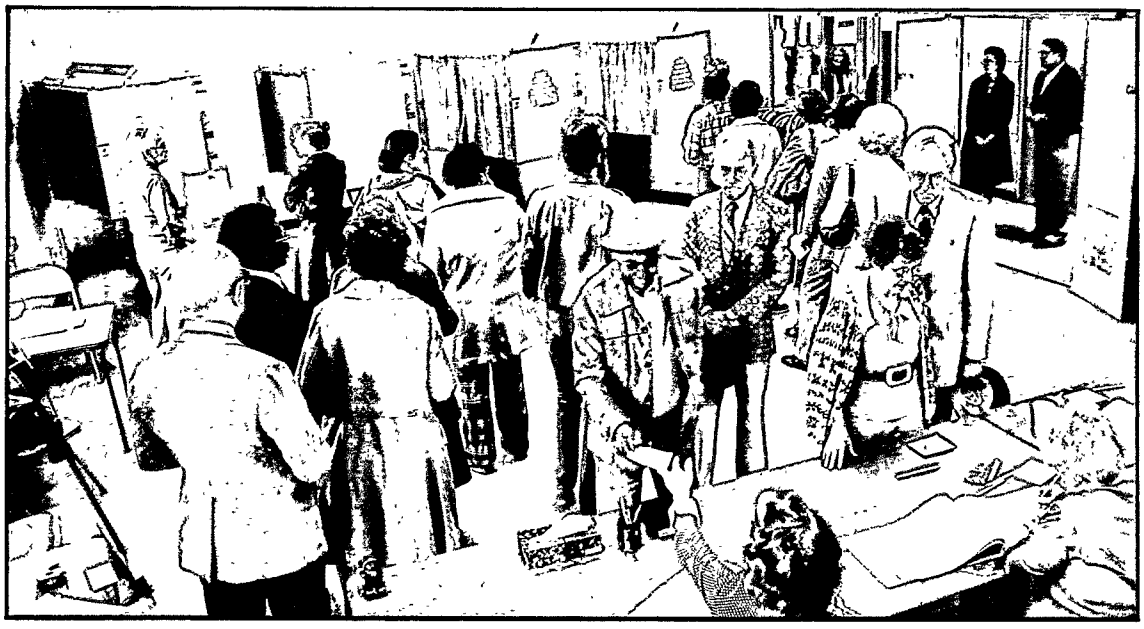

Jim Strickland, courtesy The News and Observer *(Raleigh)*

The Runoff Primary

A Path To Victory

Is majority rule
the best way to pick a party's nominee?
Ask Thad Eure, Kerr Scott,
Jim Holshouser, John Ingram, Tim Valentine ...

by Mark Lanier

Thad Eure, the N.C. Secretary of State for almost 50 years, rightfully lays claim to the title of "the oldest rat in the barn." But his first trip through the door was laden with traps. In the 1936 Democratic Party primary, Eure trailed Stacey Wade, who had captured over 40 percent of the vote. Eure called for a runoff and upset Wade in the second primary. Without that second chance, this bow-tie-wearing governmental institution may never have gotten his start. And the oldest rat in the barn may have been a now-forgotten Stacey Wade.

A 1915 election law opened the door for Eure.[1] The statute allowed the North Carolina voters for the first time to choose the party's nominee for state offices and required a candidate to win 50 percent of the vote. Some state officials think reforms are needed again. They want to amend the 68-year-old law to allow a person to win a party nomination with less than 50 percent of the vote, thus eliminating the need for some second primaries. Five such proposals recently surfaced, each calling for somewhere between 40 and 45 percent of the vote to be necessary for victory in the first primary.

Under four of the five proposals, the late Stacey Wade might have stalked the legislative halls for 50 years, not Thad Eure. And a number of other famous North Carolina races would have had different outcomes under some of these proposals. In 1950, Frank Porter Graham would have been elected to the U.S. Senate, not Willis Smith. In 1972, Jim Gardner would have captured the Republican nomination for

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governor, not Jim Holshouser. And in 1982, H. M. "Mickey" Michaux would have defeated Tim Valentine for the Democratic nomination for Congress in the 2nd district.

Rep. Kenneth B. Spaulding (D-Durham) led the call for change in the 1983 General Assembly, calling second primaries unnecessarily expensive and a deterrent to the election of women and minority candidates. Spaulding, together with Rep. Al Adams (D-Wake), a powerful five-term veteran of the House, introduced a bill (HB 171) under which a person winning the first primary with *at least 40 percent* of the vote would win the party's nomination. The proposal applied to all statewide offices, Congressional seats, and state legislative races. "My preference is to do away with the second primary altogether—to have a plurality system," says Spaulding. "But recognizing that the General Assembly would be slow to change the second primary approach, I presented legislation that I felt reasonable and realistic."

In addition to the Spaulding-Adams proposal, four other alternatives emerged.

- Alex Brock, director of the State Board of Elections, suggested a *42 percent cutoff* for victory.
- House Speaker Liston Ramsey (D-Madison) mentioned an alternative of *45 percent, plus a 15 percent lead* over one's nearest opponent.
- When Spaulding's proposal appeared headed for defeat in the House Election Laws Committee, Rep. Joseph Roberts (D-Gaston) tried to propose an amendment requiring candidates to win *40 percent* of the vote, with a *5 percent lead* over the nearest competitor.
- After the House Election Laws Committee defeated HB 171 (March 17, 1983, on an 11-6 vote), Spaulding introduced a new bill (HB 536) requiring the candidate to win with *41 percent of the vote and a 3 percent lead.* The same committee defeated it by voice vote on March 31, 1983.

Sixty-eight years have passed since the primary system used today took effect. In 1915, the South was a one-party region, and the Democratic Party primary was the "real" election. Hence, the person who won the primary was assured of the office, and a majority-vote requirement had some obvious merit. Today, only nine states—all in the South—still require a candidate to win 50 percent of the vote in a primary for a party's nomination.[2] But the South is no longer a one-party region, nor is North Carolina. Ferrel Guillory, editorial page editor for *The News and Observer* of Raleigh, contended in his February 11, 1983, column "that North Carolina is not clearly a two-party state, that it is in transition.... The question of reducing runoffs is a question of how far North Carolina sees itself down the road to two-party politics."

Henry Garner

State Rep. Kenneth B. Spaulding (D-Durham)

Besides the two-party question, at least three other issues regarding a change in the primary structure demand attention: 1) the cost to the state of an excessive number of second primaries; 2) lack of voter turnout in second primaries; and 3) difficulty for minority candidates to win under the current system. Any proposed change in the primary system is dead for the 1983 legislative session, but the issue is sure to surface again. When it does, legislators—and the public—will want to know how various proposals would affect future elections.

Would more minority candidates be likely to win election? Will fewer second primaries be necessary, and at how much savings to the state? One way to project what might happen in future elections is to examine second primaries in recent years, using the five proposals listed above as yardsticks.

Impact of Proposed Changes on Past Elections

To determine how the five proposals might affect different offices, the Center examined the vote totals *for all second primaries* held during selected time periods, using the official

vote returns in the Secretary of State's office. Table 1 contains the results of this analysis, including a sixth alternative, which is used in many states—winning a party nomination with a *plurality* in the first primary. The six proposals are listed in the left column in descending order according to degree of impact on past elections in North Carolina, with the alternative that would have resulted in the most changes (plurality) at the top and the one with the least impact (45 percent plus 15 percent lead) at the bottom.

Note that all second primaries would be eliminated under a plurality system, which means by definition that it has more impact than any other option. Also note that this study included all primaries for selected time periods, and did not depend on a sampling method or on an arbitrary examination of selected primaries.

For 1950 through 1982 *for all statewide offices and Congressional seats* and from 1964 through 1982 *for all General Assembly seats*, a total of 75 second primaries was held. Table 1 also includes data from two pre-1950 statewide races of particular historic significance, the 1948 gubernatorial primary involving Kerr Scott and the 1936 primary involving Thad Eure. The study thus covered 77 second primaries. Under a plurality system, all 77 of the second primaries would have been eliminated and 32 of the races would have had a different winner. At the other extreme—the 45 percent plus 15 percent lead alternative—only seven second primaries would

Table 1. Impact on Second Primaries of Six Alternatives to N.C. Election Law (1950-82)[1]

Necessary Vote in First Primary To Win Party Nomination	General Assembly (1964-82)		U. S. House (1950-82)		U. S. Senate (1950-82)		Governor (1948-82)		Other Statewide Offices[4] (1950-82)		Total No. of Runoffs	
	Primaries Eliminated[2]	New Winner[3]	Primaries Eliminated	New Winner	Primaries Eliminated	New Winner	Primaries Eliminated	New Winner	Primaries Eliminated	New Winner	Primaries Eliminated	New Winner
1. Plurality	43[5]	18	13[5]	4	4[5]	2	6[5]	3	11[5]	5	77[5]	32
2. 40 percent of vote in 1st primary	32[6]	11[6]	8	3	3	2	5	2	5	2	53	20
3. 42 percent	14	3	8	3	2	1	3	1	6	2	33	10
4. 41 percent, plus 3 percent lead over nearest opponent	13	4	6	2	2	1	3	0	5	1	29	8
5. 40 percent, plus 5 percent lead	13	3	6	2	2	2	3	0	4	1	28	8
6. 45 percent, plus 15 percent lead	4	0	1	0	0	0	1	0	1	0	7	0

[1]The table includes results from all second primaries between 1950 and 1982 for statewide and Congressional elections, plus the 1948 gubernatorial and the 1936 Secretary of State second primaries. For General Assembly races, however, only the second primaries during 1964 to 1982 are included.

[2]The number of second primaries which would have been avoided by the respective alternative.

[3]The number of candidates who would have won nomination in the first primary under the respective alternative but were instead defeated in a second primary required under the existing law.

[4]Includes for 1950-82 second primaries for Lieutenant Governor, Auditor, Commissioner of Labor, Commissioner of Insurance, Supreme Court, and Court of Appeals. Figures also include the 1936 second primary held for Secretary of State. No second primaries were held for Attorney General, Commissioner of Agriculture, or State Treasurer. This analysis did not include primaries for superior court judges.

[5]The number of second primaries eliminated under a plurality system is the same as the number of second primaries held during the years indicated for each office. That is, if a simple plurality meant victory, no second primary would be necessary.

[6]This computation takes into consideration the procedure explained in HB 171 for computing the percentage of vote necessary for nomination in multi-seat General Assembly races.

Source: N.C. Secretary of State, official election returns; *N.C. Manual*, various years.

have been eliminated, with no changes in winners.

The Spaulding-Adams 40 percent proposal, the alternative receiving the most attention and tested by a roll-call vote in committee, would have resulted in 20 different winners for the years examined—in 11 General Assembly nominations, 2 U.S. Senate races, 3 U.S. House contests, 2 gubernatorial elections, 1 Secretary of State campaign, and 1 Court of Appeals race (see Table 2). The data in these two tables provide valuable insights into the concerns raised over the current primary system.

Excessive Cost of Second Primaries. Rep. Spaulding defended his proposal primarily as a way "to save the taxpayers of North Carolina the high cost of unnecessary second primary elections." Spaulding pointed out that the 1980 second primary cost the state $500,000. Alex Brock, director of the State Board of Elections, confirms the cost of the 1980 second primary, but explains that most of the costs are at the county level, where 16,480 people must be paid to run the elections. In an average year, says Brock, 60 percent of the counties have runoffs in local elections. Therefore, even if a runoff were avoided in a statewide election, about 60 percent of the costs ($300,000) would still be incurred. In a review of all 1982 runoffs in the state, Brock found that lowering the winning margin to 42 percent would have eliminated about 78 percent of the second runoffs. Hence in 1982 Brock suggested the 42 percent formula. "But you have to make [the change] all inclusive [and apply to local runoffs]," Brock argues, "or you'll never get very far with [a proposal]." Spaulding only included statewide, Congressional, and legislative contests in his bills.

"Excluding local offices was a political strategy," says Spaulding. "I wanted to avoid having undue lobbying efforts against the legislation by sheriffs, county commissioners, and other local officials who would be directly affected."

Table 1 shows that under the 40 percent proposal, 53 second primaries would have been eliminated for the years examined (see columns on far right). Only 13, however, involved statewide races (3 U.S. Senate, 5 governor, and 5 other). The statewide elections are the most expensive to hold because every county incurs runoff expenses, whether there are any local runoffs or not. But these 13 statewide runoffs occurred in only nine separate years; moreover, in three of these nine years, other statewide runoffs were necessary. Thus even the 40 percent proposal would have eliminated only six statewide primaries for the years examined. And even in those years, some 60 percent of the counties, according to Brock, held local runoffs. If the past is any guide, then, even the proposal before the 1983 legislature that would have eliminated the most runoffs—the 40 percent formula—would result in only modest budgetary savings to the state. If saving money is the overriding motivation for change, among the proposals considered thus far only the plurality system offers real savings. Changing a proposal to include local races could also result in some savings.

Lack of Voter Turnout in Second Primaries. Rep. Spaulding, in lobbying for his bill, pointed to the 1978 U.S. Senate Democratic Party primary. In the first primary, Luther Hodges, Jr., with 260,868 votes, led Commissioner of Insurance John Ingram. But Hodges won only 40.1 percent of the votes cast, and Ingram called for a runoff. In the second primary, Ingram upset Hodges but captured only 244,469 votes, 16,000 less than Hodges had won in the earlier primary. This study confirms the point Spaulding is making: Voter turnout usually declines, sometimes precipitously, in the second primary.

During the period studied, 23 second primaries were held in North Carolina for gubernatorial, U.S. Senate, and U.S. House races. In 18 of these 23 runoffs, turnout was lower in the second primary, averaging 82.5 percent of the first-primary vote total. In General Assembly runoff races, the number of voters is often as low as 20 percent of the first primary turnout. In the few Republican runoffs that occurred during the study period (7 of 77), the

Congressional candidate H. M. "Mickey" Michaux, Jr., on the Second District campaign trail.

Karen Tam, courtesy The News and Observer *(Raleigh)*

declines were even more dramatic. In the 1968 Republican runoff for the U.S. Senate, an extreme example, the turnout plummeted 89 percent from 132,018 to 14,550.

Two of the most dramatic drops occurred in recent years, 1978 and 1980. In the Hodges-Ingram second primary, 200,000 fewer Democrats voted, preventing Hodges from repeating his total of 260,000 from the first primary. In 1980, the Democratic Party State Auditor race was the only second primary. Only 192,000 voters took time for that vote, one-third of the 579,000 who cast their ballots in the first primary. A plurality system, which abolishes the second primary, would in most cases allow the greatest percent of the voters to choose a party's nominee. All the other proposals would still rely in some cases on a second primary, when voter turnout would probably decline, if not plummet.

Impact on Minority Candidates. Rep. Spaulding emphasized the financial and voter-turnout aspects of his proposed change, but he also addressed how the change would affect minority candidates. After his first bill was defeated in committee, Spaulding characterized the runoff system as "a systematic disincentive for political parties to provide this state with... female and minority leadership." Black groups, including the Raleigh-Wake Citizens Association, expressed the strongest support for the bill, and Spaulding himself heads the N.C. Legislative Black Caucus. The state League of Women Voters also endorsed the Spaulding bill. Opponents of the bill seized upon the race issue, at least privately, as a means of denigrating it, some referring to the Spaulding proposal as the "Michaux" bill. In 1982, 2nd District Congressional candidate Mickey Michaux, a prominent black political figure and former state legislator from Durham, won over 40 percent of the vote in the first primary but lost in the runoff to Tim Valentine.

In addition to the Michaux-Valentine contest, the 40 percent proposal would have altered the outcome of another campaign where race was a central issue. In 1949, Gov. Kerr Scott had appointed Frank Porter Graham, then president of the University of North Carolina, to the U.S. Senate. In his 1950 race for a full Senate term against Willis Smith, Graham won over 49 percent of the first-primary vote. In a runoff campaign marred by overt racial slurs (including campaign flyers picturing Graham dancing with a black woman), Smith defeated Graham by about two percent of the vote. And in every county in the state, voter turnout dropped.

While the 40 percent proposal would have altered the result of the Michaux-Valentine and Graham-Smith campaigns, *no 1983 legislative proposals would have affected the outcomes of any other recent campaigns where race played a prominent role.* In the 1976 Democratic race for lieutenant governor, Howard Lee, the first black mayor of Chapel Hill, narrowly led Jimmy Green in the first primary (27.7 to 27.3 percent) but lost to Green in a runoff. Lee could not have avoided the second primary under any of the 1983 proposed changes, however. Only a plurality system would have given him the victory. From 1976 through 1982, no races for the N.C. General Assembly involving blacks or women would have been altered by any of the proposals recently before the legislature.

But, argues Spaulding, "Even if the 40 percent proposal would have altered the outcome of only a few races, it would nevertheless eliminate a disincentive to running for potential minority and women candidates."

Except for the plurality system, none of the proposals appears to reduce barriers to the nomination of blacks and females in a significant way. The recent victory of Harold Washington in the Democratic Party primary in Chicago illustrates the dramatic impact of the plurality system. In the first primary, Washington edged out the incumbent Jane Byrne and Richard Daley, Jr., the son of the late longtime mayor there, and thus qualified under the plurality system to represent the Democratic Party in the general election. The vicious race-dominated campaign that followed demonstrated how difficult it would have been for Washington to have won 50 percent of the vote in a runoff primary. Under the plurality system, however, Washington was able to gain the nomination, which in the heavily Democratic city of Chicago helped tremendously in his general election victory.

Whatever change in election law procedure might take place, the political system is sure to adapt to it. If changing the current system eliminated the "discentives" that Rep. Spaulding

Campaign workers observe primary election night in the Willis Smith headquarters, 1950.

Courtesy N. C. Division of Archives and History

Table 2. Changes in Nominees for Statewide and Congressional Races (1948-82) Under Proposed Alternatives to Existing Law

Office	Party	Year	Winner Under Existing Law (50%)	Winner Under 40% Proposal	Winner Under 42% Proposal	Winner Under 41%, Plus 3% Lead, Proposal	Winner Under 40%, Plus 5% Lead, Proposal	Winner Under 45%, Plus 15% Lead, Proposal
1. U.S. Senate	D	1950	W. Smith	*Graham*	*Graham*	*Graham*	*Graham*	Smith
2. U.S. Senate	D	1978	Ingram	*Hodges*	Ingram	Ingram	*Hodges*	Ingram
3. U.S. House (11th Dist.)	D	1956	Whitener	*Gardner*	*Gardner*	Whitener	Whitener	Whitener
4. U.S. House (3rd Dist.)	D	1976	Whitley	*Love*	*Love*	*Love*	*Love*	Whitley
5. U.S. House (2nd Dist.)	D	1982	Valentine	*Michaux*	*Michaux*	*Michaux*	*Michaux*	Valentine
6. Governor	D	1948	K. Scott	*Johnson*	Scott	Scott	Scott	Scott
7. Governor	R	1972	Holshouser	*Gardner*	*Gardner*	Holshouser	Holshouser	Holshouser
8. Sec. of State	D	1936	Eure	*Wade*	*Wade*	*Wade*	*Wade*	Eure
9. N.C. Court of Appeals	D	1982	Eagles	*Wright*	*Wright*	Eagles	Eagles	Eagles

believes to exist, that change could in turn trigger more complex political machinations. Pre-primary brokering, negotiations within the party structure, and other behind-the-scenes efforts to influence who runs for office might well increase. In the final analysis, then, the structure of a primary system must be considered only in the context of pragmatic politics.

Conclusion

This study of recent second primaries and alternatives to current North Carolina election law revealed:

- Only a plurality system, among the alternatives examined, would save the state much money.
- Dropoff in voter turnout is generally significant in a second primary. A plurality system, which eliminates all runoffs, would ensure that, in most cases, the largest number of voters participate in the election of a party's candidate.
- The 40 percent proposal might help a few minority and women candidates, but probably not as much as proponents (and opponents) think. Only a plurality system could significantly improve the chances of election for minority candidates.
- No state outside the South requires a candidate to win 50 percent of the vote in a party primary in order to win the party's nomination.

The various proposals discussed in the 1983 legislature—all those alternatives included in Table 1 except plurality—would have altered the outcome of nine statewide and Congressional races since 1948 (see Table 2). In 1948, Charles Johnson captured over 40 percent in the first primary and would have been the Democratic nominee for governor—not Kerr Scott. In 1978, Luther Hodges, Jr., not John Ingram, would have run against Jesse Helms for the U.S. Senate. The state would have sent Frank Porter Graham to Washington, as well as Mickey Michaux (unless the Republicans pulled off an upset in the general election). Jim Holshouser would never have been governor; Jim Gardner, who won well over 40 percent of the vote in the first 1972 primary, would have run against Skipper Bowles in the general election.

Despite these prominent "what-if's," the proposed changes would have had very little effect on the vast majority of statewide, Congressional, and state legislative races. Judging from the past, only the plurality option would drastically alter the outcome of future races. □

FOOTNOTES

[1]Chapter 101 of the 1915 Session Laws, Section 24, now codified as N.C.G.S. 163-111(b): "(b) Right to Demand Second Primary.—If an insufficient number of aspirants receive (sic) a majority of the votes cast . . . in a primary, a second primary . . . shall be held . . . ." For a discussion of this statute, see H. Rutherford Turnbull, III, *North Carolina Primary and General Election Law and Procedure*, Institute of Government, University of North Carolina at Chapel Hill, Volume VIII, 1974, pp. 14-17. This publication is issued bi-annually.

[2]The nine states, with the date their law was enacted in parentheses, are: Mississippi (1902), North Carolina (1915), South Carolina (1915), Georgia (1917), Texas (1918), Florida (1929), Alabama (1931), Arkansas (1939), and Oklahoma (1948). Tennessee uses a runoff primary when candidates tie in the first primary. New York City established a runoff primary in the 1970s for citywide primaries in which no candidate receives 40 percent. For more background, see *The Book of the States*, Council of State Governments; V.O. Key, Jr., *Southern Politics*, Knopf, 1950, pp. 416-423; Larry Sabato, *The Democratic Party Primary in Virginia*, The Institute of Government, University of Virginia, 1977; Charles Merriam and Louise Overacker, *Primary Elections*, University of Chicago Press, 1928, p. 83.