Republican presidential primary. (The California Republican presidential primary is a closed primary.) In one case, a candidate completed the filing paperwork only to switch his party registration so that he could vote for Ron Paul. In so doing, the candidate disqualified himself from running as a Libertarian.

Finally, prior to the 2010 midterm elections the Tea Party movement burst onto the national scene (Kabaservice 2012; Skocpol and Williamson 2012). Largely a right-leaning movement, a central Tea Party theme was dissatisfaction with if not a rejection of the ideas and candidates of the Republican Party establishment. Although there is some disagreement over the claim (Williamson, Skocpol, and Coggin 2011), Kirby and Ekins (2011, 1) argue that the Tea Party also “has strong libertarian roots and is a functionally libertarian influence on the Republican Party.” Thus, right-leaning outside groups like the Libertarian Party or the American Independent Party were more attractive to would-be candidates than in past years.

Indeed, both of these parties saw significant increases in the number of candidates in 2010, and this increase was reflected around the county. According to one analysis, 2010 saw the largest number of independent and minor party candidates seek congressional office since 1934 (Ostermeir 2010). Nationwide, the number of Libertarian congressional candidates increased over 22 percent. In California, the Libertarian Party saw a smaller increase, from 40 candidates in 2008 to 47 in 2010. Its recruitment coordinator attributed part of the surge to the excitement surrounding the Tea Party. He said that the party had more volunteer candidates in 2010 than in any other year he could remember.⁴⁰ The American Independent Party, which following an intra-party fight over its national affiliation has tried to position itself as part of the Tea Party movement,⁴¹ saw an unusual number of candidates in 2010. In most years, the American Independent Party has just two or three congressional candidates; in 2008 there was only one. In 2010, in contrast, eight candidates sought the American Independent Party’s nomination.

To the extent that the Tea Party became a major (if not dominant) faction in the Republican Party, the minor parties would cease to be attractive alternatives to voters and candidates. With the Tea Party comfortably inside the Republican Party in 2012, and neither minor party succeeding in electing any of its candidates, both parties seemed to experience a return to more normal levels of candidates. In California, the Libertarian Party had just seven volunteer candidates in 2012, and the American Independent Party had no legislative candidates. Similarly, nationwide the number

⁴⁰ Its top two candidates, in terms of percentage of the vote, were both self-financed volunteers. Carlos Rodriguez received 8.0% of the vote in CA-28 (Santa Clara) and Edward Gonzalez received 7.8% of the vote in CA-16 (Los Angeles).

⁴¹ The Twitter handle of its Chairman, Markham Robinson (@Bravelad), lists the following hashtags: “Christian–Constitutionalist–Conservative–ProLifePersonhood–GunRights–TeaParty–ProIsrael–Veteran” (Accessed September 7, 2012).

of minor party congressional candidates fell 22 percent between 2010 and 2012 (Ostermeir 2012). Excluding California, there was a 14.5 percent decline in the number of independent and minor party candidates. Thus, majority party resurgence likely accounts for part of the decline in minor party candidates between 2010 and 2012.

Discussion

Proposition 14 has had a significant impact on California's minor parties, but the story of its impact is complex and contingent on each party's strategy for contesting elections. Although much of the popular discussion about Proposition 14's effects have focused on it discouraging individual candidates from seeking office, I have argued in this case study that there is much more to the story. The Libertarian Party's decade-long decline and the decision made by its recruitment officer not to recruit candidates in 2012 account for most of the decline in minor party candidates between 2010 and 2012. The shift of the Tea Party movement into the Republican Party also likely affected the willingness of candidates to file as Libertarians and American Independents. In addition, the legislature's decision to increase the number of signatures in lieu of a filing fee—raising the price of seeking office for minor party candidates—likely had a significant effect on the willingness of minor party candidates to run.

The minor parties' responses to the changes in California's electoral system illustrate the challenge of predicting the effects of any electoral reform. The reform was not a *ceteris paribus* event. The electoral formula switched from SMPD elections to majority run-off elections. It became somewhat easier for candidates to run as independents. The ballot access restrictions became much more difficult for minor party candidates to clear. Although I have not discussed it here, 2012 was also the first election cycle to use the state's new district lines. While it is possible to distinguish the relative effects of these changes, all of them played some role in the decline in minor party candidates.

The minor parties also have different goals and different strategies for contesting legislative elections, and these differences affected their responses to the electoral changes. The Libertarian Party has relied on a centralized effort by one party official to identify and recruit candidates statewide. Its strategy has been to run as many candidates in as many contests as possible. In 2012, the official chose not to recruit candidates, and as a result—even against the backdrop of its declining

fortunes over the last decade—the number of Libertarians on the ballot declined precipitously.

The Green Party, in contrast, relies on volunteers for legislative contests but recruits and supports candidates for local office. According to a member of its Candidates and Campaign Working Group, the party’s strategy, historically, has been to demonstrate competence at the local level and “spoil for success” in legislative contests. Rather than encouraging a large number of legislative candidates, it supports candidates in those districts where the party feels the Democratic candidate needs to be pushed to the ideological left. The Green Party had 9 legislative candidates in 2012—down from 10 in 2010—but 22 local candidates.

Like the Green Party, the Peace and Freedom Party supports candidates for local election—largely in unions rather than municipal or county government—and relies on volunteers for legislative contests. Like the Libertarian Party, though, the party historically does not target specific contests. In 2012, the party exploited the state’s write-in rules to get three candidates into the November election.

Given the limited nature of this case study—the responses of four minor parties in one state during a single election cycle—it is important not to stretch these conclusions too far. Minor parties and their candidates in other states may respond differently to similar electoral changes. I did not interview any minor party officials from Washington as part of this project, for example, and they may have emphasized different factors to explain the decline in minor party candidates than their California counterparts did.

At the same time, while the focus here has been explaining the decline in the number of California’s minor party candidates between 2010 and 2012, there is no necessary reason why the number has to remain low in the future. Louisiana, which has used its version of the top two system since 1976, saw Libertarian candidates contest five of its six congressional districts in 2012. (Just one Libertarian—the lone minor party candidate—ran in the 80 state legislative contests in 2011, however.) The parties might change their behavior in future elections, adapting their strategies to the new electoral system and different circumstances. The Libertarian Party recruitment coordinator, for example, may choose to engage in an active recruitment campaign again in 2014 given 2012’s increase in the number of Libertarian Party registrants. Indeed, it is possible that over the long run the number of minor parties in California will come to resemble other majority runoff systems.

The Future of California's Minor Parties

Going forward, Proposition 14 may make it harder for minor parties to contest California elections by forcing them from the ballot. In California, there are three ways a party can gain or maintain ballot access (i.e., “qualified” status). First, a party-affiliated candidate (or nominee in the prior system) must receive at least two percent of the vote for a partisan, state-wide office in the most recent gubernatorial election. California has seven such offices that would allow a minor party to qualify for the ballot, and most of the minor parties maintain their ballot status through this method. Table 6 shows the contests where a minor party candidate met the two percent threshold, thus garnering them automatic ballot status. (The Americans Elect Party gained its ballot status in 2012 and so could not contest the 2010 elections.) Four of the parties qualified through the Insurance Commissioner contest. Notably, none of the minor parties received at least two percent of the gubernatorial or U.S. Senate vote in 2010.

[Table 6 here]

Come 2014, it is highly unlikely that any minor party candidate will be one of the top two vote-getters in any of these contests. Over the last decade, the two major parties have averaged about 90 percent of the vote across each of the statewide races. The largest vote total for a minor party candidate in the November 2010 election was the Libertarian candidate for Lieutenant Governor, at 5.9 percent. By not qualifying for the fall ballot, the minor parties would be precluded from maintaining their ballot status through this method.

Second, failing to receive at least two percent of the vote in a statewide contest, a party can still automatically qualify for the ballot if it registers voters totaling at least one percent of the last gubernatorial vote (103,400 registrants are needed for 2012 and 2014). Currently, as shown in Table 6, the American Independent (477,129 registrants), Green (115,034 registrants), and Libertarian (108,736) parties exceed this threshold. The Peace and Freedom Party (61,987 registrants) would need approximately 42,000 more registrants to remain qualified. The Americans Elect Party, which was only interested in contesting the presidency, has just 3,313 registrants. Thus, unable to receive any votes for statewide office and lacking the necessary number of registrants, two of California's

five minor parties could lose their ballot status in 2014.⁴² If 2014 turns out to be a higher turnout election, the Green and Libertarian parties could also lose their qualified status.

The minor parties also worry that exclusion from the fall ballot will make it harder to maintain the necessary voter registration level. Over the last two decades, turnout in California's June primary has averaged just 27 percent among eligible voters and 38 percent among registrants as compared to 43 percent and 59 percent, respectively, in the November election. In the words of a Green Party official, "We will not be on the ballot when the maximum number of people will be paying attention. That makes it harder to gain needed attention by the public." This sentiment was echoed by each of the party officials I spoke with.

The experience of the Libertarian Party in 2012 illustrates this fear—and calls it into question. For much of 2012, it appeared that the party would fall below the necessary number of registrants. From January through September, the party had 93,000 to 94,000 registrants. It was not until just before the presidential election that the number of Libertarian registrants crossed the one percent threshold. With the interest of the presidential election and just one line on the ballot—Gary Johnson for president—the party was able to get over 14,000 new registrants between early September and late October. Whether the party will be able to mimic this success in 2014, when it may have no candidates on the ballot in a lower salience election, is an open question.

Third, if a party does not meet either of the first two requirements, it can still become qualified by gathering valid petition signatures equalling ten percent of the most recent gubernatorial vote (1,034,000 for 2012 and 2014). The Americans Elect Party, for example, gained its ballot status through the petition process in 2011–2012. This option, however, is likely prohibitively expensive. The conventional wisdom is that it takes about \$1 million to \$2 million to qualify an initiative for the California ballot, and initiatives require significantly fewer valid signatures.⁴³ Lacking significant private financing like the Americans Elect Party had, the Libertarian and Peace and Freedom parties will be challenged to meet this requirement.

⁴² In 1998, the Peace and Freedom Party lost its ballot status because (a) none of its candidates for statewide office met the two percent threshold and (b) its registration numbers were below the required one percent of the gubernatorial vote. It was able to regain its ballot status in 2003, however, through a voter registration drive bringing its total number of registrants above the 2002 threshold.

⁴³ Initiative statutes require signatures equal to just five percent of the gubernatorial vote; initiative constitutional amendments require signatures equal to eight percent of the vote.

There has been some discussion in the state legislature about changing the ballot qualification standards to make it easier for the minor parties to retain their qualified status. To date, the minor parties have opposed these proposals out of a concern that supporting them would be seen as accepting an electoral system that they oppose. One proposal is to change the requirement of gaining two percent of the vote for a statewide office to the first ballot (June) instead of the second (November). Examining the 2010 primary results suggest that none of the parties would have maintained their qualification status this way. The largest vote total a minor party candidate received was for the American Independent Party's candidate for Treasurer, Robert Lauten, who received just 1 percent of the vote in that contest. A second proposal would lower the voter registration threshold to just 0.5 percent of the gubernatorial vote. This change would allow all but the Americans Elect Party to retain their qualified-party status.

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<p>United States Representative District 31 <i>Representante de Estados Unidos del Distrito 31</i></p> <p style="text-align: center;">Vote for one / <i>Vote por uno</i></p>
<p>PETE AGUILAR Business Owner/Councilmember Party Preference: Democratic <i>Propietario de Empresa/Concejal Preferencia de Partido: Demócrata</i></p>
<p>BOB DUTTON Independent Small Businessman Party Preference: Republican <i>Pequeño Empresario Independiente Preferencia de Partido: Republicano</i></p>
<p>RENEA WICKMAN Nonprofit Executive Director Party Preference: Democratic <i>Directora Ejecutiva de Organización sin Fines de Lucro Preferencia de Partido: Demócrata</i></p>
<p>RITA RAMIREZ-DEAN Retired Educator Party Preference: Democratic <i>Educadora Jubilada Preferencia de Partido: Demócrata</i></p>
<p>JUSTIN KIM Congressional Oversight Counsel Party Preference: Democratic <i>Consejero Legal de Supervisión del Congreso Preferencia de Partido: Demócrata</i></p>
<p>GARY G. MILLER Member of Congress Party Preference: Republican <i>Miembro del Congreso Preferencia de Partido: Republicano</i></p>

Figure 1: Sample Ballot Information for California's 31st Congressional District, June 2012

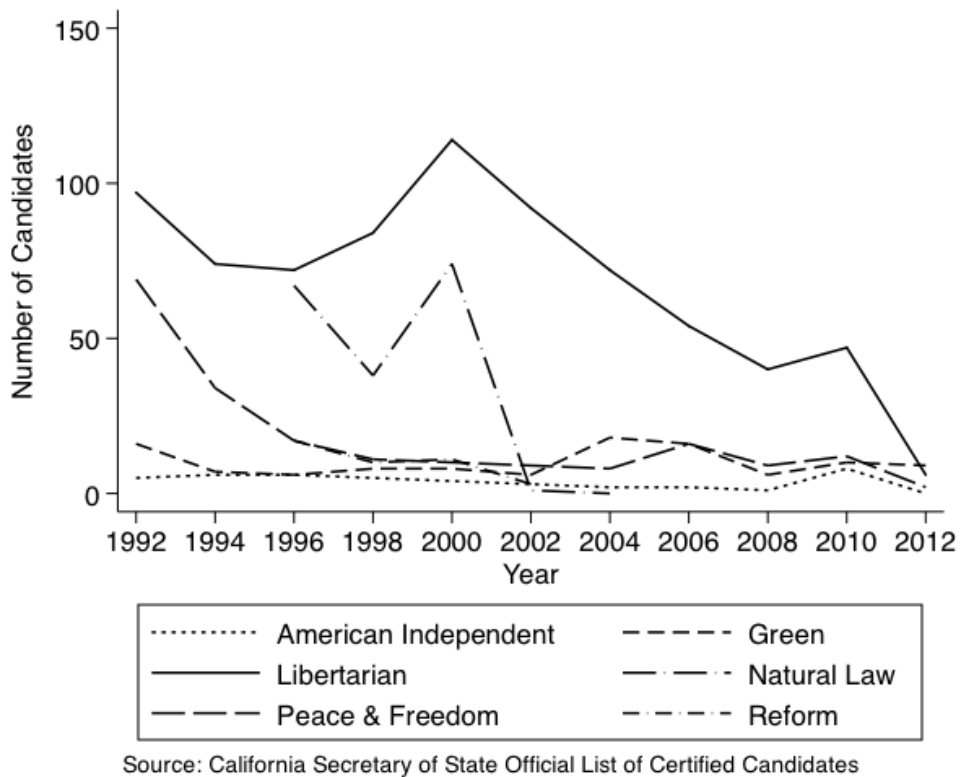


Figure 2: Minor Party Candidates, by Party and Election Cycle

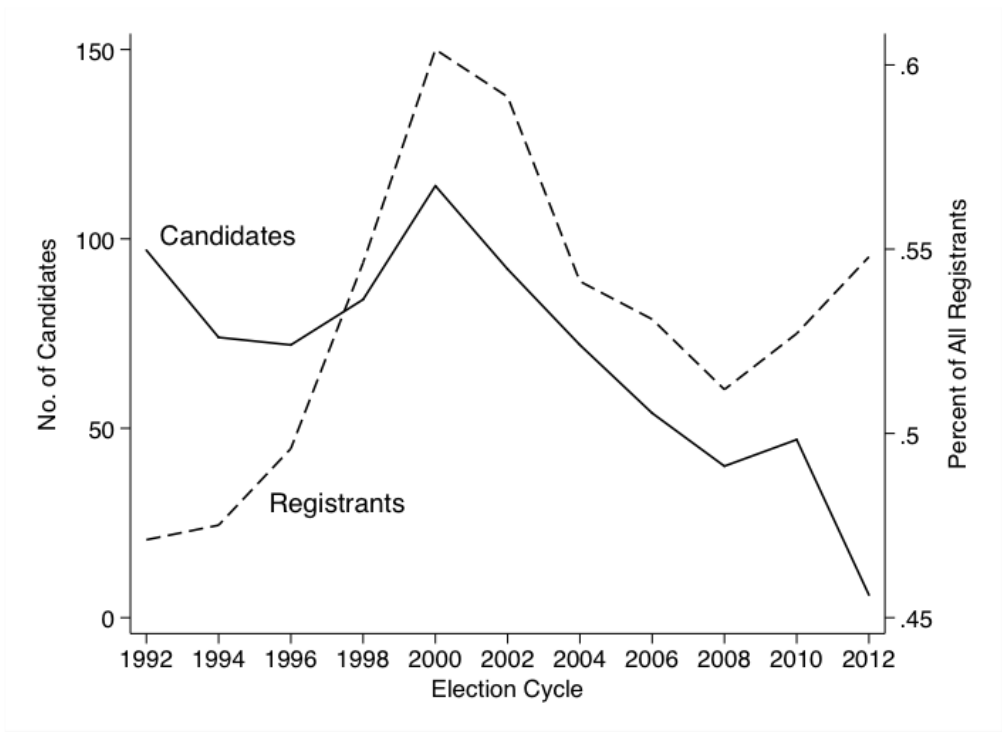


Figure 3: Libertarian Candidates and Registrants, 1992–2012

Table 1: Third Party Competition in 2010 and 2012 Primaries, by district type

Year	Assembly	State Senate	House	Total
Candidates				
2010	29	9	39	77
2012	6	1	10	17
Districts				
2010	25	7	27	59
2012	5	1	7	13

Notes: Excludes candidates for U.S. Senate. There are 80 Assembly districts, 20 State Senate districts, and 53 House districts contested each election cycle.

Source: California Secretary of State, Official List of Certified Candidates

Table 2: CA-31 Results

Party	Candidate	Percent of vote
Republican	Gary Miller	26.8
	Bob Dutton	25.0
Democratic	Pete Aguilar	22.6
	Justin Kim	13.5
	Renea Wickman	6.6
	Rita Ramirez-Dean	5.6

Note: Percentages do not total to 100 due to rounding error.

Source: California Secretary of State
(<http://www.sos.ca.gov/>)

Table 3: Minor Party Candidates in Washington Primaries, 2002–2010

Year	System	Candidates	Districts
2002	Blanket	24	21
2004	Open	33	32
2006	Open	0	0
2008	Top two	9	8
2010	Top two	11	10
2012	Top two	6	6

Note: There were either 131 or 132 districts with elections in each of these years. In 2012, Kshama Sawant (Socialist Alternative) ran in the State Representative 43 Position 1 contest and ran as a write-in candidate in the State Representative 43 Position 2 contest. She is only counted once here.

Source: Washington Secretary of State (<http://wei.sos.wa.gov/>)

Table 4: Candidates Changing Party Registration, 2010–2012

Post-Proposition 14 Registration	Pre-Proposition 14 Registration			Total
	Minor party	Major party	No Preference	
Minor party	0% (0)	9% (3)	10% (2)	8% (5)
Major party	56% (5)	30% (10)	90% (18)	53% (33)
No Preference	44% (4)	61% (20)	n/a	39% (24)
Total	100% (9)	100% (33)	100% (20)	100% (62)

Note: Excludes candidates running for U.S. Senate.

Source: California Secretary of State Candidate Party Preference History for the Last 10 Years. <http://www.sos.ca.gov/elections/2012-elections/june-primary/pdf/party-preference-history-2012.pdf>

Table 5: Change in Minor Party Candidates, 1994–2012

Year	Change	Percent Change
1994	-66	-35
1996	64	53
1998	-29	-16
2000	55	35
2002	-106	-50
2004	-5	-5
2006	-12	-12
2008	-32	-36
2010	21	38
2012	-60	-78
Average	-17	-11

Source: California Secretary of State
(<http://www.sos.ca.gov/>)

Table 6: Minor Party Qualification Standards, 2012–2014

Party	Received 2% of statewide office vote Office	Percent	Register 1% of gubernatorial vote
Americans Elect	–	–	No
American Independent	Insurance Commissioner	2.1%	Yes
Green	Secretary of State	3.0%	Yes
	Attorney General	2.7%	
	Insurance Commissioner	2.6%	
	Treasurer	2.4%	
Libertarian	Lt. Governor	5.9%	Yes
	Insurance Commissioner	4.0%	
	Controller	3.1%	
	Attorney General	2.6%	
	Secretary of State	2.3%	
	Treasurer	2.2%	
Peace and Freedom	Controller	2.2%	No
	Insurance Commissioner	2.1%	

Note: 1% of the 2010 gubernatorial vote is 103,004 registrants. Party registration statistics as of Oct. 22, 2012.

Sources: California Secretary of State, Statement of Vote, November 2, 2010 General Election; Report of Registration as of October 22, 2012