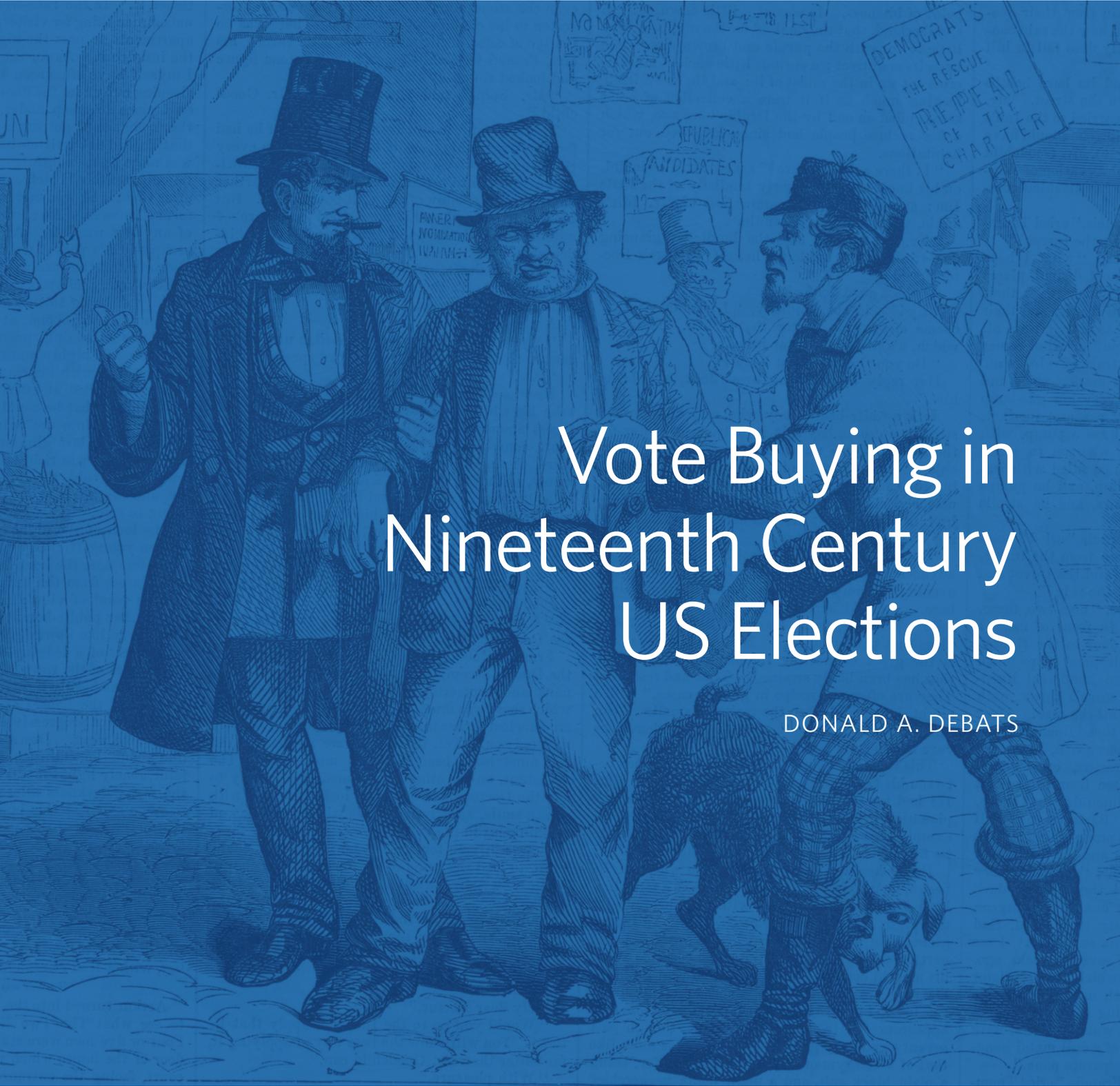


Voting Viva Voce

UNLOCKING THE SOCIAL LOGIC OF PAST POLITICS



Vote Buying in Nineteenth Century US Elections

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Public Voting

Vote Buying in Nineteenth Century US Elections

by

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Anecdotes about vote buying and electoral fraud, particularly in the mid to late nineteenth century, are an inescapable, and colorful, part of American political history. As Howard W. Allen and Kate Warren Allen long ago noted:

Stories of fraudulent election practices color the political history of the United States, and anecdotes about vote buying, the dishonesty of election officials, and the like suggesting the widespread prevalence of election fraud in the American past are an integral part of the lore of American politics.¹

Cover and opposite

Trials of a Wavering Citizen, 1857

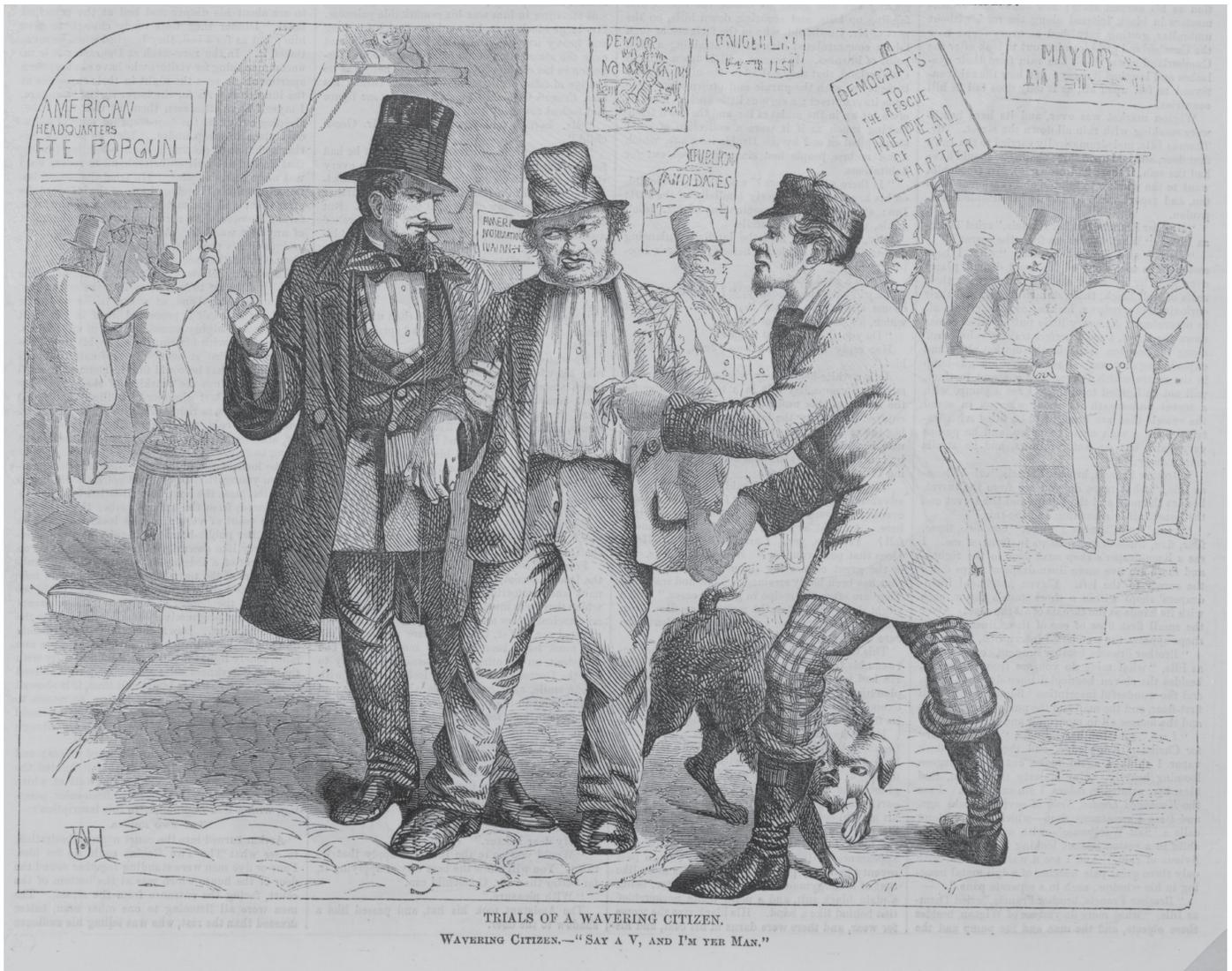
This woodcut in *Harper's Magazine* was in anticipation of New York City's mayoralty election on December 1, 1857. The American Party, a nativist party, was emerging as the temporary successor to the Whig Party, which had come apart over the issue of slavery and the westward expansion of slavery. The Republican Party had just fielded its first presidential candidate, John Fremont, a year earlier. In this anonymous image, a voter (none too well for the experience) is being pressed by an aristocratic type to take the party-prepared ticket of the anti-immigrant American Party while an Irishman is urging him to deposit a Democratic ticket led by Fernando Wood, the party's candidate for mayor.

Is money being offered for a vote? Is that money or party tickets in the Irishman's hand? If that is not so clear, the allegations of improper pressure and excessive alcohol certainly are.

But we must be careful about generalizing to the whole voting population from evidence such as this.

Harper's Magazine and *Leslie's Illustrated Magazine* were both New York City publications and contribute very highly to our mental images of nineteenth century politics. But New York was remarkably atypical of American places of residence in 1860: the United States remained overwhelmingly (80 percent) a nation of farms and small towns. New York City was the only city that (with Brooklyn) just exceeded one million people. New York and Philadelphia together had a population of a million and a half, still just five percent of the US population. There is no count of political images of the nineteenth century, but it would not be illogical to anticipate that the largest cities of the United States contribute well over 90 percent of those images. The context of politics in large cities such as New York and Philadelphia was quite different from the rural scene preserved by George Caleb Bingham in *The County Election*, where all voters were known to one another one the day and even recognized their compatriots in Bingham's painting years later.

Harper's Magazine, November 7, 1857. Courtesy of the Library of Congress



The academic literature on vote-buying moved quickly from localized stories to considerations of corruption's systemic effects and speculation about their implications for US politics. One important vehicle for this transformation from lore to fact was the slow reaction to an interpretation of US politics advanced by Walter Dean Burnham in an article published over 50 years ago. "The Changing Shape of the American Political Universe," put the focus not on corruption, but on the vast number of Americans participating in the elections from the 1840s to the 1890s.²

Burnham's argument was premised on the authenticity of those votes, not their tainted and corrupt status: this was America's political "golden age," its "Camelot." In Burnham's interpretation those votes were the sum of the very



Winning at Any Cost, *Kentucky Courier-Journal*, October 11-18, 1987

Charges of vote-buying may seem very nineteenth century, but in fact such allegations, and proved behavior, continue in our times. The Kentucky Center for Investigative Reporting has produced a series of such reports beginning in the late 1980s which have been nominated for prestigious awards. In 2016 a federal jury convicted two Magoffin County (Kentucky) officials of vote-buying in relation to a county election in 2014. (See Bill Estep, "Magoffin County officials convicted in vote-buying scheme," *Lexington Herald-Leader*, August 12, 2016.)

It is unwise to claim that corruption of elections never takes place. Clearly it has, as George Caleb Bingham convincingly charged in the overturning by the Missouri legislature of his electoral victory in Saline County, Missouri in 1846. Clearly it also continues at some level far lower down the power hierarchy, as demonstrated by cases prosecuted in Magoffin County, Kentucky from the 1980s to 2016.

Vote-buying has always been illegal. The honesty of elections reflects what the public and law enforcement authorities insist upon. The most useful evidence of the reality of corruption, and vote-buying in particular, comes from the losers of elections. The US Congress' *Disputed Election Series* is a good guide to those cases.

The risk of course is that the public, and historians, conclude that these exceptional cases describe not exceptional cases, but the whole, or even a large part, of the electoral process. And for that assumption, there is no evidence at all.

R G Dunlop, "Vote-Buying: Still a Thing in Kentucky," Kentucky Center for Investigative Reporting, August 19, 2016

high levels of political participation by an enlightened electorate motivated by issues and engaged by a strong party organization.³ This was, as Burnham recently wrote in an article celebrating the success of his interpretation:

a strange lost world of democratic politics in the United States... [that] had come into being in the 1830's, vigorously survived across the whole of the nineteenth century, and then came to an abrupt end in the first decades of the twentieth century[:]....a preexisting democracy... sacrificed on the altar of a triumphant industrial-financial capitalism.⁴

The world of nineteenth century voting that Burnham described was a world in which voting was a public act, not a private one, a world in which the secret ballot did not exist and in which all voting was accomplished either by depositing a party ticket or, as in the case of Alexandria and Newport, by calling out candidate names.⁵ The question became why rates of voting evidently declined so dramatically after this period of very high political engagement.

Scholars were quick to point out the wide variety of structural reforms introduced into US electoral law beginning in the 1890s. These included registration systems, the Australian secret ballot, and women's suffrage, and they could all serve as explanatory variables for the decline in participation rates of the twentieth century.

It was inevitable that these alternative explanations for the decline in participation would also mine the irresistible richness of that anecdotal evidence of voter corruption in order to deflate the legitimacy of high levels of voting prior to reform. In this fashion Lionel Fredman presented the case for the secret ballot in terms of an earlier history of electoral corruption; by the 1850s, he wrote, "it was obvious to many Americans that manipulation of the ballot [sic] had made voting a meaningless procedure."⁵ And past fraud became and remains the dominant explanation for the decline in the turnout in US elections.

Phillip Converse was one of the first to attack Burnham's thesis, using investigations by late nineteenth century reformers to suggest that in dense and transient city cores the level of fraud votes was vast and ranged from 30 to 60 to even 75 percent of the total vote, with perhaps 40 percent fraud rates the most likely figure.⁷ So great was this alleged level of fraud that it was quite possible, as Howard Allen and Kay Allen put it, that the decline in turnout

Opposite

Stuffer's Ballot-Box, *Frank Leslie's Illustrated Newspaper*, July 19, 1856

There were more efficient ways of perpetrating vote fraud than bribing individual voters. This ingenious and famous piece of carpentry was allegedly used in San Francisco elections for the deposit of party tickets. Brightly colored in blue, it was constructed to store spurious tickets to be released after the close of voting, when the box was sealed, but before the tickets were counted. Tickets of the party attempting to fix the election could be stored in internal compartments within the box created by special, and secret, dividers. A party follower would release the secretly held tickets, then counted as if they had been deposited by voters.

It was alleged to have been used in the election of San Francisco Supervisor James P. Casey and in a ward-level primary election. Casey, editor of *The Sunday Times*, and James King, editor of San Francisco's *Daily Evening Bulletin*, carried on a furious newspaper war. King was also a member of the first Committee of Vigilance which operated as an extra-legal force in a tumultuous gold-rush San Francisco. The Committee was a police force, a militia, and saw itself as a legal entity with the power to arrest, try, and inflict punishment, often in opposition to the elected government of San Francisco. It hanged four people in two years, deported others to Australia, and exiled yet others from California. King was convinced that Casey's election in 1855 was rigged, and published articles to that effect and that Casey had been imprisoned in New York for grand larceny. Casey confronted King on the late afternoon of May 14, the day the article appeared, and fatally shot him, though he lingered for six days. The Committee of Vigilance reorganized on same day. On May 18, the Vigilance militia arrived at the county jail in force, armed and supported by a small artillery piece, to demand the county sheriff David Scannell release to them both Casey and another prisoner, Charles Cora, whose trial for the murder of a federal marshal had ended inconclusively. Scannell released both to the Vigilance militia. On May 20, the day King died, Casey and Cora were tried by the Vigilance Committee at its fortified headquarters on Sacramento Street: both were sentenced to be hanged on May 23.

Also on May 20, the Committee also arrested James "Yankee" Sullivan, a former prize-fighter and a Democratic Party operative, on charges of ballot-box fraud. It was probably at Sullivan's residence that the Committee of Vigilance found their "smoking gun," the rigged blue box.

On the morning of May 23 Corey married Bella, his fiancé, and then, about 1 pm, he and Casey were hanged from platforms built out from the second story windows of the Vigilance Committee's Sacramento Street headquarters, before a vast crowd of spectators. Eight days later, James "Yankee" Sullivan, an Irish immigrant, still held by the Vigilance Committee, used a table knife to sever the arteries at his elbow and bled to death.

On June 2, California's governor, Neely Johnson, declared San Francisco in a state of insurrection. William Tecumseh Sherman, Major General of the Second Militia Division, having located a hill for artillery to destroy the Vigilance Committee's fortified headquarters, said he could not form a plan of action with the governor and resigned his position. In his memoirs, long after the Civil War, Sherman wrote that the Committee of Vigilance:

controlled the press, they wrote their own history, and the world generally gives them credit of having purged San Francisco of rowdies and roughs; but their success has given great stimulus to a dangerous principle, that would at any time justify the mob in seizing all the power of government; and who is to say that the Vigilance Committee may not be composed of the worst, instead of the best, elements of a community?*

Frank Leslie's newspaper reported that the infamous box was "now in possession of the Vigilance Committee" where it became its icon, and its justification for its extra-legal activities.

What is lacking in this story of political corruption is any evidence that the soon to be famous blue box was ever used in an election to receive tickets from the voters. Why would election officials allow a party operative to bring to a public election venue a private box, especially one so distinctively painted, to receive the tickets?

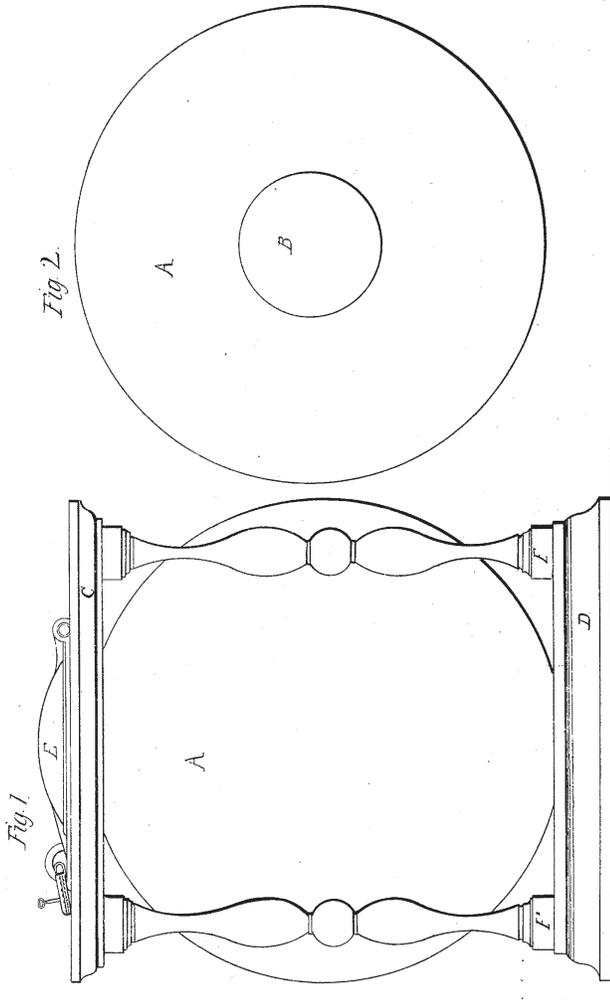
*William Tecumseh Sherman, *The Memoirs of General W T Sherman*, 4th Edition (New York, Charles Webster & Co, 1892), Vol 1, 159.

Frank Leslie's Illustrated Newspaper, July 19, 1856, p 92. Courtesy of the Library of Congress and the American Antiquarian Society, Worcester, Massachusetts

US Patent and Trade Mark Office, Patent Number 21684, Ballot Box, Samuel C. Jollie, October 5, 1858

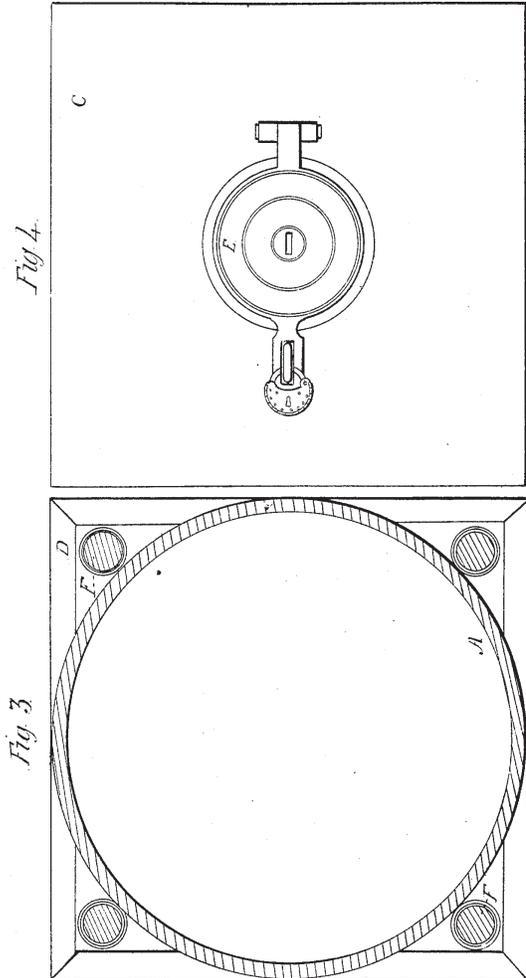
S.C. Jollie. *Sheet 2. 2. Sheets.*
Ballot Box.

N^o 2,1684. Patented Oct. 5, 1858.



S.C. Jollie. *Sheet 2. 2. Sheets.*
Ballot Box.

N^o 2,1684. Patented Oct. 5, 1858.



Burnham discerned, “merely reflected the decline of fraud brought about by the reforms in the election procedures.”⁸

That theme continues in Glenn Altschuler and Stuart Blumin’s 2001 book *Rude Republic* which targets Burnham’s image of “the last six decades of the nineteenth century as an era of unprecedented and subsequently unequaled popular interest and participation in partisan political life.”⁹ Voting in this era was instead, they argue, devoid of meaning and was but a function of the floss and corruption that surrounded nineteenth century elections. Richard Bense’s 2004 study of electoral impropriety in 48 contested Congressional elections, largely in Missouri, Pennsylvania, and Kentucky between 1851 and



1868 presents a picture of almost unrelieved drunkenness, voter intimidation, and voters being marched by party organizers to the polls devoid of any understanding of their actions. This view of America's past elections is the near-antithesis of Burnham's:

[t]he American polling place was thus a kind of sorcerer's workshop in which the minions of opposing parties turned money into whiskey and whiskey into votes. This alchemy transformed the great political interests of the nation, commanded by those with money, into the prevailing currency of the democratic masses. Whiskey, it seems, bought as many, and perhaps far more, votes than the planks in party platforms.¹⁰

Opposite

A Clear Alternative: The Glass Ballot Box, courtesy of Samuel C Jollie, 1856

Within days of the image and story of the alleged “Stuffer’s Ballot-Box” in San Francisco appearing in New York’s *Frank Leslie’s Illustrated Magazine*, a solution arrived, courtesy of Samuel C Jollie, an important New York City music store proprietor who sold sheet music and also manufactured musical instruments.

Jollie produced, to the delight of New York’s mayor, a prototype of a secure receptacle for tickets: a clear glass sphere, entirely visible but protected by a cast iron framework. The iron bottom and iron top were connected by slim iron corner posts. A lock on the top prevented tampering. There was no place to hide tickets, no opportunity for false bottoms or false sides. And the contents of the sphere would be visible from all angles. No ticket stuffing was possible.**

In patenting his invention in 1858, Jollie noted that it was designed, “so that bystanders may see every ballot [eg ticket] which is put in, see all ballots that are in, and see them when taken out.” *The New York Times* in endorsing the invention noted that, “enables every vote to be seen as [it is] deposited.” What Jollie’s elegant glass and iron combination did not provide was secrecy in voting: it was aimed only at security of voting. The logic of the design was to increase, in a quite literal sense, the transparency—the visibility—of voting, just as Jollie, *The New York Times*, and later *Frank Leslie’s Illustrated Newspaper* all proclaimed as its central virtue.

And in this we see, in physical form, the essential feature of all American voting before the secret ballot: what mattered was the prevention of fraud, what did NOT matter was public voting. Jollie’s “clear alternative” did nothing to make the citizen’s ticket more private or secret. The clear intent was to make each citizen’s the ticket choice, like the glass itself, totally visible and knowable.

Jollie’s patented device, or a version of it, would appear in sketches and drawings of voting in the United States for the next four decades, until the adoption in the 1890s of the secret ballot. Jollie himself sold 1200 of his cast iron and glass boxes to the election officials of New York City for use in the 1857 elections; another lot were shipped to the city of San Francisco, thought to be in need, care of a member of the Committee of Vigilance.

As occurs so often in the course of American reform movements, light is presented as the solution to corruption which occurs in secret and in darkness: light is the great disinfectant. But of course what that reasoning applied to this circumstance meant was that every individual vote would be an even more visible, even more a public declaration for any interested observer to see, just as any observer at a *viva voce* election could hear every vote. Transparency, not secrecy, was the solution to the ills of American politics.

It would take another generation for the opposite view to take hold: that the solution to the ills of American politics was secrecy, not visibility and not transparency, but voting as a private act and a ballot box that shielded every vote from scrutiny.

**See Ellery Foutch, “The Glass Ballot Box and Political Transparency,” *Common-place.org*. 16, 4 <http://common-place.org/book/glass-ballot-box-political-transparency/> for the detailed story and also the New York Times and patent application quotations.

Ballot Box, New York Public Library, Gift of George H. Dean. Courtesy of the New York Public Library

This approach is little more than the conversion to words of John Lewis Krimmel's painting from 1815, Election Day in Philadelphia. Krimmel was a recent German immigrant, deeply committed to the early temperance movement; he painted his account of the unrelieved drunkenness of a Philadelphia election under that influence. Krimmel's painting is also highly reminiscent of Hogarth's depictions of elections in Georgian England, with an even more restricted franchise than that of early nineteenth century Philadelphia. George Caleb Bingham's *The County Election* reflected his knowledge of elections and his experiences as a political candidate. Completed in 1852 after the expansion of the American electorate to full adult white male suffrage, Bingham presents a far more nuanced and likely realistic account of the extent of alcohol abuse on election days.

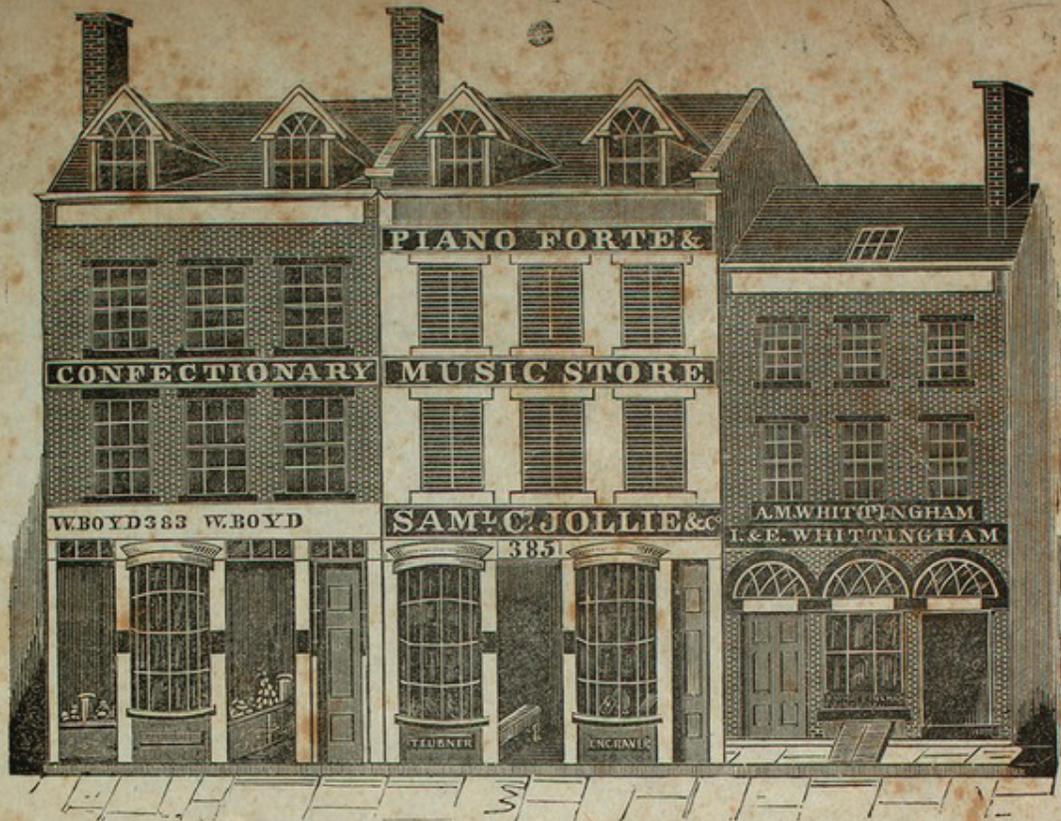
However, as Joel Silbey reminds us, charges of vote-buying, corruption and stolen elections are, and were, almost always self-serving. As is the case today, those who make the charge of voter fraud are often seeking to change the electoral rules and those who seek to change the rules often allege voter fraud. Silbey quotes a young Abraham Lincoln, defending *viva voce* election returns in the Illinois legislature in 1840, asserting that he, "had every reason to believe that all this hue and cry about frauds was entirely groundless, and raised for other than honest reasons."¹¹

Silbey notes too that "[t]here were also some strong built-in checks in the nineteenth century system. Party workers were constantly on guard against the depredations of the other side and never hesitant about challenging potential voters on residence and other grounds."¹² Burnham, in answering Converse, built upon Richard Jensen's close work on mid-century elections, reasoning

Opposite

Samuel Jollie occupied this store at 385 Broadway from 1841 to 1845. In 1855 he merged his business with piano dealers Ely and Munger at a new store, 519 Broadway. Their grand opening on April 27 featured a music soiree for 200 invited guests and a performance by many talented artists, especially on the piano and flute, the later a Jollie speciality. Samuel and Allen R Jollie and Edward Jollie were all involved in the music business, publishing sheet music and making instruments. In the advertisement accompanying this Samuel called attention to his, "Elegant Assortment of Music, for the Piano-Forte, Flute, Guitar [French and German], or Violin" bound in "Superior Style." Jollie was a manufacturer of "Superior Tone Flutes" with from one to eight keys.

Engraving courtesy of Johns Hopkins University, Sheridan Library, Lester S Levy Sheet Music Collection



SAMUEL C. JOLLIE & Co.

WHOLESALE & RETAIL

PIANO-FORTE, FLUTE, AND MUSIC SELLERS,

No. 385 BROADWAY, near WHITE-STREET,

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WHERE MAY BE HAD AN ELEGANT ASSORTMENT OF

MUSIC,

FOR THE PIANO-FORTE, FLUTE, GUITAR, OR VIOLIN.

ALL THE NEW MUSIC RECEIVED AS SOON AS PUBLISHED.

MANUFACTURER OF SUPERIOR TONED FLUTES,

WITH FROM 1 TO 8 KEYS; ALSO,

FLAGEOLETS, CLARINETTS, AND FIFES,

AND

AN ELEGANT ASSORTMENT OF FRENCH AND GERMAN GUITARS,

WITH PLAIN & PATENT HEADS, OF THE LATEST PATTERN;

ACCORDEONS, VIOLINS, VIOLINCELLOS;

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that, “traceable corruption, being a dangerous enterprise for practitioners, was at most a marginal phenomenon.”¹³ The fact that all of Bensel’s evidence arises entirely from contested election cases, cases by their very nature highly exceptional, is in fact grist to Burnham’s and Sibley’s mill that vote fraud was a risky business and that real cases of it would be, and were, contested by interested parties.

Let us also note that almost all those cases arose in states using the ticket system of voting, a system seldom more secret than oral voting and equally open to vote purchase. Indeed, the very public nature of *viva voce* voting, used in Alexandria and Newport, as well as Lincoln’s Illinois, may have even more effectively militated against bribery than did the ticket system.¹⁴

Of the anecdotal evidence of voter fraud, Howard Allen and Kay Allen conclude, “[t]he unsystematic, undocumented, partisan, and emotional nature of most of the literature indicates that the charges of vote fraud were probably gross exaggerations.”¹⁵ Insofar as vote purchases may have occurred, they find the most likely cases were likely to have been in poor urban populations, especially those where machine politics prevailed.¹⁶ This is not the world of either Alexandria or Newport. In these two places ward-level poll books recorded 614 as the maximum number of voters appearing over a day of polling: a small number susceptible to close scrutiny by neighbors and party and candidate representatives. And finally, no charges or allegations of electoral bribery appeared in newspapers or court papers in the aftermath of the Alexandria or Newport elections considered in this project.

Until there is evidence to the contrary, the most appropriate adjudication to the charge of vote buying in these two case studies would seem to be that wise Scottish verdict of “not proven.” ■

Endnotes

- 1 Howard W. Allen and Kate Warren Allen, "Vote Fraud and Data Validity," in Jerome Clubb, William Flanigan, Nancy Zingale (eds.), *Analyzing Electoral History: A Guide to the Study of American Voter Behavior* (Beverly Hills: Sage Publications, 1981): 153.
- 2 Walter Dean Burnham, "The Changing Shape of the American Political Universe," *American Political Science Review*, 64 (1965): 7–28.
- 3 Turnout was the most important of the five distinguishing features which Burnham identified in mid-nineteenth century mass politics, the others being split-ticket voting, roll-off (ballot fatigue within an election for multiple offices and referenda), drop off (lower levels of participation in Congressional and other elections which do not coincide with presidential contests), and extent of partisan swing between elections, being the others. Burnham's point was that those other four indicators were low when turnout was high and rose as turnout fell and the system lost traction with the voters.
- 4 Walker Dean Burnham, "Triumphs and Travails in the Study of American Voting Participation Rates, 1788–2006," *The Journal of the Historical Society*, 7 (December, 2007): 505.
- 5 See sociallogic.iath.virginia.edu. See Paul F. Bouke and Donald A. DeBats *Washington County: Politics and Community in Antebellum America* (Baltimore: Johns Hopkins University Press, 1995); "The Structures of Political Involvement in the Nineteenth Century: A Frontier Case," *Perspectives in American History*, 3 (1987): 207–38; "Identifiable Voting in Nineteenth Century America: Toward a Comparison of Britain and the United States Before the Secret Ballot," *Perspectives in American History*, 11 (1977–1978): 259–88.
- 6 Lionel E. Freedman, *The Australian Ballot: The Story of an American Reform* (East Lansing: Michigan State University Press, 1968): ix.
- 7 Philip E. Converse, "Change in the American Electorate," in Angus Campbell and Philip E. Converse (eds.), *The Human Meaning of Social Change* (New York: Russell Sage Foundation, 1972): 289–92.
- 8 Allen and Allen, "Vote Fraud and Data Validity," 155.
- 9 Michael Holt, Review of Glenn Altschuler and Stuart Blumin, *Rude Republic: Americans and Their Politics in the Nineteenth Century* (Princeton: Princeton University Press, 2000) in *Civil War History* 47 (June, 2001): 164.
- 10 Richard Franklin Bense, *The American Ballot Box in the Mid-Nineteenth Century* (New York: Cambridge University Press, 2004): 295.
- 11 Joel Silbey, *The American Political Nation, 1838–1893* (Stanford: Stanford University Press, 1991): 148.
- 12 Silbey, *The American Political Nation*: 148.
- 13 Walter Dean Burnham, "Theory and Voting research: Some Reflections on Converse's 'Change in the American Electorate,'" *The American Political Science Review*, 68 (1974): 1018. See also Richard Jensen, *The Winning of the Midwest, 1888–1896* (Chicago: The University of Chicago Press, 1971).
- 14 For evidence of vote buying in an oral voting system in a different political culture with weak rather than strong parties, see George Emery, *Elections in Oxford County, 1837–1875: A Case Study of Democracy in Canada West and Early Ontario* (Toronto: University of Toronto Press, 2012): 142–4, 170.
- 15 Allen and Allen, "Vote Fraud and Data Validity": 179.
- 16 Allen and Allen, "Vote Fraud and Data Validity": 180–1. And even here the meaning of "purchase" would be contestable.

Voting Viva Voce

UNLOCKING THE SOCIAL LOGIC OF PAST POLITICS

Voting Viva Voce

Unlocking the Social Logic of Past Politics

sociallogic.iath.virginia.edu

Two mid-nineteenth century cities—Alexandria, Virginia and Newport, Kentucky—shared a common voting arrangement: both states required all votes in all elections to be cast in public by voice (viva voce). The poll books provided an official written record of every voter's spoken declaration. Professor Don DeBats presents and analyses this data on the website.

Public Voting. This project reveals the world of American politics at a time when every citizen's vote was public knowledge, and how social identity influenced votes.

Alexandria, Virginia | 1850s. On the Potomac just opposite Washington DC, Alexandria was a thriving commercial city based on slave labor in the late 1850's as the secession crisis loomed.

Newport, Kentucky | 1870. On the Ohio just opposite Cincinnati, Newport was, as the Panic of 1873 crashed down, a thriving industrial city based on immigrant labor.

Colophon

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