

Foote

ELECTIONS COMMITTEE: 56TH ASSEMBLY SESSION.

MINUTES ON MARCH 9, 1971

MEMBERS PRESENT: CHAIRMAN: Mary Frazzini, VICE CHAIRMAN: Frank Young
Darrel Dreyer, Marge Foote, Juanita White,

GUESTS: John Koontz, Secretary of State, Art Palmer, Legislative Counsel Bureau, Melvena Rowe, Las Vegas League of Womens Voters.

Chairman Frazzini called the meeting to order at the hour of 8:15 a.m.

PURPOSE OF MEETING TODAY IS TO HEAR TESTIMONY ON AB 185: Creates presidential primary election.

Mrs. Rowe gave the following speech to the committee:

In the interest of presenting some background on the presidential primary in Nevada for those of you who may not have had the time to dig into its history, I am beginning with a short resume' of what has gone before.

When the League elected to study a presidential primary system for Nevada in 1961, we found the idea was not a new one for this state. Back in 1911 the Democratic Party held a presidential primary in connection with its May primary election which selected 196 delegates to the Fallon Convention of that year. Actually, there was no legal provision in the statute as the provision in Chapter 165 of Nevada Statutes, 1911, made reference to authority granted under Chapter 18, Nevada Statutes, 1883, which chapter had been repealed by that same Legislature. The primary process was used only in that one year by the one party, and little more was heard of the idea until 1952. Political feeling was running high with Eisenhower and Taft the leading contenders in one party and Stevenson and Kefauver in the other. The democratic platform that year endorsed a presidential primary for Nevada.

In 1953, 41 years after the one-time use, the Legislature enacted such a law, but unfortunately it was hastily drafted and lifted largely from the California statute. So many conflicts became evident within the act itself and with existing Nevada Primary statutes that it was repealed in 1955, without ever having been used. The legislature did, however, direct the Legislative Counsel Bureau "to study presidential primaries." That study was not completed until 1958 when the Bureau issued Bulletin #32*, containing background information and provisions for a model law. No action is recorded on the study in the 1959 regular or the 1960 special sessions, but in 1961 a bill was introduced which died in committee.

After two years of study and discussion, the League, in 1963, arrived at a position of support for a presidential primary system in Nevada if it met certain stated criteria. If you have in your file this 4-page statement of League positions and priorities (one was given each legislator,) you will see the criteria are enumerated at the top of page 4. I will comment on each one as it relates to AB. 185:

The first two, that the primary be "closed" and that it be a "preferential type, present no problem. Nevada has only closed primaries-meaning, of course, that only voters registered in their respective political parties

*See attached page

can vote in that party's primary. This is in contrast to those few states where it is legal for a voter to choose on election day in which party primary he wishes to cast his vote. The preferential primary means that the names of the presidential nominees themselves be listed on the ballot for electors who may or may not be pledged to a particular candidate.

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It is in relation to the third criterion that the League has a serious reservation re AB 185. Our position states that "All major candidates should appear on the ballot and provision should be made for eliminating false candidates." We have no quarrel with the enumerated procedures in AB 185 for placing names on the ballot and false ones off. In fact, they are most adequate. The thing which gives us pause is the date set for holding the primary. Judging from past presidential years, some of the strongest potential nominees are often not in the race by the second Tuesday in March. The so-called draft provision in Section 11 of the bill, whereby the Secty of State is required to enter the names of any presidential candidate "which has been entered in one or more presidential primaries in other states.." (even though neither the candidate himself or a committee working in his behalf has entered his name in this state) can be of little meaning if the election is so early. This is the exact wording of the model law but that law states the first Tuesday in June as primary day. In effect this bill would insure that only those candidates whose names are entered in the New Hampshire primary could be drafted since it is the only one prior to ours. And it is doubtful that even these names would be available at the time AB 185 says the Secty of State must enter the draft names (30 days before the election).

When substantially this same bill was introduced last session, the date it originally carried, as I recollect, was the first Tuesday in June. This seems to be a much better time to the league, for it would give the voter a choice of most, if not all, of the principal contenders competing in the national conventions. Also, the Legislative Counsel study says that a late entry frequently represents the popular drafting of a non-professional politician of unusual national popularity. This may be resolved by having provisions in the law for a write-in vote and holding the primary immediately prior to the conventions. It goes on to recommend "as late a date as possible for holding a presidential primary."

If it is our intention not to displace New Hampshire as the first primary state, why not be the last in order to include a possible complete slate of contenders? If Nevada were the last instead of the second, it could become nationally significant and draw great attention. Hasn't the record shown that Nevada usually votes the winner in presidential elections?

As to criteria numbers 4 & 5, namely, that the primary should be a proportional-representative type and that provision should be made for a flexible procedure for binding delegates at convention, we think AB 185 satisfactorily meets both.

We call attention of the Committee to Sec. 18, para 4, page 6, where we believe a typographical error may have been made. It states that names of presidential candidates entered in the primary by the Secty of State under the provisions of Sec. 11 of this act appear in Chronological

order. Should not chronological be alphabetical ? As the Counsel study points out, candidates entered by the draft provision should be placed on the ballot alphabetically, since no chronological order could be established for them.

end of page 2 of 3

Your attention is also called to Sec 18, para 5, page 6, which states that "in all other respects the ballots conform as closely as possible to the ballots used in other primary elections." We would recommend that the model law be followed here and add the provision for a write-in vote, in order to provide every possible way for all candidates to be considered. The model for this provision may be found on page 58, para 5c of the study, and in the model law itself, on page 80, Sec 37, para 1 (b).

Rather than list here the many arguments in favor of a closed preferential primary in Nevada, we commend to your attention Chapter 111 of Bulletin #32, which states arguments in favor of and against this procedure. We believe you will then agree with us that the advantage far outweigh the disadvantages.

The league of Women Voters urges you to adopt the changes we have recommended, but we will support AB 185 provided only that the date is changed to make the primary a meaningful exercise that justifies its cost.

In case you are not aware, I bring to your attention the fact that there has been introduced in the Senate an identical bill (BS 316) except that it calls for the primary to be held the 3rd Tuesday in May beginning in 1972.

Thank you for the opportunity to be heard.

Addendum: LEAGUE OF WOMEN VOTERS IN NEVADA POSITION STATEMENT RE
PRESIDENTIAL PRIMARY

We support a Presidential Primary law which meets the following criteria:

- a) Closed Primary
- b) Preferential-type primary
- c) All major candidates should appear on the ballot and provisions should be made for eliminating false candidates.
- d) The Presidential Primary should be a proportional-representative type of primary. That is, delegates should be awarded to candidates on a percentage basis of popular votes received.
- c) Provision should be made for a flexible procedure for binding delegates at convention.

Mrs. Frazzini: Mrs. Rowe, our state law now prohibits any kind of a write-in on a ballot, did the League of Women take that into consideration when they made the recommendation that we possibly would allow write-ins.

Mrs. Rowe: Yes, I believe so.

Mr. Dreyer stated his dislike of section 12 on page 4, a Candidate that a candidate may withdraw from the election, if he files with the Secretary of State a signed statement that he is not a candidate and has not entered in and will not enter any presidential election in any other state, you can't someone they can't file just because they have changed their mind here in this state.

Mr. Koontz: Marv for my office it would be a nightmare of work, I think if this bill were passed by the legislature, it would be necessary for me to ask the legislature to give me an additional clerk in the office.

In connection with the League's statement about chronological order preceding the line she mentioned, it says that all candidates will be put on the ballot in the order in which they filed. In other words, in this bill, rather than put them on in alphabetical order, it seeks to have them put on by date in the order in which they file in the office.

One question Mr. Koontz had was section 11 page 4; under section 3 at the top of the page, it says a declaration of candidacy filed under this section shall be accompanied by a filing fee of \$500, then when it gets down to 11, it says the Secretary of State shall enter in the presidential primary election the name of any presidential candidate which has been entered in one or more states, where do I get \$500, do I just put his name on there gratis? How do I collect that \$500.

Mr. Young asked Mr. Art Palmer if he was aware of of the above mentioned filing fee by Mr. Koontz.

Mr. Palmer: That was engineered to encourage the nationally known persons to enter the primary of their own volition, now in doing it that way, they have controled their delegates. If they're drafted onto the ballot they don't have that control over their delegates, and of course you would think that if they waited until they are drafted they would evade that filing fee, I think that is what has you puzzeled here.

It ties in with other sections in the bill which provides if they waited until they were drafted they wouldn't have to crow over their own delegates, though they would go ahead and file of their own volition. It's a very critical part to have control over your delegates and who they are going to be.

Mr. Young:

What happens when a candidate doesn't choose to lay his name on the line in Nevada, but his name laid there anyway, it sure seems that he is trapped.

Mr. Palmer: In most of the presidential primaries that are conducting throughout the United States are mostly a farce, because candidates only enter those in which they believe they are going to look good where they can make some real progress. So that the voter going to

to the poll in his political party, he doesn't really have a selection from among the major candidates. He only has a selection from among those that chose to enter. So you really don't have a true test when the voter doesn't have a real selection from among the candidates. Now, there is another provision in herewhich is unique in that many of them feel they don't want to enter the primary unless they can win and put a lot of money into it. In this Nevada Presidential Primary, the way this bill is engineered, they would take a proportional share. If they got 40% of the vote, they get 40% pf of the delegates. In most of the other primaries, it is a winner take all system and you don't get a real correct reflection of Nevada's feelings at the National Convention, that way.

So, many of the Presidential Primaries are really not a good test of the candidate's strength and they do not provide the voters of the state with a real good selection. They don't reflect the way Nevada's voters feel about them. This system would try to bring about changes in those inequities.

Darrell Dreyer: I am kind of going along the same line. I also believe in what Frank says - that who is really going to show up? Again, there is two points - another one, like I said in section]2, somebody can file and then change his mind. He has to file a letter saying he has not entered and will not enter any other state. I think that is rather unconstitutional. You can't tell someone he cannot.

Go back to that \$500.00 filing fee. So a fellow wants to run for \$500.00. Then he changes his mind. In the meantime we have gone through the expense. It is possible for the biennium to go for \$]40,000.00. There is \$]40,000.00 for some "yo-yo", for \$500.00 can always be known as a one-time presidential candidate.

Margie Foote - The other presidential primaries do not necessarily represent the attitudes and ideas of the people in the other states. As I understand, a presidential bill for Nevada is aimed at having a truer representation of ideas, for those going to the convention; so the convention will know somewhat how Nevada stands. If the other states are not doing an exemplary job, it seems to me that our vote is going to be so insignificant in national convention anyway. It is not going to be worth the money.

Frank Young: For the benefit of Mr. Hilbrecht and also Mr. Palmer we had a very fine paper presented this morning by by Mrs. Rowe from Las Vegas, giving us the history of presidential primaries in Nevada and stating that the League of Women Voters supports A.B. 185 conditional upon its date being changed, to a later date, considerably later. It was suggested, even, that we be the last state for the presidential primary rather than the first (Corrected by Miss Foote to second)

Mr. Young: Doesn't this bill put it on the same date as New Hampshire and Rhode Island so that we would be one of three states having it first, in the nation.

She also called to our attention that fact the S.B. 316 is an identical bill, except for date.

Mr. Koontz was asked for additional comments. He did say that this in conjunction with all the other election changes would probably necessitate my requesting some additional help - one, at least, in the office to help me with these elections. Over a period of years this election work has grown, the same as the other duties in the office. It has got to the point that, as an individual, I can't handle it all. I don't have an election clerk in the office and none have been added in 25 years. With the election, probably in June of this year, on the 18 years olds, and the two or three types of ballots that will be necessary for the presidential election - you see we'll have ballots for migrant workers, and possibly ballots for 18 year olds, if the people don't pass it this time. Then we would have this presidential election and we would be in almost constant election matters all during the year.

Those problems of having two almost identical bills, one in the Senate and one in the Assembly, would have to be resolved too.

Apparently I don't collect from those I put on the ballot myself, but I do from those who want to give the \$500.

Ty Helbrect: I think the basic reason for a presidential primary is more to allow expression by the voters of their feelings which under this bill are interpreted that the fair political convention on a proportional representation basis. I think that's the key. I think that a lot of frustration has developed in the United States because of the fact that the public, the voters, frequently feel that they do not have access to the means of power, the manner of selection of the President. To an increasing degree, I believe the personality of the nation develops around the chief executive. It is vital, to avoid problems such as have occurred in the past in national convention, conventionally I believe that we have a National Presidential Primary. But until that time, I believe States should be responsible in attempting to give the electorate within their jurisdiction as much voice in the decisional process as possible.

I want to address myself, very briefly, to the early date. Some of you served two years ago on the committee that really conceived this bill almost in its present form. Art Palmer has taken it back and made some necessary adjustments. This is the bill that came as a result of a study that the Legislative Commission made for us several years ago. It was up-dated by Art and I think he did a very fine job. This committee adopted what in essence is A.B. 185, with one exception: that is, they moved the primary a week earlier than it appears in this bill.

It was the feeling of the committee at that time, as I interpret it, that a small state, if it was to give to the electorate in the state, a real feeling of participation in the nominating process, had to be relatively early. You will recall that because of the fact that this was a resort oriented state, because it was blessed with a relatively temperate climate, abundant convention facilities, it was thought that having the very earliest primary would be desirable for the state of Nevada, because it was one of the few states in the Union that could exploit or take advantage of the advent of a political convention here. While I am not tied with the committee decision about being the first, I do feel that there is a great deal to be said

Mr. Hilbrect cont'd

for a small state being early in the nominating process, I believe for example that it is unrealistic to think that presidential aspirants are going to come to the state of Nevada, with the second smallest population in the United States after having won or lost big in the states like California and New York. On the other hand I believe that if we had the first or second or tied with other states for first, Presidential aspirants would look to these early weather vane states as indicators hoping to develop a band wagon for their political aspirations and would come to the state of Nevada and would campaign the state of Nevada in our electors would have an opportunity to participate in this sounding process at the earliest stages. I am aware of the fact that there are some handicaps to this, there is some deterrence, the primary one being, I suppose that it is perfectly conceivable that someone would be a very active contender very early in the campaign would not finish. To that extent the people in the state perhaps would be frustrated. On balance, however, I have the feeling that getting the people involved with the electoral process which I think in a small state you would have to attract people to the state of Nevada, in terms of popular vote. While I understand the liabilities I think that almost any position you take is going to have its liabilities, and I feel you will have to weigh and see what you feel is most important. In my judgment I compare with what I understood to be the opinion of this committee two years ago, and that was that they felt that we ought to have it at the earliest feasible time.

Art Palmer: there were a few comments made that perhaps I could give further information on. The matter of holding a presidential primary and having people. And having people enter just to see their name on the ballot, that was one of the reasons why we suggested this \$500 filing fee. We provide in -section 10 sub-section 4, that if they are a resident, their entry into the presidential primary would have to be accompanied with a petition which contains the signatures of qualified electors equal to 5% of the number of voters who voted the last preceding general election. This would keep publicity seekers off the ballot.

Mr. Young: Seems to me that your provision of blocking the candidates, more appropriately goes with late primary than with an early primary. Ty has a very persuasive argument for having an early primary. It can create a national effect, so it seems to me that's a little inconsistent with tying our candidates especially where others may come on the scene later. If you go for a late primary, then I think the time is quite appropriate.

Mr. Palmer: That is true, that is why we allowed so little time prior to the time the primary would be held, before the secretary of State would draft others onto the ballot. They can be released by the candidate themselves.

Mr. Young wanted to know about the person who filed in Arizona, is Koontz going to be able to put him on the ballot here?

Mr. Palmer: That is something I debated at the time I was thinking of these provisions. You might want to provide that the Secretary of State would only draft onto the ballot, those who were entered in two additional states.

Mr. Palmer cont'd

That of course would mean that a publicity seeker would have to really have quite a bit of money behind him.

Mr. Hilbrect stated at the time of the original draft it had to be this way, it may no longer have to be.

Section 12:

Mr. Dreyer: He cannot or will not enter into any other presidential primary in any other state. Is that in the law in any other states.

Mr. Hilbrect: I don't think it is intended to be a legal document, I think it is intended to be a deterrent to people deciding they don't like to have judgment passed on them in one state but they do plan to in some other state.

Mr. Dreyer: referring to the letter to Mr. Helbrect: on sections 14, 16 and 17, the dates, do you have any suggestions? Section 14 allows up to 25 days for presidential primary to transmit. Section 16, 17, the dates of February 11, and 15, you say that the next presidential primary the Secty of State under authority of Section 14 could hold off notifyin the county clerks until Feb 18. Which would be a date to late.

Mr. Palmer: Section 16 and 17, those dates would merely have to be advanced, and not require that action be taken on the 11th or the 15th which the county clerk's couldn't do.

This would cause Mr. Koontz' office additional expense.

Meeting adjourned at the hour of 9:00 a.m.

b.smithers.

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**A STUDY OF THE PRESIDENTIAL PRIMARY:
LCB BULLETIN NO. 32**

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