

MONTHLY REVIEW

April 2024



MAINLINE
WEST

The Election Crisis of ~~1876~~ 2024 ?

Munis are not always party affiliated. Historically, performance is not always based on which party wins. Munis react more on the uncertainties of which economic or social programs could or could not be implemented. 2024 is election year and is sizing up to be quite the “event”. With the “personalities” involved, the polarization of the nation, the current state of society and the lack of functionality in DC, could this be the ugliest election in US history? MainLine thinks this is a good time to review the most contentious presidential election ever: *“The Election 1876 –The Centennial Crisis”*.

CENTENNIAL CRISIS

THE DISPUTED ELECTION OF

1876



WILLIAM H. REHNQUIST

“Prescience... An engaging and precise account of the bondmaking political episode as once remote in time and in culture from our own contested election but strangely familiar as well.”
—The Washington Post

Year-to date, munis are back in sync and doing what munis do, outperforming in a rising rate market. In 2024 munis are up 57 to 54 bps, with taxable up 113 to 79. This is, on average, 6 bps up for munis versus 10 bps for taxables. This is a return to the 30-year average relationship that was so distorted in 2022 and 2023. In April, munis overcame seasonal headwinds, growing supply of new issuance, and mutual fund outflows to outperform other fix income asset classes. Munis are setting up well for a good summer.

Muni Market Review

Interest rates increased during the month of April as the economy remained solid and inflation a little sticky. Munis performed well (-1.24%) versus US Treasuries (-2.33%) and US Corporates (-2.54%). Munis battled through growing new issuance, a technically tough time of year (tax season) and the return of mutual fund outflows. April highlights were as follows:

- Muni yields were higher by 31 to 28 bps, with taxables higher by 50 to 41 bps. Year to date, munis are up 57 to 54 bps, while taxables up 113 to 79 bps. This is on average 6 bps up for munis versus 10 bps up for taxable. This is the 30 year relationship average, which was so distorted in 2022 and 2023.
- Year to date, issuance is up 25% from 2023 and growing. Flows are still positive on the year (inflows of \$9.9 billion versus down \$19 billion in 2023) but did turn negative in April with outflows close to ½ billion.
- Why are munis back in sync and doing well in 2024? The muni fear indices remain low as investors feel good about tax-exempt income again. MainLine is looking for a good summer ahead in muniland.

MainLine has started the process of getting documents and bank approval for the **Tax Advantaged Opportunity Fund VIII**. *Plans are to begin raising capital this summer and be ready to deploy in the late fall.* Let us know if you would like to be on the marketing list so we can make sure to save you a subscription.



Market News & Credit Update:

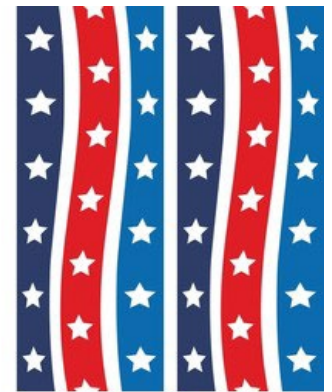
- What do states do when they have a budget gap to fill? They tax! California has introduced a bill that would tax digital advertising 5% to fund youth health services. Three other states currently have a tax, and several others are also looking at adding one. Of course, companies like Facebook, Apple, and Google are trying legally to challenge the new tax.
- Not a surprise, but BOA has formally increased their forecast for new issuance (supply) this year from \$400 billion to \$460 billion (vs. \$362 in 2023, a 27% increase). In its 2024 outlook, MainLine thought supply would be higher than consensus as lower and less volatile rates, the need for infrastructure, low 2023 issuance levels, and no more Federal stimulus funds, are all driving higher debt needs for municipalities.
- NYC has become the first major US city to embed climate impacts into its budget decisions. New investments to be made by the city will also need to be good for the environment. The City is looking to make long-term investments that not only are fiscally and operationally prudent but are also good for the climate.

The Election Crisis of ~~1876~~ 2024 ?

Munis and presidential elections historically have had a mixed relationship. Munis are not party-affiliated, as performance is not always based on which one wins. Munis react more to the uncertainties of what economic or social programs could or could not be implemented. Sometimes the muni “fear factor” could be enough to upset the market. 2024 is an election year and is sizing up to be quite the “event”. MainLine cannot help but see

some similarities to the presidential election of 1876, the most contentious presidential election in US history. What made 1876 so contentious?

1876 Hayes versus Tilden was an election full of allegations of voter fraud, election violence and conflicting politics. Popular vote was towards Tilden and the electorate seemed to go his way too - until it didn't. The Democrats continued to litigate the election, until the great compromise was reached in March 1877, when an electoral commission including the Supreme Court was established and decided what set of electoral votes to count and what votes not to count.



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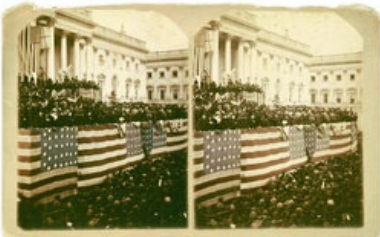


The Election of 1876 – “Centennial Crisis”

CENTENNIAL CRISIS

THE DISPUTED ELECTION OF

1876



WILLIAM H. REHNQUIST

“Provocative... An engaging and precise account of the bewildering political episode at once remote in time and in culture from our own contested election but strangely familiar as well.”
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The information below is from the book “The Centennial Crisis – The Disputed Election of 1876”, by William H Rehnquist.

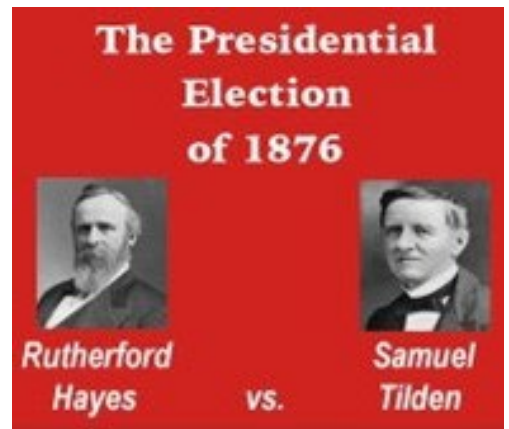
Background:

In 1876, the USA was working through Civil War reconstruction with two-term president Ulysses S Grant - a popular President but whose terms were full of allegations, scandals, and corruption. There was still deep-rooted dislike between the south and north, and conflicts in Congress about what role the Federal Government should take, and what authority states should have. Congress was divided with a Republican-controlled Senate and a Democratic-controlled House of Representatives. Rutherford Hayes, from Ohio, was the surprising underdog nominee for the Republican party. The Republicans were growing impatient with the South and

its commitment to change. They wanted to force the southern states to enact civil right changes, even if it meant the Federal government stepping in and reopening sectional strife. Samuel Tilden, from New York, was the overriding favorite and easy choice as nominee for the Democratic party. The Democrats wanted to reform the Federal Government and the corruption at that level and forego any changes at the state level, including making civil rights changes.

November 7 - Election Day:

Depending on the Newspaper and its affiliation, both candidates had won. It appeared Tilden had won the popular vote by a thin 260,000 vote margin, but the electoral college was still much more in question. NY Times finally reported early the next morning Tilden had 184 electoral votes, Hayes 181. Yet Florida, South Carolina, & Louisiana results were very close and still in doubt, creating discussions on who the next President was going to be.



December 6, 1876 – Electoral Votes Counted:

Electors representing each state cast their electoral votes. This was clean for 34 states, but not for Florida, South Carolina, Louisiana and Oregon where the questions became “which electors” should be



counted. In some cases, multiple electoral results were submitted. For Hayes to win, he had to get the electoral votes from all four states, Tilden just needed one state to confirm his presidential win. Let's look at each state and how the politics played out.

Florida:

Mostly a northern rural population of 50,000 voters (versus 6 million in 2020), the attorney general had given the electoral committee discretion to exclude returns that were "irregular, false, or fraudulent". The board was made up of two republicans and one democrat. A two to one vote was good enough to exclude a vote. Original count had Tilden winning by 80 votes, but after the board exercised its discretion to reject votes, Hayes was ahead by 45. To further complicate the issue, southern voters were blamed with intimidating blacks from voting, which would mostly likely have been for Hayes. The Republican electors which made up the state appointed electors sent their vote for Hayes to DC on December 6. Later, prior to the recount, the state would set up a new election board committee after its new Democratic Governor was sworn in and would have a recount. After this recount, Tilden now won by 90 votes, and the democratic election board sent this new electoral vote to DC in March.

Louisiana:

Like Florida, the initial popular vote had Tilden winning by a razor thin 8,000 to 9,000 votes. The electoral committee, like Florida, reconvened to review ballots for fraud or intimidation. Only Republicans served on this board, but they did hold some public meetings with Democrats. Then after having a closed-door meeting announced that 13,000 Democratic, and 2,500 Republican votes had been rejected. This gave Hayes the majority by 3,000 and the state's electoral committee sent their results to DC. That same day, a group of Democratic electors met and declared Tilden the winner and sent their results to DC.

South Carolina:

The state's voting profile showed blacks outnumbered whites 5 to 3 and were strong Republican voters. Federal troops had to be deployed on election day to protect black voters who were being threatened. There appeared to be illegal voting by both white and black voters. The state voted for the Democratic Governor, but according to the count, amazingly the same ballots voted for the Republican Hayes for President. The Republican led election committee certified the vote for Hayes, to be followed by having the state court, at the request of the Governor, charge them with contempt and have them arrested. Federal court promptly ruled that they be released.



Oregon:

The popular vote in the state was won by Hayes by 1,000 votes and the vote certified for by the elected committee for Hayes. After some legal maneuvering and a disqualification of a board member by the Democratic Governor, he then placed a Democrat on the board and then allowed them to change the vote for Tilden. Oregon also sent two results to DC, one vote for Hayes, one for Tilden.

What do these all have in common? *Depending on which electoral committee votes you wanted to count, the elected president would be different.* What about fraud? Corruption? Voter intimidation? How should this effect the results? What was Congress to do to validate this election and have the US voters accept the results?

The Great Compromise:

What to do? Things were divided right down the middle, and public opinion was toxic. There needed to be some form of “non-politics” involved to reach a decision - an olive branch to move the country on. The initial proposal was to let the Supreme Court decide, but this did not pass. Then a proposal for the Senate and House to set up a committee to resolve the issue. Seven from each, split four to three by majority and minority parties, setting up seven from each Republican and Democrat, but this was not approved. Finally, a mix (5 from each the Senate, House and Supreme Court) was proposed and called the Electoral Commission. Congress decided they needed validation for the real winner from someone other than themselves as the voting public would be skeptical and could revolt.

The key was going to be who was the 5th Supreme Court justice and two from each party were selected, and now they had to decide and agree on number 5. The big picture plan was to have Justice David Davis, considered an independent by both parties, to be the 5th justice and set up an “unbiased” process. In a surprise move Davis declined, then resigned his spot on the Supreme Court and took a seat on the Illinois State Senate. The inability of his inclusion once again brought politics back into the process. The next best justice was James Bradley, thought to be “somewhat” Republican having been elected to the court by President Grant. With his appointment, the Democrats now knew it was a long shot chance that Tilden would be President.

The Recount:

Starting on January 31, 1877, the process of all state voting certificates being reopened and counted by this special Electoral Commission began. If there were any objections on a state count by a Congressman (House or Senate), the committee would review and have the final say. The process lasted until March 4th.



First up, was Florida where there were 3 certificates, and all of them were objected to by Congress. Most likely, none of them were accurate, so how to decide? Could the Commission go beyond the certificates and investigate voter fraud? Voter intimidation? Or just review the state mandated results as presented. This became the big question that, once answered, would determine the winner in Florida and would set the precedent on how the other disputed states would be resolved. The electoral committee decided:

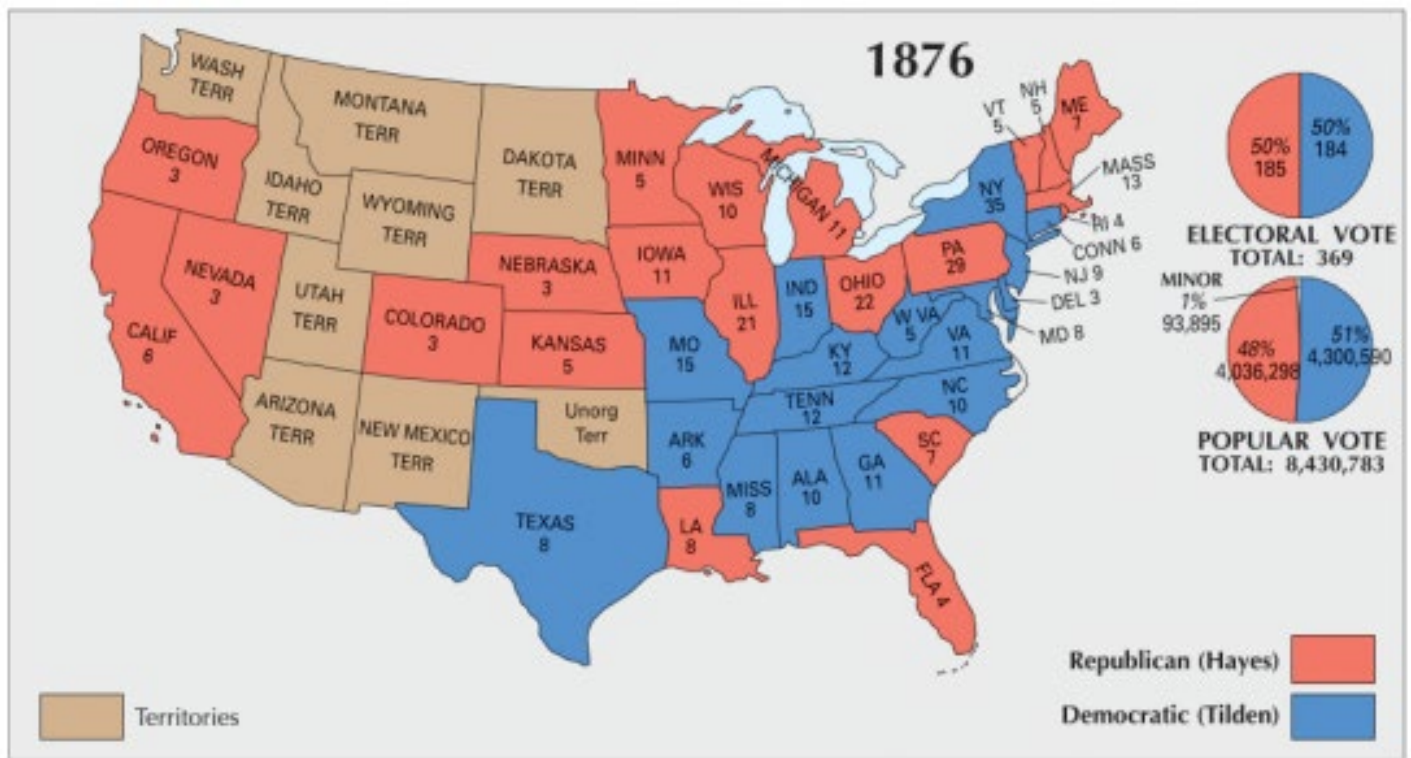
The date the election votes were due (November 7), was the justified vote, regardless of anything else, and no late ballots were accepted. The state board that was set up in March and revoted, could not change the official vote that was due in November. On this logic, Justice Bradley cast the deciding vote for Hayes giving the state's electoral votes to him.

In the end, the committee voted seven for seven on all objected state voting certificates, with Bradley making the deciding vote for all of them in favor of the Republican party and, therefore, Hayes as President. The Republicans, and Bradley decided that looking back past the certification vote was not their responsibility. Especially in the case of Louisiana, where fraud was highly suspected and with the revote going to Hayes, the Republicans did not want to "dig in" and highlight the mess for fear of looking bad. They decided it was not the Committee's job to review voter fraud, intimidation, or the State's electoral process. That was the State's problem. What the state's election committee voted on December 6th was the vote that counted. For the Republican's, this view was politically inconsistent, but politically motivated.

The relationship between the Federal Government and its states back in the 1800's was described as acting like a "night watchman". *Federal government was there to provide such things as common defense, mail system, collect customs at the ports, and let the states govern themselves.* The Republican party in 1876 was running on the platform to change this and have more Federal control and less state sovereignty. Bradley's justification for his vote and allowing the state's their own autonomy in a crucial presidential election, one that proved they needed oversight, is politics at its best. Whatever it takes to win.

Final count:

<i>Popular vote:</i>	<i>Tilden 4,286,808</i>	<i>vs</i>	<i>Hayes 4,034,142</i>
<i>Electoral Vote:</i>	<i>Hayes 185</i>	<i>vs</i>	<i>Tilden 184</i>



The Fallout:

The fallout after the decision and the swearing in of Hayes on March 4th was bumpy and Hayes ran into conflict with bitter Democrats for all four years. Referred to as President "Frauderford", the House Democrats initially tried to pass a resolution declaring Tilden President, which would have worked historically under the Constitution, but the Electoral Committee had ruled different. Militants called for arms, but Tilden and prominent Democrats would have nothing of it. Tilden conceded defeat, knowing it was best for the nation to move on and that saving the Republic was more important than political interest.

Hayes term was deemed "average", with advancements in the use of "presidential executive authority". He used them to help him get things done, as at the time it was difficult due to the polarity of the parties. Hayes also successfully handled a railroad strike, championed some civil service reform, and kept his promise of only serving one term. The biggest setback during his term came at the expense of the lack of progress for reunification of the south and civil rights.

The 1880 election was smooth and won (popular vote and electoral college) by Republican James Garfield. The primaries for each party were full of more drama and uncertainty than the general election. The fallout from 1876 and potential harm to the political system did not happen. The USA moved on, or limped on, but our system worked through it and changes were slowly made.



A famous quote from General George McClellan (democrat nominee in 1864) put it well when he said: *“Be of good cheer. The Republic will live. The institutions of our fathers are not set to expire in shame. The sovereignty of the people shall be rescued from this peril and re-established.”*

Election 2024:

The election in 1876 was a test for the US Constitution. Given the events of the 2020 election, the current power struggle between the states and the Federal Government, and polarization of opinions, could the 2024 election be another test? A few things to consider:

- State Sovereignty: Some feel the Federal government has gone too far, restricting state freedoms and sovereignty. Other states think the Federal Government needs to provide more assistance and guidance. Should one state be responsible for another’s lack of fiscal discipline, or lack of social responsibility?
- Wealth and Social Opportunity: US was in a depression from 1873 to 1877, and the difference between the haves and have nots was a big societal problem. Calls for the Federal Government to step in and bridge the differences were loud. Each party thought they had the right solution and compromise was not part of it. Does this sound familiar?
- 2020 Election had charges of voter fraud, corruption, and legal results were challenged. Voters and politicians were skeptical of the results and tried to find ways to change them. All the big players are the same in 2024.

Conclusion:

In 1876, Congress was between a rock and a hard place. There was no way to make everyone happy and there needed to be a way to pass power without violence and distrust. Setting up the committee and including the judicial branch, at the time, brought in a perceived neutral voice for the good of the USA. *The nominees were hand-selected and, if Davis had accepted, the plan would have been perfect. Instead, Bradley was appointed and forevermore*

his decisions tainted. Although made in a consistent fashion, and with a view on governing that at the time was acceptable, they contradicted the philosophy of the Republican party. I guess you could say, he was a good politician. I think the author and once Supreme Court justice William H Rehnquist sums it up the best:





The Hayes-Tilden electoral dispute was the most contentious political imbroglio of the last half century. Thanks to the Electoral Commission, created by Congress and acquiesced to by Hayes and Tilden, the nation avoided serious disturbance or bloodshed and went about its business. The outcome was a testament to the ability of American system of government to improve solutions to even the most difficult and important problems”.

In my independent opinion, it feels like the results of 2024 are not as important as the process being fair, the ability for everyone to vote, citizens and politicians accepting the system and the results. Our government system has held up in many times of crisis and will be tested again, maybe in 2024. The United States of America, given our history, is a much bigger republic than one party, or one person. God Bless the USA.

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