



Written by on September 1, 2008

## Delegate Dilemmas and Duties

So Byzantine has America's procedure for nominating presidential candidates become that Barack Obama arguably won his party's presumptive nomination this time around by mastering the intricacies of every state's process for selecting delegates, and then exploiting their strengths (and weaknesses) to his advantage. This in striking contrast to his rival Hillary Clinton who, despite her undeniable aptitude for high-stakes politics, was unable to grasp all the ramifications of state-by-state electoral arcana.



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The modern nominating process for delegates to the two major party conventions, who in turn choose the Republican and Democratic presidential candidates, is impossible to comprehend in its entirety. At last reckoning, fewer than one-third of all states now elect delegates who are completely "unbound," that is, who may vote at the convention for whomever they please, irrespective of the sentiments of the majority of primary voters in their state. Several small-population states, like Alaska, Nevada, and Montana, as well as a few large ones, like both New York and Pennsylvania, elect delegates who are technically unbound. However, the great majority of states now require their candidates to be either completely bound by primary results or, more commonly, to be bound technically for a stipulated number of ballots at the convention.

In practice, however, even delegates from "unbound" environments may find themselves squeezed out of the nominating process by the local party machine, as Ron Paul delegates recently found out when the Nevada Republican Convention was adjourned by party leadership to forestall "Paulites" from taking control of the nominating process. Moreover, as masses of Democrats have only recently learned, the states only partly control their party's nominating process; "superdelegates," whose purpose is to ensure continued insider control over presidential nominees (in case the party base should ever contemplate a serious revolt), play a deciding role in the nominating process, and are quite capable of overriding the will of the voters and state delegations alike.

### Parties and Principles

Because of the stakes and the manufactured political drama surrounding the bipartisan nomination process, it is easy to forget, as many Americans apparently have, that our so-called "two-party system," with all its flummery, complexity, and tawdry drama, has absolutely nothing to do with constitutional government per se. Indeed, in the opinion of many (though not all) of America's Founders, political parties and the spirit that animated them were dangerous to liberty.

Warning of "the baneful effects of the spirit of party generally," George Washington, in his "Farewell Address," believed political parties to be one of the greatest dangers to popular government:

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension ... is itself a frightful despotism. But this leads at length to a more formal and



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permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual, and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.... [Political partisanship] serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foment occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passion.

In spite of such concerns, the so-called “two-party system” that has come to characterize the American political landscape took shape during the first half of the 19th century, with the Whigs and Democrats competing for supremacy. The former gave way to the Republicans just before the outbreak of the Civil War, and control of the White House has oscillated between candidates from these two parties ever since, the occasional Ross Perot or Ralph Nader notwithstanding.

More striking, however, has been the transformation of what was once a fairly subdued nominating and electing process into the three-ring display of democratic excess — the modern primaries and national conventions — that we see today.

Following the presidency of George Washington, American presidential candidates were nominated by informal gatherings of congressmen known as presidential nominating caucuses. In 1831, however, the Anti-Masonic Party held in Boston the first-ever convention to determine a single presidential candidate. The National Republican Party (no relation to the modern Republican Party) and the Democratic Party quickly did the same, and the nomination-by-convention system was born.

The selection of presidential candidates in the party convention system was originally designed only to simplify the candidate selection process, not to render presidential elections more democratic. Not until the onset of the so-called “Progressive movement” of the late 19th century, with its push for more democratic government, did a few states, mostly in the West, begin to adopt primary elections as a means of selecting delegates to national conventions.

Well into the 20th century, delegates to Republican and Democratic national conventions often enjoyed considerable autonomy, since many states still held neither caucuses nor primaries that could “bind” delegates as is so frequently the case today. Horse-trading and shady deals in proverbial smoke-filled rooms certainly occurred, but until a few decades ago, the nomination of presidential candidates was still detached from the whims of the popular majority.

All of that changed in 1968, the year of the chaotic Democratic National Convention in Chicago, when violent demonstrators fought pitched battles with Chicago police to show their disapproval of the undemocratic nominating process. In the wake of 1968, the Democratic Party opted to adopt the primary election with delegates bound by majority vote as its preferred method of selecting a presidential nominee, and the Republican Party followed suit four years later.

As a consequence, the problem of controlling the selection of presidential candidates has shifted from the convention floor to the court of public opinion. The outcomes of national party conventions before the 1960s were far from foregone conclusions, with independent-minded delegates shifting loyalties or refusing to bow to pressure from party bosses — circumstances often difficult for America’s would-be kingmakers to control. As late as 1964, a still comparatively free nominating process pushed



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conservative Barry Goldwater to the fore at the Republican National Convention, in spite of bitter opposition by self-styled “moderate” Republicans led by the likes of Henry Cabot Lodge, Jr. and Nelson Rockefeller. Goldwater delegates literally took control of the convention and pushed Rockefeller aside. Although Goldwater lost the general election to Lyndon Johnson, his elevation to the Republican nomination was a reminder of what can happen when convention delegates are given more or less free rein to vote their consciences.

The direct (and no doubt intentional) outcome of the modern primary system is the disappearance of outspoken, principled candidates, and their replacement with bland, fickle politicians, devoid of discernible convictions, whose platforms have come to resemble each other even across party lines. This is because, as the primary election process has become more “democratic,” so too has been the requirement that a candidate, in order to be successful, be all things to as broad a segment of the electorate as possible.

Where a Ron Paul might have had an impact in a convention full of fed-up, independent-minded delegates a couple of generations ago (as not only Goldwater but also Senator Robert Taft managed to do), candidates like Dr. Paul who run principled campaigns in our day inevitably run afoul of the electoral reality of the mushy middle. Manipulation of public opinion in the era of modern media has proven a simple task, in comparison with manipulating a roomful of informed, decisive presidential delegates; the majority of the electorate need only be persuaded to vote for a candidate who “can win” across a broad spectrum of the popular vote, and the deal is done.

### **Delegate Duties**

Although today’s presidential nomination system is rigged to produce candidates unencumbered by allegiances to minority causes like limited government under the U.S. Constitution, it remains the moral obligation of unbound delegates to vote for a candidate who will uphold his constitutional oath of office. Delegates bound by state rules to vote for the majoritarian candidate ought, if reason and principle are to prevail, to decline to vote for a candidate with no allegiance to the Constitution. In practice, this would mean refusing to serve as a delegate anywhere that party loyalty, rather than constitutional principle, is held paramount.

One area where delegates, both pledged and unpledged, can have a huge impact is in the formulation of national party platforms. Although in practice, presidential candidates (and presidents) often ignore them, platforms can be a powerful tool to raise awareness of important issues among the voting public and to provide a standard by which informed constituents may hold elected officials’ proverbial feet to the fire. Since federal elected officials, including the president and vice-president, owe their highest allegiance to the U.S. Constitution, no plank espousing an unconstitutional government program has any place in a proper party platform.

The hard truth is that the modern American presidential nominating system is held hostage by interests who want the president to be a controlled asset. Because primary elections based on majority popular vote all but guarantee the elevation of pure political chameleons rather than principled statesmen to the White House, expending undue energy or hope in electing a constitutionalist president of either major party is almost certain to end in disappointment and disillusionment. The game is rigged, and the power players hold all the chips.

Fortunately, not every election is tainted. The election of representatives to the House, by and large, was and is — unlike the election of a president — intended by the framers of the Constitution to be



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dependent on the popular will. Because such elections are local, and their outcomes can be changed by narrow constituencies, genuine constitutionalists and principled conservatives, like the aforementioned Ron Paul and others, can and do still get elected to the House. It is therefore with the House of Representatives and not with the White House that the battle to restore principled constitutional leadership in Washington must begin.

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