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ARTHUR C. LUDINGTON

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N. 7. P.
New York State Education Department

State Library, October 24, 1910

Hon. Andrew S. Draper

Commissioner of Education

DEAR SIR: I have the honor to transmit herewith and to recommend for publication a historical summary of American ballot laws for the past twenty years, with a more minute analytic digest of the provisions of existing laws on this subject in every state. The monograph presents facts only. There is no attempt at criticism, discussion or comparison.

Very respectfully

JAMES I. WYER, JR

Director

STATE OF NEW YORK
EDUCATION DEPARTMENT
COMMISSIONER'S ROOM

This voluminous bulletin covers a summary of all American ballot laws enacted in the last twenty years. The subject is of sufficient importance and the work seems to have been sufficiently well done to justify such a State as New York in going to the expense of providing the information for all interested. Publication is approved this 25th day of October, 1910.



Commissioner of Education

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Legislation 40

AMERICAN BALLOT LAWS, 1888-1910

A COMPARATIVE TABULAR DIGEST OF THE BALLOT LAWS OF THE FORTY SIX STATES AND OF THE TERRITORIES OF ARIZONA AND NEW MEXICO, AS IN FORCE NOVEMBER 8th, 1910; AND A BRIEF CHRONOLOGICAL SURVEY OF CERTAIN FEATURES OF THE BALLOT LAWS ENACTED BY EACH OF THESE STATES AND TERRITORIES DURING THE LAST TWENTY YEARS

BY

ARTHUR C. LUDINGTON

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INTRODUCTION

The following monograph deals with the ballot laws of the several states of the Union and of the territories of Arizona and New Mexico as they stood at the time of the Congressional elections of November 8th, 1910. The chronological survey (Part 1) includes all acts passed at the sessions of the several state legislatures in 1910,¹ and the tabular digest (Part 3), as well as Parts 3A and 3B, are compiled as of November 8th, 1910.

Where the word "ballots" is employed it is to be understood as referring only to ballots used for the election of public officers. Primary election ballots are not included within the scope of this monograph.

The word "ballot," moreover, is to be understood as excluding ballots used at special elections. Such ballots, whether the special election is for the purpose of filling a vacancy in a public office or for the purpose of voting upon some question submitted by

¹As the 1910 session of the Vermont legislature was not yet completed in January, 1911, when this monograph went to press, it was impossible to include any references thereto.

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the legislature, are apt to be provided for (especially in the latter case) by the statute authorizing the election to be held. The provisions of these special acts prescribing the form of ballot to be used at such elections vary considerably, and as they are very numerous it has not been thought worth while to attempt to include them. Only those forms of ballot, therefore, which are provided for by general laws governing regularly recurring elections are dealt with in this monograph.

Part 1 Chronological survey. This part of the monograph gives a brief outline for each state and territory and for the period from 1888-91 to 1910, inclusive, of every law enacted and of every constitutional amendment proposed by the legislature (whether subsequently adopted or not) which deals with any one of the group of subjects selected for discussion. These subjects are hereafter explained in detail in that portion of the introduction which relates to the Digest (Part 3). The chronological survey does not attempt to present the various acts and amendments of earlier years as fully as the current laws as presented in Part 3. For example, while a separate division of the Digest for each state is devoted to the method by which the names of candidates are given a place on the ballot, the earlier enactments dealing with this subject (i. e. with the making and filing of certificates of nomination or independent "nomination papers," the definition of political parties entitled to nominate by certificate of nomination, etc.) are but briefly indicated in the chronological survey. No attempt has been made to include in the survey the direct primary laws passed in a number of states, or the amendments to the same. These laws generally modify to some extent the procedure by which the names of candidates are given a place on the official ballot for general elections, and where such laws are now in force, this fact has been indicated in the tabular digest; but it was not thought worth while to include them in the chronological survey. The outlines of those acts or portions of acts which deal with the form of the ballot or with the rules for marking the ballot are somewhat fuller, but even in these cases no attempt has been made to describe every detail of each new piece of legislation. To do so would have required too much space, and for the reader who desires exhaustive information complete references are given to the statutes themselves.

Part 2 Classification and summary. This section presents in tabular arrangement the principal changes in the form of ballot in the several states, the states being grouped in five divisions accord-

ing to the general types and forms of ballot which they have adopted since 1888-91.

Part 3 Digest. This presents for each state under four heads the principal features of its ballot laws as they stood on November 8th, 1910, the states being arranged alphabetically.

The first division under each state contains those provisions of its constitution which deal with the subjects of this monograph.

In the second division is indicated the procedure by which the names of candidates are given a place on the official ballot. It has not been attempted to show the time at which certificates of nomination or nominating petitions must be filed nor the form in which and conditions under which they are to be drawn up, nor the method by which vacancies caused by the death or withdrawal of a candidate are to be filled. In general only the persons by whom such certificates or petitions are to be signed and the officers with whom they are to be filed have been stated; or, where certificates of nomination and nomination papers are not provided for, the procedure indicated by law, whatever it may be, has been outlined.

In the third division the type and form of ballot used in each state are described under various subdivisions.

Under subdivision 1 is indicated the general type of ballot used, i. e. whether or not the ballot is "official"; also (in amplification of this term) by whom the ballots are furnished and distributed to the several polling places, and from whom, when and where they are to be obtained by the voters.

Subdivision 2 further specifies the type of ballot used by indicating whether candidates of all parties are voted for on a single "blanket" ballot, or whether there is a separate ballot for each party.

The remaining subdivisions in this division deal with the form of the ballot.

Under subdivision 3 is indicated the general arrangement on the ballot of the names of the candidates, and the order of the several party columns or of the titles of the several offices; also the presence or absence of party emblems at the tops of the columns or of party designations after the names of the individual candidates. Certain other details as to the arrangement of the ballot which did not seem to belong under any other subdivision have in a few cases been included under this head.

Subdivision 4 states whether any special method is provided for voting a "straight party ticket" (i. e. voting for all the candi-

dates of any one party) different from that prescribed for voting a "split ticket": (i. e. one made up of individual candidates from several different parties).

Subdivision 5 states whether any special spaces are provided on the ballot in which a voter may write the names of persons not already named thereon as candidates for any office.

Subdivision 6 states whether or not there is any provision that no candidate's name shall appear upon the ballot in more than one place, and, where the ballot is of the "party column" form and such a provision exists, states the procedure to be followed in case a candidate is nominated by two or more parties.

Under subdivision 7 are indicated the methods, if any, employed in each state to attain one or more of the following objects: (a) that the ballot returned by each voter to be deposited in the ballot-box shall be none other than the one given to him by the election officers; (b) that the number of ballots cast shall correspond exactly with the number of persons who have voted; and (c) that the methods adopted to ensure the above results shall not be such as to furnish a means of identifying any ballot as having been cast by a particular voter. Strictly speaking, this subdivision could properly be included in this division only when the above objects were sought to be attained by some method or methods connected with the form of the ballot itself, as in the case where detachable numbered stubs are provided for. Because of the importance of this subject, however, and for the interest of the comparison, other methods which seek to attain one or more of these objects—such as the signing or initialing of each ballot on the back by the election officers, the numbering of the ballot itself before it is deposited, or the mere checking off of the voters' names on a registration list—have also been included. Owing to lack of space, only a brief indication of the method employed could be given in each case.

Subdivision 8 states whether or not the official ballots are provided with any official indorsement printed on the back or with any similar device, such as a special watermark, to distinguish them from unofficial or spurious ballots.

Subdivision 9 states whether or not in addition to the general ballot, separate ballots are provided for municipal, educational, judicial or other officers to be elected, or for constitutional amendments or other questions to be voted on, at national, state or municipal elections; also in what form such amendments or questions are printed on the general ballot or on a separate ballot.

Whenever the ballots used at separate elections (local, judicial etc.) are of a different form from those used at general elections, this fact is also indicated under this subdivision. No attempt has been made, however, to describe the various informal methods of voting usually permitted at certain minor local elections.

Subdivision 10 states whether or not sample or "specimen" ballots are provided; in what respects, if any, they differ from the official ballots; and what use is to be made of them.¹

In the fourth division are outlined the rules for marking the ballot. Under this heading are discussed the various methods of voting a "straight" or a "split ticket," and it is stated whether or not a voter may write on his ballot the name of any person not already mentioned thereon as a candidate for some office, and whether or not he may make use of "pasters." The implement to be used, however, in marking the ballot, (i. e. pencil, pen, or stamp and ink pad) is not indicated; nor has any attempt been made to discuss the rules for counting the ballots, i. e. what ballots are to be deemed void as containing distinguishing marks or because of conflicting marks, what ballots are to be counted as blank for one or more offices, how the intention of the voter is to be interpreted, etc. These rules are very closely connected with the rules for marking the ballot and only lack of space has caused them to be excluded.

The statutory references which are given in the several divisions and subdivisions of the tabular digest are (1) to the particular section of the code or revised statutes containing the provision in question and (2) to the original chapter or page of the session laws in which the provision in its final form was enacted. In most cases the corresponding sections of earlier laws which have been either amended or repealed are also indicated. Where, however, the references to the session laws have once been given in connection with any section of the code or revised statutes of a state, if the same section of the code is afterwards referred to they are not repeated. The meaning of the abbreviations used in these references may be found by consulting the table in Part 3B.

¹ From among the great number of detailed provisions to be found in the laws of the several states in regard to the form of ballot, it was difficult to decide just which to select for this third division and which to omit. If the work were to be begun over again, possibly subdivisions 3 and 10 might be omitted as relatively unimportant, and other subdivisions inserted to deal with the various methods of arranging the names of presidential electors, the emblems or devices, if any, used by the several parties, the nature of the "instructions," if any, printed at the top of the ballot, the presence and placing of "voting squares" or "voting circles," the size of the ballot, the kind of type and paper used, or other details.

WHAT PART 3 DOES NOT COVER

In addition to the topics mentioned elsewhere as having been omitted from this digest, it should be stated that no attempt has been made to cover the following: provisions as to the number of ballots to be supplied, the manner of furnishing substitutes in case the original ballots are not ready in time or are lost or destroyed, and the conditions under which unofficial ballots may be used; provisions as to the decision of questions affecting the regularity of nominations or the right to the use of the party emblem in case of a contest between rival factions, each claiming to represent the party; provisions as to the reprinting of the official ballots in case nominations are altered, or the affixing of pasters by the election officers before the ballots are distributed to the voters in case the change of candidates occurs too late to have the ballots reprinted; provisions as to the certification by the secretary of state to the officers charged with furnishing the ballots of the names of the candidates whose certificates of nomination have been filed with him, and as to the publication by him before election day of the lists of candidates of the several parties and the constitutional amendments or other questions to be voted on; provisions as to the preparation and posting of cards of instruction showing how the ballot is to be procured and voted; provisions as to the handling of the ballots on election day (except so far as this subject is covered in subdivisions 1 and 4 of the third division under Part 3) and as to the obtaining of another ballot by a voter in case he spoils the one first handed to him; provisions as to the assistance which may lawfully be rendered to blind, illiterate or disabled voters; provisions as to the disposition to be made of the ballots after the election is over; provisions designed to ensure the secrecy of the ballot; penal provisions in connection with the printing and handling of ballots; and, finally, (except in the case of a few states) provisions as to the minor local or special elections to which the general ballot laws do not apply.

Part 3A Voting machines. This presents the general constitutional and statutory provisions, if any, of the several states in regard to the use of voting machines. All that it has been attempted to indicate here is (1) the method by which voting machines may be adopted, (2) the political divisions and the elections in which they may be used, and (3) whether or not the approval of a state voting machine commission or board of commissioners is neces-