

RESOLVED, Political parties should nominate candidates for the presidency through a national primary

PRO: Michael Nelson

CON: Andrew E. Busch

Americans celebrate that the United States has had the same constitution for nearly its entire history: more than two centuries and counting. No other democracy in the world can make the same claim. But constitutional stability does not mean the nation has undergone no fundamental institutional changes. Indeed, some American institutions have been characterized by almost perpetual change. Nowhere is this truer than with elections—specifically, the ways in which political parties nominate presidential candidates.

The framers were smart men, but they did not foresee the rise of political parties. They anticipated that the Electoral College would both nominate and select presidential candidates. Yet almost as soon as the Constitution went into effect, it became clear that this system would not work. Groups with common interests and values must be able to come together and agree on a candidate. If they are unable to do so, their votes will be spread among too many candidates, and they will lose the election to those groups that agree to direct all their votes toward a single candidate.

The first nominating process centered in Congress. Each party's members of Congress got together and decided who would be their party's nominee.

But almost as soon as the congressional caucus system emerged, it began to attract criticism. That criticism intensified when the Federalist Party went into decline, leaving the Jeffersonian Republicans as the only national party. Nomination became equivalent to election. Critics complained that “King Caucus” was undemocratic, because it was conducted by just a few individuals behind closed doors. Moreover, they argued that legislators had no business nominating presidential candidates.

In 1824 the congressional caucus system fell apart. Dissatisfaction with the caucus’s choice, Secretary of the Treasury William H. Crawford, propelled state legislatures to nominate their own favorite-son candidates, including John Quincy Adams of Massachusetts, Henry Clay of Kentucky, and Andrew Jackson of Tennessee—all Democratic-Republicans. The result was a fractured general election in which the winner of the popular vote—Jackson—failed to receive a majority of the electoral vote and the election was sent to the House of Representatives. Clay then threw his support to Adams, and Adams prevailed on the first ballot. Three days later, Adams chose Clay to be his secretary of state, igniting charges that the new president had made a “corrupt bargain” with Clay. The outrage was aimed not only at Adams and Clay but also at the nominating system that had made the election of Adams possible.

The congressional caucus system was soon replaced by national nominating conventions. In 1831 and 1832, the National Republicans (soon to become the Whigs) and the Democrats followed the lead of the Anti-Masons in holding national nominating conventions made up of delegates from every state. Although more inclusive than the congressional caucus system, the conventions were made up of delegates selected by the state parties, not by popular vote. The conventions were often long, contentious affairs, especially those in the Democratic Party, which required its presidential nominee to receive at least a two-thirds vote of the delegates (this requirement remained in place until 1936). In 1924 the Democrats met for eighteen days and endured 103 ballots before nominating John W. Davis, who was promptly thrashed in the general election by the Republican nominee, Calvin Coolidge.

In the early twentieth century, the national convention system came under attack for being undemocratic and corrupt. Reform was in the air again—this time in the call for presidential primaries that would enable voters to have a direct say in selecting the parties’ nominees. In the 1912 election, twelve states, including California, Illinois, Massachusetts, New Jersey, Ohio, and Pennsylvania, held primaries. Former president Theodore Roosevelt’s challenge of President William Howard Taft for the Republican nomination

generated intense excitement. In virtually every primary state, Roosevelt defeated Taft, including Taft's home state of Ohio. Although Taft won the nomination anyway, because his allies controlled the convention, his victory was an empty one. In the general election, Taft received only 23 percent of the popular vote and 1.5 percent of the electoral vote. He finished a distant third behind the winner, Democrat Woodrow Wilson, and Roosevelt, who ran at the head of the Progressive Party.

Unlike the 1824 election, the 1912 election did not transform the way presidential elections were conducted. Despite calls by prominent national figures, including President Wilson, for a national primary, the parties decided to retain the national nominating convention. Primaries were still held, but as late as the 1960s they remained a subordinate part of the nominating process. A primary occasionally played an important role in demonstrating a candidate's strength—in 1948, for example, Thomas E. Dewey's victory over Harold E. Stassen in the Oregon primary helped to secure Dewey the Republican nomination. Still, winning primaries was no guarantee of victory. In 1952, for example, Adlai E. Stevenson II did not enter a single primary, and yet he secured the Democratic Party's nomination anyway, besting Estes Kefauver, who had received two-thirds of the votes cast in Democratic primaries.

Not until 1972 did primaries become the linchpin of the nominating process. As primary voters displaced party officials in selecting the parties' presidential nominees, the national convention ceased to be the theater in which the nominating process played itself out. This transformation led to yet more change. After the triumph of the largely unknown Democratic nominee, former governor Jimmy Carter, in 1976, and his defeat by another former governor, Republican Ronald Reagan, in 1980, Democrats changed their rules to ensure that around one-seventh of convention delegates (dubbed "superdelegates") would be state governors and members of Congress and the Democratic National Committee.

A more consequential change has been that states, jockeying for advantage in the selection process, have advanced the dates of their primaries and caucuses to earlier in the election year, creating the "front-loading" that Michael Nelson and Andrew E. Busch discuss. Both Nelson and Busch agree that front-loading is a problem. They disagree, however, about what should be done about it. Nelson favors a national primary; Busch opposes such a plan. It is difficult to say whether a national primary is in the nation's future, but one thing is certain: the nominating process will continue to change, sometimes dramatically and often unexpectedly.

PRO: Michael Nelson

How about this for an idea? Because we Americans have to elect a president every fourth November, let's choose the Democratic and Republican nominees eight or nine months earlier, in February or March, when most voters aren't paying much attention. Let's start the process in two small, rural, nearly all-white states—Iowa and New Hampshire would be perfect—and give them the power to weed out all but a few candidates from each party. Then, before we've had a chance to learn much about even these few, let's get as many other states into the game as we can in the next several weeks. And because there's no real way to keep score in such an accelerated and far-flung contest, let's trust the news media to decide who's winning, who's losing, and who isn't even worth paying attention to. Then, after we know who the nominees are, let's sit back and relax for half a year—until September, when the final campaign begins. If during that time we learn things about one or both major-party candidates that make us want to change our minds and nominate someone else, let's stick with them anyway.

Bad idea, right? Considering the stakes—the choice of the two finalists for the most powerful job in the world—no one ever would adopt such an approach if given the choice. And, the truth is, no one ever did. The current system for nominating presidential candidates is one that the United States stumbled into.

It happened like this. In the early 1970s, both parties decided that every state's delegates to the presidential nominating conventions should be chosen through a process in which the rank-and-file members of each party can participate. In practice, that meant choosing the delegates through either primaries or caucuses. (In a primary, one votes by secret ballot; in a caucus, one attends a meeting and votes openly.) New Hampshire, which began holding the first primary of the election year in 1952, when primaries were unimportant, then found itself in the privileged position of holding the first primary when primaries were very important. Iowa quickly jumped to the head of a different line, becoming the earliest caucus state and voting even before New Hampshire.

Both states have reaped the harvest of going first ever since. Nearly all the candidates campaign endlessly in Iowa and New Hampshire, promising their voters the moon (or in cornfield-laden Iowa's case, ethanol subsidies) and infusing their economies with huge doses of campaign spending. The news media also camp out for months in Iowa and New Hampshire and, depending on how scholars do the counting, devote between one-fourth and three-fourths of their coverage of the entire nominating process to these two small

states.¹ A candidate who does not win Iowa or New Hampshire has hardly any chance of being nominated, and candidates who do not finish in the top three are finished, regardless of how popular they may be elsewhere in the country.

Iowa and New Hampshire deserve credit for quickly figuring out what most other states realized only slowly: the earlier a state votes, the more influence it has in the nominating process and the more benefits it derives.² For a time, California and New Jersey held their primaries in June, at the very end of the process, thinking that going last would make them the decisive states. Instead, it usually made them irrelevant, because the winners were determined weeks or even months before. Eventually, succumbing to “New Hampshire envy,”³ nearly every state advanced its primary or caucus to as close to the start of the year as possible, a process called “front-loading.” In the 1976 election, the second held under the reformed nominating system, only 10 percent of delegates were chosen by March 2. In the 2008 election, 70 percent were.⁴ Rules tinkering by the GOP slowed the process down a little in 2012, but even so a majority of delegates were selected by the middle of March.

Faced with the current mess, some thoughtful observers have wanted to try to undo the reforms of the early 1970s and revive the nominating process that existed during most of the nineteenth and twentieth centuries. “Under the old system,” wrote *Washington Post* columnist David Broder, “running for president involved taking a few months off from your public office in the election year to present your credentials largely to political peers—other officeholders, party leaders, leaders of allied interest groups—and then persuade them that you were best qualified to carry the party banner.” As it happened, argued political scientist Jeane Kirkpatrick, the qualities those “political peers” were looking for were the very qualities that made for good presidents: “the ability to deal with diverse groups, ability to work out compromises and develop consensus, and the ability to impress people who have watched a candidate over many years.”⁵

All this may sound good, but, unfortunately, nostalgia more than history marks these and similar accounts of the prereform system. Writing in the late nineteenth century, James Bryce noted in his classic book *The American Commonwealth* that party professionals indeed had a talent for choosing electable candidates. But he also felt compelled to explain “Why Great Men Are Not Chosen President” in terms of that very talent: “It must be remembered that the merits of a President are one thing and those of a candidate another thing. . . . It will be a misfortune to the party, as well as to the country, if the candidate elected should prove a bad President. But it is a greater misfortune to the party that it should be beaten in the impending election, for the evil of losing national patronage will have come four years sooner.”⁶

The indifference of party professionals to nominating good presidents extended to an occasional inability to weed out dangerous ones. Of the presidents beginning with William Howard Taft who were analyzed by James David Barber in his 1972 study *The Presidential Character*, four of the eleven who were nominated under the old rules (Woodrow Wilson, Herbert C. Hoover, Lyndon B. Johnson, and Richard Nixon) fell into the category of “active-negatives”—that is, persons who tended to turn political crises into personal crises and “persevere in a disastrous policy.” Only three of the eleven—Franklin D. Roosevelt, Harry S. Truman, and John F. Kennedy—qualified as “active-positives,” or leaders with “personal strengths specially attuned to the presidency.” The other four presidents were mediocre—or in Barber’s terminology, “passive”—presidents.⁷ So much for the party professionals’ much-vaunted talent for peer review.

Even the party pros’ ability to choose electable candidates may have been overstated. Bryce wrote at a time of unusually close electoral competition. But in the twentieth century, twelve of the eighteen presidential elections held before the reforms of the early 1970s took effect were landslides in which the loser won less than half as many electoral votes as the winner. At least one set of party pros in each of these elections must have poorly judged their candidate’s electability. In all, then, the good old days of the past were no better than the bad new days of the present, at least when it comes to nominating candidates for president.

Fortunately, Americans are not bound by either the past or the present—they can shape the future. In designing a new presidential nominating process, two criteria should be foremost in our thinking: simplicity and clarity.

To be sure, complexity in a political system need not mean that it is undemocratic, just as simplicity and clarity alone do not guarantee a democratic process. For example, a lottery drawing would be a clear, simple—and awful—method for nominating a presidential candidate. The Constitution, by contrast, is a complex system of “separated institutions sharing powers,” in which citizens exercise limited authority, chiefly by voting in elections.⁸

In the design of the presidential nominating process, however, Americans are squarely in the center of that domain in which citizens get to exercise their limited authority, and that is where simplicity and clarity come in. As Henry Mayo argued in *Introduction to Democratic Theory*, “If [the] purpose of the election is to be carried out—to enable the voter to share in political power—the voter’s job must not be made difficult and confusing for him. It ought, on the contrary, to be made as simple as the electoral machinery can be devised to make it.”⁹ In other words, whenever the Constitution opens the door to citizens, walking through it should be a straightforward process.

Federalism, like complexity, is another vital constitutional principle that is irrelevant to the presidential nominating process. The states not only are constitutionally sovereign in their own domain but also are embedded in Congress, where the people are represented in both the House of Representatives and Senate according to where they live. Although the president, uniquely among elected officials, is meant to represent the entire country, federalism is even woven into the Electoral College, in which presidential candidates seek electoral votes state by state. Federalism does not need to be entrenched in the nominating process as well.

The best way to remedy the problems with the current nominating process and replace it with one that is clear and simple (as well as democratic and practical) is to create a national primary.

Here is how a national primary could work. Any candidate trying to get on the Republican or Democratic national primary ballot would have until June of the election year to round up valid signatures equal in number to 1 percent of the turnout in the most recent presidential election (around 1.3 million in 2016). Each party's rank-and-file supporters would be eligible to vote for their party's nominee. The primary itself would be held on the first Tuesday in August—that is, voters across the country would all go to the polls on the same day. If none of a party's candidates receives 50 percent of the vote, a runoff election between the top two candidates would be held three weeks later. The national party conventions would meet soon afterward to approve the vice-presidential candidates, write party rules, adopt their platforms, and hear the nominees' acceptance speeches.

Most of the specific elements of this proposal are subject to tinkering. Perhaps independent voters could be eligible to vote in the primary of their choice. The 1 percent requirement could be a little higher or lower, so long as it is high enough to screen out frivolous candidates but not so high as to screen out serious ones. A further variation could make the 1 percent rule mandatory in a minimum number of states as well as nationwide. The date of the primary could be a little earlier than August. Forty percent could be defined as sufficient for victory. The conventions could take a different form. Because none of these variations would alter the essential nature of the national primary, any or all of them would be fine.

The national primary is not a far-fetched idea. It has a distinguished pedigree: Both Theodore Roosevelt and Woodrow Wilson promoted it a century ago. Since then, through reforms of state election laws, direct primaries have become the way Americans nominate virtually every candidate for elective office in the country except president. Virtually every U.S. senator, member of the House of Representatives, and governor had to win a primary election to

become the nominee of his or her party. It is hard to imagine an idea riper for extension to the presidency or more thoroughly road-tested at the federal, state, and local levels than the national primary.

Apart from its intrinsic democratic virtues and its deep resonance in the American experience, what beneficial effects would flow from the adoption of a national primary? First and foremost, every vote would count equally. No longer would the ballots of a relatively few New Hampshireites, now so crucial in determining who can be president, count infinitely more than the votes of the millions of people in states whose primaries are held after the race is essentially over. As a consequence, voter turnout would rise substantially. In recent elections, the turnout rate in the New Hampshire primary has been double that in the rest of the country.¹⁰ Why the disparity? Because the people of New Hampshire know that their votes will directly affect the choice of the major-party nominees for president, and in most years the people of most other states know that their votes will not. If everyone is allowed to vote on the same day, everyone will feel the same connection between their vote and the outcome that New Hampshireites do now. Moving the date of the national primary to August, several months closer to the November election than is the current round of crucial primaries, would mean that people would be asked to vote when they are paying attention to the election, not before—another spur not just to higher turnout, but also to a more informed electorate.

An additional beneficial effect of the national primary is that it would reduce the scorekeeping role of the news media. The national primary is its own scoreboard. When the votes are counted on primary night, everyone can see who won. Public opinion polls would continue to measure how the candidates are doing before primary day, but journalists no longer would be called on to determine as well as to report on the status of the race—a role journalists themselves are uncomfortable performing.

Yet another benefit of the national primary would be a shift in the candidates' focus from the local issues that preoccupy Iowa and New Hampshire to the national issues that presidents must confront. Today, candidates for president have little incentive to address, for example, the concerns of racial minorities or the residents of big cities (neither of whom are found in Iowa and New Hampshire) and lots of incentive to defend agricultural subsidies in rural Iowa and the deductibility of property taxes in high-property-tax New Hampshire. If presidential candidates are forced to compete nationwide, then national—that is, presidential—issues will rise to the fore, as they should.

Finally, adopting the national primary would mean that the American people would have the presidential nominating process they want. Since the Gallup Poll began asking voters in 1952 what they think of the national

primary, they have endorsed it every time by margins ranging from two to one to six to one. Democrats, Republicans, and independents consistently support the idea, as do the people of every age, income, race, sex, region, religion, and educational level.¹¹ The national primary would not have to prove itself to voters, because its legitimacy has been preapproved.

The case for a national primary is strong, but what about the case against? One common objection is that only established political figures would have a chance of being nominated, because only they would be able to raise the vast amounts of money needed to wage a nationwide campaign. To the extent that this is true, would it be any different than the current system? After all, for more than a quarter century every major-party nominee for president has begun the election year as either the front-runner or a top-tier candidate.¹² But is this still true? As a freshman senator from Illinois, Barack Obama, showed in 2008, it is now possible for a political outsider to raise tremendous sums of money through the Internet, as long as he or she is saying things that strike a powerful chord with a great many people. Twitter, Facebook, YouTube, and cable news enabled a number of poorly funded Republicans to wage credible campaigns for their party's nomination in 2012.

Another objection is that by making Iowa and New Hampshire no more influential than their combined 1.4 percent of the nation's population warrants, a national primary would remove from the nominating process the kind of face-to-face scrutiny by voters (so-called retail politics) that presidential candidates must now undergo to compete successfully in those two states. That is a reasonable objection if one believes that Iowans and New Hampshireites are uniquely qualified to serve as the screening and selection committee for the rest of the country. There is good reason to doubt that they are, however, especially considering that these states do not represent the country in anything close to its variety and also that they have a record of imposing locally major but nationally minor policy litmus tests on candidates.

A final objection to the national primary is that it would undermine the political parties. This tired wheeze was raised by defenders of the old nominating process when the reforms of the 1970s mandated that delegates be chosen through state caucuses and primaries—in complete disregard of the fact that the strongest party organizations in the country (for example, the Daley machine in Chicago, the Crump machine in Memphis, and the Byrd machine in Virginia) happily coexisted with primary elections for decades. Since the 1970s, the two major parties, which had been in steep decline during the 1960s, have grown stronger in government, in the electorate, and as organizations.

In summary, the front-loaded Iowa and New Hampshire-centric presidential nominating process is broken. Either the federal government, through

simple legislation, or the two national parties, by requiring states to participate in the national primary or forfeit their say in the choice of the nominees, has the power to fix it.¹³ Other proposed remedies—regional primaries, for example, in which the states of each region would vote on a different first Tuesday between February and June—are inadequate. Whichever region got to go first would have the same distorting power in the choice of presidential nominees as Iowa and New Hampshire do now. The truth is that because more and more states are cramming their primaries into the same few early weeks of the election year, the country has already drifted into a kind of de facto national primary, but a lousy one. It is time to have a good one.

CON: Andrew E. Busch

The idea of a national primary election to choose presidential party nominees is almost as old as the primary itself. The 1912 Progressive Party platform demanded “nation-wide preferential primaries for candidates for the presidency.”¹ One year later, President Woodrow Wilson endorsed the idea in his first State of the Union message to Congress.²

Since then, the national primary has garnered considerable support, chiefly because of its appeal as a simpler form of democracy. It is clean, straightforward, and majoritarian—or so it would seem. In more recent years, some have also advocated a national primary as a means of combating the flaws in the modern “front-loaded” primary system—that is, one in which the state primaries and caucuses are disproportionately crammed together early in the primary season. In national opinion polls, at least two-thirds of Americans typically say they would prefer a national primary to the current system.

Yet despite its seductive appeal, the national primary is a bad idea. Upon closer examination, its supposed advantages prove to be largely illusory, and its disadvantages are serious indeed.

THE VIRTUE OF SIMPLICITY?

Much of the argument for a national primary lies in its alleged simplicity, but should simplicity be the driving motivation behind reform of the nominating system?

The genius of the American political system lies in its complexity. Separation of powers, checks and balances, bicameralism, and federalism all

represent a deliberate embrace of complexity, as does the very idea, outlined in *Federalist* No. 10, of a large republic filled with contending and balancing “factions.” When it comes to presidential selection, the Electoral College was adopted by the framers, and is defended today by its supporters, precisely because its complexity allows for a tempered democracy and a balance between large and small states. It is, as such, emblematic of the “Compound Republic” extolled by James Madison in *Federalist* No. 39, a republic whose complicated structure does not fit neatly into the category of a unitary national government or of a confederation of states but does succeed in meeting the needs of a diverse nation.

America’s previous experiments with simplicity in presidential nominations have not turned out well. By far the most straightforward system for party nomination was the congressional caucus, in which congressional members of each party met to select their presidential nominee. From 1800 to 1824, the congressional caucus was a model of simplicity, but that benefit was rapidly outweighed by various defects, including insufficient representation of party voters in the caucus and the potential for a breakdown in separation of powers brought on by Congress’s involvement in selecting presidential nominees. In 1824 the system collapsed amid the conflicts among political factions that shattered its simple frame.

The congressional caucus was quickly replaced by the national convention system, a nominating mechanism that relied on local and state party meetings to supply, through a circuitous route, delegates to the convention. It was highly decentralized, depending on the actions and calculations of dozens of local party leaders and hundreds of delegates. This complex system served the nation well for the better part of a century before progressive reformers inadvertently added even more complexity by superimposing primaries in some states on top of the traditional convention system. The convention system and the “mixed” system that supplanted it were both more complicated than the congressional caucus system and more democratic. Thus there is no evidence that simplicity is inherently better.

Just as the congressional caucus threatened separation of powers, the national primary threatens to undermine central features of the complex and balanced American political system. It would weaken federalism by reducing the importance of states in the selection process, reduce deliberation within the nominating process, and strengthen the presidency by adding power to the president’s claim of possessing an unmediated popular mandate. Moreover, the national primary can prevail only if the public is persuaded that simplicity is preferable to subtlety—a success that could have the side effect of lowering Americans’ resistance to other reforms that

seek to dismantle other, more central manifestations of the complex American system (such as the Electoral College). As French political observer Alexis de Tocqueville argued long ago in *Democracy in America*, the seeking of simplicity and uniformity often drives a political centralization that, over time, can unbalance and degrade America's polity and even threaten its liberty.

NOT AS SIMPLE AS IT SEEMS

In addition to the symbolic damage it might do to federalism, the notion of limited presidential power, and popular respect for the nuances of the American system, a national primary would probably not deliver on its promise to simplify American democracy. Instead, in the name of simplicity, the nation would just trade one set of complexities for another—and it is hardly obvious that the trade would be a good one.

For example, there is a potential conflict between the simplicity of the plan and its democratic nature. Nomination races often feature more than two candidates, and so the winners of early primaries frequently finish with less than 50 percent of the primary votes. In a national primary, should a plurality (more votes than those won by any of the opponents) be enough for a candidate to be declared a victor? Or must the winner win an outright majority (more than half of the votes)? A plurality rule diminishes the democratic element of the plan, making it possible for an extreme candidate who has intense but narrow support to win the nomination in a multicandidate field. But a runoff between the top two candidates, which would guarantee that someone wins a majority, would introduce a second election, thereby diminishing the plan's simplicity. Experience has also shown that runoff elections almost invariably draw fewer voters—often many fewer—sometimes bringing into question the validity of the results.³

To avoid the problems inherent in multicandidate fields, some students of the electoral process have suggested introducing novel and complicated forms of voting, such as approval voting or cumulative voting. In such schemes, voters would vote for all the candidates they find acceptable, indicate their preferred ordering of all candidates, or allocate multiple votes in whatever proportions they wish. None of these experimental voting methods has ever been tried on a national scale in the United States, and they are certainly not simple.

There is also the question of whether the “national primary” would really be a single, unified national election or whether it would consist of fifty-one separate primaries held on the same day. Most national primary proposals follow the first course, but in the latter case there would still be delegates and a

convention. And there would be little opportunity, as there is now, for a multicandidate field to “shake out,” increasing the likelihood that a convention would be split and deadlocked among numerous contenders and dominated by unseemly deal making. Although many political scientists and news correspondents might welcome the return of the brokered convention, it is not clear who in the modern era of fractured parties would have the power to broker it. More to the point, however interesting the spectacle might prove, it is the last thing that supporters of the national primary have in mind.

FRONT-LOADING REDUX

Proponents of a national primary have recently argued that such a reform is needed because of the increased front-loading of the primary process since the 1980s. However, the nation’s experience with front-loading actually supplies some of the strongest arguments against the national primary.

Front-loading is a phenomenon that has been driven predominantly by the independent decisions of a large number of states to move their primary elections forward in the primary calendar. “Meaningful” primaries—primaries whose results could actually have an impact on the outcome of the nomination race—were once spread out over three months or more. By contrast, in 2004 the meaningful primary season began in Iowa on January 19 and ended on March 7, only six weeks later; the decisive portion of the 2008 Republican nominating contest lasted from January 3 through February 5, a period of only five weeks.

The front-loading of presidential primaries has been almost universally decried, including by the officials who pushed their states’ primaries up. Critics have focused on four central shortcomings of the front-loaded system.⁴ First, it is clear that front-loading has enhanced the importance of the so-called invisible primary—that is, the jockeying among candidates and the preparatory work that takes place in the year or more before the real primaries begin. In 2008, only one candidate in either party who won even one primary had raised less than \$37 million by January 1. In 2012, Republican Mitt Romney had raised \$56.3 million by January 1; Rick Santorum, having raised a mere \$2 million before the primaries started, won a handful of contests but did not have the resources to capitalize. Altogether, in most years, political insiders have regained most of the advantage that they allegedly had before the Democratic Party undertook reforms in 1970 that sought to open up and democratize the nominating process.

Second, because the meaningful primary season often ends so soon after it begins, voters have fewer opportunities for second thoughts or careful deliberation.

In the aftermath of the 2004 general election, some Democrats argued that the front-loaded system that sped John Kerry's nomination failed to allow sufficient examination of Kerry's strengths and weaknesses as a nominee.⁵ Likewise, John McCain's 2008 victory in all but name by February 5 left Republican voters little opportunity for rethinking their choice.

Third, as the state primaries begin to come fast and furious, candidates no longer have time for the "retail" (face-to-face) politicking they cultivated in small states like Iowa and New Hampshire. Instead, they engage in a wholesale "tarmac campaign" in which they flit from one big-city airport to another, while relying mostly on expensive and superficial television ads to reach mass audiences.

Finally, once one candidate has amassed enough convention delegate votes to capture the nomination (or to drive serious opponents from the field), all later presidential primaries are rendered moot. Thus roughly half of the states often have no meaningful participation in the presidential nominating process, and the contests in those states, compared with those held earlier, see a marked decline in voter turnout. If the later primaries do not matter, why vote?

So, why not adopt a national primary to address these problems?

The first and lesser answer is that it has become apparent since 2008 that front-loading and short contests are not inevitable and can be addressed by means short of the radical reform represented by a national primary. The extended 2008 Democratic nomination contest, in which Barack Obama fought Hillary Rodham Clinton tooth and nail for five months before prevailing in early June, and the 2012 GOP contest, which Mitt Romney did not nail down until late April, demonstrated that the current system is capable of breaking out of some of the problems associated with front-loading. The Republican race in 2012 lasted longer than usual partly because of a modest back-loading of primaries deliberately engineered by the party.

More to the point, the national primary would actually worsen all but one of the problems associated with front-loading. The irrelevance of later primaries would end, because everyone would vote at once. Modest Iowa and tiny New Hampshire could not start a stampede toward a candidate, and no state would be left out of the decision. In every other respect, a national primary—no matter how it is arranged—is sure to drastically worsen the problems that most analysts associate with front-loading. Indeed, the national primary would represent, in essence, front-loading taken to its extreme.

If there is a high entry fee for the invisible primary now, that fee will only go up in a national primary. As the stakes of primary day rise, the price of playing will rise too. To participate in a one-day national election, candidates will have to run national campaigns from the beginning. They will have to raise more money—all of it up front. And candidates will not be able to take advantage of

an early surprise win in a small state to raise more money via the Internet, as John McCain did in the 2000 Republican primaries. The higher campaign costs will discourage some potential candidates from running, and more of those who do enter the race will withdraw before the primary voters have a chance to render a verdict. Long-shot candidates will have even less chance of overtaking the leader than they do in the current system. If there is a runoff provision, fundraising will become even more important, because candidates who advance will have to finance not one but two hugely expensive national primary campaigns.

If there is too little retail politicking in the front-loaded system after Iowa and New Hampshire, there would be virtually *no* retail politicking in a national primary system. The entire race would revolve around a costly and impersonal mass media effort, with little chance for the candidates to come face-to-face with the voters. No state would vote after the nominees have been selected, but many states and regions would be ignored in the rush of wholesale politics. Many issues of local significance that now receive at least some attention may be shunted to the side entirely.

Finally, if voters in today's front-loaded system often have little opportunity to change their minds or to gather and reflect on new information produced in earlier primaries, a national primary decided by a plurality vote would allow for no second thoughts at all. A national primary with a runoff would be a bit better, but the second thoughts would be limited to the top two candidates.

In short, to the extent that front-loading is the problem, a national primary is most definitely not the solution. Indeed, a national primary will only exacerbate the pathologies of a front-loaded system.

THE PROBLEM OF ENACTMENT

A final reason to oppose a national primary is the difficulty of establishing it through legitimate means. Almost all supporters of a national primary seem to assume that such a reform could be implemented by federal legislation. However, there are ample reasons to doubt this assumption.

The Constitution gives no outright authority to the federal government to intervene in the presidential nominating process. Only three provisions of the Constitution deal explicitly with elections for federal office. Two of the three (in Article II, Section 1) allocate between the states and Congress the powers related to the selection of presidential electors; Congress is given only the right to determine the "time" of such selections. The third (in Article I, Section 4) provides that "[t]he Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by Law make or alter such regulations, except as to the Places of chusing Senators."

Strictly speaking, then, the presidential nominating process for the parties is outside the Constitution—that is, in literal terms no constitutional provision touches nominations. Less strictly speaking, in “spirit” the Constitution treats congressional control of congressional elections more favorably than it does congressional control over presidential selection processes, which are placed mostly under the supervision of state governments.

A handful of Supreme Court cases have permitted federal legislation affecting presidential elections beyond what a strict reading of the Constitution would seem to allow—for example, some rulings have upheld campaign finance regulations for both presidential and congressional elections. Some would go even further. Justice Hugo Black’s opinion in *Oregon v. Mitchell* (1970) argued that the power of Congress to regulate presidential elections was equal to its power to regulate congressional elections. The Court, however, has never concurred with Black’s solitary view.

Indeed, two recent lines of Supreme Court interpretation have moved in the opposite direction. In one of these strands, the Court has increasingly held over the last three decades that the political parties are substantially private associations with considerable power to set their own nomination procedures.⁶ This line of reasoning would limit both federal and state legislative interference in party affairs, at least in theory; all actual cases have involved state legislation. The second strand, evident especially since the mid-1990s, has reasserted the rights of the states against federal domination on the basis of the Tenth Amendment and a narrower reading of the enumerated powers of Congress.⁷ Both strands have worked to limit, not expand, federal legislative powers that might be used to impose a national primary. Thus both the text of the Constitution and recent judicial interpretations of that text give little reason to assume that the federal government possesses the authority to pass legislation establishing a national primary.⁸ A constitutional amendment could solve this problem, but amendments are not easily ratified.

In contrast, the national parties would seem to possess the legal authority to seek such a reform, but primaries are actually established by state law. The national parties can refuse to seat delegates selected in a manner contrary to party rules, but they cannot force state legislatures to change primary dates. Although there were exceptions in both parties in 2008, the parties are typically reluctant to follow through on threats to deny seating to state delegations.⁹ Refusing to seat state delegations is one of only a very few enforcement tools available to the parties, but it is too blunt an instrument to be used frequently. The more radical a proposed change—and a national primary is radical—the more unlikely it is that the national parties will be able to compel compliance. They may possess the authority, but they may not possess the power.

MITIGATING THE PRIMARY PROBLEM

The national primary, then, is in most respects inferior to a problematic status quo. However, a variety of measures currently available might at least mitigate the problems of front-loading. The goal should not be to collapse all primaries into a single election but rather to spread out primaries and extend the meaningful nomination race. The place to start is reform of the campaign finance rules, which have made it difficult for all but the best-endowed candidates to raise sufficient funds to enter and continue in the race. A substantial increase (or perhaps even elimination) of the \$2,000 limit on individual contributions would make it possible for more candidates to run and would extend the viability of candidates who do not win the first contests. (The rise of “Super PACs” supporting candidates, including Rick Santorum and Newt Gingrich, had a similar effect in 2012.) Other steps aiming to spread out rather than consolidate primary dates could also extend the race. The national parties could mandate proportional representation in early primaries and could negotiate and encourage moderate calendar adjustments. Republicans did just that in 2012, with some positive effect. However, they later backtracked, calculating that their extended primary season had hurt Mitt Romney in the general election.

CONCLUSION

In summary, the national primary should be rejected. It offers a simplicity that is both illusory and undesirable. Although it would solve one problem associated with primary front-loading—the loss of meaningful participation by states that vote too late in the primary calendar—it would exacerbate the other problems. Indeed, a national primary would produce the most front-loaded schedule imaginable, with everything riding on a single day’s contest. And there is no obvious way to bring about the reform. The federal government likely does not have the authority to impose it, whereas the parties have the authority but probably not the power. Despite the good intentions of the proponents of the national primary, the nation can do better.

NOTES

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1. Barry C. Burden, “The Nominations: Technology, Money, and Transferable Momentum,” in *The Elections of 2004*, ed. Michael Nelson (Washington, DC: CQ Press, 2005), 19.

2. States receive more attention from the candidates and the media when they advance the dates of their primaries. See Andrew E. Busch and William G. Mayer, "The Front-Loading Problem," in *The Making of the Presidential Candidates, 2004*, ed. William G. Mayer (Lanham, MD: Rowman & Littlefield, 2004), 11–12.
3. *Ibid.*, 9.
4. Barry C. Burden, "The Nominations: Rules, Strategies, and Uncertainty," in *The Elections of 2008*, ed. Michael Nelson (Washington, DC: CQ Press, 2010), 25.
5. Broder and Kirkpatrick are quoted in Michael Nelson, "The Presidential Nominating System: Problems and Prescriptions," in *What Role for Government? Lessons from Policy Research*, ed. Richard J. Zeckhauser and Derek Leebaert (Durham, NC: Duke University Press, 1983), 42–3.
6. James Bryce, *The American Commonwealth* (New York: Putnam's, 1959), 28–9.
7. James David Barber, *The Presidential Character: Predicting Performance in the White House* (Englewood Cliffs, NJ: Prentice-Hall, 1972).
8. The phrase is from Richard E. Neustadt, *Presidential Power* (New York: Wiley, 1960).
9. Henry Mayo, *Introduction to Democratic Theory* (New York: Oxford University Press, 1960), 73.
10. Busch and Mayer, "Front-Loading Problem," 33.
11. Nelson, "Presidential Nominating System," 50; Stephen J. Wayne, *The Road to the White House 2004: The Politics of Presidential Elections*, 7th ed. (Belmont, CA: Wadsworth, 2004), 311–12.
12. Busch and Mayer, "Front-Loading Problem," 23.
13. The Supreme Court, which has already confirmed Congress's authority to govern campaign finance through legislation, would hardly blanch at a national primary law. As for the national parties, the Court has regularly endorsed their authority to establish their own rules.

CON

1. Donald Bruce Johnson and Kirk H. Porter, *National Party Platforms: 1840–1972* (Urbana: University of Illinois Press, 1975), 176.
2. Arthur S. Link, ed., *The Papers of Woodrow Wilson*, vol. 29 (Princeton, NJ: Princeton University Press, 1979), 7.
3. See Stephen G. Wright, "Voter Turnout in Runoff Elections," *Journal of Politics* 51 (May 1989): 385–96; and Charles S. Bullock III and Loch K. Johnson, *Runoff Elections in the United States* (Chapel Hill: University of North Carolina Press, 1992), chap. 6.
4. For a detailed critique of front-loading, see William G. Mayer and Andrew E. Busch, *The Front-Loading Problem in Presidential Nominations* (Washington, DC: Brookings, 2004), esp. chap. 4.
5. See Emily Goodin, "Enough Blame to Share," *National Journal* (December 4, 2004): 3630.

6. See, for example, *Cousins v. Wigoda*, 419 U.S. 477 (1975); *Republican Party of Connecticut v. Tashjian*, 479 U.S. 208 (1986); and *March Fong Eu v. San Francisco County Democratic Central Committee*, 489 U.S. 214 (1989).
7. See *New York v. United States*, 488 U.S. 1041 (1992); *United States v. Lopez*, 514 U.S. 549 (1995); *Printz v. United States*, 521 U.S. 898 (1997); *United States v. Morrison*, 529 U.S. 598 (2000); and *National Federation of Independent Business v. Sebelius*, 567 U.S. ____ (2012). The enumerated powers of Congress are those listed in Article I, Section 8, of the Constitution defining the extent and limits of congressional authority. The Tenth Amendment specifies that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.”
8. See William G. Mayer and Andrew E. Busch, “Can the Federal Government Reform the Presidential Nomination Process?” *Election Law Journal* 3, no. 4 (2004): 613–25.
9. Democrats initially voted to deny delegates to Florida and Michigan when the two states scheduled their primaries earlier than party rules allowed, although the delegates were ultimately restored at the convention in a gesture of party unity. For the same reason, Republicans refused to seat half of the delegates from Florida, Michigan, and three other states.