DR. THORNTON on the

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FEW PROPOSITIONS considered by the 1907 Oklahoma Constitutional Convention received more enthusiastic support than the direct primary. The framers, therefore, directed the Legislature to provide a "mandatory primary system" by which candidates for all offices, state and local, shall be nominated. Shortly after statehood, the Oklahoma Supreme Court voiced the general approval of the public when it observed that the direct primary is one of the fundamentals of Oklahoma democracy. Nevertheless, dissatisfaction with

this method of selecting candidates developed early.

It would be difficult to account fully for frequently-voiced discontent with this system—discontent only partially reflected in the Legislature's attempts to overcome the primary's limitations. There is, of course, little or no support for "nomination by party conventions," at least for such conventions as they operated prior to the rise of the direct primary. But this implied preference notwithstanding, the conviction prevails widely that the present primary system falls severely short of providing a satisfactory method for the recruitment of qualified public officials.

The direct primary, in its original form, not only facilitated but almost assured nom-

ination by a plurality. No Democratic candidate for governor has ever received a majority of votes cast in a primary election. Factionalism, customarily rampant in one-party states, was intensified by this system, resulting in a rash of impeachments and the removal of two governors during the first two decades of statehood. Something, thoughtful citizens insisted, had to be done.

In 1925, the Legislature enacted a preferential primary law. This act provided that if three or four candidates seek the same office the voter *must* designate his first and second choices; if more than four

candidates seek the same office the voter *must* designate his first, second and third choices. The purpose of this form of ballot is to make certain, or reasonably certain, that some candidate wins nomination by a majority. If no candidate receives a majority of first choices or second choices, third choices are counted.

No primary was conducted under this law. Its constitutionality was immediately attacked, and the attack was sustained by the Supreme Court in *Dove v. Oglesby,* 114 Okla. 144 (1926).

This act, the Court maintained, violated the constitutional provision which forbids interference with the "free exercise of the right of suffrage." The Court frowned upon that provision which, in effect, told the

voter he could not vote for his choice unless he voted for others, one or two of whom might have been wholly objectionable. A concurring opinion suggested that the law would probably be sustained if the provision requiring the designation of more than one choice were removed.

For some reason, this alternative was disregarded, and instead, a run-off primary law, patterned after those in effect in the southern states, was enacted.

The run-off in Oklahoma has had a somewhat checkered career. The first run-off law regulated primaries from 1930 to 1936, after which it was repealed. The outcome of the 1938 Democratic primary, however, foreshadowed its reinstatement. The Democratic gubernatorial candidate, Leon C. Phillips, won the nomination by

less than a third of the votes cast in his party's primary. Robert S. Kerr did somewhat better in 1942, winning nomination with a thirty-seven per cent plurality. But dissatisfaction continued to grow, and in the second legislative session of his administra-

tion, the run-off primary was restored. It remains in effect at this time.

Changes effected by the run-off are small —candidates receiving a *plurality* in the primary usually remain in first place. But, obviously, the value of the run-off cannot be determined solely by a recount of plurality candidates who have come out second best in the run-off. Even if somewhat artificial, the successful candidate receives a *majority,* which, however derived, seems essential to public acquiescence.

It may seem, nevertheless, that the run-off primary is a rather clumsy and costly means of assuring majority control. Some observers insist that the preferential primary law provides a better solution, since it combines in one election the advantages

of both our primary and run-off, and probably establishes a majority choice on a sounder and more scientific basis than is achieved under our present system.

Other objections are raised against the direct-primary system. It is often pointed out that two primaries impose a great burden upon the candidates, not only financially but physically. Of greater importance, perhaps, is the rather widely-entertained conviction that they have weakened or destroyed party responsibility. It is obvious that the successful candidate, nominated by this means, is largely without ob-

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s an authority on Oklahoma govern-ent. His article, complete on these o pages, should be of great help if ou are confused by Oklahoma's hurly-urly—the July primaries.

ligation to the party under whose banner he runs. And because of this fact he is liable to be more susceptible to the influence of special interest groups than to the party as a whole.

In order to overcome this tendency

toward extreme independence, the establishment of a pre-primary convention has been proposed. Each party, under this arrangement, would be authorized to hold a convention prior to the primaries at which it would endorse candidates of its choice. Other candidates might file for any office, but without party endorsement. The pre-primary convention plan is used in Colorado, Utah and Massachusetts, and has been favorably considered in Oklahoma, notably in 1921 at which time it was recommended by the Democratic Central Committee.

Campaigns are lengthy in Oklahoma, beginning with the filing in late April and ending in early November. Primaries are conducted in July. It is extremely doubtful that so much time is needed in this age of

swift communication and transportation for a candidate to publicize his qualifications and to explain his program. Long campaigns necessitate, or encourage, excessive expenditures, and lead to the employment of tactics, probably as revolting to some candidates as they are disgusting to the public . The State would profit, probably, if the filing period opened late in July, and the primaries were held in September.

The Man on the Street will tell you that the governorship of Oklahoma usually goes to the Democratic candidate who spends the most money; that the means by which we choose *our* chief executives is an election in form but, too often, an *auction* in fact. Rarely does the Man on the Street seem disturbed about the convictions the candidates entertain. No democracy or republic has escaped, in some period of its history, the corrupting influence of excessive campaign spending.

Attempts to regulate the amount of money which candidates may spend in campaigns have been largely ineffective at both the state and federal levels. Failure may be attributed largely to public indifference, and in considerable degree to unrealistic corrupt practices legislation. Until 1955, gubernatorial and U. S. Senatorial candidates in Oklahoma were allowed to spend

no more than $3,000, a ridiculously inadequate sum even in the early days of statehood. Governor Lee Cruce admitted, with refreshing frankness, that he spent $40,000 in the Democratic primary of 1907.

Campaigns are a costly undertaking, particularly those of state-wide extent. If corrupt practices legislation is based upon the assumption that fixed expenditure limits shall be imposed, such limits should be adequate or even generous. Otherwise violations by candidates will be winked at.

The maximum amount necessary to conduct a state-wide campaign in Oklahoma is debatable. Any figure arrived at would be attacked as arbitrary, insufficient, or excessive. But experienced political leaders in states comparable to Oklahoma, approve a limit averaging $1,000 per county. This

rule, if applied in Oklahoma, would permit a total outlay of $77,000 in the primary. A lesser amount, from a fourth to a third of this total, might properly be allowed for the run-off. It seems that the approximately $100,000 permitted under this plan, would be sufficient.

Some observers would discard attempts to place legal limits upon campaign expenditures. Experience indicates, they insist, that such limits are usually disregarded, that better results may be obtained under an effective system of compulsory report-

ing. If the public is informed during a campaign of the candidate's source of funds, their total, and the main objects of expenditures, voter reaction will provide sufficient restraint on campaign spending.

Most corrupt practices laws, however, provide both remedies. Thus the Oklahoma Legislature, 1955, authorized gubernatorial and United States Senatorial candidates to spend a maximum of $60,000 in the primary and $30,000 in the run-off. It also provided that these and other candidates file an itemized report, ten days before election, showing all receipts and expenditures. And during the campaign, on the first and fifteenth of each month, they were required to file a record of all contributions and expenditures, and of persons, corporations and organizations who contributed sums in

excess of ten dollars. These reports, the law further provided, were to be made public.

This law was never given a fair trial. Perhaps, in some respects, it was poorly drafted; but primarily it was opposed simply because candidates, and contributors under its provisions, were obliged to report. In 1957, the Legislature amended its act, and provided that candidates file their receipts and expenditures once—fifteen days *after* each primary. In addition, they were relieved of the duty of reporting all contributors.