THE DIRECT PRIMARY ELECTION SYSTEM IN ALABAMA

By

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INTRODUCTION

Chapter one of this thesis deals with the early primary regulations in Alabama, and is therefore mostly historical. Early methods of making nominations are discussed, and the desire on the part of the voters for a primary election is shown. The first steps toward majority rule are presented by citing acts and laws passed by the legislature and by the State Committee. The autocratic power of the State Democratic Executive Committee is shown, and the chapter closes with a discussion of the act of 1911 and further regulations by the Committee and Subcommittee.

Chapter two covers the primary election legislation during the period from 1914 to the passing of the constitutional amendment in 1919. A summary of the period is first presented which gives the important changes which took place and the major features of the 1915 election law. The 1914 election is discussed, and the work of the State Democratic Committee is shown. The advantages and disadvantages of the 1915 election laws are given, and the corrupt practice act with some of the violations thereof is taken up. The election of 1916 and the constitutional amendment of 1919 with its most important election provisions are set forth.

Chapter three shows the importance of the State Democratic Committee as a factor in regulating the primary election since 1919. The various powers of the Committee are given and its subsequent action on party pledges, women voters, and party bolters are brought out. Heflin's attitude, and the organization and purpose of the "Jeffersonians" are taken up, and the chapter closes with the presentation of the Democratic
party's complete exoneration by the 1930 election.

Chapter four deals with the return to the double primary system. The faults of the plurality system, and the attempt to secure a double primary by the passage of the Goodwyn-Rogers bill are brought forth. Following this comes the arguments for a double primary and the recommendations of Miller. The passage of the bill giving Alabama a double primary system, and some of the provisions thereof are presented at the close of this chapter.

Chapter five concludes the thesis with a discussion of the significance and results of the present primary system. Opinions of national political authorities, Nye, Smith, and Wilson, are given. An example of primary costs and a conclusion by the author ends the chapter.
CHAPTER I
EARLY PRIMARY REGULATIONS IN ALABAMA

For more than fifty years the general plan for nominating candidates for public offices in the United States was the convention method. Toward the end of the nineteenth century there was a movement throughout the country toward direct nominations of candidates, especially in filling local offices. This was a general clean-up system against corruption in politics. Its purpose was to decrease the power of political bosses and political machines, to encourage men of independent attitude to seek nominations, and to nominate openly without resort to political trickery.

During the period from 1890 to 1899, particularly in the South and West, the district primary was adopted by voluntary act of the party. The general tendency was to safeguard the system with practically all of the new found guaranties of regular elections. These regulations, while often rigid, were usually local in character. The district Democratic committees passed regulations from time to time regarding primary meetings, qualifications of voters, challenging votes, oaths, and penalties for dishonesty, as the need for control of the candidates arose. Mobile County held the first primary elections in Alabama by an act of the 1885 legislature.

There was a general agreement that the electoral system needed to be purified but there was disagreement as to the nature and extent of these purifying activities. The Constitutional Convention of 1901 met for the purpose of reorganizing the suffrage laws. The new constitution

1. Beman, Lamar T., The Direct Primary, pp. 75,74 and 75.
dealt with the primary elections as follows:

"The legislature shall also make provision by law, not inconsistent with this article, for the regulation of primary elections, and for punishing frauds at the same, but shall not make primary elections compulsory." ¹

This provision applied to all State, county and municipal elections; party conventions; and mass meetings. William D. Jelks and Joseph F. Johnston, both gubernatorial candidates, endorsed the primary, and the demand became so general that the committee was forced to yield to the majority. In granting the first State wide primary, the committee made regulations barring all voters who had failed to support the Democratic nominees for National Congress, State and local offices in the two previous elections.

Those favoring the primary brought out the facts that it would eliminate the negro, on masse, from the electorate; that it would give Democrats in every part of the State equal power; that it would make for much needed party harmony; and would be the best means of securing a fair expression of Democratic opinion. Some warned that the primary might "be a tool of politicians".

An act passed in 1905 to regulate primary elections made provisions for allowing the State Executive Committee to set the qualifications of voters and to make any rules necessary for the holding of primaries which did not conflict with the State law. The report of the committee on platforms and resolutions in the State Democratic convention said that the last legislature adopted an honest and satisfactory primary, and

¹ Constitution of Alabama, 1901.
² Montgomery Advertiser, July 50, 1902.
³ Ibid, April 1, 1902; March 50, 1902.
carried into effect the various provisions of the new constitution, redeeming party pledges and preserving white supremacy by lawful methods.

On August 27, 1906, Alabama held its first State wide senatorial primary election. At this election alternates were elected to fill any vacancies which might appear in the office of United States Senator from Alabama. The governor nominated at this time pledged himself to abide by the results of the election, and, in case of a vacancy, appoint the alternate receiving the highest vote. The alternates were elected, and the death of both Morgan and Pettus caused the alternate plan to be put into use. This system was criticized as being a glaring example of party tyranny. The State wide senatorial primary, the first in the country, was a clear demonstration of the control of Alabama's politics by the State Democratic Executive Committee.

The State legislature in 1907 gave political parties that made nominations the right, by means of the chairman of its State or county executive committee or nominees for office, to furnish lists from which election inspectors and clerks could be made. The provisions of the general election laws relating to official ballots did not apply to primary elections, and voters were not required to prepare their ballots in the voting place.

The State Democratic Committee called a primary election for May 18, 1908, for county, State, and National offices. All qualified elec-

1. Montgomery Advertiser, April 1, 1902.
3. Birmingham Age Herald, April 14, 1901.
4. Ibid.
5. Montgomery Advertiser, July 30, 1922.
tors who would pledge their support to the nominees were allowed to enter. Candidates for delegate and alternate delegate to the National Democratic Convention were required to pledge their support to the Democratic candidate for president who received the largest primary vote in Alabama, and to support the unit rule of casting the vote of Alabama. This was one of the first preferential primaries to select the Democratic nominee for president.

A striking example of the autocratic rule of the State Democratic Executive Committee during this period was its action taken on a contested election. The election was for judgeship in the Sixth Congressional District, and the subcommittee had complete control over all investigations. Investigation disclosed "gross irregularity and fraud" in the Northport box. This was included in the report to the State Committee, along with a statement that Collier was the rightful nominee. The State Committee declared, however, that no legal nomination had been made, and ordered a second primary election. In the second election, Harwood was elected by a majority of 100 votes. The results of the second election were canvassed by the State executive committee.

The State committee's action on this matter was severely criticized for exceeding its authority and not considering the subcommittee's report. It was said that the committee should be representative, not regulatory, and should have had good reasons for not abiding by the subcommittee's report.

1. Montgomery Advertiser, June 20, 1922.
The committee was again criticized for exceeding its authority when it appointed a judicial candidate in the second district, rather than call a special primary election for which there was time.

In Governor O'Neal's message to the 1911 legislature he stated that the system of nominating candidates by popular vote had won favor in the last few years. He pointed out that its objectionable features were that candidates were subject to charitable societies seeking donations, and there was at that time no method of preventing voters of one party from entering the primary of the party they expected to oppose in the general election. O'Neal objected to the heavy expense of the primary system. Because of heavy expenses in senatorial campaigns, the senate was called the "rich men's club", and it was thought that a second primary would exact another toll.

The act of 1911 gave the State committee the right to fix requirements for participation in primaries, violation of which would constitute a felony under the laws of the State. A violator was subject to fine and imprisonment.

Resolutions of the State Democratic Executive Committee, adopted December 20, 1911, provided for the following: regulations for candidates for presidential nomination; selecting delegates to the State convention; selecting delegates for the National Democratic Convention; eligibility for membership in the State convention; and appointing by the chairman of a subcommittee to have the power of the State committee for all purposes

1. Tuscaloosa Times-Caastte, September 1, 1910.
2. Montgomery Advertiser, January 12, 1911.
in the regulation of primary elections.

This subcommittee promptly adopted the resolution that only white qualified voters, believing in the principles of the Democratic party, and who, by participation in the primary, would bind themselves to support the primary nominees in the general election, might participate. It provided for the challenging of votes by an inspector or a recognized Democrat in good standing, specified that candidates, other than local, must file candidacies with the subcommittee chairman, paying assessments to him. It authorized and directed the chairman to do all things necessary for the proper holding of the primary election.

With the exception of slight regulation by the legislature, the State Democratic Committee held complete control over Alabama politics during the period from 1902 to 1915. It was not until 1915 that public sentiment became strong enough against this autocratic rule, to force legislation to take steps to restore Alabama politics to the hands of the voters.

CHAPTER II
DIRECT PRIMARY LEGISLATION OF 1914-15 AS AMENDED IN 1919

The period of 1914 to 1919 brought forth many changes in the Alabama primary election system. The Democratic party was to lose a large part of its power over state politics. No longer was a nomination in a Democratic primary to be the equivalent of an election to office. The 1913 act provided for registration of voters and substituted plurality for majority rule. It cleaned up politics by controlling campaign expenditures, and made primaries optional with the parties. The amendment of 1919 continued the advancement by regulating the use of cartoons and all other forms of campaign advertising, providing for absentee ballots and the registration of minors, and giving poll tax exemptions to ex-service men.

Numerous newspaper articles setting forth varied opinions of leading politicians and voters show that the direct primary system was one of the leading public questions of this period. The purpose of the election of April 6 was to select Democratic nominees for offices in the general November election and was "therefore for Democrats and Democrats alone". A voter not complying with the requirements of the State Democratic Executive Committee had no right to participate, as the act of 1911 gave the State committee the right to fix requirements for participation in primary elections. Accordingly, the committee made provisions for a second primary in case no candidate received a majority of the votes.

Acting within its legal bounds, the committee ruled that voters who did not support the Democratic candidate in the general November election of

1912 could not enter the primary, and that violation of this rule constituted a felony, making one liable to both fine and imprisonment. This illustrated the power of the State Democratic Executive Committee in the primary system. University men went home to vote as there was no provision for absentee ballots. It had been many years since students showed an equal amount of interest in politics. This primary was "the most strenuous political campaign since the early nineties".

Another phase of the work of the State Democratic Executive Committee was that of canvassing the State primary vote. The report officially showed Comer's plurality in the gubernatorial race (in which most voters were cast) to be 11,590, 34 per cent of the total vote cast.

The provision for a double primary for one election bore the appearance of a corrupt maneuver on the part of the State Democratic Executive Committee to elect Henderson, a local optionist, over Comer. Prior to 1914, there had been no occasion for such acts as not more than two gubernatorial candidates had been in any primary since the system was provided for.

Comer stated that if he were elected governor there would be no more "double barreled" primaries in Alabama. The Advertiser accused him of fear of defeat and gave this as his reason for opposing the double primary system. Men of all ranks were predicting the outcome of the second race between Comer and Henderson, which was expected to be Alabama's hottest and fiercest campaign, an issue of which was the direct primary

2. Ibid, April 6, 1914.
3. Ibid, April 7, 1914.
4. Ibid, April 14, 1914.
The result of the second primary was a victory for Henderson who was a conservative and a prohibitionist. The legislature selected at this time, however, was favorable to Comer. A much lower vote in the second primary was reported, Henderson's majority being near 9,000.

Woodrow Wilson was pleased over the outcome of the first Alabama election. He had previously refrained from expressing himself regarding primary elections except in his own State.

General Bibb Graves, chairman of the State Democratic Executive Committee, made important recommendations, urging that, as the supreme duty of the hour, some action regarding legislation for punishing frauds in primary elections should be considered. Said he:

"We all want the man who uses money to corrupt primaries to go to the penitentiary, and the corruption that likewise offends to forfeit its character, but we might disagree as to making the candidate in whose behalf these things are done ineligible for office. We know that the date and plans for a primary should be settled long in advance of the opening of the campaign so they will be settled on their merits and not in the interest of some individual or faction. We do know that the primary ballot should be made a secret ballot which it now is not. We know that registration, like payment of poll taxes, should be completed and published months before election day."

The appointment by chairman Graves of a special commission of the State Democratic Executive Committee to make draft recommendations for revision of the State election laws was a step in the purification of the ballot. This was timely, one might suppose, from the statement on "good

3. Ibid, April 8, 1914.
4. Ibid, June 18, 1914.
authority" that thousands of illegal votes were cast in Jefferson County in the first State primary, and there were false election returns from various sections of the State after the second primary. An editor claimed that the expense of politics had more than kept pace with the increased expense of food and clothing, and called attention to the expense of the primary system.

Borden Burr, of Birmingham, chairman of the subcommittees of the State executive committee, outlined the new primary bill to members of the Senate and House committees on Elections and Privileges. It would substitute first and second choice voting for the double primary. It would also limit the amount which candidates could spend, namely: for governor, $10,000; for senator, $10,000; and for congress and other State offices, $2,500. The purpose of this was to enable a poor man to aspire to office of importance.

The bill also limited the time of registration to February 1; provided for a polling place for every five-hundred voters; provided for officers to challenge individuals whose names did not appear on the poll list; and abolished electioneering on election day, and distribution of anonymous cartoons and pamphlets. Because of the excessive expenditures in the gubernatorial election of 1914, the bill provided for limiting the expenses of candidates and requiring them to submit, five days before and ten days after the election, an itemized statement of contributions, dis-

2. Ibid, December 19, 1914.
bursements, and a list of contributors. The bill became a law in February, 1915, passing the House by a vote of 30 to 2, and the Senate with a vote of 18 to 0.

The attitude of newspaper men regarding one phase of the new law was expressed as follows:

"In its various attempts to regulate newspapers the Alabama legislature is making itself ridiculous. The Tuscaloosa News is not affected in any way; the rate for political advertisement comes above the rate the paper has been able to secure in the past and it has no cartoonist to portray the foibles of 'prominent persons'. Nevertheless, it looks with disfavor upon these efforts of politicians to muzzle the press and deprive it of its just rights."

Quoting the opinion of the Birmingham News, the Tuscaloosa News continued:

"It is not probable that any court would sustain such a measure. If the legislature continues to discuss such laws, the services of the cartoonist will not be needed to make these sacrosanct 'prominent persons' ridiculous."

Some of the criticisms of the Corrupt Practice Act were as follows: The candidate need not have special protection on election day as libelous attacks could be prosecuted at any time. The law did not protect candidates from slander at all times. Violence was done to the freedom of the press, and the law contained many absurdities such as requiring that published cartoons bear the name of newspaper publisher and owner.

Defending the measure, Senator Brown explained that the bill would aid newspapermen, enabling candidates to secure advertising at lower

2. Department of Archives and History, State of Alabama. By letter from Director.
The corrupt practice act decreased the cartoons in campaigns, and
gave protection to the "sacred" politician from solicitational subscrip-
tions and "anything else that costs". The candidate was placed by the
legislature in the same class as "the mocking bird, the bull bat, and the
toutit".

The act stipulated that candidates in State, district, and county
elections must file their formal declarations within five days after their
announcement, as well as name one to five persons selected to handle funds
for the purpose of nominating or electing candidates, accompanied by the
acceptance of such persons acting as the committees. Failure to do so
constituted a corrupt practice, punished by barring a candidate's name
from the ballot.

Various interpretations of the new law were given, and its effect
was defined as "problematical"; but it was generally agreed that it would
be a "powerful influence". Many thought it would completely revolution-
ize Alabama's election system. Some candidates in the spring election of
1916 felt that it would be the means of their election, while others thought
that it would be their undoing.

In his race for probate Judge of Tuscaloosa County, Mr. Pelham
Brown voiced his approval of drastic efforts to prevent corrupt practices
in political elections, citing the affair in Terre Haute, Indiana, where
the mayor and other officials were put in stripes for this offense, and men-
tioned the increasing sentiment in Alabama regarding questionable actions
in campaigns and offices as a "healthy sign".

2. Ibid, August 24, 1915.
3. Ibid, August 17, 1915.
4. Ibid, July 8, 1915.
The new Alabama election laws abolished the old Board of Registrars, giving the work to one person, and setting the date for registration between November 15 and January 5, 1916, and each two years after, rather than opening registration books before each election. The latter did not make possible an authentic list of qualified voters. The law also provided for those who would be eligible to qualify before the next period. Any person denied the right of registration could appeal to the courts.

Although this disqualified many negroes, there were cases in Alabama where negroes obtained registration. Section fourteen requiring the publication by the probate judge of a list of qualified voters was thought to be an aid to candidates as well as voters. It was provided that on the second Monday in February, yearly, the registrar would hold a meeting at the county seat to work over the registration list considering alterations due to deaths and changes of address. Thus each party's representative was enabled to present names of those who, in his opinion, were entitled to vote. No exceptions were allowed, and the abuses arising from allowing those to vote whose names were not on the lists were eliminated.

Under the new election laws, the Tuscaloosa election of September 20, 1915, was noted as the "quietest municipal election in the history of the City". There were no seamy workers aiding the voters at the polls, no gaily bedecked automobiles carrying voters to and from the polls, and no solicitation of votes by excited candidates. Adding to the unusual, a large number of circulars containing the new law, as well as penalties for the violation thereof, appeared on the streets early on election morning.

Noticably missing, were buttonhole campaigners, card distributors, and outside ticket markers. The light vote of 660, about half of the city's voting strength, was attributed to the strict enforcement of the new election law prohibiting transportation of voters by candidates. Balloting was said to be free from many objectionable features, and the election was cleaner. Several city elections in Alabama were conducted under the new law for the first time in September.

In 1916 came the first real test of the new election laws in state-wide elections. The complete primary ticket arranged by State chairman, Bibb Graves, was said to be one of the longest ever voted in the State, and Tuscaloosa County's was the longest of all.

Finding misunderstanding among the voters as to the rules regulating the primary, Graves issued instructions regarding party and legal qualifications of voters; voting, second choice being optional; secrecy of ballot; and punishment for the violation of the laws. Voters were also instructed as to the following provisions for inspectors, counting of ballots, (the single short ballot was not counted), and corrupt practices in soliciting votes on election day. As provided by law, the county election committee, consisting of the probate judge, sheriff, and county clerk, appointed primary officers, managers, clerks, and returning officers.

An incident illustrating the exactness of the new primary law was the legal status of W.B. Oliver, unopposed candidate for congressman.

2. Ibid, March 1, 1916.
3. Ibid, March 5, 1916.
of the sixth district, who failed to file his expense account within the required time. The legal loophole preventing his ineligibility was that the probate judge must strike disqualified voters' names from the lists. No clause of the statutes stated that failure to do so barred a candidate. As Oliver was unopposed, any voter could write his name on the ballot. Mr. Oliver's expense account of eighty cents and that of Frank B. Embry, candidate for national convention delegate, for two cents, suggest that primary candidacies were not always expensive.

The primary of May 9 was the first in Alabama providing for first and second choice voting since the passage of the new law. Many voters had an erroneous belief that the second choice vote was compulsory. The pleading of one candidate for city clerk, asking for second choice votes from those who would not vote first choice for him, indicated the significance of this phase of the election. Politicians were said to be watching this race with interest, feeling that it would give some indication as to the importance of the second choice vote. In Bibb County the results were singular. Judge Pratt had six first choice votes over Judge Nicholson, whose second choice votes gave him a lead of six over Judge Pratt. It was no wonder that Pratt was said to have contemplated a contest, claiming fraud.

This primary was described as the quietest held in Tuscaloosa for years, due to the fact that candidates were prohibited from canvassing.

5. Ibid., May 16, 1916.
on election day. However, candidates and voters agreed almost unanimously that the new law was wiping out many of the disagreeable features.

The new system, as well as the length of the ticket, was responsible for slow election returns. The Advertiser described the ballot as being "as long as the grand duke's leg". It expressed preference for the short ballot. Because of the length of the ballot, the Tuscaloosa Democratic Committee was two days canvassing the votes.

After the May primary, discussions of the new law subsided, and did not appear until November when an editorial came out setting forth the good features of the new registration law. The Advertiser stated that governors, senators, and congressmen should be nominated by primaries; but that this system for nominating minor State officials was absurd and costly, and that this method of electing higher court officials was "dangerous". Commenting upon this article, the Mobile Register asked:

"Is the party for the people or the people for the party? . . . . The Advertiser laments the disappearance of party discipline and would bring back the convention system to restore it. . . . . Regulation of political affairs has not been tried . . . Better, a party made up of not happily chosen particles or of whoever gets the most votes, than one where the master hand rules, connives, and bargains away the interest of the people. The primary is a step forward in popular government, is capable of improvement, and will be improved. What is the matter with requiring a man who votes in the primary to support the nominee at the election . . . the boss is done for . . . he will not come back."

The Advertiser replied:

"The Register has tried the Advertiser on the wrong in-

dictment, it has not declared for the abolition of the primary, it is for it, but realizes that the primary has not fulfilled expectations. The Advertiser was pointing out the good that an old fashioned Democratic convention would do to the Democrats of Florida and Alabama. In Alabama we have not had one in four years. We can have a primary and a convention - at least a 'rally of Democrats'. The Register proves itself a delight when it solemnly assures us that the boss 'is done for' and that he will not 'come back'.

"The boss will not come back because he has never gone away. He is as potential as ever in Alabama and other States, sometimes being made more respectable by friends referring to him as a 'leader'."

The Florida primary law, which was Alabama's model, was discussed by Mr. C.A. Stevens of Jasper, Florida, who advocated repeal. His reasons were explained by these examples: first, in races of four or five, possibly neither first nor second choice votes would count; second, to a certain extent, being required to vote first and second choice for men in the same group where two or more groups occur, one could be deprived of the election franchise. He favored simplification of the primary so that any voter might express his real choice, and stated that the plurality primary was only an excuse for majority rule, for it prevented expression of popular choice, was "cumbersome, inefficient, irritating, and unjust".

Preceding the primary of August, 1916, election laws again became a leading topic of discussion. A Montgomery Advertiser editorial on the "crazy quilt" character of election and primary laws of Alabama revealed the official opinion given by Attorney General Loyd Tate, that it was a violation of the corrupt practice act for any State or county

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1. Tuscaloosa News, November 28, 1916 (From the Montgomery Advertiser)
committee to levy an assessment against candidates unless made by the
general primary law and alleged corrupt practice act, the origin of which
"was a conglomeration of theories lifted from wild legislatures of a
half dozen States". In addition Tate states, "... Nothing wrong for
a party committee to assess candidates, rather than have taxpayers pay
for the expense of a primary". He mentioned a contradiction in sec-
tion six of the law where the committee was authorized, apparently, to
charge a fee for qualifying candidates but section two said directly,
"no candidate shall be assessed a fee by a committee or other governing
body of a political body ... ". Tate also stated that the same
Alabama faction in the previous legislature was dominated by the State
Executive Committee, and that these election laws were drawn up by
gentlemen outside the legislature favorable to Comer, to punish voters
for not electing Comer in 1914.

The Advertiser objected to the election law because it did not
like the second choice vote, and because it objected to the prohibition
of the registration of new voters before two years. The effects of the
law had been: to cut down voting strength; to limit the rights of the
white man's electorate; and to give the political bosses a better chance
to handle the votes.

The corrupt practice act again came into prominence before the
1918 election when a voter sought information on the legality of an ad-
vertisement bracketed: "Paid political advertisement authorized by Kilby
Car and Foundry Company". He asked, "Is it not a violation of the cor-

1. Montgomery Advertiser, June 30, 1918.
2. Ibid.
rupt practice act for a corporation to contribute in any wise to the cam-

paign of a candidate for governor? Kilby give your opinion of this and

state the law."

Investigation showed that out of sixteen exchanges coming into
the Tuscaloosa News office in two days, eight carried the bracketed line. The News stated that this was a clear violation of the law.

The penalty for the agent of the corporation responsible was $500.00 fine for each violation or a sentence to hard labor or imprisonment for not more than six months.

The Advertiser, speaking of the Tuscaloosa News charge

against Kilby of violating the corrupt practice act, insisted that can-
didates inform themselves of the provisions of the act, else they would be lucky to keep out of jail.

Mr. Kilby hastened to explain that the Kilby Car and Foundry Company was a close corporation, and that advertisements were merely sent out from that office previous to opening State campaign headquar-
ters, his office associates only acting as his agents, and that the ex-
penses were charged to his personal account. He said that no individ-
ual, unless previously mentioned, had contributed to his campaign ex-

penses.

The News, in reply to Kilby said:

". . . The most conspicuous part of Mr. Kilby's 'explanation' is a vailed plea of guilty. His ignorance of the law proves that he is not the proper person to be Governor of Alabama. . . . Mr. Kilby should know that the law of Alabama makes no exception between open and close ones. . . . 'A corrupt practice for any person

1. Montgomery Advertiser, June 30, 1918.
4. Montgomery Advertiser, (Taken from Tuscaloosa News of June 30, 1918.)
5. Tuscaloosa News, July 1, 1918.
direct or indirect, or through any other person for business corporations, incorporated, or doing business in this commonwealth, or any officer or agent, acting in behalf of such, to directly or indirectly give, pay, expend, contribute, or promise to pay any money or other valuable things . . . '. This law was passed when Kilby presided over the Senate. He shows amazing ignorance in its construction."

The fall election revived interest in the question of second choice votes. In the gubernatorial race, the first choice votes were thought to be close; but the News thought that Brandon would be the "big beneficiary" of the second choice votes and would be winner, as no 2 candidate was expected to secure a majority vote.

There was much speculation before the election as to the defects and merits of the second choice vote. Defining Democracy as the rule of the majority, the Tuscaloosa News thought the majority and not the plurality, should be the "foundation stone of Democracy in Alabama", and advocated this as the only "safe and sane doctrine". The assertion was made that second choice voting should either be abolished or made compulsory, and that the old rule of the majority vote was annoying as it made for multiplicity of elections, which was objectionable. It was suggested that candidates agree that the one receiving the highest vote should be made the unanimous nominee. An argument against the compromise suggestion that second choice voting be made compulsory was that it might be unfair to those voting for principles. The plan requiring no more to nominate than to elect was most favored.

Borden Burr stated that "opponents of the present law who were

seeking a sign from the State Democratic Executive Committee were shown a vision, the interpretation of which is plain and easy". He, as chairman of the subcommittee, was scheduled to draw up a bill amending the primary laws of 1915. This bill would be recommended to the legislature July 8, and would provide for strengthening the corrupt practice act and readopting the second choice vote in the primaries. The second choice vote would probably not be changed as the legislature and the majority of the State committee were thought to be in accord on the subject.

Former Governor O'Neal frankly expressed his opinion on this matter and claimed that it did not give the majority rule which he thought was the foundation of Democracy. He thought there should be a runoff in the second primary, in case no candidate had a majority vote. Mr. Burr explained that the double primary did not necessarily constitute a majority rule because the voters generally did not support the second primary, thus increasing the element of chance and decreasing the probability of arriving at the real "will of the party". Some felt that there was a timely need for revision of the primary laws as a split faction might have a decided advantage in the 1920 election. It was thought that many first choice voters for Underwood, would give Weakley or Musgrove second choice, which showed the possibility of a candidate's first choice votes being defeated by an opponent's first and second choice votes.

The beginning of 1919 found several organizations sponsoring an absentee voters' bill which would allow any person who might be absent to obtain a ballot from the probate judge of his county; vote his convictions,

swearing to the fact before one entitled to administer oaths; and forward it to the probate judge who would give it, unopened, to election officers of the precinct on election day. This bill would require an amendment to the constitution before it could be passed by the legislature. The Alabama Travelers, railroad men, and both incoming and outgoing governors, Henderson and Kilby, felt that it was only fair to traveling people of Alabama. The measure, called the House Bill Number 54, by Arnold and Jefferson, made provision for qualified electors who were out of the State to vote in preliminary elections. The bill, however, was postponed until the twelfth legislative day, with Mr. Arnold's consent, after Mr. Tunstall, a leader in the house affairs, recommended giving the bill a more careful consideration, as this measure justified approval from all members.

The bill passed during the 1919 session of the legislature, and was prominent among the measures approved, being referred to as being of "more than passing interest".

A proclamation by Governor Kilby set forth a special election for a proposed amendment to the State constitution providing for poll tax exemptions for those in military or naval service for a minimum of four months between January, 1917, and November, 1918. Those being honorably discharged were exempted, when they filed affidavits to this effect, until September 30, 1925. The time of exemption was later extended to October 1, 1925. Certificates were issued by probate judges to the registrars

3. Ibid, September 26, 1919.
4. Ibid, November 17, 1919.
who placed the names of those exempted on the registered voters' list.  

1. The vote for this amendment was very light.

The period of 1914-19 showed a forward movement in the direction of an improved primary system as shown by the general interest aroused, and by the passage of acts which increased popular government and safeguarded the rights of voters. Heretofore the Democratic party had controlled the primary as it had the convention. The 1915 law made primaries optional with political parties, and provided for second choice voting. Whether this last was a part of the "movement forward" remained to be seen.

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CHAPTER III

PRIMARY REGULATION BY THE STATE DEMOCRATIC

EXECUTIVE COMMITTEE SINCE 1919

Although legislation during the period 1915-19 decreased the power of the State Democratic Executive Committee, it has remained a most potent factor in the primary election system, retaining the power to fix qualifications of party candidates and voters and to hear and try cases of contested nominations.

According to a ruling made by W.D. Nesbitt, chairman of the State Democratic Executive Committee, negro voters were barred from the Alabama Democratic Party Primary of May 11. Supporting this ruling, he quoted the following resolution which was adopted by the committee in Birmingham, June 30, 1920:

"That whereas there are a large number of citizens in Alabama who will be qualified for the first time to participate in the coming primary election, many of whom but recently offered their lives in the service of their country, and that whereas the Democratic party of Alabama wished to invite within its folds all of these new voters and many others who may become qualified before the date of holding a primary election, therefore we hereby extend an invitation to all qualified white voters in the State of Alabama, and those who may become qualified by that time, who believe in the principles of the Democratic party, and who will support the nominee in said primary."

This ruling did not bar the negro from the general November 2 election.

A unanimous resolution adopted by the Republican National Committee directed Chairman Hays to notify all State organizations to

judges, whether by Order or convention, was before the committee.

The question as to the method of selecting applicate court

comity

Committee

Gandhian in the August 6, 1920, and to establish Women members to

for

take of some detennine's, due to copyright protection. The committee was regarded later because of Rall-

thn Democratic Executive Committee was provided for the state. The

committee being approved by Chittaranjan Reddy to provide for the

for women members of the committee and equal numbers of men and women were made, and motion was begun to provide

tillion from Indian women and that the state committee be composed of

the General Member Encryption. the state committee and support to the party's nomination in

state Democratic Committee for the first time provided for Women's voice

Following the reaffirmation of the franchise amendment, the

the necessities of the moment. For if we are to make a law that is necessary to the moment, we must make law according to the necessity

and make them less applicable to the moment. Only when there is a change in the law, will there be an
demonstrated quii or other substance.

a large entrance of necessity in which we were otherwise powerless.

it was the custom and practice to refuse the adjournment of necessity

abstract from local conventions as a means of securing national conventions where
J.T. Stakely, representing the American Bar Association, appeared before the committee to ask for a judiciary convention for the nomination of the higher judges of the State. The recommendation was made by a special committee appointed at the 1921 annual convention of the association in which it was unanimously approved.

James H. Webb of Mobile was elected chairman of the State Democratic Executive Committee by acclamation on the motion of Borden Burr. Webb succeeded W.D. Nesbitt, who resigned.

An important branch of the State Democratic Executive Committee was the subcommittee among whose tasks were the following: to officially canvass and announce State primary election returns; to name the date of the Alabama State Democratic Convention; to state the basis of representation; to make assessments for candidates' fees; to approve candidates' applications; to make lists of election officers from names suggested by candidates; and to make a consistent general effort to bring back into the party all voters temporarily in other parties.

It was thought likely that the Republicans would hold a primary, as they polled more than twenty per cent of the votes cast in the 1920 election. This would make it necessary for the bars to be put up, allowing only Democrats to vote in the primary for the Democratic ticket. The subcommittee met to plan for "party procedure" and cited the laws regarding the date and expense of primaries, date of closing entries, and eligibility. The party's attitude regarding "indiscriminate participation of all persons in primaries" was set forth.

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Chairman Webb appointed these committees: 1. To fix qualifications of voters and assessments of primary candidates; 2. To coordinate work between county, State and national Democratic committees. The following is a report of committee number one, as amended and adopted by the State committee:

"That a primary election for the said party be and the same is called to be held on August 8, the second Tuesday in August, 1922."

"That all white voters otherwise qualified under the laws of the State of Alabama to vote shall be permitted to participate in such primary, and provided further, that any voter who participates in such primary thereby obligates and binds himself or herself to support the nominees thereby elected.

"That all candidates for any of the offices or party places to be nominated in said primary shall qualify . . . and under oath declaring that he or she did not in the presidential election of 1920, support the presidential electors of any party other than the Democratic Party and a declaration that he or she will be bound by the result of such primary and will support the nominee thereof.

"Such candidates shall also comply with all other laws as provided in the Statutes of Alabama."

The following is an extract from the resolutions of the State Democratic Executive Committee of 1923, fixing qualifications of candidates in primary elections:

". . . . and under oath declaring that he or she did not in the presidential election of 1920 support the presidential electors of any party other than the Democratic Party and a declaration that he or she will be bound by the result of such primary and will support the nominee thereof."

These regulations were adopted by the State Democratic Committee governing the preferential presidential election of March 11, 1924:

"The following persons shall be entitled to vote in the said election, and none others, namely:

1. Regulations of the State Democratic Committee in 1922.
2. Regulations of the State Democratic Committee in 1923.
The execution of the 1868 ballot law candidates in the Demo-

The Republicans had no desire to see only the party of the ballot law candidates win. In Alabama, they were concerned with protecting the rights of the candidates, but they did not enter the Democratic party, but organized a party of their own - the Confederate party.

The General Assembly approved the 1868 ballot law candidates in 1868, but it was a law that would be allowed to stand. The ballot law candidates in the General Assembly were also candidates in the Democratic party in Alabama. The candidates were denied the protection of the general assembly.

The result of the 1868 ballot law candidates in the Democratic party was very disappointing for the candidates and the voters. The candidates were not allowed to vote in the 1868 election.

Democratic party in the primaries of August, 1868.

The candidates were not allowed to vote in the primaries of August, 1868.
Reading Albam papers. The execution of those people espoused.

The deputation of the committee was carried in a resolution at the ease.

The vote on the opinion resolution was 37-28 in favor of the ease.

The case was referred to the rapid growth of according in point.

If you know, you can then explain, some of the facts.

"If you want help the past cause be determined."

The campaign in favor of their good fortune.

The president of our local demonstration.

The need a real attack an Indian original position. The demonstration in action was not a real attack against the demonstration. Venado was not a real attack against the demonstration. Venado was not a real attack against the demonstration. Venado was not a real attack against the demonstration.

The need a new demonstration if you please make a report.

From the party does not make a report.

Facts demonstrated.

Of the 1860 vote, this being reported.

Have passed perfectly demonstrated, regardless of a subjective, demonstrated by authority, if true, ofрап, would.

Cause it was best for the party.

John D. McKeen of Texas, excepted the democracy more.

"For the record, the current of them."

Executive nomination, of the same, of a name.

In 1860, the president of the committee in a resolution, 1860, a resolution presented, in the case, in favor of the case.

No personal skill become a candidate for any state?

County member of the committee, from the state at large, was as follows:

November election. The resolution introduced by the floor, by means of morning.

Alabama to debate part of every degree, 1860. State in the 1860.
...
The question, as appeared on the printed ballots, was whether an amendment to add it to the resolution was adopted.

16,000 Democrats cast their votes for this amendment in accordance with instructions from their local party organization. The resolution was adopted.

The resolution stated that the party would take the case to the highest court of the land and appeal to the Supreme Court for a decision. The resolution was adopted by the committee on the recommendation of the Secretary of the State and the party's counsel, and made no reference to the position in the last election, because, they said, the party's nominee, and could quote the party's declaration of vote that the State was in the

In the party's declaration to return the same, the resolutions to restate your oath, as made at the part of the State, can you not be named, and the part of the party that you did not know of the question of the party, and the part of the party that you did not know of the party, and the part of the party that you did not know of the party, and the part of the party that you did not know of the party, and the part of the party that you did not know of the party.
from a decision of the Jefferson County Circuit Court which ruled not to interfere with the county committee's decision, was presented by Horace C. Wilkinson. Forney Johnson, of Birmingham, claimed that it was mandatory, according to Alabama's laws to establish separate qualifications for candidates for certain offices which would not be applicable to voters, citing judicial offices, and offices for which both sexes might be especially qualified, such as associate members of the National Democratic Committee. As "party loyalty" these qualifications could be enforced claiming that they were necessary "for maintenance of momentum of the party". Johnson stated, "Freedom of the party machinery must be maintained or the party system of government will be threatened". He answered Wilkinson's argument that the legislature, by the present election laws "had established qualifications for both voters and candidates which could not be added to or detracted from" by stating that the legislature's assumption of this power would be "a usurpation of an expressly defined executive committee function".

Harris referred to the committee's resolution as "arbitrary and capricious" and a violation of the bill of rights in that it deprived the rank and file of electors their "fundamental privilege of expressing their opinions in elections". This decision "usurps the power of the people and violates the state constitution which requires uniformity in election laws".

The decision of the Alabama Supreme Court was a refusal to interfere with the State Democratic Executive Committee's ruling regarding 1928 bolters barred as candidates. It did not discuss the right of the com-

mittee to set up different requirements for voters and candidates. The Jefferson County court of equity's decision in denying an injunction which would prevent the county's preparations for the primary was sustained. Wilkinson's statement which followed was:

"The opinion of a majority of the court impliedly recognizes the invalidity of the resolution and the illegality of the proposed primary.

They decline to decide that question because they declare a sentence of nullification cannot be pronounced in an injunction proceeding. They claim we must institute a proceeding at law instead of a proceeding in equity.

The dissenting vote of Justice Thomas is a crushing indictment of the illegality of the resolution and the proposed primary. All legal remedies will be invoked to annul the action of the committee.

"The fight was just begun."1

The decision, written by Justice Brown, was 4 to 1, Thomas dissenting.

Heflin, in a Senate speech, said:

"There is 'more talk' in the State now of 'crooked and corrupt doings' in connection with the action of some of the '27' members of the State committee, than I have ever heard in connection with the action of 'all the other State committees' in the whole history of the Democratic party in Alabama.

The Alabama State committee is the only one east of the Mississippi River that heard and heed the voice of Tammany. . . . All other State committees in the United States, with the single exception of Texas, have provided a fair-for-all Democratic primary for all Democrats regardless of whom they supported in 1928. . . . The New York Times admits that the 27 members of the State Democratic Committee in what they did were seeking to retire me from the Senate. . . . There are two statements regarding the meeting of the Alabama committee at Montgomery which, in due time, may be exceedingly interesting to the Democrats of the State. The thing

1. Tuscaloosa News, April 18, 1930.
2. Ibid, April 17, 1930.
the '27' did at Montgomery is pleasing to the Roman-Tammany organization in New York, and The Crisis, the leading negro paper in the Nation says that the northern negroes are 'delighted'.

Heflin in Washington after discussing the case in the Senate, said that he was leaving for Alabama to appeal to "the rank and file of the party" confident of success. He blamed Eascalb, Chairman of the National Democratic Executive Committee, for the State committee's resolution; and with others began an attempt to seize the party reins by plans to put out a full slate in a primary.

A call to a "Jeffersonian" mass meeting in Birmingham, July 4, contained a declaration beginning: "To the white Democrats of Alabama". The following resolutions gave the reason for this meeting:

"... Whereas, the majority of the State committee in calling the primary election has, in plain violation of the primary election law, attempted to prescribe political qualifications for candidates different from political qualifications of voters and has unlawfully arrogated to itself the right to arbitrarily say who shall be candidates in the primary, instead of allowing the Democrats to vote for the candidates of their choice, and . . . .

"Whereas the other members of the Supreme Court have not questioned the conclusions of Mr. Justice Thomas as to the illegality of the primary called by the majority of the committee, but simply held that a court of equity was without jurisdiction to pass upon the question of illegality, and . . . .

"Whereas the majority of the State Executive Committee, under the leadership of the wet newpapers of Alabama, who are encouraging in every way defiance of the prohibition laws of the State and Nation, as well as contempt of our courts. . . .

"Whereas, they are by their acts guilty of usurpation, oppression, and tyranny and have by reason thereof forfeited their right to longer exercise the authority and

2. Tuscaloosa News, April 19, 1930.
in answer to a Distantfan's statement, she had the state committee with

Dameko, Powell, Defeforean, and found the legislature and government.

Party

Some were opposed to any action that would cause a longer split in the
plains said that if it did not approve of the base, and

And none of the approved of the base committee's recommendation.

State Miller was the only experienced candidate to oppose

necessary

cratic party in Alabama, and in the distant committee there is the
same and proper for the full and complete recommendation of the house.

State and proper for the full and complete report of the committee.

Distantfan's committee of counties established for the recommendation of the counties for the election and for the election. And committee of counties established for the election and

The meeting of the full and complete recommendation of the committee for the election and

The action of the recommendation was "done with the I. 1973".

To define those in power responsible for the state committee's 1977 bill

of the recommendation was not to form a new party, but was to make an effort

At the meeting of July Congress, it was stated that the purpose

and

power was concerned on their own of the democratic of Alabama.
depriving more than 100,000 of the rights of voters and candidates, usur-
pation of authority, autocracy and following the wet press of Alabama.

Hugh Locke, in a speech at Tuscaloosa referred to Tuscaloosa
County's two State committee members as "little yes men for Ed and Cy", and said the county committee was also composed of men who gave parrot-
like approval to the State bolter ruling, extending it to the county

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primary by a vote of 22 to 2.

In Jefferson County the candidates were required to sign a
pledge of party loyalty due to the fact that the majority of the Jeffer-
son County Committee drew up a resolution condemning the State committee's

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restriction. In all counties the barring of county candidates was left
to the county executive committees.

Disputes arose over the authority of the state committee to fix
all voting qualifications and require a pledge to support party nominees.
It was expected that many Jeffersonians would avoid the county primaries

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rather than risk having an illegal ticket in the general election.

Whether 75,000 Alabama bolters would vote in the primary, was attracting
national as well as State attention, and not in thirty years had the situa-

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tion been so complex.

Judge Miller, Hugh D. Merrill, and other State nominees were
present at the State committee meeting at which John H. Bankhead, Democra-
tic nominee for the United States Senate, spoke on party loyalty and obli-
gations assumed by entrance into the primary.

1. Tuscaloosa News, August 8, 1930.
5. Ibid, August 11, 1930.
6. Ibid, August 26, 1930.
"If there is no obligation to support all the nominees of a primary, why hold a primary? If a voter is not bound because he did not vote for any candidate for any particular office or did not vote for the candidate nominated, we would be confronted with the anomalous situation of every voter—Democrat, Republican and Socialist, having the moral right to vote in the primary of every political party at the same time. In the absence of qualifications for candidates each party would select the same nominees. Thus government by political parties would end, and chaos would reign supreme. . . . "1

This meeting was said to have created greater interest than any in thirty-six years, 1930 being the first time since 1894 that Democratic nominees had met serious opposition in Alabama. Exemplary of harmony within the State Democratic ranks was the fact that defeated primary candidates were working for their successful opponents. Senator Black in Washington formally urged Alabama Democrats to vote for the Democratic primary candidates, and former governor W.W. Brandon, in a Democratic rally at Centerville, pleaded with bolters to come back to the party.

Miller, in his first radio campaign address, said, "... A duty is imposed and a contract made by each voter in the primary to abide by the result and to support and vote for the nominees in the general election".

Speaking in a rally sponsored by the Jefferson County Democratic Club, Lieutenant-Governor W.C. Davis was one of the several speakers claiming that the only issue facing Alabama voters was that of "the fundamental principle of American democracy as laid down by Thomas Jefferson,

1. Speech by Hon. John H. Bankhead, before the State Committee, August 26, 1930.
2. Birmingham News, August 26, 1930.
5. Ibid, September 15, 1930.
rule by will of the majority\textsuperscript{3}. Reviewing the position of the executive committee, he held that Heflin did not question the power of that body to decide primary regulations for candidates and voters until the majority's decision was contrary to his.

"Any man who refuses to abide by the decision of the legally elected executive committee of his party, bolts the party", stated Ralph Quinn, reviewing political party rule. The "Editorial of the Day" column quoted Judge Miller's view on "the binding nature of the pledge" given by voters entering the August primary; "... that they are guilty of plain political perjury when they falsify their vows", mentioning Demsey M. Powell, Jeffersonian candidate for lieutenant-governor, who, as a qualified candidate for national convention delegate, was bound by oath to abide by the decision of the convention.

The department of justice ordered the United States district attorney, Grady Reynolds, and the federal post office inspector in Washington, to investigate the charges that a fictitiously signed letter warning against misuse of absentee ballots had been circulated in the State. The State Democratic Executive Committee claimed this was an attempt of the bolters to prevent legal voters from casting absentee ballots. The Jeffersonians not only denied knowledge of this situation, but accused State Democratic headquarters of plans to violate the corrupt practice act, by providing for illegal transportation of voters. These charges were based on the statement, ... "check voting lists ... that Democrats who have not voted be called and sent to the polls".

\textsuperscript{1} Birmingham News, September 12, 1930.
\textsuperscript{2} Tuscaloosa News, September 19, 1930.
\textsuperscript{3} Birmingham News, November 1, 1930.
A leading issue of the campaign was the right of party discipline. The executive committee of the Democratic party, by a majority vote said that any beneficiary, or would be beneficiary, could hold, have, and enjoy any radical view or take any action he desired, but would not be permitted to retain a position of leadership with their approval and without their opposition. The Jeffersonians, if successful, would have attempted to select a new State committee.

Alabama, however, with much of the vote counted, was ratifying the judgment of the Democratic State organization that Heflin, who bolted in 1928, should not return to the Senate.

The Democratic victory of November fourth was a vindication of the State committee's action in December 1929, the Chief issue maintained throughout by Democratic campaigners in spite of the Independent and Republican attempts to make the issue prohibition, Catholicism, white supremacy, representation in the State legislature, and Tammany. The question of majority rule for Alabamians, both in their government and in the conduct of the affairs of the Democratic party, was the fundamental issue of the campaign. Only by supporting the Democratic ticket could voters of Alabama signify their faith in the Democratic principle of rule by the majority.

The Sixth District (W.B. Oliver's) "crowed loudest and longest for the Democratic rooster", going Democratic by the greatest proportional majority in the State; also, being the only congressional district in the State to vote unanimously for the "bolter barrier" ruling through its five

State executive committee.

Resolutions favoring a return to the double primary as the "best assurance of majority rule" and inviting a Senate investigation of the November 4 election in Alabama, were forwarded to Nye, chairman of the Senate Investigation Committee, after a meeting of the new and old State Democratic Executive Committees. The probe was made on a request to clear the State's name which was attacked by Heflinites. Federal investigators were sent to the State to delve into expenditures and charges of manipulation.

Heflin's notice of contest gave only general charges regarding irregularities in voting, counting, absentee ballots, coercion, bribery, and intimidation. Russell Kent, writing from Washington, said, "Senator Nye, himself, stated that there were no reports of 'excessive expenditures' and no indications of irregularities which would have affected the election results". Kent thought that Nye's statement that conditions in Alabama looked very bad, was rather "premature".

In resolutions adopted by the new State Democratic Committee, composed of eighteen of the twenty-seven who voted to bar bolters, at the organized meeting, Heflin was asked to "cease dealing in unfounded generalities and to specify in detail the matters and things on which he bases his charges". This, with the provision for representation at the hearing at any cost was adopted "unanimously".

Pettus reported having forwarded to Nye information regarding an accounting of all funds received and expended by the Democratic party in

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the November election. Information was open to the committee. A committee was named to represent the State committee at any hearing regarding the contest.

The signing of the double primary bill by the governor was an event worthy of celebration, for it marked the triumph of democracy in that it reinstated the rule of the majority. The bill provided for placing the following pledge on the primary ballots:

"By casting this ballot I do pledge myself to abide by the result of this primary election and to aid and support all of the nominees thereof in the ensuing general election."

By this law the State Democratic Executive Committee was given power to prescribe different qualifications for candidates and voters, and given complete control over the primary and related subjects.

CHAPTER IV
THE RETURN TO THE DOUBLE PRIMARY

The double primary election system prior to 1915 was replaced at that time by the plurality system of first and second choice votes, which received criticism from the beginning. One fault being that, by theory of the law, the candidate receiving the greatest number of both first and second choice votes would be the choice of a majority of electors, while, in fact, the law was a plurality plan, for second choice votes were not compulsory and only added confusion. Under this system one candidate was elected to high office with one-third of the first choice votes. Bibb Graves' nomination was due to a plurality. Voters were denied majority rule, a fundamental principle of democracy.

By 1927 influential politicians began an agitation culminating in the Goodwyn-Rogers bill which provided for abolishing specifically the second choice voting system and restoring the double primary in subdivisions larger than a county where no candidate received a majority vote. The two highest were to enter a primary four weeks later, the results of which would be posted five days after the second primary. Otherwise the 1915 law would remain unchanged unless it conflicted with the proposed measure.

The bill passed the House with little difficulty, and there was apparently no opposition when it was referred to the Senate Judiciary Committee by Lieutenant-Governor Davis; but a few days later there was

2. Ibid, March 29, 1931.
3. Ibid, June 8, 1927.
an organized effort to forestall passage which resulted in a majority vote to recommit it to the Privileges and Elections Committee which opposed the bill. Yet this recommitment was not generally thought to indicate that the bill would fail in the Senate. The convening of this committee in order to hold a public hearing on the bill, was referred to as "perhaps the most important committee meeting of that legislature". Friends of the measure were certain that favorable public sentiment had been aroused sufficient to change the attitude of many who had voted to recommit the bill.

Dr. Jones, chairman of the Executive Committee of Coosa County, informed the committee that nine-tenths of the Democrats in his county favored a return to the double primary. He said that a well organized Republican minority could control unless the defective second choice voting was changed, and that he lost his vote for governor under this system.

Judge Hugh Locke, opposing the bill, asked Dr. Jones if the Democrats did not have the same trouble with the Republicans under the double primary system, to which Dr. Jones replied that their only trouble then was negroes.

The bill was listed as foremost of five important measures to be determined by the legislature at that time. Senator Travis Williams opened the fight for the bill by moving to have it taken from the adverse calendar, eighteen votes being necessary. The measure was defeated by a motion from Ellis to table Teasley's motion. He intended to recommit the bill to the friendly Senate Judiciary Committee, a move to equalize the fight, as a

2. Ibid, July 20, 1927.
3. Ibid, July 30, 1927.
It was the then men's method of debating a question of Mr. Rutter's that it was the custom seat of the opposite party. The importance of the JUBO block was made of as the stress of the party.

The same question of adopting the second chance, private.

Lever the following address after the debate of the bill.

Senator Milliken de.

The failure of this appeal was based on the state of the bill. Admitted and opposed of the bill have exhausted, and beyond enough consent of the bill.

The committee had failed.

Senator speaking before the Senate, that before the Senate, and the House.

The House of more than two hours, the opposition

A motion of the Senate had been necessary to take the bill from the
minority vote, and cited the case of Massey Wilson and Alex Garber, who
polled only 42.2 per cent as many votes in the second as the first pri-
mary.

In his first campaign address Senator Watt T. Brown advocated
retention of the single primary. He, as McCall, felt that the double pri-
mary would bar the candidate having moderate means; that it would intensify
party divisions, and would mean election by a minority because only a com-
paratively small percentage of the voters would participate. It would af-
ford a means for selfish interests to elect their candidates, being easy
for "interests" to get this second primary vote in their behalf. Farmers
and laborers could not spare the time required by this system which was
not urged by the masses.

Finnell held the view that the last legislature should have
passed the bill, but the 1926 campaign would be conducted by the single
primary, and he considered other measures more important at that time.
If elected, he would neither champion or vote the bill in the legislature.
Personally he was not interested.

David, Brown and Finnell differed sharply on the primary ques-
tion. Addressing a crowd in Decatur, Davis expressed the opinion that
the single primary was inconsistent with the Democratic theory of govern-
ment; and that substitution of majority for minority rule was the most im-
portant issue of the campaign, as majority rule was the essence of democ-
archy and was older than the party. If elected governor, he stated that
in one of his first messages he would recommend that the present primary

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law be substituted by the double primary, and promised that he would use
his utmost efforts to accomplish this.

Referring to this promise, Miller stated that Davis's public
record showed that he voted to enact the single primary bill of 1915, and
that he had power as lieutenant-governor to cast a vote which would have
placed a double primary bill on its way to passage; yet he voted to keep
the bill in the unfavorable committee which killed it. Miller claimed
to be the only candidate who emphasized reform against minority rule, say-
ing that this system which gave tyrannical and reckless minorities power
was responsible for our economic misfortunes. He accused his opponents,
with the exception of Davis, of being in favor of a continuation of minor-
ity rule. The double primary law, he felt, would prevent control by an
organized minority, as was fostered by the Ku Klux Klan.

Reflin and Locke were opposed to a majority rule in party regu-
lation and government, while Democratic primary nominees were pledged to
restore it in both. Majority rule was the fundamental issue of the 1930
campaign which the voters could obtain by supporting the Democratic ticket.

At a meeting of the old and new members of the State Democratic
Executive Committee, resolutions favoring a return to the double primary
"as the best assurance of majority rule", were adopted. The present com-
mittee gave chairman E.W. Pettus authority to name a subcommittee to frame
an election law which would embody the double primary system.

In keeping with his party pledge, Miller early recommended adop-

2. Ibid, August 10, 1930.
3. Montgomery Advertiser, June 8, 1930.
The House, having recessed from its session on Monday, Dec. 8, 1891, by a vote of 81 to 6, and by a vote of 80 by which the bill was passed by the Senate as amended, sent to the Governor for a message, which he received and disregarded, and the bill was read for the third time, reported from the Committee on Prerogatives and Expenditures, which adopted the amendments, and

Governor Miller, having addressed the Legislative Chambers at the time, said:

The lower house, having heard through theعلامیه of the double primary system after a careful check by John Peck,
Every state primary ballot should bear the following pledge of loyalty:

"By casting this ballot I do pledge myself to abide by the result of this primary election and to aid and support all of the nominees in the ensuing general election."

It prohibited "single shotting" and made provision for numbering contested places in the races for Supreme Court, Appellate Court, and Circuit Court judgeships.

The State Democratic Executive Committee was given the express right to prescribe different qualifications for candidates than for voters, writing into law the Supreme Court decision on an appeal filled by Independents in 1930. In addition this committee had undisputed power to regulate primaries and all related affairs.

Political parties polling twenty per cent of the total vote cast were authorized to hold their own primaries.

The law provided for a shifting of names on ballots rather than the former alphabetical order. The probate judge of each county would have the ballots so printed that the names of the opposing candidates for any office would when practical, alternate. This meant that where there were three candidates for an office, one-third would contain the name of each candidate in first place, the aim being to give each candidate an equal chance. Political observers had stated that it was worth twenty-five thousand votes to an Alabama candidate to have his name appear first on the ballot.

The lapse from the majority rule, a fundamental principle of the

No statute act must have been Governor Miller as much pleased as

Voices

showed that the second choice vote was only ten per cent of the total
the closest registered. In 1862 the returns for the leading state offices
of Congress revealed numerous votes and the number to the minor races
second choice votes, the positions of Governor, United States Senator, and members
of Congress, were in a particular race, exceeded the number of second
and where the importance of the position contested for, rather than the name
the second choice vote for the particular position was at least two per
the same year

second choice was thirty-three per cent, the highest percentage of second choice

The average of second choice votes cast in the various state races

Date of each Party of the Total Votes

nominate.* The address of second choice votes in the cases gave the candida-
In every other race the candidates polled the highest number of votes was
ever bent, as the casting of second choice votes affected the final result.
large in the second congressional district in 1890 when Zorn was elected
- in one of these races, that of Con-

During this period these were extreme party elections in the

above, your for the election of State officers, and four for the election

public. The people, no matter what party they belong to, or whatever

public. The people, no matter what party they belong to, or whatever
signing the double primary bill, for he had advocated it for years. It was one of his principal aims in running for governor, and, as governor, was his first recommendation. Probably no act of his was more satisfactory for Alabama Democrats, whose sentiment regarding this measure was expressed by an overwhelming vote in the House in 1927.

The return to the majority rule meant that the collective wisdom of the State would be exercised in the selection of officials, who administer public affairs. The Democratic party believes this to be essential to government by the people.

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CONCLUSION

The significance of the direct primary varies in different States. Probably half the States, including Alabama, are one party States where the primary is of the greatest importance in deciding the election. In Alabama, since the election of 1874, when Houston was elected governor and the carpet-bag rule was overthrown, a Democratic nomination for governor has meant an election. In cases such as this, the direct primary of the popular party brings out a large vote. In Alabama a party must poll twenty per cent of the vote in order to be allowed to hold a primary.

The primary system is of special advantage to women voters as the number of women represented in conventions is negligible compared with the number in primaries. Alert women political leaders are supporting the primary systems and laws.

To a certain extent, the primary system has encouraged independence in politics throughout Alabama, and has weakened the power of "political machines" and bosses by creating a party responsibility for nominations.

It has helped break down the party system, and made party discipline and leadership harder to maintain, giving rise to personal organizations controlled by candidates. An example of this was Heflin's "Jeffersonians". Insincerity in politics has been increased by candidates for

5. Ibid, p.75.
6. Ibid, pp. 75, 121.
primary nomination attacking each other's private and public records, caus-
ing bitterness within the party ranks.

The primary system is based on the theory that the masses will cooperate, intelligently and wisely, with little organization and practi-
cially no leadership. Many thoughtful people, observing the universal
adoption of the direct primary system, are finding it expedient to ask if
the idea has been taken farther than its merits justify.

The primary system in Alabama has indirectly excluded the negro
from politics by prescribing that only white qualified electors may vote.

Senator Nye advocates a perfection of the primary system rather
than a return to the convention system. He states, "The convention system
offered itself to those possessing great political power as a means of the
destruction of the will and wish of the people". Nye believes that the
primary was "a logical development of the fundamental principles of self
government".

Being chairman of the Senate Campaign Expenditures Committee, he
had observed "at close range, the enormous amounts of money" expended to
obtain senatorial nominations, but he was convinced that the evils growing
out of such political expenditures are much less today than they would be
if we had the old convention system. He advocates a more strict corrupt
practice act.

After eighteen years' experience, Al Smith has turned from the
primary to the convention system. He has given up the theory that the

2. Ibid, p.75.
The law presently in force provides for a minimum payment of $7,000 to $9,000, the difference
between nominal and secondary taxes, for the expenses of the government for the current
year. In 1866, the expenses of the government were $60,000. Perhaps, under present condi-
tions, it might be possible to reduce these expenses by further reform in taxation. That
is another topic for discussion.

Many people are in favor of a tax system that ensures equal distribution of wealth and
income. However, there are also those who argue that a progressive tax system, where the
more wealthy pay a higher percentage of their income, is more effective in reducing
inequality.

For all its flaws, there are arguments for keeping the current system in place. However,
many believe that a more equitable tax system should be adopted to ensure a fairer distri-
bution of wealth among all citizens.
expenditures, except for mail, advertising and personal travel, between elections of a double primary, gives a poor candidate a better chance to oppose a wealthy one.

From a study of the history of the Alabama primary system, we may conclude that the present primary is the result of a natural evolution in Alabama politics. Behind each change or reform in the past, has been the pressure of public opinion, and even the staunchest political leaders have found that they must bend to the will of the majority.

General dissatisfaction with election systems before the year 1900, led to the first State wide primary in 1902. A generally felt need for improvement produced, in 1915, the first and second choice vote. Growing opposition to this type of election during the period from 1919 to 1930 culminated in a return to the double primary with strict enforcement of the various election laws which would bring the candidates more under public control.

Alabama voters have ever been quick to respond to any infringements on their rights as citizens to exert their will in governmental affairs. Past experiences show that it is through the primary election system that a voter may most forcibly present his opinions, and that it is the primary election system which gives the voter the greatest satisfaction, as he feels that it gives him an active voice in the affairs of State.

BIBLIOGRAPHY

Periodicals:

Birmingham Age-Herald, November 5, 1930; April 14, 1951; April 21, 1951;

Birmingham Age, June 8, 1927; July 16, 1927; July 20, 1927; July 29, 1927; August 1, 1927; August 5, 1927; August 9, 1927.

Montgomery Advertiser, March 30, 1902; April 1, 1902; January 16, 1911; January 18, 1911; May 10, 1914; May 11, 1914; July 5, 1915; May 6, 1916; May 7, 1916; May 10, 1916; May 11, 1916; November 25, 1916; December 29, 1916; June 30, 1918; July 50, 1922; November 14; 1929; November 22, 1929; December 16, 1929; December 17, 1929; December 22, 1929; April 17, 1930; May 21, 1930; June 8, 1950; June 18, 1950.


Pickens County Herald, September 13, 1930.

Tuscaloosa Times Gazette, September 1, 1910; September 2, 1910; September 12, 1910; October 10, 1910; May 20, 1910.

Tuscaloosa News, April 5, 1914; April 6, 1914; April 7, 1914; April 8, 1914; April 10, 1914; April 14, 1914; April 21, 1914; May 12, 1914; June 15, 1914; June 21, 1914; December 19, 1914; January 7, 1915; January 29, 1915; February 3, 1915; February 10, 1915; June 25, 1915; July 8, 1915; August 17, 1915; August 26, 1915; September 20, 1915; September 21, 1915; November 29, 1915; November 30, 1915; March 1, 1916; March 5, 1916; April 20, 1916; April 21, 1916; April 30, 1916; May 9, 1916; May 13, 1916; May 16, 1916; November 2, 1916; November 28, 1916; June 25, 1918; July 1, 1918; September 20, 1918; June 2, 1919; September 28, 1919; November 17, 1919; December 29, 1919; January 11, 1920; March 29, 1920; June 3, 1920; January 5, 1922; January 12, 1922; January 13, 1922; January 16, 1922; February 9, 1922; April 21, 1922; April 28, 1922; June 4, 1922; August 12, 1922; February 23, 1930; February 29, 1930; March 19, 1930; April 18, 1930; April 19, 1930; July 7, 1930; August 9, 1930; September 19, 1930; November 7, 1930; November 28, 1930; January 27, 1931; January 31, 1931; February 12, 1931.
Books, Bulletins and Pamphlets:

**Acts of Alabama, 1915.**

**Alabama General Laws,** regular sessions of 1915 and 1931.

**Alabama Official and Statistical Register,** 1915, 1931.

Bankhead, John H., Speech given before State Executive Committee, August 26, 1950.


**Code of Alabama,** 1907.

**Constitution of State of Alabama,** 1901.

Heflin, Thomas, Speech in United States Senate, April 22, 1950.


**Regulations of the State Democratic Committee,** 1922, 1923, 1924, 1926.

Personal Interviews:

E.W. Pettus, Chairman of State Democratic Executive Committee, Selma, Ala.

W.W. Brandon, Probate Judge, Tuscaloosa County.

John D. McQueen, Member of State Executive Committee, Tuscaloosa, Ala.

Richard C. Foster, Member of State Executive Committee, Tuscaloosa, Ala.

Baskin Wright, Assistant Professor, Political Science, University of Alabama.

James C. Brown, Former State Senator from Tuscaloosa County, Tuscaloosa, Ala.

D.D. Patton, Former Chairman of Pickens County Executive Committee.

Bruce Shelton, Editor, Tuscaloosa News.

Grover Hall, Editor, Montgomery Advertiser.