

MINNESOTA



LEGISLATIVE RESEARCH COMMITTEE

POPULAR CONTROL OF THE PRESIDENTIAL NOMINATING PROCESS

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The Legislative Research Committee is a joint committee of the legislature, meeting quarterly at the State Capitol and giving advance consideration to problems expected to confront the next legislature.

The Committee (1) acts as a clearing house for current legislative problems by receiving proposals for research studies; (2) determines and directs the study and research necessary for proper consideration of all proposals; (3) disseminates advance information on these problems to other legislators, the governor and the public by means of committee and research reports; and (4) reports to the legislature one month in advance of the regular session.

The Research Department of the Legislative Research Committee is organized to provide an unbiased, factual source of information with regard to problems which may be acted upon by the legislature. This department is engaged in objective fact finding under the general supervision of members of the Committee.

MINNESOTA

LEGISLATIVE RESEARCH COMMITTEE

Popular Control
of the
Presidential Nominating Process

Research Report issued pursuant to Proposal No. 24:

A PROPOSAL that the Minnesota Legislative Research Committee conduct an investigation in research to determine what methods other states are using in the selection of their delegates to the presidential conventions and also to provide the next session of the legislature with the necessary information on the political party presidential primary elections as they are held in other states.

PRESIDENTIAL PRIMARIES

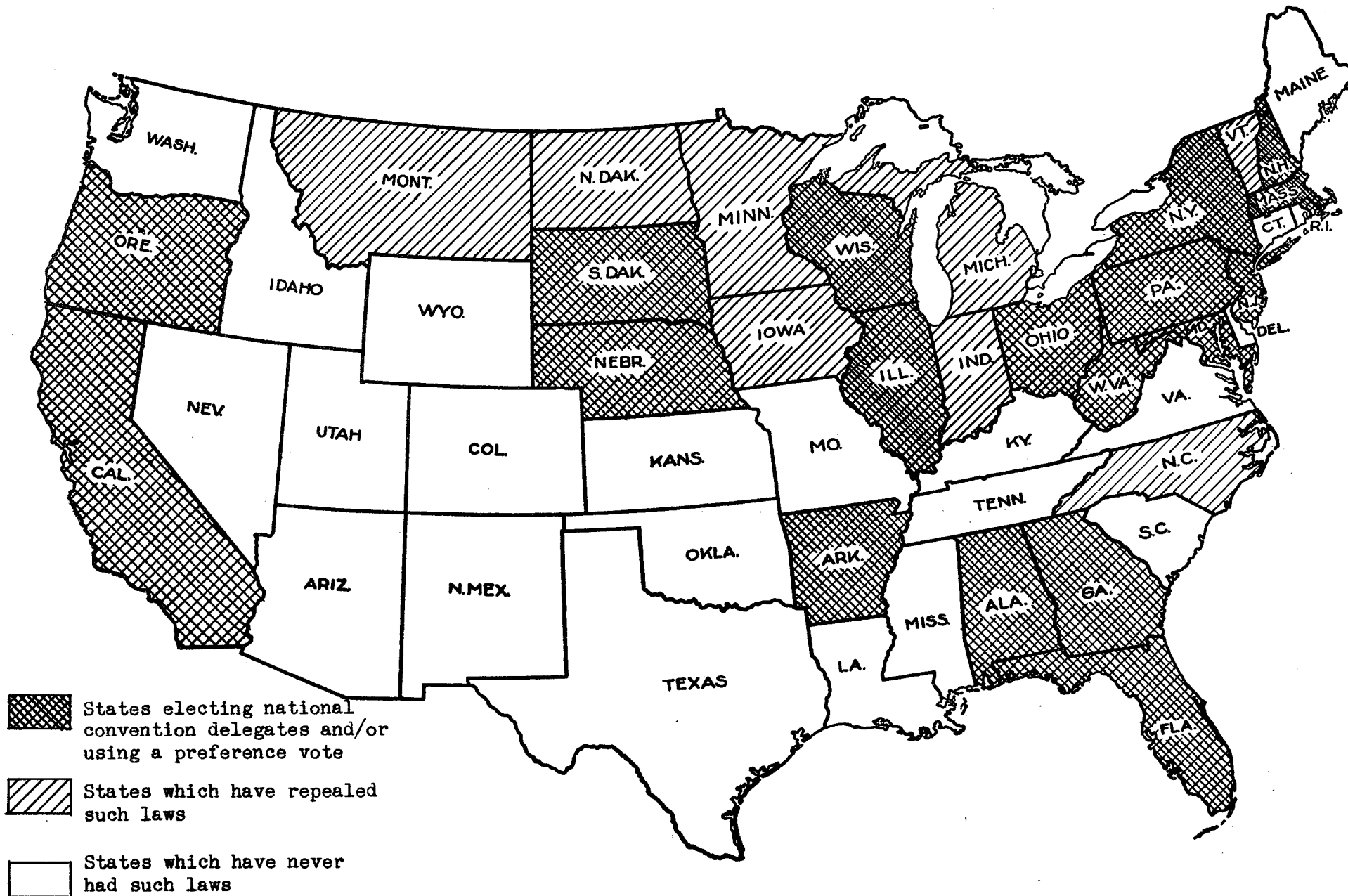


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B R I E F L Y

The presidential primary is a form of direct primary, its purpose being the achievement of direct popular control of the process which nominates candidates for the office of President of the United States. Direct primaries were part of a general movement toward a more direct kind of democracy. This movement sought to give the people more effective control of the nominating process through the direct primary, of executive behavior through the recall, and of the legislative process through initiative and referendum (and the direct election of the United States Senate).

The presidential primary movement arose and virtually subsided in the brief period between 1910 and 1916. The Taft-Roosevelt split of 1912 gave it its greatest impetus; in 1916 the lack of a contest in the Democratic Party and the refusals of Hughes and Roosevelt to submit their names in the Republican primaries so sapped the strength of the movement that only two states have adopted such primaries in the past 25 years while eight, including Minnesota, have repealed their presidential primary laws since 1916. At present 18 states have a kind of presidential primary.

The direct primary was designed to improve upon the results obtained through the convention system of nominating candidates for political office. Presidential primaries seek to control national nominating conventions in two ways: by advising or instructing a delegation through the medium of a popular preference vote on presidential aspirants, and direct election of delegates who are usually of known preference.

In practice presidential primaries have sometimes influenced but never controlled national conventions. Proponents attribute a large part of this failure to the lack of primary laws in many of the states. However, the results in primary states tend strongly to be inconclusive because most states express preference for a favorite son rather than a leading candidate.

A basic difficulty confronting the primary is that the body it seeks to control is essentially one of consultation and compromise whose purpose is the achievement of party unity behind a single candidate for the nation's highest office. To the extent which a delegation is previously instructed and bound it lacks the flexibility of judgment and action necessary in the highly discretionary convention process. The best compromise between control and discretion would appear to result from a law under which delegates whose personal sympathies are those of the largest number of the party electorate would be elected to attend the convention.

INTRODUCTION

Interest in presidential primaries has been re-awakened by the use made of them in 1948 by aspirants for the Republican presidential nomination. Minnesota has no presidential primary, having repealed such a law in 1917 after a single disappointing trial in 1916.

In 1944, it was the defeat in the Wisconsin primary which changed the plans of Wilkie to attempt to gain renomination. In 1948, interest has been stimulated by the efforts of a favorite son of Minnesota to capitalize on the opportunity offered in some states for the expression of popular preference among presidential aspirants. These primaries, whether they involved direct election of delegates, an expression of voter preference for president, or both, were used with telling effect as methods of pre-convention campaigning by a group of forceful candidates. They disregarded the maxim that "the office seeks the man, and not the man the office" to carry their causes directly to the voters in hopes of winning delegations and entering the convention with the added prestige of popular approval.

It is history that though Dewey won the first of the state primaries (New Hampshire), Stassen gained the upper hand in Wisconsin, and in so doing incidentally eliminated General MacArthur from serious consideration. Stassen topped Dewey again in Nebraska, lost some prestige when he invaded favorite son Taft's Ohio without notable success, and then lost out in the crucial Oregon struggle. The results of the Oregon primary, coming after the well-publicized pitched battle, helped Dewey to regain stature and seriously injured Stassen hopes.

These pre-convention struggles, both for instructed delegations and for the weight which strong primary victories would carry in the judgment of the convention, were of sufficient importance to merit detailed press coverage throughout the nation and arouse in the electorate a healthy political interest.

HISTORY OF PRIMARY MOVEMENT

"Party organization has three main objects: the nomination of candidates, the conduct of the campaign for their election, and the coordination of party effort in shaping the course of the government. It is the first of these objects that has exerted most influence upon organization in the United States."¹

Introduction

The evolution of the nominating process in the United States has been chiefly an effort of groups or parties to arrive at some agreement on candidates preliminary to elections in order that the party's voting strength may be concentrated and not ineffectually dispersed. This evolution has carried from the informal caucus of a small number of leading citizens in the latter half of the 18th century (before any real crystallization and democratization of parties) through the phases of party caucus, legislative caucus, mixed caucus, the advent of the delegate convention system in the early 19th century and its triumph in the Jacksonian era, and the rise of the direct primary which the 20th century has seen. The convention system is still used in the process of nominating candidates for the presidency, and the presidential primary (which gained so many adherents in 1910-16 era) has again come into prominence in the 1948 pre-convention campaign. This study is undertaken to point out the mechanics of the nominating process, with special emphasis on the presidential primaries and their operation.

Both the convention and its would-be successor, the direct primary, were incidents in the recurring struggle for popular control of the nominating process. In history, each of the types of nomination mentioned in the preceding paragraph came into vogue and, like a new broom, swept fairly clean before breaking down and becoming subject to the abuses which eventually led to its rejection, or to its regulation by government. Strangely enough, such regulation was the first recognition by government of its very life blood - the political party. Previously, the party had been a peculiarly extra-legal organization. The direct primary was part of a great movement for direct popular control of government which had such other facets as the initiative, the referendum, and the recall. Inasmuch as the presidential primary was an off-spring of the direct primary, some historical background is necessary.

1. American Parties and Elections, Edw. M. Sait, p. 473.

Background

Parties did not begin to form in the colonies until feeling began to run high concerning English colonial policy before the Revolutionary War. The Continental Congress of 1774 which eventuated might be called the political convention of the patriotic party (all delegates except those from Georgia were elected) and the Declaration of Independence which resulted might have been called the party platform. However, no real party organization existed for several decades after this war and such candidates as there were for public office were self-announced or put forward by a "parlor caucus" of the wealthy or influential citizens of communities.

A change arose out of the necessity of putting forward candidates for state office. The difficulties raised by transportation and weather often made nearly impossible any central caucus of the influential members of communities throughout the state and resulted in the development of the legislative caucus. It was both a practical and a reasonable solution inasmuch as legislators were members of the dominant political group and were endowed with somewhat of a representative character. On the national level it is certain that both the Federalists and the Republicans (not the present Republican party) held congressional caucuses in 1800, one to select presidential and vice-presidential candidates, and the other, a running mate for Jefferson. Legislative and congressional caucuses persisted until supplanted by the convention system as a political device in the 1820's. In some regions a mixed type of legislative caucus was used to give caucus representation to those areas in the state in which the party was in the minority and therefore had no representatives in the legislature.

The Convention System

With the rise in the demand for more direct control of government and the tremendous surge of this movement in the Jacksonian era, the convention system came into its own. By 1840 the increasingly unpopular caucus had lost nearly all its importance in the higher levels of government. The purpose of the convention was to give the people a greater measure of control in the nominating process; its method was the choice of delegates by the voters of each party to represent them in convention for the drawing up of the party's slate of candidates and its platform. In addition to vesting indirect control of the selection of candidates in the hands of the people, the convention system was supposed to provide a better means of gauging public opinion than the caucus provided.

However, the rise of a kind of popular democracy also greatly increased the need for effective party organization. Both as cause and as result of this growing organization the party leader or politician came into prominence. Though the history is much more complex than may even be suggested in this report, the control which party leaders of necessity exercised over the convention eventually became subject to abuses and fell into such disrepute that another resurgence of popular feeling resulted in the direct primary movement. The people felt that the convention had drifted away from their control and was no longer acceptable as a nominating device. This drift was in part possible because the convention, as a party matter, was an extra-legal affair unrecognized by government. As such, the questionable political practices of gaining and maintaining convention control were regarded simply as part of the game of politics by those who used them even though severely criticized from the outside.

Inevitably state government began to recognize and regulate parties and their operation. The first record of any regulation of conventions indicates that it began in California in 1866. It soon spread throughout the country. Early statutes were roughly drawn, optional in application, and applied only to the most glaring faults of the convention system. By the end of the century regulatory laws had become more detailed, mandatory in character, and applicable to all the basic aspects of the convention. Some feel that the regulated convention has never had an adequate chance to prove itself because it was at this point that the popular, direct government movement began sweeping the country, bringing as one of its features the direct primary.

The merits claimed for the national party convention were: it tended to concentrate the opinions of the states by soothing extreme sectionalism, it capped the party structure and integrated local party units to form an articulated whole. However, the chief hope had been that the convention would give the rank and file more to say about the nomination of their officials. In this it apparently failed. Because the national convention capped a hierarchy of lesser conventions, nominations were made by delegates of delegates of delegates, a system of very remote popular control which provided ample opportunity for the much-publicized political malpractices of the late 19th century. At and below the state level, the direct primary very largely replaced the convention; even at the national level the presidential primary, an offshoot of the direct primary movement, for a while threatened to reduce the national convention to the automatic type of action of the electoral college.

In accordance with the proposal under which this study is being made, the convention system of choosing delegates to the national

political conventions will be treated in any detail only where necessary to illustrate the practices of other states. The historical background and the mode of operation of the presidential primaries, however, will be handled somewhat more completely as suggested by the wording of the study proposal.

The Direct Primary

Inasmuch as the several forms of presidential primary are variations on the basic direct primary, some examination of the direct primary and its operation is presented below.

The first state-wide compulsory primary law was adopted in Wisconsin in 1903. Since then, the electoral reform which was hailed as placing the nominating process forever beyond the reach of the boss and the machine has spread to every state in the union except Connecticut, the last state to adopt it being Rhode Island in 1947. Some states, however, still use the convention for nominating candidates for certain state offices.

Although direct primaries differ greatly in detail among the states, listed below are the major characteristics which they hold in common.

1. Different parties hold their primaries at the same time and place.
2. The Australian secret ballot is used.
3. Ballots are printed at public expense.
4. Names usually are presented by petition, are printed
5. alphabetically, and are rotated from district to district.
5. Regular election officials preside and are paid from public funds.
6. Public polls are open during specified and published hours.
7. A plurality vote nominates.
8. Such corrupt practices as are operative apply to both elections and primaries.

Most primaries may be put arbitrarily into one of two classes, "open" or "closed", though in practice their requirements concerning party membership vary in degree of strictness to such an extent that various primaries form more nearly a continuum from one kind to the other rather than two distinct classes. There is also the non-partisan primary which eliminates the distinction between open and closed.

The closed primary requires the voter to qualify in some way as a party member or supporter. Tests are usually of one of three kinds, or a combination of them.

1. Intention to support the party at the next election.
2. Support of the party at the last election.
3. Proper answers to questions which the party may prescribe.

In operation the above tests may be so loose as to make in effect an open primary. There has been some criticism of the closed primary because it forces the voter to make public announcement of his party preference and in some ways militates against or discourages the independent voter.

In principle the open primary preserves intact the secret of a voter's party preference and saves from embarrassment the independent to whom connection with any party is distasteful. Usually this is done by giving the voter the ballots of all parties, only one of which is to be voted while the others are discarded. The chief criticism of the open primary is that it permits one party to raid the primary of the opposition in an effort to select the weakest possible opponent for the regular election to follow. There is also the criticism that in a predominantly one-party state the open primary (and to a lesser extent the closed primary) tends further to weaken the minority party. Because the primary is often more important under such circumstances than the regular election, minority group voters are forced to cross party lines or change parties in order to cast a vote which has some effect. In such cases, crossing party lines could hardly be condemned as "raiding".

Concerning direct primaries in general (and in some measure, therefore, presidential primaries as well) many criticisms have been put forward.

A good summary of the criticisms of the direct primary contained in many texts on the subject is presented as follows:¹

- "1. It weakens party leadership and destroys party responsibility.
2. It ignores the necessity for conference and consultation in the selection of candidates, and does not provide for the drafting of candidates of high qualifications.
3. It promotes the candidacies of self-advertisers and demagogues, and discourages the candidacies of men with the highest qualifications who will not wage a campaign for nomination.
4. It affords no suitable means for the formulation of party platforms, or the selection of candidates who are in sympathy with the party program.
5. It entails heavy expense to the candidates because of the necessity of conducting two campaigns.

1. A New Primary System, Joseph P. Harris "State Government", July, 1948, p. 140

6. It permits nominations by a plurality vote and contests which are subject to manipulation by the multiplicity of candidates.
7. Since the primary of the dominant party tends to become the decisive election, it is difficult for the minority party to retain its following and to offer effective and salutary opposition. Consequently, it tends to weaken and in many states to destroy any real bi-party system.
8. The number of votes cast in the direct primary is usually much smaller than that in the final election, although in some strongly one-party states the opposite is true."

PRESIDENTIAL PRIMARIES

The impact of the direct primary movement was also felt on the national level and resulted in the presidential primaries now in effect in 18 of the states.¹

National History

Although Wisconsin passed a law in 1905 requiring direct election of delegates to national conventions, the first of the presidential primary laws is generally considered to be the Oregon Act of 1910. It provided for a preference vote for president and vice-president and the direct election of all delegates to national political conventions. Oregon's lead was followed by six states in 1911, three in 1912, and nine more by 1916. Minnesota passed such a law in 1913 (summarized at end of text). In all, 26 states have had presidential primary laws of one kind or another but of these eight have been repealed, including the Minnesota statute in 1917. The avowed purpose of this reform wave was to enable the people to express their preferences and pledge their delegations to end the compromises and dickers which sent allegedly second-rate men to the White House. The movement was not without the official sanction of the National party organizations although the passage of the various state laws was almost entirely the work of the progressive wings of the Republican and Democratic parties. In 1911, the platform of the National Progressive Republican League pronounced in favor of direct election of delegates and an expression of voter preference on presidential and vice-presidential candidates. In 1912, the call for convention of the Democratic party put that group on record in favor of direct election of delegates. In 1916, the Republican party tacitly recognized the movement.

The Taft-Roosevelt split of 1912 gave great impetus to the movement. Four years later the refusal of leading candidates to file virtually stopped it in its tracks. Most of the laws passed during that four-year period were passed hurriedly and with a minimum of discussion of details. When discussion occurred it concerned the broad policy matters of the state's power to regulate delegates to national party conventions and the advisability of direct election of delegates, or else the technical and political matters of their election at large or by congressional districts.

1. Manner of Selecting Delegates to National Political Conventions, with information on States Holding Presidential Primaries compiled by the Senate Library under direction of Carl A. Loeffler, May 1, 1948.

"In general we may summarize the passage of the presidential laws as follows: They were progressive measures, but often emergency measures, passed to meet a specific situation, very often ill considered or amended into ineffectiveness because of the necessity for compromise with the conservative groups. It is significant that where the "old guard" were strong enough to force concessions they granted a preference vote but retained control of the choice of delegates in their own hands. In the light of these conditions it is not surprising that most of the laws are extremely ambiguous and that many of them are ineffective when faced with a situation totally different from that of 1912."¹

In 1916, there was no contest in the Democratic party over President Wilson's renomination, and Hughes and Roosevelt, between whom the real issue lay in the Republican party, refused to permit their names to be submitted. (Hughes was then on the Supreme Court). As a result the voters were forced to vote for lesser aspirants and favorite sons. Overacker cites the situation which led to the repeal of the Minnesota law.

"In Minnesota the progressives aided the conservative attack upon the presidential primary because of their disgust with its operation in 1916 when they were forced to vote for Senator Cummins as their choice for president although he was a candidate whom few of them favored."²

The same situation is recalled by Charles B. Cheney, a political reporter in Minnesota for many years.

"Minnesota tried the presidential primary once, in 1916, and that was enough. It was a lot of grief and expense. Republicans wanted Charles E. Hughes, then on the supreme court and not a candidate.

"We had a primary contest between A. B. Cummins of Iowa and a New York lawyer named Estabrook. The delegates went to Chicago pledged to Cummins. The convention drafted Hughes, leaving our delegation out on a limb. The 1917 legislature repealed the presidential primary freak, and few tears were shed."³

The only states which have enacted presidential primary laws since 1916 are Alabama (1923) and Arkansas (1939).

1. The Presidential Primary, Louise Overacker, p. 20

2. *Ibid.*, p. 20; author cites St. Paul Pioneer Press, March 24, 1917, p. 10 and conversations with Senators Shipstead and Magnus Johnson, Dec. 1923.

3. Minnesota Politics, Charles B. Cheney, 1947, p. 18.

Types of Presidential Primaries

Presidential primaries may be grouped into five types which are either based on direct election of delegates, a preference vote on presidential aspirants, or a combination of the two. The form which the primary takes is one of the basic aspects of the problem of the control of the action of the delegation at the convention. Experience has shown that there is little justification of the presidential primary if it is without direct influence on the course of the convention.

1. Direct election of delegates, but with no preference vote and no pledging of the delegation. New York uses this system (the preference of the delegate candidates does not appear on the ballot) for choosing its district delegates. Delegates-at-large are chosen by the state committee or convention as the convention may direct. Students consider that such a system is ineffective unless the voters are aroused and, as usually happens, the preferences of candidates for delegate are well publicized.

2. Preference vote, but selection of delegates by convention. In Maryland conventions are used to select all delegates; in Arkansas the state committee makes the selection; in Illinois conventions choose all delegates-at-large (although district delegates are chosen by direct primary). This system of a preference vote without any direct election of delegates strongly tends to be ineffective when popular and convention preference differ. Together with the other kinds of primaries which also seek to pledge or control delegate action it is at variance with the consideration that a delegate must have the use of his discretion during a convention and any attempt to make a mere automaton of him encounters serious difficulties.

3. Preference vote and direct election of delegates. This is the common type of presidential primary although it often produces confusing results. There are three variations: (a) no statement on ballot of the would-be delegate's preference (Illinois, West Virginia), (b) no statement as to preference but one promising to abide by the outcome of the preference vote (Nebraska, Pennsylvania), and (c) statement of preference on ballot (Florida, Oregon, Wisconsin). It should be noted that when there is no ballot statement on preference, campaign managers and the press usually arrange to have it well known. However, when a candidate for delegate is very popular personally he may win regardless of his presidential preference. It is not uncommon for delegates of one preference to be elected in the same election in which the public has expressed approval of another presidential possibility. To cite an extreme case, it is possible for a district delegate to be under three different sets of instructions: those of the state as a whole, of his district, and of his own personal pledge.

4. Preference vote for president, delegates to be chosen by the successful candidate. Such a system would be unlikely to achieve success in practice. It is hard to conceive of a state looking kindly upon a plan to have its delegates to the national convention chosen by someone from outside the state, especially when such delegates have the responsibility of working on the party platform. The Alabama law, the only one of this type, applied only to favorite son candidates and was passed specifically for Senator Underwood.

5. No direct preference vote but election of candidates whose preference is expressed on the ballot (California, Massachusetts, New Jersey, Ohio, South Dakota). In California the citizen's vote is technically for a slate of candidates for delegate who favor one presidential possibility. The name of the favored aspirant, however, and not the names of the men making up the slate, appears on the ballot. The single vote the citizen casts under the name of the man he favors is technically a vote for the slate favoring him. Such a plan subordinates a delegate's personality in favor of that of the man he prefers and eliminates some other confusions which occur in presidential primaries. However, some criticize it as only an indirect expression of approval on the part of the voter.

Considerations and Practices

Time of the Primary - Relatively early primaries have proved unsatisfactory because they are usually too far in advance of the national convention to arouse much interest. They may also encounter difficulties of bad weather which further reduce the vote. On the other hand, late primaries sometimes conflict with convention dates. Among the 18 states which now elect delegates or express a presidential preference, primary dates range from the second Tuesday in March (New Hampshire) to the first Tuesday in June (California, New Jersey, and South Dakota). Most dates fall during the last week in April and the month of May.

Another related consideration is whether the presidential primary should be held in conjunction with the state primary or as a separate expression of opinion. Such matters as the cost, the size of the vote, the burden on the voter, the confusion of state and local with national issues must be considered. A corollary question which arises when separate primaries are proposed is whether or not United States senators and representatives also should not be nominated at a primary independent of the one held for purely state officers.

Proposing of Candidates - The usual method is petition or declaration. The 1913 Minnesota law used the petition method and did not require the candidate's consent. One problem concerns the possibility and

desirability of forcing unwilling or coy candidates to permit their names to be placed on the ballot. To be effective, a presidential primary must permit voters to express their preference; otherwise, it becomes completely ineffectual as it did in the Hughes-Roosevelt refusals of 1916. On the other hand, the practices of drafting men or not permitting them to withdraw can be grossly abused.

Election of Delegates - There is some argument over the question of electing delegates by congressional districts or at large. Most states which directly elect delegates choose two from each congressional district and the remainder at large. Points often cited in favor of district election are: it permits representation of sharply different districts, results in a much less clumsy ballot, enables voters to know candidates for delegate personally, and costs less than a state-wide election which, because of such cost, may play into the hands of a machine. Points cited on the other side are: Members of the electoral college are chosen at large, state-wide election insures harmony between the preference of the state at large and the delegates chosen, and results in a united delegation which has more force in the convention. Experience in California has indicated that at-large election tends to bring out intra-party differences of opinion more clearly and has been less likely to degenerate into factional fights for district leadership. In forcing state-wide contests, the at-large system forestalls the tactic of entering delegates only in strong, "safe" districts. However, election at-large would not even be a practical consideration in such situations as New York City vs. upstate New York, and Chicago vs. the remainder of Illinois.

Control of Delegations at Convention - One of the most difficult problems faced by advocates of presidential primaries is the control of convention delegates, a problem already partly discussed in the summary of the five types of primaries. One of its aspects is the length of time, if any, for which a delegation should be bound to its pledge or to the preference expressed by the voters. Statutes have varied in their requirements from a minimum of three ballots to the unreasonable requirement of the whole convention. No state now makes such an arbitrary time requirement, although New Hampshire requires delegates to vote for their stated preference as long as the favored presidential aspirant has his name before the convention as a possible nominee, and Arkansas requires its delegation to vote as a unit for the popularly expressed preference until two-thirds of such delegation decides that continuing so to vote is futile and against the best interests of the state. Most other states which make some effort to bind delegates require pledged support to "best of ability and judgment" or until "conscientious judgment" dictates a change. It is obvious that most efforts to extend popular control of delegates into the convention hall through statutory requirements are ineffective because they result in a rigidity of action which conflicts with the powers of discretion that a convention

delegate must exercise. Assuming for the moment the desirability of a presidential primary, generally the best control results from a carefully drafted law which results in electing delegates to the convention whose personal sympathies are those of the largest number of the party electorate.

Type of Ballot - A good presidential primary ballot has two requirements: it should be as simply and logically arranged as possible, and it should clearly indicate the relationship of the candidates for delegates to the candidates for the presidential nomination. Many of the bad features of primary ballots stem from a strong inclination to assume that good points in a ballot for a general election are necessarily good on a primary ballot. Such devices as rotation of candidates by district, alphabetical listing of candidates, and others which tend to dissociate candidates for delegates from the presidential aspirants they favor make the task of the voter more difficult and only defeat the end of the primary.

Open vs. Closed Primary - Most states have laws which make their presidential primaries more nearly closed than open although there have been instances of states with closed state primaries using virtually an open presidential primary. The most often expressed fear of the open primary concerns the possibility of one party raiding the primary of another to nominate a weak candidate as their opposition in the general election. Evidence (mostly from California), however, indicates that although there is crossing of party lines it generally stems from genuine constructive interest (such as the California Democratic vote for Hoover in 1920 because of his pro-League of Nations sentiment and the fact that he was a favorite son). There is also some crossing of lines by members of a perennially minority party in an effort to cast a vote that matters.

Uninstructed Delegates - Most states which permit candidates for delegate to express a preference on the ballot also permit candidates to run for the position of uninstructed delegate. This is a valuable feature of a law in years in which sentiment is unsettled or lacking so far in advance of the general election. Lack of such a provision caused great bitterness in 1916 when Hughes and Roosevelt declined to enter presidential primaries and some states were forced to instruct for relatively unwanted candidates. It is also true that the continued use of officially uninstructed delegations from non-primary states is forcing their use in primary states. From the point of view of the proponents of the presidential primary this is unfortunate because it gives party machines an opportunity either to hide behind an uninstructed delegation or to use a favorite son as a stalking horse.

Miscellaneous Considerations - Issues in presidential primaries can vary all the way from the clear-cut Taft-Roosevelt struggle in 1912 to what often amounts to no contest whatsoever. Often state issues, especially factional contests for state leadership, are the grounds on which the campaigns are fought. However, the primaries do remain as a possible forum for a minority or sectional group with an issue or an opinion that may be of national importance. In this respect it is unfortunate that the primary dates are as scattered as they are, a circumstance which enables candidates to vary their emphasis on issues in accordance with expediency. It is virtually impossible to focus the interest of all the states on the same issues at the same time and in this way make national or important matters nation-wide issues.

Interest in presidential primaries, as indicated by the vote, is usually much lower than in the general election. However, it often compares favorably with the vote registered in state primaries. Proponents feel that although the presidential primary may not often be obviously effective or even influential there may well be situations in some presidential years in which it would completely justify its existence.

Cost of presidential primaries, both to the government and to the candidates, is another matter worth consideration. Indications are that candidates for delegate usually spend very little to be elected, whereas candidates for the presidency, on the other hand, may be quite extravagant in their quest for the nomination. In 1920, Wood spent \$1,773,303 in his pre-convention campaign, \$450,000 more than the entire national campaign fund of the Democratic party in that year. Regulation of such expenditures by the states is next to impossible because campaigns, though local in some respects, are conducted largely on a national scale. Presidential primaries also tend to be costly to the state. Though the cost may be justified in some years, there have been instances of carrying through costly balloting in years when no real contest existed.

Appraisal of the Presidential Primary

Overacker summarizes the situation as follows:

"Until the (presidential) primary is extended to more states it can be an effective weapon of control over national politics only in rare instances, and yet the ineffectiveness of the control under the existing situation is unquestionably one of the reasons why the presidential primary is not extended to other states."¹

1. The Presidential Primary, Louise Overacker, p. 184.

Those who favor the primary emphasize its limited use as a major factor in its very limited effect. However, opponents argue that even if all states had such laws the favorite son tradition could easily render the results of the balloting completely inconclusive.

Some known advantages of the presidential primary may be cited. A well drawn law which results in the election of delegates of known preference and does not involve a direct preferential vote on presidential possibilities eliminates the phenomenon of contests coming before the convention for arbitration and settlement. Such a primary may enable delegates to act more confidently with knowledge that they have popular support. There is also fairly good evidence that the presidential primary, while it has never controlled conventions, has affected some of them. The support given Roosevelt in the 1912 primaries was a deciding factor in his attempt to build and lead a successful third party. In 1916, the lack of support he received in the Massachusetts primary was influential in his decision not to run as the Progressive candidate. In that same year the votes recorded in the various states are considered to have swayed the Republican convention away from any nominee with military tendencies. The effect of the 1944 Wisconsin primary was the abandonment of Wilkie plans to seek Republican renomination.

The points against the presidential primary, some unimportant, some of unknown importance, and some serious, have been classified by Overacker.

Those which are characteristic of most direct primary systems are: voters cross party lines; there is a lack of popular interest; the primary is overly expensive to the state; and the bitterness stirred among candidates is such that it is difficult for the party to unite again after the primary.

Another group is listed as a series of technical defects which could be eased or eliminated by more skillful drafting of laws and adoption of such laws in more states. These criticisms are: laws are intricate and ambiguous; they fail to control delegates in convention; they are aids to the notoriety seeker (especially in states in which preference for a vice-president may also be expressed); and often important candidates stay out of the primary, either from reticence or from fear of antagonizing local political powers.

A third class comprises more serious defects which in some measure are traceable to the limited number of primaries in use; delegates stay unpledged or pledge for a favorite son, conditions which may play into the hands of a machine or at best result in no gain for the rank and file of the party; the verdict rendered by the primaries is often obscure because they are often clouded by or settled on state

issues; the primary has not controlled the convention; and the lack of uniformity among the laws as to dates and other matters aid some objectionable types of campaigning and, more important, make it difficult and bothersome for candidates to apply and qualify properly in each state.

The last two objections are serious because they deal with matters beyond state control: the heavy cost to candidates and the fact that the convention is entirely beyond state law and may nullify its provisions with impunity..

Though there has been some agitation for a national presidential primary and occasional bills have been introduced in Congress, it is quite generally agreed that a constitutional amendment would be necessary before any such law would be possible. Considering the political and practical difficulties which would be encountered by any such move, there is very little chance that any action will be taken.

SUMMARY OF THE MINNESOTA PRESIDENTIAL PRIMARY LAW

(General Laws of Minnesota, 1913, Chapter 449;
repealed by Session Laws of Minnesota, 1917, Chapter 133.)

"An Act providing for the expression of the popular will for party nominations of president and vice-president of the United States; providing for the nomination of presidential electors, the election of delegates and alternates to national party conventions and providing for the expenses of delegates and alternates, and the election of national committeemen therefor."

The law provided that the election be held on the second Tuesday in March of presidential election years. In general it followed the rules and customs of the primary election except that there was no prior registration of voters. The law called for both the election of delegates-at-large (as prescribed by the rules of the national committee of the political party) and for delegates by congressional districts.

Names of candidates for president and vice-president were placed on the ballot by petition of 2% of the vote cast for president by the party in the state in the last election, not exceeding, however, 500 petitioners. Any candidate for delegate filed an affidavit which stated, among other things, that he would to the best of his judgment and ability faithfully carry out the wishes and preferences of the voters of his political party as expressed by the nominating election. The name of a candidate for president appeared on the ballot through petition of his supporters and not through any action such as signing a petition or acceptance on the part of the candidate himself.

Delegates to the national convention were entitled to reimbursement by the state auditor up to an amount of \$150.

MANNER OF SELECTING DELEGATES TO NATIONAL CONVENTIONS
AND PROVISIONS FOR PRESIDENTIAL PREFERENCE VOTES AND DELEGATE CONTROL*

State	Manner of Selecting Delegates		Date	Presidential Preference Vote	Control of or Statutory Instructions to Delegates
	Primary	Other			
Alabama	Primary system may be used at option of party	State executive committees or conventions	If primary: 1st Tuesday in May Otherwise set by state executive committee	Technically none, but preferences of candidates for delegate are known and party members vote accordingly to express their own preferences	No statutory provision
Arizona		Executive Committee	Set by Executive Committee	None	No statutory provision
Arkansas		State Committees	Set by State Committee Not later than two weeks before national convention	Preference primary must be ordered by state committee if petitioned to do so by any qualified candidate	If a preference primary has been held, the delegation must vote as a unit for the expressed preference until 2/3 of delegation decide such nomination is impossible
California	In primary, voter casts one vote for entire state favoring one presidential aspirant		First Tuesday in June	Preference primary in form of voting for states of unlisted candidates for delegate whose presidential preferences are stated on the primary ballot	Delegate signs affidavit to support his candidate for president to the best of his "judgment and ability".
Colorado		Convention	Set by State Central Committee	None	No statutory provision
Connecticut		By party organization or convention	Set by State Central Committee	None	No statutory provision
Delaware		Convention	Set by State Central Committee	None	No statutory provision
Florida	In primary, candidates for delegate may state presidential preference on ballot		First Tuesday after the first Monday in May	State executive committee may place names of presidential aspirants on ballot No action on part of candidates necessary	Delegate is bound only by the statement of preference which he may make on the ballot
Georgia	Primary used though there is no specific statutory provision for it		Set by State Executive Committee	No statutory provision but apparently conducted by party	No statutory provision
Idaho		Convention	Set by State Central Committee not later than 1st Tuesday in June	None	No statutory provision
Illinois	Primary selects delegates from districts	Convention selects delegates-at-large	Primary: Second Tuesday in April Convention: First Friday after Second Monday after primary	Direct Presidential Preference Vote	Preferential Primary is advisory only and not binding in any way
Indiana		Convention	Set by State Central Committee	None	No statutory provision
Iowa		Convention	Not earlier than first or later than fifth Wednesday after county conventions Set by party	None	No statutory provision
Kansas		Convention	Set by party organization	None	No statutory provision

* Source: Manner of Selecting Delegates to National Political Conventions, with Information on States Holding Presidential Primaries. Compiled by the Senate Library under direction of Carl A. Loeffler, Secretary of the Senate. U. S. Gov't. Printing Office, 1948.

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SELECTING DELEGATES TO NATIONAL CONVENTIONS (Continued)

State	Manner of Selecting Delegates		Date	Presidential Preference Vote	Control of or Statutory Instructions to Delegates
	Primary	Other			
Kentucky		Convention	Set by Chairman of State Committee	None	No statutory provision
Louisiana		State Central Committee	Third Tuesday in May	None	No statutory provision
Maine		Convention	Set by State Party Chairman	None	No statutory provision
Maryland		Convention (but delegates to it are elected by direct primary)	First Monday in May	Direct Presidential Preference Vote	Delegates must vote as a unit for popularly expressed preference until "conscientious judgment" dictates a change
Massachusetts	On primary ballot candidates for delegate may state preference, if any	(Convention may be held to draw up platform and transact business)	Last Tuesday in April	Preference expressed by voting for candidates for delegate who have preference printed on ballot Such preference may not be printed without written assent of presidential aspirant	Bound only by statement of preference, if any, on ballot
Michigan		Convention chooses delegates at large; caucuses of county delegates to state convention by congressional district choose district delegates	Set by State Central Committee	None	No statutory provision
Minnesota		Convention	Set by State Committee	None	No statutory provision
Mississippi		Convention	Set by State Committee	None	May be instructed by State Executive Committee
Missouri		Convention	Set by State Committee	None	No statutory provision
Montana		Convention	Third Tuesday in May	None	No statutory provision
Nebraska	Primary		Second Tuesday in April	Direct preference vote for President and Vice-president	Delegates pledge to support results of preference vote
Nevada		Convention	Set by State Central Committee	None	No statutory provision
New Hampshire	Primary		Second Tuesday in March	Preference expressed by voting for candidates for delegate of stated or known preference	Delegates may sign pledges to support certain aspirants
New Jersey	Primary		Third Tuesday in April	Preference expressed by voting for delegate or group of delegates who have petitioned to have individual or group preference printed on the ballot	No statutory provision
New Mexico		Convention	Set by State Central Committee	None	No statutory provision
New York	Primary elects district delegates; no preference stated on ballot	Convention chooses delegates at large	Primary: First Tuesday in April Convention: Set by State Committee	None	No statutory provision
North Carolina		Convention	Set by State Executive Committee	None	No statutory provision
North Dakota		Convention	Set by State Executive Committee	None	No statutory provision

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SELECTING DELEGATES TO NATIONAL CONVENTIONS (Continued)

State	Manner of Selecting Delegates		Date	Presidential Preference Vote	Control of, or Statutory Instructions of Delegates
	Primary	Other			
Ohio	Primary		First Tuesday after First Monday in May	Preference expressed by voting for delegates whose first and second choices for president appear on the ballot	Each candidate for delegate "may also file" a statement that he will support the popular preference for presidency
Oklahoma		Convention	Set by State Committee	None	No statutory provision
Oregon	Primary		Third Friday in May	Direct preference vote for president and vice-president Such preference of candidates for delegate may also appear on ballot so voter may also express his preference in this way	Each candidate for delegate files a declaration which, though it may state his preference for president, also states he will use his best efforts to secure the nominations which the people favor in the presidential primary
Pennsylvania	Primary		Fourth Tuesday in April	Direct preference vote for president	Candidate for delegate may file a pledge to support the result of the preference vote of his district or, if a delegate at large, of the state
Rhode Island		Convention	Set by State Committee	None	No statutory provision
South Carolina		Convention	Set by State Committee	None	No statutory provision
South Dakota	Primary		First Tuesday in June	Preference expressed by casting a vote for a slate of candidates appearing on the ballot under the name of the man, if any, favored for president Presidential aspirant must have endorsed this slate	Bound only by the group preference appearing on the ballot
Tennessee		Convention	Set by Chairman of State Committee	None	No statutory provision
Texas		Convention	Fourth Tuesday in May	None	No statutory provision
Utah		Convention	Set by State Central Committee	None	No statutory provision
Vermont		Convention	Third week in May	None	No statutory provision
Virginia		Convention	Set by State Committee	None	No statutory provision
Washington		Convention	Set by Party Organization	None	No statutory provision
West Virginia	Primary		Second Tuesday in May	Direct Preference Vote for President	No statutory provision
Wisconsin	Primary		First Tuesday in April	Direct Preference Vote for President and Vice-president No candidate action necessary Delegate candidates may also state preference on the ballot	Bound only by statement of preference
Wyoming		Convention	Second Monday in May	None	No statutory provision