

UNCONVENTIONAL WISDOM: THE FUTURE OF PRESIDENTIAL NOMINATING

CONVENTIONS

L. Sandy Maisel, Justin Rouse, Russell Wilson

Colby College

The major national parties' presidential nominating conventions have served as nominee coronations more than as decision making bodies for more than half a century. This article seeks to provoke discussion about the role of the convention as a political institution by reviewing its history, outlining the functions it has served for the political system, evaluating its current status, and finally questioning whether the convention should continue in its current form. We conclude with a radical reform that recognizes that the time for the party convention has come . . . and gone and suggest an institutional replacement that would perform the important contingency function (nominating a candidate should state primaries and caucuses fail to do so) without the charade that modern-day conventions have become.

Unconventional Wisdom: The Future of Presidential Nominating Conventions

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Long before the 2008 Democratic National Convention was called to order in Denver or the delegates to the Republican National Convention in St. Paul heard the opening gavel, Barack Obama and John McCain had been chosen as their parties' standard-bearers. In fact, the last time that a major party nominee was not chosen on the first ballot was in 1952, when the Democrats took three ballots to nominate Illinois Governor Adlai E. Stevenson. In that entire time, only the Republicans in 1952 (when Dwight Eisenhower was nominated over Ohio Senator Robert Taft in a close race) and in 1976 (when President Ford led challenger Ronald Reagan by only a handful of delegates in a two-way race) and arguably the Democrats in 1960 (when John Kennedy won a first ballot nomination that did not seem assured until after early trial votes) and in 1972 (when credentials challenges could possibly have undone the lead built by George McGovern, working under rules that he and his campaign manager Gary Hart had crafted) went to the convention city without certain knowledge of who their nominee would be (White 1961; 1973; Witcover 1977; see also White 1961 for a more a slightly different view of the 1960 Democratic nomination).

These conventions are, of course, called presidential nominating conventions, but it is clear they rarely play the role of nominating a candidate, except in the most formal sense of ratifying a nomination already achieved. Given the expense of these quadrennial events, much

of it incurred by the public, one might naturally ask what role they play in the contemporary electoral process. It is to that question that this article turns.

It probably is not far from the truth to assert that every active political scientist who studies political parties longs for the day of the brokered convention. What could be more fun—and enlightening—than to be a participant-observer as duly elected delegates actually choose a nominee, because the primaries and caucuses have failed to settle on a winner? However, just because such an experience would be fun and enlightening does not mean it would be good for the polity. We argue that it would not. Before turning to evaluating whether a brokered convention might ever eventuate and, if so, whether that is an occurrence we should fear, important questions to consider if one is critical of and suggests reforms to an institution with nearly 200 years of existence, we will first examine the history of conventions from the point of view of the role they have played in American politics and then review what we know about decision making by delegates to recent conventions.

Early History of Political Nominating Conventions

Arguably the roots of the parties' presidential nominating conventions predate the formation of parties themselves. When Washington announced he would not serve beyond two terms, congressmen wanted to have some control over the process of selecting his successor. This initial influence by the congressional caucus led quickly to domination of the process of winnowing the list of potential presidential candidates by those in the legislature, the predecessor of King Caucus (David et al. 1984).

Samuel Eliot Morison explains that the Federalist party was the first to experiment with the idea of a presidential nominating convention in 1808. Largely dissatisfied with the actions of

President Jefferson, the Federalists were eager to find a candidate who could sufficiently contend with the Democratic-Republicans likely nominee, James Madison (Morison 1912, 744). True to their political pedigree, the party sought to put together a group of “well-born and congenial gentlemen, who could afford the time and the expense of travel,” in order to decide who would represent their party as the candidates for President and Vice President (Morison 1912, 763). Sheltered from public view and opinion, the leaders of the party from several states convened in a manner not dissimilar from, though much smaller and more secretive than, modern conventions.

However, “it was hard to see how 89, a majority [of the electoral votes], could be secured for a Federalist candidate” (Morison 1912, 745). The Federalists understood that they were failing politically, and questions of a possible coalition with Democrats who were opposed to the Madison nomination began to spread across the upper echelon of the party.

The goal of this first pseudo-convention in 1808 then was to unite a broken and battered group of electors behind a candidate who could provide a legitimate challenge to Madison (Morison 1912, 744). For the Federalist delegates, the platform of the Republicans represented everything that was wrong with the current American political system. By defining what they were against, these delegates were able to unite, despite their disparate beliefs, to find a candidate. Without the gathering of Federalists, such unification may not have been possible. The eventual nomination of Charles Pinckney by the Federalists represented a return to a candidate who represented the traditional values of the Federalist Party as they had been defined in 1804; nominating George Clinton would have required concessions in order to unite with the Democrats opposed to Madison (Morison 1912, 746, 758). Despite earlier efforts to pick a candidate who could beat Madison at any political cost (i.e. tampering with the Federalist

platform), the goal eventually became one of defining the Federalist party as completely distinct from the Republican political tradition. In short, the Federalist convention of 1808 was more concerned with party identification than it was with electoral success (Morison 1912, 758).

The convention of 1808 was an attempt to organize states loosely behind a candidate with the sole purpose of convincing electors to support that choice. However, as the 19th century progressed, as more states moved to popular election of presidential electors, power over nominations began to shift from Congress to the party leaders who controlled the electoral apparatus in the several states (David et al. 1984, 51-2). The 1824 election represented the death of “King Caucus” because of what came to be known as the “corrupt bargain.” In that election General Andrew Jackson won both the popular vote (in those states that chose electors by popular vote) and the most electoral votes, but because four candidates were contesting for the presidency, he fell short of the required majority of the Electoral College. The election went to the House of Representatives where Henry Clay, who had finished fourth in the electoral voting and thus had been eliminated, sat as the powerful Speaker. Clay endorsed Jackson’s rival, John Quincy Adams, who won votes from a majority of the state delegations and thus became President. Adams chose Clay as his Secretary of State and whispers of deal-making ensued (David et al. 1984, 52).

In 1828, Jackson harnessed disenchantment with Adams and the national outcry for popular control and was able to beat Adams for the presidency. Jackson’s ability to win outside of the King Caucus system eliminated any power that the congressional caucus still had over the presidential nominating process (David et al. 1984, 53). For the 1832 election for the first time all the candidates were chosen in nominating conventions open to the public. The first national party convention as it has come to be understood today took place in Baltimore in 1831. The

Anti-Mason Party, born in opposition to Jackson's leadership, designed the public convention as a way to advertise themselves to a public that was largely unaware of their existence and to nominate a candidate in a public setting. It was at this first national nominating convention that many of the rules for early conventions were designed: states were given the power to choose their own delegations; convention votes were tied to the number of seats that a state had in Congress, a national party committee was created to run the convention; and a party platform (originally referred to as an "address to the people") was created (Davis 1983, 28). The Anti-Masons nominated William Wirt, but the lasting mark left by the Anti-Masons was their establishment of a system and an institution that would serve as the model for party leadership systems and nominating conventions far into the future (David et al. 1984, 53-54).

In this same election year, the National Republicans, recovering from substantial losses in each election since John Quincy Adams' failed reelection campaign, followed the lead of the Anti-Masons, trying to increase their national impact. In an effort to bolster the prospects of their nominee, Henry Clay, in a race against President Jackson in 1832, they used their convention to present Clay to the party leadership of the states that would be needed to elect him. The Democrats, although certain that President Jackson would be their nominee, also used a nominating convention in 1832, but Jackson's purpose was to unite the party in selecting his running mate. Afraid that the party leadership would splinter in a fight over who would fill the number two spot on the ticket, Jackson's followers convened in Baltimore to strengthen the unity of the Democratic Party. These efforts by the National Republicans and Democrats in 1832 present reasons for conventions that are still cited by today's parties: national publicity and party unification. Furthermore, the Democratic Party convention in 1832 developed the guidelines set

by the Anti-Masons into the model that has been used for modern conventions since 1832 (Davis 1983, 28-29).

The conventions of the mid-nineteenth century were marked by several problems. For one, transportation was an issue for delegates from distant states; in 1835, Edward Rucker of Tennessee happened to be in Baltimore during the convention and voted on behalf of the entire Tennessee delegation to the convention. This anecdote also illustrates the problem that delegate selection processes varied widely from state to state and from convention to convention. It was not until the Democrats and Republicans created national party structures in 1848 and 1856, respectively, that there was a standardization of convention rules that was independent of congressional or presidential control (Davis 1983, 29-30).

James Davis argues that this nominating system “was well suited for the young nation because:

1. It was representative in character.
2. It divorced presidential nominations from congressional control.
3. It provided for a broad-based formulation of a party program.
4. It concentrated the party’s strength behind a single presidential ticket.
5. It reconciled personal rivalries and group or sectional interests (Davis 1983, 30).

Davis argues that the decentralized nature of political parties was complimented by the convention system because it brought diverse party leadership together with elected officials in the party, with each having a vote on who the party nominee would be. It allowed for states to be represented fully, whereas congressional caucuses only represented the people who had elected candidates to Congress. Finally, Davis points out, the nominating convention’s unifying role focused the strength behind two major party nominees, thus reducing the likelihood of the presidential election going to the House of Representatives as it had in 1824 and or to a special

tribunal as it did in 1876. Davis believes that despite the lack of any “constitutional regulation,” the nominating convention has had a monumental effect on the legitimacy of the presidency (Davis 1983, 31).

From the early part of the twentieth century through the 1968 presidential nominations, party bosses and other state officials controlled nominating conventions and the delegate selection process. Although presidential primaries initially flourished at the start of the 20th century—by 1916, at least 24 states had experimented with some sort of primary process—in response to Progressive and Populist party campaigns against boss domination of nominating practices, “the conservative reaction after World War I took momentum out of the Progressive movement” (Davis 1983, 33). This response gave party bosses the ability to reassert control over the process, and many states began to eliminate their primaries. By 1935, only fifteen states held primaries (Maisel and Brewer 2012, 236-7; Davis 1983, 33). Around two-thirds of the delegates at each convention were either state party leaders or directly controlled by them, and “nearly half had obtained their seats before the election year even began” (McGovern-Fraser Commission Report). The other third of the delegates came from state primaries, which were held in only a handful of states and played only an informal role in some of those. The role of primary elections, as exemplified by John Kennedy’s 1960 primary victories in heavily Protestant West Virginia and solidly Midwestern Wisconsin, was to demonstrate to party leaders that a candidate could win—in this case demonstrating that an Eastern, Harvard-educated, Roman Catholic was more electable than Hubert Humphrey. The whole process lacked transparency and meaningful public participation. As the McGovern-Fraser Commission would later characterize it, the process was untimely, unrepresentative and undemocratic (Maisel and Brewer 2012, 237).

This closed system run by state officials and party bosses fell apart after the 1968 convention and subsequent nomination of Hubert Humphrey. Humphrey did not enter a single primary, yet he won the nomination. The antiwar Democrats complained that the process unfairly dismissed their input, and the pressure placed on party leaders forced the Democrats to reevaluate delegate selection, setting in motion a radical shift towards the modern presidential nominating convention that we see today.

McGovern-Fraser Commission and Delegate Selection

After the 1968 convention, the Democratic National Committee created a Commission on Party Structure and Delegate Selection, popularly remembered as the McGovern-Fraser Commission after its initial and subsequent chairs, in order to address the rising criticisms that the process of apportioning delegates was exclusionary and unfair. The commission's findings and the party's subsequent rule changes required states to comply with an open and uniform process. When picking delegates each state had to use an open, democratic, and representative system of either primaries or caucuses. The new rules took control away from party leaders and gave it to the primary voters and caucus attendees. Sixty-five percent of the delegates at the following 1972 Democratic National Convention came from twenty-two state primary elections (Maisel and Brewer 2012, 239-41).

In addition, following the commission's report, party rules mandated that delegates must represent minorities and women and young voters "in reasonable relationship" to each state's population (Democratic National Committee 1970). The new rules sought demographic representation, reversing a system that had been dominated by older white males. In theory, by adding more youth, more women and more minority delegates, the interests of these groups on

the key issues of the day, including the Vietnam War and changes social morés, would find more representation at the nominating convention (Polsby 1983, 696).

After each subsequent national convention, the Democrats created new commissions to refine the nominating process further. The most notable changes in the nomination process came in 1976 when the Mikulski Commission forced states to divide delegates proportionally for any candidate who received at least fifteen percent of the vote, ensuring that the delegate selection for each state reflected the presidential preference of the primary and caucus participants (Parris 1974, 254). Additionally, to give some influence back to party leaders, the 1984 Hunt Commission created Superdelegates, allowing some party leaders to regain a voice in the process, acknowledging the importance of some peer review of potential candidates. After this rule change, United States senators, governors, and U. S. Representatives came to the conventions as delegates, and they again asserted influence—some have claimed too much influence—over who should receive the nomination.

Today the selection of delegates in the Democratic party remains largely the same as established by the aforementioned commissions. More than three-quarters of the delegates are chosen by proportional representation of presidential preference in primaries and caucuses. These delegates are pledged to their candidate for various numbers of ballots, according to state law, or until that candidate drops out. Pledged at-large delegates are doled out to candidates based upon the results from whole states. Add-on delegates and Superdelegates do not have to pledge to a candidate before the convention, yet some choose to do so.¹ Overall, the large

¹ At large delegates are pledged delegates that represent the preference of the state overall. Add-on delegates are additional delegates for each state that usually include elected officials or important party members.

number of pledged delegates allows for parties to declare a nominee earlier in the race than it could prior to 1968. It also makes each primary much more important for a candidate as those who do not win in a state can still pick up valuable pledged delegates to bump him or her even further towards the Democratic nomination.

The Republican party implemented reforms at the same time as the Democrats, yet the changes came more subtly and left the decisions up to the states. In many cases reforms mandated for the Democrats under McGovern-Fraser guidelines required changes in state law that in turn affected Republicans. In response, suggestions made by the GOP party leadership called for increased representation of minorities, women and of different age groups when selecting delegates (Parris 1974, 256). Though the impetus for change was different, the result of opening the process to more popular participation was the same for the Republicans as for the Democrats. In the spirit of state sovereignty, the Republican party still allows the states to decide how to apportion their delegates, including the use of winner-take-all systems that the Democrats specifically rejected.

Today, the emphasis on state independence in the Republican party means that its system varies significantly from the Democrats' uniformity. With differing methods of selection in each state, the process varies over time and includes proportional representation, winner-take-all and combinations of the two. Since the winner-take-all method remained popular, at least through 2008, a nominee for the G.O.P. has usually emerged sooner than for the Democrats (Bello and Shapiro 2008, 5). In 2012, however, Republican delegates chosen in states holding their

primaries during March must be chosen by proportional representation, changing the strategic calculus significantly (Zeleny 2011).

The effects of these reforms are seen most strikingly in the types of delegates and the process of creating the party platform. The overall opening of the delegate selection to the public means that in order to fulfill the requirements of the various commissions and subsequent party rules, a wider range of individuals act as delegates. Diversifying the delegates helps with representational issues, but it also means that general public knows less about the individuals who serve as delegates. Prior to 1968, party leaders, known to the public but not chosen by them for the purpose of nominating a president, dominated the conventions. They also dominated the platform-writing process; their goal was to adopt a platform that appealed to the public broadly and offended few. For a time after 1972, the platform-writing process became more democratic—and the party platforms reflected activists' views on the salient issues of the day. Thus, the Democrats' platform in 1972 favored “amnesty, acid, and abortion” and the Republicans took strong anti-abortion positions. In 1992, however, while the Republicans ceded control of the platform to the social conservatives, the Clinton campaign worked hard to control the drafting of the platform and to restrict floor amendments. The result was a clear contrast in party images, to the electoral detriment of President George H. W. Bush, who was running on a platform far to the right of where he stood (Maisel 1993-1994). Presidential campaigns learned that lesson, and in the four most recent cycles, they have controlled the platform-writing process carefully, removing it from the control of the delegates, so that the image emerging from the convention was one with which they were comfortable.

Our picture of the presidential nominating process and the role of the convention in it is now nearly complete. The selection of delegates to the two major party nominating conventions

has been transformed, so that the delegate selection process is now more timely, more representative both demographically and in terms of presidential preference of those participating in the process, and more democratic. Whereas once the delegates to the conventions were bound only by their fealty to party leaders, the reformed systems for both parties binds most delegates before they go into the convention; the use of more bound delegates leaves fewer delegates open for the courtship by nominee hopefuls (Panagopoulos 2008, 5, 6). Around eighty percent of the delegates at both the Republican and Democratic conventions in 2008 were bound to candidates (Bello and Shapiro 2008, 2). As a result, the role of individual delegates is less important. Furthermore, because both parties have frontloaded their delegate selection primaries early in the nomination season, the nominees are often known well in advance. The organizations for the prospective nominees dominate the platform-writing process, reducing further the influence of individual delegates. The conventions continue to play a symbolic role, as a time when the party comes together behind its nominee, but their role as decision-making institutions is all but gone.

In sum, the role of the convention is no longer to decide among candidates and to state the party's view of the issues of the day for the nation to hear, but rather to serve as a party rally, not as it once was to introduce the nominee to the public—the drawn out primary process does that—but to attract media attention. However, because the presidential nominee for each party emerges earlier on in the process, and because conventions are no longer a venue for important intra-party debates, the public and the media are less interested than they once were.

In 1948, when the conventions were first televised, media coverage opened this part of the political process to the public for the first time. Gavel-to-gavel coverage of credentials fights, platform battles, and nomination contests excited journalists and viewers. Live

convention coverage exposed the public to important decisions as they were happening—in an open and dramatic way. But, as the process changed, so too did the excitement. Audiences declined and networks lost interest as the proceedings became more and more scripted.

Gavel-to-gavel coverage of the podium proceedings is all but gone, provided only by some cable networks (Panagopoulos 2008) (see Table 1). Today the major networks provide only minimal coverage; and viewers tune in for only a portion of that. The only sense in which the convention introduces the party to the electorate is found in the acceptance addresses of the presidential and, to a lesser degree, vice presidential nominees. While the primaries and caucuses have produced first ballot nominees for the last fourteen election cycles, the conventions still ratify those choices—and delegate votes are the contingency that would be used were no nominee to receive a majority as a result of the pre-convention politics. Obviously, this role would be very important should it have to be played, thus it is appropriate to consider what we know about how delegates to modern conventions make decisions.

Table 1
Network Coverage of Recent National Nominating Conventions

Network	Monday	Tuesday	Wednesday	Thursday
ABC	10-11 p.m.	10-11 p.m.	10-11 p.m.	10-11 p.m.
NBC	10-11 p.m.	10-11 p.m.	10-11 p.m.	10-11 p.m.
CBS	10-11 p.m.	10-11 p.m.	10-11 p.m.	10-11 p.m.
C-Span	7 a.m.-1 a.m.	7 a.m.-1 a.m.	7 a.m.-1 a.m.	7 a.m.-1 a.m.
TV One	8-11 p.m.	8-11 p.m.	8-11 p.m.	8-11 p.m.
PBS	8-11 p.m.	8-11 p.m.	8-11 p.m.	8-11 p.m.
MSNBC*	All Day (live and scheduled shows) dedicated to convention			
CNN*	All Day (live and scheduled shows) dedicated to convention			
Fox News*	All Day (live and scheduled shows) dedicated to convention			

Scheduled Programming data from TV Week. All times based on EDT. Coverage varied slightly during the two conventions because of the convention events running past 11 p.m. The networks covering the convention on these days, extended their programming to cover the important speeches and events. Hurricane Gustav also disrupted convention activities in St. Paul on 9/1/2008. MSNBC and NBC collaborated on coverage, with MSNBC focusing more on scheduled programming and NBC adding live coverage for the night time speeches.

* Coverage varied all day including live and regular shows. The emphasis was on the conventions, but unlike CSPAN, the coverage included shows with commentators talking about the conventions and speeches, not just an uninterrupted video feed.

How Do Delegates to Modern Conventions Make Decisions

What do we know about how a modern convention would decide on a nominee? Political scientists have looked at convention delegates over a long period of time. William A. Gamson (1962) developed a theory of coalition building at presidential nominating conventions nearly half a century ago. His theory depended on coalitions that supported one candidate and held together even after that candidate dropped out. In an important article published in 1963, Nelson W. Polsby and Aaron Wildavsky (1963) noted the high degree of uncertainty that exists at national nominating conventions, postulating that uncertainty makes it difficult for political

actors to act with perfect rationality; thus it is difficult for analysts to predict their behavior (see also McGregor 1973). Of course in the era about which these scholars wrote, party leaders often controlled delegations; even their knowledge of the consequences of their actions was uncertain. In the absence of strong party leaders influencing delegate votes, uncertainty among the voters would only increase.

Polsby and Wildavsky (1988), in their quadrennial examination of presidential elections, note that there are two strategic goals that inform voting by delegates at these conventions—following one’s ideology and striving to find a winning candidate. A number of scholars have examined delegates to national conventions over the last half century, attempting to discern who they are and how they reach decisions. Starting with James Q. Wilson’s seminal work *The Amateur Democrat* (1962), students of American politics have noted differing motivations for those active in politics, often distinguishing “professional” politicians from “amateurs.” McCloskey et al. (1960) had noted the difference between political activists and rank-and-file voters. For more than a decade scholars explored how these differing motivations affected convention delegates. Costain (1978; 1980) looked at how ideology was playing an increased role. Jeane Kirkpatrick (1976) and Denis Sullivan and his associates (1976) did important studies of the delegates to the 1972 national conventions, exploring who the delegates were who were elected under the new rules, concluding that they were more motivated by ideology than the choices needed to maximize the chances of winning. Soule and Clarke (1970), Soule and McGrath (1975), and Roback (1975) all reached similar conclusions concerning the differences between amateurs’ motivations and those of professionals and the increased role of amateurs at the national nominating conventions. Soule and McGrath’s comparative study of the Democrats

in convention in 1968 (with delegates selected under the old rules) and 1972 (with the first delegates selected under the reformed rules) is particularly important in this regard.

In 1983, however, using a sample of more than 17,000 delegates to 1980 state conventions (in caucus/convention states, thus those who would select delegates to the national conventions), Walter Stone and Alan Abramowitz (1983) found evidence to contradict the conventional wisdom. As stated in the title of their article, they concluded that “winning may not be everything, but it’s more than we thought.” Stone and Abramowitz found that, when one moved from an abstract question of which was more important, ideological purity or winning, to a more concrete question, delegates moved toward the more pragmatic stance. They found this encouraging, given that ideological warring factions of political parties, unable to unite in a general election, presaged a failure of the party system.

However, Stone and Abramowitz concluded with an important caveat, that many delegates saw the candidate who shared their ideological space on the spectrum as more likely to win, whether this conclusion was accurate or not.

Given our findings, how can we explain the support by party activists in previous nomination campaigns for such candidates as Barry Goldwater and George McGovern? We have no data from 1964, but our glance at the 1972 Democratic convention suggests that party activists simply miscalculated Goldwater's and McGovern's chances of winning. Our data indicate that activists are concerned about nominating a winner, not that their perceptions of who is likely to win are always accurate. Indeed, among the Democratic delegates in 1972, 58% thought that McGovern was the most likely of all candidates (Democratic and Republican) to win the November election. Judging a candidate's electability is never easy, especially when future events in the campaign or the world in general cannot be predicted (Stone and Abramowitz 1983, 954).

Essentially their conclusion is a return to Polsby and Wildavsky's (1963) conclusion about uncertainty.

Moreover, with 20-20 hindsight, we can see that all of these studies were done in the context on one-ballot nominations. We know that the McGovern people stuck with their candidate on procedural votes in 1972 (White 1973); we know that the Ford delegates stayed with Ford and the Reagan delegates with Reagan on an important rules challenge at the GOP convention in 1976 (Witcover 1977); we know that Carter supporters were loyal to Carter when Ted Kennedy's supporters tried to free Carter's bound delegates in 1980 (Drew 1981). But we do not know how delegates would act if a multi-candidate race went to a convention, particularly if the candidate to whom they were legally bound dropped out. Even more concerning than that is the fact that we do know that our theories of political behavior, based on the assumption that political actors have perfect or near perfect knowledge of the consequences of their action, do not apply.

And that should trouble us. If the conventions are ever called upon to decide who the nominee should be, we as political scientists, we as citizens, even party leaders have no idea how that decision making process would work. That is troubling! Essentially we have a well-established political institution the principle remaining function of which in recent decades has become to act as a contingency plan for when the system that has worked for the last half century does not work. While that role might well be crucially important to the country, we have no idea how the conventions would function should they be called upon to act.

A close parallel exists, however. While political parties and conventions are extra-constitutional, the Constitution did set up a contingency plan for if the Electoral College failed to produce a majority winner. That plan came into play in 1800 and led directly to amending the Constitution to call for presidential and vice presidential candidates to run as a ticket, recognizing the nascent importance of political parties. The revised plan came into play in 1824,

when the first party system was near collapse, leading to the oft-cited Corrupt Bargain; the House elected John Quincy Adams as President over Andrew Jackson, though Jackson had outpolled Adams in the popular vote (Boller 2004).² The lesson from these examples is clear; the contingency plan did not work very well. The consequences of a President whose legitimacy is questioned would be far greater in the 21st century than they were in the 19th. We believe that this conclusion holds as much for nominations as it does for elections. Thus, we question whether the convention is sufficient to act as a contingency mechanism for nominating presidential candidates should the normal process fail to do so.

We are essentially asking whether the time for conventions as we have known them for nearly two hundred years has come—and gone. The roles that the convention has played over the course of our nation’s political history—to bring parties together, to introduce candidates to the nation, to draft a platform of party positions—are no longer central to the functioning of the system. The remaining role of serving as a venue to bring the party together behind its standard-bearer, of allowing the presidential and vice presidential candidates to speak to the nation after they have officially been named, remains, but we do not think that sufficient to justify the commitment of time and of money to run the conventions.

Replacing a centuries old institution should not be taken lightly. We have to deal with three questions to the satisfaction of critics. First, is the likelihood that the convention delegates will be called upon to nominate a candidate strong enough that we should worry about the contingency plan coming into play? Second, while previous research gives us only limited information about how delegates would go about choosing a nominee should that decision fall to

² One should also note the “failures” of the amended Electoral College system in 1876, when the election was decided by a special commission established for the purpose, and in 2000, when the United States Supreme Court resolved a dispute over the results in Florida, deciding the election in favor of George W. Bush over Al Gore.

them, are we convinced that their decision making mechanism would be detrimental to the polity, convinced enough to warrant such a fundamental change in the nominating process? Third, if those questions are answered affirmatively, is there some adequate substitute for the contingency if no nominee was decided upon by the primaries and caucuses that were held throughout the winter and spring of an election year? How else could this decision be made and is that process likely to be better than the one currently in place?

Some points are clear even as we begin this analysis. First, conventions have played a decisive role in the past—though not always. Table 2 shows the instances in which party conventions required more than one ballot in order to decide on a nominee. As is not surprising, these conventions tended to be held in the party not controlling the White House. They were often at times when the nomination was seen as valuable, because the incumbent's party seemed vulnerable. Finally, the most divisive conventions were often a result of significant ideological stress within the party.³

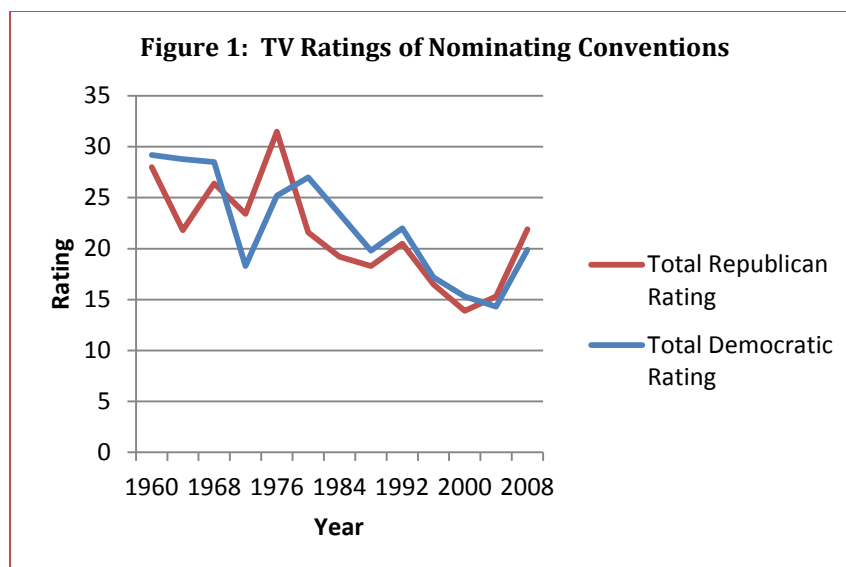
Table 2
Conventions Requiring More than One Ballot to Achieve Nomination, 1876-2008*

DEMOCRATS			REPUBLICANS		
Year	Nominee	Ballots	Year	Nominee	Ballots
1876	Tilden	22	1876	Hayes	7
1880	Hancock	2	1880	Garfield	26
1884	Cleveland	2	1884	Blaine	4
1896	Bryan	5	1888	Harrison	8
1912	Wilson	46	1916	Hughes	3
1920	Cox	44	1920	Harding	20
1924	Davis	103	1940	Willkie	6
1932	Roosevelt	4	1948	Dewey	3
1952	Stevenson	3			

*Adapted from Bain 1960.

³ It should also be noted that all of the multi-ballot Democratic conventions except for that in 1952 were held under rules that required two-thirds of the delegates to nominate.

Second, we know that the American public no longer pays as much attention to conventions as it once did, though there was slight uptick in 2008, undoubtedly caused by the popularity of Barack Obama and the intrigue over the nomination of Sarah Palin. Figure 1 presents these data. But perhaps too much should not be made of the decline in public viewership in recent years. While Silbey (2002) talks about the central role of parties in American life during the 19th century, we have no clear measure of how much attention the public paid to nominating conventions at that time. Even the data on television viewership are suspect. Because the number of instances we can observe is so small, it is difficult to isolate causality. Viewership might well have been inflated in the 1960s, for instance, because of the relative novelty of live gavel-to-gavel coverage, because candidates were more exciting, because the major networks did not have competition from cable and thus no alternatives were available, or for many other reasons. We do know that now, however, conventions do not attract a wide audience except for at key moments (which are now the only ones that the networks present) (Kerbel 1994).



Source: The Nielson Company, based only on the coverage during common coverage times

Third, as implied above, few claim to have any knowledge of how conventions would function should they be called upon once again to serve as decision making bodies; even fewer are confident in their ability to do so in a rational way that would be viewed as legitimate by the American public and the world community.

How Should a Deadlocked Convention Decide?

The late Congressman Morris K. Udall (D-AZ), the quintessential politician-philosopher, once allegedly proclaimed Udall's Sixth Law of Politics (though he never laid out the first five). Udall's Sixth Law held that if everyone thought something was not possible, it probably was. Congressman Udall issued his Sixth Law while seeking the Democratic party's 1976 presidential nomination; the object of his lesson was the claim that no candidate would emerge from the primaries and caucuses and that the convention would have to decide the nominee. Udall was confident that those elected would turn to him rather than to Jimmy Carter, a relative neophyte in

national politics. Udall's Sixth Law did not come into play in 1976; but Mo Udall was a wise man—and he might yet be proven right. If so, it is incumbent upon us to be certain that the contingency plan for selecting the nominee works effectively. But, is Udall's Sixth Law really in play? Is there any chance that delegates will convene without a nominee known in advance?

Let us consider a hypothetical example to illustrate the current situation. Assume—as seemed to be the case in the early fall of 2011—that candidates for the Republican party's 2012 nomination included former Massachusetts Governor Mitt Romney, Texas Governor Rick Perry, Minnesota Representative Michele Bachmann, Texas Congressman Ron Paul, former Utah Governor and U.S. Ambassador to China Jon Huntsman, former Speaker of the House Newt Gingrich, former Pennsylvania Senator Rick Santorum, and businessman Herman Cain. We will also assume, again for the sake of argument, that other candidates who might run like former Alaska Governor and vice presidential nominee Sarah Palin, New Jersey Governor Chris Christie, and Wisconsin Congressman Paul Ryan decide not to run.

The conventional wisdom prior to the entry of Perry into the race in August, was the one candidate would emerge from the group of more-or-less establishment Republicans (probably Romney) and one from the social conservative wing of the party (with Bachmann as the leading contender), and that these two would fight it out for the nomination—to be decided before the convention.

But remember Udall's Sixth Law. Enter Perry, who attempts to have a foot in both camps. The calendar with many of the early primaries in southern states seems to favor him (Zeleny 2011). However, because most of those states will be using proportional representation, other candidates will be picking up delegates as well. Ron Paul demonstrated in 2008 and in the early polling for 2012 that his libertarian views attract a certain zealous following. And the later

primary states, most of which will be selecting delegates using a winner-take-all system, seem to favor Romney, whose money and organization might allow him to continue on into the later stages of the process, even if he does not win early states.

Under these unlikely but certainly not impossible circumstances, after all of the caucuses and primaries have been held, we can imagine a scenario in which no candidate has the support of a majority of the delegates. Romney leads with nearly 35% of the pledged delegates; Perry has about 30%; Bachmann has 20%; Paul, 10%; the others trail with low single digit support. What happens? Would Perry, in second place, drop out to support Romney? We doubt it, but even if he would, would his delegates follow his lead—or would some go to one of the Tea Party supported candidates, like Bachmann? Would Bachmann delegates stay loyal to her, and, if so, for how long? What about the Paul delegates? After the candidates with least support dropped out, probably in advance of the convention, where would their delegates go? What would happen if New Jersey Governor Chris Christie or former Governor Palin or Congressman Ryan or even former Florida Governor Jeb Bush said, after two or three inconclusive ballots, that they would accept a draft?

Is this scenario too far-fetched to cause concern? We do not know; we do not claim to know. But we do not think that these scenarios are so far out of the realm of the possibility as to be ignored. The Republican party today is internally split on ideological grounds. The debate in the summer of 2011 over raising the nation's debt ceiling showed how deeply the party is divided. Tea Party followers of Congresswoman Bachmann and others are not interested in compromise. They believe that the nation is headed in the wrong direction and will not relinquishing support for those beliefs in order to nominate a winner. They showed that clearly in the Republican Senatorial primaries (and in the Utah convention) in 2010, probably costing

their party two or three seats in the Senate. We also know that the Ron Paul supporters think that they are not taken seriously enough, despite demonstrated support, and that they are not likely to back down. So we believe that this scenario is within the realm of the possible. In addition, we know that many major political and institutional reforms in our nation's history followed situations that were beyond the conventional wisdom. And we feel strongly that a situation such as the one described in the 21st century would be much more consequential for our polity than were similar crises over a century ago.

If no nominee has emerged by the time the Republican convention gathers in August 2012 in Tampa, under the current system, nearly 2500 Republican delegates would select their parties' nominees. This momentous decision would be made by thousands of delegates, virtually unknown to the electorate, without strong ties to the party establishment.

The conventional wisdom is that delegates would remain loyal to the candidate to whom they were originally pledged as long as that candidate remains in the race. Many delegates are bound to the candidate to whom they were originally pledged by state law—some for as long as the candidate remains in the race, more for a specified number of ballots, usually two. But other delegates are not pledged, and no state law specifies that if a candidate drops out, the delegates pledged to that candidate must follow his or her lead. We assume that many will, but we do not know that.

Reconsider the case of the 1980 Democratic National Convention. At that convention, supporters of Senator Edward M. Kennedy's bid to deny renomination to President Carter attempted to unbind delegates who had been pledged to Carter early in the primary season, arguing that the context had changed. This effort was doomed from the start, because Carter

delegates were personal loyalists—and Carter was going to win the nomination.⁴ But the effort raised an important theoretical consideration. Many delegates—most in recent cycles—are chosen early in the year of a presidential nomination; the context of the election often changes between the time that delegates are selected and the convention meets, typically in late summer. If the nomination is secured by one candidate, delegates are not likely to switch allegiances. But if no candidate emerges with a majority, all bets are off. Delegates not bound by state law become free agents as soon as the gavel falls; and many more delegates will no longer be bound if the voting goes on for multiple ballots.

In the pre-McGovern-Fraser Reform era, delegates were controlled by state party leaders. Contemporary observers and post-nomination analysts could see who was calling the shots. Party reformers might not like what they see when they look back at the “bad old days,” but that system had very important advantages: The party bosses calling the shots knew the candidates; while their knowledge of the consequences of their decisions was imperfect, they had a sense of who could appeal broadly in the general election, of who understood how to govern, of who could handle the office of the Presidency. One might not like the “peers” who were doing the “reviewing,” but at least one knew the standards that were in play. The material and social incentives that linked delegates to party leaders were clear for everyone to see; the delegates knew that they owed their presence at the convention to the party boss—and often that link was a solid tie that guaranteed loyalty because of the consequences that would follow disloyalty (Wilson 1962; 1973, 222-23).

⁴ A similar situation occurred in 1976 when Ronald Reagan challenged President Gerald Ford’s bid for renomination. The Reagan camp tried to change the rules to mandate that presidential candidates had to name their running mate before the votes for presidential nominee were cast, hoping that whoever Ford chose would anger some of his delegates who might then vote for Reagan. However, the Ford delegates held on the procedural vote—and in fact, some Reagan delegates deserted his cause, upset at the effort to change the rules in the middle of the game.

In contemporary conventions, no one knows how unbound delegates will react. First, we have had no experience with conventions failing to reach a decision on the first ballot since the McGovern-Fraser and associated reforms were implemented. Second, we know that the delegates to recent conventions are loyal to candidates, but they are also often issue activists and ideological purists. Third, we know that few of them have any ties to traditional party organizations. Further, few of them have detailed knowledge of the nominees.

It is that last point that we find particularly concerning. Public perceptions of today's political candidates are often formed by caricatured media snapshots. The electoral process gives voters some opportunity to test these characterizations against a more concrete reality, but frankly not much. The primaries and caucuses do give seasoned politicians and officeholders some opportunity to evaluate how potential candidates will fare on the national scene.

However, if we assume that delegates to today's national conventions are more like average citizens than the political activists they once were, we are concerned if they are making decisions in a supposedly deliberative setting, with very limited knowledge and no norms for how to decide (recall Polsby and Wildavsky 1963). We feel that that procedure as a contingency for the unusual situation in which the primaries and caucuses are not definitive would not suffice. And, if serving as a contingent decision making forum is the last remaining purpose for the meeting of delegates in convention, we believe the institution of presidential nominating conventions should be abolished.

To be replaced by what? We have sought an alternative procedure that meets two criteria. First, it permits for peer-review and decision making in the case that a nominee is not chosen by party members through the primary-caucus process. Any reform must be based on some assumptions. Our assumption is that those most involved in the process have information

that permits them to make more informed decisions. We recognize that this is essentially an elitist assumption. However, it says that the elites should step in after, and only after, the popular process has failed to reach a decision. We believe that in a time of uncertainty, when no one has complete information, deliberation by a relatively small group of informed and involved individuals is preferable to allowing literally thousands of individuals, many of whom have only limited knowledge of the system, to reach a decision.

Second the proposed reform must permit the nominee and his or her vice presidential choice to introduce themselves to the American public as the face of the party, in a way that garners national attention. There must be a symbolic “coming together,” the root meaning of convention, of the party. This function is the one residual role of national nominating conventions from an earlier era that remains. We believe it is important for the parties and for the electorate as the process evolves.

During the 2008 Democratic party nominating process, the party’s Superdelegates came under attack, largely because the Superdelegates who had announced whom they would support favored Senator Hilary Clinton while the elected delegates were in support of Senator Barack Obama. What was lost in the concern over whom the Superdelegates were supporting was why the party decided to have Superdelegates at all. Superdelegates were added specifically to improve the process by adding a modicum of peer-review to the nominating process. The Superdelegates—and the party’s Add-on delegates—are elected officials and party leaders who had dealt professionally in government and politics with those seeking our nation’s highest office.

In 1984, they worked precisely as was intended—drawing the party back toward former Vice President Walter Mondale and away from Colorado Senator Gary Hart, who was receiving

unexpected primary support but whom those who had worked with him did not feel was up to the task of being President. One can quibble with the conclusions of those who were peers of Mondale and Hart, but that is precisely how the process was designed to work and how it did work.

Even in 2008, a number of Superdelegates left Clinton and moved to the Obama camp, reflecting the votes of primary goers in their states or a reassessment of Obama's attributes. Elected officials and candidates and party leaders want a nominee who can run a good election, draw supporters to the party ticket, and govern if elected. One can disagree with the judgment of these individuals—and indeed, they might well not be unanimous in their judgment—but it is difficult to argue that these people are not more knowledgeable about and qualified to make decisions regarding potential candidates for President than are the delegates to the nominating conventions, chosen largely for their loyalty to one candidate.

Our conclusion, therefore, is that the Democratic and Republican presidential nominating conventions be abolished and replaced by joint meetings of the two parties' national committees and their elected statewide office holders, United States senators and Members of Congress, or, if the relevant positions are held by the other party, the candidate for that position or, if there is no such candidate, the last person to run for that office.⁵ These joint meetings—essentially the convening of an expanded group of Superdelegates—would be scheduled to meet in Washington at the end of the summer.

Under our proposed reform, each party would hold primaries and caucuses as they do now—and we do not pretend to deal with the problems involved in scheduling those events in this proposal. Rather than choosing delegates, however, primary voters and caucus delegates

⁵ The goal in filling these slots if no member of the party holds each position is to allow for geographic representation. The precise way in which these slots are filled is not our major concern.

will decide on nominating votes. Each party will continue to apportion nominating votes among the states and territories as they do now, with the party's national committees deciding on relative state strength. If a candidate emerges with a majority of the nominating votes—as is likely to happen in the vast majority of the cases—that candidate would be declared the winner. He or she would come to the Washington meeting of the party elite, announce his or her running mate, and the two of them would address the meeting, in speeches that would undoubtedly attract national attention. If staged appropriately, we believe this appearance before the party leaders and a national television audience would fulfill the residual symbolic role that remains for conventions.

However, if no candidate achieved a majority through the primaries and caucuses, this meeting of the party elite would be the group that decided on the nominee. Some of those in attendance would be persuaded by how their constituents had voted; others might not be. They would negotiate with each other as they do in government, knowing their opponents and adversaries, knowing the consequences of their decision, and fully understanding that those who chose them would hold them accountable for their actions in this setting, just as they do in other settings. And after the choice was made—and a running mate chosen—the nominees would address the gathering and the nation, working to bring the party together.

Conclusion

This article is intended to be provocative and speculative, not definitive. Clearly, we can be criticized on two points. First, is there a real problem? We believe that there is. We have

demonstrated that the national nominating conventions as they currently exist—and as they have existed for most of the last half century—do not meet perform the functions for which they were designed. On the one hand, if all they do is give the parties four days to present themselves in a four-day staged political advertisement that few people watch and that cost the taxpayers a great deal of money, we argue that they should not continue to exist. On the other hand, if they exist because they have a contingency role of choosing the nominee should the primary and caucus process fail to do so, we think they are ill-designed in the modern era to fulfill that role. In neither case do we believe their continued existence is merited, but we are particularly concerned about the second. One can argue that the hypothetical scenario we painted for the 2012 Republican nominating process is unlikely to happen; we agree with that. But it is not beyond the realm of the possible; and, should it happen in 2012 or in the future, we believe that the party faced with a multi-ballot convention and the nation would not be well served by the spectacle of a convention, essentially inventing its procedures and norms as it chooses the party nominee.

Second, it is legitimate to question whether the reformed procedure that we outline would be better than the one currently in place. We feel that this process would be more rational as a contingency process than the current one, that the nominee would have more legitimacy with the public and with his or her peers, and that the press that would follow such a meeting would parallel the kind of attention that the nominating conventions are receiving today. We are sensitive to the criticism that our reform is essentially “undemocratic.” Shouldn’t we let democracy flourish and the delegates choose whom they will? There is no right or wrong answer here, but rather a question of preferences. Ours is for peer review and at least some chance of deliberation by those most informed about the candidates and the process. However, we observed the Congress in the summer of 2011. We know that the representative process is not

always rational, that representatives (reflecting their constituents) can fall prey to popular pressures and not work in a deliberative way. In the final analysis, experienced leaders did prevail in the debt ceiling debate in the summer of 2011—and many of those who held out for ideological purity compromised in the end. What was most telling in our view was the number of legislators who faced criticism after this debate not because of the length and irrationality of the process, but because they compromised on their principles. The elected officials understood what was needed to govern more than did their constituents—and those are the traits we would prefer in the individuals deciding on who should run for President, in the case that the voters do not.

Is a reform of this nature likely to take place? Probably not. At least not until a convention once again has to make a decision and we can all see the folly of those ways. No rational person would design a presidential nominating process the way ours is designed today. It has grown like Topsy, without rhyme or reason. It is not designed to test the skills needed for a President, nor even, necessarily to find a good nominee. Yet effort after effort to reform the process, to make the delegate selection process more rational, at least in terms of timing, has been met with frustration. That does not mean that those efforts are fruitless, nor that they should cease. The process of political reform is very difficult, because of the complexity of the rules under consideration, because of the difficulty in predicting the impact of reform on individual candidacies, and because the stakes are so high. Our reform might well fall into the same category. However, we think it is worth pursuing precisely for those reasons—that the stakes are high, that we cannot predict what will happen under the current situation, and that it is evident that a more rational process is desirable, even if achieving it is difficult.

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