

ORIGINS OF THE RUN-OFF PRIMARY

by J. Morgan Kousser

Was the adoption of the run-off primary part of a general "progressive" move to democratize elections, or was it an episode in a reactionary crusade to eliminate any chance of black influence in politics by perpetuating one-party rule?

Under the 1982 amendments to the Voting Rights Act and the Supreme Court's 1982 opinion in *Rogers v. Lodge*—its most recent major pronouncement on standards in "minority vote dilution" litigation—the prime judicial criterion for evaluating such devices as the run-off primary system will be their effect on the political power of racial minorities, not the intent of the framers or perpetrators of the laws. Nonetheless, a knowledge of the historical context in which the run-off system was adopted is still pertinent in lawsuits and may help to shape public attitudes toward abandoning or retaining the system.

Since historians have only recently turned any attention at all to the intent behind the run-off system, all the available evidence is circumstantial. But we can confidently say that direct primaries were adopted in the South at least partially to maintain white Democratic supremacy and that the run-off, adopted along with primaries themselves, functioned as a further guarantee of the partisan and racial status quo.

In the post-Reconstruction South, turnout was above 60 percent of the adult southern males—including black males—during the 1880s, and the Republican, independent, and later, Populist threats to

Democratic dominance remained quite real. In the 1880 presidential contest, for instance, a majority of black men are estimated to have voted in 9 of the 11 ex-Confederate states, and in 10 of those, they managed to have a majority of their votes counted for the Republican party, which they overwhelmingly supported. The South was far from "solid" yet.

Any significant bolt of whites from the Democratic or "white man's" party could well lead to defeats—and to the assumption of power by blacks and their white allies—at the local or even the state level. In Virginia, for instance, a coalition of blacks and hill-country whites, led by a Democrat discontented with his defeat in a boss-controlled party convention, governed the state from 1879 to 1883.

The primary was recognized and touted as a minimizer of bolts. Thus, in 1878, the chairman of the Alabama Democratic Executive Committee proposed that delegates to the state convention be selected in primaries "to promote harmony . . . and to prevent as far as possible the occurrence of combinations injurious to the party." A Tuskegee Democratic newspaper thought the primary "the only thing that can unite and hold the party together."

Deeply divided over the question of continuing the corrupt state lottery company in 1892, Louisiana Democrats settled their differences in the first statewide primary ever held, as far as I know, in the United States. That it was limited to whites and that it came at the time of a very serious Populist

and Republican challenge to Democratic control should give pause to those who picture the primary as a well-intentioned, racially neutral device to expand popular control. Likewise, in the same year, South

Carolina Democrats kept the bitter split between Ben Tillman and his "conservative" opponents within the confines of the party by electing convention delegates in primaries coordinated throughout the state.

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In 1895, the South Carolina Democratic Convention called for a constitutional convention to disfranchise as many blacks as possible by law; at the same time, the Democrats passed a party rule requiring nominations for state offices from 1896 on to be made by direct primaries. In case no candidate received a majority, the party provided for a run-off primary. Ben Tillman, who dominated both the party and constitutional conventions, selected the primary, according to his biographer, "as the most satisfactory means of allaying discontent within the Democratic ranks and of reducing the danger of political appeal to the Negro."

There were no other statewide direct primaries in the South (or elsewhere in the nation) during the 1890s. By 1902, when Mississippi became the first state in the Union to require, by law, the primary method of nomination for all non-judicial state officers, disfranchising conventions or constitutional amendments had severely reduced black—and poor white—voting in all eleven southern states. Since direct primaries in general and the run-off in particular were, except in South Carolina, mandated only *after* 1900, could they have had any racial intent? Since most blacks were disfranchised by then, wasn't the situation "race proof?"

WERE PRIMARIES AND RUN-OFFS AIMED AGAINST BLACKS?

The most obvious answer is that very little in the South since 1619 has been devoid of racial motives. Perhaps less obviously, the "race proof" argument depends on hindsight. When primaries, often with run-off provisions, were adopted by Democratic party rule or by law in the early part of this century, it was by no means so clear as it seemed later that party competition and

black participation in politics were doomed for a half century. Furthermore, we should not underestimate either the continuing extent of black voting or the degree of southern white antipathy in the "lily white period" to any black political activity whatsoever.

That white racism has been one of the central themes of southern history is familiar enough not to need documentation. The perceived fragility of the disfranchisement settlement, however, must be shown.

According to a North Carolina editor who surveyed opinion in 1899 in three states that had held disfranchising conventions, "without the legal primary, divisions among white men might result in bringing about a return to the deplorable conditions when one faction of white men call upon the Negroes to help defeat another faction." After all, fairly administered literacy tests and funds to pay the poll taxes of potential voters could easily have enfranchised a majority of the blacks in any southern state in the early twentieth century, and Democrats feared that the self-interest of opposition politicians might, as it had during Reconstruction and the Populist eras, overcome their devotion to white supremacy. Moreover, southern moves to subvert the purposes of the Fifteenth Amendment never received the sanction of the U.S. Supreme Court, but only its agreement, in effect, not to overthrow the restrictive laws, a *modus vivendi* that lasted only from 1903 to 1915, when the Court overturned the Oklahoma "grandfather clause."

Furthermore, the number of blacks who were registered to vote after "disenfranchisement" was small, but not negligible—9 percent in Mississippi in 1896, and 14-15 percent in South Carolina and Virginia in 1904. In certain areas, blacks might be able to elect one or more officials. Some whites, in a period when lynchings were public carnivals, were genuinely horrified by the slightest deviation from complete black subordination. More importantly, opportunistic politicians could be depended upon to whip up any racial issue for their own purposes.

Nor were blacks wholly barred from the large locally regulated "white" primaries. In 1899 at least 200 blacks voted in a Democratic primary in one Mississippi county, and, as one historian concluded about that state as a whole, "Negroes had not been eliminated from the polls but were playing the same part a decade after [the Mississippi disfranchising convention of 1890] that they had played for a dozen or fifteen years before its adoption." The Little Rock, Arkansas, Democratic Central Committee turned down a white-only primary resolution in 1901, and Arkansas primaries became fully Caucasian only as a result of the actions of the deeply racist governor, Jeff Davis, in 1906. Aware that open, legal exclusion of blacks from the primaries would bring the risk of court action, no state before Texas in 1923 wrote a white-only provision into the law. All acted by party rule; they usually gave local Democratic committees discretion on the matter; and some areas never established utterly white primaries.

There was, then, an incentive for white Southern Democrats in the early 1900s to seek to reinforce the exclusion of blacks from electoral power.

The Mississippi legislature passed a bill imposing a primary and containing a run-off requirement in 1902. "The salvation of our State," backers of a primary with a run-off contended, "depends on the unity of our white people. This vote can only be secured by ascertaining and effectuating the choice of [the] majority, to the exclusion of Negroes." That white Democratic party hegemony was a prime motive for the adoption of the primary in Mississippi was also openly avowed by the chief sponsor of the 1902 law, Edmund F. Noel, in a 1904 article: "White supremacy could be maintained only by the members of that race remaining together politically, otherwise comparatively few Negroes who are qualified to vote might wield the balance of power. No political organization can long be kept from factional contests, without confidence in the fairness of its methods of ascertaining and carrying into effect the will

of the majority. . . . Conventions or mass meetings as the ultimate method of expressing popular choice would not be tolerated in any civilized community. . . ."

In 1901, Florida provided by statute for a non-mandatory primary containing a run-off provision. The Alabama Democratic Executive Committee, which set temporary rules for each election, provided for run-offs in 1902 and 1914. South Carolina conducted run-off elections by party regulation from 1896 on, and wrote the provision into law in 1915. Texas in 1903 and 1905 required primaries for state offices by law, but left it up to the party whether or not to declare a majority or plurality vote sufficient. In 1907, the legislature specified a plurality win system; much later, it reinstated the run-off system. The Louisiana legislature passed a majority-vote requirement in 1906. After a particularly racially demagogic gubernatorial campaign in Georgia in 1906, the convention delegates elected in the indirect primary for governor backed not only a constitutional convention to restrict black suffrage, but also Georgia's first statewide direct primary. Its run-off provision was modified two years later to provide that the candidate had to receive a majority of the "county unit" vote. Tennessee Democrats authorized a primary in 1908, and a run-off requirement in 1909, but after the law as a whole was voided by the courts, the majority clause was dropped. North Carolina mandated statewide primaries with a majority vote proviso in 1915.

Neither historians nor political scientists have investigated the intent of the original framers specifically on run-off requirements. There is likely to be little direct evidence about their purpose, since they were often adopted at non-public party executive committee meetings, and even in cases when they were written into law, the surviving evidence from state legislative records will probably not be conclusive. None of the southern state assemblies recorded debates or printed committee

reports; newspaper stories on any but the most controversial amendments are usually uninformative; and few legislators left collections of their papers. There was lots of press discussion about the general principles of primaries and conventions, but little on such specific topics as the run-off.

Popular discussions stressed not only the party-strengthening features of primaries, but also the shift in control toward "the people"—loyal white Democrats—which the primary allegedly fostered. These two purposes were, of course, completely complimentary. Had the primary not quieted protests against clique or "ring" domination, it would not have been an effective means of confining dissent within the Democratic party.

The indirect evidence from the pattern of adoptions of the run-offs suggests that the racial motives for choosing the device were hardly absent. South Carolina, which had the largest proportion of blacks of any state in 1900, was the first to put the statewide primary and the run-off into regular use. The South Carolina Democratic convention that proposed the scheme also called for state constitutional action to disfranchise blacks. Mississippi, which had the second largest percentage of blacks, became the first state to mandate the run-off primary by law, and Alabama acted by party rule in the same year. Florida, still over 40 percent black at the turn of the century, held its first run-off in 1904, and Louisiana, third in black proportion, acted by law in 1906. Among the eleven ex-Confederate states, only Arkansas in the Deep South and the border state of Virginia, its machine and anti-machine factions solidified early, never instituted the double primary during the first two decades of this century. No northern state, not even such uncompetitive ones as Maine, Vermont, and Kansas, ever experimented with run-off primaries.

In sum, then, the run-off should be seen as a device intended to strengthen the primary itself as a means of solidifying the southern Democratic parties against opposition, and particularly opposition by blacks or through appeals to blacks.