

# Primary Control



By Paul Engel

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- With all of the focus on Presidential primaries, have you considered why we have primaries at all?
- Sure, they are select to nominees for the political parties, but why is that important to the election process?
- And why do the American people have to pay for elections for private organizations?

As I write this, the United States is deep into the primary season for the 2024 Presidential Election. There is more than enough news, polls, allegations, recriminations, and influence peddling bombarding the American people, and will continue to do so, probably until the middle of next year. While most Americans have some idea of how the primary system works, it is usually superficial, incomplete, and ignores the fundamental purpose of election primaries: Control of the election process.

While most of the focus today is on the Presidential election, primaries are part of elections in this nation. Sure, there are some races where the party's candidate is already decided, so there is no primary, but that is the exception, not the rule. To understand primaries, we need to start by understanding what one is.

## What is a Primary

Primary elections are not a creation, or even a requirement, of the Constitution of the United States. In fact, the word

“primary” did not appear in the Constitution until 1962 with the ratification of the Twenty-Fourth Amendment.

The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

#### [U.S. Constitution, Amendment XXIV](#)

If primaries are not a constitutional requirement, where do they come from? Primary elections are regulated by state law and funded by tax dollars. The states have passed laws establishing the time and procedures for primary elections. Where I live in Tennessee, the county election commission is required by state law to provide ballots for the primary elections, the running of primary elections, and the counting and certifying of the results. The ballots for primary elections shall only include names of those who have qualified for that party’s primary. I’m sure it is similar in your state. This means that the purpose of primary elections is for the political parties to determine who they will nominate for an upcoming election.

What most people do not realize is the political parties are not part of the government, they are private organizations. At the federal level, a political party is defined by 52 USC §30101(16)

(16) The term “political party” means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

#### [52 USC §30101](#)

From my research, these organizations are frequently organized as non-profits under the Internal Revenue Code. As stated in United States law, the purpose of a political party is to nominate a candidate for election to federal office. From what I've been able to find, this definition generally applies to state and county political parties, with the exception of offices at the state and local level.

Put all of this together and what do we have? Primary elections are publicly funded elections for private organizations with the sole purpose to limiting who will appear on the ballot for the actual election. Why is this important?

First, why are American taxpayers paying for private elections? If someone suggested that taxpayers start funding elections for the board of directors of an organization like the National Association for the Advancement of Colored People, the National Rifle Association, or Apple, how do you think the American people will react? Yet every two years all fifty states hold taxpayer funded elections for at least two private organizations: The state Democratic and Republican parties, not to mention the various county and municipal primaries.

Then there's the purpose of these primaries, limiting your voting choices on election day. Remember, according to federal law, a political party's purpose is to nominate a name to appear on the election ballot. I believe most states also have a process for names to be added to the ballot without being nominated by a political party, but those tend to be at a serious disadvantage come election day. There are other reasons why people run for office as part of a political party, but today we are looking at the primary process itself.

### **Why We Have Primaries**

So if primaries are publicly funded elections for private

organizations for the purpose of limiting who appears on the ballot, why are they such a part of America's election process? To understand, we need to look at the history of the voting process.

Early in the republic, voting was drastically different than anything we would recognize today. Originally, voting was done "viva voce", or voice voting.

As voters arrived at the courthouse, a judge would have them swear on a Bible that they were who they said they were and that they hadn't already voted. Once sworn in, the voter would call out his name to the clerk and announce his chosen candidates in each race.

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Paper ballots did not begin to be used until the early 19th century, but even these would not be recognized by modern Americans. These early ballots were nothing but scraps of paper upon which the elector would write the name they were voting for, then drop them into a box. Newspapers began printing blank ballots which their readers could tear out to cast their vote. It didn't take long for the political parties to find a way to take advantage of this method of voting.

By the mid-19th century, state Republican or Democratic party officials would distribute pre-printed fliers to voters listing only their party's candidates for office. They were called Republican and Democratic "tickets" because the small rectangles of paper resembled 19th-century train tickets. Party faithful could legally use the pre-printed ticket as their actual ballot making it easier than ever to vote straight down the party line.

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How were the names chosen for these party “tickets”? Originally, they were chosen by party leadership. Needless to say, these partisan ballots often led to claims of fraud and calls for election reforms. In 1888 the states of New York and Massachusetts found a solution from a far off land... Australia. In 1858 Australia adopted the standardized ballot we would recognize. These “Australian ballots” were pre-printed with the names of the candidates and handed to voters as they entered the polling place. This style of ballot became widely adopted in America by the end of the 19th century. The question is, how does the government determine which names will appear on the ballot?

Since the political parties could not longer print their own “tickets”, they needed another way to choose which names would appear on the ballot. Just as with party tickets, the political parties would nominate people for office, having the government place their names on the ballot. However, these “back room deals” quickly led to fraud concerns, which led to allowing the party members to vote for their preferred nominee, in what we now call political primaries.

The Democratic party primary elections began in 1892 in the state of Louisiana. By 1897, eleven southern and border states held primary elections for the Democratic party. However, unlike today’s primaries, these elections were run by party officials, not the government. Even though the political primary was created to move the choice of party nominee from the leadership to the people, the primary process was controlled by the party leaders, which meant they still controlled who would be nominated.

An interesting side-bar has to do with Presidential elections. Rather than primaries, nominees for President were determined by state party conventions until 1972. In 1968, Hubert Humphrey was the Democratic nominee for President without having participated in a single state primary. Starting in 1972 changes to the nomination process led to the national

convention we see today.

I haven't found when the move from party-run to government-run primaries was accomplished. I do know that by 1972, both parties had looked at major reforms to the primary process. Which leaves us where we are today.

## **Conclusion**

As with so many things, our current primary system was created over time to help deal with problems, both real and perceived, in the election process. Attempts by newspapers to make voters' lives easier quickly led to political parties influencing the vote. Then there was the move to make the nomination process more democratic, leading to primaries. When the states took over the primary process, I believe the political parties in those states made sure the laws favored them, especially in elections for federal offices. All of this leads me to the conclusion that while created with good intentions, the primary process is about maintaining the power of the political parties. As I said, running for office as part of a political party is done for several reasons, including money, infrastructure, and support, but one of the main reasons is for that coveted place on or near the top of the ballot.

Then there's the question of who pays for these primaries. Depending on state law, the costs could be higher than you think. Because different states have different types of primaries, there may be more than one election that has to be balloted, conducted, counted, and certified. Then there's the cost of recounts in close elections. All of which are paid for by people who are not a member of the private organization that benefits from the election.

Speaking of benefits, what is the benefit to the American people to allow political parties such control over who is on the ballot? I agree there should be some state defined

standard to help make sure only people who are serious about running are on the ballot, but should that really be determined by private organizations with their own agendas? Consider this, in the previous two Presidential elections, one man was leading the primary race for the Democratic nomination: Bernie Sanders. In both cases, the party apparatchik conspired a way to have the leadership's preferred candidate get the nomination rather than the people's, once again showing attempts to make these processes more democratic simply make them more autocratic.

How do I think names should be placed on election ballots? What if we didn't put names on ballots? I know it sounds crazy, but imagine walking into the polling place having to know who you are going to vote for? Figuring out, for yourself, who you think would be the best person for each office? Able to choose your candidate without undue party influence?

OK, maybe blank ballots are a bridge too far, but what about this? What if each state required a number of signatures on a petition to be on the ballot for each office? The next question is deciding what order the names appear on the ballot. I suggest it be based on the total number of signatures collected.

Since the election process would be less under the thumb of the political parties, each state would be able to try different variations of these or other methods of running their elections. If the people we hire to represent us are smart, they can learn from what others are doing and compete to make their election process the best in the land.

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