

**SELECTION BEFORE ELECTION:  
THE DIRECT PRIMARY AND  
RESPONSIBLE PARTY NOMINATION**

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In Partial Fulfillment  
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Doctor of Philosophy

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by

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The undersigned, appointed by the Dean of the Graduate School, have examined the dissertation entitled:

SELECTION BEFORE ELECTION:  
RESPONSIBLE PARTY NOMINATION AND  
THE DIRECT PRIMARY

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For my family.

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## ABSTRACT

This dissertation explores the rules which govern the direct primary in the states. Operating within the framework of responsible party nomination, I explore primary rules in the states across their 100-year history, and examine arguments regarding the adoption of the primary and correlates of its use.

First, this project introduces the traditional classification system of primaries, which is based on ballot choice. I argue that this classification is a shortsighted one, which is in need of enlargement. Drawing on state statute and other official sources, I examine other rules which govern primaries in order to create a more comprehensive measure.

With this measure of primary restrictiveness, the dissertation sets out to examine the adoption of the direct primary in the states, arguing against conventional wisdom and suggesting that there were multiple reasons for the adoption of the primary. Examining the motivations of progressive reformers in the west and party officials in the east, I examine how rules were shaped based on the motivation for their adoption, and show that these relationships continue to persist today.

Finally, I examine correlates of primary rules by investigating primary competition and candidate extremism. The responsible party framework advocates for restrictive primaries, yet recent scholarship has suggested that restrictiveness may be a cause of reduced competition and increased polarization and extremism. I show that there is little evidence for these relationships, and, using the example of the recent Tea Party movement, suggest that restrictiveness may inhibit the success of insurgent party factions.

To conclude, the final chapter discusses recent developments and their potential to impact the way we view the primary. Specifically, that recent political developments may prompt an increased interest in the direct primary, leading to change or innovation in the way primaries are structured.

# Chapter 1

## Introduction

### 1.1 The Old Convention and the New Primary

A knife is drawn, but its use prevented. A chairman made a 'floor man' when his seat is abruptly taken from under him. One man is assaulted and bitten ferociously by nearly half a dozen of his own partisans. This description of an 1826 caucus in Philadelphia does not paint an image of American politics like the paintings of John Trumbull. Other stories of caucus violence and corruption are not hard to come by. Viva voce votes at an 1890s caucus take place where whispers of aye defeat boisterous nays. In an attempt to ensure a clean election, one candidate for nomination requested to see the open ballot box before voting commenced to ensure it was empty. His written request was torn up, thrown in the fire, and police escorted the candidate out. In the final tally, the man lost 510-234, a staggering defeat considering the 300 who were in attendance that day (Dallinger 1903).

The story of the corruption of nomination procedures in the 19<sup>th</sup> century is not a new one. Anecdotes such as those presented here are often retold in studies of candidate

nomination and the emergence of the direct primary. In their seminal study of the direct primary, Merriam and Overacker (1928) presented these caucus evils as the driving force behind the adoption of the direct primary. Indeed, much of the scholarly literature on primaries has suggested the adoption of the primary as a progressive panacea to the ills of the caucus and convention systems. The primary system promised to elevate politics, to reduce fraud and corruption, remove political bosses from control, and improve the party system.

While some recent scholars have examined the veracity of the claim that predominantly progressive principles drove the adoption of the direct primary system, the progressive narrative still dominates. It is important, however, to examine the entirety of the progressive promise. Part of this promise was to increase citizen participation and eliminate corruption; however, an equally important promise was the reformation of our party system. Given this promise, has the direct primary fulfilled its goals? To be sure, the introduction of the direct primary reduced fraud, corruption, and violence, and lessened the influence of political bosses, but has the direct primary improved the party system? Further, what can be said about the evolution and current state of the direct primary? This dissertation aims to not only address the veracity of the traditional progressive narrative of the direct primary, but also investigate the rules that govern the primary and their relationship to the goal of responsible party nomination. By revisiting our classification and building on our knowledge of current primary systems, our current notions about the arrangement of primary rules, and how those rules affect nomination may need revision. Further, while the promise to enhance and improve the party system may be currently unrealized, this dissertation will explore the possibility that the direct primary still holds the potential to strengthen our nominating procedures, our parties, and perhaps, improve American electoral politics.

## 1.2 Purpose and Scope

The central argument of this dissertation is threefold. First, while progressive, anti-party sentiments were instrumental in the adoption of the primary in many locations, party officials themselves also welcomed the direct primary as a way to bring political legitimacy to their strong party organizations and gain legal control over the most distasteful aspects of the convention system. Additionally, parties in southern states also looked to the direct primary as a way to exert more control over nomination in their one-party states. Second, the direct primary is a unique institution in the states, governed by sets of rules which, when examined closely, speak to the varying degree with which parties may exercise control over nomination. Further, traditional classifications of primary rules have omitted important institutional aspects of party control which speak directly to the consequences of rule systems. Expanding this classification can shed light on restrictiveness and party control over the primaries. Third, I operate within the framework of responsible party government and, more specifically, responsibly party nomination. Within this framework it is assumed that more restrictive systems should benefit democracy writ largely. However, many state parties have failed to adopt restrictive primary systems. Further, traditional critiques of the primary system are in conflict with the conclusions of the responsible party framework. By reevaluating primary systems, and the effects of restrictiveness it is possible to determine whether concerns regarding polarization and reduced competition are legitimate. Finally, I will discuss recent political developments which may yield increased attention to the structure of primary laws. In order to unpack this threefold argument, I will spend a brief time elaborating on the general tenets of these three arguments.

## **Argument 1**

Progressivism in the late 19<sup>th</sup> century is commonly regarded as the primary motivating factor for the adoption of the direct primary. The moral imperative to increase and open participation in nomination drove unwilling parties into releasing their grasp over nomination and weakened parties. While this narrative is a compelling one, with evidence from contemporary scholars as well as current students of parties, it does not tell the complete story of the adoption of the direct primary. While anti-partyism was, to be sure, a contributing factor in the adoption of the primary, particularly in more progressive western states, it does not fully explain the quick spread of the primary to states with strong party organizations in the eastern United States.

Reexamining the timeline of the adoption of the direct primary we can see strong party states in the east adopting the direct primary during the same period, and at a rate similar to progressive western states. Further, southern states with decidedly partisan motivations also adopted the direct primary quickly in this early stage. This dissertation will argue that there were motivations for party elites in strong party states to adopt the primary including an increase in control over nomination (party organizations were similarly exhausted by the lack of control over the chaos of the convention system) and an institutionalized and privileged place in the electoral process. This argument is not a novel one, but it is one that has received scant scholarly attention. Further, it is important to the theoretical underpinning of this dissertation because it lays out the argument that the direct primary need not be wholly anti-party. With this possibility, we can reevaluate the direct primary in order to examine what features could bolster party strength. Within the framework of responsible party nomination, these features reflect the restrictiveness of primary laws. This sets the stage for the second central argument of this dissertation: that unique sets of rules in the states reveal an opportunity for parties to continue to exert responsible influence over candidate nomination.

## **Argument 2**

Primaries in the several states are often thought of in terms of simplistic classification schemes. These classification schemes revolve around who may participate in the primaries, and classify states on a rough ordinal scale of openness. This dissertation unpacks this classification scheme and shows a broader framework of primary rules. Focusing less on the question of ‘who may vote’ and emphasizing the question of ‘where is party power’ yields a new and empirically distinct classification scheme for primary systems. Incorporating new variables and reconceptualizing old ones allows the creation of a new classification of primary types which is unique in the study of primaries. It is through this new classification that I evaluate the potential for party control over nomination within the framework of the direct primary.

The new classification scheme introduced here not only affords an analytical leverage on party control over nomination, but allows us to retest some of our current understanding of primary elections, and reevaluate the common criticisms of closed or restrictive primary systems. Studies of the relationships between primary type and turnout, divisiveness, competitiveness, and ideological extremism have utilized classification schemes, which omit important institutional variables. Focusing only on the pragmatic implications to voters, we have not considered how other variables may structure the choices of voters. Incorporating party control, ballot access, and election timing, as will be done here, adds additional institutional components to previous analyses, and enhances our understanding of primaries.

In sum, Argument 2 reasserts the traditional institutional notion that rules matter, and posits a specific and novel understanding of primary rules before examining the correlates and consequences of these rules. This brings us to the final argument of this dissertation.

### **Argument 3**

Given that some strong parties may have pursued the direct primary during its early adoption, and that malleable rules may allow parties to exert some control over the direct primary, Argument 3 states that parties have generally failed to maximize their potential for responsible party nomination within the framework of the direct primary. Operating in the theoretical tradition of responsible parties, I suggest that restrictive primary systems, while often blamed for polarization and ideological extremism, are actually the ideal form of primary in terms of maximizing responsible party nomination. This ideal form of primary affords parties a maximum of leverage over primary elections, in keeping with the notion of responsible parties. Additionally, I intend to show that common critiques of restrictive systems need reevaluation based on new evidence presented through the analytical innovation of a new classification of primary systems.

Finally, with this model primary system in hand, I will assess how the states stand in adopting such a system. With the assertion that responsible parties are possible within the framework of the direct primary, it is notable that many parties have not pursued these primary forms, opting instead to shy away from the potential for responsible party nomination. While it is unclear the precise motivations for this trend, the concluding chapter examines the tensions between candidate-centered campaigns and party nomination, as well as new political developments, which may prompt a reevaluation of primary systems in the United States.

## **1.3 Conceptual Framework**

With an understanding of the general arguments of this dissertation, it is worthwhile to examine some of the extant literature on the direct primary and define the concepts that this dissertation will build upon. First, it seems prudent to introduce the generally

accepted narrative regarding the adoption of the primary (although Chapter 5 will discuss this at length). Second, it is appropriate to discuss the theoretical justification for considering rules as institutionally important to the primary and parties. Finally, I will briefly discuss the concept of responsible parties and responsible party nomination, a concept, which will be more fully developed and analyzed in Chapter 5.

### **Adopting the Direct Primary**

Examining the initial adoption of the direct primary at the turn of the 20th century, we are presented with a common narrative about the motivations of primary advocates. Contemporary observers of politics and scholars alike generally regard the adoption of the direct primary as having a progressive, anti-party purpose. The work of Merriam and Overacker (1928) is a seminal example of this line of thinking. Scholars who followed, studying the impact of the direct primary would often point to this scholarship when explicating the theory of the decline of party strength and influence. Epstein (1986), for example, points out that the direct primary created a fundamental transformation of a once private membership organization, stripping parties of much of their power. Even modern scholars such as Ware (2002), who has taken the progressive narrative to task, admits the dominance of this narrative, and its accuracy in many western states.

Examining these sources further, it is not clear that we have represented their arguments fully in our current conventional wisdom of the impact of the direct primary. It is clear from the vignette that opened this introduction, that there were clear and urgent needs for reform of the traditional caucus system. Indeed, some of the earliest efforts at reforming nomination were at the behest of parties, even in western progressive states. California, for example, suffered from the ills of the convention system as much as any state in the 19<sup>th</sup> century. The state, in an effort partially driven by the parties, adopted an optional primary law, which criminalized the worst offenses of election fraud in 1866,

and afforded primaries with a legal avenue to secure the integrity of their party nominations (Merriam and Overacker 1928). Epstein (1986), in the same breath as his assertion about the transformation of private parties, points out that the advent of the direct primary institutionalized and legitimized the parties, solidifying the two-party system. Perhaps the strongest proponent of an alternative narrative is Ware (2002) whose central thesis revolves around the adoption of the direct primary as a party-endorsed reform.

The potential for the existence of an alternative narrative begs one of the central questions of this dissertation: is there the possibility for responsible party control over nomination within the framework of the direct primary? I suggest that, in line with the responsible party framework, increased restrictiveness leads to increased party control. Additionally, common concerns associated with restrictiveness do not seem to be well founded. With this in mind, it is worthwhile to briefly discuss the institutional importance of these rules.

### **Primary Rules**

As with any political institution, the direct primary is governed by sets of rules. These rules exercise control over who can run for nomination, who can vote for those candidates, how they vote, and when they will cast their ballot. Over time, the states have evolved unique sets of rules, and in turn, party control over nomination has changed in different ways. Some of these frameworks allow for little to no party control, while others give parties a comparatively heavy hand in nomination. These are the trees we have missed while examining the forest. The story of the direct primary is not a singular story, and it has not had a singular effect on parties and electoral politics.

The rules that this dissertation explores are those that are most central to party control over nomination. Party registration and restricted access to primaries are perhaps the most visible. Political science and political observers alike often categorize primaries

into classification schemes of varying levels of openness based on these rules. A closed primary is open only to members of the party, whereas an open primary is open to all voters. Being the most visible, this categorization is a main focus of the dissertation and the classification of primary schemes, however, the attempt will be made to focus on a larger definition of openness. Do primary rules allow the parties to endorse candidates in the primaries? Is access to the primary ballot heavily restricted? These features are not always examined in combination with voter laws, however they lend great insight into the level of control a party may exert on the primary election. Further, how are independent or third party candidates treated within the system? Are these candidates allowed to see the final primary slate, or victorious party nominees, before registering for the general election?

By combining multiple facets of the direct primary system, we can begin to see a larger picture of primary restrictiveness, or synonymously, party control over nomination. In closed systems, we not only see restrictions on voters, but the use of primary endorsements, ballot access restrictions, sore-loser laws, and other features which give the party considerable clout over nomination. Thus, the entirety of our understanding of an open or closed primary is not limited to the voter. The myriad rules of the direct primary all shape the relative restrictiveness of various primary systems in the state.

### **Responsible Party Nomination**

The central arguments of this dissertation rely heavily on a particular understanding on the definition of parties. Moreover, this dissertation relies on a specific notion of the purpose of these parties in the American political system. The search for party responsibility is not a new endeavor. Ranney (1951) and other scholars have sought to use political science to improve politics in America. To these scholars the culprit, and the solution, was the party. The culmination of this thinking was the Report of the

Committee on Political Parties of the American Political Science Association (1950) which put forth important recommendations relating to the concept of party responsibility.

Examining the Report closer, the authors cited party as an indispensable part of government in America, and yet, one raked with troubling problems and unrealized potential. The indispensable nature of parties, to the committee, was rooted in their ability to be responsible, as defined as a two-fold concept. First, parties were responsible to voters, to bring clarity to electoral choice and policy, and then to be responsible for the execution of that policy. Parties were the essential actor in a complex political system in which voters needed such clarification, and the ability to focus electoral blame. A second feature of this responsibility was an internal responsibility to party members via the nomination of candidates. Thus, parties act not only as a way to offer clear competition between two alternatives, but as the instrument to produce the candidates that would provide this choice to voters. Parties, however, were not living up to this responsibility.

Among the collection of concerns and suggestions of the committee was a focus on the nomination of candidates. The Report stated not only how party responsibility entailed the necessity of responsiveness to party members via nomination, but the criticism that this function was not being adequately met. Authors of the Report advocated for a stronger role for parties in the nomination of their members, including pre-primary endorsements, the closing of primary systems, however they stopped short of advocating a return to the convention system. The direct primary being such an integral party of the nominating systems of nearly every state, they thought it impracticable to suggest its demise. Similarly, a national standard to election laws in the states was also seen as an alluring but impossible reform.

Since the publication of the Report, numerous scholars have assessed party and primary in terms of party responsibility and examined the promise of the suggestions

offered by the committee (Turner 1951, Ranney 1951, Kirkpatrick 1971, Pomper 1971). These evaluations differ in their assessment of the current party system, but largely cite the failure of responsible parties. Continuing in this tradition, this dissertation will again examine where American parties stand, 60 years after the Report.

In order to evaluate responsible party nomination in the parties, I suggest an approach that examines primaries on a larger and more detailed dimension than previous analyses. Further, I intend to test hypotheses relating to negative effects of restrictiveness such as reduced competition. Further, I examine how candidate extremism is affected by restrictiveness. This argument is a noteworthy one as restrictive systems are often criticized as being a cause of extremism, not a cure for it, as the responsible party narrative suggests. Additionally I will examine one interesting feature of responsible parties in their ability to enhance party cohesiveness. Using the Tea Party movement as an example of party factionalism, I will test to see if enhanced restrictiveness does indeed reduce the success of Tea Party candidates as is suggested by the responsible party framework.

## **1.4 Approach**

With the general argument of the dissertation laid out, and basic concepts established, I will now lay out the general approach of the dissertation. In order to support the three general arguments laid out earlier, I suggest a four-fold path for this project. First, it is necessary to build on the concepts introduced in this introduction by explaining the rules that govern the direct primary. By developing an understanding of primary rules in the abstract, we can then proceed to examine how they have evolved and how they are currently arranged in the states. Second, I will discuss the history of the adoption of the primary and examine its general course over the past 100 years. This will establish the promise that the direct primary could strengthen parties, and show

how the primary generally impacted our view of parties over time, establishing them as quasi-governmental organizations. Further it will examine how parties have lost leverage over nomination, but set the stage for current attempts to regain some of that control. Third, I will present a comprehensive categorization of the various rules as they currently exist in the states, and present a new classification scheme based on party control. I will reexamine previous scholarship, substituting this new classification variable in order to determine how party control over primaries impacts turnout, divisiveness, competition, and ideological extremism. Fourth, and finally, I will examine a model form for the direct primary, and investigate how the states fare in their adoption of this form. Discussing recent trends regarding the candidate-centered campaign, the Citizens United decision, and tea party insurgent candidates, I will suggest that strengthening party control over nomination, while not a panacea, may be a step toward more responsible nomination.

### **Understanding The Rules**

The first primary goal of this dissertation is an elucidation of the various rules that govern the direct primary in the states. Before we can examine the central arguments of this dissertation, it is imperative to understand what is meant by primary rules and the form that these rules currently take in the states. While traditional notions of the classification of primaries focus on voter access to party ballots, I argue that a much broader understanding is needed. While the commonly used and much simplified classification is useful for an analysis of who may vote in primary elections, it omits a larger understanding of primary restrictiveness. Understanding primaries broadly, restrictiveness can be seen as a measure of control over primaries, and includes not only control over voters, but rules regarding endorsements, the timing of elections, filing fees, and deadlines. A more refined understanding can come from unpacking traditional classifications into into their constituent parts, and adding detail on other facets of primary laws. As

a full understanding of the primaries in the states can not come without attention to, and classification of, rules which affect candidates, voters, and the timing of the primary election, I argue that this new measure more comprehensively classifies primary systems.

In order to facilitate this understanding, the beginning of this dissertation will detail the various rules in isolation in order to explain their purpose and significance. Explaining the various ways in which laws may be constructed, along with ways in which they may affect primary outcomes, I hope to build an understanding of the basic framework of primary rules. With this groundwork in place, the project then moves into cataloging and classifying the rules in the states. Great care was taken to appropriately catalog the current primary systems of the various states, and classify each rule as either being restrictive or permissive. Following this, the primaries are then classified into a new scale of openness, not based on voter ballot access alone, but also taking into account candidates and election timing as well. This new classification, a measure of primary restrictiveness, then becomes the variable of interest for analysis in later chapters

### **Rule Evolution**

A second goal of this project is to attempt to place the current rules that govern the primary into historical context, and address the notion that the direct primary was a wholly anti-party reform. While a difficult task, historical sources were consulted, and when possible, a narrative of the general movement of direct primaries over the last 100 years is constructed. This evolution not only brings context to our present situation but sheds light on the broader trajectory of primary rules in the states. Generally, there has been little movement in primary rules. I argue that this is due to a path dependent inertia, springing from the way primaries were initially structured upon their adoption.

In order achieve this goal, and solidify Argument 1 of this dissertation, some hypotheses must be tested about the adoption of the primary. Conventional wisdom speaks to

the dominance of a narrative that progressive impulses drove the adoption of the primary. I assert that this is not entirely true, nor entirely false. In order to test this, I test the hypothesis that states with strong parties adopted the primary at a similar rate as more progressive, western states. Examining dates of adoption in relation to our understanding of party strength at the turn of the century, this hypothesis suggests we will see little distinction between the timing of adoption of progressive and strong party states. Additionally, I identify a possible third adoption motivation in the south. In line with our understanding of the one-party south, primaries were quickly adopted in these states as a way to solidify control over nomination, and in turn, the general election.

Second, I attempt to unpack how the adoption of the primary the initial structure of primary rules set long standing trends in the states, explaining much of the variation between current state primary systems. Here I argue that the presence of a progressive or strong-party political culture related directly to the form that the direct primary took in these states at the time of adoption. Further, this initial adoption led to an inertia, or path dependence, which would leave its mark on how primaries are currently arranged. By examining the classification of rules in states which had a different adoption tradition, we should see marked relationships. Specifically, I expect that states with a strong history of party organization adopted more restrictive primary systems initially, carrying over to present day. Conversely, states with a progressive history should have adopted more permissive systems, in line with the participatory ideals of the progressive movement. The states of the south generally favored a very relaxed system of primaries in terms of statutory oversight, however, parties were given a great deal of latitude. Over time, increased party competition and an easing of controversial party limitations on voting has left these states without the strong party rules they once had, leaving only the relaxed state statutes behind.

Finally, I will show that relatively little change has occurred with respect to primary

rules over much of that latter half of the 20th century. Thus, the adoption tradition of the various states, and the relative lack of change in primary laws, explain a vast majority of the variance in the rules of state parties. This also shows the curious lack of effort on the part of parties to fashion their primary into a model form which would best allow them to exert control over nomination in many parts of the country. By drawing on historical scholarship and the Report of the Committee on Political Parties, I suggest that strong parties should generally desire a more restrictive primary system. In one interesting exception to the general lack of primary rule change, I will examine how a handful of western progressive states have changed their primary system coincidental with the emergence of strong parties in these states.

### **Rule Consequences**

Finally, and perhaps most importantly, this dissertation places the current rules and the new classification scheme developed here, into the context of parties, voters, and American politics more broadly. One focus of this effort is to assess the current state of primary rules in the framework of responsible party nomination. After 60 years of evolution, how does the direct primary look in the context of the original report on responsible party government? Operating in this framework, I assume the conclusions of the Committee on Political Parties. Specifically, these conclusions state that, democratically, more restrictive primaries should induce greater party control and responsibility. Additionally, the Committee suggests that a lack of this responsibility could lead to increased polarization and extremism, a curious conclusion given the conventional wisdom on primary elections.

In order to test these conclusions, I examine two potential correlates of primary restrictiveness, competition and extremism. A common criticism of increased restrictiveness is that these closed primaries reduce competition. If this is indeed true, it

calls into question the normative arguments of restrictiveness and party responsibility. Further, conventional wisdom also suggests that restrictive primaries create more ideologically extreme candidates and promote divisiveness and polarization. Interestingly, the responsible party framework suggests the exact opposite. Citing reduced control as a key problem, the Committee argued that polarization and candidate extremism should appear in more permissive systems. Thus, primary candidate extremism and the ideology of successful candidates should be examined to reconcile these divergent hypotheses.

In examining competition, I argue that four features, size of the field, and number of uncontested races, margin of victory, and number of competitive races, should all be unrelated to primary restrictiveness. While there is the potential for restrictiveness to enhance competition, this is not a specific conclusion of the responsible party framework. Thus, we are generally only interested in whether or not restrictiveness reduces competition; it need not necessarily enhance it.

In examining extremism, I attempt to reconcile two competing arguments regarding restriction. One suggests that restrictiveness is a direct cause of candidate extremism. This is commonly attributed to the polarized electorates that participate in primaries. In order to look at these arguments I intend to test both the extremism of primary candidates and House members, as well as examine the success of Tea Party candidates in the states. I hypothesize that there should be no relationship between candidate extremism and restrictiveness, and that primary permissiveness may actually be positively related to the success of Tea Party candidates, as parties (specifically the Republican Party) is unable to exert control over insurgent candidates in these systems.

The final part of this third goal is to assess this new classification of party systems in the context of the 21st century political environment. By discussing long term changes such as the development of the candidate-centered campaign, as well as newer phenomena like tea party factionalism within the Republican party and campaign finance law

changes, I suggest that recent political developments may interact with primary rules in ways which may bring their discussion back to the forefront of politics. Specifically, I will cite recent examples of how state have reevaluated their primary systems in response to these new political events, a drastic change from the lack of movement in the last century of primary history.

## **1.5 Chapter Outline**

This dissertation will proceed to in the following manner: First, a short overview of restrictiveness in terms of primary elections will be discussed in Chapter 2, setting the framework for the rest of the dissertation. Chapter 3 will outline the various primary rules that exist in the states, their meaning, their intent, and how they may be classified. Further, this chapter will lay out the logic behind possible causal mechanisms between rules and outcomes. Chapter 4 then brings us to present day, laying out and classifying the current primary systems in the states, with a particular attention to the nuance between states. Further, I will introduce a new classification scheme which focuses on classifying primaries not based on the voter, but based on party control and restrictiveness. This chapter presents the bulk of the data that will be used in later analysis. This groundwork sets the stage for Chapter 5, which then discusses the traditional narrative of the adoption of the direct primary as well as our understanding of party power vis-a-vis the direct primary in light of the nuance of the primaries. This chapter shows that competing but not exclusive reasons were in place for the adoption of the primary, and these traditions are directly related to how the primaries are currently configured in the states. Chapter 6 asserts one of the central themes of the dissertation: the direct primary, in its many forms, offers parties an avenue (often unrealized) through which to maintain responsible party control over nomination. While our current understanding often as-

signs blame for the most negative aspects of primary elections on closed rule systems, I argue that our flawed classification system often conflates a classification of ‘who may vote’ with a classification of ‘party control.’ Thus, using a new measure of restrictiveness I test criticisms of the responsible party framework and restrictive primaries by examining competition and candidate extremism. In conclusion, Chapter 7 discusses the direct primary in the context of 21st century politics, and how the direct primary could help to bring stability and coherence to a fragmented political environment. Recent trends such as the continued domination of candidates over parties in elections, the introduction of increased outside money in campaigns, and the rise of insurgent candidates in both parties all require a reassessment of the direct primary. Parties and legislators alike are beginning to turn to some of the primary rules explained in this dissertation as tools to combat these trends.

## Chapter 2

# Primaries: Classification and Restriction

Before embarking on the central arguments of this dissertation, it is worth noting one key distinction of this study. While many of the aims of this dissertation have been explored (whether 100 years ago or today) one key feature of these analyses is the use of ‘primary type’ as the independent variable of interest. Examining previous scholarship we see a multitude of dependent variables, statistical techniques, and time periods of study. This chapter will examine how these analyses are frequently implemented, and suggest that a key feature that scholars are often trying to capture, primary restrictiveness, should be operationalized differently. Rather than a narrow focus on rules surrounding the ballot choice of voters, as is commonly done, we must also look largely at other institutional factors that drive restrictiveness such as candidate filing, independent candidate ballot access, endorsement features, and the timing of elections. By incorporating a larger set of primary law features, we can more accurately assess the restrictiveness of a primary system, enhancing our analytical leverage over questions of party and primary.

## 2.1 Studying Primary Rules

Examining existing studies of the direct primary, we can classify these analyses into two categories which will be addressed later in the dissertation. First, studies regarding the adoption of the primary, and second, studies regarding the impact of rules. Studies regarding the adoption of the primary have sought to examine the circumstances surround how the primaries were instituted, and their immediate effects. Studies regarding the impact of rules have generally attempted to discern whether or not traditional primary classifications were related to electoral phenomena.

### 2.1.1 Primary Adoption

A first type of scholarship on the primary that this dissertation will examine relates to the adoption of the primary. In this line of analysis, a hypothesis can be generalized as being of the form: Primaries in (Progressive/Party) states were adopted in (earlier/later) years. A second form of hypothesis (although no example of this was found in the literature) could take the form: Primaries adopted in (Progressive/Party) states took a (weak/strong) form. Generally, a hypothesis in the first form has been taken as evidence as to, universally, the motivations for the adoption of the primary. Evidence that progressive states adopted the primary first has been taken as confirmation that the adoption of the direct primary was an anti-party, progressive reform. While I reevaluate these claims, I also add a second type of hypothesis to this line of scholarship. Here, I argue that multiple adoptive traditions may have existed, and that these traditions are critical in understanding how primaries are structured today. Drawing on the idea of path dependence and the stability of institutions, I suggest that strong party states adopted a restrictive style of primary that continues today, while more progressive states adopted a more permissive form.

In the first example, the classification of primaries is a moot point, as it does not

factor into the analysis. We need not know anything about how primaries are structured to determine if they were adopted first in one area or another. However, the second form, which this dissertation aims to address, requires a dependent variable directly relating to a classification of primary systems. The question in this case becomes, how do we operationalize primary classification when used as a dependent variable?

### **2.1.2 Primary Consequences**

A second broad line of scholarship attempts to address questions relating to the impact of rule systems. Generally, a hypothesis would take the form: (Primary consequence) should exist in states which have (weak/strong) primary rules. In this case, the consequence of the primary becomes the dependent variable, and the primary rule system becomes the explanatory independent variable. Examples of this line of inquiry include studies by Rogowski (2014) and McGhee, Masket, Shor, Rogers, and McCarty (2014) examining candidate extremism as dependent variable, Ansolabehere and Snyder (2007) examining party loyalty, and Norrander and Stephens (2012) examining polarization in the electorate, among many others. As with the example of primary adoption, we must again be concerned with how we operationalize primary type, in this case, as an independent variable.

### **2.1.3 Classifying Primary Type**

In both forms of inquiry presented here, primary type is often utilized as a variable of interest in quantitative analysis. Theoretically, the rationale for its inclusion is that the type of primary can structure other features of the institution. The mechanism of this influence is rooted in the ability (or lack thereof) of voters to select ballots, and cast votes. The rules of the primary regarding party enrollment and ballot choice are assumed to

affect the partisan and ideological makeup of the electorate. When the makeup of the electorate changes based on primary rules, then too we should expect the choices that electorate makes to change.

If we are to look at this assumption through a wider lens, we see that the key theoretical claim is that the relationship between primary type and other variables discussed here is based on the argument that rules structure choices. However, the primary is governed by a larger set of rules than just those which structure ballot choice. Regardless of which ballot voters select, the candidates on that ballot are structured by rules which set requirements for access. Further, rules relating to the primary can structure the choices offered to voters seeking an independent candidate. The endorsement of candidates cannot only structure the ballot itself in terms of special ballot designation but also inform and influence the choices voters make. Finally, the timing of the primary and length of the primary season could presumably influence both candidates and voters. While the discussion of the precise theoretical mechanisms discussed here is saved for a later chapter, it is clear just from this cursory listing of primary rules, that ballot choice may not be capturing the complexity of primary systems in the states, and that a number of features which structure choice are also present. Perhaps the underlying variable that is truly of interest is not a classification of who can vote, but a broader measurement of the restrictiveness of a primary system.

## **2.2 A New Variable: Restriction**

If we are to take restrictiveness to be the key measurement of primaries for this dissertation, it is worth briefly discussing the merits of a new classification versus the traditional open/closed system. The traditional classification scheme for primaries is deficient in measuring restrictiveness for two broad reasons. First, while traditional classifications

of primary type do well to classify states into more or less permissive states broadly, this permissiveness is centered on the voter, and does not capture restrictiveness or permissiveness of the larger electoral system. Second, the traditional classification scheme is plagued with methodological issues which question its utility as an useful ordinal measure.

To briefly address this first issue, I refer back to the opening of this chapter which discusses the various aspects of primary elections that are not incorporated into traditional measures of primary type. While a traditional classification does speak to the permissiveness or restrictiveness of a primary system inasmuch as it relates to ballot choice, it cannot speak to a host of other primary rules. In order to capture restrictiveness, it is necessary to take account of more than just the voter. By incorporating data on candidate entry and primary timing among other variables, we can identify primary systems that exhibit characteristics of party control, or restrictiveness, which are absent from a traditional open/closed measure. These additions yield a more complete and nuanced understanding of primary restrictiveness.

Addressing more methodological concerns, we have cause for concern when examining the utility of an open/closed classification when attempting to make comparisons between groups. All closed primary states, for instance, are not equally closed. Voters in New York and Connecticut must make any changes to their party preference months before the actual primary. In Wyoming and Iowa, voters may do this on election day. Even if we account for these concerns and reclassify some of these states, we are still faced with analysis problems. If we recode Iowa because of their late deadline, we then place it into the same category as Missouri. Again, these states are wholly different in terms of their laws, a fact that this coarse classification can disguise. Missouri has no laws regarding primary enrollment, a stark contrast from Iowa. Further, Iowa has much stricter ballot access laws, possibly winnowing the field of candidates, and altering the

possible field of candidates. Finally, in 2014, Iowa's primary season will last 81 days, whereas Missouri's will run for 133 days, the longest in the nation. Clearly it is at least plausible that these systems differ to a degree that calls into question their analytical use as equivalents. States with equivalent traditional classifications vary on the latitude given to parties, on the use of pre-primary endorsements, sore loser laws, and a host of other laws. We must pay more attention to the existence of broad sets of laws in order to construct a variable which has the sensitivity to offer meaningful comparisons across states.

One of the key features of this dissertation will be the introduction of a new variable through which we can more completely conceptualize primary type through the concept of restrictiveness. Each primary rule, whether it be party enrollment, or candidate filing fees can be classified as being more or less restrictive. Each law offers parties, in theory, more or less control over nomination. This new coding continues to capture traditional measures of ballot choice but allows us access to a wealth of additional data. By combining these rules together to form a summary variable of the restrictiveness of an election we create a new and novel measure through which to reassess the direct primary. Chapter 3 will fully introduce the varying rules and how they relate to restrictiveness, explaining the rationale for coding and discussing the variation that exists within the states. Chapter 4 will then classify the rules and the states and create the measure itself. Before beginning this, we can first elaborate on testable hypotheses to provide a road map for the rest of the dissertation.

### **2.2.1 Retesting Findings**

Using this new measure of restrictiveness we can address the two lines of research that will be reexamined within this dissertation, the adoption of the primary, and conse-

quences of primary rules. How can we better understand these phenomena with a broader, more complete understanding of the full range of primary rules which govern nomination?

### **Primary Adoption**

The adoption of the primary is an important avenue to investigate for two reasons. First, it is worthwhile to investigate the motivations behind the adoption of the direct primary in the states. A second reason for investigating the adoption of the primary arises out of the concept of path dependence; that current institutional structures are a product of their history. One hypothesis which will be introduced in Chapter 5 is that the various motivations for the adoption of the primary influenced the level of primary restrictiveness in a state. Specifically, I posit that progressive influences during the adoption of the primary led to enduring primary rules which can be summarized as permissive or less restrictive. As progressive reformers sought solutions to the ills of the convention system, they incorporated progressive ideals of enhanced participation and openness into the construction of their primary rules. Conversely, states which had a strong party tradition adopted enduring rules which are much more restrictive. Parties in the west were equally fed up with the convention, but for a different reason. In these states, parties were losing control over nomination due to the unwieldy nature of the convention. Rather than reform this broken institution, they crafted the direct primary as a restrictive institution which would allow them to continue to exert control over a new method of nomination. If true, this conclusion would go far in helping us understand why the primary laws of the states vary so widely, and seemingly, randomly.

## **Primary Consequences**

Examining the consequences of primary laws, I propose an analysis of two consequences of primary laws in Chapter 6: primary competition, and candidate extremism. In order to do this, I utilize the framework of responsible parties and responsible party nomination as explained in the introduction. Given this line of thinking, increased restrictiveness, and thus, increased party control over nomination should not lead to the traditional evils associated with the current state of parties and primaries. Responsible party nomination should enlarge and refine the ideological predispositions of the party, reducing primary competition to established party candidates, diminishing the potential for the nomination of extreme candidates, and reducing polarization in the electorate as the party moderates in order to build stable and broad electoral majorities nationwide.

Thus, increased restrictiveness within the responsible party framework suggests three testable hypotheses. First, increased restrictiveness should reduce primary competition. Second, and inextricably linked to the first hypothesis, is that increased restrictiveness should reduce the nomination of extremist candidates. Finally increased restrictiveness should be correlated with low polarization in the electorate. While less restrictive primaries allow weakly attached partisans to flow freely between the primaries, restrictive systems within the responsible party framework would do much to increase partisan attachment, even among more ideologically moderate voters, in line with the idea of casting a large ideological net.

# Chapter 3

## Rules of the Game

Before proceeding into an in depth analysis of the current primary laws of the states, their evolution, and the impact that these rules have, it is worthwhile to spend time examining rules in the abstract. By explaining rule types and their many variations, later references to these variations will be much easier for the reader.

In order to simplify the presentation of different rule types, they have been broken down in this chapter into three types. First, are rules which affect who may vote in an election. Commonly this set of rules are summarized into the familiar Closed, Semi-Closed, Semi-Open, and Open classifications, or some variation thereof. To move beyond this simplified typology, this chapter will explain the constituent rules that comprise the summary classification, and explain variation in this categorization. A second type of rule is that which affects primary ballot access and the candidate. Here, I will address laws which relate to candidate access to the primary ballot, endorsement procedures, sore-losers, and independent candidates. Third, I will briefly address primary election timing. While the timing of the primaries does not entail an overly complex set of rules, it is worth explaining the rationale for the investigation of primary timing

before proceeding to an analysis in later chapters. At the end of this chapter, it is worth taking note of how these three sets of rules interact to form a larger notion of primary openness. Rather than focusing on voter ballot access in isolation, I will present a rubric which describes a broader classification of primary systems, incorporating the candidate, and timing, of primaries.

### **3.1 Who May Vote?**

In order to utilize as much data as possible about the nature of primary systems, especially in light of the end goal of this dissertation —to examine party in terms of the direct primary, we must move past commonly used summary classifications, in order to add the detail and nuance necessary to afford meaningful analysis. With this in mind, it is necessary to classify which features are of the greatest import to the study of party influence over nomination and to the ability of voters to participate in primaries.

#### **Party Registration**

The registration of voters according to party affiliation is perhaps the most basic of characteristics that is meaningful to the analysis of parties and the direct primary. In terms of basic logistic considerations, voter restrictions are essentially impossible without party registration. Considering party registration further, the maintenance of lists of party voters is also of great importance to the power of a party in terms of its ability to understand and gain access to its base of voters.

Kansas offers us some anecdotal insight into this motivation. For over 100 years, Kansas law has mandated a purely closed primary system (in both intent, and practice). Recently courts have overturned this mandate on grounds of a party's freedom of association. Now, Kansas law mandates a default position of closed, but allows both

parties to determine who may vote in their respective primaries. The Republican party of Kansas has maintained strictly-closed rules, however, until recently, the Democratic Party allowed both registered Republicans and unaffiliated voters to vote in their primary. In the 2014 election, Kansas Democrats will hold a strictly-closed primary as well. A spokesperson for the party acknowledged voter identification as a large part of the decision to close the party primary. Specifically, the party cites the ability to better identify and target party members and encourage them to vote in the general election. Under previous rules, Democrats may have masqueraded as unaffiliated or even Republican voters in official voter lists because they were not required to officially align themselves in order to participate in the Democratic primary. The hopes of party officials in Kansas, in that the new closed rule will provide the impetus for misaligned members to become official Democratic Party members, enhancing the party's ability to contact these voters in the general election.

Given these benefits to parties, the existence of party registration in the states can be seen as beneficial to party power and party control over nomination, and coded as such when classifying primary systems.

### **Ballot Choice**

With the first criteria of party registration in place, we can delve deeper into the classification of primary openness by examining whether or not party affiliation is tied to ballot choice. Here, states can be classified by whether party registration is linked to a voter's ability to choose a ballot. This criterion is perhaps most directly linked with our traditional notions of a closed or open primary, but again, in isolation it does not tell the entire story. In order to facilitate analysis, states can be classified by whether or not their ballot choice must align with official party registration. These systems may or may not allow unaffiliated voters, but the distinction is made that if someone is affli-

ated with a party, they must vote in the primary of that party. We can later distinguish states with a public declaration but not registration, and states which allow unaffiliated voters to participate. These characteristics are accounted for separately in order to retain information about party members while separating out the nuances of the various systems. As with party registration, ballot choice restriction is again associated with a more closed system, and one which affords more control to state parties.

### **Public Declarations**

Closely related to ballot choice, is the necessity of a public declaration of party affiliation. In many states without voter registration, and with open access to party ballots, voters must still make public declarations as to which ballot they intend to vote. While this distinction may seem trivial, in terms of the psychology of party identification, there is still a valuable difference between the requirement to state an affiliation and the ability to make this decision in private. As mentioned earlier, in states which do not require some public statement of ballot choice, voters are given either one ballot with both parties' candidates, or they receive two separate ballots. In the case of the former, voters may only vote for candidates of one party, and that choice is made privately, and in the latter case, the voter privately discards the unused party ballot. While the former may sound like a form of the California blanket primary, the restriction that voters may only vote for candidates of one party distinguishes this practice from the California practice which was ruled unconstitutional.

### **Unaffiliated Voter Participation**

The inclusion or exclusion of unaffiliated or independent voters is another important criteria when classifying primary voter rules. In some states unaffiliated or independent voters may participate in party primaries. It is important to note, however, that unaffili-

ated participation differs in one important aspect across many of the states. This distinction revolves around the ability to maintain unaffiliated status throughout the primary voting process. Two examples delineate this difference. In Iowa and New Hampshire, scholars and political observers alike often cite the ability of unaffiliated voters to participate in party primaries. What is often left out of this assertion, is that unaffiliated voters are actually changing their party affiliation when they request a ballot. In both states, unaffiliated voters may choose either party ballot on Election Day, however, they are then enrolled as party members and retain this affiliation. While the difficulty of returning to an unaffiliated status differs across states, it is important to note that an actual change of party affiliation takes place in these cases. In other states such as Arizona and North Carolina, unaffiliated or independent voters are allowed to choose either party ballot on Election Day, and no record of their choice, and no change in their affiliation takes place.

The ability of a voter to retain their unaffiliated status throughout the entire voting process is a situation distinct from the ability to easily change affiliation (and perhaps change back to an unaffiliated status) in order to participate. Therefore, in classifying unaffiliated voter participation, we must keep distinct those states which specifically allow unaffiliated voters to participate and remain unaffiliated. The psychological attachment to party identification (and to partisan independence) is too important a factor to ignore when considering party affiliation change. If we are to say that a temporary change in affiliation is an insignificant barrier to voter ballot choice (as is often done when considering Iowa and New Hampshire), what cutoff becomes significant? If unaffiliated voters were able to change their registration up to, but not on Election Day, and then subsequently unaffiliate when exiting the polls, would this situation be equivalent? Alternatively, if unaffiliated voters could choose a party on election day but had to wait one week to regain their independent status, could this situation be seen as equivalent? The meaningful difference in these situations is the necessity of changing party affiliation,

regardless of the length of time the change is in effect.

In order to take unaffiliated voter participation into account when classifying primary rules, we should only consider those states which allow unaffiliated voters to participate without jeopardizing their independence. Further variables which set out registration deadlines can then facilitate the analysis of more or less restrictive systems. The question of when party affiliation change may take place still has an important place in this analysis, however we must be sure to distinguish these deadlines from considerations of unaffiliated voter participation. The ability of state parties to require party affiliation or allow unaffiliated participation is the crucial criterion here, not the deadline for changing affiliation.

### **Registration Deadlines**

With the discussion of unaffiliated voter participation settled (inasmuch as it can be), we must now turn to registration and change of affiliation deadlines. States vary widely on the relative ease with which both party members or unaffiliated voters may change their party membership. Two distinctions must be made in order to capture the differences across states. First it is necessary to capture the deadline for party members to change their affiliation. Second, we must capture the deadline for unaffiliated members to register a party affiliation. This classification not only allows us to determine the strictness of party affiliations, but the degree to which independents have access to more closed systems. Generally, deadlines for a change in registration should fall close to, or on Election Day in more open systems. If these deadlines are significantly in advance of Election Day, they suggest a benefit to parties in terms of their control over nomination. This is due to the relative emphasis on party over candidate in the early stages of an election, and the emphasis on candidates in late stages of the election.

It should be noted that the relative distance of the registration deadline to Election

Day does not offer much substantive insight into party control over nomination, or the emphasis on party over candidate. It is unclear the difference between a deadline one day, two weeks, or even one month before Election Day. Theoretically, the candidate filing deadline marks a significant and substantive cut-point in the election calendar. Carr and Scott (1984) suggest this approach when examining primary elections. A system which emphasizes party considerations in nomination would have registration deadlines before the candidate filing deadline, thus emphasizing party and party label, and deemphasizing the slate of candidates. A registration between the filing deadline and including Election Day would be likely favor a candidate-centered considerations over party. While one could argue that primary nomination campaigns would lend to substantive differences in deadlines that fall into this second category, we should be wary of over-analyzing these differences with the attempt to classify deadlines any further than this. While campaigns likely have an impact on voter knowledge and knowledge of candidates, it is impossible to determine where to place additional cut points between the filing date and the primary.

Taking these considerations into account, registration deadlines can be classified into two meaningfully substantive groupings: deadlines before primary ballots are finalized, and deadlines between the filing deadline and on Election Day. This point delineation allows for the variation needed for analysis, a theoretical rationale rooted in the distinction between party and candidate, and avoids over-classification and the potential for negating the analytical utility of the classification.

### **Loyalty Oaths**

One last feature that deserves mention, is the loyalty oath. In some states, rules exist which (with varying legal weight) bind voters through an oath or pledge. These oaths usually take one of two forms. In some cases, ballot choice may be restricted to only

those voters who attest that they have voted for a majority of one party’s candidates in a previous election. A second form exists in which a voter pledges to support the same party in the general election that they choose in the primary. Again, it is important to note that these oaths are enforced with varying degrees of legal fortitude. In Indiana, for example, a voter is attesting to these two conditions when they sign the poll book and receive their ballot during the primary. Legal challenges to these oaths exist, however they are rare, and often, evidence of malfeasance is difficult to obtain. Further, few modern loyalty oaths are explicitly part of the voting process. In many cases, references to loyalty oaths only appear in party bylaws or state statute, leaving voters largely unaware of their existence or effect. Due to the relative lack of power of these rules and their largely informal nature, they will be mentioned in synopses of state laws only in the case that they are central to voter ballot access, and will not be part of the larger analysis of this project.

Table 3.1: Summary List of Primary Rule Criterion

<b>Criterion</b>	<b>Explanation</b>
Party Registration	Does state register voters by party affiliation?
Ballot Choice	Is ballot choice restricted by party registration?
Public Declaration	Do voters make a public declaration for a ballot?
Unaffiliated Participation	Are unaffiliated voters allowed to participate in party primaries and retain unaffiliated status?
Registration Deadline	When can partisans change affiliation?
Loyalty Oaths	When can independents affiliate with a party? Are voters required to make statements with regards to past or future voting intentions?

### 3.1.1 Classification Schemes for Voting Rules

As previously noted, rules regarding voter ballot access are often summarized into categories consisting of Closed, Semi-Closed, Semi-Open, and Open. What is unclear,

however, is the exact nature of this classification. Often, these labels are used by parties, states, and scholars, in varying ways, and with varying meaning. It is for this very reason that this chapter lists the constituent parts of these classifications in order to better facilitate and understanding of their meaning and impact. Before proceeding it is worth examining some of the ways in which these terms are used and discussing their relevance to party control over nomination.

In the traditional classification scheme of primaries, a four-fold (and sometimes five-fold, including nonpartisan systems) is used to designate primary systems. To reiterate, these terms include Closed, Semi-Closed, Semi-Open, and Open systems. One possible fifth classification is that of non-partisan, blanket, top-two, or jungle system. This distinction refers to states such as Louisiana which do not place official party labels on primary ballots, and do not fall on the four-part ordinal spectrum. For the purposes of this analysis of voter laws, I will treat these systems separately. Before proceeding, it is important to note that not all scholars have utilized this spectrum of classification and some have opted for a much simpler Open/Closed typology. Further, others have also used three-category classification systems, such as Maisel, Gibson, and Ivry (1998) who use two classes of closed primaries and only one class of open primary.

In the ordinal scale of classification, a primary system is generally referred to as purely open if voters are allowed to choose to participate in any party primary, and they make this choice privately. Purely open systems are contrasted with semi-open systems, in which voters may choose any party primary but must make some public declaration of their party affiliation. Most often this declaration consists of publicly asking a poll worker for the ballot of one party or the other. In purely open systems, voters are either given one ballot which contains candidates from both parties, or they are given both party ballots and instructed to discard one privately. As mentioned earlier, in the former case, voters may only choose candidates from one party, even if they are all placed on

the same ballot. A violation of this requirement generally spoils the ballot, negating votes for all candidates.

These open systems can be contrasted with the two closed classification systems. In purely closed systems, only voters who are registered with the parties may vote in that party's primary election. These closed systems are contrasted with semi-closed systems which open voting to independent or unaffiliated voters. In both cases, states generally perform party registration during voter registration and these lists are used to enforce proper party ballot selection.

Traditional classification schemes are generally utilized in two ways. In order to properly classify a state, one can examine the wording of a law, or how that law operates in practice. When examining legal wording, a reading of state statute determines the classification of a primary based on sets of relevant characteristics. State election statutes will often state that the party primary is closed except to members of a given party. Likewise, a statute may state that the primary is open to all voters. How these primaries operate in practice, however, is often quite different from the intent of a primary rule system. There are, for example, states whose election code specifies a closed primary system, however, rules regarding the actual implementation of this system may mean, in practice, that the primary system is open. Iowa currently presents a good example of this type of confusion. Both the Iowa secretary of state, and the Iowa election code state that Iowa runs a closed primary. However, due to the ability of voters to change their party registration on the election day, Iowa has a fairly open primary. What, then, is the measuring stick for classifying these primaries into this traditional scheme?

To examine the occasional conflict between the wording and practice of primary laws, different rubrics could be established for classifying primaries. Most often, scholars look to practice, rather than the wording of the law in order to clarify confusion. This, however, is only one potential way to bring clarity to confusing statutes.

Table 3.2: Traditional Primary Classification Crosswalk

	<b>Party Registration</b>	<b>Open Ballot Choice</b>	<b>Public Declaration</b>	<b>Independent Voting</b>
Pure Closed	Yes	Yes	Yes	No
Semi-Closed	Yes	Yes	Yes	Yes
Semi-Open	N/A	No	Yes	Yes
Pure Open	N/A	No	No	Yes

Possibility 1 —examine how state laws or officials refer to their primary, regardless of practice or actual implementation. This possibility does not offer the most complete examination of rule systems, but does contain information valuable to the classification of primary systems. Returning to the example of Iowa, state law and the secretary of state consider Iowa’s primary system closed because, by the letter of the law, only members of a party may vote in a party primary. Further, voters who are registered as unaffiliated or independent may not vote in party primaries, therefore, a classification under this system would be ‘purely closed’.

Possibility 2 —examine who may realistically vote in primaries, in practice, regardless of language in statute, or interpretation by officials. A rubric of sorts can then be created to ‘back in’ to a classification. Table 3.2 shows a crosswalk between the various criteria explained here and their relationship to traditional open/closed coding. The table also shows the aforementioned flaw with our traditional notions of voting in primaries. Again, using our example of Iowa, the state would be classified as a pure closed system. This aligns with some scholarly interpretations of Iowa’s primary, as well as with state law. An appeal to a more detailed view of the practice of Iowa’s primary would include the state’s highly relaxed registration deadline, thus garnering a more open designation. In Iowa, all voters, those affiliated with a party, and those unaffiliated, may easily change their party registration up to, and on, election day. Ignoring the question of the psychological attachment to party identification for the sake of the exercise, this system would allow

such an easy change in registration as to render the party restrictions moot. Therefore, using practice as a way to examine primary rules, we would likely classify Iowa as a ‘semi-open’ primary, as any voter (again, in practice) may vote in any primary, so long as they fill out a change of affiliation at the polling place on Election Day. A recent paper by McGhee et al. (2014) classified Iowa as Semi-Open on this basis, creating a classification scheme which would look like Table 3.3.

Table 3.3: Alternative Primary Classification Scheme

	<b>Party Regist.</b>	<b>Open Ballot Choice</b>	<b>Public Declaration</b>	<b>P.R. Change Deadline (partisan)</b>	<b>P.R. Change Deadline (unaff.)</b>
Pure Closed	Yes	Yes	Yes	Early	Early
Semi-Closed	Yes	N/A	Yes	Early	Election Day
Semi-Open	N/A	N/A	Yes	Election Day	Election Day
Pure Open	N/A	No	No	Varies	Varies

Possibility 3 —examine all applicable laws in order to create a scale of party control. In taking on this third possible classification scheme we look at both intent and practice, as well as a host of other laws which are often overlooked. Does a state refer to its primary as closed or open (wording of the law)? Does the state perform party registration? Does state law restrict primary voting based on party registration? Do state parties restrict primary voting based on party registration? How difficult/easy is it for a voter to change his or her party affiliation? This last question entails an examination of not only registration deadlines but record-keeping on behalf of states and parties. In some cases, records are kept detailing changes in affiliation, and those who switch between parties are treated differently from unaffiliated voters who affiliate with a party. Finally, we must also look at the potential for pledges of loyalty to parties in primary voting. In some cases (regardless of their force of law), voters are required to pledge to support parties in the future, or may be required to state their allegiance to the party in the past in order to vote in a party primary.

Examining Iowa under this third possibility we are able to see a wealth of detail and nuance in the primary system. Iowa does consider its primary closed, it performs party registration, it does not allow unaffiliated voters to vote in party primaries, it offers easy Election Day affiliation change, and does not require oaths of loyalty or support of candidates. Classifying Iowa as a closed system under Classification 1, or a semi-open system under Classification 2, we lose important details regarding the nature of the primary system.

In addition to the loss of detail, we cannot reasonably compare two states with the same classification. Take Iowa, again, as an example of this problem:

Using only the wording of law, Iowa would be classified as a closed system. When using this measure analytically, we would then group Iowa with other closed primary states such as New York. Measurement problems appear when we look to the specifics of these systems. New York does not allow easy change of registration, requiring a nearly 12 month advance notice of these changes. As noted earlier, Iowa allows party registration change on Election Day. This distinction then suggests a fault with our classification scheme, as two vastly different primaries would be treated as being empirically equal.

Using a more sophisticated classification scheme, such as the one shown in 3.3 on the preceding page we now classify Iowa as a semi-open state. In this example, our empirical equivalent is now Missouri, a state which also would be classified as semi-open. When testing a particular hypothesis, we group Iowa and Missouri and treat them as analytic equals, however these two primary systems are again very different. Missouri, for example does not perform any party registration, in contrast to Iowa. Additionally, Independent and unaffiliated voters in Missouri may vote in either primary without the need to temporarily change their registration status. We have again equated to vastly different primary systems.

To take the example further, a simple change in the registration deadline for Iowa

would completely alter its primary process. If the voter registration deadline were to be moved back one month, Iowa's primaries would be drastically altered. This simple change in Missouri would not alter its primary system at all. The ordinal categories presented here are flawed in that they do not suggest similarity in primary systems and they do not inform us as to the relative distance or separation between categories. . This example shows the inability to compare states, and the problems associated with treating such a classification as an ordinal measure.

The lack of analytical leverage afforded to us by classification systems which deal mainly with the end result of the complete set of laws (who can vote?) can be overcome. Given the nature of this inquiry, the question of 'who votes?' is much less important than the classification of states into more or less restrictive states, given the number of restrictive or open features, and their relation to party control over nomination. While we lose the ability to easily discern who can vote from this type of classification (which I assert is inconsequential to this analysis) we regain the ordinal aspect to this measure and cannot only gain analytical leverage with this measure alone, but can combine it with other features of the primary system to gain even more insight into primary systems.

In order to craft this new measure, I suggest two new questions to add to our analysis of primary systems: Who may run, and when is the primary?

## **3.2 Who May Run?**

The first new features of primary rules that I suggest we add to our classification of primary systems are restrictions on ballot access. A key way for parties to influence the nomination of candidates, is to control the field of challengers. Ballot access laws take on many forms, from a candidate getting their name on the primary ballot, to endorsements, and restrictions on the general election ballot. Further, these laws not

only affect the parties themselves, but are central to the ability of independent and third party candidates. Additionally, I suggest that they operate in tandem with questions of ‘who may vote’ as these rules structure the choices that are presented to the voters. In order to examine these features more closely, I will elaborate on specific ballot controls, endorsement procedures, sore loser laws, and rules which govern independent candidacies.

### **Ballot Access**

Hurdles to ballot access vary widely across the states and are the first test that a potential candidate must face in the primary process. Generally, states select one of two barriers to primary ballot access - a signature petition, or a filing fee. The rationale for the use of some barrier is the need for a test of legitimacy. Whether these barriers actually filter for candidate viability and legitimacy is less certain.

In the case of signature petitions, candidates are generally presented with one of two qualifications to meet. The first is a set signature requirement. Chapter 3 delves into the specifics of these laws, but they range anywhere from a minimal 10 signatures to a more substantial 2,000 signatures. Alternatively, candidates may face a requirement that is tied to the number of registered party members, or more commonly, to the number of ballots cast for a party candidate (for example, governor) in the previous election. Again, Chapter 3 lays out these requirements more fully, but the general range of percentage requirements is anywhere from .5% to 3%.

A second possible requirement for candidates is a filing fee, rather than a signature petition. Again, there are two types of filing fees which states currently use - a percentage fee and a nominal fee. When filing fees are set as a percentage, they are generally tied to the salary of the office a candidate is seeking. These fees range from 1% to 6% of the yearly salary of the office. In the alternative case, a set fee is assessed on the candidates.

When these set fees are utilized, they are generally small, and do not exceed \$500. Given these small nominal fees, it becomes apparent that assessments based on a percentage of office-holder salary are quite larger than their nominal counterparts. As an example, Georgia, which assesses a 3% fee, ultimately will charge candidates \$5,220 (given the annual House salary of \$174,000).

As a final note on ballot access requirements, it is worth pointing out that the courts have struck down the constitutionality of filing fees as a sole barrier to ballot access when they are nontrivial sums. In these cases, many states have put in place provisions for candidates to gain ballot access through a signature petition if they cannot afford the filing fee.

### **Endorsements**

Pre-primary endorsements by the parties are a second feature of primary laws which directly affect the candidate. While these laws have become more and more rare in recent years, a fair number of states have provisions which allow the party to afford certain candidates this endorsement advantage (if one exists, cite etc).

Formal party endorsements fall into two categories based on their authority. In some states, statute dictates that state parties hold pre-primary nominating or endorsing conventions. In some of these cases, multiple candidates are endorsed by the convention (usually by meeting some moderate threshold of convention support) and gain preference on the ballot through this distinction. For example, New Mexico law affords a pre-primary endorsement to any candidate receiving 20% of the convention vote. In Utah, the parties only designate two candidates for endorsement, and if one candidate manages to garner 70% of the convention vote, they are automatically named the party nominee without a primary election.

It is worth noting that in some of these states, including Colorado, Connecticut,

New Mexico, New York, North Dakota, Rhode Island, Utah, and Virginia, pre-primary conventions continue to be used for candidate nomination. Its use in Virginia is sporadic, and in Connecticut, New Mexico, New York, North Dakota, and Rhode Island there are petition options for non-convention candidates. However, in cases with optional petition access, candidates still regularly use the convention process to circumvent this hurdle. In all cases, a primary will occur among the candidates receiving ballot access through the convention, however, Colorado and Utah allow a candidate to circumvent the primary entirely if he or she receives 50% or 70% of the convention vote, respectively. In subsequent analysis, I will continue to classify these states according to all of their primary features, however, there will be cases where it is worthwhile to separate out those states which use this hybrid convention system.

In other states which allow for endorsements, they are done outside the legal framework of state statutes. Endorsements in these states are allowed by party bylaw, and not statute. In these cases, candidates are either chosen for endorsement by convention or committee, and they do not receive the same preference on the ballot as those endorsed under state statute. While they do not receive special designation on a ballot, it is plausible that these candidates still maintain some favorable positioning compared to their unendorsed counterparts.

### **Sore-Loser Laws**

Sore loser laws represent a third type of primary rule that pertains to candidates. These laws, introduced in the early 20th century, prohibit failed party nominees from running on the general election ballot as independents or members of another party. Over the course of the 20th century, nearly every state has adopted some form of sore loser law. These laws vary in their execution, but generally fulfill the same goal. For example, in some states, candidates who appear on a primary ballot are explicitly forbidden

from appearing on a general election ballot for any other party, or as an independent. In other cases, independent candidates must file for the general election ballot at the same time as candidates file for the primary ballot, essentially excluding only those candidates with extreme foresight. There are many other forms of sore-loser laws, but their intent remains the same - the exclusion of failed party nominees from the general election ballot. Generally regarded as protecting parties from spoiler candidates, their actual effects are more nuanced. Nevertheless, they are one of the few examples of the evolution of a new primary rule intended to directly benefit the party.

### **Independent Candidacies**

It is worth noting that these three categories of candidate-related rules all have an equal, and sometimes more deleterious effect on independent and third party candidacies. It is for this reason that we can think of these rules not only as a source of party power over nomination, but as a source of power for the two-party system over third parties. In many states, ballot access requirements are different for minor party and independent candidates. It is not often, however, that these requirements are more relaxed. In many states, ballot access rules remain an impenetrable barrier for many independent candidates without the support of a formal party organization. Endorsements can be seen as equally deleterious to an independent or third party candidate as these ugly ducklings have no formal party from which to garner an endorsement. Further, sore-loser laws, which may be seen as only a protection of parties against spoiler candidacies, also greatly minimize the potential talent pool for those looking for an independent or third party candidate. Indeed there may be a vacuum of talent as the majority of serious contenders (including those who may represent moderate factions of their party) are ultimately excluded from seeking independent access to the ballot after a failed attempt to do so through the major parties. In sum, these candidate-related rules

all have the same effect - increasing the difficulty of running an independent or third party election campaign, and strengthening the advantages of the two major parties in American politics.

One set of rules, however, applies specifically to independent and third party candidates. These are candidate filing deadlines. In the several states, these deadlines vary throughout the election calendar. In order to gain leverage, I suggest a categorization of these dates in order to simplify their use. Similar to voter registration deadlines, we can point out important cut points in order to aid in the classification of independent filing deadlines. In this case, the major party filing deadline and the primary date itself serve as useful and empirically meaningful dates. Using these we can construct three windows in which a deadline may fall. First, the deadline may fall before or on the major party filing date. In these cases, independent and third party candidates are at a disadvantage, as they may not have any information regarding the potential slate of major party candidates. This knowledge is of critical importance when considering questions of candidate entry. The appearance (or lack) of a strong major party candidate may inform decisions on independent entry into the election. In the second window, from the major party filing deadline until the primary, independent candidates have the marginal advantage of knowing the potential general election candidates by virtue of knowing the primary field. While they are not as disadvantaged as their counterparts who file before major party candidates, they do not have the luxury of knowing the final general election field. Finally, we can look at deadlines that fall after the primary. In these cases, independent and third party candidates have full knowledge about the general election field and can maximize the use of this information in their decision to enter the race. In sum, parties retain a maximum of control over nomination when independent and third party filing deadlines are placed congruous with, or before the party filing deadlines.

### **3.3 When is the Primary?**

A final set of rules deal with the timing of the primary. While general election dates are set by federal law, two dates are set by the states and essentially set both the length of the primary election and the length of the general election. The general election date provides our end date for elections, but it is the placement of candidate filing deadlines and the placement of the primary itself which divides the year into these two specific election seasons. While the timing of elections may seem trivial, these dates set the relative length of time in which we may see the effects of primary discord, competitiveness, or voter fatigue. While the title of this section seems to place an emphasis on the date of the primary election, it is important to remember that the candidate filing deadline is an equally important date, determining the length of the primary campaign season. In some states, a late summer or fall primary may suggest a long primary season, however if candidate filing deadlines are appropriately placed in the summer, the primary need not last an excessive length of time.

### **3.4 Crafting a New Classification**

With the full set of rules explained, we can go about the business of merging this information into one analytically useful measure of party control over primaries. In conceptualizing this measure I suggest comparing primary systems to a model system of restrictiveness. By asking ‘What set of laws create the most restriction in a primary system?’ and then comparing states’ rules, we can develop a measure of primary systems based on party control.

In order to create this measure, I argue that all the rules presented above can be classified as either being restrictive or open. In the few cases where multiple categories

exist (timing rules), there is still a logical ordering to the relative restrictiveness of a rule. Table 3.4 presents all of the above rules and their restrictive or open coding.

Table 3.4: Primary Rule Classification

<b>Rule</b>	<b>Conditional</b>	
Party Registration	Restrictive	State Records Affiliation
	Open	No Party Affiliation
Ballot Choice	Restrictive	Choice Tied to Affiliation
	Open	Free Choice
Public Declaration	Restrictive	Required
	Open	Not Required
Unaffiliated Participation	Restrictive	May not participate
	Open	Allowed to Participate
Registration Deadline	Most Restrictive	Before Candidate Filing
		Before Primary
	Open	Election Day
Ballot Access	Restrictive	Non-trivial Fee
		Non-trivial Number of Signatures
	Open	Trivial Fee Trivial Number of Signatures
Endorsements	Restrictive	Allowed
	Open	Prohibited
Sore Loser Law	Restrictive	Bars Sore Losers
	Open	Allows Sore Losers
Independent Candidates	Most Restrictive	Before Party Deadline
		Before Primary
	Open	After Primary
Primary Length	Restrictive	Short
	Open	Long

Crafting a scale from these binary (or ordinal) classifications can be done by simply creating an additive measure, equally weighting all of the variables, and then scaling this measure from zero to one. We have now created a measure which speaks directly to the relative openness of a primary system.

In sum, this chapter has explained the deficiencies with traditional classification schemes and presented a rubric for rating the openness of primary systems based on a larger set of features. I have explained the relevant features of primary rules and

with this understanding in hand, we can proceed to examining the current status of these rules in the states and introducing the calculation of this measure in Chapter 4, before proceeding to a discussion of the adoption narrative and crafting of these rules in Chapter 5.

# Chapter 4

## The Rules in the States

Given the diverse set of rules introduced in the previous chapter. I will now present summaries of the various rules as they exist in the states today, as well as presenting a new calculation of primary restrictiveness as previously introduced. While these quantitative summaries do well to present the various rules of the states, there are many anomalous and unique features of the various primaries which are not easily coded. In order to preserve the brevity of this discussion, yet retain this nuance, state by state narratives which include these other details are presented in the Appendix to this dissertation.

### 4.1 An Overview of State Rules

In order to best present the various rules of the states, this section will break down the rules presented in the previous chapter along with summary tables of the states. In each case, I also discuss any methodological or data issues which arise from coding.

## **A Note on Data Sources**

The data in this section have been compiled in all cases from multiple sources. Most often, state statutes serve as a baseline for this information. Each state's most recent election codes and state statutes were consulted in order to code these rules generally. When confusion arose in a reading of the statute, the Secretaries of States' offices were contacted to clarify procedure. There were cases in which state statute may include certain requirements that are antiquated or unenforceable. These government officials were able to clarify how the primary worked in practice in order to present the most accurate representation of the laws. In some cases, rules regarding the administration of the primary are left to parties. Parties in some states are able to select their criteria for membership, and determine who may vote in the primaries. Further, some states incorporate informal practices such as pre-primary endorsements into the primary system, requiring an investigation of parties in addition to statute. In these situations, party bylaws were consulted to clarify procedure, and in cases of confusion, party offices were contacted to verify information. In addition to these official sources, Project Vote Smart, The Center for Voting and Democracy, the Lucy Burns Institute, and the Green Papers served as important sources for the validation of this data. After completing the coding of a state, these non-official sources provided a check on the accuracy of coding, and another phase of re-verification in cases where there was not agreement. Finally, the Federal Election Commission provided both primary election dates and candidate filing deadlines. In all cases, this data presented in this chapter is presumed to be accurate for the 2014 election, but could change before Election Day. With that in mind, this chapter should be seen as a loose guide to primary rules and not a definitive compendium.

## Party Enrollment

One of the key primary rules that is discussed in Chapter 3 is that of party enrollment. In order for a vast number of other rules to effectively function, a state must offer registration by party and keep records of this registration. As party registration is generally optional, this variable merely codes whether or not there are mechanisms in place to record party membership. This variable does not connote the actual use of this registration for electoral purposes, as some states record party membership but then proceed not to use it in any meaningful way. As of 2014, 30 states enrolled voters by party, while 20 did not. States are listed in Table 4.1 by their capacity to enroll voters and record membership. Thinking in terms of primary restrictiveness, a party has more control, and more rules at its disposal, when they are provided with lists of voters by the states.

Table 4.1: Party Registration by State

States With Party Registration		States Without Party Registration	
Alaska	Nebraska	Alabama	Montana
Arizona	Nevada	Arkansas	North Dakota
California	New Hampshire	Georgia	Ohio
Colorado	New Jersey	Hawaii	South Carolina
Connecticut	New Mexico	Illinois	Tennessee
Delaware	New York	Indiana	Texas
Florida	North Carolina	Michigan	Vermont
Idaho	Oklahoma	Minnesota	Virginia
Iowa	Oregon	Mississippi	Washington
Kansas	Pennsylvania	Missouri	Wisconsin
Kentucky	Rhode Island		
Louisiana	South Dakota		
Maine	Utah		
Maryland	West Virginia		
Massachusetts	Wyoming		

In addition to party registration, it is worth noting the deadline at which voters can no longer change their party affiliation. A late party enrollment deadline is not as

restrictive as an earlier one, however courts have ruled that these deadlines can not be so restrictive as to pose an unnecessary burden on voters. As mentioned in Chapter 3, the date of interest when examining enrollment deadlines is the primary filing deadline for candidates. If voters are allowed to change their affiliation after they see the slate of candidates, a state is coded as having permissive party change rules. If however, this date falls before the candidates are set, a state is coded as having a restrictive party change deadline. This coding captures the potential for party shopping, or selecting a party not based on ideological concerns, but on concerns specific to the candidates. Of the 30 states which have provisions for party enrollment, 8 states, Connecticut, Delaware, Idaho, Kentucky, New Hampshire, New York, Oklahoma, and Rhode Island require voters to set their party choice on or before the candidate filing deadline. The remaining party enrollment states have a deadline between the filing deadline and Election Day, with Iowa and Wyoming notably setting their deadline on Election Day. While some states allow unaffiliated voters to enroll in a party on election day, I have only listed those which allow partisans to switch parties. The ability of unaffiliated voters to participate is addressed in a later variable.

### **Ballot Choice**

Examining ballot choice, I ask the question “Does statute or rule restrict the choice of ballot based on party membership?” This question is separate from our first rule regarding party enrollment, yet also inextricably intertwined. All the states listed in Table 4.1 on the previous page as having party registration require that registration to align with the choice of ballot at the primary with few notable exceptions. With the non-partisan primary in California and Louisiana, ballot choice is a moot point, as all candidates appear on one ballot. Additionally, parties are allowed to set their own ballot choice requirements in Alaska, Idaho, and Utah, and Democrats in all of these states have

chosen to allow Republican voters into their primary. It is worth noting that Kansas also allowed this arrangement before closing their primaries for the 2014 election. Finally, returning to Table 4.1 on page 51 statute in Illinois and Indiana specifically states that only party members may vote in a party primary. However, without the party enrollment lists to enforce this, the practical effect of the statute is uncertain and its enforcement highly variable across the states. While these early forms of ballot restriction may have been effective in smaller jurisdictions, their continued applicability or enforceability is questionable at best. In deciding how to code these states, I opted to conform with statute, as the intent of the law is to clearly bar crossover voting. At any time these states may choose to enforce the law more vigorously, and it is unclear whether the average voter is willing to flaunt the official position of these states - that crossover voting is prohibited - because they do not fear penalty. Further, legal punishment does exist in these states if election judges choose to pursue the matter.

### **Public Declarations**

While a public declaration for a voter's choice of ballot may seem a matter of course in states with party enrollment, there is a fair amount of variation in states without party registration. Examining states without party enrollment, Hawaii, Michigan, Minnesota, Montana, North Dakota, Vermont, and Wisconsin do not require a public declaration, allowing voters the opportunity to select their ballot of choice in private, discarding the unused party ballot. In Alabama, Arkansas, Georgia, Illinois, Indiana, Mississippi, Missouri, Ohio, South Carolina, Tennessee, Texas, and Virginia, a voter must publicly express their ballot preference. This distinction may seem trivial, however it makes up the key difference in the traditional classification between semi-open and purely open states. Further, the public declaration of a party preference may impact voter behavior. In some states, the declaration merely consists of a ballot preference, whereas other

states regard it as a verbal declaration of party membership. In either case, this public declaration may discourage freely moving between the parties.

### **Unaffiliated Voter Participation**

Thinking about the participation of unaffiliated voters, we uncover yet another form of restriction in the primaries. The exclusion of unaffiliated voters is an important rule to investigate as both states with and without party enrollment allow the participation of these voters to some extent. In states without party enrollment, the participation of unaffiliated voters is a given. No restriction can be made on a classification that does not exist. Further, in states with enrollment, but without ballot choice restrictions, the participation of these voters is, again, secured. There are currently no states which allow enrolled members of a party to vote in either primary while simultaneously disallowing those who are not enrolled at all.

Examining those states which allow unaffiliated voter participation, we see two distinct groups emerge. These two groups are then contrasted with states which disallow unaffiliated voting. Table 4.2 on the next page shows the states in which unaffiliated voters may vote, and the mechanism through which this opportunity is granted. In states where unaffiliated voter participation is allowed, the mechanism can either be through virtue of the state having no party enrollment, and in other cases, party enrollment may exist but unaffiliated voters are allowed to participate in partisan primaries through explicit statutory permission. In the case where unaffiliated participation is not allowed, the mechanism is always through an explicit prohibition on unaffiliated participation. Some states are denoted with parties in cases where parties can set participation requirements and have done so differently. In these cases, laws may change from year to year, as the parties must inform the states of their intention to allow or disallow unaffiliated participation, thus, these rules are representative of 2014 laws, but may not apply to previous

years. As mentioned earlier, one recent change involved Kansas, in which Democrats allowed unaffiliated participation in 2012, but subsequently ended this provision for 2014.

Table 4.2: Unaffiliated Voter Participation in Primaries

Unaffiliated Participation				
<i>No Party Enrollment</i>	Alabama	Minnesota	Tennessee	
	Arkansas	Mississippi	Texas	
	Georgia	Missouri	Vermont	
	Hawaii	Montana	Virginia	
	Illinois*	North Dakota	Wisconsin	
	Indiana*	Ohio		
	Michigan	South Carolina		
	<i>Explicit Permission</i>	Alaska	Nebraska	West Virginia
		Arizona	North Carolina	
		Idaho (D)	South Dakota (D)	
Massachusetts		Utah(D)		
No Unaffiliated Participation				
	<i>Explicit Prohibition</i>	Colorado	Maine	Oregon
		Connecticut	Maryland	Pennsylvania
		Delaware	Nevada	Rhode Island
		Florida	New Hampshire	South Dakota
		Idaho (R)	New Jersey	Utah
		Iowa**	New Mexico	Wyoming**
		Kansas	New York	
		Kentucky	Oklahoma	

\*IN and IL require party membership but have no enforcement mechanism

\*\*IA and WY disallow unaffiliated voters, allow party change on Election Day

A coding decision was required when classifying unaffiliated participation in cases where voters are allowed to participate by virtue of Election Day party enrollment change. In Iowa and Wyoming this is allowed for any party member, whereas Maine, New Hampshire, and Rhode Island allow unaffiliated voters to enroll on Election Day. In the case of New Hampshire and Rhode Island, it is fairly easy to quickly disaffiliate with a party and return to unaffiliated status. However, in Maine, a voter must remain a partisan through a waiting period window until they are allowed to disaffiliate. While these rules suggest a permissive system, I argue that the psychological attachment to

party identification is such that these logistical hurdles likely discourage crossover voting, and enrolled partisans are unlikely to abuse the system. Further, the effort required to affiliate and disaffiliate every election still poses a restrictive hurdle which is absent in those states which allow unfettered access by unaffiliated voters. Thus, only those states in which an unaffiliated voter may vote a party ballot and remain unaffiliated throughout the primary are classified as permissive systems.

### **Candidate Ballot Access**

In order to address barriers to candidate entry, we turn to examine ballot access requirements. These rules can be generally seen as trivial or non-trivial fees or numbers of petition signatures required. Presenting extremes of this measure, in Alaska, candidates must pay a \$100 fee, an arguably trivial figure. Additionally it is interesting to note that this is set as a specific fee and not set as a percentage of a variant figure. In terms of signature requirements, Tennessee offers an example of triviality, only requiring 25 signatures. Again, this is set as a specific number of signatures and not a variable or percentage based on population or previous election returns. On the other end of this spectrum, Florida requires a fee amounting to 6% of the salary of the office sought, over \$10,000 for a Congressional seat. In terms of signatures, many requirements are difficult to quantify as they relate to district and state population. A good example of a non-trivial signature requirement would be Wisconsin, which requires 1,000 signatures for House candidates. A key difficulty in this process is the specific delineation of triviality. In an era of professional political campaigns, what constitutes a trivial sum? In order to delineate triviality, I examined state requirements and discovered a large gap between filing fee requirements set at \$500 and those based on percentages which amount to thousands of dollars. Likewise, signature requirements when specified are usually below 500, or based on a percentage well in the thousands. For this reason, both \$500 and 500

signatures serves as not only a useful analytical distinction, but also a theoretical one. As mentioned earlier, fees or signature requirements which as specifically set have tended to stagnate, increasing their triviality with inflation. Percentage based fees and signature requirements signify an increased level of sophistication in primary rules, and thus, this will delineate the difference between smaller trivial barriers and larger, non-trivial ballot access barriers.

Table 4.3 on the following page presents a tabular view of the scope of both fee and signature requirements for major party candidates in the states. In some cases these requirements are the same for major and minor party/independent candidates. Differences between these two groups, however, is addressed further in the following section on independent candidacies. It is worth noting that in many states a petition option must be given in addition to a filing fee option in order to conform with court rulings regarding ballot access for indigent candidates. While indigence is not always a requirement for opting to submit a signature petition, this distinction is not made in table 4.3 and the data presented here are the standard state (or in some cases, party) specified fees and requirements. Further, in some of these states, ballot access can be gained via pre-primary convention, but these states generally allow for an alternate path to the ballot.

### **Filing as an Independent**

As noted earlier, one of the ways in which the two major parties can institutionalize their position of prominence in the American electoral environment is to disadvantage independent and third party candidacies. One way in which parties may do this is through prohibitively high filing fees or signature requirements. However, these barriers are less related to primaries and have more bearing on general elections. One way to incorporate a meaningful measure of independent candidacies within the framework of

Table 4.3: Fee and Signature Requirement Summary

Trivial	Non-Trivial	
Alaska	Alabama	Michigan
Hawaii	Arizona	Montana
Idaho	Arkansas	Nebraska
Kentucky	California	New Jersey
Maryland	Colorado	New Mexico
Mississippi	Connecticut	Oklahoma
Missouri	Delaware	Pennsylvania
Nevada	Florida	South Carolina
New Hampshire	Georgia	South Dakota
Minnesota	Illinois	Texas
North Dakota	Indiana	Utah
Ohio	Iowa	Virginia
Oregon	Kansas	Washington
Rhode Island	Louisiana	West Virginia
Tennessee	Maine	Wisconsin
Vermont	Massachusetts	
Wyoming		

the party primary is to juxtapose the difference in filing deadlines between major party candidates and independent or third party candidates. What may be of more interest to a potential challenger is not the specific fee or signature requirement, but the field of potential party rivals they would face. Considering how sore-loser laws prohibit losing party primary candidates from running in a general election, a strategic major party candidate may wish to pursue a challenge through an independent or third party avenue. The decision to pursue nomination through the party primary or through an independent candidacy would likely require knowledge of the party candidates. Thus, examining the deadlines for independent and party filing offer us a look at what a potential independent or minor party challenger would know about the major party nomination. Table 4.4 on the next page shows the various filing deadlines for independent and third party candidates listed by a challenger's possible knowledge of the eventual party candidate. This is an important piece of information for these challengers, who may wish to reserve

their efforts and strategically enter the race once they have information about the party nominees.

Table 4.4: Independent Candidate Deadlines and Knowledge of Party Slate

<u>Little or no Knowledge</u>	<u>Some Knowledge</u>	<u>Full Knowledge</u>
<u>Before Party Deadline</u>	<u>After Party Deadline</u>	<u>After Primary</u>
Florida	Connecticut**	California
Nevada*	Delaware	Colorado***
	Kansas	Georgia****
<u>Same As Party Deadline</u>	Maine	Illinois
Arizona	Massachusetts	Indiana
Arkansas	Michigan	Iowa
Hawaii	Missouri	Kentucky
Idaho	Montana	Maryland
Louisiana	Ohio	Nebraska (I)
Minnesota	South Dakota***	New Mexico
Mississippi		New York
New Hampshire	<u>Day of Primary</u>	North Carolina****
Oklahoma	Alabama	North Dakota
Rhode Island	Alaska	Oregon
Tennessee	New Jersey	Pennsylvania
Utah	Virginia	South Carolina
Vermont		Texas***
Wisconsin		Washington
		West Virginia
		Wyoming

\* Third party candidates file between party deadline and primary  
\*\* Third party candidates file after primary  
\*\*\*Third party candidates file on same day as major party candidates  
\*\*\*\*Deadline is before potential runoff election  
(I) Incumbents must register in advance of challengers

In the first case, independent and third party candidates have little or no knowledge of the party candidate. In states where the filing deadline for these independents falls before the party deadline, or on the same day as the party deadline, there is no guarantee that information will be available about the slate of primary candidates. In the second, less restrictive case, the independent filing deadline falls after the party deadline up until, and including, the day of the primary. Here, independent challengers would have

information regarding the slate of potential nominees, and perhaps some information on those candidates' relative strength in the primary election, however they would not know the party nominee. Finally, in the third, and least restrictive case, independent or third party candidates know the party nominee before they are required to file for the general election. It is worth noting that in two states in 2014, Georgia and North Carolina, the independent filing deadline is before a possible primary runoff election, however I do not make this distinction in coding. Additionally, Nebraska has a unique rule which requires incumbents to register in advance of challengers, but this unique rule is not incorporated into the measure of restrictiveness.

### **Length of the Election Season**

Revisiting the election calendar it is worth noting the diversity of election dates in the states. Table 4.5 on page 62 demonstrates this diversity by showing the date of the state primary election, and the major party filing deadline. These dates and lengths are calculated using the 2014 election calendar, and general election date of November 4th, 2014. The length of the general election is calculated as the number of days between the primary election and the general election, and the length of the primary is calculated as the number of days between the major party filing deadline and the primary election.

In order to capture the restrictiveness of this rule, I am forced to make an important theoretical decision. Little has been written on primary timing, however, one source, a report by the National Municipal League's Committee on the Direct Primary (1951) offers some guidance. In this report, which is decidedly placed within the tradition of responsible parties, the committee suggests late and short primary elections. While the report specifically suggests primaries be held within two months of the general election, no states currently fall in this category. Further, the report suggests a primary election season of roughly one month. Again, no states currently would fall into this category.

Their reasoning for these suggestions, to prevent long campaigns which cause unnecessary expense, is well taken, but we cannot use these specific criteria. We can also consider political events in our rationale for coding primary timing. Research on the effects of primaries on general election outcomes is decidedly mixed with evidence at different levels of government, and under different circumstances leading to positive and negative prognoses. If we take the sum of this literature as decidedly mixed, we can still say something regarding the length of a primary and the probable motivations of the party. Regardless of positive or negative effects, I make the assumption that parties are likely risk-averse, that is, not willing to risk any potential electoral gain due to a drawn out election at the risk of the multitude of negative events that may happen in that time. Thus, a party might be likely to forgo any potential benefits in strengthening their candidate, increasing name recognition, or otherwise, in order to minimize the amount of time where a primary candidate is open to attacks from inside the party, is utilizing valuable financial resources to compete with intra-party rivals, and is open to committing an embarrassing political gaffe. Thus, with this argument, I make the theoretical decision to code shorter political primaries as restrictive, and those which are longer as permissive, as they reflect a party's preferences (at least as argued here) thusly.

It is worth noting that some recent research, including work by Johnson, Petersheim, and Wasson (2010) has found an effect that interacts with the timing of the primary. Thus, divisive primaries which are further from the general election hurt less than those that are close. This line of research seems promising, and may suggest that a future update to this restrictiveness scale include some sort of interactive effect with the timing of the election. One possibility would be that in order to reduce these effects, a party would prefer short primaries if they are scheduled late in the year, but would not be opposed to longer primaries early in the election season. For now, it seems that parsimony dictate making the simplest assumption possible, that parties generally would

prefer shorter primaries in order to minimize possible negative effects of the race on general election chances.

Table 4.5: 2014 Campaign Seasons (in Days)

State	Primary Date	Filing Deadline	General	Primary
Alabama	Jun 03	Feb 07	154	116
Alaska	Aug 19	Jun 02	77	78
Arizona	Aug 26	May 28	70	90
Arkansas	May 20	Mar 03	168	78
California	Jun 03	Mar 07	154	88
Colorado	Jun 24	Mar 31	133	85
Connecticut	Aug 12	Jun 10	84	63
Delaware	Sep 09	Jul 08	56	63
Florida	Aug 26	May 02	70	116
Georgia	May 20	Mar 07	168	74
Hawaii	Aug 09	Jun 03	87	67
Idaho	May 20	Mar 14	168	67
Illinois	Mar 18	Dec 02	231	106
Indiana	May 06	Feb 07	182	88
Iowa	Jun 03	Mar 14	154	81
Kansas	Aug 05	Jun 02	91	64
Kentucky	May 20	Jan 28	168	112
Louisiana	n/a	Aug 22	74	n/a
Maine	Jun 10	Mar 17	147	85
Maryland	Jun 24	Feb 25	133	119
Massachusetts	Sep 09	May 06	56	126
Michigan	Aug 05	Apr 22	91	105
Minnesota	Aug 12	Jun 03	84	70
Mississippi	Jun 03	Mar 01	154	94
Missouri	Aug 05	Mar 25	91	133
Montana	Jun 03	Mar 10	154	85
Nebraska	May 13	Mar 03	175	71
Nevada	Jun 10	Mar 14	147	88
New Hampshire	Sep 09	Jun 13	56	88
New Jersey	Jun 03	Mar 31	154	64
New Mexico	Jun 03	Mar 11	154	84
New York	Jun 24	Apr 10	133	75
North Carolina	May 06	Feb 28	182	67
North Dakota	Jun 10	Apr 07	147	64
Ohio	May 06	Feb 05	182	90
Oklahoma	Jun 24	Apr 11	133	74
Oregon	May 20	Mar 11	168	70

*Continued on next page*

Table 4.5 – *Continued from previous page*

State	Primary Date	Filing Date	General	Primary
Pennsylvania	May 20	Mar 11	168	70
Rhode Island	Sep 09	Jun 25	56	76
South Carolina	Jun 10	Mar 30	147	72
South Dakota	Jun 03	Mar 25	154	70
Tennessee	Aug 07	Apr 03	89	126
Texas	Mar 04	Dec 09	245	85
Utah	Jun 24	Mar 20	133	96
Vermont	Aug 26	Jun 12	70	75
Virginia	Jun 10	Mar 27	147	75
Washington	Aug 05	May 16	91	81
West Virginia	May 13	Jan 25	175	108
Wisconsin	Aug 12	Jun 02	84	71
Wyoming	Aug 19	May 30	77	81

Examining the date in Table 4.5 on the previous page, it is striking to note that only four states hold a primary in September. Expanding this cutoff to include August, we are presented with considerably more states, but few of them also hold a short primary. How can we classify these states into meaningful categories of restriction based on this data? I suggest a modification of the criteria in the Municipal League report. While it is clear that few states hold late primaries, it is equally notable that absolute calendar placement of primaries is more relevant to a discussion of general elections, as the primary date sets the length of the general election. Thus, we can capture short primaries regardless of their placement on the calendar. With this in mind, I classify short primary states as those with primary campaigns less than three months. No primaries are shorter than two months, making a lesser measurement worthless, and the three month cutoff allows for substantial variability across states.

### **Endorsement**

The ability of parties to endorse candidates in the primary is an important and powerful rule for the parties. While some state parties choose not to exercise this power, or do not

exercise it regularly, the coding of this rule only signals that a law or rule exists to permit pre-primary endorsement of candidates. This rule also captures the ability for candidate to gain ballot access through pre-primary conventions. While this option is not often used, gaining ballot access through the convention can also grant the candidate special ballot designation such as preferential placement or a distinguishing mark. While these rules vary in terms of their codification, no distinction is made as to whether it is state statute or party rule. Finally, some of these endorsement methods which are not related to ballot access also afford candidates special ballot designation rather than an informal party endorsement. Again, as the use of endorsements and their specific benefit varies across states, the only meaningful distinction that can be made is that some form of party preference is given to candidates prior to the party primary.

Currently, pre-primary endorsements are permitted by state law or party rule in Colorado, Connecticut, Delaware, Illinois, Massachusetts, Michigan, Minnesota, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, Utah, and Virginia. In Colorado, New Mexico, New York, North Dakota, Rhode Island, and Utah, candidates who receive this endorsement are usually entitled to some form of ballot designation, whether this is a notation of endorsement, reduced or eliminated ballot access requirements, or preferential placement in the ordering of candidate names. In other states, endorsement procedures are generally more informal, but it is unclear if there are differential benefits to candidates. Considering the nature of this examination, and its key focus, restrictiveness, it seems logical to treat all states which have some form of endorsement equally, and to code this as a restrictive provision, as it affords increased power to parties.

## **Sore Loser Laws**

The final rule that I incorporate into the summary measure of restrictiveness is the existence of a sore loser law. Currently, all states with the exception of Colorado, Iowa, and New York, have some form of prohibition on sore loser candidacies. This lack of variance is methodologically troubling, however, the state of these laws in 2014 is vastly different in earlier years. Given the theoretical importance of these laws, and the desire to measure restrictiveness across time (including time periods when there is large variance in sore loser law adoption) it is included in this analysis.

### **4.1.1 2014 Law Summary**

With these 10 laws cataloged and coded, we can summarize all states across these categories as having either a restrictive or permissive form of the rule. Table 4.6 on the following page shows each state and presents a check mark if the state has a restrictive form of a rule. A dash represents either no rule, or a permissive form of the rule. The rules described in this table follow the layout in this chapter. In all cases, state parties are only designated when rules differ. If no party is designated, primary rules in the parties are presumed to be the same.

Table 4.6: Summary of Rule Restrictiveness by State (2014)

State	Party Enrollment	Party Change	Ballot Choice	Public Declaration	Unaffiliated Prohibited	Ballot Access	Filing Deadline	Primary Length	Endorsement	Sore Loser
Alabama	-	-	-	✓	-	✓	✓	-	-	✓
Alaska	✓	-	-	✓	-	-	✓	✓	-	✓
Alaska	✓	-	✓	✓	-	-	✓	✓	-	✓
Arizona	✓	-	✓	✓	-	✓	✓	✓	-	✓
Arkansas	-	-	-	✓	-	✓	✓	✓	-	✓
Colorado	✓	-	✓	✓	✓	✓	✓	-	✓	-
Connecticut	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Delaware	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Florida	✓	-	✓	✓	✓	✓	✓	-	-	✓
Georgia	-	-	-	✓	-	✓	-	✓	-	✓
Hawaii	-	-	-	-	-	-	✓	✓	-	✓
Idaho - D	✓	✓	-	✓	-	-	✓	✓	-	✓
Idaho - R	✓	✓	✓	✓	✓	-	✓	✓	-	✓
Illinois	-	-	✓	✓	-	✓	-	-	✓	✓
Indiana	-	-	✓	✓	-	✓	-	✓	-	✓
Iowa	✓	-	✓	✓	✓	✓	-	✓	-	-
Kansas	✓	-	✓	✓	✓	✓	✓	✓	-	✓
Kentucky	✓	✓	✓	✓	✓	-	-	-	-	✓
Maine	✓	-	✓	✓	✓	✓	✓	✓	-	✓
Maryland	✓	-	✓	✓	✓	-	-	-	-	✓
Massachusetts	✓	-	✓	✓	-	✓	✓	-	✓	✓
Michigan	-	-	-	-	-	✓	✓	-	✓	✓
Minnesota	-	-	-	-	-	-	✓	✓	✓	✓
Mississippi	-	-	-	✓	-	-	✓	✓	-	✓
Missouri	-	-	-	✓	-	-	✓	-	-	✓
Montana	-	-	-	-	-	✓	✓	-	-	✓
Nebraska	✓	-	✓	✓	-	✓	-	✓	-	✓
Nevada	✓	-	✓	✓	✓	-	✓	✓	-	✓
New Hampshire	✓	✓	✓	✓	✓	-	✓	✓	-	✓
New Jersey	✓	-	✓	✓	✓	✓	✓	✓	-	✓
New Mexico	✓	-	✓	✓	✓	✓	-	✓	✓	✓

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Table 4.6 - *Continued from previous page*

State	Party Enrollment	Party Change	Ballot Choice	Public Declaration	Unaffiliated Prohibited	Ballot Access	Filing Deadline	Primary Length	Endorsement	Sore Loser
New York	✓	✓	✓	✓	✓	✓	-	✓	✓	-
North Carolina	✓	-	✓	✓	-	✓	-	✓	-	✓
North Dakota	-	-	-	-	-	-	-	✓	✓	✓
Ohio	-	-	-	✓	-	-	✓	✓	✓	✓
Oklahoma	✓	✓	✓	✓	✓	✓	✓	✓	-	✓
Oregon	✓	-	✓	✓	✓	-	-	✓	-	✓
Pennsylvania	✓	-	✓	✓	✓	✓	-	-	✓	✓
Rhode Island	✓	✓	✓	✓	✓	-	✓	✓	✓	✓
South Carolina	-	-	-	✓	-	✓	-	✓	-	✓
South Dakota - D	✓	-	✓	✓	-	✓	✓	✓	-	✓
South Dakota - R	✓	-	✓	✓	✓	✓	✓	✓	-	✓
Tennessee	-	-	-	✓	-	-	✓	-	-	✓
Texas	-	-	-	✓	-	✓	-	✓	-	✓
Utah - D	✓	-	-	✓	-	✓	✓	-	✓	✓
Utah - R	✓	-	✓	✓	✓	✓	✓	-	✓	✓
Vermont	-	-	-	-	-	-	✓	✓	-	✓
Virginia	-	-	-	✓	-	✓	✓	✓	✓	✓
West Virginia	✓	-	✓	✓	-	✓	-	-	-	✓
Wisconsin	-	-	-	-	-	✓	✓	✓	-	✓
Wyoming	✓	-	✓	✓	✓	✓	-	✓	-	✓

## 4.2 Restrictiveness: A New Measure

With a complete coding of primary laws in the states in hand. We can now begin the business of constructing a usable measure of restrictiveness. In order to do this, the ten rules were collapsed into five categories of rules - party registration, ballot choice, ballot access, endorsement, and timing. First, party registration is composed of both party enrollment rules and affiliation change deadlines, creating a composite measure of the restrictiveness of party affiliation in the state. Second, ballot choice is a collapsed measure of whether or not partisans can freely move between party ballots, whether or not a public declaration of party intention is required, and whether or not unaffiliated voters may participate. Third, ballot access is a composite of the measure of filing fees, deadlines for independent filing, and the existence of a sore loser law. Endorsement rules and election timing are both single measures of the aforementioned restrictiveness of each rule category.

In building a measure of restrictiveness, I considered the possibility that all rules are not created equal. Political science's single-minded focus on rules pertaining to party enrollment and ballot choice are a testament to this. Additionally, some rules are necessarily predicated upon the existence of others, suggesting the increased importance of these foundational rules. Examining the five aforementioned categories of rules, party registration and ballot choice stand out as not only foundational rules, but rules which have an existing importance within current scholarship and our existing understanding of primary elections. It is wise not to completely throw out our conventional wisdom, and the importance we place on traditional classifications. As such, these variables should continue to have a prominent place in any future measures. Examining candidate ballot access, which has both a party candidate, and independent candidate component, it seems reasonable to place these variables in a second category of importance, as they

still directly relate to the importance of how ballots are structured and how rules can structure choice. Finally, endorsement and timing, round out these five categories of rules as, tertiary considerations. While endorsements are likely very important rules, relatively few states use them, and placing a large weighting on them would skew measures of restrictiveness towards these states.

Given the relative importance of the rules which comprise a summary measure of restrictiveness, I have chosen to weight the constituent components of the restrictiveness measure. Table 4.7 on the next page presents two calculations of this restrictiveness measures. In the first case, these five categories are weighted, with Party registration and ballot choice each comprising 30% of the measure, acknowledging the preeminence of traditional primary classification schemes. Candidate ballot access then makes up 20% of the measure reflecting their importance in structuring ballot. Finally, endorsement and election timing laws round out the measure at 10% each. While this weighted measure will be used, raw additive scores across these five categories are also presented in the table. In both cases, these scores range between zero and one, with zero representing the most permissive primary theoretically possible (all permissive features) and one representing a fully restrictive primary (all restrictive features). Finally, as in previous analysis, states are only separated by party if party rules create substantive differences within the states.

In order to gain some understanding of how these scores relate to the traditional classification of primary schemes, Table 4.8 on page 72 shows the relationship between the categorization presented by McGhee et al. (2014), and the new weighted restrictiveness measure, collapsed into quantiles. We can see that the new restrictiveness measure generally follows traditional schemes, however there are notable exceptions where the restrictiveness of a state is belied by its traditional classification. Similarly, we see a handful of closed primary states which exhibit many permissive features.

Notably, we can see an aforementioned example where Iowa and Missouri were

Table 4.7: Weighted and Raw Restrictiveness Scores

State	Weighted	Raw	State	Weighted	Raw
Missouri	0.2	0.17	Massachusetts	0.6	0.58
Alabama	0.25	0.22	Oregon	0.6	0.55
Hawaii	0.25	0.35	South Dakota - D	0.6	0.58
Michigan	0.25	0.35	Wyoming	0.6	0.55
Montana	0.25	0.35	Florida	0.65	0.50
North Dakota	0.25	0.45	Arizona	0.65	0.63
Tennessee	0.25	0.22	Kentucky	0.65	0.45
Vermont	0.25	0.35	Utah - D	0.65	0.63
Georgia	0.3	0.37	Kansas	0.7	0.65
South Carolina	0.3	0.37	Maine	0.7	0.65
Texas	0.3	0.37	Nevada	0.7	0.65
Wisconsin	0.3	0.40	New Jersey	0.7	0.65
Minnesota	0.35	0.55	South Dakota - R	0.7	0.65
Mississippi	0.35	0.42	Colorado	0.75	0.80
Arkansas	0.4	0.47	New Mexico	0.75	0.80
Illinois	0.4	0.43	Pennsylvania	0.75	0.80
Indiana	0.4	0.43	Utah - R	0.75	0.70
Ohio	0.4	0.47	Idaho - D	0.75	0.68
Alaska - D	0.45	0.47	New Hampshire	0.8	0.70
Virginia	0.45	0.62	Idaho - R	0.85	0.75
West Virginia	0.45	0.33	New York	0.85	0.85
Maryland	0.5	0.35	Connecticut	0.9	0.90
Alaska - R	0.55	0.53	Oklahoma	0.9	0.80
Nebraska	0.55	0.53	Delaware	0.95	0.95
North Carolina	0.55	0.54	Rhode Island	0.95	0.95
Iowa	0.6	0.55			

classified together as semi-open, yet now occupy two different quantiles of restrictiveness. Further, many states which are classified as closed or semi-closed, such as Maryland and Oregon, being more permissive than their traditional classification suggests. In both of these states, the only restrictive feature of their primaries were their ballot choice restrictions and sore loser laws. In all other categories these states were classified as having permissive rules.

This additional detail should help to shed light on the larger question of how primary restrictiveness relates to electoral features such as candidate extremism, competition, and

the adoption of the primary. The analysis of extremism and competition will be saved for Chapter 6, where I will discuss how this new variable may offer a different view of the negative effects of restrictiveness. However, for the time being it is worth focusing our attention on the adoption of the primary to attempt to discern if these current patterns can be explained by narratives of the initial adoption of the primary.

Table 4.8: Traditional Classification and Restrictiveness Quartile

	<i>Less Restrictive</i>		<i>More Restrictive</i>	
	1	2	3	4
Open	Hawaii Michigan Montana North Dakota Vermont Wisconsin	Minnesota		
Semi-Open	Alabama Arkansas Georgia Indiana Missouri Mississippi Ohio S. C. Tennessee Texas	Alaska(D) Illinois Iowa Virginia	Utah(D) Wyoming	
Semi-Closed		Alaska(R) Nebraska N. Carolina S. Dakota(D) West Virginia	Arizona Colorado Idaho(D) Maine Mass. New Jersey	New Hampshire Rhode Island
Closed		Maryland Oregon	Florida Kansas Kentucky Nevada New Mexico New York Pennsylvania S. Dakota(R)	Connecticut Delaware Idaho(R) Oklahoma UtahR

## Chapter 5

# Adoption Traditions and Rule Inertia

Explaining the rise and development of the direct party vis-a-vis party power is not an easy task. Given our understanding of the structure of rule systems laid out in Chapter 3, and their current form as discussed in Chapter 4, we are left with many questions about its adoption and development. One key observations is that the direct primary is governed by a large set of primary rules, some set by the state, some by the party, but in all cases, taking a wide variety of forms. If we suggest that there is a model form of primary, or at least a ‘more efficient’ form, why have states not converged on a singular type of primary? I suggest that current primary rules are the product of an institutional inertia which has propelled the primaries into their current form based on the events surrounding their initial adoption.

Revisiting the traditional narratives laid out in the introduction to this dissertation, we are presented with two competing (but not exclusive) reasons for the adoption of the primary: anti-partyism and attempts by party elites to institutionalize their parties and regain influence over an out of control convention system. Often, scholars have been preoccupied with arguing for a preponderance of evidence in favor of one of these

competing narratives. In this chapter, I will argue that there are actually three unique adoption motivations which were in effect simultaneously. Additionally, I will then argue that these three adoptive traditions have informed the development of the primaries in the states and are, at least partially, responsible for the divergence in primary laws across the states.

This chapter takes both adoption narratives and the proposition that the direct primary created public utility parties to task in light of a more nuanced understanding of the primary. By examining the adoption and early forms of the primary, in combination with contemporary and historical scholarship, we can reassess the veracity of the claims that anti-partyism was the driving force behind the adoption of the primary. Further, we can simultaneously address more recent claims that parties favored the adoption of the primary to enhance the legitimacy of the two-party system and further the institutionalization of the major parties. Finally, I will reintroduce a third strain of this argument which is often overlooked. The adoption of the primaries in southern states is often omitted from analyses of primaries due to their unique nature. I suggest that these one-party southern states should not be omitted, but incorporated as a unique third adoption tradition along with the progressive and party narratives.

## **5.1 Adopting the Direct Primary**

As a starting point for a discussion of the adoption of the direct primary it is worthwhile to take some time to examine the general timeline of adoption. While this may seem a simple task, there are numerous hurdles to classifying the start of the primary in the various states. Further, scholars have not agreed on an accepted timeline and various recent scholarship on the adoption and impact of the primary, including Galderisi and Ezra (2001), Ware (2002), Ansolabehere and Snyder (2007), and Lawrence, Donovan,

and Bowler (2011), all use dates of adoption which differ to some degree.

Examining these different codings, we can identify places of agreement and focus on cases where disagreement exists in order to construct a more accurate timeline. Delaware offers a good example of this process. While Ansolabehere and Snyder cite 1978, Galderisi and Ezra cite 1913 and Lawrence et al. cite 1903. As laudable as all these efforts are to operationalize the start of the primary in Delaware, we must make some sense of these dates. It is true that Delaware had a direct primary statute as early as 1903, however the law was rudimentary in nature and did not apply to all offices in the state. There would not be a law mandating primaries for federal offices until 1972, however no scholar cites this date. Ansolabehere and Snyder cite 1978, and in doing so have captured the date that the first primary actually occurred in Delaware (no primaries took place in 1974 or 1976). Given these details, I chose 1972 as the date of adoption, as this is the date of the adoption of the law mandating the direct primary be used for federal offices. Although a primary itself it did not occur for another six years, this coding establishes a precedent of citing the year the state legislature adopted the measure, not the first election year it went into effect.

In sum, my coding method used consensus dates when sources overwhelmingly agreed with a date (often using Merriam and Overacker (1928) to confirm). When there was a discrepancy, I referred to both Merriam and Overacker (1928) and to session laws in the states to determine which law met a reasonable standard for being both mandatory and sophisticated. To determine if the law is mandatory, I examined both the statute and precedent. Precedent is important in some states such as Alabama, which still does not have a mandatory law but has regularly used the primary since its 1904 adoption. To determine sophistication I examined the offices and geographic locations to which the law applied, selecting laws which encompassed a majority of major offices and were used statewide rather than particular counties or towns. It goes without saying that this

procedure did involve a fair amount of subjectivity, and the dates presented in Table 5.1 should not be seen as authoritative. Nearly all states moved rapidly through multiple forms of the primary, thus varying arguments can be made. Given the framework of this dissertation, however, a focus on statewide, broadly applied, and mandatory primary laws seems justifiable.

Table 5.1: Date of Adoption of Mandatory Primary

State	Date	State	Date
Alabama	1904	Montana	1912
Alaska	1958	Nebraska	1907
Arizona	1909	Nevada	1909
Arkansas	1909	New Hampshire	1909
California	1909	New Jersey	1911
Colorado	1910	New Mexico	1938
Connecticut	1955	New York	1913
Delaware	1972	North Carolina	1915
Florida	1913	North Dakota	1907
Georgia	1917	Ohio	1913
Hawaii	1959	Oklahoma	1908
Idaho	1909*	Oregon	1905
Illinois	1910	Pennsylvania	1913
Indiana	1915	Rhode Island	1947
Iowa	1907	South Carolina	1915
Kansas	1908	South Dakota	1907
Kentucky	1912	Tennessee	1909
Louisiana	1906	Texas	1905
Maine	1911	Utah	1937
Maryland	1910	Vermont	1915
Massachusetts	1911	Virginia	1912**
Michigan	1909	Washington	1907
Minnesota	1912	West Virginia	1915
Mississippi	1902	Wisconsin	1903
Missouri	1907	Wyoming	1911

\* Idaho abandoned the primary in 1919, readopting it in 1931

\*\* Virginia abandoned the *mandatory* direct primary in 1971, allowing the parties the option to select convention or primary election

### 5.1.1 Party, Progressivism, or Both?

The adoption of the direct primary is generally seen as a predominantly anti-party development. As mentioned in the introduction, contemporary observers of the adoption generally saw it as a product of the progressive movement. Burnham (1970), Ranney (1975), and Epstein (1986), all scholars of parties, have regarded the primary as a progressive reform which has weakened parties in America. However, in light of recent developments, this conventional wisdom has been brought under scrutiny. Lawrence, Donovan, and Bowler (2011) adeptly summarize the literature on the adoption of the primary into two arguments. The first is this traditional progressive narrative, focused on forces external to the party and championed by Merriam and Overacker (1928), one of the first scholars of the primary. However, Lawrence et al. also identify a second line of thinking proposed by Ware (2002) which suggests that internal party forces may have prompted the advent of the primary as a way for parties to handle the problem of unmanageable conventions.

While Ware argues that reformers had no control over legislators or parties, and thus, no avenue through which to force the adoption of the primary, I suggest that this is not wholly incompatible with progressive narratives. Indeed, Ware does credit reformers for single-mindedly focusing on the direct primary. This suggested to party officials that there was only one available alternative when attempting to reform their convention systems. While progressives had no direct political power, it is presumable that they did have influence via an agenda-setting power in many states. Thus, while they may not have been able to explicitly cast votes in favor of primary laws, the strength of the progressive movement in these states brought the issue of the direct primary to the forefront of the political agenda. Further, in some states there was indeed the potential for political action via direct democracy. In Oregon, we see an example of the progressive influence over the adoption of the primary. Here, voters passed the first comprehensive

primary law by initiative in 1904 before it was adopted by the legislature in 1905, clearly showing the possibility for direct progressive influence. Thus, it seems plausible to suggest that multiple influences were at work in the various states. Indeed, Lawrence and his colleagues, who set down these two lines of thinking as being incompatible, end up suggesting that although the weight of their statistical evidence was on the side of the progressive narrative, they could not rule out Ware's interpretation.

I suggest that the traditional line of thinking when examining the adoption of the primaries has been shortsightedly focused on a grand theory of the move for adoption and have not considered how varying adoption narratives may have influenced the particular form of rules which would arise in states. Additionally, I suggest that there were, in fact, three unique factors at work during this time, setting the direct primary on its course of widely varying implementation and effect. First, the progressive narrative does ring true, especially in western states. Even without direct links to parties or legislators, as Ware suggests, without strong parties and with a pervasive culture of progressivism, it is difficult to suggest what obstacles would lie before these reformers. Second, it is completely compatible with this view that party machines in eastern states simultaneously (or perhaps shortly after this) saw the benefit of the direct primary as a fix for their inability to regulate and control an unwieldy convention system. While primary source evidence to attest to this particular line of thinking is scarce, contemporary accounts of the adoption of the primary such as those by Dallinger and Merriam and Overacker suggest that many of the earliest primary reforms were taken up by party regulars to gain legal leverage over convention nomination. For instance, after a particularly divisive convention season between party factions in California, an 1866 optional primary law was conceived (supported fully by the parties) that allowed for legal punishment of ballot frauds in the convention. Even if this narrative does not ring true in later conversations regarding the primary, I can reformulate a weak version of this argument that stands up

to scrutiny. Given the evidence presented by Ware that parties such as the Pennypacker machine in Pennsylvania and Tammany machine in New York put up little opposition to the primary, it could be argued that this was because they saw little threat to their control over nomination. I will argue in this chapter that whether their ability to forge a complimentary primary system was necessarily apparent to party leaders at the time of adoption, they quickly formed and maintained restrictive primary systems in their states. Third, states in the south, as many academic observers note (see Key (1949)), were keen to adopt the primary as a way of institutionalizing their one-party control over states. We often, and easily, omit southern states from analysis due to this alternative narrative. If we accept that non-southern and southern adoption narratives can exist simultaneously, why then do we discount the possibility for a progressive and party narrative to also simultaneously exist. Unfortunately, our focus on the discovery of a grand theory in northern states has partially blinded us to the potential for a reconcilable divergence of motives between western progressive and eastern party states.

The following sections will examine party organization, progressivism, and finally political culture in terms of adoption in an attempt to address the plausibility of this tripartite view of the adoption of primaries. Examining the date of primary adoption across multiple potential adoption narratives we can assess the plausibility that a singular narrative drove adoption. In all three cases, however, I believe the relative lack of difference in the year of adoption suggests that the adoption of the primary should be viewed differently. All three of these adoption motivations could be working in tandem in various areas of the country at the same time. I argue that we should expand our inquiry to not solely examine the correlation between these narratives and the date of adoption, but the relationship between the subsequent forms the primary takes when it emerges from these various traditions. Given the limited analytical leverage we can gain from the condensed period of adoption of the primary, perhaps our analytical efforts

have been inefficiently allocated.

## **Party**

The first narrative tradition that I will address is that of party. Were strong party states recalcitrant towards the adoption of the direct primary? In order to examine party and the timeline of adoption, we must measure party strength, or more aptly described, party organization. Using Mayhew's (1986) operationalization of Traditional Party Organization (TPO) we can examine the timeline of adoption in strong versus weak party states. One methodological hurdle to this analysis is that Mayhew's measures were intended to show the existence of traditional party organizations in the 1960s. Can these scores be applied to earlier time periods? Theoretically, institutional features like party organization are long lasting and durable, extending their utility beyond this one time period. Further, these scores still correlate highly with later measurements of party organization, suggesting that as they could still be used 50 years later, perhaps they could be equally applicable 50 years prior. As a practical matter, no comparable measure of party organization exists that could facilitate such an analysis, further demanding the use of this measure.

While Mayhew's initial scoring was done on a scale from one to five (one being the weakest tradition, and five being the strongest) I have collapsed the scale to a binary classification of strong and weak. This codes the two categories of 'party organization' and 'persistently factional' states as strong party states, and the remaining states classified as weak. It worth noting that Mayhew considered southern states separately in his classification, being noted as highly individualistic and one-party dominant. However, literature including Key (1949) suggests that southern states had an incentive to adopt the primary in order to institutionalize one-partyism in those states. It could be suggested that while southern states lacked the traditional party organizations which

Mayhew investigates, they were equally unconcerned with progressive considerations in their adoption of the primary.

Examining this hypothesis, I investigated partisan balance in the state legislature and the governorship from 1900-1919. There were no significant relationships between one-partyism and adoption time, examining both the entire non-south sample and the subsample of strong party states. Of the 13 strong party states, two (New Hampshire and Pennsylvania) were dominated by a Democratic governor and majorities in both houses of the legislature over the entire period. While these two states adopted the primary early (in 1911 and 1913, respectively), other strong party states such as Missouri and New Mexico experienced divided government over much of the time (seven years and eight years, respectively) but adopted the primary early as well (in 1913 and 1907). While this lack of a relationship does not satisfy, it does bear noting that one-party dominance in non-southern states was distinct from its southern counterpart. Many southern legislatures during this time had no out-party representation. Arkansas' average Republican seat share in the lower house was 3.5%. Non-southern states with one-party dominance still had a modicum of competition, with average seat share splits ranging from 53/47 in Indiana to 78/22 in Rhode Island. Additionally, the motivations to adopt the direct primary in the south versus other strong party states differed with respects to the issue of race. Given this, we can likely set aside the contention that southern states should be combined with other strong party states, and instead argue that they have their own unique adoption tradition.

With the matter of the south settled, we can return to the discussion of strong versus weak party states. Figure 5.1 on the following page shows the frequency of adoption of the primary across non-southern weak and strong party states. Due to the difference in sample size between categories, the proportion of states in the category is presented rather than the raw number of adoptions. For reference, I have included the combined

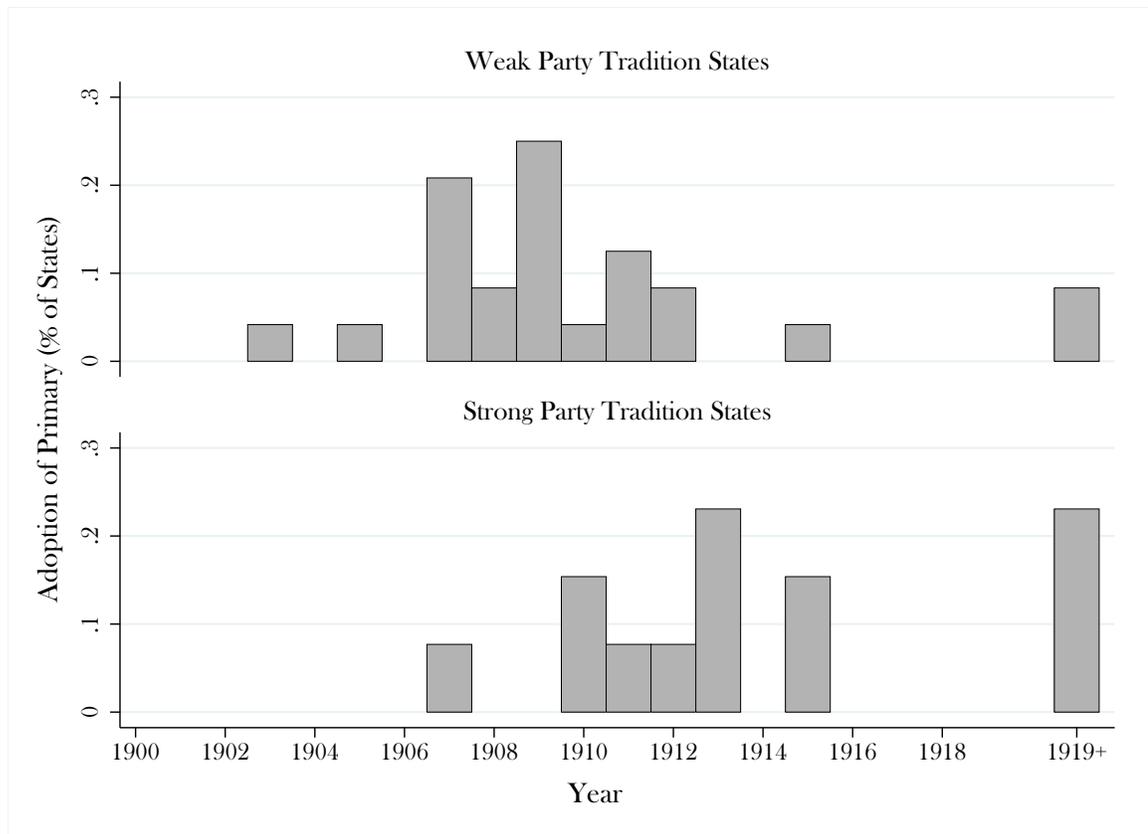


Figure 5.1: Primary Adoption by Party Organization

category of strong party states and southern states. Although it does not seem that preserving a one-party system was a shared goal of both southern and non-southern strong party states, the theoretical presumption remains that although their goals were divergent, they were both motivated by party.

A cursory examination of Figure 5.1 does suggest that weak party states adopted the primary before strong party states. Adding southern states to the strong party states, this trend is less pronounced. Measures of statistically significant differences aside, what is striking about this figure is the rapid adoption of the primary across all states, regardless of party organization. In only five cases (Connecticut, Delaware, New Mexico, Rhode Island, and Utah) was the adoption of the direct primary forestalled past 1920. While the latest of these five (Delaware, Connecticut and Rhode Island) are all

strong party states, it is impossible to ignore the bulk of strong party states adopting within just a few years of their weak party counterparts. Removing all five outliers and not controlling for any further variables, the average date of adoption for weak party states is only two years earlier than the average date of adoption for strong party states. Again, setting aside any statistical concerns, a difference of this magnitude can hardly be considered consequential or empirically significant. Given not only the small sample size of these groups, but the restricted time frame, the timing of legislative sessions, ambiguities in coding these dates, and a myriad of other political considerations, it would be exceedingly difficult to gain any useful leverage over these small variations, and it is unclear if they would be theoretically meaningful. Thus, I conclude that, while there may be small differences between the date of adoption of the primaries in weak versus strong party states, there is not enough to conclude that strong parties were the sole impetus for the adoption of the direct primary.

This view, that parties may have not been wholly opposed to the primary is important in terms of responsible party government. While Epstein remarks that “Americans expected their parties to be open to participation like no other private associations in the United States” (1986, 169) However, Epstein fails to remark on the nature of these early primaries. Examining the earliest forms of the direct primary in the United States, we see primaries that leave parties largely in charge of their own affairs. Ranney as well discussed the idea that parties were “stripped of their private character” (1975, 75). It is not clear, however, that parties ever had such a private character. Additionally, it is not clear that they are stripped, so much as they abdicated any private character they had in order to gain institutional legitimization. As Ware (2002, 90) notes - it is unclear that parties were forced to administer the primary in a way that was contrary to their desires. This suggests, that a narrative of the adoption of the primary may well include parties as well as progressives, however, parties may have molded the primary into a different

form to suit party needs rather than progressive ones.

Austin Ranney defined the direct primary as "a system in which political parties are required by law to choose their candidates through state-administered elections in which any legally qualified person must be allowed to vote" (1975, 121) What Ranney does not note is that a large number of states allow the parties to set the qualifications for voting. Thus, while primaries restrict voting to legally qualified persons, parties may exert a fair amount of discretion in the legal definition of a qualified person. If state parties are allowed to choose whether or not to allow unaffiliated voters, they are playing an important role in setting the legal qualifications for voting. This is a good example of how Epstein and Ranney are both simultaneously right and wrong. They are correct in their assessment that the direct primary has left parties as governmentally regulated entities with diminished control over nomination. This argument supports a progressive adoption narrative. However, they overstate the case that this is entirely due to said governmental regulation. In many cases, parties retain wide latitude in the implementation of the primary, whether this be endorsement procedures, voter qualification procedures, pre-primary conventions or otherwise. Further, it seems unlikely that large party machines of the early 20<sup>th</sup> century could have been forced by minority progressive factions to adopt a reform that would potentially limit or infringe on their nominating power. Arguments about the specific motivations of strong parties, it does not seem likely that they would, or could be compelled into a primary system that would dilute their power. It seems much more likely that parties, given the potential for rules which would afford them some control over nomination, would not have viewed primaries as being nearly as anti-party as progressive reformers hoped. Additionally, any losses in direct nominating power may have been offset by gains in institutional legitimacy, further reducing party opposition to the adoption of the primary. If this is the case, it stands to reason that primaries arising out of strong party states may exhibit more restrictive qualities

than their progressive counterparts. This notion provides for the suggestion that two equally important traditions drove the early adoption of the primary. Given this, it seems likely that the various rules of the primary may have been fashioned to suit the political atmosphere of partyism or progressivism. However, before moving to consider this argument, it is worthwhile to examine the progressive narrative of adoption. As progressive reformers still played a large part in the adoption of the primary in other areas.

### **Progressivism**

Next it is useful to examine differences between states with a progressive impulse versus those without. One key methodological hurdle is the coding of progressivism in the states. Following from Lawrence, Donovan, and Bowler (2011) I operationalize progressivism in the states using initiative and referendum laws. Using this coding, we can not only capture the existence of a progressive element in the state but also the potential for the use of initiative to drive adoption, as was the case in Oregon. Here, I code progressive states as those which adopted the initiative or referendum within the 1900-1920 window. Thus, later adopters such as Illinois or Wyoming are not included as progressive states.

As with the first example, when examining progressivism, we would expect to see marked and significant differences in the date of adoption of the primary if progressivism was a singularly driving force in the adoption of the direct primary. Examining Figure 5.2 on the following page there does seem to be some credence to the notion that progressive states adopted before non-progressive states, but as with our example of party, it is unclear if this difference is significant enough to say that progressivism was the only driving force for the adoption of the primary. In terms of an average date of adoption, if we again exclude the five outlying late-adopters, there is even less difference between

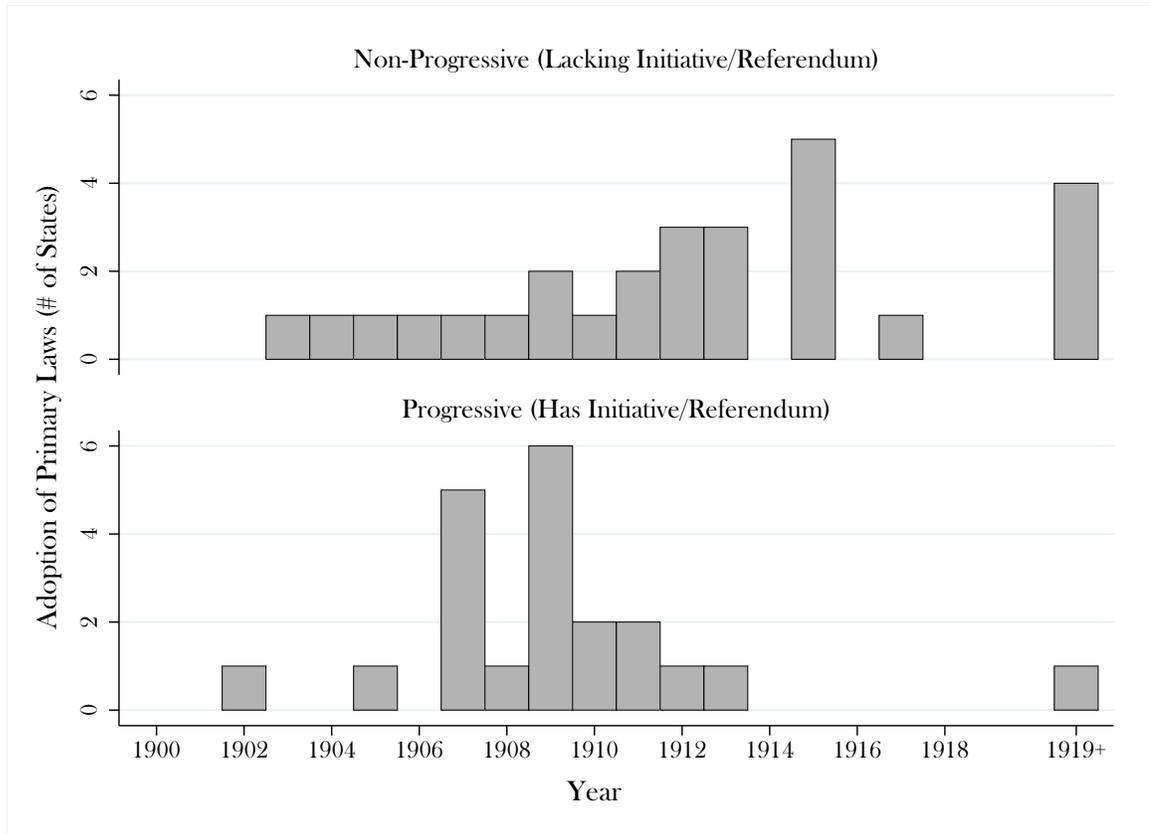


Figure 5.2: Date of Adoption by Progressivism

the average date of adoption between these categories as there was between strong and weak party states. In this case, the difference between the average years of adoption was less than one year. It is worth noting that it does seem that the rate of adoption was much quicker in progressive states. While I can only speculate as to the reasoning behind this, we could suggest that popular political pressures demanded quicker action in progressive states than their non-progressive counterparts.

Thinking broadly, it seems unlikely in this case that progressivism was a singularly driving force in the adoption of the direct primary. This, combined with the same conclusion suggested by the party data seems to point to the notion that states may have had unique motivations for the adoption of the primary. Thus, scholars who have promoted the progressive and party theories are neither fully correct nor fully

incorrect. Indeed, they may be telling two sides of the same story. Before considering the implications of this view, it is worth taking a third look at adoption by examining political culture, which may serve as a useful proxy for comparing all three traditions simultaneously.

### **Political Culture**

Attempting to further unlock any significant trends in adoption, we can look to political culture. In this case, I utilize a measure of political culture from Sharkansky (1969), which is an adapted form of Elazar's (1966) original typology. This measure is a useful proxy for a tripartite view of adoption as the Traditionalistic culture aligns well with southern states, Individualistic culture maps well onto strong party states, and Moralistic culture corresponds well with states with a progressive impulse. In effect, this allows us to separate all three categories out at once to compare their relative rates of adoption. While these codings do not perfectly map to the above categories, they also provide a useful check on those analyses. It is possible that the existence (or absence) of strong party organization, or initiative and referendum belies the underlying motives for adoption in a state. Thus, we can take political culture as a check on these previous codings by offering a different measure of progressivism, partyism, and the motivations of southern states.

Figure 5.3 on the next page shows the breakdown of year of adoption over the three categories of political culture. To recap our previous arguments on the adoption of the primary, we should expect moralistic states to adopt first if progressivism is a singularly driving force, and individualistic states if strong party states led the way. Traditionalistic states, which roughly overlap with southern states are also presented in this figure, although no argument has been made in the literature that southern adoption of the primary was a driving force in the adoption of the primary in other states.

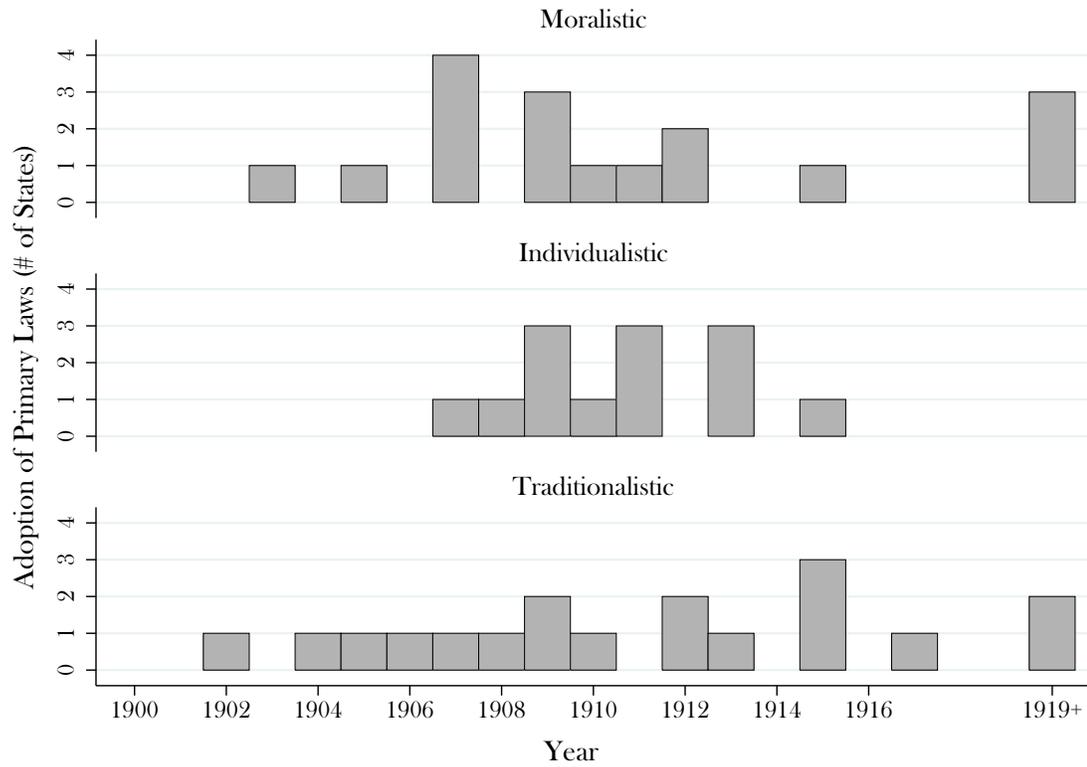


Figure 5.3: Date of Adoption by Political Culture

Again, in this case we do not see striking differences which would point to the dominance of one adoption narrative. To reiterate a point made earlier, it is important to note the relatively small window of adoption across all of these states. The adoption of the direct primary occurred rapidly across all states regardless of party, progressivism, or political culture. With this in mind, we should not completely dismiss a discussion about the adoption of the primary, however, given the limited analytical leverage we have with this restricted time window, and the apparent lack of evidence for one singular narrative. Instead, we should look at how the possibility of multiple, simultaneous motivations have informed the way the direct primary was shaped in the various states.

### **5.1.2 Consequences of Adoption Motivations**

What can be gained from a discussion of the motivations for the adoption of the primary? As I have argued, the lack of variance in the timing of the adoption across substantively meaningful categories suggests little to gain in examining reasons for temporal variance. Instead, I suggest an alternate line of inquiry based on the adoption of the primary. Specifically, how has the adoption of the primary in the various states affected its current state. As I suggest in the opening of this chapter, the fragmented and diverse primary rules in the states presents a looming question: how did the primaries become so different? I argue that these differences are directly related to the tradition of adoption in the states.

#### **Endogeneity**

One difficulty with suggesting that any of these categories has a bearing on how primaries currently look is that of endogeneity. This analysis is exposed to questions of endogeneity from a number of sources. First is the problem that measures such as that of party organization may be a result of the restrictive primaries that I suggest they create. I do not completely refute the possibility that more restrictive systems led to a political environment (or specifically, political parties) which either maintained or increased the restrictiveness of that system. Likewise a less restrictive system may indeed produce candidates (or parties) which perpetuate that openness. However, I find these scenarios to be wholly compatible with my argument. Indeed, this logic begs the question of how these systems were closed or open to begin with. My argument regarding the adoptive tradition merely means to suggest that these primary laws were set on a path from their origin, and the degree to which feedback within that system reinforces that path is beside my point, or perhaps enhances its meaningfulness. Additionally, I will argue that

the degree of change within these primaries has been relatively small, which suggests that any potential feedback within the system due to this endogeneity is minimal.

## **5.2 The Status Quo and Inertia**

In order to analyze the evolution of primary rules in light of varying motivations of adoption, I will present a two-part analysis. First, I will show that there has been a relative lack of innovation and change in primaries since their adoption. This partially addresses questions of endogeneity and partially shows the power of the inertia of the various adoption motivations. Second, I will compare the restrictiveness of current primary systems across these adoption narratives to show that restrictiveness has emerged out of strong party states, whereas permissiveness has emerged in both progressive and southern states.

### **5.2.1 The (Relative) Status Quo**

Since the mid 20th century there has been much stability in primary election laws and a relative lack of innovation in rules. In order to demonstrate this, I examine change in the rules of the primary at three historical cut points. Given the relative dearth of information regarding the historical progression of rules, and the intensive research that would accompany a year by year historical narrative of the primaries, I have chosen three historic dates which are notable for particularly in depth surveys of primary rules to combine with a fourth, current, data point. First, 1930, which corresponds generally to the time period in which Merriam examines primary rules and catalogs the advent of the direct primary (1928). Second, 1960, when the National Municipal League released a fairly thorough compendium of the rules of the direct primary in every state (1960).

Finally, 1990, utilizing Alexander Bott's Handbook of United States Election Laws as a guide (1990).

Examining one of the principal rules of this study, party enrollment, we immediately have an example of the lack of change and innovation in primary rules. In 1930, 23 states are listed as having party enrollment, 27 have the feature in 1960, 28 in 1990, and 30 in my most recent collection of rules. It is with noting that in 1930, only 44 states used a primary, thus, the increase in states using enrollment between 1930 and 1960 was largely due to new adoption of the primary. With few exceptions such as West Virginia early adoption of enrollment and Utah's recent change, very little has been done to enact or repeal party registration laws in the last 80 years.

Considering ballot choice, there have been considerably more changes than in the case of party enrollment. However, many of these rule changes have taken place because of a relaxing of party enrollment rules. As of Merriam's writing in 1928, he classified 17 states as closed which currently could be classified as open primary states in some sense. However, only one of these 17 states had party enrollment early on, North Dakota, and by 1939, they had eliminated party enrollment (Overacker 1940). Thus, the majority of this movement over time was not a change to policies regarding ballot choice, but changes in the enforcement of party membership. In many of these states, we can still see the vestiges of their original laws. Two of these states were initially purely open, as they are now: Montana and Wisconsin. In the remaining states, party enrollment was done by either asking for a ballot (as is done today in some states) or by a challenge method, some of which are still in statute (Illinois and Indiana) but seldom if ever enforced.

Speaking to unaffiliated voter participation, this has been a relatively recent trend. The earliest mention of allowing unaffiliated voters to vote in a normally closed party state was in Oregon in the late 1970s (Braafladt 1977) see the mention of 'hybrid' systems which allowed unaffiliated voters to participate. Since the advent of this new phe-

nomenon, relatively few states have allowed the participation of unaffiliated voters while maintaining ballot restrictions on enrolled party members. Currently, only nine states allow unaffiliated voters to participate and maintain their unaffiliated status, all of these states are classified as weak party states. In two strong party states, New Hampshire and Rhode Island, unaffiliated voters may participate, but their selection of a party then subsequently enrolls them as members of that party until they disaffiliate. A striking example of the difference in these states.

One trend that is interesting to note relates to ballot access restrictions. Examining the history of signature and filing fee requirements, one trend is immediately apparent. The stability of non-trivial ballot fees, (especially when a non-percentage based fee is prescribed) suggests that these requirements have always been lax. However, we must be cognizant of the relative buying power of these fees. In Missouri, for instance, there has not been much movement in the required ballot filing fee between 1930 and the present. In 1929, House candidates were required to pay \$50 whereas Senate candidates paid \$100. Today these sums are a trivial (compared to other states) \$100 and \$200. A cursory examination suggests Missouri has taken an relaxed stance on ballot fees over their history, however, when adjusting these dollar figures with CPI inflation data, the \$50 figure equates to \$684 in today's dollars and the \$100 fee, \$1,368. Thus, states, by not updating these figures, have actually relaxed filing fees significantly through the progression of inflation. Examining neighboring Kansas, which has always prescribed a fee of 1% of the salary of the position, 1930 and 2014 figures are much more comparable - \$1,368 and \$1,740 respectively (given inflation and the \$10,000 Congressional salary in 1930). These figures are both, arguably, nontrivial sums. For the majority of states, however, a basic coding into trivial versus non-trivial requirements would remain the same from 1930 to today. Notable examples of change generally come in the form of increasing extremely lax requirements. In Indiana, which had no ballot access fees or

signature requirements in the 1930s and only required 10 signatures by 1960, an increase to larger percentage based signature requirements came in more recent years, with a requirement of 5,000 signatures by 1990. In Nebraska, a change from minimal signature requirements (25) would eventually take place to require a 1% filing fee. Similarly, Oklahoma only required two signatures as of 1960, but currently requires 1,000 for a Senate candidate. These examples all show a general trend towards restriction, but generally only in cases where signature requirements were so lax they could be considered outliers. In the vast majority of cases, the triviality of ballot access restrictions has remained the same.

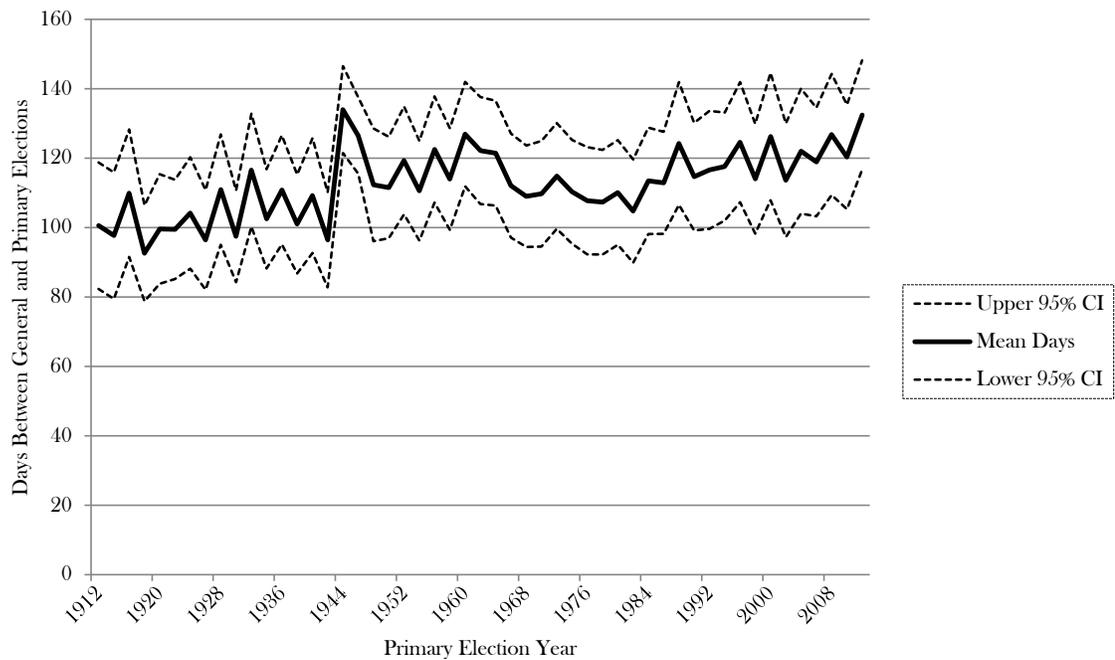


Figure 5.4: Days Between Primary and General Election, 1918-2012

Turning our attention to the primary calendar, Figure 5.4 shows the overall trend in the calendar placement of primaries (that is, the number of days between the primary election and the general election). As we would expect, the general trend has been a move toward earlier primaries, although this aggregate movement is not very substantial.

As mentioned earlier, however, another aspect of primary timing is the length of the primary election itself; the length of time between the filing deadline and the primary election. Unfortunately data on candidate filing dates is exceedingly difficult to come by. FEC documents shed light on more recent elections (dating back to 1998) and CQ generally published major party filing deadlines. Taking some dates from these sources and examining the length of the primary season, there is an overarching trend toward an expansion of the primary season, but the average growth from 1974 to 2012 is only 13 days. In many cases, change reflects a regression toward the mean, where states with extremely long primaries, as in Connecticut (101 days), have sought to shorten this, and states with shorter primary seasons like Kentucky (55 day) have sought to draw them out.

One notable exception to this narrative of the relative status quo has been the innovation in sore loser laws. Relatively few states had these provisions at the time of the adoption of the primary, and it shows an interesting progression of one primary innovation. The timeline of adoption of these laws is shown in 5.2 on page 96 and is adapted from Kang (2011) with a few changes to reflect updates and corrections. Additionally, Connecticut, Iowa, and New York are not shown, as these states have not yet adopted any sore loser provisions. This table has been separated out by decade and by the prevailing adoption tradition, whether progressive, party, or southern. States which did not have a prevailing tradition are shown in the "Not Classified" column. In cases where both a progressive and strong party tradition existed, states were assigned to the strong party column (Missouri, Maryland, and Ohio). It is also worth noting that Delaware and Rhode Island both adopted the mandatory primary relatively recently. Thus, while they are strong party states, and are shown late in the timeline, their lateness in adopting is certainly due in part to their recent adoption of the direct primary. While the trends shown in Table 5.5 are mild, these data do seem to suggest that strong party states were in the vanguard of adopting sore loser statutes. Further, in terms of primary innovation

generally, this table shows how this specific policy is one of the few examples of a rule innovation that has promulgated throughout the states over a long time period. This is contrasted with the relatively quick adoption of the primary, and the lack of innovation in other areas, as previously discussed.

### **5.2.2 Adoption Inertia**

Taking this general narrative of the relative status quo of laws over the past 100 years, I argue that current systems are largely based on their original arrangements. When changes have occurred, they have done so in a manner which reflects this original arrangement. The example of ballot choice demonstrates this argument. In most cases, states which restricted ballot choice through enrollment continue to do so. Those states which have relaxed ballot choice restrictions have done so because their original enrollment mechanisms (usually asking for a ballot or a challenge method) have become unenforcible. Thus, this original arrangement creates a path dependency when change occurs, leading to relatively few, if any, drastic changes in primary laws. With this in mind, it is worth revisiting the restrictiveness measures from Chapter 4 in light on these three adoption narratives.

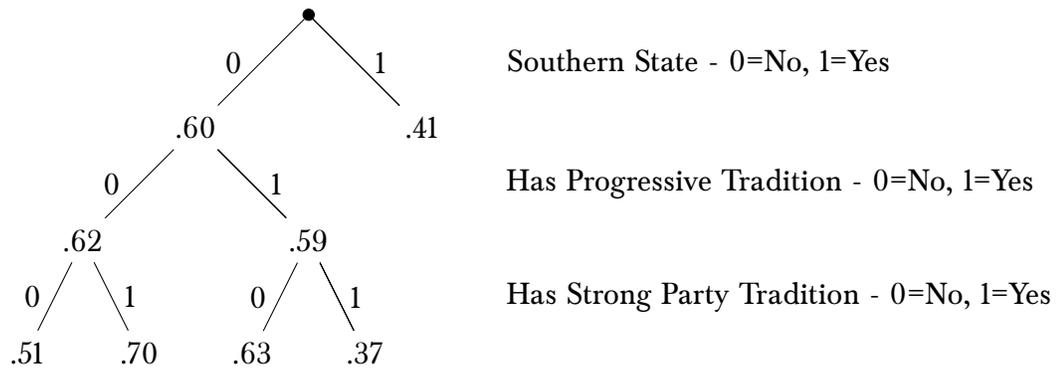
Figure 5.5 presents mean measures of restrictiveness for 2014 primary rules based on adoption traditions. The tree first separates out southern and non-southern states, clearly showing the difference in today's rules between these two categories. Institutional inertia has continued the fairly lax and unregulated southern primary, as evidenced by their low restrictiveness score. Proceeding to the next level, we separate out progressivism in the non-southern states, while the apparent relationship between progressivism and less restrictive rules seems to come through, it is worth traveling down to the final level of detail and add strong party history to the tree. Of these four final points,

Table 5.2: Date of Adoption of Sore Loser Law By Decade and State Classification

	Progressive		Party		South		Not Classified	
1900s					MS	1906		
1910s	CA	1917	NJ	1915				
			WV	1919				
1920s			KY	1920				
			OH	1929				
1930s	NM	1939	PN	1937	CA	1932		
	OR	1939						
1950s			MD	1957	SC	1950		
					AR	1955		
1960s	CO	1963	IN	1967	NC	1967	HI	1967
	NV	1963						
1970s	AZ	1970	DE	1978*	FL	1970	WY	1973
	ME	1973	MO	1977	TN	1975	WI	1977
	ND	1975			AL	1977		
	ID	1976			LA	1978		
	MA	1976						
	SD	1977						
1980s	OK	1987	RI	1981*	GA	1983	AK	1980
	MI	1988	IL	1989	TX	1985	MN	1981
							NH	1981
							KS	1989
1990s	MT	1991						
	NE	1994						
	UT	1994						
2000s	WA	2004						
2010s							VT	2010

the key comparisons should be made between non-progressive/strong-party states and progressive/weak-party states. Here we do see the expected difference in restrictiveness, with non-progressive/strong-party states having more restrictive primaries in 2014.

Figure 5.5: Mean Primary Restrictiveness by Adoption Tradition



While these cursory relationships are interesting, we must compensate for a lack of empirical leverage with qualitative detail. The broad relationships of Figure 5.5 raise a few interesting questions. One question in particular can be immediately drawn from the stark difference between strong and weak party states within the progressive tradition. Maryland, Missouri, and Ohio all fall into this combined category of both progressive and strong party. While Maryland maintains a fairly restrictive system, Missouri and Ohio are decidedly permissive systems. While I have no way of completely accounting for this, we may find the answer when considering the interaction of progressivism and strong parties. Examining the progressive tradition in western states, there were not many strong party states in which to focus anti-party sentiment. Likewise, in eastern strong party states there was not often a progressive tradition to mediate the behavior of the parties. Additionally, while Missouri may have had vestigial remains of a southern tradition, the competitive two-party system in Missouri was in stark contrast to southern state at this time. Thus, while a southern tradition may be muddying the analytical waters, it is not clear that Missouri should be classified into a southern adoption tradition. These cases offer a view that suggests when in conflict, progressive efforts may have won out, yielding a permissive primary. Anecdotally, Ware (2002) notes that Ohio had a tradition of experimentation with direct nomination long before the adoption of

the primary. Additionally, Missouri saw little opposition to the primary, with a partisan legislature and divided government passing the bill with ease, and little fanfare. While it is unclear what the underlying causal mechanism is, it does seem that in these cases of conflict, the progressive tradition was able to dominate.

A second question raised by this figure is that of the relative restrictiveness of progressive and weak party states. In this case there are a handful of western progressive states which have, of late, adopted restrictive primary measures. This calls into question this narrative of path dependence from adoption. However, under further analysis, we see that these states, Arizona, New Mexico, Nevada, Oklahoma, and Utah, all have something in common. These relatively young states had a progressive urge when adopting the direct primary, but their lack of party organization was not due to anti-party sentiment, rather, it is possible that they just had not had the time to develop they type of party organization that existed in older eastern states. With this assertion, I will proceed to a discussion of recent primary experimentation in order to directly address this claim.

Finally, it is important to note that the measures used here leave much to be desired in terms of classifying states according to progressivism and a strong party tradition. In the case of progressivism, using the adoption of the initiative or referendum omits states which has strong progressive impulses, but which failed to adopt these measures. Minnesota and Wisconsin stand as compelling examples of states which had irrefutable progressive traditions but would not be classified as progressive under this categorization. Given that these states have adopted permissive primary systems, the expected relationship between progressivism and permissive primaries would only be strengthened by altering their coding. Examining strong party states, it is also clear that some northeastern states which had a strong party tradition may not be fully captured by the Traditional Party Organization scores of Mayhew. Two examples of this are Maine and New Hampshire. Ware cites Maine specifically as an example of how the Democratic

party made a concerted effort to adopt the primary in an effort to become more competitive against state Republicans. He specifically cited their attempt to adopt the primary as a move to "broaden an electoral competition" (182). Mayhew also gives short shrift to the efforts of other New England party leaders to cobble together partisan activity that, in the 1900s, could reasonably be deemed to be party machines (Lockard 1959, Swenson 1982). Again, their recoding as strong party states would skew the above findings in favor of the conclusion that restrictive systems emerged in these party-centric states.

### **5.3 Recent Experimentation**

While I have presented a narrative in this chapter which argues that primaries have remained largely unchanged in terms of their restrictiveness, and when changed, they have done so in a path dependent way based on their adoption, there have been recent notable developments in primary laws which I need to address. These developments, however, occur outside of my narrative of adoption inertia, as they have been driven by other factors. While I do not examine these developments with the same veracity as my adoption argument, they raise important empirical questions which have the potential for exciting future analysis. I separate these developments into two general categories, those being driven by judicial developments, and those being driven by recent party development in newer states.

Judicial developments have occurred in the past 30 years which have prompted changes from states. Court cases in California, Connecticut, Kansas, and Idaho have all had impacts on these states' primary schemes, sometimes against the will of the states. This introduces a measure of error into these findings, as primary laws can be abruptly altered from their course with a judicial decision. Much of the experimentation with blanket primaries, for instance has caused numerous legal battles, prompting rapid

change in California and Washington. Rulings by the Supreme Court on the freedom of association of parties has prompted rule changes in Connecticut, Kansas, and Idaho. While these three states have generally been able to maintain their primary system, broadly understood, statutes were forced to be rewritten as to allow parties to decide who may participate in their primary, rather than the state. In Connecticut, some experimentation was done in the 1980s, but in the end they maintained their closed primary system. In Kansas and Idaho, parties took divergent paths, with the Democratic parties in both states favoring more permissive systems (Kansas Democrats will return to their closed system for 2014). Finally, the inertia of primary adoption can be seen very well in Hawaii, a state which has long had open and permissive primaries. Recently, the Democratic party of Hawaii has been attempting to close their primaries, but have been hamstrung by the difficulty of changing state statute. We may very well see this battle removed to the courts, prompting judicial rule change yet again.

A second recent trend has occurred in western states such as Utah, Nevada and New Mexico. While these states did not have strong parties at the time of the adoption of the direct primary, they have, in many ways, begun to develop them. Scholars of both party and primary including Mayhew and Ware have noted that strong parties did not exist in these states as they were generally too young to have developed them. Further, the argument has been made that party control was not necessary through traditional party organization, as rich natural resources and westward expansion of railroads provided a means to exert party control without formal organization. Over the last 100 years, it is possible that these states, adopting their primaries in a progressive tradition, have begun to develop the strong party organizations that they were previously lacking. By the time of Cotter, Gibson, Bibby and Huckshorn's (1989) analysis of party organization in the 1980s, parties in Arizona, New Mexico, Nevada, Oklahoma, and Utah had made it into the 'Moderately Strong' category of their analysis. Given the development of these

parties, this offers an impetus for a large break from the progressive path which their primaries originally took. Indeed, all five of these states would currently be classified as more restrictive, as can be noted in Table 4.8 on page 72. Surely, recoding these states out of their original progressive category and into the party category would only serve to bolster the results presented in Figure 5.5 on page 97.

## Chapter 6

### The Correlates of Restrictiveness

This dissertation has shown that the direct primary is a complex institution of varying rules and use across the states. Chapter 4 showed how we can categorize these rules into a new measure of restrictiveness which takes account of a wide array of rules in order to paint a broader picture of the primary. Next, Chapter 5 attempted to examine how rule structures came to be, showing the relative lack of change and innovation over the last 100 years, and presenting evidence that varying traditions of adoption led to the varying rules we currently see.

Coming to the end of this project, we must ask, given the complexity of rules and this potential explanation for why they exist in differing forms, what substantive differences do these rules create? Further, what impact do these effects have on the suggestion by the American Political Science Association's Committee on Political Parties' suggestion that restrictive systems should be used to promote party responsibility? While it is difficult to directly test the argument that restrictiveness creates responsibility (responsibility is a difficult to measure concept) we can examine if restrictiveness yields characteristics of healthy democratic elections.

Scholars of the direct primary have noted closed or restrictive systems as having numerous ill effects (Kanthack and Morton 2001). Specifically restrictive primaries are cited as reducing competition and fostering candidate extremism. To be sure, these negative effects of restrictiveness do not comport with the narrative party responsibility. Indeed, ideological extremism and cleavage is cited as a potential consequence of the lack of responsible parties. With these competing arguments, we can develop somewhat of a test of restrictive primary systems and responsible nomination by testing to see whether or not increased restrictiveness actually fosters these negative phenomena. Given the previous argument that strong party states adopted more restrictive systems and the responsible party hypothesis that restrictive systems can enhance party responsibility, these ill effects may cast doubt on the potential for restrictive primaries to facilitate enhanced responsibility. Further, these ill effects may normatively outweigh any gains in responsible nomination that the Committee on Political Parties foresaw from restrictive primaries.

In order to examine the potential ill effects of primary systems, this chapter will examine two potential correlates of restrictiveness; competition and extremism. If there is any potential for the suggestions of the Committee on Political Parties to be worthwhile, restrictiveness must not result in diminished electoral competition or increased candidate extremism. Framing testable hypotheses in such a way that they support restrictive primaries, I suggest four main hypotheses.

First, restrictiveness should not correlate with a diminished candidate pool, preserving democratic principles of competition. While there is a desire for parties to increase their control over nomination, this should not come at the expense of a lack of choice for the electorate. As the National Municipal League points out in their study of the model direct primary, to remove choice would be to return, for all intents and purposes, to a nomination scheme that is open to the same abuses as the convention system. Thus,

restrictiveness should allow for enhanced party control, but not diminished competition.

Second, restrictiveness should not lead to an abundance of uncontested primaries, preserving the relevance of contesting primaries elections. Again, to remove all competition would be to effectively eliminate the primary itself, with the only obstacle to party nomination being placement on the ballot. Thus, even if restrictiveness negatively effects the number of candidates, it should not, at an extreme, completely eliminate primary competition by encouraging uncontested races.

Third, restrictive primaries should not be associated with increased ideological extremism of candidates, allowing parties to continue to seek moderate national majorities within a controlled primary framework. As the Committee on Political Parties suggested, enhanced restrictiveness and party control should not necessarily lead to more ideologically extreme candidates. If party enrollment, a restrictive feature, is encouraged, a 'big tent' effect should help produce candidates in line with average party ideology, and not extreme candidates, as would be the case in situations where leaning partisans or independent partisans (arguably the parties' more moderate members) freely float between the parties, potentially robbing the primary electorate of its more moderating influences. The Committee on Political Parties suggested that as responsibility increases, and the links between candidates and platforms become more apparent, party enrollment should increase. They go on to suggest that "Americans will look upon the badge of party as an honorable one. There will be less likelihood of continued resistance among independent voters to enrolling as party members"(72). Again, this suggests an increase in party enrollment and a growth of the party platform, as independent and more moderate voters grow less hesitant to join parties and participate in primary elections.

Finally, restrictive systems should not be associated with increases in the extremism of candidates actually elected to the House. This final hypothesis works in tandem with the third, again suggesting that restrictive primaries are not at odds with the party

goal of maintaining moderate national majorities. Even if restrictiveness does end up correlating with the average ideology of the primary candidate pool, we should still see moderate candidates winning primaries, and general elections in restrictive systems. In sum, these four hypotheses will allow us to reconcile recent literature which has critiqued restrictive primaries with the responsible party nomination framework which endorsed this restrictiveness.

## 6.1 Competition and Divisiveness

If there is any universal set of principles at the core of participatory democracy, meaningful electoral competition must be among them. If enhanced party responsibility comes at the cost of reduced electoral competition, this trade off may not be normatively worth taking. Further, even with a large field of candidates, if there is not a competitive distribution of votes in restrictive systems, the effect is the same.

In order to test for primary competition, I examine two features of House elections. First, I examine the raw number of candidates who participate in the primary. This is limited to non-write-in candidates for the major parties. This measure, however, does not tell the whole story. I also look at election closeness as measured by vote fragmentation and margin of victory. Data presented here on primary election outcomes from 2002-2012 come from the Federal Election Commission. The unit of observation in each case is the year/party/district and each district is then assigned a divisiveness measure which are recalculated by state and party each year to reflect any changes in state law or party primary procedure. In all cases, data presented here are pooled across these elections years, however, when data was clustered, there were no substantive or statistical differences in the analyses. It is also important to note, as discussed earlier, that some states utilize a pre-primary convention in order to nominate candidates. While

these states vary in their use, they can statutorily limit the number of candidates that can emerge from these conventions, rendering an analysis such as this moot. In Utah, for example, statute mandates that the top two candidates emerge from the convention, barring one candidate getting over 70% of the vote. Given this rule, field size and vote fragmentation is a direct result of primary rules, but not informative in terms of restrictiveness as a whole. Given the focus of this dissertation on primary restrictiveness, writ large, these convention states are excluded from the following analysis. Further, this type of restriction is not endorsed by the responsibly party framework, and actually presents an overreach of party restrictiveness. In all cases, even with pre-primary endorsement or convention, competition should be encouraged and open to candidates through regular petition or declaration mechanisms. Thus, to remove these cases from the restrictive category does not weaken the argument that restrictiveness represents the preferred form of primary in a responsible framework. It is worth noting that, generally, field size is minimal, uncontested races common, and fragmentation of the vote, minimal, in these states, which supports the argument that these hybrid-convention systems do not comport with responsible nomination. This, however, is not due to either the overall restrictiveness of the primary, or traditional classification of the primaries (open/closed), as they operate within a wholly unique environment from primary-only states.

### **6.1.1 Competition as Field Size**

A first aspect of competition and divisiveness to examine is the size of the candidate field. As restrictiveness captures barriers to candidate entry, we would instinctively expect to see a decline in the number of candidates in more restrictive races. Additionally, we would expect see an increase in uncontested races, even when controlling for incumbency. This narrative is in keeping with the argument that restrictiveness di-

minishes primary competition. However, within the responsible party framework, there is no concern for reduced competition, in fact, the Committee makes certain note that competition should be encouraged within the framework of the primary.

Table 6.1: Number of Primary Candidates by Restrictiveness

Restrictiveness	With Incumbents		Open Races	
	Mean N	Std. err	Mean N	Std. Err
Least - 1	3.1	.09	3.5	.13
Below Mean - 2	3.2	.10	3.5	.14
Above Mean - 3	3.0	.07	3.2	.09
Most - 4	3.1	.10	3.5	.14

Table 6.1 shows the average number of candidates in contested primaries (primaries with more than one candidate) across both open seat and incumbent races for quantiles of restrictiveness. As mentioned earlier, if ballot access restrictions are working in concert with other primary rules to unduly burden potential candidates, we should expect to see a reduction in the number of candidates in these races. However, we do not see significantly different means between the lowest and highest quantiles of restrictiveness. While it can not be said that restrictiveness necessarily encourages competition, it does not seem to restrict the entrance of candidates either. Thinking back to the range of ballot access rules, this conclusion does not seem wholly surprising. While barriers to ballot access were classified as trivial or nontrivial, even those highest of hurdles would have been financially inconsequential to a modern competitive Congressional candidate. Thus, while these restrictions may weed out the weakest of candidates, they do not stop candidates from entering the race at the same levels as permissive systems.

While it does not appear that the field of candidates is restricted in contested primaries, it is worth taking a look at the proportion of uncontested races and primary restrictiveness as well. Table 6.2 shows the proportion of uncontested races across both open and incumbent races for quantiles of restrictiveness. While the difference in the

Table 6.2: Proportion of Uncontested Races by Restrictiveness

Restrictiveness	With Incumbents		Open Races	
	Races	Std. err	Races	Std. Err
Least - 1	.57	.02	.49	.02
Below Mean - 2	.58	.02	.50	.02
Above Mean - 3	.58	.02	.46	.02
Most - 4	.61	.02	.51	.03

mean proportion of uncontested races in the highest and lowest quantile of races with incumbents is statistically significant, the size of this difference is only 4%, suggesting small but significant effects. With an expected proportion of uncontested seats of .59, and an  $n$  of 750 races, this essentially translates to an additional 15 uncontested races in restrictive systems across these six elections, or roughly two per election. Examining open seat races, there seems to be a similar effect. The difference in this case is not statistically significant in this case, but the magnitude of the estimated difference is similar. With an expected frequency of .49 across all open seat races, and an  $n$  of 390 restrictive elections, the substantive increase is roughly 7 additional uncontested races, a little more than 1 per election in this sample. Thus, it could be suggested that while restrictiveness does not necessarily lead to a smaller field of candidates if the race is contested, the incidence of uncontested races is slightly higher in restrictive-primary states.

Revisiting the issue of convention states, the above analyses only slightly differ with their inclusion. In all cases, the relationships are preserved, with increases in the statistical certainty that the differences are significant. However, in both cases, the general findings are that while there are statistically significant differences, they are marginal at best, with both restrictive and permissive primary systems both allowing for uncontested and crowded primaries. Extreme cases of more than 10 candidates have arisen in restrictive Arizona, Nevada, North Carolina, and Maryland, as well as permissive states Indiana, Missouri, Tennessee, and Texas over this time period, underscoring the

argument that competition is not solely found in permissive primary states.

What, then, can be said about the impact of restrictiveness on field of candidates? Similar field size in contested races paired with slightly higher rates of uncontested races in restrictive states suggests the possibility that, all things equal, primary restrictiveness does not impact the field of candidates when there is not a favored candidate or presumptive nominee. Higher rates of uncontested races in restrictive primary states may signal the ability of parties to limit the entry of candidates, or perhaps discourage their entry, if there is already a presumptive nominee. Given the nature of restrictive primary rules, there may equally likely be a selection effect in that candidates do not choose to enter more restrictive primaries when there is a favored candidate. A final potential explanation that can not be tested with this data is that these uncontested primaries occur in ‘safe’ districts of the opposing party. Thus, parties are unable to recruit candidates for primaries if they are likely to be defeated. This final suggestion does seem appealing, however, it seems more likely that no candidates would enter a primary if a district was so safe as to discourage more than one candidate from entering the primary. While all of these conclusions are only speculation, the narrative fits the data and possible theoretical expectations of the consequences of primary restrictiveness. In order to more fully unpack this possibility, it is worthwhile to examine another aspect of primary competition, divisiveness.

### **6.1.2 Divisiveness as Vote Distribution**

Switching gears from the size of the candidate field to vote distribution, we can see whether or not there was actually meaningful competition associated with larger fields. As mentioned earlier, even with a crowded field of candidates, we can not normatively speak to the quality of this competition without an understanding of how votes were

distributed. A crowded field of candidates may obscure a race where one candidate wins 80% of the vote. Conversely, a small field may obscure a 51/49 outcome. In order to examine the distribution of the vote I utilize vote fragmentation as defined by  $1 - \sum p_i^2$  where  $p_i$  is the proportion of the vote received by the  $i^{th}$  candidate in a given House district and for a given party. Thus, higher scores reflect closer races, although the measure favors close races with many candidates over a close two-candidate race. This measure will help to determine whether or not a larger field of candidates actually meant more competition for nomination. An additional candidate in a race has no meaningful impact on the election if that candidate only garners a minuscule number of votes. Thus we can look for election closeness as a measure of primary competition.

Table 6.3: Vote Fragmentation by Restrictiveness in Contested Races

Restrictiveness	With Incumbents		Open Races	
	Fragmentation	Std. err	Fragmentation	Std. Err
Least - 1	.47	.01	.55	.01
Below Mean - 2	.48	.01	.56	.02
Above Mean - 3	.46	.01	.54	.01
Most - 4	.49	.01	.55	.01

Table 6.3 shows the fragmentation of the vote across quartiles of restrictiveness in races with and without incumbents. Interestingly, in open seat races, there is not a significant difference of means between the most and least restrictive categories. Likewise in races with incumbent races, the mean fragmentation is not significantly different between the most and least restrictive states. These results suggest, again, that restrictive primaries may not live up to their poor reputation as either destroyers of competition, or bastions of divisiveness. Across all categories, means are relatively similar, and do not suggest that restrictive primaries foster and more or less vote fragmentation than their permissive counterparts.

Another way of examining fragmentation of the vote can be done by examining the

winner’s margin of victory. This is calculated across all races as the difference in vote proportion between the first and second place candidates, regardless of field size. Again, uncontested races are omitted from the analysis. This gives us leverage on the absolute level of competition in the election, without privileging a larger field of candidates, as is the case when examining vote fragmentation.

Table 6.4 shows the average margin of victory across races with and without incumbents across quantiles of restrictiveness. Interestingly, in races with incumbents, it does seem that the winner generally does so by a slightly smaller margin of victory in restrictive races. However, it is worth noting that even though this is a statistically significant difference, the magnitude of the effect is small, and the substantive effect electorally insignificant given the high margins of victory. Examining open seat races, there is not a significant difference in the margin of victory across all of the quantiles of restrictiveness, suggesting no effect of restrictiveness on margin of victory.

Table 6.4: Margin of Victory by Restrictiveness

Restrictiveness	With Incumbents		Open Races	
	Margin	Std. err	Margin	Std. Err
Least - 1	36.7%	.01	23.5%	.01
Below Mean - 2	35.3%	.01	23.6%	.01
Above Mean - 3	37.2%	.01	24.4%	.01
Most - 4	32.7%	.01	23.0%	.01

It is possible that I am not capturing meaningful differences in competition in these seats due to the overwhelming number of primary races which are not competitive. Any difference in the number of meaningfully competitive races would be hidden by the large number of uncompetitive races. In effect, large margins would obscure differences in competitive races which have small margins of victory. In order to compensate for this, I pull out all races in which the margin of victory was less than 5%. It is reasonable to suggest that these races are competitive. Looking at the proportion of these close races

across restrictiveness, we can see that while there seems to be a small increase in competition in the most restrictive states, these differences are not statistically significant. Table 6.5 shows these proportions. When this analysis was performed again with a threshold of 1%, the results in Table 6.5 remained substantively unchanged. These results bolster previous analysis that suggested that restrictive primaries did not reduce competition. Again, it is worth noting that restrictive primary systems did not enhance competition either. However, this conclusion still debunks popular notions that restrictive primaries are detrimental to electoral democracy.

Table 6.5: Proportion of Close Races by Restrictiveness

Restrictiveness	With Incumbents		Open Races	
	Margin	Std. err	Close Races	Std. Err
Least - 1	.12	.02	.17	.02
Below Mean - 2	.10	.02	.15	.02
Above Mean - 3	.11	.02	.16	.02
Most - 4	.16	.02	.21	.03

## 6.2 Extreme Candidates

A second set of hypothesis that deserve examination relate to the ideological extremism of candidates. A central tenet of theories of responsible parties rely on the desire of parties to build and maintain moderate national majorities. If restrictive primaries are actually correlated with an increase in candidate extremism, a large argument of this framework would be undermined. With this in mind, I set to examine the relationships between restrictiveness and ideological extremism in House primaries.

Examining the ideological positions of primary candidates is not a simple task. Our best estimates of the ideology of House candidates only cover those candidates which actually are elected to office and cast roll call votes. However, we are interested not only

in the general election winners, but also the losers, who have no voting record. Thus, we are left with a dearth of information regarding the ideology of the vast majority of primary candidates which pursue nomination and fail. A current project by Andrew Hall and Jim Snyder at Harvard University attempts to combat this lack of votes with information from FEC donor databases. Using this data, they have developed a method which creates networks of donors and candidates, allowing for the creation of an ideological score similar to NOMINATE scores for House members. While their work is not yet published, they were kind enough to share their preliminary scalings for this analysis.

The data for primary candidate ideology in U.S. House races is used in this analysis and covers the years 1998-2010. It is important to note that these scalings only cover candidates who receive a minimum of 20 unique donations, and donors are dropped who give to fewer than 20 candidates. Thus, this analysis does not include the full population of all House primary candidates. While this does exclude some candidates from the analysis, and more importantly, probable extreme candidates, these candidates are generally the weakest candidates (as they received relatively few donations), who are not realistically in the running for their party's nomination. Excluding these candidates does bias against possible extremism, however, due to their probable electoral failure and the lack of more complete data, this omission seems justified. Candidate ideological scalings are then paired with the appropriate measures of restrictiveness which are calculated for each state, party, and year of the analysis. Thus, each primary candidate is assigned a restrictiveness score for the specific primary system that they competed in.

A cursory examination of this data can be found in Table 6.6 on the next page. Here, I have shaded cells darker to indicate a higher cell frequency. In order to capture extremism, the difference is calculated between the candidate's ideological score and the average ideological score for all party candidates in a given year. In this table, both restrictiveness and extremism are placed into quantiles to aid examination. Thus,

Table 6.6: Frequencies of Extremism and Restrictiveness

Extremism Quartile \ Restrictiveness Quartile	Restrictiveness Quartile				Total
	1	2	3	4	
1 - Most Moderate	322 9.1%	199 5.6%	184 5.2%	182 5.1%	887 25.0%
2 - Below Mean	345 9.7%	186 5.2%	223 6.3%	135 3.8%	889 25.0%
3 - Above Mean	239 6.7%	159 4.5%	248 7.0%	243 6.8%	889 25.0%
4 - Most Extreme	259 7.3%	178 5.0%	245 6.9%	205 5.8%	887 25.0%
Total	1165 32.8%	722 20.3%	900 25.3%	765 21.5%	

Percentages represent cell frequencies

Darker shading represents higher frequency

for extremism, those candidates in the first two quantiles are more moderate than the party/year average, and those in the second two quantiles are more extreme. While this table does seem to show a weak relationship between extremism and restrictiveness, it is worth noting that the cell percentages are skewed by the unequal number of states with unrestrictive primaries. To combat this, Table 6.7 on the following page shows these data with column percentages, effectively controlling for the size of the restrictiveness quantiles.

Again, it seems that there may be a small relationship between restrictiveness and the ideological extremism of candidates, however we must also note that looking at the category of most restrictive primaries, a large proportion of candidates in these primaries are still very moderate. Thus, it is important to qualify this relationship by stating that while there may be a small correlation between extremism and primary restrictiveness, this is neither a necessary nor sufficient condition. There is only a 4% difference in the percentage of the most extreme candidates arising out of the most permissive versus the

Table 6.7: Frequency of Extremist Primary Candidates by Restrictiveness Quartile

Extremism Quartile \ Restrictiveness Quartile	1	2	3	4	Total
	1 - Most Moderate	322 27.6%	199 27.6%	184 20.4%	182 23.8%
2 - Below Mean	345 29.6%	186 25.8%	223 24.8%	135 17.7%	889 25.0%
3 - Above Mean	239 20.5%	159 22.0%	248 27.6%	243 31.8%	889 25.0%
4 - Most Extreme	259 22.2%	178 24.7%	245 27.2%	205 26.8%	887 25.0%
Total	1,165 100.0%	722 100.0%	900 100.0%	765 100.0%	3,552 100.0%

Percentages represent column frequencies

most restrictive systems, suggesting that extreme candidates arise out of permissive and restrictive systems, as do moderate candidates.

Looking at these relationships more closely, we can identify the most extreme candidates. Ideological variation around a party mean is to be expected, however, in terms of primary systems we are most concerned about those candidates who are furthest from their party mean. Thus, I identify extreme candidates as those whose ideological score is more than one and a half standard deviations away from the party mean for a given year. As negative values indicate a more conservative ideology and positive scores indicate a liberal ideology, Republican extremists are coded as such if their ideological score is one and a half standard deviations below the party/year mean, and Democrats are coded as extremists if this score is one and a half standard deviations above the party/year mean. This coding identifies 9.4% of candidates as being extremists.

Examining the occurrence of these extremists versus primary restrictiveness, the uncontrolled bivariate correlation is .013, indicating a very small positive relationship. What is important to note, however, is that a large percentage of the most moderate can-

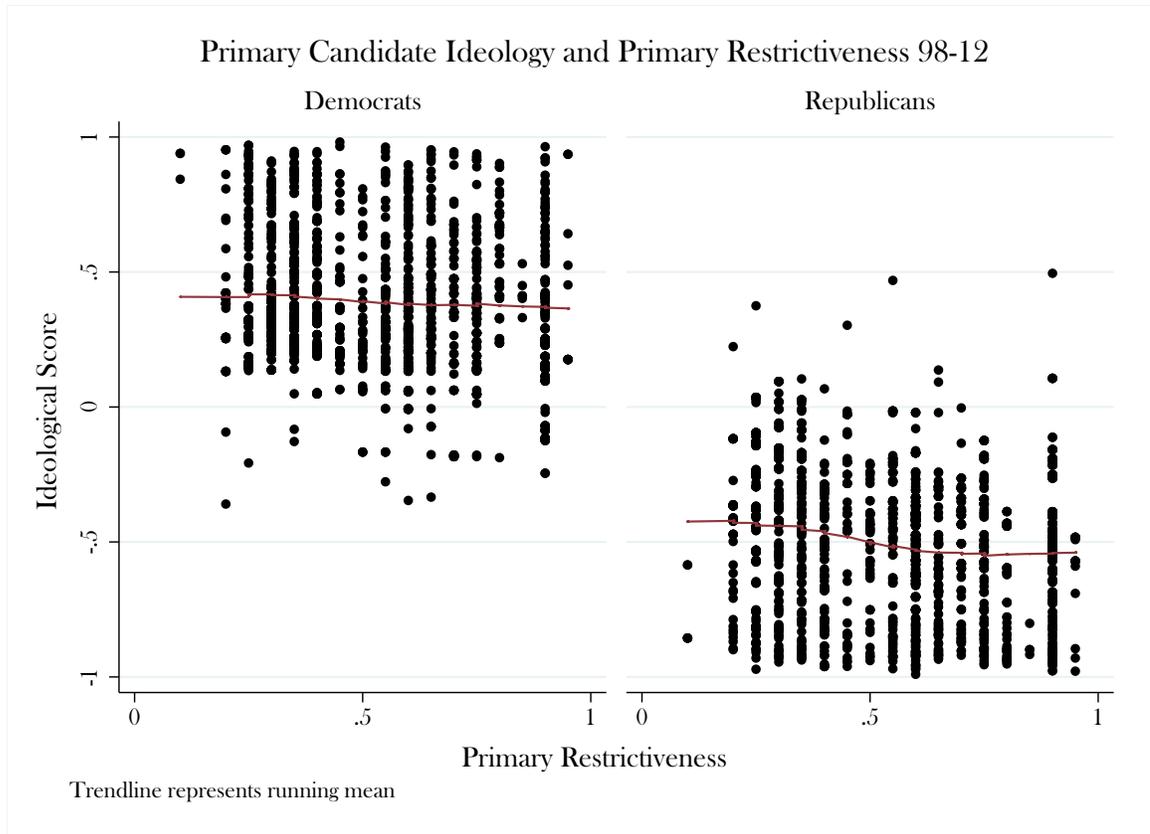


Figure 6.1: Candidate Ideology and Restrictiveness

didates still arise out of restrictive systems. Thus, it seems reasonable to suggest, that while these data show a slightly higher proportion of extreme candidates in restrictive systems, this relationship is small, and does not preclude extremists arising in permissive systems, nor moderates arising in restrictive systems. Figure 6.1 shows a scatterplot of this data, sorted by party. Again, the trendline does show a slight increase average extremism for Republican primaries, but also suggests a slight increase in moderation among Democrats. Looking at these data broadly, it is striking that a large number of both moderate and extreme candidates arise in both systems. Looking at more substantively relevant data, we can place our restrictiveness measures into quartiles to determine the proportion of extremists arising out of each category of primary restrictiveness. Table 6.8 on the next page shows these percentages across all four quartiles. The least

Table 6.8: Percentage of Extremist Candidate by Restrictiveness Quantile

Quantile	Extremists
1	8.8%
2	9.7%
3	9.2%
4	11.0%

restrictive states do show a smaller percentage of extreme candidates, but it is notable that these differences are not statistically significant.

Examining candidate extremism in another light, we can examine the percentage of extreme candidates in those states which use some form of convention or hybrid system versus those states that do not. In non-convention states, the percentage of extreme candidates is 9.1% while in convention states it is 10.5%. This is not a large difference, nor is it statistically significant. Performing the same analysis as that in Table 6.8 but withholding convention states, there is not a significant change in the results either.

While a common criticism of restrictive primary systems is their potential to attract ideologically extreme candidates, these data do not tell a story that corresponds to those fears. While there is some evidence for a modest relationship overall, it is important to note that the magnitude of the relationship is small, and if there are important substantive reasons for the emergence of extreme candidates, they are not likely to be found in primary rules.

Taking this analysis further, it seems prudent to examine those candidates which are actually elected to Congress. While certain primary systems may or may not produce extreme candidates, this does not tell us which candidates are successful, and further, which of these candidates actually bring their potential extremism to Washington. In doing this, I examine DW-NOMINATE scores for the 108<sup>th</sup> through 112<sup>th</sup> House of Representatives. As before, the year/party mean ideology is used to calculate an individual's distance from their party mean. Table 6.9 shows the breakdown of extremist House

Table 6.9: Frequency of Extremist House Members by Restrictiveness Quartile

Extremism Quartile \ Restrictiveness Quartile	Restrictiveness Quartile				Total
	1	2	3	4	
1 - Most Moderate	141	96	149	122	508
	22.9%	27.1%	28.8%	33.2%	33.2%
2 - Below Mean	161	90	103	89	443
	26.2%	25.4%	19.9%	24.3%	24.3%
3 - Above Mean	138	95	124	94	451
	22.4%	26.8%	23.9%	25.6%	24.3%
4 - Most Extreme	175	73	142	62	452
	28.5%	20.6%	27.4%	16.9%	24.4%
Total	615	354	518	367	1,854
	100.0%	100.0%	100.0%	100.0%	100.0%

Percentages represent column frequencies

members by restrictiveness quartile over this time period.

Interestingly, and perhaps, revealingly, we do not see the expected relationship between extreme candidates and restrictive systems, and see significant and fairly large differences between the most extreme and most moderate candidates in the highest quartile of restrictiveness. While conventional wisdom would suggest the inverse of the relationship presented here, this chart presents strong evidence to at least suggest that restrictive systems do not encourage extreme candidates. Taken further, it suggests that, in fact, more moderate candidates are likely to emerge from the most restrictive systems. Thus, while there may not be a relationship between extremist primary candidates and restrictiveness, it does seem that primary restrictiveness can have a moderating effect on general election winners in the House.

### 6.2.1 Tea Party Candidates

One final examination of extreme candidates can be done by looking at successful Tea Party candidates. Unfortunately there is little data to examine regarding tea party can-

didate emergence in primary elections, however, we can examine where tea party candidates have won successful election to the House. Testing the 112<sup>th</sup> House, I identify 53 members of the Tea Party Caucus. Separating these members out into the quartiles of restrictiveness as discussed previously, we are presented with the distribution shown in Table 6.10.

Table 6.10: Tea Party Members by Restrictiveness

Primary	Caucus Size	Entire House		Republicans Only	
		Seats	Tea Party %	Seats	Tea Party %
Least - 1	24	123	20%	83	29%
Below Mean - 2	6	83	7%	50	12%
Above Mean - 3	10	92	11%	49	20%
Most - 4	6	73	8%	32	19%

This table shows the size of the total Tea Party caucus distributed across the four quartiles of primary restrictiveness. This total does not sum to the 53 identified members, as Non-Partisan California (4) and Louisiana (3) also have Tea Party members of the House. Putting these numbers into perspective, the first set of columns show the proportion of Tea Party members out of the entire House contingent for these states. As the data show, there seems to be a much larger proportion of Tea Party members of the House in those states which have the most permissive primaries. If we would expect Tea Party success to be equally distributed across all categories, we should see a 14% percentage in all categories.

Given that Tea Party success is likely to only occur in areas where a Republican would win an election, the second set of columns in Table 6.10 shows means based on the Republican seat count in the 112<sup>th</sup> House. Again, we see a similar relationship even controlling for likely Republican seats. With an expected mean of 25% if Tea Party success were to be randomly distributed, we see an negative relationship between primary restrictiveness and Tea Party Success. It is worth noting that Texas (a least

restrictive state) and Florida (an above-mean restrictive state) both had high levels of tea party success. However, disentangling the effects of primary laws versus other state specific features is not possible. Much more research on the Tea Party movement itself is necessary to determine if it is a state-specific trend, or a broader phenomenon. However, even a very strict interpretation of these results suggests that the emergence of Tea Party candidates is not solely a product of restrictive primary systems, nor is it mitigated by more permissive systems.

One potential explanation for the data shown here can be found in the responsible party framework. If restrictiveness, as argued by the Committee on Political Parties, can enhance responsible party nomination, we should expect that party fissures or factions like the Tea Party should be less likely to emerge within restrictive systems. Given that restriction affords parties more control over nominating processes, it is unlikely in these systems that insurgent or ‘maverick’ elements of a party would arise. The data presented here do indicate that, at the very least, Tea Party candidates were less likely to win general elections in more restrictive systems. Again, without data on Tea Party primary candidates, we can not be sure that restriction reduces their primary victory chances, but this data does raise important questions about our understanding of this phenomenon, and should encourage future work on the subject.

### **6.3 The Ill Effects of Restrictiveness?**

One of the broad arguments of this dissertation is that responsible party government and responsible party nomination are not incongruous with the direct primary. Having examined how strong party organizations may have embraced the primary and shaped it into more restrictive systems, I have shown that the direct primary is not a wholly anti-party reform. Further, there has been much made of the idea that restrictive primaries

have negative political consequences. This conclusion is at odds with a theory of responsible parties, as restrictive nomination is seen as positive development. Examining two potential downfalls of restrictiveness, decreased competition, and candidate extremism, it does not appear that increased restrictiveness deserves its negative reputation.

While it may seem that I attempt to heap praise upon restrictive systems in light of the evidence presented in this chapter, I must qualify all of these findings by pointing out that restrictive systems do not, in any way, increase competition or drive candidate moderation any more than their permissive counterparts. Thus, while I can rule out fears of the negative consequences of restrictiveness, it is difficult to fully endorse restrictiveness over permissiveness with this data alone. Thus, what I can present here are essentially two equivalent options in permissiveness and restrictiveness with regard to competition and candidate extremism. If we seek a way to make normative suggestions as to the proper or model form that a primary should take, we must look elsewhere for more evidence. This disclaimer is not intended to minimize the impact of these findings, as competition and extremism are common points of argument in this discussion. Putting these fears to rest does much to advance this discussion, but it must now move to other arenas.

Presented with this problem, Chapter 7 will conclude the dissertation by articulating the main arguments of this dissertation, identifying areas of its relevance in the current political environment, and addressing areas where future research can contribute to this discussion.

## Chapter 7

### Discussion and Conclusions

This dissertation has addressed three aspects of the direct primary. First, the adoption of the direct primary, second, the forms it takes, and third, the implications of these forms. By first explaining the various rules that exist, and by then cataloging them and classifying them based on their restrictiveness, we were able to look at what forms the primaries in the states take. With this information in hand, we then looked back to the adoption of the primary and examined two competing narratives of adoption. Finally, this dissertation readdressed extant literature on the ramifications of primary systems using this new data. Bringing all three pieces of this dissertation back together, it is possible to make a few statements about the direct primary.

First, the direct primary in the states is a complex and unwieldy amalgamation of laws, some set by the state, and others by the party. Traditionally, political scientists have classified these rules based on the choices voters are offered at the polling place. Thus, open systems allow all voters free choice between the party primaries and closed systems restrict voting to party members. This open/closed classification does well to inform us of the practical implications of rules on voters, however it fails to completely capture

the entirety of primary systems. When discussing the correlates of primary systems, we often look to this classification when controlling for primary effects. This is done as the assumption is made that these rules structure the electorate and the choices offered to different voters. While this is indeed true, this analysis leaves out many other variables which structure the primaries.

Approaching the classification of parties from a different angle, I have cataloged a wide array of rules which all have a bearing on the restrictiveness of primaries. When combined they tell a richer and more nuanced story of the nature of primary laws in the states. This new restrictiveness variable allows us to capture many ways in which primary rules structure the choices of voters and election outcomes. By incorporating the ability of candidates to place their names on the ballot, we gain leverage over how the ballot structures choice. Incorporating the ability of primaries to endorse candidates or give them special ballot designation also brings clarity to the discussion. This dissertation has addressed a wide variety of different rules and classified them according to their relative restrictiveness, which indicates party control over primaries and, potentially, nomination. These rules, along with others, all have a hand in structuring the choices presented to voters, and the outcomes of elections. By studying the restrictiveness of primary systems we gain a more complete understanding of how these institutions work and their effects.

Second, examining the adoption of the direct primary, I examined two traditional narratives regarding the adoption of the primary in the states. First, a progressive narrative, and second, a party narrative. These traditions of adoption are often seen as mutually exclusive, or contradictory in that the goals of the progressive movement do not align with the goals of strong party organizations. While I do not refute the contention that these groups have divergent goals, I suggest that they found the same solution, the primary, in their attempts to meet their goals. With the varying sets of rules and the malleable way in which the primary can be constructed, they were both able to

construct unique primary systems to meet contradictory goals.

In the first case, it is argued that the primary was a largely anti-party reform, driven by progressive influences. In the second case, the possibility is opened that parties sought to implement the direct primary as a way to regain control over an unwieldy convention system and legitimize parties as an institution through governmental regulation. By examining these two narratives, it did not seem to be the case that any one tradition had a decisively singular impact on the adoption of the primary. Instead, both strong party states and progressive states rapidly and comprehensively adopted the primary within a very small window of time. I suggest that multiple motivations may have prompted the adoption of the primary in the various states during the same time period. While progressive tradition and reform prompted the adoption of the primary in the west, strong party interests in eastern states saw the primary as a way to find legal control over the primaries. Both of these groups had a desire to control an unwieldy convention process, however both groups had different preferences in terms of the end result of the primary. Further, southern parties looked to the primary to codify their one-party power and find legal strategies to control voting in nominations.

Taking this analysis further, I have shown that these adoption traditions also influenced the way primaries were structured from their outset. As progressive reformers and eastern parties had divergent goals beyond the implementation of a primary, they sought to structure what was a very malleable institution in ways which would serve their goals. In western, progressive states, ideals of openness and participation guided the implementation of permissive primary systems. In eastern, strong-party states, restrictiveness afforded parties a continuing influence over nomination while still giving them the privileged place in politics they sought through institutionalization. Showing that these rules have remained largely the same over time, I presented evidence that these adoption traditions continue to inform the way primaries are structured in the

states. Further, in some younger and previously progressive states, strong parties have begun to emerge, and as we would expect, these primaries have begun to take on a more restrictive form.

Finally, I have examined hypotheses about the effects of primaries to show that common criticisms of increased restrictiveness, such as reduced competition and increased candidate extremism, seem to be unfounded. Further, I examined the ideological extremity of successful general election candidates, and the emergence of Tea Party members of the House to conclude that, again, restrictiveness was not associated with increased extremism in either case. While there was not evidence that restrictiveness increased competition, or was associated with more moderate candidates, this examination does much to shed light on traditional criticisms of primary restrictiveness. Further, this speaks to a contradiction in theory that relates to how responsible parties and primary restrictiveness interact with candidate extremism. In the responsible party framework, restrictive primaries are a way to build durable moderate national majorities. However, we have also been confronted with arguments that suggest that primary restrictiveness is a troubling cause of increased extremism due to polarized electorates. Showing that restrictiveness did not seem to have a relationship with candidate extremism, and that parties may be able to successfully defend themselves from party fracture and insurgent campaigns, also lends credibility to the responsible party framework. Continuing research needs to be done to determine the full extent of these relationships, and perhaps suggest a return to the suggestions of the Committee on Political Parties, which advocated increased restriction as an avenue towards enhanced party responsibility.

## **7.1 The 21st Century Primary**

This dissertation's findings are based largely on an understanding of parties, elections, and politics as they have existed for the majority of the 20<sup>th</sup> century. However, the evolution of politics in America have brought, and will continue to bring, changes to these understandings which will greatly impact the importance and relevance of this work. As our political environment changes, so too will the role of primaries. Currently, four broad political changes or trends may impact our view of the direct primary, its operation, and its relevance in today's political environment. First, the continuing shift from party centered nomination to candidate centered nomination promises to continue to alter the relative importance of parties in the nominating process. Second, recent judicial decisions on campaign finance laws such as the *Citizens United* and impending *McCutcheon* cases show a trend toward a decreasing reliance on parties for financial resources, and the potential for insurgent candidates to operate with the support of wealthy donors. Third, the Tea Party movement may give the Republican Party cause for concern about their control over candidate nomination. While the totality of the relationship between primary systems and this movement is unclear, it is an interesting development that may increase the attention paid to nominating rules. Finally, recent judicial developments, independent of the aforementioned campaign finance cases, have, and will likely continue to influence the way primary systems are structured. These external forces have brought about a very recent resurgence in primary innovation from Idaho to California, and should continue to be monitored.

### **7.1.1 The Candidate Centered Environment**

The relative importance of party versus candidate is an important factor when discussing the primary, especially in light of responsible party nomination. To be sure, the over-

arching trend in this balance has skewed toward the candidate over the past 60 years. Thus, as campaigns continue to become more candidate focused, and less party focused, the rules which govern the primary may receive more interest from parties interested in regaining some control over nomination. One difficulty with this proposition is that the development of a candidate-centered electoral environment may stymie efforts of parties to change or increase the restrictiveness of their primaries. Our traditional notions of tripartite party organization include the party in government as a vehicle for legislative change. However, it may be the case that the goals of party as organization and party in government are not aligned in a candidate centered electoral environment. If this is the case, party organizations may find themselves with a diminished capacity to affect change in election statute. In only a handful of states are parties allowed to set rules of the primary without statutory action, as has been discussed in this dissertation. Often, since these rules are set in statute, it would require action on the part of the legislature to affect change. If the goals of the party organization do not align with the party in government we should not be surprised to see a lack convergence on a strong party primary. Indeed, the rise of candidate centered politics may create the impetus for rule change which benefits incumbent candidates or diminishes the influence of party.

### **7.1.2 Citizens United vs. The Direct Primary**

A second trend which will surely have an impact on candidate nomination related to campaign finance. As early as 2002, with the passing of the Bipartisan Campaign Reform Act (BCRA or McCain-Feingold Act) the importance of party money has been changing. Capping party use of soft money, the ‘golden age’ of unlimited soft money in party organizations ended, reducing candidate reliance on parties for many of the voter registration and turnout activities that this money funded. Although BCRA also

banned electioneering communications from corporations and non-profits, the decision in *Citizens United v. Federal Election Commission* overturned this ban in 2010. Thus, there has been a recent increase in money being moved through super-PACs (as non-profit advocacy groups have been called) and other non-party entities. These new avenues of campaign money surely changes candidates' relative reliance on political parties. Further, the court has recently overturned aggregate limits on campaign donations in *McCutcheon v. Federal Election Commission*. This change has the potential to effect revenue streams to both parties and candidates, but we will have to wait to see the full effect of this decision.

Given these developments, how might new campaign finance regulations interact with primary rules? One suggestion for future research could focus on candidates who can be identified as large recipients of outside financial help. If instances can be identified where party favorites compete with candidates financed by outside organizations, we could test their success across restrictiveness to determine if primary rules either encourage or discourage these types of races and if they have an impact on candidates' electoral success. It is unclear how this relationship might look, as, generally, party control over nomination in the responsible party framework has not been tied explicitly to party money. Indeed, the only explicit endorsement of candidates incorporated into the restrictiveness measure introduced here involves ballot designation of an endorsed candidate. Parties, therefore, would be largely unable to financially compete with unlimited advocacy on the part of an outside group. One example of the interplay between rules and outside money can be seen in the 2012 Republican presidential primaries. It is clear that party rules had little impact on the ability of an independently financed candidate (such as Newt Gingrich, or perhaps later in the primary, Rick Santorum) to continue to compete in the primary well after they would have otherwise been eliminated from competition. In sum, while it is unclear how changes to campaign finance may interact with primary rule systems and the potential for responsible party nomination, increases

in outside money clearly complicate the picture for parties, and these complications may prompt innovative thinking on the part of parties to compensate. Only time, and more data, will be able to complete this story.

### **7.1.3 Tea Party Insurgency**

Another recent trend that this dissertation attempted to address was the emergence of the Tea Party movement within the Republican Party. While recent research has done well to begin to explain this new phenomenon, we are still largely unsure of its future. In this dissertation, I examined the claim, directly related to party responsibility, that this fracture of the Republican party was actually occurring in restrictive primary states. However, as data presented in Chapter 6 showed, it seems that the Tea Party movement has actually gained the majority of its traction in permissive primary systems. For advocates of responsible primaries, this should not be a surprise, as restrictive systems should allow for parties to exert control over nomination, perhaps limiting the ability of insurgents or party factions from gaining political leverage.

One could speculate that if the Tea Party movement continues to gain traction, and if the Republican party finds the movement incompatible with its goals, that state parties may look toward reevaluating primary rules in order to curb this movement. One interesting recent development, however, has shown some incompatibility between restrictiveness and the power of parties. In some states including Delaware, Indiana, Missouri, and Texas, sore loser laws have precluded the ability of establishment Republicans to challenge Tea Party candidates in the general election if the party is unsatisfied with the results of the primary. As it is likely that the most viable candidates participated in the party primary, any losing candidate (even if a party favorite) would be excluded from participating in the general election. Such would have been the case where Christine

O'Donnell (DE), Richard Mourdock (IN), Todd Akin (MO), and Ted Cruz (TX) won their respective primaries but received the ire of the Republican Party establishment. It is worth noting that three of these states, Indiana, Missouri, and Texas, have fairly permissive primary laws outside of their sore-loser law, suggesting that a sore loser law in the absence of strong party control over nomination may be a hindrance to responsible party nomination. Such was not the case in Connecticut (which does not have a sore loser law) in 2006 when Joseph Lieberman was able to run in the general election as an independent and beat primary winner Ned Lamont. However, in this case it is not clear that Ned Lamont was particularly distasteful to party regulars. Thus, in cases where states have generally restrictive primaries, but no sore-loser law, this omission may work against parties. In order to counter this hurdle, parties in the future would do well to examine the interplay between restrictiveness and sore-loser laws.

#### **7.1.4 Primaries from the Bench**

One recent trend in the development of primaries has been the increase of judicial rulings regarding primary rules. Supreme Court cases such as *Tashjian v. Republican Party of Connecticut* (1986), *California Democratic Party v. Jones* (2000), *Washington State Grange v. Washington State Republican Party* (2008), as well as district and circuit court cases in Idaho, Kansas, Mississippi, and Virginia have all made various rulings on the legality of certain primary rules. In the case of *Tashjian*, the Supreme Court ruled that the state could not force political parties into holding open primaries. While this prompted temporary change in Connecticut, the ruling opens the door to other potential challenges to state statute. In Idaho, a district court ruled in *Idaho Republican Party v. Ysursa* that the state could not compel parties to have open primaries, which quickly prompted a large change in state primary rules. Conversely, the Democratic Party of

Hawaii has been stymied by the courts in their attempt to close the state's primaries. In *Democratic Party of Hawaii v. Nago* the court rejected what was essentially the same argument made by Idaho Republicans. However, as the Idaho case never made it out of District courts, there is no national precedent for the case.

These trends highlight not only the importance of external players in the formation of primary rules more recently, but also a new trend in reexamining these rules. Perhaps encouraged by court actions in other states, more attention is being paid to primary law, which may spark a resurgence in interest in the direct primary. Indeed, the 1986 ruling in *Tashjian* has been largely ignored by the vast majority of states, however it is likely that should another party decide to challenge on the same grounds (opening a closed primary) the state would then be forced to grant parties more purview over the operation of their primaries. Whether recent developments in Hawaii, Idaho, Kansas, and Mississippi are the start of a larger trend is yet to be seen. However, the history of the primary written in this dissertation, one of relative stability, may soon need revision.

## **7.2 Bringing Back Responsible Parties**

Reevaluating the suggestions of the Committee on Political Parties, we can make a few suggestions and observations based on the data presented in this dissertation. First, and most generally, a majority of states have not adapted their primary rules to follow the suggestions of the Committee. Second, it seems that those states which have adopted restrictive primaries likely did so upon their adoption, as the vast majority of rule structures have remained the same over time. There has been little movement over time and traditions of adoption, like a progressive urge or strong parties, may have been the operative factor in designing these rules. Third, I have examined some criticisms of restrictive parties and found them to be largely exaggerated. Thus, the suggestions of the

Committee do not come at the cost of reduced competition, or extremism. Finally, recent developments may be prompting a reevaluation of primary systems, and it is worthwhile to consider the arguments made about responsible parties if states set out to refashion their rules.

Examining this first claim, it is interesting to note that no state was coded as restrictive across all primary rules. Thus, no state primary can be regarded as fully restrictive in this sense. It is not clear, however, that a fully restrictive primary would be necessary in order for responsible party nomination to emerge. At the very least, the scaling presented in Chapter 4 would suggest where responsible party nomination would be most likely to emerge, but not where it would necessarily emerge. Still, many states remain at the lower end of this restrictiveness scale, and there are particular rule structures which exist in the states that contradict directly with the suggestions of the Committee on Political Parties, namely, party enrollment.

It is also telling that the discussion in Chapter 5 showed little movement in the rules of the primary over the last 100 years. This speaks to the second point, that even in light of scholarship suggesting a particular path for the primaries, few states have altered their rules. In cases where this has happened, it seems most likely that this is done as a response to political events, court decisions, or even changes in the nature of party systems within a state. It is also unclear whether or not parties would look to political science for guidance on this issue. It seems more likely that increased restrictiveness would not come out of a reasoned academic argument, but out of a more natural desire for parties to enhance their control over nomination. Thus, restrictiveness may arise more naturally, and not as a result of scholarly commentary. Given this, perhaps we should not be surprised by the general lack of movement toward responsible party nomination.

One potential problem for the future of responsible party nomination is the potential

for this movement to be derailed by suggestions of the ill effects of restrictiveness. While this dissertation has shown some of these claims to be exaggerated, we again run into the problem of the disjunction between the practice of politics and political science. While political scientists may suggest that restrictiveness has normatively positive implications for electoral democracy, a general unease with restriction and regulation may thwart efforts within the states to move to more restrictive systems.

Finally, one hope for the reevaluation of primaries comes from the aforementioned political developments in this concluding chapter. Increased discussion and consideration of primary systems can only be seen as a positive development for responsible party nomination. If the issue of primaries becomes a more salient topic of discussion within both scholarship and the policy arena, this may spur innovation and change within state rule structures. It is worth noting, however, that the majority of recent change, including that in California and Washington, has come in a decidedly permissive fashion, as primary rules have almost completely eliminated the place of parties in the nomination of their candidates within these states. These continuing experiments, however, may still shed light on the larger issue of primaries as we gain new insight into permissive nominating systems with these unique examples.

### **7.3 Concluding Remarks**

The direct primary was conceived as a cure to the ills associated with the convention system. While it seems that the primary emerged from distinct areas of the country with distinct political traditions, all were responding to a loss of control over nomination. Whether the primary took a permissive form in western progressive states or a restrictive form in eastern party-centric states, the aim of both groups was to move beyond convention nomination. The primary remains an entrenched political institution,

mandatory in many states, and still often used even when not required. One certainty uncovered in this dissertation is the unique way the primary can be fashioned. What remains to be seen, is how it will be fashioned to suit the needs of an evolving political system.

Sixty years ago, an emphasis on responsible parties was advocated by political scientists, yet many states continue with permissive systems. Modern lamentations on the polarized state of politics ignore the conclusions of the responsible party framework and even blame extremism on restrictiveness. At the very least, it is time to reevaluate primaries and our political system and recognize the importance of this institution in our electoral system. Often we focus too much on the election of candidates, and not the selection of nominees. If our decisions are structured by our choices, we would be wise to pay close attention to the selection that occurs before election.

# Appendix A

## State Narratives

### A.1 State Narratives

This appendix presents the current status of primary rules in the states. In all cases, rules are taken from relevant election codes and state statutes. Often, State Secretaries of State and their staff were very helpful in interpreting statute. Finally, state party offices aided in the interpretation of some rules. Election dates are taken from the Federal Election Commission.

#### **Alabama**

Alabama uses a primary in which there is no party registration; however voters are required to choose one ballot publicly at the polling place. If you do not want to declare, you are not allowed to vote in partisan races. In the case of a runoff, Democrats restrict runoff voting to those who have voted in their primary, while Republicans do not. Therefore, if you vote in the Democratic Primary, you may then vote in a Democratic or Republican runoff. However Republican primary voters are excluded from voting in a

Democratic runoff. The Filing deadline for candidates is two months before the March primary and voter registration ends 10 days before the mid-March election. Alabama's sore loser law prohibits major party candidates who are defeated from running as independents in a general election. The filing date for independent candidates is after the filing date for the party primary, allowing the party field to be set before independents enter the race.

### **Alaska**

Alaska uses a primary in which there is party registration. The determination of who is allowed to vote in the party primary is left to the parties. At this time Republicans have opted to allow party members and unaffiliated voters, but disallow Democrats, whereas the Democratic Party primary is open to all registered voters. Alaska law requires independent candidates to register by the date of the primary, effectively disallowing sore loser candidates. Voter registration ends a month before the late August primary, and roughly 2 months after the candidate filing date. The filing date for independent candidates is on the day of the party primary.

### **Arizona**

Arizona offers party registration during voter registration, and does restrict voting in primary elections. Registered party members are allowed to vote in their party's respective primary only. Unaffiliated voters are allowed to participate in either primary but must request a party ballot. Arizona holds a Late August primary and registration closes a month before the election, and two months after the candidate filing deadline. The filing date for independent candidates occurs on the party primary day. Arizona's sore loser law prohibits losing party candidates from running as independent candidates in the general election, however it does not prohibit a candidate from running in both

party primaries.

### **Arkansas**

Arkansas administers a fairly open primary system in which the state has offered optional party registration since a constitutional amendment in 1995. According to the state's Deputy for Elections, very few voters opt into party identification. Voters must publicly request a ballot at the time of the primary and optional party registration is not binding, thus registered party members, unregistered party members, and unaffiliated voters alike may request a ballot for either party. Arkansas utilizes a runoff system, and primary voters may only participate in a runoff of the same party they voted for in the primary. Voter registration is required one month before the late-May primary, and filing deadlines are on March 1st, or the next business day. The filing date for independent candidates is the same as for obtaining primary ballot access. This is a recent change and may be subject to legal challenge. Arkansas law has an outright prohibition against losers of party primaries appearing on the general election ballot.

### **California**

California is one of three states to use a nonpartisan primary. The state still allows for party enrollment, however this is not a condition for voting in the state's primary. Ballot access requirements are nontrivial, and due to the nature of the top two primary, filing dates are standard across all candidates and parties. The state does have a sore loser law and allows for party endorsement designation on ballots.

## **Colorado**

Colorado has a hybrid primary/convention system in which candidates gain ballot access by receiving 30% of the convention ballot. If no candidate reaches this threshold, the primary is contested between the top two vote getters. If one candidate reaches a 50% threshold, no primary is contested. Colorado performs party registration and has provisions for unaffiliated voters. For those who register as a particular party member, they may only vote in that party's primary. Unaffiliated voters are allowed to vote in either party primary but must publically ask for one ballot and this effectively changes their party affiliation on Election Day. If they wish to reregister as unaffiliated they may do so after the election. Party members who wish to change their party affiliation may do so up to 29 days before the primary. Voter registration for new voters is allowed online and on Election Day, but voters must be a resident for 22 days before this. Independent party candidates may file for the general election after the party filing date, and after the actual party primary, however third parties must file at the same time as major parties file for the primary. This is done roughly 3 months before the late June primary.

## **Connecticut**

Connecticut performs party registration and also has provisions for unaffiliated voters. For those registered as a party member, they may only vote in their party's primary. These rules are set by the party and may be changed to allow unfettered access by unaffiliated voters but both parties have declined to do so. Connecticut voters may change their affiliation up to the normal voter registration deadline and the change in affiliation will take effect immediately, allowing them to vote in a party primary. Likewise, a voter may change from their party affiliation to unaffiliated and the change will take effect immediately. For party members or for unaffiliated voters who have previously

affiliated with a party, changes in party affiliation must be made three months before the primary. Voter registration is now available on Election Day but this takes place at specific registration locations which are separate from polling places. Connecticut uses a convention system to select party nominees, but beginning in 2004 they enacted a 'dual-track' system, also allowing nomination by petition. Party filing deadlines for ballot access are two months before the August primary, and Independents and third parties are allowed to file for the general election after the party primary filing deadline, however the independent deadline is before the actual primary date. The third party filing date is after the party primary date. Connecticut does not have a sore-loser law.

### **Delaware**

The state of Delaware performs party registration as a part of voter registration and does not have any provisions for unaffiliated voters. Delaware is a good example of a traditional fully closed primary. Party registration is required and members are restricted to voting only in their party primary. Further, changes in party affiliation for voters who have already registered are barred after the last Saturday of May. The Delaware primary takes place on the second Tuesday after the first Monday in September, making this 'waiting period' for a change of party affiliation roughly three months, and placing the deadline before the deadline for party ballot access. New voters must register at least 24 days before the primary. Filing dates are in early July, and the independent filing deadline is a week after the major party ballot deadline, but, obviously, before the party primary. The Delaware sore loser law prohibits candidates from running as an Independent in the general election after losing a party primary, but interestingly does not prohibit a candidate from running in two primary races at once.

## **Florida**

Florida provides for party registration of voters and restricts voting in their primary elections. Party members may only vote in their party primary and there are no provisions made for unaffiliated voters. Party affiliation change requests and new voter registration deadlines are both 29 days before the primary election, and well after candidate filing dates. Florida holds an August primary, placing these registrations in July, one month before the final June filing deadlines. Florida has complex rules regarding independent and third party ballot access. Deadlines are set depending on the method of ballot access (filing fee or petition) and on the level of office sought. Signature petitions are due a month before petitions for candidates paying fees. Additionally Florida charges petition candidates a fee for signature verification (0.10 per signature which can be waived so long as the candidate does not pay for signature collection) which must be paid in advance. In all cases, Independent and third party candidates have lower signature and fee thresholds than major party candidates, but the deadlines are the same as those for major party candidates. Florida law does not allow a candidate to participate in the primary of more than one party, however, it does not specifically prohibit a candidate from filing as a party candidate and as a "no party" candidate. Thus, if a candidate had the resources and foresight to complete two petitions, a failed party candidate could continue in their "no party" general election campaign.

## **Georgia**

Georgia does not provide for party registration during voter registration and generally operates a fairly open primary system. While primary voters must state which ballot they would like to receive, any voter can vote in either party's primary. In the case of a runoff, voters must vote for the same party as they did in the primary. Independent and

third party candidates ballot access deadlines are after the major party filing deadlines, and after the party primary, allowing these candidates ample time to enter the general election. The state has traditionally had a late summer primary, most recently in July during the 2012 election season, but a recent court ruling mandated the state move the primary earlier to allow military and overseas voters time to vote in a potential runoff election. The date is now in May. Georgia sore loser laws prohibit both filing in two party primaries as well as an outright prohibition on running as an independent candidate if the individual ran in a party primary.

## **Hawaii**

Hawaii does not provide for party registration and operates a very open primary process. Voters from either party are given one ballot, upon which they select, in private, the party they wish to vote for and their nominees of choice. This open primary is constitutionally protected since a state constitutional convention in 1978. Prior to this, Hawaii operated a closed primary. There have been recent efforts by the Democratic Party to close the primary, and due to the difficulty of constitutional change, they have attempted to have the open primary ruled unconstitutional in the courts. Their latest effort to do so failed in 2013. Some confusion may exist in that the Hawaiian presidential nominating caucuses are nominally open only to party members (membership as defined by the party, not the state). Independent and third party candidates must file for the general election on the same days as the deadline for major party primary ballot access. This deadline, in early June, is two months in advance of the August primary. Voters are required to register for the primary a month in advance. Hawaii prohibits filing in multiple party primaries and maintains a prohibition on failed party nominees seeking general election ballot access through an independent label.

## Idaho

Idaho has a legislatively mandated closed primary system and provides for party registration and unaffiliated registration; however the actual implementation of the primary system is much more nuanced. Due to a recent court ruling, the Idaho legislature has implemented a primary system in which, by default, party primaries were open only to registered members of that party. The law, however, allows for parties to choose whether or not to open their primary to members of the other party, or to unaffiliated voters. Idaho's primary, therefore, is essentially a party controlled system, with a legislatively mandated default option of "closed." As Idaho had never before registered party affiliation, voters in the 2012 election were allowed to declare a party at the polls, and those who did not declare by that time were registered as unaffiliated voters. Party members may change their affiliation up to the day candidate primary filings are due, but unaffiliated voters may declare a party affiliation up to, and on Election Day. Interestingly, if a party member reverts back to being unaffiliated between elections, the Election Day deadline again becomes their deadline to change their party membership. This is different from other states such as Connecticut, which track this behavior and maintain waiting periods. New voter registration must take place 25 days before any election. The Republican party has opted to only allow registered Republicans to participate in their primary whereas the Democratic party primary is open to unaffiliated electors and members of other parties. Unlike other states, casting a ballot as a Republican or unaffiliated voter in the Democratic primary does not automatically change the voter's party membership. Independent and third party candidates must file for the general election on the same day as the deadline for major party primary access. Idaho sore loser laws are explicit and prohibit anyone who has lost a party primary from appearing on the general election ballot.

## **Illinois**

Illinois does not maintain party registration lists and operates a fairly open primary system. While state law does state that voters must ask for a party ballot in a loud enough voice that all present at the polling place can hear. In practice, and perhaps disappointingly, there is no yelling at the polls, and voters ask for their ballots in the same way as they would in any other state that mandates a voter request one party ballot or the other. There are mechanisms to challenge voter party affiliation, but again, this is rarely done in practice. Independent and third party candidates are allowed to file for the general election well after the December party primary filing deadline, and the March party primary. Illinois sore loser laws bar losing primary candidates from appearing as an independent on the election ballot and prohibiting filing in more than one party primary.

## **Indiana**

Indiana does not maintain any party registration data when registering voters, however there are unique challenge mechanisms in place during the primary. When voters sign the poll book at the polling place they are, in essence, attesting that they have voted for the majority of that party's general election candidates in the last election. If the voter did not vote in the last election, then they are attesting that they intend to support that party in the upcoming election. Poll workers are allowed to challenge this party affiliation, but voters can immediately sign an affidavit attesting to their party membership and cast a regular ballot, which is not held separately or provisionally. These affidavits are kept and could be used for later prosecution, but in practice challenging and prosecution rarely occurs. Thus, while the individual may be subject to legal ramifications, the vote is cast and there is no electoral remedy. Interestingly, this system does not

allow for sincere party membership change. The only conceivable route to follow the law and change parties would be to sit out one general election in order to be clear of the requirement to have voted for a party in the last election. The voter would then be pledging to support the new party candidates in the upcoming election and would seemingly be clear of any legal ramifications. Independent and third party candidates are allowed to file for ballot access until July of the election year, well after the February party filing deadline and May party primary. Indiana sore loser laws are explicit and do not allow any losing party primary candidates from appearing on a general election ballot for the same office.

### **Iowa**

Iowa voter registration does provide for party and unaffiliated registration, however the state runs a fairly open primary system. While those who register as unaffiliated are not allowed to participate in the primary of either party, all voters are allowed to change their party affiliation up to, and on, Election Day. Therefore, while voters may not maintain unaffiliated status and vote in a party primary, voters willing to temporarily change their voter registration may essentially vote in any primary. This highlights a key problem with traditional primary classification schemes, as the state regards its primary as closed, yet it retains many open features. Independent and third party candidates are allowed to file for the general election until August, which is well after the March party primary filing deadline and the June primary. Iowa does not currently have a sore loser law.

### **Kansas**

In Kansas, there are provisions for party registration, including for unaffiliated voters. The state code provides for a strictly closed primary system, however, due to recent court

challenges, that closed system is now only a default position, and parties may opt for more open voting in their primaries. While the Republican party has chosen to maintain a closed system, the Democratic party temporarily experimented with an open system, allowing both independents and Democrats to vote in their primary. However, as of the 2014 election, Democrats will also conduct a closed primary, only allowing registered Democrats to vote. Independents are permitted to file for the general election until the day before the party primary. Independents and third party candidates can register after the major party deadline but they must do so before the primary. Kansas maintains a sore loser law.

### **Kentucky**

Kentucky has an interesting mixture of restrictive and permissive primary features. The states provisions for party registration, and disallows unaffiliated voters from participating in partisan primaries. Additionally, Kentucky requires all party changes to be made by December 31<sup>st</sup> of the preceding year. However, many other features are permissive. Independents are allowed to file for the general election until August, well after the May party primary. The state only requires a trivial fee in order to gain access to the ballot. The primary season in Kentucky is particularly long at nearly 4 months. Kentucky has a sore loser law.

### **Louisiana**

Louisiana is one of the three states which utilize a nonpartisan primary system. The state still maintains provisions for party enrollment, as the state previously used a 'closed' primary system. Now this registration is optional, and has no bearing on participation in the nonpartisan primary. Independent and major party filing deadlines are the same, and the state has nontrivial ballot access requirements. The state also has a sore loser

law to prevent losing primary candidates from participating in the general election.

### **Maine**

Maine has provisions for party registration and also restricts unaffiliated voters from participating in the partisan primaries. Unaffiliated voters may affiliate with a party on election day, but they are then locked into this decision for a minimum of three months before they can change their affiliation back to independent or unaffiliated. Independent candidates are allowed to file for the general election until roughly a week before the June party primary, and well after the March party filing deadline. The state has nontrivial ballot access requirements, and does have a sore loser law.

### **Maryland**

Maryland has provisions for party registration and prohibits unaffiliated voters from participating in the partisan primaries. This option is left to the parties, however they have generally declined to open their primaries to independent and unaffiliated voters. Independent and third party candidates in Maryland must register by August, which is well after the March party primary filing deadline, and the subsequent June primary. This yields a long primary season of over three months. Ballot access requirements in Maryland are trivial and the state has a sore loser law.

### **Massachusetts**

Massachusetts has provisions for party registration but allows unaffiliated voters to participate in the primaries. The state also allows parties to endorse candidates in pre-primary conventions although they can not seek ballot access this way, and must meet nontrivial filing requirements. In Massachusetts, independents must file by July, which

is after the May party deadline, but before the September primary. This also makes for a relatively long primary season of nearly four months. Massachusetts also has a sore loser law.

### **Michigan**

Michigan has a very permissive primary system. The state does not provide for party registration when registering to vote and thus has no restrictions on ballot choice. Additionally, voters have the ability to make their ballot selection in private. Independents and third party candidates must file a month in advance of the August party primary, but this date is well past the April party filing deadline. This makes a fairly long primary season, at just under four months. The state has nontrivial filing requirements, and does have a sore loser restriction. Informal pre-primary endorsements do occur on occasion in the state however their use is sporadic.

### **Minnesota**

Minnesota operates a very open primary process. The state does not provide for party registration when registering to vote and thus has no restrictions on ballot choice. In addition, voters are allowed to make their ballot selections privately. Parties may officially endorse candidates at pre-primary conventions but ballot access is gained through trivial ballot access declarations. In Minnesota, the independent and party filing deadlines are on the same day in June, roughly 2 months before the party primary. The state does have a sore loser law.

## **Mississippi**

Mississippi operates a fairly open primary system. The state does not provide for party registration when registering to vote, however voters must publically declare their ballot preference at the polling place. Additionally state statute technically requires that a voter shall not participate in a party primary unless they intend to support the party nominee, although it is unclear how, if ever, this is enforced. In Mississippi, filing deadlines for independent and third party candidates coincide with the March deadlines for major party candidates.

## **Missouri**

Missouri has a permissive primary system. The state does not provide for party registration when registering to vote but does require voters to make a public declaration when requesting a party ballot. Missouri independent and third party candidates are allowed to register until July, a month before the August primary and well after the March filing deadline. This makes for often the longest primary season in the United States, over four months. The state has trivial ballot access requirements and maintains a sore loser statute.

## **Montana**

Montana operates a very permissive primary. The state does not provide for party registration when registering to vote and thus does not have restrictions on ballot choice. The ballot choice decision is made privately by the voter. Independent and third party candidates in Montana must register in May, which is after the party deadline, but before the June primary. The state requires a nontrivial ballot access fee and maintains a sore loser law.

## **Nebraska**

Nebraska has an interesting set of primary laws. The state does have provisions for party registration but allows unaffiliated voters to participate in the primaries. Nebraska allows third party and independent candidates to register for the general election in September, well after the March party deadlines and subsequent May primary. Additionally, it is worth noting that Nebraska requires incumbent candidates to register two weeks in advance of party challengers, a feature unique to the state. The state has nontrivial ballot access fees, and maintains a sore loser law. In addition to this primary, the state also utilizes a nonpartisan blanket style primary for nominations to their nonpartisan legislature.

## **Nevada**

Nevada law does provide for party registration and unaffiliated voters are prohibited from participating in the partisan primaries. Independents and third party candidates are treated differently in Nevada. Independent candidates must file nearly a month in advance of the major party filing deadline, third parties are allowed to file until a month after the major party deadline, creating two starkly different ballot access requirements. The state has only trivial ballot access fees, but does have a sore loser law.

## **New Hampshire**

New Hampshire has a relatively restrictive primary system. The state has provisions for party registration and officially disallows unaffiliated participation in the primaries. However, unaffiliated voters may affiliate with a party at the polls. Officially this changes the voters registration, but they may immediately disaffiliate if they choose to do so. New Hampshire requires independent and third party candidates to register for the general

election on the same day in June as major party candidates, three months in advance of the September primary. The state has trivial ballot access requirements and does have a sore loser law.

### **New Jersey**

New Jersey has a relatively restrictive primary system, The state has provisions for party registration and does not allow unaffiliated voters to participate in the primaries. Additionally, parties may endorse candidates at pre-primary conventions, although there is a nontrivial ballot access requirement. The state allows independent and third party candidates to file until the day of the June primary, and it has a sore loser law.

### **New Mexico**

New Mexico has a mixed primary/convention system. Candidates can gain access to the primary ballot by garnering 20% of the convention vote, or through standard petition filings. These requirements are nontrivial and are dependent on whether or not the candidate sought and failed to get convention designation or only sought ballot access through petition. The state has provisions for party registration and prohibits unaffiliated voters from participating in the party primaries. New Mexico sets the independent and third party filing deadline roughly three weeks after the early July primary and has a sore loser law.

### **New York**

New York has a mixed primary/convention system. Here, candidates can reach the ballot by receiving 25% of the convention vote, but they do not receive a party endorsement or special designation unless they receive a majority. In addition there is regular petition

access to the ballot as well, although these requirements are nontrivial. The state has provisions for party registration and disallows unaffiliated voters from participating in party primaries. New York allows independent and third party candidates to file for the general election into August, over a month after the July primary. The state is one of the three in the United States without a sore loser law.

### **North Carolina**

North Carolina has provisions for party registration but allows unaffiliated voters access to partisan primary ballots. Parties are allowed to restrict access to the primaries but both have chosen to include unaffiliated voters. North Carolina allows independent candidates to file a month after the party primary, but it is worth noting that this date is before any potential runoff election. Ballot access requirements are nontrivial in North Carolina and the state has a sore loser law.

### **North Dakota**

North Dakota operates a very permissive and mixed convention/primary hybrid system. Candidates can gain ballot access at pre-primary conventions, and also through filing standard petitions, which require a trivial 300 signatures. The state does not provide for party registration, and thus has no restrictions on ballot choice. Additionally, the choice of ballot is made privately, requiring no public declaration. In North Dakota, independent and third party candidates are allowed to file until early September, well after the June primary. There is a sore loser law in the state.

## **Ohio**

Ohio operates a fairly permissive primary. The state does not provide for party registration when registering to vote but does require a public declaration of ballot choice at the polling place. Ohio sets a deadline for independent and third party candidates the day before the party primary, and has trivial filing requirements. The state has, at times, utilized pre-primary party endorsements, although their current use is sporadic. The state also has a sore loser law in place.

## **Oklahoma**

Oklahoma operates one of the most restrictive primaries in the United States. The state has provisions for party registration and disallows crossover voting and unaffiliated participation. Additionally, registration change deadlines are set at March 31st, well in advance of both the April filing date and June primary. Oklahoma sets the same deadline for major party, third party, and independent candidates and has non-trivial filing fees. The state also has a sore loser law in place.

## **Oregon**

Oregon is a unique western state with fairly restrictive primary laws. The state has provisions for party registration and currently disallows unaffiliated voters from participating. There have been recent efforts to both open the primary and switch to Washington-style top two primary, but these measures have been soundly defeated by both the legislature and voters. In 2012, the Republican Party experimented by opening its primary to unaffiliated voters, but only the offices of Attorney General, Treasurer, and Secretary of State were covered. Oregon allows independent and third party candidates to file until late August, well after the May party primary, and has nontrivial filing fees. The state does

have a sore loser law in place.

### **Pennsylvania**

Pennsylvania has provisions for party registration and disallows unaffiliated voters from participating in the primary. Independent and third party candidates in Pennsylvania are required to file in August, well after the May party primary. While there is no nomination through convention, parties do sometimes use a pre-primary endorsement process. There are sore loser laws in place in the state, and filing fees are non-trivial.

### **Rhode Island**

Rhode Island has a hybrid convention/primary system, where candidate can be placed on the primary ballot through convention nomination or standard petition. The State has provisions for party registration, and disallows unaffiliated participation. Additionally, party change deadlines are significantly in advance of the primary, with these changes needing to be filed 90 days in advance of the primary. Rhode Island sets the same deadline for major party, third party and independent filing. The state has a sore loser law in place and generally has a late year primary, and short primary season.

### **South Carolina**

South Carolina does not provide for party registration when registering to vote, however at times in the past, the parties have been allowed to declare requirements for party membership. Currently there are no requirements. There has been recent discussion within the state about closing the primaries, however legislative efforts have failed, and the Republican Party recently abandoned an effort in the courts. Thus, any voter may choose any party's primary so long as they publicly declare their preference. South Car-

olina allows independent and third party candidates to wait until a month after the June party primary to file for the general election. The state has trivial filing requirements, and has a sore loser law in place.

### **South Dakota**

South Dakota has provisions for party enrollment, however parties are left to decide who may vote in their primaries. Currently the Democratic Party allows unaffiliated participation, but the Republican Party does not. Members of parties are banned from the opposing party's primary. South Dakota treats independent and third party candidates differently in terms of filing deadlines. Third party candidates share a filing deadline with major party candidates, however, independent candidates are allowed to file a month after this deadline, albeit still before the party primary. South Dakota has non-trivial filing requirements and has a sore loser law in place.

### **Tennessee**

Tennessee operates a fairly permissive primary. The state does not provide for party registration when registering to vote, however voters must make a public declaration of ballot choice at the polling place. In Tennessee, independent and third party candidates must register on the same days as major party candidates. There are non-trivial ballot fees for candidates, and the state has a sore loser law in place.

### **Texas**

Texas operates a fairly permissive primary system. The state does not provide for party registration when registering to vote, however voters must make a public declaration in order to receive a ballot. Texas previously used explicit loyalty oaths although this

practice is no longer in place. Texas treats independent and third party candidates separately in terms of filing deadlines. Third party candidates must file on the same day as major party candidates, but independent candidates are not required to file until June, three months after the primary. Texas has only trivial ballot access requirements but does have a sore loser law in place.

### **Utah**

Utah has a mixed primary and convention system. Parties utilize pre-primary conventions in which the top two voter getters proceed to a primary runoff unless one candidate garners 70% of the primary vote, in which case no primary is held. Utah does have provisions for party registration and voters must be a party member in order to vote in the Republican primary. The Democratic Party of Utah has opened its primary to both Republicans and unaffiliated voters. In Utah, independent and third party candidates must register by the same March deadline that applies to major party candidates. Utah requires non-trivial ballot access requirements, and does have a sore loser law.

### **Vermont**

Vermont operated a very open primary process. The state does not provide for party registration when registering to vote, and additionally, voters need not make a public declaration at the polls when selecting a ballot. They are allowed to make this choice privately. Independent and third party candidates in Vermont must register for the general election by the day of the June primary, and there are sore loser laws in place, however Vermont was the most recent state to enact these provisions.

## **Virginia**

Virginia does not provide for party registration when registering to vote, and participation in primaries is generally unrestricted with the condition that voters make a public declaration as to the ballot they wish to vote. The Republican party has considered utilizing loyalty oaths, however, this change seems unlikely at the current time. Changes to the primary law in 1971 provide that parties can choose to nominate by convention rather than primary election, thus a primary does not always occur in Virginia. In 2014, the Republican party will use a convention to select its Senate nominee. In the majority of cases where the primary is used, the state requires independent and third party candidates to register by the day of the party primary. The state does have non-trivial filing fees and a sore loser law.

## **Washington**

Washington is one of the three states which operates a nonpartisan primary wherein the top two vote getters are placed on the general election ballot. The state does not provide for party registration when registering to vote, and thus, does not prohibit unaffiliated participation. Independent candidate filing deadlines are moot in Washington due to the nature of the top-two nonpartisan primary. The state does have a sore loser statute which prohibits write-in candidacies if a candidate appeared on a primary ballot.

## **West Virginia**

West Virginia law provides for party enrollment, however laws concerning ballot access are left to the parties. Currently, both parties allow unaffiliated voters participate in the primary election, however an explicit declaration must be made at the polls. Ballot access requirements are non-trivial, and the state has a sore loser law. Independents

and third party candidates in West Virginia may register until August 1st, well after the January party deadline and subsequent May primary. This span makes for a relatively long primary season; over three months.

### **Wisconsin**

Wisconsin operates one of the most permissive primaries in the United States. There are no provisions for party enrollment, and at the polling place, voters receive ballots of both parties, allowing them to choose their party of choice privately. Ballot access requirements are non-trivial in the state, and there are sore loser laws. Wisconsin requires independents to file in June, on the same day as major party candidates. The primary season is generally short, and the state holds an August primary.

### **Wyoming**

In Wyoming, the state has provisions for party registration, however these regulations are relatively lax, as voters are allowed to change their party registration up to, and on, Election Day. Wyoming technically disallows unaffiliated voters from voting, however, the Election Day registration change deadline does allow unaffiliated voters to enroll and vote at the polls. Wyoming has non-trivial filing fees and a short primary season. In Wyoming, independent and third party candidates must file by the week after the August party primary, and there are sore loser provisions in place.

# Bibliography

- Ansolabehere, Stephen, and James M. Snyder. 2007. "What Did the Direct Primary Do to Party Loyalty in Congress?" In *Process, Party and Policy Making: Further New Perspectives on the History of Congress*, ed. David Brady, and Mathew D. McCubbins. Stanford: Stanford University Press.
- Bott, Alexander J. 1990. *Handbook of United States Election Laws and Practices*. New York: Greenwood Press.
- Braafladt, Arnie R. 1977. "The Constitutionality of Non-Member Voting in Political Party Primary Elections." *Willamette Law Journal* 14: 259–293.
- Burnham, Walter Dean. 1970. *Critical Elections and the Mainsprings of American Politics*. New York: Norton.
- Carr, Craig L., and Gary L. Scott. 1984. "The Logic of State Primary Classification Schemes." *American Politics Research* 12: 465–476.
- Committee on Political Parties. American Political Science Association. 1950. *Toward a More Responsible Two-Party System. A Report of the Committee on Political Parties of the American Political Science Association*. New York: Rinehart.
- Committee on the Direct Primary. 1951. *A Model Direct Primary Election System*. New York: National Municipal League.

- Cotter, Cornelius P., James L. Gibson, John F. Bibby, and Robert J. Huckshorn. 1989. *Party Organizations in American Politics*. Pittsburgh: University of Pittsburgh Press.
- Dallinger, Frederick W. 1903. *Nominations for elective office in the United States*. New York: Longmans, Green and Co.
- Elazar, Daniel. 1966. *American federalism: A view from the South*. New York: Crowell.
- Epstein, Leon D. 1986. *Political Parties in the American Mold*. Madison: University of Wisconsin Press.
- Galderisi, Peter F., and Marni Ezra. 2001. "Congressional Primaries in Historical and Theoretical Context." In *Congressional Primaries and the Politics of Representation*, ed. Peter F. Galderisi, Marni Ezra, and Michael Lyons. Lanham, MD: Rowman and Littlefield.
- Johnson, Gregg B., Meredith-Joy Petersheim, and Jesse T. Wasson. 2010. "Divisive Primaries and Incumbent General Election Performance: Prospects and Costs in U.S. House Races." *American Politics Research* 38: 931-955.
- Kang, Michael S. 2011. "Sore Lower Laws and Democratic Contestation." *Georgetown Law Journal* 99: 1013-1075.
- Kanthack, Kristin, and Rebecca Morton. 2001. "The Effects of Electoral Rules on Congressional Primaries." In *Congressional Primaries and the Politics of Representation*, ed. Peter F. Galderisi, Marni Ezra, and Michael Lyons. Lanham, MD: Rowman and Littlefield pp. 116-131.
- Key, V.O. Jr. 1949. *Southern Politics in State and Nation*. New York: A. Knopf.

- Kirkpatrick, Evron M. 1971. "Toward A More Responsible Two-Party System: Political Science, Policy Science, or Pseudo-Science?" *American Political Science Review* 65: 965-990.
- Lawrence, Eric, Todd Donovan, and Shaun Bowler. 2011. "The adoption of direct primaries in the United States." *Party Politics* 19: 3-18.
- Lockard, Duane. 1959. *New England State Politics*. Princeton: Princeton University Press.
- Maisel, L. Sandy, Cary T. Gibson, and Elizabeth J Ivry. 1998. "The Continuing Importance of the Rules of the Game: Subpresidential nominations in 1994 and 1996." In *The Parties Respond: Changes in American Parties and Campaigns*, ed. L. Sandy Maisel. Third ed. Boulder, CO: Westview Press.
- Mayhew, David R. 1986. *Placing Parties in American Politics: Organization, Electoral Settings, and Government Activity in the Twentieth Century*. Princeton, New Jersey: Princeton University Press.
- McGhee, Eric, Seth Masket, Boris Shor, Steven Rogers, and Nolan McCarty. 2014. "A Primary Cause of Partisanship? Nomination Systems and Legislator Ideology." *American Journal of Political Science* Forthcoming.
- Merriam, Charles E., and Louise Overacker. 1928. *Primary Elections*. Chicago: Chicago University Press.
- Norrander, Barbara, and Kerri Stephens. 2012. "Primary Type and Polarization." *Presented at the State Politics and Policy Conference, Houston, Texas, February 17-18, 2012*.
- Overacker, Louise. 1940. "Direct Primary Legislation, 1936-1939." *American Political Science Review* 34: 499-506.

- Pomper, Gerald M. 1971. "Toward a More Responsible Two-Party System? What, Again?" *Journal of Politics* 33: 916-940.
- Ranney, Austin. 1951. "Toward a More Responsible Two-Party System: A Commentary." *American Political Science Review* 45: 488-499.
- Ranney, Austin. 1975. *Curing the Mischiefs of Faction: Party Reform in America*. Berkeley: University of California Press.
- Rogowski, Jon C. 2014. "Primary Systems, Candidate Platforms, and Ideological Extremity."
- Sharkansky, Ira. 1969. "The Utility of Elazar's Political Culture: A Research Note." *Polity* 2: 66-83.
- Swenson, Peter. 1982. "The Influence of Recruitment on the Structure of Power in the U.S. House, 1870-1940." *Legislative Studies Quarterly* 7: 7-36.
- The National Municipal League. 1960. *Compilation of the 50 Direct Primary Systems*. New York: National Municipal League.
- Turner, Julius. 1951. "Responsible Parties: A Dissent from the Floor." *American Political Science Review* 45: 143-152.
- Ware, Alan. 2002. *The American Direct Primary*. Cambridge: Cambridge University Press.

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