

APPENDIX:

SMALL STATES FIRST - LARGE STATES LAST: THE REPUBLICAN PLAN FOR REFORMING THE PRESIDENTIAL PRIMARIES

by

Robert D. Loevy

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In the early fall of 1999, Jim Nicholson, the Chairman of the Republican National Committee, appointed a special committee to study the presidential primaries. The committee was officially titled the Advisory Commission on the Presidential Nominating Process. It was better known as the Brock Commission, named for the Advisory Commission chairperson, former Republican U.S. Senator Bill Brock of Tennessee.¹

On December 13, 1999, the Advisory Commission held a public hearing at the headquarters of the Republican National Committee in Washington, D.C. Academic scholars from throughout the nation were invited to come and present their ideas and proposals for reforming the presidential primary process. The hearing was recorded

¹ In addition to Bill Brock, who also was a former Chairperson of the Republican National Committee, the Advisory Commission included U.S. Senator Spencer Abraham, former National Chairperson Haley Barbour, Richard Bond, U.S. Representative Tom Davis, Frank Fahrenkopf, California Secretary of State Bill Jones, Oklahoma Governor Frank Keating, and Tom Sansonetti. Republican National Committee Chairperson Jim Nicholson was an *ex officio* member of the Advisory Commission.

by the C-SPAN television network and subsequently broadcast across the country.

According to news reports, two major reform plans emerged from the public hearing. The first was the **Rotating Regional Primary Plan** proposed by the National Association of Secretaries of State (NASS). Under this plan, the Iowa caucus and the New Hampshire primary retained preferred positions at the beginning of the presidential primary process. There then were four regional primaries. These four primaries were scheduled one month apart. The four regions were the Northeast, the South, the Midwest, and the West. The order in which the regions voted rotated from one presidential election to the next, thus eventually giving each region the chance to go first.²

The second plan to gain traction following the December 13, 1999, public hearing was labeled the **Small States First - Large States Last Plan**. This plan was originally proposed in an academic book on the 1992 presidential election.³ The plan

² Advisory Commission on the Presidential Nominating Process, Republican National Committee, "Nominating Future Presidents: A Review Of The Republican Process," pp. 39-41. Also see "Primary Calendar," *USA Today*, December 6, 1999, and Morton Kondracke, "Will Bush, Gore Go For A Better Way To Pick Nominees?", *Roll Call*, March 23, 2000.

³ The **Small States First - Large States Last Plan** was first proposed in Robert D. Loevy, *The Flawed Path To The Presidency 1992; Unfairness And Inequality In The Presidential Selection Process* (Albany, NY: State University of New York Press, 1995). The plan was further developed and perfected in Robert D. Loevy, *The Manipulated Path To The White House; Maximizing Advantage In The Presidential Selection Process* (Lanham, MD: University Press of America, 1998). Early in 1996, Robert D. Loevy outlined the **Small States First - Large States Last Plan** to Jim Nicholson at a breakfast meeting at the Antlers Hotel in Colorado Springs, Colorado. At that time, Nicholson was a member of the Republican National Committee but not yet Republican National Chairman.

called for five presidential primary days scheduled just two weeks apart. States with small populations voted on the first primary day, more populous states on the second primary day, etc. On the final primary day, the twelve states with the largest populations voted, with over half the delegates being chosen on that final presidential primary day.

The **Small States First - Large States Last Plan** included an elimination process patterned after the playoff system used in professional sports. Only winning candidates advanced from one presidential primary to the next so that, on the final presidential primary day, only two candidates were on the ballot in the most populous states.⁴

The **Small States First - Large States Last Plan** was designed to "back-load" the presidential primary process. Political scientists had long complained that the existing nominating process was "front-loaded," favoring those states such as Iowa and New Hampshire that voted first and thus had the most influence over which candidate received the party nomination for President. By scheduling the most populous states with the largest numbers of delegates at the end of the presidential primary calendar, this plan attempted to make the end of the process as important as the beginning.

⁴ Advisory Commission On The Presidential Nominating Process, Republican National Committee, "Nominating Future Presidents: A Review Of The Republican Process," p. 46. Also see Carl Leubsdorf, "Not Such A Rush; A Sensible Presidential Primary System Could Help Both Parties," *Wilmington (NC) Sunday Star-News*, January 16, 2000, p. 5E. Also see Robin Toner, "Parties Studying Ways To Improve Presidential Nominating Process," *New York Times*, January 24, 2000, p. A1.

Bill Brock, the Chairperson of the Advisory Commission, said that presentation of the **Small States First - Large States Last Plan** at the December 13, 1999, public hearing had a major impact on the Commission and started the study group looking for a population-based system. Brock explained: "The hearing on December 13, 1999, really ginned up the [Advisory] Commission and got us looking for a plan that would start with retail campaigning [in the small states] and last through the entire process."⁵

THE DELAWARE PLAN

In the course of studying the presidential primaries, the Republican Party's Advisory Commission on the Presidential Nominating Process sent a questionnaire to Republican leaders in the 50 states. The last question asked state party leaders for "additional comments" and "any proposals to change the system as it now exists."

This question caught the attention of Basil Battaglia, the Delaware Republican State Chairperson, and Richard Forsten, the General Counsel of the Delaware Republican Party. The two men addressed the problem of exactly how they would want to see the presidential primary calendar reorganized, particularly to give a meaningful role to a state such as Delaware with a very small population. In their response to the Brock Commission, Battaglia and Forsten proposed a primary system based on the "reverse order of population."

This plan "assumed" that Iowa and New Hampshire would retain their historical positions at the start of the presidential primary process. Shortly after the New

⁵ Bill Brock, interview by the author, Rules Committee Meeting, Republican National Convention, Pennsylvania Convention Center, Philadelphia, July 28, 2000.

Hampshire primary, the "states with the ten smallest populations" would hold primaries. Two weeks later the states with the "next ten smallest populations" would vote. The process would continue through five presidential primary days, each approximately two weeks apart, with the most populous states voting on the final day.

Basil Battaglia and Richard Forsten saw their plan as giving a better chance to presidential candidates with limited financial resources. The two men wrote: "By going in reverse order [of state population size], candidates would not have to raise inordinate amounts of money (or at least could raise less money) before the first primaries, and could use early success in less populous states (where it presumably costs less to run a campaign) to raise funds to compete in the larger states."

In addition, Basil Battaglia and Richard Forsten argued their plan would give more states a meaningful vote in the presidential primaries. They explained: "This system should also make it more possible for **every** state to play a role, as the eventual nominee may not have all of the delegates necessary for the nomination until the last round of primaries."⁶

By the spring of 2000, Basil Battaglia and Richard Forsten had greatly perfected and successfully publicized their idea. The press dubbed it the "Delaware Plan." The Republican State Committee of Delaware published a lengthy, spiral-bound report on the proposal, complete with maps identifying exactly which states

⁶ Memorandum, "Delaware State Republican Party response to Survey of RNC Rules Committee on the Presidential Nominating Process," Delaware State Republican Party. The memorandum is undated, but it was sent in response to a Republican National Committee memorandum dated September 23, 1999.

would vote on particular presidential primary days.⁷

Richard Forsten, the General Counsel of the Delaware Republican Party, described the effort to develop and publicize this new plan: "It was the questionnaire from the Brock Commission that inspired Basil Battaglia and me to think about how a desirable and effective plan would actually work. We presented our new plan at the meeting of the Rules Committee of the Republican National Committee in San Jose [California] in January [of 2000]. We were really pleased when our proposal received a very favorable response."⁸

THE REPUBLICAN PRIMARY PLAN

In April of 2000, the Republican Party's Advisory Commission on the Presidential Nominating Process prepared to make its final recommendations for reforming the presidential primaries. Before the Advisory Commission were two very similar plans, each developed separately by completely different persons and organizations located in different sections of the United States. On the one hand was the **Small States First - Large States Last Plan**, with the "Playoff" option, that had originated in academia in Colorado. On the other hand was the **Delaware Plan**, which was being championed by the Delaware Republican Party. It said something about the "logic" and "common sense" of these two plans that they emerged from

⁷ "The Delaware Plan," prepared by the Republican State Committee of Delaware.

⁸ Richard Forsten, General Counsel, Delaware Republican Party, interview by Robert D. Loevy, Republican Rules Committee Meeting, Pennsylvania Convention Center, July 28, 2000.

completely different sources but were so strikingly similar in operating detail.⁹

The Advisory Commission decided to develop its own version of the **Small States First - Large States Last Plan** and the **Delaware Plan**. The commissioners recommended four primary election days. The time between election days was to be one month. The least populous states would vote first and the most populous states would vote last. The Commission declined to recommend the sports playoff system which had been presented as part of the **Small States First - Large States Last Plan**. The Advisory Commission report described this new version of the plan as the **Delaware Plan** with modifications.¹⁰

Advisory Commission Chairperson Bill Brock touted this new population-based plan, now known as the **Brock Plan**, as an excellent replacement for the existing presidential primaries. Brock said the Commission's proposal would encourage more individual voter contact with presidential candidates and would move the nation away from "a system that is fundamentally dominated by too much emphasis on money and media."¹¹

⁹ Newspapers in Colorado were quick to note the Colorado origins of the **Small States First - Large States Last Plan**. See "Back-loading The Primaries," *Denver Rocky Mountain News*, May 8, 2000. In this particular newspaper editorial, the new proposal was referred to as the "Loevy-Delaware-Brock plan." Also see Mary Boyle, "GOP Panel Backs [Colorado College] Professor's Primary Plan."

¹⁰ Advisory Commission On The Presidential Nominating Process, Republican National Committee, "Nominating Future Presidents: A Review Of The Republican Process," pp. 36-39.

¹¹ Gregory L. Giroux and Barbara Murray, "GOP Primary Plan Favors Small States In 2004," *Congressional Quarterly*, May 4, 2000. Also see Adam Clymer, "Republican Proposal Divides States By Size For Party Primaries," *New York Times*, May 3, 2000.

On May 12, 2000, the Advisory Commission proposals were readily adopted by the Rules Committee of the Republican National Committee at a meeting in Indianapolis, Indiana.¹² This had the effect of sending the **Brock Plan** to the full Republican National Committee, which also approved the new plan. The next step was the Rules Committee meeting at the Republican National Convention in Philadelphia in late July and early August of 2000. If the Rules Committee at the National Convention approved the plan, it would then have to be adopted by a majority of the delegates to the Republican National Convention. The delegates would debate the proposal and vote on it on the convention floor.

THE RULES COMMITTEE

AT THE REPUBLICAN NATIONAL CONVENTION

Bright and early at 8 A.M. on Friday, July 28, 2000, the Rules Committee came to order at the Republican National Convention. The meeting was held in Room 202 of the Pennsylvania Convention Center in downtown Philadelphia. The room was large but pleasantly decorated with blue drapes covering the walls.

There was an aura of expectation as the meeting began. At the back of the room, a large raised platform was jammed solid with more than 20 television cameras and camera operators. Banks of portable television lights added to the already bright atmosphere created by ceiling fluorescent lights. And more than 50 news media

¹² "Overhaul Of The GOP Primaries Backed," *Washington Post*, May 13, 2000, p. A10. Also see Adam Clymer, "GOP Panel Sets Vote On Revising Primaries," *New York Times*, May 12, 2000. David Broder, "GOP Begins Difficult Overhaul Of Primaries," *Washington Post*, May 12, 2000, p. A12.

reporters crammed the sizeable section of folding chairs set aside for the working press. Most notable among them was David Broder, the lead political reporter and analyst for the *Washington Post*.

This was an amazing amount of news coverage for a Rules Committee meeting at a National Convention. Ordinarily party rules are the province of the most dedicated of party regulars, people willing to work at something that generates no interest whatsoever from the press but which is deemed to be "for the good of the party." However, because the newly-minted **Brock Plan** was on the agenda, this particular Rules Committee meeting was getting star treatment from the news media, particularly the more elite media outlets such as the *Washington Post* and the *New York Times*.

Omnipresent and politicking hard at the meeting was Basil Battaglia of the Delaware Republican Party. Battaglia circulated around the floor of the meeting room, answering questions about the **Delaware Plan** and pushing hard for the Advisory Commission's version of that plan. When asked to do so, Battaglia gave impromptu press interviews to a number of the newspaper reporters covering the meeting.

Staff support for Battaglia was provided by Richard Forsten, General Counsel of the Delaware Republican Party, who sat with the newspaper reporters and television camera operators at the back of the room. Close by was Bill Brock, chair of the Advisory Commission, who stopped by the meeting to see what was going to become of the Republican Party's brand new presidential primary reform plan.

Recent newspaper reports speculated that the Advisory Commission's plan was likely to be adopted by the Rules Committee and forwarded to the floor of the National Convention the following week for final adoption. But there were some discordant notes in these newspaper reports. Leading Republicans from the more populous states had attacked the Advisory Commission plan. These "big state" Republicans charged that, despite the "back-loading," the less populous states would end up picking the nominee long before the more populous states got to vote on that fourth and final primary day.¹³

For three hours, from 8 A.M. to 11 A.M., the Rules Committee worked through its agenda. It appeared that the **Brock Plan** would be coming up for debate about 1 P.M.

But suddenly the mood of the Rules Committee meeting changed completely. A spokesperson for the George W. Bush for President campaign walked into the press section and announced that George W. Bush wanted the Advisory Commission version of the plan voted down. Although the Bush campaign spokesperson did not say so specifically, the assumption of the reporters and other political observers was that the plan was killed to mollify the delegates from populous states such as California, New York, and Illinois.

The Bush campaign spokesperson was apologetic. He acknowledged that Republican National Chairman Jim Nicholson, Advisory Commission Chairman Bill

¹³ Adam Clymer, "Proposal To Shake Up The Primaries Is Met With Scrutiny and Skepticism," *New York Times*, May 4, 2000. Adam Clymer, "New Calendar Of Primaries For GOP Clears Hurdle," *New York Times*, July 28, 2000, p. A15.

Brock, and the rank-and-file members of the Advisory Commission had invested hours of time and effort in bringing a population-based presidential primary reform plan to the Republican Party. The spokesperson admitted that the Bush campaign should have reviewed the Advisory Commission plan when it was first presented, in early May, and expressed opposition at that time. It was definitely irresponsible, the spokesperson concluded, for the Bush campaign to walk in and shoot down the **Brock Plan** at the last moment.¹⁴

Although the Advisory Commission's plan had not even come up on the agenda, the delegates and the newspaper reporters present assumed that the plan was automatically dead. National conventions exist mainly for the purpose of enhancing the electoral chances of the man or woman who won the party nomination for President in the previous presidential primaries. The delegates, all of them loyal Republican Party members and most of them ardent supporters of George W. Bush, were not about to move out a presidential primary reform plan if the designated party candidate for President said he did not want it.

Advisory Commission Chairperson Bill Brock did not criticize the George W. Bush for President campaign for slamming the brakes on presidential primary reform. Brock was disappointed but saw the work of the Advisory Commission as useful and important. "The idea [of a population-based presidential primary system] has been brought up for discussion and presented to the Republican Party," Brock said philosophically. "Keep in mind that the opponents of the [Advisory Commission]

¹⁴ Personal observation by Robert D. Loevy.

plan have no workable alternative plan of their own to present. It is no longer a question of *will* the presidential primary system be reformed. It is now only a question of *when* will the presidential primary be reformed."¹⁵

Following the dramatic announcement of the Bush campaign's opposition to presidential primary reform, virtually all of the newspaper reporters and television cameras departed the Rules Committee meeting. Only the most dedicated reporters from the elite newspapers remained to hear the debate on the **Brock Plan**. It was a debate that now was purely academic, with the presidential primary reform plan destined for certain defeat.

But the debate, which extended throughout the early afternoon, was beneficial to those seeking to learn possible arguments against a population-based presidential primary reform plan. The major criticisms were:

- * Despite the optimistic predictions of supporters of the plan, the more populous states are not likely to hold meaningful and relevant presidential primaries because the large states are categorically scheduled on the last day of the primary schedule. In most years, if not all years, presidential nominees would continue to be selected in the early stages of the process by states with small populations.

- * Having ten-to-twelve states vote on the first primary day is too spread out geographically, even though these are states with small populations. It will cost too much for under-financed candidates to campaign in multiple numbers of states all at

¹⁵ Bill Brock, Chairperson, Republican Party Advisory Commission on the Presidential Nominating System, interview by Robert D. Loevy, Pennsylvania Convention Center, July 28, 2000.

the same time. The system is better now where only single states - Iowa with its first caucuses and New Hampshire with its "First In The Nation" primary - vote at the beginning of the process.

* Spreading the presidential primary season over four months (March, April, May, and June) means that the intra-party competitiveness of the presidential primaries will last a long time and into the early summer. Not enough time will be available to reunite the party for the late July-early August party National Convention and the general election in the fall.

* If a state has a state legislature controlled by Democrats, the Democrats may not schedule the presidential primary according to the Republican calendar. This would force the state Republican Party to pay for the Republican presidential primary out of its own pocket, thus using up money that might better be spent electing Republican candidates to office in the November general election.

These arguments were bravely countered by the supporters of the **Brock Plan**. They argued that, because almost 50 percent of the delegates would be selected on the fourth and final presidential primary day, the race would automatically continue until that fourth decisive day. They also noted that, if the present nominating system is not soon reformed, the process will become so front-loaded that the first presidential primary day will become, in essence, a national primary.

When the two sides had finished debating, the George W. Bush for President campaign was granted its wish. The Rules Committee of the Republican National Convention rejected a population-based presidential primary reform plan by a vote of

66 to 33. Whatever it was called - (1) the **Small States First - Large States Last Plan**, (2) the **Delaware Plan**, or (3) the **Brock Plan** - this unique proposal for reforming the presidential nominating system had been defeated.

CONCLUSIONS

The Republican Party's Advisory Commission on the Presidential Selection Process deserved considerable praise for adopting a bold and innovative reform plan and getting that plan extensive national publicity, at least among the political cognoscenti. The fact that the plan was presented and debated at the Rules Committee of the Republican National Convention in late July of 2000 was an achievement in itself.

With hindsight, it appears sensible if not inevitable that the George W. Bush for President campaign would, in the end, decide to oppose the **Brock Plan**. By the year 2000, party National Conventions were completely focused on building consensus and gaining support for the designated party candidate for President. The presidential primary reform plan was dividing the Republican Party (particularly antagonizing the more populous states) at a time and place where the Republican Party was trying to come together, not fly apart.

Which raises a final question. Is a political party the proper vehicle for reforming the presidential nominating process? In the modern context, it is difficult to imagine a designated party nominee for President permitting the National Convention to undergo a potentially divisive and possibly acrimonious debate on the convention floor over presidential primary reform.

The situation is further complicated by the fact that the designated party nominee for President has just been nominated under the existing presidential primary rules. Unless the designated nominee were particularly successful and politically secure within the party, the inclination of the designated nominee would be to leave the existing nominating rules unchanged.

Perhaps the biggest lesson was that the United States Congress in Washington, D.C., is the proper venue for reforming the presidential nominating process. Congressional law would apply simultaneously and equally to both the Republican and Democratic parties. Also, the party National Conventions would not be called upon to make controversial presidential primary rule changes at such a delicate moment in the presidential selection process.