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# PERFORMANCE AND POTENTIAL OF PRESIDENTIAL PRIMARY LAWS

Richard H. Hansen\*

## I. INTRODUCTION

The presidential primary, an experiment in democracy, has been a subject of controversy since its inception fifty years ago. Before using the past and present laws as a basis for endorsing or rejecting the philosophy behind the primary, lawyers, legislators, and political scientists would do well to examine and re-examine the myriad laws passed. We should determine if these laws have been successful in attaining the objectives envisioned by the originators of the primary. It is the purpose of this article to present a brief analysis of this question.

To understand the objectives of the presidential preference primary it will be helpful to review its historical development and to restate its general purpose.

## II. HISTORY AND PURPOSE

Generally speaking, the presidential primary is the outgrowth of a trend to broaden popular control of our governmental processes. Because of the semi-aristocratic origins of the Constitution, this trend developed soon after its adoption. An early phase resulted in the replacement of the congressional caucus, as a means for choosing the President, by the national convention system. In other areas property qualifications for voting were abolished, negro suffrage became a reality and the movement for woman suffrage arose in the 1860's in Wyoming.

The presidential primary had its immediate genesis in the progressive era at the beginning of the century when broadening political control resulted in the popular election of senators and the general adoption of the initiative, referendum and recall by states. In fact, it was the adoption of measures for the popular election of senators which gave concrete form to proposals for the presidential primary.

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A number of states, chiefly west of the Mississippi, worked out a plan under which popular election of senators was attained, to all intents and purposes, even before the adoption of the Seventeenth Amendment. Nebraska, in 1879,<sup>1</sup> and other states during the same period, provided that the voters of each party were authorized to indicate at the polls which of the party senatorial candidates they preferred, and the nominations thus made were formally presented to the legislature. Usually that body was trusted, without any special precaution, to execute the public will by electing the designated candidate of the majority party. In 1909 Oregon<sup>2</sup> and Nebraska<sup>3</sup> introduced a system under which candidates for the legislature were asked to pledge their support in advance to the people's choice for senator, regardless of party. In either case there was, as with presidential electors, no obligation other than moral. Legally, the legislature remained free to elect whomsoever it would, but the popular will was almost invariably carried out.

Statutes of this type laid the groundwork for the state presidential primary. Senator Jonathan Bourne of Oregon,<sup>4</sup> Senator Robert M. LaFollette of Wisconsin, Teddy Roosevelt,<sup>5</sup> and the other progressives of the early 1900's sought by similar means to accomplish a two-fold purpose in the field of presidential nominations: (1) to allow the voters to show their preference for the leading aspirants for their party's nomination, and, (2) to reflect this preference in the national conventions by the action of the state's delegation.

This was the immediate goal of the state primary. Some hoped that it would be "The origin of a new method of electing presidents."<sup>6</sup> This has proved nothing more than a hope. The real objective was to make the state delegations more responsive

<sup>1</sup> NEB. COMP. STAT., ch. 26, § 9 (1881).

<sup>2</sup> LORD'S OREGON LAWS, 1910, Vol. II, Title XXVII, Ch. II, § 3361.

<sup>3</sup> NEB. COBBEY'S ANN. STAT., ch. 16, § 5906x1 (1911).

<sup>4</sup> U. S. Senator from Oregon, 1907-1913. (Republican).

<sup>5</sup> Teddy's illustrious fifth cousin, Franklin D. Roosevelt, was one of the "insurgents" who led the fight for a direct primary bill in New York State in 1911 against Tammany Hall. The bill passed, in watered-down version. See II, F.D.R., *His Personal Letters*, 165-166 (1948). FDR's views on the national convention system and presidential primaries were kept carefully to himself. Neither Mrs. Roosevelt, James A. Farley, or Judge Samuel Rosenman recall hearing him express himself on that point. Letters and interviews with the author. Woodrow Wilson not only espoused state primaries, but asked Congress in 1913 to establish a national primary.

<sup>6</sup> Oregon Daily Journal, April 28, 1908.

to the wishes of the people. It was a modest goal and one which could be accomplished solely by state action.

The idea of a national primary soon followed.<sup>7</sup> Its goal was automatic nomination through the primary and abolishment of the convention. Unfortunately, people still tend to confuse the goal of the national primary with the simpler purpose of the state laws. The distinction should be kept in mind while reading this article. Treatment of the national primary is outside the scope of this writing.

## CHART I

LEADING CONTENDERS FOR THE  
PRESIDENTIAL NOMINATION

1912-1956

Republican Party	Democratic Party
1912 William Howard Taft Theodore Roosevelt Robert M. LaFollette A. B. Cummins	1912 Judson Harmon Bennett "Champ" Clark Woodrow Wilson
1916 Charles Evans Hughes Elihu Root John W. Weeks	1920 Wm. G. McAdoo A. Mitchell Palmer James M. Cox
1920 Leonard Wood Frank Lowden Hiram Johnson	1924 Wm. G. McAdoo Alfred E. Smith
1928 Herbert Hoover Frank Lowden Charles Curtis	1932 Franklin D. Roosevelt Alfred E. Smith John N. Garner Albert Ritchie Newton D. Baker
1940 Thomas E. Dewey Robert A. Taft Arthur Vandenberg Wendell L. Wilkie	1952 Estes Kefauver Adlai Stevenson Richard Russell Averell Harriman
1948 Thomas E. Dewey Robert A. Taft Harold E. Stassen Earl Warren	1956 Estes Kefauver Adlai Stevenson
1952 Dwight D. Eisenhower Robert A. Taft Earl Warren Harold E. Stassen	

<sup>7</sup> For President Wilson's message urging adoption of a national primary see 51 *Cong. Rec.* 44 (1913).

CHART II  
STATE LAWS REVIEWED; NUMBER OF  
POSSIBLE CONTESTS

Bearing in mind the years in which there were serious contests for the nominations, state laws which were in effect during those years studied, and the number of possible contests determined and the number of instances in which all of the contenders were entered.

<i>State and Years Law was Operative</i>	<i>Possible Pri- mary Contests</i>	<i>No. Contests in which all contenders were entered</i>
Alaska, 1955-	1	1
California, 1911-	13	2
Florida, 1955-	1	1
Illinois, 1913-1933, 1955-	9	2
Indiana, 1915-1929; 1955	6	1
Iowa, 1913-1917	1	0
Massachusetts, 1912-	13	1
Michigan, 1912-1931	7	0
Minnesota, 1913-1927; 1944	5	1
Montana, 1913-1927; 1954	5	2
Nebraska, 1911-	13	3
New Hampshire, 1913-	11	0
New Jersey, 1912-	13	1
North Carolina, 1919-1927	3	0
North Dakota, 1911-1935	8	2
Ohio, 1911-	13	1
Oregon, 1911-	13	4*
Pennsylvania, 1911-	13	0
South Dakota, 1917-	10	1
Vermont, 1915-1921	3	0
West Virginia, 1915-	11	0
Wisconsin, 1911-	13	1
Totals	185	24

\*Complete figures not available from Secretary of State

### III. PLACING THE CANDIDATES ON THE BALLOT

Have primary laws enabled voters to indicate their preferences for leading candidates?

The answer to this must be a resounding *NO*. During the period since 1912 we have chosen nominees for the Presidency

twenty-six times. In thirteen of these cases there were contests for the nomination, i.e., an incumbent President was not already assured of re-nomination, or there was not just one contender with an outstanding lead, like Al Smith<sup>8</sup> in 1928. Chart I indicates the years in which these races occurred and the aspirants. In these thirteen cases there were opportunities, between the two parties, for one hundred and eighty-five primary elections. These figures are shown in Chart II.

In all of these primaries we find only twenty-four instances in which the leading contenders were entered. It must be concluded that in the vast majority of states which had presidential primary laws in the period from 1912 to 1956, the laws have actually frustrated the purposes of the state primary.

Primary laws have frustrated their objectives at the outset interposing serious difficulties in the way of those who tried to place the names of presidential aspirants on the ballot. What provisions, or lack of provisions, in primary laws have led to this situation? After fifty years of experience we should be able to draw some profitable conclusions by examining the pertinent portions of these laws and the proposals advanced to correct the situation.

#### A. DATE OF THE PRIMARY

This can be a very significant factor in getting all the candidates on the ballot. If the primary is held too early, all of the contenders may not have announced their candidacies. Of the twenty-four instances in which all of the candidates have been on the ballot, four of the primaries were held in March, twelve in April, seven in May and one in June.<sup>9</sup> We must also remember the fact that these cases all happened in years when the major candidates were known well in advance of the conventions.<sup>10</sup> In 1912, for example, Taft,<sup>11</sup> Roosevelt and LaFollette were all early contenders in the Republican Party, while Wilson, Rep. Bennett (Champ) Clark of Missouri and Governor Judson Har-

<sup>8</sup> Alfred E. Smith, Governor of New York (1919-1921; 1923-1929).

<sup>9</sup> *March*: 1912, 1920 N.D. Rep.; 1920 S.D. Rep.; 1956 Minn. Dem.; *April*: 1912 Mass. Rep.; 1912 Ore. Dem. and Rep.; 1912 Wis. Rep.; 1920 Mont. Rep.; 1912 and 1920 Ill. Rep.; 1912 Ohio Dem.; 1912 Neb. Dem. and Rep.; 1948 Neb. Rep.; 1956 Alaska Dem. *May*: 1912 Calif. Rep.; 1920 Ind. Rep.; 1912 N.J. Rep.; 1920 Ore. Rep.; 1924 Mont. Dem.; 1956 Fla. Dem.; 1956 Ore. Dem. *June*: 1956 Calif. Dem.

<sup>10</sup> 1912, 1920, 1924, 1948, 1956.

<sup>11</sup> William Howard Taft, President, (1907-1913).

mon of Ohio were not exactly reticent in their aspirations for the Democratic nomination. The trend has been away from the early months, March and April.<sup>12</sup> This is not only because it affords greater opportunity to get all of the candidates on the ballot, but because of the possibility of inclement weather in many of the northern states.

Ample time must be allowed for canvassing the vote. With one or two exceptions the conventions have met in June and July, so the latest date feasible, allowing the secretary of state sufficient time to count the votes, would be the middle of May.<sup>13</sup> More primaries are held in May than any other month<sup>14</sup> and the legislation proposed in the period immediately following the 1952 election favored that month also.<sup>15</sup> A late study, made by the Nevada State Legislative Council, suggests late May or early June.<sup>16</sup> There are two states which presently hold their primary in early June.<sup>17</sup>

Nine of the 1956 presidential primaries were held in conjunction with state primaries, since the cost of holding two separate elections is much greater.<sup>18</sup> Only three states which have a presidential primary also have a state primary the same year and hold the two on separate dates.<sup>19</sup> There is less inconvenience to the voters and a better chance for a large vote when the two elections are held together.

#### B. CONSENT AND WITHDRAWAL PROVISIONS

Many states have required the consent of the presidential candidate before his name can be placed on the ballot.<sup>20</sup> This

<sup>12</sup> Indiana, Montana, Pennsylvania, New Jersey and South Dakota have all changed from an early date to a later one. New Hampshire is the only state which changed to an earlier date and has adhered to it.

<sup>13</sup> Since 1900 twenty conventions have been held in June, eight in July and the two 1956 conventions were held in August.

<sup>14</sup> Present line-up: March (1); April (5); May (8); June (2).

<sup>15</sup> March (1); April (4); May (7); June (4); July (1); August (2).

<sup>16</sup> NEVADA LEGISLATIVE COUNCIL: THE PRESIDENTIAL PRIMARY, (Dec., 1958).

<sup>17</sup> California and South Dakota (June 7th).

<sup>18</sup> Alaska, Florida, Illinois, Montana, Nebraska, Ohio, Oregon, Pennsylvania, South Dakota.

<sup>19</sup> Massachusetts, New Hampshire, Wisconsin.

<sup>20</sup> The following states have had this type of provision at various intervals: California, Iowa, Massachusetts, Michigan, Nebraska, Vermont, West Virginia, and Wisconsin.

is done by requiring either a declaration of candidacy on his part, or consent to the filing of a petition by his supporters. Some of these states also allow a candidate to withdraw from the primary if he desires.<sup>21</sup> Others allow withdrawal, but do not require consent,<sup>22</sup> while still others have neither consent nor withdrawal provisions.<sup>23</sup>

It seems logical, if we are to get all of the candidates on the ballot, that there should be no consent or withdrawal provisions. Withdrawal should be limited, in any case, to those situations where the candidate does not want to run for health or valid personal reasons and is willing to say so. Of the twenty-four instances in which all of the candidates have been on the ballot, eighteen of these contests took place in states which had neither consent nor withdrawal provisions, three in states with withdrawal provisions only, two with consent only, and only one in a state which had both features.<sup>24</sup> However, there were at least ninety-two instances in which candidates *could* have been entered without giving consent or being able to withdraw, and ninety-three instances in which consent or withdrawal provisions were operative. It might seem from these figures that there should be more cases where all the candidates were entered if it is the consent and withdrawal provisions which are a bar to placing the candidates on the ballot. But a further analysis of the states which have not had these clauses shows that, with the exception of California, they have all been states with a relatively small vote in the convention. For this reason the candidates probably felt that the small gain from winning did not justify making the race. The really important states from the standpoint of voting strength in the convention — Massachusetts, New Jersey, Ohio and Pennsylvania — have had consent and withdrawal provisions. It would seem that requiring consent, or allowing withdrawal, has kept the people from having a real choice in the primary.

<sup>21</sup> New Jersey; Ohio.

<sup>22</sup> Indiana, Illinois, New Hampshire, Pennsylvania.

<sup>23</sup> At various intervals: Calif., Mass., Mich., Minn., Mont., Neb., N.H., N.C., N.E., Ore., Penn., S.D., Wis., Alaska, Fla.

<sup>24</sup> *No consent or withdrawal*: 1912 Calif. Rep., 1912 Neb. Dem., 1912 Neb. Rep., 1912 N.D. Rep., 1920 N.D. Rep., 1920 S.D. Mont. Rep., 1924 Mont. Dem., 1912 Ore. Dem., 1912 Ore. Rep., 1920 Ore. Rep., 1912 Mass. Rep., 1948 Neb. Rep., 1912 Wis. Rep., 1956 Alaska Dem., 1956 Fla. Dem., 1956 Ore. Dem., 1956 Calif. Dem. *Withdrawal only*: 1920 Ind. Rep., 1912 N.J. Rep., 1956 Minn. Dem. *Consent only*: 1912 Ill. Rep., 1920 Ill. Rep. *Consent and withdrawal*: 1912 Ohio Dem.



Until very recently those drafting new primary legislation have not been aware of the detrimental effect of consent and withdrawal provisions. Of the bills offered in the period 1952-55, five had consent provisions, six had withdrawal clauses, and only one provided that no consent was necessary. A Texas bill<sup>25</sup> provided for withdrawal only, on condition that the candidate state that he did not want his name considered by the convention. The Nevada study, previously mentioned, recommended a similar provision.<sup>26</sup>

There is no doubt that candidates use these clauses for political expedience. It was a consent clause which kept the leading contenders off the Nebraska ballot in 1952. If Mr. Truman had stuck by his decision to withdraw from the New Hampshire primary in 1952, he could easily have avoided the humiliating defeat at the hands of Senator Kefauver.

Granting the desirability of eliminating consent and withdrawal provisions, is their absence from the law sufficient guarantee that the name of a candidate will be put on the ballot when a petition, duly signed, is presented to the secretary of state? Not necessarily! There have been two court cases on this question, and each came to a different conclusion based on the particular wording of the statute.<sup>27</sup>

Again, the mere absence of a withdrawal provision is no insurance that the secretary of state will not accede to the wishes of a candidate who wishes his name withdrawn.<sup>28</sup> Therefore,

<sup>25</sup> S.B. 2, 54th Leg., filed Jan. 19, 1956 by Senator Jimmy Phillips.

<sup>26</sup> *Supra*, note 16. Sec. 30, p. 78.

<sup>27</sup> *McCamant v. Olcott*, 80 Ore. 246, 156 Pac. 1034, LRA 1916E 706 (1916); *State ex rel. Kinzer v. Hall*, 50 N.D. 708, 198 N.W. 770 (1924). In the first case mandamus was granted when a Hughes supporter brought suit to compel Hughes' name to be put on the ballot after it had been removed at his request. The court held that the mandamus would lie because the law provided that every voter should have a choice for preference, and the vote was only advisory. The second case involved withdrawal of LaFollette's name and the court did not allow the name to appear on the ballot, holding that since the law was intended to allow a choice among aspirants, and LaFollette had declined, he was not an aspirant.

<sup>28</sup> Secretary of State, Charles W. Pool of Nebraska, (1915-1919) in notifying the signers of the Hughes' petition that he would honor Hughes' wish not to run, even in the absence of a withdrawal provision, said:

"Exercising the authority which I feel I am warranted in using, I have decided to follow the wishes of Justice Hughes

a strong primary law should use mandatory language to require the secretary of state to put the name on the ballot, and such a law should also state under what specific conditions withdrawal is to be allowed.

Certainly no one should be required to run for President if he has valid personal reasons for not doing so. This person can be given an out by the procedure suggested in the Texas and Nevada proposals previously mentioned.<sup>29</sup> A similar provision was embodied in the Minnesota law prior to its repeal. No consent was required, but a candidate could withdraw if he filed a statement that he would not accept the nomination.<sup>30</sup>

It is not surprising to find this section of the Minnesota law the subject of a lawsuit. Estes Kefauver tried to withdraw from the 1952 primary without signing the required statement. The secretary of state, acting on the advice of the attorney general, honored Kefauver's request and the Minnesota court upheld the secretary's action, declaring the law unconstitutional.<sup>31</sup> The opinion states that the law was "arbitrary and unreasonable", and got down to specific reasoning in one paragraph where it said:

Not only is the state attempting to deprive a citizen of a private right and invading his liberty, but it is also attempting to control the action of every other state. If a candidate has been compelled to file such an oath as a condition of withdrawal, and if, at the forthcoming national convention he receives the nomination for the Presidency, it is apparent that such an oath on file in the office of the Secretary of State in Minnesota would, to say the least, be most embarrassing if the nominee should wish to accept the nomination. If he did accept it, it can readily be seen how the oath would handicap his candidacy. This . . . condition . . . is arbitrary and unreasonable, depriving a person of an inherent right and invading the liberty guaranteed by the 14th Amendment.

What is this private right of which the court speaks?

in this particular, believing that he, as a member of the highest court in the land, would not request me to do that which was contrary to existing laws. Should you feel that I have erred in this ruling, I shall be pleased to have you take it before the courts of our state for final adjudication." Quoted in *New York Times*, Nov. 23, 1915.

<sup>29</sup> *Supra*, notes 16, 25 and 26.

<sup>30</sup> MINN. STAT. ANN., § 202.49(2) (1949).

<sup>31</sup> *Ryan v. Holm*, 236 Minn. 189, 193, 52 N.W.2d 406, 408 (1952).

Early in American legal history Judge Cooley wrote of the "right to be left alone,"<sup>32</sup> and this has led to the recognition of the tort of invasion of privacy.<sup>33</sup> An examination of the cases on this subject reveals that the tort is concerned with publication of pictures and news stories.<sup>34</sup> The facts of this case clearly do not fall in this category. The Minnesota court defined "private right" in connection with another statute as "some power or privilege to which one is entitled upon principles of morality, religion, law or the like."<sup>35</sup> This could cover practically any situation!

Giving the widest possible interpretation to the phrase, as the court obviously intended, it is still difficult to see how the candidate has been deprived of any right. Entering a state primary, does not necessarily result in nomination at the convention. Even if it did, the candidate could still decline. It is submitted that the Minnesota court used the concept of "private right" to obscure the real reason for its decision. If there is any private right involved here it is superseded by a greater right of the public. The objection to the primary law is really made on the basis of the assumed right of the politician to exercise an option to run in the states where he can win and avoid contests where he might lose. Such a ruling may preserve a "right" for some politicians, but it completely overlooks the interest of the public in the popular choice of a President.

### C. FAVORITE SONS

When the name of a favorite son is on the ballot the people are, in reality, denied a choice among the leading contenders, for his local popularity seldom bears any relation to his real chances of winning the nomination. Rarely is a favorite son a serious contender for the Presidency. He is usually on the ballot to "throw dust in the eyes" of the voter, and enable the state organization to send an uninstructed delegation to the convention.<sup>36</sup> About the only hope these candidates have of securing the nomination is to become a dark horse in the event of a deadlock.

<sup>32</sup> COOLEY, TORTS, 29 (1888).

<sup>33</sup> See 4 HARV. L. REV. 193 (1890).

<sup>34</sup> *Leverton v. Curtis Pub. Co.*, 192 F.2d 974 (3d Cir., 1951). *Peay v. Curtis Pub. Co.*, 78 F. Supp. 305 (D.C.D.C. 1948). *Gill v. Curtis Pub. Co.*, 38 Cal. 2d 273, 231 P.2d 565 (1951).

<sup>35</sup> *State v. Pancratz*, 238 Minn. 517, 57 N.W.2d 635, 647 (1953).

<sup>36</sup> See *Outlook*, Ap. 5, 1916, for an article by F. M. Davenport entitled "Failure of the Presidential Primary." On page 809 Mr. Davenport speaks of the failure of the primary in this regard.

Although the favorite son device can make a mockery of any presidential primary law, it has been overlooked or ignored in most of them. Favorite sons can get on the ballot in the same way as any other candidate, regardless of the fact that it is much easier for him to obtain the required number of signatures on the petition. One way to obviate this difficulty is to require a favorite son to obtain a larger number of signatures than out-of-state candidates. If he is required to obtain a larger number of signatures *in each congressional district* the situation may equalize itself. If the favorite son is really a serious contender for the nomination and not just a blind, then he should not have any difficulty getting, say, three times as many signatures on a petition as an outsider.

State Representative Henry R. Heyburn introduced a bill in the 1954 session of the Kentucky legislature which suggests another approach to the problem.<sup>37</sup> He would require the petitioners to state that:

. . . we are entering \_\_\_\_\_ as a bona fide candidate; that we honestly seek his nomination as President; and that we are not entering him in the interest of any other candidate.

It is unlikely that any favorite son candidate will admit that he is not a serious contender. After his ego has been inflated by members of his state organization he may actually believe he is on the way to the White House. Proof that a man was not a bona fide contender would be difficult in such a case, whether it concerned the candidate, the petitioners, or those influencing the petitioners.

The most realistic proposal is contained in the Nevada study.<sup>38</sup> A native of the state may have his name on the ballot if he has entered in any other state presidential primaries. This seems to get to the crux of the problem.

#### D. WHEN NO CANDIDATES ENTER THE PRIMARY OR PETITIONERS DO NOT ENTER THEM

The traditional methods for putting a candidate's name on the ballot, i.e., permitting him to enter on his own or allowing

<sup>37</sup> H. B. 453, Reg. Sess., 1954, introduced March 1, 1954. This bill was the result of the research of Mr. Henry R. Heyburn of Louisville, Kentucky, and was written by the Legislative Drafting Service of the Harvard Law School from an outline furnished by Mr. Heyburn. The final result, as might be expected, represents one of the best primary bills offered in the active period of 1952-1955.

<sup>38</sup> *Supra*, note 16, Sec. 26 (1), p. 77.

petitions to be filed by his supporters, have not been sufficient to insure a full ticket. A good example of this occurred in the 1956 Nebraska Democratic primary. Adlai Stevenson did not file as a candidate and supporters were not forthcoming to circulate the necessary petitions. Yet Stevenson and Kefauver were undisputably the two main contenders for the Democratic nomination. With only Kefauver's name before the voters of the state, the primary was virtually meaningless. Such a situation need not arise.

Oregon has found a practical answer and enacted it into law.<sup>39</sup> The Nevada Legislative Counsel has recommended a similar provision. The secretary of state is authorized, and specifically instructed, automatically to list on the ballot all candidates for the presidential nomination who have been entered in the presidential primaries of at least two or more states, districts, or territories. The statute was further amended in 1959 to provide that a candidate may be entered if the secretary of state "in his sole discretion determines that he is actively seeking the nomination and such candidacy is advocated or recognized by news media throughout the United States."<sup>40</sup>

#### E. WRITE-IN VOTES

Sometimes a candidate enters the race after the deadline for filing has passed. This occurred in Minnesota during the 1952 primary. But because the law in that state permitted write-in votes, the name of Dwight D. Eisenhower appeared in an election for the first time. The huge write-in vote launched the boom which propelled Mr. Eisenhower into the presidency. Harold Stassen<sup>41</sup> and an unknown by the name of Settedahl were the only persons whose names appeared on the ballot, and although Stassen won, Eisenhower received thirty-seven percent of the votes cast.<sup>42</sup> The Eisenhower movement was helped immeasurably by the write-in vote in several other states. In Nebraska, neither Taft's<sup>43</sup> nor Eisenhower's name appeared on the ballot, but as a result of a well organized campaign, it was the write-in vote which determined the election. Taft led with 79,537, Ike

<sup>39</sup> ORE. REV. STAT. 249, 368 (1959).

<sup>40</sup> ORE. LAWS, 1959, ch. 390.

<sup>41</sup> Governor of Minn. (1939-1945).

<sup>42</sup> REPORT OF THE MINN. STATE CANVASSING BOARD, March 18, 1952, Primary Election, p. 6.

<sup>43</sup> Robert A. Taft, U.S. Senator from Ohio (1939-1953).

was second with 66,078 and Stassen, the only candidate whose name appeared on the ballot, received but 53,238 votes.<sup>44</sup>

This experience should indicate the wisdom of providing space on the ballot for a write-in vote.

#### F. NO PREFERENCE VOTES

Quite often a voter will find himself in the position of not favoring any of the candidates on the ballot. He may have no preference at all. If he is to have complete choice, some provision should be made for him to vote "no preference" and in favor of an uninstructed delegation. Such a provision may be especially valuable in years when there is not a strong contest for the nomination.

Governor Robert Meyner of New Jersey has commented that . . . in the absence of one or two outstanding candidates, primaries are a poor substitute for the convention system.<sup>45</sup>

This argument would not apply to a law with a "no preference" provision. Then the voters could send an uninstructed delegation, at the same time allowing those who favored the candidates entered to vote for them. In the absence of a primary in the situation mentioned by Governor Meyner it would be possible for the delegation to be instructed for a man who was the favorite only of the state party organization, not of the rank and file voters. Even in off years the primary would help to maintain a high degree of voter control.

#### G. EXPENSE FACTOR

It is impossible to know how many men have been deterred from entering state primaries because of the expense involved. Those who have campaigned extensively have found the cost a considerable burden. Theodore Roosevelt spent much of his private fortune during the 1912 primaries, and in 1955 Senator Estes Kefauver was still paying the debts incurred during the 1952 campaign.<sup>46</sup> Those close to politics have been quick to notice

<sup>44</sup> OFFICIAL REPORT, NEBRASKA STATE CANVASSING BOARD, PRIMARY ELECTION, 2 (1952).

<sup>45</sup> Letter from Gov. Robert Meyner to Richard H. Hansen, July 12, 1955.

<sup>46</sup> A.P., October 18, 1955.

this problem. Secretary of State Christian A. Herter says that the present laws result in

. . . a premium on the spending of large sums of money by individual candidates in individual states prior to the convention.<sup>47</sup>

Former President Truman comments:

The old saying is that any citizen has a right to run for any office that he wishes, but, as a practical matter, he doesn't always have the money.<sup>48</sup>

Of course, the man who spends the most money doesn't always win, but as an article in the 1912 *Omaha Bee* suggested:

. . . one thing in this direction does stand out and that is that a candidate who without the expenditure of considerable money would not have attracted any considerable votes, can, by liberal expenditures, make it decidedly uncomfortable for others.<sup>49</sup>

There can be no doubt that some well qualified men have refused to run in the primaries because of the expense. These men could conceivably be forced into the race by the elimination of consent and withdrawal clauses. For this reason the expense factor provides one of the strongest arguments for retaining these provisions in primary laws. Instead of keeping features which are susceptible to abuse, several states have tried to assist the candidates in meeting campaign expenditures. This gets to the heart of the problem by making certain that the candidates will be on the ballot, while at the same time recognizing the very practical fact of life that there is a burden of expense imposed on the candidate. However, these attempts have not been very realistic to date, and have had little success. Some have limited the amount to be spent by the candidates, while others have provided for publication of a campaign booklet by the state, setting forth the views of the candidates on campaign issues. All these have proven abortive and most of them have been abandoned.<sup>50</sup>

It has been suggested that the government should advance a certain sum for candidates and then forbid campaign expendi-

<sup>47</sup> Letter from Press Secretary Emmanuel Goldberg, when Herter was Governor of Massachusetts to Richard H. Hansen, July 13, 1955.

<sup>48</sup> Interview with Richard H. Hansen, July 25, 1953.

<sup>49</sup> *Omaha (Neb.) Bee*, April 10, 1912, p. 3, col. 5.

<sup>50</sup> CALIF. LAWS, 1911, ch. 18, § 10, repealed by CALIF. LAWS, 1915, ch. 137; MONT. LAWS, 1913 § 5, repealed by MONT. LAWS, 1927, ch. 126, S.D. LAWS, 1917, ch. 234, § 48, repealed, S.D. LAWS, 1921, ch. 329, 333. The latter law also provided for at least one debate among the contenders before the primary.

tures from other sources. The late Professor of Political Science, John P. Senning of the University of Nebraska favored this approach.<sup>51</sup> Mr. Truman recalls that when he was in the Senate this idea was discussed by Senators Norris and Hatch,<sup>52</sup> and it has been suggested also by Senators Smathers and Douglas.<sup>53</sup> Certainly the people of a state, through their government, have an interest in the conduct of the campaign. If the people want the privilege of voting for all the candidates why should they not take steps through their state government to equalize the financial burden for the candidates? Although regulation of campaign expenditures has been upheld by the courts, there could be some serious constitutional questions raised by such a statute.<sup>54</sup> These should be considered carefully in drafting legislation.

The most common objection to this idea is that too many men would try to take advantage of state funds. But a requirement of a large number of signatures from various parts of the state on the petition would eliminate these undesirables, while encouraging the good men to run.

An alternative suggestion would be that the public media in the state, *i.e.*, press, radio and television, be requested to give equal space or time to each candidate.<sup>55</sup>

Whatever the approach, something should be done to avert the danger that the primary might become a "rich man's game." If

<sup>51</sup> Dr. Senning worked closely with the late U.S. Senator George Norris (Ind., Nebr.) to establish the Unicameral Legislature in Nebraska.

<sup>52</sup> Carl A. Hatch, U. S. Senator from N. M. (1933-1949).

<sup>53</sup> George A. Smathers, U.S. Senator from Florida (1951-); Paul H. Douglas, U.S. Senator from Ill. (1948-). *Hearings before the Subcommittee on the Judiciary*, 83rd Cong., 1st Sess., p. 33 (1953).

<sup>54</sup> Opinions of the Attorney General, Texas, May 16, 1953, Reported in DIGEST OF OPINIONS OF THE ATTORNEY GENERAL, Vol. 16, No. 33, 1953, publ. by Co. of State Governments 1313 East 60th St., Chicago, Ill.

<sup>55</sup> Another approach was suggested by Senator Estes Kefauver, who introduced in the second session of the 86th Congress a bill designed, among other things, to limit the amount a candidate in a presidential primary could spend. See S. 2436. The bill proposes a formula (Sec. 208 (c) for limiting expenses, But in Sec. 208 (c) so many exceptions are made that this purpose is largely negated. The bill was passed by the Senate in January, 1960, but has not been considered by the House at this writing. While it is ineffective, the bill is important because this is the first time either House has passed a bill which would limit, in any measure, expenses in state presidential primaries. Previous bills have been killed in Committee.



the movement is to develop further, serious thought must be given to this very real problem and some method devised to solve it.

#### H. REGISTRATION AS A SAFEGUARD TO PARTIES

If the voters of a party are to have a true choice among the leading contenders in their party, they must be protected from members of the other party who may deliberately switch parties in the primary in the hope of nominating the weakest candidate. Mr. Richard S. Childs of the National Municipal League has prepared a Model Presidential Primary Law which contains, among other worthwhile provisions, a section which reads:

To qualify for participation in the Presidential Primary of a party, the voter must register in the party of his choice not later than the previous November.<sup>56</sup>

Most of the states feel that such a safeguard is needed to maintain the integrity of the parties and have provided for a "closed" primary.

Summarizing briefly, experience dictates that in order to place all of the candidates on the ballot an effective primary law should provide:

- a. that the primary be held in May or June, preferably in conjunction with the state primary;
- b. that consent of the candidate will not be a prerequisite, nor will he be allowed to withdraw except under certain specific conditions; the law should make it mandatory for the secretary of state to place a name on the ballot once it has been duly submitted;
- c. that favorite sons must obtain a higher number of signatures on their nominating petitions than candidates from out of the state;
- d. that, if they have not already entered the primary, the secretary of state should list the names of candidates who have been entered in two or more state, district or territorial primaries;
- e. for write-in votes;
- f. for no preference votes;
- g. that the primary be a closed one; no cross-filing should be allowed;

<sup>56</sup> Initial draft, p. 5. Publ. by National Municipal League, 47 East 68th St., New York 21, N.Y.

h. for equal time and space to be given to all the candidates in the papers, radio and television, and for public debates if possible.

This is the hard core of the provisions which should be embodied in a primary law designed to fulfill the original purpose of getting all the candidates on the ballot.

#### IV. THE PREFERENCE VOTE AND ELECTION OF DELEGATES

Once there are adequate provisions to insure the entry of all the presidential candidates in the primary, the next problem concerns the method by which the voter shows his preference. The simplest approach is to list the names of the presidential candidates on the ballot and let the voter take his choice. Few primary laws have followed such a simple procedure, because an important function of the primary is the election of delegates to the national convention. The two functions, *i.e.*, indicating a preference and electing the delegates, have been interwoven by a maze of statutory provisions. The result has been that some sections of the law unwittingly defeat the purposes of other sections. This will become clearer as we examine the types of laws which have been passed.

##### A. DIRECT PREFERENCE VOTE

Under this approach the names of the presidential candidates are listed, as are the names of the candidates for delegates.<sup>57</sup> When this technique is used the voters are unaware of the preferences of the candidates for delegates. As a consequence, the voter may find that he has voted for a certain presidential aspirant and elected delegates who favor another candidate.

<sup>57</sup> (1915-29) Ind., Acts of 1915, c. 105, p. 359.  
 (1912-16) Mass., St. 1912, c. 254; St. 1913, c. 835.  
 (1913-15) Minn., L. 1913, c. 449.  
 (1913-27) Montana Session Laws, 1913, p. 590 (passed by initiative).  
 (1911 to date) Neb., Laws, 1911, c. 46, p. 216.  
 (1949 to date) N.H., Laws, 1949, c. 186, p. 199.  
 (1916-30) N.J., L. 1916, c. 41, p. 72.  
 (1911-35) N.D., Chapter 208, Session laws, N.D. 1911.  
 (1911 to date) Ore., Chapter 5, Oregon Laws 1911.  
 (1917-29) S.D., Session laws, 1917, c. 234.  
 (1915-21) Vt., Secs. 26 & 27 of No. 4, Acts of 1915.  
 (1915 to date) W. Va., c. 26, Acts of the Legislature, of 1915, Reg. Sess.  
 (1911-15) Wis., c. 300, Laws of 1911.

In Nebraska, with this type of law, many of the candidates for delegate make it a point to announce their preferences through the newspapers. If their candidate does not win the preference vote, these delegates vote for him anyway at the convention. This type of statute permits them to claim that the people elected them on the basis of the preference they announced before the primary. One of our governors used this argument to influence the Nebraska Republican delegation to vote for Eisenhower in 1952, although Senator Taft won the primary. The only defect in this reasoning is that the average voter will not remember the individual preferences of the delegates. He does not carry a newspaper with him to the polls to be certain that he votes for the right delegates.

#### B. DIRECT PREFERENCE VOTE SHOWING DELEGATES' CHOICE

This technique provides for the listing of the names of the presidential candidates, and the personal preference of the candidate for delegate is shown, thus:

John Jones  
(favors Eisenhower)

Disparity between the preference vote and the preferences of the individual delegates results under this method also.<sup>58</sup> Though the preference of the delegate is listed, confusion can ensue. An example of this is discussed by Merriam and Overacker:

The idea, of course, is that the voters will then select the delegates whose personal preferences agree with their own. Experience shows, however, that this is not always the case. The Massachusetts primaries of 1912 furnish a good example of this. In the Republican Party, Taft and Roosevelt ran a close race, and the final returns showed that the voters of the state at large had endorsed Taft in the preference vote, but had elected the eight delegates at large favoring Roosevelt. . . . Where such conflicting instructions are given, the delegate naturally follows the instructions which correspond to his own inclination.<sup>59</sup>

<sup>58</sup> (1911-33) Ill., Laws of 1912 (Sp. Sess.) p. 43.  
 (1915-17) Minn., L. 1915, c. 372.  
 (1949-59) Minn., L. 1949, c. 433.  
 (1930 to date) N.J., Laws, 1930, c. 187, p. 819.  
 (1913 to date) Penn., Laws, 1913, No. 400, p. 719.  
 (1913-49) N.H., Laws, 1913, c. 167.  
 (1915 to date) Wis., c. 381, Laws of 1915.

<sup>59</sup> MERRIAM AND OVERACKER, PRIMARY ELECTIONS, p. 151 (1928).

### C. INDIRECT PREFERENCE VOTE

These laws provide that only the names of the delegates are listed on the ballot, with an indication of their preference.<sup>60</sup> There is no direct vote for presidential contenders, only for individual delegates. Here there is still the danger that the popularity of the delegates may influence the voting to an extent which obscures the real preference for presidential candidates.

### D. THE SLATE METHOD

California is the outstanding proponent of this system, which provides that the names of the presidential candidates are not listed.<sup>61</sup> Instead, the candidates for delegate are listed in groups according to their preferences for President. One mark constitutes a vote for the whole slate.

Experience with this method has been highly unsatisfactory. A substantial portion of the electorate can be deprived of a vote in the convention by the operation of this system. The 1952 Republican primary in South Dakota affords a singular example of this inequity. Slates were entered for both Taft and Eisenhower. Taft received fifty and two-tenths percent of the vote and by virtue of four tenths of one percent of the vote cast had all of his delegates elected. Former Governor Joe Foss<sup>62</sup> comments in this situation:

The margin was very slim and much discussion was held on the point of whether or not it was advisable to have all the delegates pledged to one man. The Taft slate went to the convention and supported the late Senator until the last ballot switch of votes which gave the nomination to Eisenhower. There was some feeling in South Dakota that, with the vote so close between the two delegations in the primary, part of the delegation should have been pledged to Taft and part to Eisenhower.<sup>63</sup>

The slate method deprived thirty-three percent of the Republican voters in California of representation in the 1952 convention; and in the Minnesota primary that year the percentage was even higher—sixty-six.<sup>64</sup>

<sup>60</sup> (1916 to date) Mass., St. 1916, c. 16.

<sup>61</sup> (1911 to date) Calif., Laws, 1911, Ext. sess., c. 18.  
(1929 to date) S.D., Session laws, 1929, c. 118.

<sup>62</sup> Joseph J. Foss, Governor of S.D. (1955-57).

<sup>63</sup> Letter from Gov. Joseph J. Foss to Richard H. Hansen, July 19, 1955.

<sup>64</sup> CALIFORNIA, STATEMENT OF VOTE, June 3, 1952.

In spite of the California results, the Legislature of that State has not changed the law since the 1952 election. The Chairman of the Legislature's Committee on Elections and Reapportionment in 1955, Assemblyman Charles J. Conrad, states an interesting argument for the slate method:

You have asked whether I feel election by slates is equitable. My personal answer is emphatically, yes, so long as the present method of casting electoral votes is in existence. That is to say, since electoral votes are cast on a package basis under present California law, no candidate is likely to receive any electoral vote in California unless he receives a majority of the votes cast at the general election and, therefore, it is equally logical that the delegation also be selected on a 'winner take all' basis. . . . Delegations made up of supporters of several candidates are not effective on the floor of the convention and frequently find themselves in a disadvantageous position, so far as the interests of the people of their state are concerned. . . . California has frequently complained that in the past it has not been given proper recognition in either of the two national conventions . . . there have been criticisms as to consideration so far as water rights, tidelands, conservation measures and the general welfare of the West. In such cases, a split delegation has virtually no bargaining power on the floor of the convention itself. Only by a united delegation able to deliver its votes in a unit can recognition be obtained vital to the interest of any large state. . . . There is a sharp divergence of opinion on this and there are those in both political parties who would like to see the delegates elected on a congressional district basis.<sup>65</sup>

The method used by the Electoral College to count votes has been criticized vehemently for one hundred and seventy-one years. Historically, it was enacted as part of the same compromise which resulted in the creation of the House and Senate. Practically, it has resulted in the election of five minority Presidents.<sup>66</sup> On this basis it cannot be argued that the Electoral College system is an example of majority rule. Extending similar procedure into the field of nominations is a multiplication of errors.

The strongest argument for the national convention system is that it affords an opportunity for mixing all the cross currents of public opinion. The slate system defeats this purpose. In the South Dakota case just mentioned it deprived forty-nine and eight-tenths percent of the voters in the state of representation.

Mr. Conrad very ably states, *supra*, the conviction that only a united delegation is able to obtain "recognition" vital to the interests of any large state. By "recognition" he may mean incor-

<sup>65</sup> Letters from Charles J. Conrad to Richard H. Hansen, July 5, 20, 1955.

<sup>66</sup> John Q. Adams, A. Lincoln, R. B. Hayes, B. Harrison, W. Wilson.

corporation of planks in the party platform recommending favored projects. This argument can hardly justify the slate system. It is one thing to adopt a platform and another to enact a law. Platforms are famous for their attempts to placate factions. They are often divorced from the views of the candidates.

“Recognition” may mean dispensation of patronage to the united delegation which has “delivered” its votes. If this be the case, are the delegates under a slate system “delivering” their votes purely to insure the protection of the vital interests of the state, or the vital interests of the delegates in the promised patronage?

#### E. NEW APPROACHES

Bills introduced in the Nebraska and Washington Legislatures suggest a new technique.<sup>67</sup> These bills, practically identical, provided that a delegate must state his preference. The voters would vote for both the presidential candidate (through a preference vote) and for the delegates as individuals. Election of the delegates would be determined by the percentage of votes cast for the presidential candidates. If one candidate received fifty percent of the votes he would get fifty percent of the delegates, chosen from those pledged to him in order of the highest number of votes received individually. As a practical matter, the formula by which the delegates were to be elected was difficult to explain to the legislators. In spite of that fact, the Nebraska bill failed of passage by only one vote.<sup>68</sup> The Washington bill suffered a similar fate.

Mr. Conrad, the California Assemblyman quoted above, noted that there is a strong feeling that pledged delegates should be elected on a congressional district basis. Traditionally, many of the states have elected two delegates from each congressional district, and the remainder at large. By pledging these delegates it is possible to get a much better proportional representation than by election of entire slates at large. Indiana and Montana passed laws with such a provision in 1953 and 1954 respectively<sup>69</sup> and bills

<sup>67</sup> Nebraska: L.B. 260, 65th Leg., 1953; Washington: S.B. 26, 33rd Leg., 1953.

<sup>68</sup> Neb. Leg. Journ., 65th Sess. (1953) p. 1664.

<sup>69</sup> Indiana: Laws, 1953, c. 143, sec. 1, last para.; Montana: Laws, 1953, c. 214, sec. 8(4), referendum passed Nov. 2, 1954. However, the Montana law was repealed by laws, 1959, c. 274, p. 676.

with this feature have been introduced in Kentucky, Missouri, Oklahoma and Tennessee.<sup>70</sup>

Former Governor Theodore R. McKeldin of Maryland,<sup>71</sup> who apparently has given a good deal of thought to the problem, says:

I believe selection of party delegates by popular vote is good, provided they are elected in the main by congressional districts rather than at large, so that all areas of the state are represented. Selection at large would be acceptable in cases where states have been awarded bonus delegates for party performance in past elections. . . .<sup>72</sup>

This trend is a definite step forward. There is, however, still a chance under such a system for the popularity of the delegates to influence the voter, even if he votes only for the presidential candidate. This is because the names of the candidates for delegate are still on the ballot. After the experience of the 1912 Massachusetts Republican primary<sup>73</sup> it would seem wise to avoid any conflict in the mind of the voter. The best technique would be to leave the names of the delegates off the ballot altogether. The names of the delegates would be kept on file at the office of the secretary of state and a vote for the presidential candidate would be a vote for the delegates pledged to him in that congressional district. Thus, any chance of conflict between the delegates' popularity and the preference for presidential nominee would be removed. The preference would be clear-cut, the proportionate representation narrowed, and the ballot shortened. The voter need only put his mark by the name of the presidential candidate favored.

There is another reason why delegates should not be listed on the ballot. It would be necessary to list the alternates also, unless the delegates are empowered to choose them, as is done in some states. A ballot listing both delegates and alternates is necessarily long. It is lengthened even more when the state allows its delegates to vote half-votes. For example, Nebraska was allowed twelve votes in the 1956 Democratic convention, but it would have been necessary to elect twenty-four delegates if the State Central Committee had decided to accept the option given by the National Committee to use half-votes. Since, in

<sup>70</sup> H.B. 437, Reg. Sess., Kentucky Leg., 1954, introduced by Cassius M. Clay. H.B. 18, 1953 Gen'l. Assem., Missouri; H.B. 898, 1953, Sess., Oklahoma; S.B. 95, 1953 Sess., Tenn.

<sup>71</sup> Governor, 1951-59.

<sup>72</sup> Letter from Governor Theodore R. McKeldin to Richard H. Hansen.

<sup>73</sup> *Supra*, note 59.

Nebraska, the alternates' names must also appear on the ballot, there would have been forty-eight names listed. Under the new California law there is no need for either delegates' or alternates' names to appear.<sup>74</sup>

## V. EFFECTS OF THE PRIMARY ON THE NATIONAL CONVENTIONS

The overall goal of the state presidential primary has always been to increase popular participation in the choice of the party nominee. Hardly anyone originally anticipated that it would also affect procedural aspects of the convention. We turn now to a scrutiny of the degree to which the primary has influenced both of these phases of the national convention. For purposes of clarity the impact of the primary on nominations will be discussed first, followed by a review of its procedural ramifications.

### A. EFFECT ON PARTY NOMINATIONS

It is necessary to consider conflicting opinions on this question. The first school of thought is that the primary has had no effect on the nominations. The second view is to the contrary, and there are some new figures to support this argument.

#### 1. *Indirect effect*

Those who are of the first opinion usually place chief reliance on one fact. A person can win *all* the primaries and still fail to capture the nomination. Estes Kefauver's experience in 1952 is a case in point. The coonskin cap became a symbol of victory in all the primaries that year, but when the delegates convened it was nudged out of the presidential ring by a fedora with an Illinois label. The single fact that winning *all* of the primaries is no assurance of winning the nomination has often been used as the premise for arguing that primaries should be abolished, but the obvious answer is not always the correct one. It is true that winning *all* of the primaries may not clinch the nomination, but *winning a few key ones* gives a campaign powerful impetus.

This important reality must be kept in mind: The value of any state presidential primary depends upon the caliber of the opposition and the locale of the contest. To illustrate: With the exception of the New Hampshire race against Truman, Kefauver's victories in 1952 were meaningless. He was the only

<sup>74</sup> CALIF. LAWS, 1957, Vol. 1, Ch. 932, p. 2143.



candidate in many states, and in others he ran against men who were not themselves serious contenders.<sup>75</sup> Kefauver's real opponent, Stevenson, didn't enter the picture until after the primaries. But in 1956, when Stevenson and Kefauver joined battle in the crucial state of California, the results enhanced the prestige of the winner and had national repercussions.

Under certain circumstances a candidate can lose a primary and still improve his position. This sometimes happens when he is a write-in candidate. If he is given overwhelming support, politicians in other states will start getting on "the bandwagon." This is exactly what happened to Eisenhower in the 1952 Minnesota primary, previously mentioned.<sup>76</sup> Though he lost, Eisenhower's showing was so spectacular that his campaign gained tremendous momentum.

The primary can eliminate contenders. The 1944 Wisconsin primary destroyed the hopes of Wendell Willkie for capturing the Republican nomination that year, and he subsequently withdrew from the race. Defeat in even one primary, if it is crucial, can take a candidate out of the running. Rejection in several successive primaries in key states means certain political oblivion.

## 2. *Direct Effect*

It has been stated<sup>77</sup> that the second purpose of the primary is to insure a reflection of the preference vote in the convention through the balloting of the delegates. The primary may not make the nomination automatic, but if it influences the delegates' voting it has accomplished its purpose. In order to judge this effect of the primary we must look at the voting records of the delegates.

The series of charts reproduced in appendix A, pages 509 to 527, correlate the preference vote with convention balloting. Delegate reaction follows a definite pattern, depending on the number of candidates who appeared on the ballot in the primary.

### a. *When the Winner's Name was Written-in*

The difficulty with write-in votes arises from the fact that the delegates do not feel that this method of expression repre-

<sup>75</sup> For instance, in Nebraska he was pitted against U.S. Senator Robert S. Kerr, (Okla.), who was a candidate only if Truman was not.

<sup>76</sup> See p. 15.

<sup>77</sup> See p. 3.

sents a clear mandate from the people. This feeling is especially pronounced when the write-in vote is small;<sup>78</sup> and it holds true even when it is comparatively large. For instance, McAdoo received almost fifty-five thousand write-in votes in the 1924 Wisconsin Democratic primary, compared to fifty-eight hundred write-ins for Al Smith. Yet only three out of twenty-six delegates voted for him at the convention in the early balloting.<sup>79</sup>

There is one major exception to this rule. It occurs rarely. When exceptionally popular candidates, such as Franklin Roosevelt and Dwight Eisenhower, are making a bid for the nomination, a write-in vote can assume proportions which compels support by the delegates. This exception is exemplified by the 1952 Minnesota and Nebraska Republican primaries, previously mentioned.<sup>80</sup>

#### b. *When One Candidate is on the Ballot*

There is no essential difference between a write-in vote and this situation. Only one candidate on the ballot, muse the delegates, gives the voters as much choice as they would have in a Russian election. A. Mitchell Palmer<sup>81</sup> was the only candidate entered in the 1920 Michigan Democratic primary and received forty percent of the votes of the delegation at the convention. The delegates' response was generous, compared with their reaction to the 1924 Democratic primary in the same state. McAdoo received ninety-nine percent of the preference vote, but none of the delegates voted for him at the convention.

Widely popular candidates are an exception to the rule.<sup>82</sup> Primary winner Hoover<sup>83</sup> won the convention votes of the New Jersey and Michigan Republican delegates in 1928; while Franklin Roosevelt, winner in the 1932 Democratic primaries in the Dakotas, also enjoyed the confidence of the delegates from those states.

Even though he is the only candidate on the ballot a favorite son will receive strong support from the home state delegates.

<sup>78</sup> See ff. primaries: 1920 Wis. Rep.; 1920 Penn. Rep.; 1920 Penn. Dem.; 1920 and 1924 N.J. Dem.

<sup>79</sup> See ff. primaries: 1924 Wis. Dem.; 1948 N.J. Rep.

<sup>80</sup> See p. 15 *supra*.

<sup>81</sup> A. Mitchell Palmer, Attorney General of U.S., 1919-20.

<sup>82</sup> See ff. primaries: 1912 Penn. Dem.; 1912 N.J. Dem.; 1928 N.J. and Mich. Rep.; 1932 S.D. and N.D. Dem.

<sup>83</sup> Herbert C. Hoover, President, 1929-33.

This is not a one ballot courtesy either. When the favorite sons are men like Woodrow Wilson, James M. Cox<sup>84</sup> and Robert A. Taft, who are popular in other states, the home state delegation is always the last to desert his cause.<sup>85</sup>

c. *When Two Candidates out of Three or More are on the Ballot*

Convention balloting here varies as much as human personality. The delegate's individual interpretation of the primary vote determines the way he casts his ballot, for the voters haven't given him any clear instruction. It would be difficult to find a better example than Hiram Johnson's<sup>86</sup> experience in the 1920 Republican primaries. There were three prominent competitors for the nomination. Johnson appeared on the primary ballot with one other candidate in Nebraska, Michigan and North Carolina. He received only forty-six percent of the vote in Nebraska, but forty-four percent of the delegation was voting for him on the tenth and final ballot. Yet the delegates from Michigan, where he received seventy-two percent of the preference vote, were deserting him after the fifth ballot. And those from North Carolina, where he also received seventy-two percent of the preference vote, never gave him more than eighteen percent of their votes. In Nebraska and North Carolina he ran against Leonard Wood,<sup>87</sup> a strong contender, and in Michigan against Frank Lowden,<sup>88</sup> also a formidable opponent. It is impossible to account for the disparity in support. Delegates in North Carolina were supposed to be bound by the vote at large and in their districts; the winner in Michigan was said to be "the choice of the people;" while the Nebraska law did not bind the delegates at all. So far as these binding provisions are concerned, one would expect the North Carolina law to have been the *most* effective and the Nebraska law *least* conducive to delegate support. Yet the converse was true.

Here we again have the same exception as in (a) and (b), *supra*. Extraordinary national popularity may compel the dele-

<sup>84</sup> Gov. of Ohio, 1913-15, 1917-21.

<sup>85</sup> See ff. primaries: 1920 Ohio Dem.; 1940 Ohio Rep.

<sup>86</sup> Hiram Johnson, U.S. Senator from Calif. (1917-47).

<sup>87</sup> Gen. Leonard Wood, former "Rough Rider", Gov. General of the Philippines, 1921-27. 0

<sup>88</sup> Frank Lowden, Gov. of Ill., 1917-21.

gates to vote consistently for the primary winner. Franklin Roosevelt is a prime example, as are Dwight Eisenhower and Champ Clark.<sup>89</sup>

d. *When All of the Candidates are on the Ballot*

This situation differs substantially from the previous ones. The voters have had full opportunity to choose between all of the presidential aspirants. If the delegates choose to disregard the clear instructions of the electorate then the primary is nothing but a popularity contest. On the other hand, if they follow the popular will, in these instances, the primary has fulfilled its second stated purpose. History offers striking evidence of success. It is so obvious it has been overlooked.

Presidential primaries with all candidates have been held twenty-four times. A chart listing these primaries is reproduced on page 500. The preference vote received by the winner is compared with the percentage of votes cast for him at the convention by the state's delegation. The number of ballots cast before a candidate was nominated is also given.

In only four of these situations have the candidates received a lesser percentage of votes from the delegates than from the voters in the primary. Three of these cases involved unique circumstances.

At the 1912 Massachusetts Republican primary Taft received fifty and four-tenths percent of the primary vote, but only forty-four percent of the delegates voted for him on the first ballot. This was the primary where Taft won the preference vote but delegates-at-large favoring Teddy Roosevelt were elected. At the convention these eight delegates, joined by eight other Roosevelt men, abstained from voting. They did this because the convention had previously decided credentials disputes in other states in favor of Taft delegates. If the Massachusetts primary law had been drawn to avoid conflict between the preference vote and the personal popularity of delegates, this situation would never have developed.

<sup>89</sup> See ff. primaries: 1912 Calif. Dem.; 1932 Neb. Dem.; 1932 Penn. Dem.; 1920 Neb. Rep.; 1952 Penn. Rep.

CHART III  
 PRIMARIES IN WHICH ALL CANDIDATES WERE ENTERED  
 1912-1956

Year	Preference Vote		% by Party winner	Convention Balloting*					Total No. Ballots		
	State	Party		1	2	3	4	5		Last	
1956	Alaska	Dem.	61	100						100	1
1912	Calif.	Rep.	53	92						92	1
1956	Calif.	Dem.	62	100						100	1
1956	Fla.	Dem.	51	88						88	1
1912	Ill.	Rep.	61	93						93	1
1920	Ill.	Rep.	51	71	71	71	71	71	2		10
1920	Ind.	Rep.	42	78	78	60	60	60	30		10
1912	Mass.	Rep.	50.4	44						44	1
1956	Minn.	Dem.	56	0						0	1
1920	Mont.	Rep.	61	100							
										100	10
1924	Mont.	Dem.	91	12	25	62	87	100	25		103
1912	Neb.	Rep.	54	100						100	1
1912	Neb.	Dem.	44	75	75	75	75	75	0		46
1948	Neb.	Rep.	43	98	87	60				0	3
1912	N.J.	Rep.	56	93						93	1
1912	N.D.	Rep.	57	100						100	1
1920	N.D.	Rep.	96	80	60	60	60	50	0		10
1912	Ohio	Dem.	52	73	71	69	69	71	25		46
1912	Ore.	Rep.	40	100						100	1
1920	Ore.	Rep.	38	90	90	80	50	50	50		10
1912	Ore.	Dem.	53	100							
										100	46
1956	Ore.	Dem.	60	100						100	1
1920	S. D.	Rep.	36	100	100	100	100	100	60		10
1912	Wis.	Rep.	74	100						100	1

\* Figures given are percentage of vote of whole delegation cast for the primary winner. Thus, in 1956, Stevenson won the Alaska primary by 61% of the vote, and the whole delegation to the convention (100%) cast their votes for him on the first and only ballot, etc.

In 1924 ninety-one percent of the Montana Democrats voted for William Gibbs McAddo<sup>90</sup> in the primary. When the conven-

<sup>90</sup> Former Sec. of Treasury under Pres. Wilson, 1913-18.

tion met, the delegates only gave him twelve percent of their votes on the first ballot, but by the fifth ballot they were all behind him; and ninety-eight ballots later twenty-five percent were still voting "McAdoo." Though the delegates did not all vote for McAdoo on the first ballot, they appear to have responded to the primary vote as the balloting progressed. The fact that twenty-five percent of the delegates were still voting for him on the one hundred and third ballot shows that the primary vote had impressed the delegates.

Senator Kefauver won fifty-six percent of the Democratic primary vote in Minnesota in 1956, yet on the first ballot all the delegates voted for Stevenson. They had originally cast their votes for the Tennessean, but switched them over to Stevenson when it became obvious he would receive the nomination on the first ballot.

The special facts in these three instances support the argument that the delegates will reflect the preference vote in the convention. In the case of Massachusetts they paid obeisance to the primary by abstaining from balloting. The Montana delegates did support McAdoo when the convention got under way. The Minnesota delegates supported Kefauver until Stevenson's nomination was inevitable.

In the fourth case, the North Dakota Republican primary in 1920, ninety-six percent of the preference vote was cast for Hiram Johnson. He did not receive ninety-six percent of the delegates' votes on the first ballot, but he got eighty percent. Such figures may not reflect proportional representation, but they do offer strong evidence that the delegates were mindful of the preference vote.

The delegates in twenty of the twenty-four instances listed gave the primary winner a much higher percentage of their votes than he had won in the preference poll. Looking at these cases collectively it will be seen that the candidates received an average of fifty-two percent of the preference vote. The average first ballot vote by the delegates for the winner was ninety-two percent, roughly forty percent greater support than the candidate had received in the primary.

The greatest individual variance occurred in the 1920 South Dakota Republican race where Leonard Wood won the primary with a thirty-six percent plurality. On the first ballot the state's delegates gave him one hundred percent of their votes.

Five of these twenty situations arose out of the race for the 1920 Republican nomination. In the five states concerned the

primary winners averaged fifty-four percent of the preference vote. It took ten ballots to nominate Harding, but on the tenth ballot the individual primary winners were still getting forty-eight percent of the votes of the delegates from the states concerned.

The 1912 Democratic convention took forty-six ballots to nominate Wilson. The primary winners in three of the twenty cases were involved in this race, and received an average of eighty-two percent of the primary vote. After forty-six ballots they were still receiving forty-one percent of the votes of the delegates.

These facts leave little room for argument. The delegates will support the primary winner at the convention if all the candidates have appeared on the primary ballot.

### 3. *Binding Provisions*

The biggest misconception about primary laws is voiced in the most prominent political circles. It has been stated repeatedly by the nation's leading politicians in both parties during the course of this research. Former President Truman succinctly expressed his opinion in an interview:

Question: What do you think are the major defects in the existing primary laws?

Mr. Truman: Well, they are not binding on the delegates. . .

Question: How do you think they should be corrected?

Mr. Truman: Delegates should be bound by some method, but not indefinitely. How it should be done, I don't know.<sup>91</sup>

In truth, if all of the candidates are on the ballot in the primary, it makes no difference whether or not the delegates are bound. As we have seen in the above discussion, in twenty of the twenty-four cases where all of the candidates were on the ballot the delegates gave the winners an average of forty percent more votes than the candidate had won in the primary. In most of these cases the delegates were not bound at all, and in others a wide variety of formulas were employed to bind the delegates. Twelve of these instances involved states which had no binding provisions at all.<sup>92</sup> The delegates simply felt that they had clear

<sup>91</sup> Interview with Richard H. Hansen, July 25, 1953.

<sup>92</sup> 1912 Calif. Rep.; 1912 Neb. Rep.; 1912 Ohio Dem.; 1912 N.J. Rep.; 1912 Ill. Rep.; 1920 Ill. Rep.; 1948 Neb. Rep.; 1912 Neb. Dem.; 1956 Alaska Dem.; 1956 Fla. Dem.; 1956 Ore. Dem.; 1956 Minn. Dem.

instructions from the voters and acted accordingly. The averages of the primary and convention votes are quite revealing. The candidates averaged fifty-five percent of the primary vote, and, although the preference vote was only advisory or morally binding on the delegates, they gave the winners *ninety-two* percent of the votes on the first ballot.

The remaining eleven cases involved states with assorted binding formulas. In three instances<sup>93</sup> the delegates were bound to support the winner "to the best of my judgment and ability." The primary winners averaged sixty percent of the preference vote and one hundred percent of the convention votes on the first ballot.

Three more cases concerned laws which bound the delegates to the primary winner under a promise to use "my best efforts to secure nomination."<sup>94</sup> Two of the Oregon delegates to the 1912 Democratic convention switched temporarily to Champ Clark, although Wilson won the primary. They were severely criticized by their constituents."<sup>95</sup> The average vote received by the primary winners in these situations was forty-three percent and the delegates supported them with ninety-six percent of the vote on the first ballot.

South Dakota in 1920 bound the delegates to the Republican convention to support the winners for three ballots. This is a commonplace formula, the idea behind it being that, generally speaking, all nominations are decided in less than three ballots. The mean of the total number of ballots cast at all conventions may be less than three, but the average number required for nomination has been twelve for the Democrats and four and eight-tenths for the Republicans. The Democrats have taken as many as one hundred and three ballots (1924) and the Republicans fifty-three (1852). Mathematically speaking, there is not much point in a provision which binds for three ballots. In the South Dakota case in 1920 the delegates supported the winner long after the third ballot. On the tenth and final ballot sixty percent were still behind him.

The Indiana law in 1920 bound the delegates to a majority winner only. Leonard Wood was a plurality winner, receiving

<sup>93</sup> 1912 N.D. Rep.; 1920 Mont. Rep.; 1956 Calif. Dem.

<sup>94</sup> 1912 Ore. Rep.; 1912 Ore. Dem.; 1920 Ore. Rep.

<sup>95</sup> See OVERACKER, *THE PRESIDENTIAL PRIMARY*, (1926), p. 73, note 1.



only forty-two percent of the vote. Nevertheless, seventy-eight percent of the delegates voted for him on the first ballot, sixty percent were for him on the fifth, and although he had absolutely no chance for nomination on the tenth and final ballot, thirty percent were still supporting him.

There are other types of binding provisions in effect, and several new ones have recently been proposed. One formula would bind the delegates until the presidential candidate received less than ten percent of the vote. This provision was first used in Wisconsin and found its way into the laws of several other states. Mr. Richard S. Childs of the National Municipal League included it in his Model Presidential Primary Law.<sup>96</sup>

While it is a fact that few candidates have been nominated after receiving less than ten percent of the vote, it *has* happened. John W. Davis had less than three percent of the vote on the first ballot at the 1924 Democratic convention, yet he won the nomination. On the other hand, most candidates are out of the race long before their share of the vote decreases to less than ten percent of the total. Furthermore, if a dark horse should enter the contest late in the balloting the complexion of the voting could change so rapidly that the rigidly bound delegate would be unable to change his vote. For example, in the 1852 Democratic convention the name of Franklin Pierce<sup>97</sup> was not voted on until the thirty-fifth ballot. On the forty-eighth the five leading contenders had over ten percent of the vote, yet Pierce was nominated on the next ballot. In such a case delegates bound by this type of clause would not be released in time to vote for the nominee. The ten percent formula is more popular than practical.

The bill offered in the 1953 Nebraska Legislature proposed that delegates be bound until their candidate started losing votes.<sup>98</sup> The history of convention balloting does not support the practicality of this method. Bryan<sup>99</sup> and Harding<sup>100</sup> both lost votes between the first and second ballots at the 1896 Democratic and 1920 Republican conventions, respectively, yet

<sup>96</sup> MODEL PRIMARY BILL, § 9, (1st Draft), see n. 56.

<sup>97</sup> Franklin Pierce, President, 1853-57.

<sup>98</sup> L. B. 260, 65th Leg., 1953, sec. 6.

<sup>99</sup> William Jennings Bryan, Democratic pres. nominee, 1896, 1900, 1908, U.S. Sec. of State 1913-15.

<sup>100</sup> Warren G. Harding, President, 1921-23.

both won the nomination. Several nominees have lost votes from one ballot to the next.<sup>101</sup>

A new proposal would bind the delegates for one ballot. They would then be released, caucus and then be bound by the unit rule. This procedure is questionable since the unit rule has been abolished in both party conventions. Another proposal for one ballot would bind them and then allow them to vote for any candidate who has received votes on the first ballot.<sup>102</sup>

If the theory of representative government is to be extended to convention activities, the delegates should not be so securely bound to a primary winner that they are unable to exercise their own judgment and discretion when it becomes reasonably certain that a candidate cannot be nominated.<sup>103</sup> At what point can this fact be determined? The history of convention balloting does not present any pattern of voting upon which a realistic formula can be predicated. But convention balloting does prove conclusively that if all the candidates are on the primary ballot no binding provisions are necessary.

\* \* \*

Several conclusions can be drawn from the foregoing discussion. Winning the primaries does not insure automatic nomination. That is the purpose of a national, not a state primary. The state laws have had an indirect effect in determining which candidate receives the nomination. Presidential primaries have strengthened the candidacy of some, and forced others from the race.

The direct effect of the primary has been on the voting of the delegates in the convention. We have seen that the degree to which the balloting is affected depends directly on the number of candidates who appeared on the primary ballot. In other words, where the first purpose of the primary - giving the people

<sup>101</sup> Highest number of votes lost on any one ballot from previous ballots: *Whig Party*: 1840, figures not available; 1852, Fillmore, 8. *Republican Party*: 1880, Garfield, 2; 1888, Benjamin Harrison, 4; 1920, Harding, 7. *Democratic Party*: 1856, Buchanan, 12½; 1860, Douglas, 1; 1896, Bryan, 40; 1912, Wilson, 5; 1920, Cox, 30; 1924, Davis, 18. Sources: See individual volumes of - PROCEEDINGS REPUBLICAN AND DEMOCRATIC CONVENTIONS; STANWOOD, HISTORY OF PRESIDENTIAL ELECTIONS, (1898); MINOR, STORY OF THE DEMOCRATIC PARTY, (1928).

<sup>102</sup> S.B. 2, 1953 Sess., Tex. Leg.

<sup>103</sup> This was the conclusion reached by the New Mexico study in 1953. JUDAH, PRESIDENTIAL PRIMARY, UNI. OF NEW MEXICO, p. 23 (1953).

a choice among all the contenders - has been met, the second has also been fulfilled.

B. EFFECT OF THE PRIMARY ON PROCEDURAL ASPECTS OF THE CONVENTION

We have previously discussed the fact that the majority of presidential primary laws now combine the direct election of delegates with a preference vote.<sup>104</sup> Under the old system the voters elected delegates to a county convention. At the county convention the delegates to the state convention were selected. It then fell to the state convention, three stages removed from the voters, to elect the delegates to the national convention.<sup>105</sup> These pyramidal conventions increased the power of the bosses. Since they usually controlled the state delegation, the bosses had more bargaining power in the traditional smoke-filled room. Direct election of delegates helps to diminish this influence, but to what extent is impossible to measure.

There is one obvious procedural effect of the direct election of delegates which can be measured, but it has been completely overlooked. No one has considered how direct election of delegates has reduced the number of credentials disputes.

Credentials conflicts can wreck a political party. In 1912 the unsatisfactory disposition of the credentials contests led to the formation of the Bull Moose Party. This, in turn, split the Republican vote and resulted in the election of Woodrow Wilson.

Statistics from the convention proceedings indicate that states which directly elect delegates still become involved in credential disputes. However, the controversies arising in the primary states are confined to one or two delegates at large or to congressional district delegates. They have seldom involved the whole delegation. A good example is the experience of the Oregon delegation at the 1920 Democratic convention. The contest arose over the filling of a vacancy caused by the death of Judge Baldwin, who had been regularly elected. There were two claimants, so the credentials committee followed the time honored procedure of seating both and allowing them a half-vote each.

It is unusual for the whole delegation from a primary state to become involved in a credentials dispute. It has happened once. At the 1912 Democratic convention there were three delega-

<sup>104</sup> See p. 21, *supra*.

<sup>105</sup> Two-thirds of the states still use this system.

tions from South Dakota, all claiming to have been legally elected. The facts showed that a Wilson ticket had been filed first in the state primary, and a "Wilson-Bryan-Clark" ticket, favoring Clark, filed second. Then, apparently to split the vote, a third ticket was filed, which also favored Clark. When the returns came in, the State Central Committee unofficially tabulated the votes for the second and third tickets together. On the basis of a very small number of votes, the Committee declared the Clark delegates elected. They claimed that since the people thought they were voting for Clark when they voted for the second and third tickets it was only fair to add them together. The secretary of state tabulated the whole vote on the basis of all the returns, and declared the Wilson delegates elected.<sup>106</sup> The Credentials Committee at the convention differed on the question. A minority report urging the seating of the Wilson group was submitted and adopted by a vote of six hundred and thirty-nine and one-half to four hundred thirty-seven.<sup>107</sup>

The statistics show that the direct election of delegates has had an effect in reducing the number of credentials disputes. Of the fifty-eight contests which have arisen at the conventions since 1912, only eleven have been from primary states.<sup>108</sup>

The method by which these disputes have been decided raises the question of whether we should not now direct our attention to an overhaul of the convention machinery for the settlement of credentials contests. This problem is one for the conventions to solve themselves. It was considered by the Special Committee on Rules for the 1956 Democratic convention, but no concrete action resulted.

## VI. CONCLUSION

Primary laws have not fulfilled their purpose, except in the twenty-four cases discussed. These cases are sufficient to prove that the convention delegates, from states in which all presidential contenders are represented in the primaries, will reflect the preference of the people. The cases also demonstrate that binding provisions are not necessary.

<sup>106</sup> A humorous aspect of the presentation of the contest before the convention was the unmerciful flailing given to the secretary of state, a Republican, who was clearly the most disinterested party to the dispute.

<sup>107</sup> PROCEEDINGS, DEM. NATIONAL CONVENTION, 1912.

<sup>108</sup> Figures for the 1956 conventions are not available at this writing.

Experience and new techniques can be utilized to place all of the candidates on the ballot. This is accomplished by the recent Florida law and the amendments to the Oregon statute, and will be furthered by the recommendations in the Nevada study.<sup>100</sup> By providing for slates elected on a congressional district and an at large basis, the new trend in legislation recognizes the need for correlating the preference vote with the election of delegates, and reflects a new phase in the development of the primary.

This new trend may be fleeting. States may continue to disregard experience and to enact isolated laws having unrealistic provisions that defeat one another or states may repeal existing laws. On the other hand, the new trend may signal an orderly growth. Such growth could result from a concerted drive for the adoption of a Uniform Presidential Primary Law throughout the nation. The Florida and Oregon statutes could serve as models for the Uniform Law. With this accomplished the spirit of the primary might ultimately emerge from the letter of the law.

<sup>100</sup> Florida Statutes, sec. 103.101 ff. (1959).  
Oregon, Chapter 390, Oregon Laws (1959).  
Nevada study, see note 14, *supra*.

**APPENDIX A**

**State of Alaska  
(1955-1959)**

**Democratic Party**

Year	Preference Vote Choice Winner	%	Convention Ballots					
			1	2	3	4	5 Last	
1956	Yes Stevenson	61	100					

<sup>1</sup> Stevenson nominated on first ballot.

**State of Florida  
(1955 to date)**

**Democratic Party**

Year	Preference Vote Choice Winner	%	Convention Ballots					
			1	2	3	4	5 Last	
1956	Yes Stevenson	51	88					

<sup>1</sup> Stevenson nominated on first ballot.

State of California  
(1911 to date)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots						
		%	1	2	3	4	5 Last	
1912	Yes Roosevelt	52	92					92 <sup>1</sup>
1920	No <sup>4</sup> Johnson	63	100	100	100	100	100	100
1928	No <sup>6</sup> Hoover	100	100	100				100
1940	No <sup>10</sup> Seawell	100	0	0	0	0	0	0
1948	No <sup>11</sup> Warren	100	100	100	0			0 <sup>12</sup>
1952	No <sup>13</sup> Warren	67	100					100

\* Choice—Whether or not leading contenders on ballot

- 1 Twenty-four out of twenty-six abstained in protest of the method in which the Taft forces settled the credentials disputes.
- 2 Clark and Wilson only candidates entered.
- 3 Forty-six ballots.
- 4 Hoover and Johnson slates entered.
- 5 McAdoo only candidate entered.
- 6 Hoover only candidate entered.
- 7 Roosevelt, Smith and Garner entered states.
- 8 Exact results not available from Secretary of State.
- 9 Hearst switched delegation to Roosevelt on fourth ballot, thus assuring his nomination.

Democratic Party

Year	Preference Vote Choice Winner	Convention Ballots						
		%	1	2	3	4	5 Last	
1912	No <sup>2</sup> Clark	71	100	100	100	100	100	92 <sup>3</sup>
1924	No <sup>5</sup> McAdoo	85	100	100	100	100	100	0
1932	No <sup>7</sup> Garner	8	100	100	100	100	100	0 <sup>9</sup>
1952	No <sup>14</sup> Kefauver	70	100	100	100			100 <sup>15</sup>
1956	Yes Stevenson	100						100 <sup>16</sup>

- 10 Seawell only candidate who entered a slate.
- 11 Warren only candidate entering a slate.
- 12 Dewey unanimously nominated on third ballot.
- 13 Warren and Thomas H. Werdel only candidates entering slates.
- 14 Kefauver and E. G. (Pat) Brown only candidates entering slates.
- 15 Stevenson's nomination made unanimous after third ballot.
- 16 Stevenson nominated on first ballot.

Comments: When all the candidates were entered in the 1912 Republican primary the delegates stayed with the winner even to extent of giving him 39% more of convention vote than had been earned in the primary.

**State of Indiana**  
(1915-1929)  
(1945 to date)

**Republican Party**

Year	Preference Vote Choice* Winner	Convention Ballots						
		%	1	2	3	4	5 Last	
1920	Yes Wood	42	78	78	60	60	60	30 <sup>1</sup>

- \* Choice—Whether or not leading contenders on ballot
- 1 9 out of 30 delegates stayed with Wood.
- 2 McAdoo only candidate on ballot; he received 180,544 votes; 235 write-ins for Al Smith.
- 3 Figures not available.

**Democratic Party**

Year	Preference Vote Choice Winner	%	Convention Ballots					
			1	2	3	4	5 Last	
1924	No <sup>2</sup> McAdoo	99	0	0	0	0	0	0
1956	<sup>3</sup>							

Comments: All of the candidates were on the ballot in the 1920 Republican race, so the delegates stayed with Wood fairly well, in spite of the statutory provision that they need not do so unless the winner received a majority.



State of Illinois  
(1912 to date)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots					Last
		%	1	2	3	4	
1912	Yes Roosevelt	61	93				93
1916	No <sup>3</sup> Favorite Son	90	97	97			0
1920	Yes Lowden	51	71	71	71	71	2
1928	No <sup>8</sup> Lowden	99	26				26

Democratic Party

Year	Preference Vote Choice Winner	Convention Ballots					Last
		%	1	2	3	4	
1912	No <sup>1</sup> Clark	74	100	100	100	100	0 <sup>2</sup>
1920	No <sup>4</sup> Edwards	32	8	0	1	0	0 <sup>5</sup>
1924	No <sup>6</sup> McAdoo	99	21	21	22	22	0 <sup>7</sup>
1932	No <sup>9</sup> FDR	77					
1956	No Stevenson	93	82				10

\* Choice—Whether or not leading contenders on ballot

- 1 Clark and Wilson entered.
- 2 Switched to Wilson on last ballot.
- 3 Sherman only candidate entered.
- 4 Write-ins for McAdoo and Cox.
- 5 Majority voted for Palmer, remainder split between McAdoo and Cox.
- 6 McAdoo only candidate entered.
- 7 More delegates for Smith than McAdoo.

<sup>8</sup> Lowden only candidate on ballot; 4368 write-ins for Hoover.

<sup>9</sup> Write-ins for all candidates, totaling only 1,390.

<sup>10</sup> Stevenson nominated on first ballot.

<sup>11</sup> Further figures not available from Secretary of State.

Comments: The 1920 and 1924 Democratic primaries and the 1928 Republican primary illustrate the tendency of delegates to disregard the preference vote when only one candidate is entered.

State of Massachusetts  
(1912 to date)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots					Last
		%	1	2	3	4	
1912	Yes Taft	50.4	44				441
1916	<sup>4</sup>						
1920	<sup>5</sup>						

- \* Choice—Whether or not leading contenders on ballot
- <sup>1</sup> Sixteen Roosevelt delegates abstained from voting in protest of settling of credentials disputes by Taft forces.
- <sup>2</sup> Clark and Wilson only candidates entered.
- <sup>3</sup> The delegates stayed with Clark 75% strong until 21st ballot when they switched to another candidate. All were for Wilson on last ballot.
- <sup>4</sup> One set of delegates for Roosevelt were entered, but they lost out to an unpledged group.
- <sup>5</sup> The 1920 contests in both parties and the 1924 Democratic primary both had only unpledged dele-

Democratic Party

Year	Preference Vote Choice Winner	%	Convention Ballots					Last
			1	2	3	4	5	
1912	No <sup>2</sup> Clark	69	100	97	97	92	92	0 <sup>3</sup>
1956	No McCormack <sup>6</sup>	25	0					<sup>7</sup>

- <sup>6</sup> gates entered.
- <sup>7</sup> Favorite son.
- Comments: The figures for this state are very meager because complete records were not sent from the office of the Secretary of State. In a letter dated November 23, 1955, the Secretary stated that the names of candidates never have been listed on the ballot; that there is only a write-in preference vote. A check of the session laws reveals that this is only occasional also. Figures on voting for pledged delegates were not made available.

State of Michigan

(1912-1931)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots							
		%	1	2	3	4	5	Last	
1920	No <sup>1</sup> Johnson	72	100	100	100	100	100	13 <sup>2</sup>	
1928	No <sup>4</sup> Hoover	98	100	-----					100

\* Choice—Whether or not leading contenders on ballot

<sup>1</sup> Lowden and Johnson only candidates entered.  
<sup>2</sup> 10 ballots; on 6th ballot delegates began shifting to Wood; 18 out of 30 were for Johnson; on 9th ballot only 8 Johnson votes and 4 on 10th and final ballot.

<sup>3</sup> Palmer only candidate on ballot.  
<sup>4</sup> Hoover only candidate on ballot.

Democratic Party

Year	Preference Vote Choice Winner	%	Convention Ballots					
			1	2	3	4	5	Last
1920	No <sup>3</sup> Palmer	100	40	43	40	36	36	0

Comments: Where two out of the three candidates were on the ballot (1920 Rep. primary) the delegates stayed with winner fairly well until the last five ballots. The contrast between the 1920 Democratic primary and the 1928 Republican primary shows what difference the winner's national popularity makes in the support given by the delegates. Hoover enjoyed great popularity in 1928.

State of Montana

(1913-1927)

Republican Party

Year	Preference Vote Choice	Winner	Convention Ballots							
			%	1	2	3	4	5	Last	
1920	Yes	Johnson	61	100	100	100	100	100	100	100

\* Choice—leading contenders on ballot  
1 Kefauver only candidate on ballot.

2 Stevenson nominated on first ballot.  
Comments: The 1920 Republican contests shows that 39% of the Montana Republican voters had no repre-

Democratic Party

Year	Preference Vote Choice	Winner	Convention Ballots						
			%	1	2	3	4	5	Last
1924	Yes	McAdoo	91	12	25	62	87	100	25
1956	No	Kefauver <sup>1</sup>	100	0					<sup>2</sup>

sentation in the Republican convention that year; also that the delegates will stand a better chance of staying with the preference winner at the convention when all of the candidates have been on the ballot. See p— for discussion of 1924 Democratic primary.

State of Minnesota

(1913-1917)

(1949-1959)

Republican Party

Year	Preference Vote Choice	Winner	Convention Ballots						
			%	1	2	3	4	5	Last
1952	No <sup>1</sup>	Stassen	44	100					100 <sup>2</sup>

1 Write-ins for Eisenhower, Taft, MacArthur and Warren.

2 After first ballot Eisenhower's nomination made unanimous.

3 Write-ins for Kefauver, Truman and Eisenhower.

4 On second and third ballots delegates split between Kefauver and Stevenson.

Democratic Party

Year	Preference Vote Choice	Winner	Convention Ballots						
			%	1	2	3	4	5	Last
1952	No <sup>3</sup>	Humphrey	78	100	0	0			0 <sup>4</sup>
1956	Yes	Kefauver	56	0					0 <sup>5</sup>

<sup>5</sup> Stevenson nominated on first ballot.  
Comments: The favorite son device in the 1952 Democratic primary made it virtually impossible to tell which candidates the delegates really favored. The Republican primary again illustrates the inequities of which often occur in the primary system: Ike got 37% of the vote, but no delegate votes.

State of Nebraska

(1911 to date)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots						
		%	1	2	3	4	5	Last
1912	Yes Roosevelt	54	100					100 <sup>1</sup>
1916	No <sup>2</sup> Cummins	33	88	88	88	0		0 <sup>3</sup>
1920	No <sup>4</sup> Johnson	46	81	81	81	81	81	44
1924	No <sup>7</sup> Norris	92	42					42
1940	No <sup>9</sup> Dewey	59	100	100	36	0	0	0
1948	Yes Stassen	43	98	87	60	0		0
1952	No <sup>10</sup> Taft	36	59	73				73

\* Choice—Whether or not leading contenders on ballot

- 1 Two voted directly for Roosevelt and fourteen abstained in protest of the method in which the Taft forces settled the credentials disputes.
- 2 Hughes, Root and Weeks not on ballot.
- 3 Unanimous for Hughes on third ballot.
- 4 Wood and Johnson only candidates on ballot.
- 5 Hitchcock and R. G. Ross only candidates on ballot.
- 6 All write-in votes.
- 7 Norris only candidate on ballot.
- 8 FDR, Garner, and "Wild Bill" Murray only candidates on ballot.
- 9 Dewey and Vandenberg only candidates on ballot.
- 10 Write-in votes for Eisenhower, Taft, MacArthur and Warren.

Democratic Party

Year	Preference Vote Choice Winner	%	Convention Ballots					
			1	2	3	4	5	Last
1912	Yes Clark	44	75	75	75	75	75	0
1920	No <sup>5</sup> Hitchcock	67	100	100	100	31	31	0
1924	No <sup>6</sup> McAdoo	64	6	6	6	6	6	0
1932	No <sup>8</sup> FDR	63	100	100	100	100	100	100
1952	No <sup>11</sup> Kefauver	59	42	42	25			25
1956	No <sup>12</sup> Kefauver	74	0 <sup>13</sup>					

<sup>11</sup> Robert Kerr and Kefauver only candidates on ballot.

- <sup>12</sup> Kefauver only candidate on ballot.
  - <sup>13</sup> Stevenson nominated on first ballot.
- Comments: In the 1912 primaries of both the parties and the 1916 Republican primary the winners received a larger delegate vote than they were entitled to by their showing in the primary, thus depriving those who cast their vote for the losers of any voice in the convention. Hitchcock, who went as a favorite son to the 1920 Democratic convention was soon dropped, after a complimentary vote. The 1924 Democratic primary illustrates as well as any the fact that delegates will disregard a preference vote when it is solely by write-in, except when there is an extremely popular figure whose name is written in.

State of New Hampshire

(1913 to date)  
(No Preference Vote Until 1949)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots						
		%	1	2	3	4	5	Last
1920	No <sup>1</sup> Wood	---	100	100	100	100	100	100
1940	No <sup>3</sup> Dewey	---	0	0	0	0	0	0
1948	No <sup>5</sup> Dewey	---	75	75	0	---	---	0 <sup>6</sup>
1952	No <sup>7</sup> Ike	51	100	---	---	---	---	100

\* Choice—Whether or not leading contenders on ballot

- 1 Wood and Johnson delegates entered; all Wood delegates elected.
- 2 Only Roosevelt and Smith delegates entered; all Roosevelt delegates elected.
- 3 Figures on number of delegates pledged not available from Secretary of State.
- 4 Delegates didn't vote for Dewey on any ballot.
- 5 Dewey and Stassen delegates entered.
- 6 Dewey nominated unanimously on 3rd ballot.
- 7 Eisenhower and Taft only candidates entered.

Democratic Party

Year	Preference Vote Choice Winner	Convention Ballots						
		%	1	2	3	4	5	Last
1932	No <sup>2</sup> FDR	100	100	100	100	100	---	100
1952	No <sup>8</sup> Kefauver	55	100	100	100	---	---	100 <sup>9</sup>
1956	No Kefauver	80	0	---	---	---	---	10 <sup>10</sup>

<sup>8</sup> Kefauver and Truman only candidates entered.

<sup>9</sup> Stevenson's nomination made unanimous on 3rd ballot.

<sup>10</sup> Stevenson nominated on first ballot.

Comments: While Wood and Johnson were both entered in the 1920 Republican primary Johnson received no delegate votes at all in the convention; nor did Al Smith in the 1932 Democratic race. Taft, who received 49% of the vote in 1952 was also deprived of representation, as was Truman, who received 45% of the vote on the Democratic side.

State of New Jersey  
(1911 to date)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots						
		%	1	2	3	4	5	Last
1912	Yes Roosevelt	56	93					93 <sup>1</sup>
1920	No <sup>4</sup> Wood	51	61	61	61	61	61	54 <sup>5</sup>
1928	No <sup>8</sup> Hoover	100	100					100
1940	No <sup>10</sup> Dewey	94	63	44	22	19	16	0
1948	No <sup>11</sup> Dewey	51	0	68	0			0
1952	No <sup>13</sup> Ike	62	87					87

\* Choice—Whether or not leading contenders on ballot

- 1 24 out of 28 delegates voted for Roosevelt by abstaining in protest of settlement of credentials disputes.
- 2 Wilson only candidate entered.
- 3 46 ballots; 24 out of 28 delegates stayed with Wilson all the way. (He was Governor of the state).
- 4 Wood and Johnson only candidates on ballot.
- 5 15 out of 28 stayed with Wood all the way.
- 6 Only 180 write-in votes for McAdoo.
- 7 Only 69 write-ins for McAdoo; 721 for Smith.
- 8 Hoover only candidate on ballot; nominated by acclamation.
- 9 Write-in votes for Roosevelt and Smith.
- 10 Dewey and Willkie on ballot; write-ins for Taft and Vandenberg.

Democratic Party

Year	Preference Vote Choice Winner	%	Convention Ballots					
			1	2	3	4	5	Last
1912	No <sup>2</sup> Wilson	100	86	86	86	86	86	86 <sup>3</sup>
1920	No <sup>6</sup> McAdoo	100	0	0	0	0	0	0
1924	No <sup>7</sup> Smith	91	0	0	0	0	0	0
1932	No <sup>9</sup> Smith	62	100	100	100	100	100	100
1952	No <sup>12</sup> Kefauver	99	9	13	13			13
1956	No Kefauver <sup>14</sup>	99	0					16

- 11 All write-in votes.
  - 12 Kefauver only candidate on ballot.
  - 13 Eisenhower, Taft and Stassen on ballot.
  - 14 Kefauver only candidate on ballot.
  - 15 Stevenson nominated on first ballot.
  - 16 1956 figures not available.
- Comments: Where there is only one candidate on the ballot delegates will not stay with him unless he is very popular; 1912 Dem. and 1928 Rep. primaries - Hoover and Wilson were very popular. But delegates will disregard the preference vote when there is only a small write-in vote; 1920 and 1924 Dem. primaries. The convention vote was wholly disproportionate in the 1912 and 1952 Rep. primaries, also the 1932 Dem. primary.

State of North Dakota

(1912-1935)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots							
		%	1	2	3	4	5	Last	
1912	Yes LaFollette	57	100						100
1920	Yes Johnson	96	80	60	60	60	50		0
1928	No <sup>2</sup> Lowden	100	62						62 <sup>3</sup>

Democratic Party

Year	Preference Vote Choice Winner	Convention Ballots							
		%	1	2	3	4	5	Last	
1924	No <sup>1</sup> McAdoo	100	100	100	80	60	60		0
1932	No <sup>4</sup> FDR	100	90	100	90	100			100

\* Choice—leading contenders on ballot

1 McAdoo only candidate on ballot.

2 Lowden only candidate on ballot.

3 Hoover nominated on first ballot.

4 Roosevelt only candidate on ballot.

Comments: Delegates in North Dakota were supposed to support the winner to the best of their judgment

and ability. McAdoo and Lowden offer instances of cases where one candidate, moderately popular, was on the ballot and the delegates did not feel particularly bound to support him; while in the 1932 race, the delegates stayed with Roosevelt. He was very popular nationally at that time in North Dakota.



State of Ohio

(1911 to date)

(Pref. Vote abolished - 1948)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots						
		%	1	2	3	4	5	Last
1920	No <sup>1</sup> Wood	100	19	19	19	19	19	0 <sup>2</sup>
1928	No <sup>7</sup> Hoover	98	71	-----71				
1940	No <sup>9</sup> Taft	99	100	100	100	100	100	0 <sup>10</sup>
1948	No <sup>11</sup> Taft	-	12	-----				
1952	No <sup>13</sup> Taft	-	14	-----				

Democratic Party

Year	Preference Vote Choice Winner	%	Convention Ballots					
			1	2	3	4	5	Last
1912	Yes Harmon	52	73	71	69	69	71	25
1920	No <sup>3</sup> Cox	100	100	100	100	100	100	100 <sup>4</sup>
1924	No <sup>5</sup> McAdoo	100	0	0	0	0	0	0 <sup>6</sup>
1932	No <sup>8</sup> FDR	57	0	1	4	65	-----65	
1952	No <sup>16</sup> Kefauver	-----						

\* Choice—Whether or not leading contenders on ballot

- 1 Wood only candidate entered; Harding was favorite son.
- 2 10 ballots: The Wood delegates stayed with him until the 9th.
- 3 Cox, Governor of the State, only candidate entered.
- 4 44 ballots: Stayed with Cox 100%.
- 5 McAdoo only candidate entered.
- 6 103 ballots: Ohio just didn't like McAdoo.
- 7 Hoover only candidate entered; 3,676 write-ins for Lowden.
- 8 All votes were write-ins, totaling only 3,516 (Unofficial figures).
- 9 Taft only candidate on ballot; write-in votes for Dewey and Willkie.

- 10 Dewey unanimously nominated on 6th ballot.
- 11 Preference vote abolished 1948; delegates entered pledged to Taft and Stassen; 44 Taft delegates elected, 9 Stassen.
- 12 Taft's 44 delegates stayed with him until 3rd ballot when Dewey was nominated unanimously; One Stassen delegate defected to Dewey on second ballot.
- 13 Delegates entered pledged to Taft and Stassen; all 56 of the Taft delegates were elected.
- 14 On the first ballot all 56 voted for Taft until Eisenhower's nomination made unanimous.
- 15 29 of the 54 delegates elected were for Kefauver. He lost two of them before the 3rd and final ballot.
- 16 1956 figures not available.

**Comments:** It will be noted that in the 1912 Dem. primary, where all the candidates were entered, the delegates initially gave Harmon 21% more of the convention vote than he had won in the primary. 60% of the delegates, 8% more than he had won in the primary, stayed with him until the 22nd ballot when they were apparently released. The 1912 Republican contests indicates that where one candidate is on the ballot, the delegates will generally not support him. 19% of them stayed with Lowden, however, even in the face of the candidacy of Harding a favorite son. But at this time the delegates could be elected as pledged and several of these were pledged to him. The 1924 Dem. primary and the 1928 Rep. indicate further

how the delegate will not feel bound to a man when he was the only candidate on the ballot. But in the 1920 Dem. and 1940 Rep. contests the delegates stayed with the winner, because he was an immensely popular favorite son—Cox and Taft, respectively. FDR, who received a majority of the small number of write-in votes didn't fare too well with the state's delegation, until they decided to join the bandwagon on the fourth ballot. From the record of the pledged delegates elected in the 1948 and 1952 Rep. primaries and the 1952 Dem. primary, it appears that the absence of the preference vote and sole voting on delegates focused enough attention on them so they felt compelled to support with their choice.

State of Oregon  
(1911 to date)

Republican Party

Year	Preference Vote Choice <sup>a</sup> Winner	Convention Ballots					5 Last
		%	1	2	3	4	
1912	Yes Roosevelt	40	100				100 <sup>1</sup>
1916	No <sup>3</sup> Hughes	59	100				100
1920	Yes Johnson	38	90	90	90	80	50 <sup>4</sup>

Democratic Party

Year	Preference Vote Choice Winner	Convention Ballots					5 Last
		%	1	2	3	4	
1912	Yes Wilson	53	100	100	100	100	100 <sup>2</sup>
1920	No <sup>5</sup> McAdoo	99	100	100	100	100	100 <sup>6</sup>
1924	No <sup>7</sup> MADoo	100	100	100	100	100	100 <sup>8</sup>
1956	Yes Stevenson	60	100				100 <sup>9</sup>

\* Choice—Whether or not leading contenders on ballot.

- 1 Eight voted for Roosevelt, two abstained, as did many Roosevelt delegates in protest of the manner in which the credentials contests were decided.
- 2 Two delegates switched to Clark on the 11th ballot, but went back to Wilson on the 28th and then stayed with him to the 46th and final ballot.
- 3 Hughes and Cummins only candidates entered.
- 4 Stayed with Johnson all ten ballots.
- 5 McAdoo only candidate entered.
- 6 Stayed with him 100% on all 44 ballots.
- 7 McAdoo only candidate entered.

<sup>8</sup> 103 ballots—30% stayed with McAdoo all the way.  
<sup>9</sup> Stevenson nominated on first ballot.

Comments: Oregon presents a good example of the disparity in amount of votes a candidate "earns" in a primary, and the amount of delegate votes he receives at the convention. The 1920 and 1924 Democratic primaries seem to be an exception to the usual rule that where one out of several candidates is entered, the delegates will not support him wholeheartedly. The two delegates who defected from Wilson in 1912 were subjected to so much criticism that subsequently elected delegates no doubt felt bound to the winner. Where more than one candidate is entered such a view can be grossly inequitable to the losing candidates.

State of Pennsylvania

(1911 to date)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots				
		1	2	3	4	5 Last
1912	No <sup>1</sup> Roosevelt	59	84			84
1920	No <sup>5</sup> Johnson	74	0	0	0	0 18
1952	No <sup>11</sup> Ike	88	76			76

- \* Choice—Whether or not leading contenders entered.
- <sup>1</sup> Roosevelt and Taft only candidates entered.
- <sup>2</sup> 62 out of the 64 delegates for Roosevelt abstained from voting in protest of the manner in which the credentials disputes were settled.
- <sup>3</sup> Wilson only man on ballot.
- <sup>4</sup> 46 ballots: Wilson never got below 93% of the Penn. vote.
- <sup>5</sup> Write-in votes for Wood and Johnson.
- <sup>6</sup> McAdoo only candidate on ballot.
- <sup>7</sup> 44 ballots: McAdoo had only one Penn. vote on first several ballots, but on 42nd had 49. Soon thereafter the tide turned for Cox.
- <sup>8</sup> Write-in votes for Al Smith and McAdoo.
- <sup>9</sup> 103 ballots.

Democratic Party

Year	Preference Vote Choice Winner	%	Convention Ballots				
			1	2	3	4	5 Last
1912	No <sup>3</sup> Wilson	100	93	94	96	96	96 100 <sup>4</sup>
1920	No <sup>6</sup> McAdoo	100	3	3	3	3	3 57
1924	No <sup>8</sup> McAdoo	53	33	33	33	33	33 0 <sup>9</sup>
1932	No <sup>10</sup> FDR	54	58	58	59	64	64

- <sup>10</sup> Roosevelt and Al Smith only candidates entered.
- <sup>11</sup> Eisenhower and Stassen only candidates on ballot.
- <sup>12</sup> 1956 figures not available.
- Comments: The 1920 Dem. and Rep. primaries and the 1924 Dem. primary illustrate the fact that where there are a small number of write-in votes the delegates will not consider themselves bound. The 1912 Dem. primary shows how delegates will sometimes stick with the winner even though he was the only contender on the primary ballot. This could probably be attributed to Wilson's popularity and connections with Pennsylvania politicians. With two candidates on the ballot, the delegates were fairly faithful to the winner in the 1932 Dem. and 1952 Rep. primaries.

State of South Dakota

(1917-29)  
(1929 to date)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots							
		%	1	2	3	4	5	Last	
1920	Yes Wood	36	100	100	100	100	100	60 <sup>1</sup>	
1952	No <sup>3</sup> Taft	50.2	100	.....					100

\* Choice—leading contenders on ballot.

- 1 10 ballots: all ten delegates stayed with Wood for 9 ballots; four switched to Harding on 10th.
- 2 Roosevelt only candidate entered (entering delegates).
- 3 Eisenhower and Taft only candidates on ballot (entering delegates).
- 4 Kefauver only candidate on ballot (entering delegates) 11,741 write-ins for various other candidates.
- 5 Stevenson's nomination made unanimous after third ballot.
- 6 Kefauver only candidate on ballot.
- 7 Stevenson nominated on first ballot.

Democratic Party

Year	Preference Vote Choice Winner	Convention Ballots							
		%	1	2	3	4	5	Last	
1932	No <sup>2</sup> FDR	100	100	100	100	100	100	100	
1952	No <sup>4</sup> Kefauver	66	100	100	100	.....			100 <sup>6</sup>
1956	No Kefauver <sup>6</sup>	100	0	.....					7

Comments: Since all of the candidates were entered in the 1920 primary the delegates stayed with the winner very well; of course they were bound to do so for three ballots. Though FDR was the only candidate on the 1932 Democratic ballot the delegates stayed with him because of his popularity. The '52 primaries illustrate the inequities in the slate system. Though Eisenhower got 49.8% of the votes cast he received no delegate votes at the convention. And Kefauver, though the only candidate who entered delegates in the primary, received only 66% of the vote, and yet had his whole slate elected.

**State of Vermont**

(1915-1921)

**Republican Party**

Year	Preference Vote Choice	Winner	%	Convention Ballots					
				1	2	3	4	5 Last	
1920	No <sup>1</sup>	Wood	100	63	100	100	100	63	100

<sup>1</sup> Wood only candidate entered.

**Comments:** With only the one candidate entered the delegates stayed with him in spite of the fact that they were not legally bound. This is not usually the case.

**State of North Carolina**

(1915-1927)

**Republican Party**

Year	Preference Vote Choice*	Winner	%	Convention Ballots					
				1	2	3	4	5 Last	
1920	No <sup>1</sup>	Johnson	73	5	0	18	9	5	0

\* Choice—Whether or not leading contenders entered.

<sup>1</sup> Wood and Johnson only candidates entered.

**Comments:** Though two out of the three leading candidates were on the ballot, the delegates did not consider themselves bound, in spite of the legal provisions.

**State of West Virginia<sup>1</sup>**

(1915 to date)

**Republican Party**

Year	Preference Vote Choice* Winner	%	Convention Ballots					
			1	2	3	4	5 Last	
1920	No <sup>2</sup> Wood	100	0	6	38	50	56	0 <sup>3</sup>
1952	No <sup>4</sup> Taft	73	88	.....88 <sup>5</sup>				

- \* Choice—Whether or not leading contenders on ballot.
- <sup>1</sup> No contests in Democratic Party according to figures provided by Sec. of St.
- <sup>2</sup> Leonard Wood only candidate entered.
- <sup>3</sup> Switched to Harding on 10th and final ballot.
- <sup>4</sup> Taft and Stassen only candidates entered.

- <sup>5</sup> 14 out of 16 votes for Taft; none for Stassen.
- <sup>6</sup> 1956 figures not available.
- Comments: The 1920 contest would seem to bear out the fact that where only one candidate is entered in the primary the delegates may or may not feel bound. In the 1952 contest, Stassen, who got 27% of the vote, didn't get a single delegate vote in the convention.

State of Wisconsin  
(1911 to date)

Republican Party

Year	Preference Vote Choice* Winner	Convention Ballots						
		%	1	2	3	4	5	Last
1912	Yes LaFollette	74	100					100
1920	No <sup>3</sup> Wood	57	3	3	3	3	3	0
1928	No <sup>6</sup> Norris	88	58					58
1940	No <sup>8</sup> Dewey	73	100	100	100	100	100	0
1948	No <sup>9</sup> Stassen	40	71	71	0			0
1952	No <sup>10</sup> Taft	42	80					80

\* Choice—Whether or not leading contenders on ballot.

- 1 Wilson and Clark only candidates entered.
- 2 46 ballots; Wilson never got less than 73% of the Wis. delegation's vote.
- 3 Write-in votes for all major candidates.
- 4 Only 76 write-in votes for McAdoo.
- 5 Write-in votes for McAdoo and Smith.
- 6 Norris only candidate on ballot; write-ins for Hoover and Lowden.
- 7 Roosevelt only candidate on ballot.
- 8 Write-in votes for Dewey, Taft, and Vandenberg.

Democratic Party

Year	Preference Vote Choice Winner	%	Convention Ballots					
			1	2	3	4	5	Last
1912	No <sup>1</sup> Wilson	55	73	73	73	77	77	100 <sup>2</sup>
1920	No <sup>4</sup> McAdoo	100	42	62	65	73	73	11
1924	No <sup>5</sup> McAdoo	90	13	13	13	13	13	0
1932	No <sup>7</sup> FDR	99	92	92	92	92	92	92
1952	No <sup>11</sup> Yefauver	100	100	100	100	100	100	100
1956	No <sup>12</sup> Kefauver	100	0					13

<sup>9</sup> Write-in votes for Dewey, Stassen and MacArthur.

<sup>10</sup> Taft, Warren and Stassen on ballot.

<sup>11</sup> Kefauver only candidate on ballot.

<sup>12</sup> Kefauver only candidate on ballot.

<sup>13</sup> Stevenson nominated on first ballot.

Comments: Even though there are a large number of write-ins the delegates will not always consider themselves bound; this is borne out by the 1920 Rep. and 1924 Dem. primaries. Where there is only one candidate on the ballot the delegates may or may not feel bound to him. See the 1928 Rep. and 1952 Dem. primaries.