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The Electoral College: Retention, Reform, or Abolition?

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PART I:

INTRODUCTORY REMARKS
The Electoral College: Retention, Reform, or Abolition?

Introductory Remarks

Rarely in the history of our nation has a problem been so evident, so controversial, and yet remained so unresolved. The present Congress, as a great many of its predecessor Congresses, is trying to solve it, yet as Arthur Krock commented in the New York Times some years ago, "The road to reform in the method of choosing the President and Vice President of the United States is littered with the wrecks of previous attempts. Though the inequalities and other defects of the present system are generally conceded," he said, "it has been protected from change for more than one hundred years by a mixture of natural American conservatism where the letter of the Constitution is concerned and a bipartisan political combination effected by what some major party politicians believe to be self-interest."1

The actual count shows that in the first century of the Republic, 224 resolutions were introduced in Congress to amend the constitutional provisions for electing a President. In the succeeding seventy-seven year period, through 1966, another 289 amendments were offered, making a grand total of 513 to that point in American history.2 Yet of all these proposals only one has been

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successful and it resulted in the Twelfth Amendment, ratified in 1804, which was significant mainly in its requirement that Presidential electors vote separately for President and Vice President.

"It is claimed that more amendments have been proposed concerning the Presidential election than concerning any other single provision of the Constitution," yet the actual electoral college system of voting has never been altered.

Many of the glaring objections to the existing system are obvious -- the possibility that State legislatures can take the popular vote from the people, the problem of faithless electors, the possibility of minority Presidents, the serious consequences of fraud in a State that might swing an entire election, the possibility of a blizzard in part of a State that might swing that State in favor of one or the other party with the contingent possibility that this could swing the entire election, and the undemocratic aspects of contingent elections in the House, with the invitation such elections offer for political manipulation and corruption. However, "most of the reformers over the years have centered their fire on the general ticket or 'winner-take-all' system of casting State electoral votes, with its resultant disfranchisement of the minority in each State in each election. This is particularly unfair, critics have said, in large States where some sections are urban and industrial, others rural and agricultural, some markedly Republican and some as heavily Democratic. In the words of Senator Thomas Hart Berton of Missouri

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in 1824, 'To lose their votes is the fate of all minorities, and it is their duty to submit; but this is not a case of votes lost, but of votes taken away, added to those of the majority, and given to a person to whom the minority is opposed.' 

These are many of the reasons that potential reformers are citing in their cause and Congress has dealt with the problem since the early days of the Republic. Yet there still does not seem to be general accord either in Congress or throughout the States on any one of the four major proposed plans of changing our present system -- the district plan, the proportional plan, the direct election plan, and the automatic system -- or even on the preservation of our present system, the Electoral College. (These plans will be explained in later sections.)

Several Presidential elections during our history have shown that the electoral college machine is a crude invention that has never been "well-oiled" and two elections within the last decade are vivid proof of this problem. The most outstanding is the election of 1960 when Kennedy defeated Nixon. No one is certain as to which candidate actually did receive the greatest number of popular votes because of those Alabamians who voted for something called "unpledged electors" but of even greater importance is the fact that "a shift of only 4,480 popular votes from Kennedy to Nixon in Illinois, where there were highly plausible charges of fraud, and 4,491 in Missouri, would have given neither man an electoral majority and thrown the decision

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4 Peirce, People's President, p. 152.
into the House of Representatives.\textsuperscript{5}

Peirce concludes:

Thus it is not certain that Kennedy honestly won an electoral college majority, despite the history books and his inauguration; it is not clear that he won even a popular vote plurality; it is equally unclear that Nixon was really elected (in 1960) either by the popular or electoral counts, and what would have happened had the whole mess been left to the House is too ghastly to think about\textsuperscript{6} (because of the particular composition of the House in 1960).

The only thing that is clear, as Neal Peirce points out in his book, The People's President, is that "the 1960 election summed up the evils of the Electoral College in our times." Here is his indictment:

First the 1960 elections showed once again the irrational, chance factors that decide a close election, when the shift of a few votes can throw huge blocks of electoral votes in one direction or the other. Secondly, it underscored the danger of fraud deciding a Presidential election, because Illinois, where the most ballot disputes arose, was the State that almost decided the entire election. Third, it showed the potentially decisive role that a narrowly based regional or splinter party (the unpledged electors) can play in the choice of a President and how the system actually encourages independent elector blocs. Fourth, the election showed how a faceless elector, chosen to carry out a specific function, could suddenly break his trust and try to determine the choice of the chief executive for 180 million Americans.\textsuperscript{7} and lastly, the election showed that as long as individual States have carte blanche in deciding how Presidential electors will be chosen, it may be difficult and sometimes impossible to compile accurate national popular vote totals (as in Alabama in 1960) and to learn whom the majority of Americans really wanted to be their President.

\textsuperscript{6}Ibid., p. 10.

\textsuperscript{7}Ibid., pp. 10, 11.
The election of 1968 could also have been disastrous although it was not as breathtaking as the 1960 election. However, with three candidates striving for the Presidency (Wallace being the strongest third party candidate in many years) the nation could have elected a "minority" President or worse yet have thrown the election into the House with its many previously mentioned evils.

Statesmen throughout the history of our country have considered this:

Obviously, this is a situation that ought to be rectified, and for the better part of two centuries American statesmen from Madison and Jefferson through Thomas Hart Berton to Lyndon B. Johnson have been trying to work out something better. None of the solutions commonly advanced, however, would have made much improvement for our time.8

However, the American public, through agencies, organizations, and especially through their representatives in Congress must promote a workable, and acceptable solution. Whether this solution will be one of permanence or of brevity remains to be resolved. Past President Johnson, in regard to this fact, has stated: "The potential of paralysis implicit in these conditions constitutes an indefensible folly in our responsible society in these times. Common sense impels, duty requires us to act -- and to act now without delay."9

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8Ibid., p. 11.

9Message from the President of the United States, 89th Congress, 1st Session, House of Representatives (February 1, 1965), p.2.
PART II:

HISTORICAL BACKGROUND
Historical Background

The United States Constitution originally defined the Electoral College:

The American Presidency and the electoral college method of choosing our Chief Executive were first defined in the federal constitution, written by the Constitutional Convention, which met in Philadelphia between May 25 and September 17, 1789. The 55 delegates from 12 States (Rhode Island refused to participate) had won their liberty -- and their first sense of nationhood -- in the crucible of revolution.10

From the very beginning of the Convention there was much controversy as to what the role of the "sovereign" States would be in this new Union and how each would be represented. The large States favored the Virginia Plan which based representation in the new federal government on population whereas the small States favored the New Jersey Plan which was based on the principle of equal representation for all the States in Congress. The result of this controversy was the famous "Connecticut Compromise" which created a bicameral legislature; one House to be based on population and the other to give equal representation to each State.

At the Convention the founding fathers were in agreement that the President and Vice President should be elected officials, but:

the problem of large versus small-State power appeared again in the Convention's debates on how the President should be elected. But the bulk of these debates

10Peirce, People's President, p. 28.
took place after the Connecticut Compromise had been adopted and they lacked the crisis atmosphere of the discussion and vote on Congressional representation. The alignments, though, were similar. The nationalist group favored a direct vote or some other system accurately reflecting population distribution. Small State delegates feared that they would have no significant vote, under these circumstances, in the choice of a Chief Executive.\(^{11}\)

Many varied proposals were submitted for consideration and the more significant included among them were: direct popular election, election by Congress, and election by state legislatures. As noted above, there were inherent difficulties in the methodology of election because of State size but each of these proposed methods was widely opposed by numerous members of the Convention for a variety of other reason.

Considering the times and the atmosphere of the Constitutional Convention one can easily recognize that the direct popular election proposal was doomed from the start. Many of the members seemed to feel that the people, in general, were not capable of determining the character, integrity, and qualifications of the Presidential and Vice Presidential candidates. This, compounded with the fact that communication during those days was slow, inadequate, and unreliable destined this plan for failure.

Election of the President by Congress was also a very controversial issue because the founding fathers were desirous of creating and maintaining an independent executive.\(^{12}\) Thus,

\(^{11}\)Ibid., p. 36.

\(^{12}\)In this context, when President can be used interchangeably with the idea of executive office(s), meaning both President and Vice President, just the President will be named.
they rejected this plan so as to relieve the Chief Executive from dependence upon the wants and desires of Congress. Madison was one of the strongest opponents of this plan because of its potential in undermining the system of "separation of powers."

Election by the State legislatures, because of reasons similar to those of election by Congress, was also opposed. The executive, if elected in this manner, would have been unable to avoid undue pressures exerted by the State legislatures.

Again the Convention was deadlocked and an eleven man committee was appointed to study the problem and hopefully develop an answer.

Eventually the Committee of Eleven, as it was called, developed a plan of election by intermediate electors which became known as the Electoral College. (The Electoral College will be discussed fully in Part III.)

The following plan was submitted to the convention and passed (with minor changes) because it was perceived by many as the lesser of several evils:

First, each State would have as many Presidential electoral votes as it had Representatives and Senators combined. This carried the Connecticut Compromise over into the presidential election and gave the small States some relative advantage because of the two extra electoral votes corresponding to the number of Senators, regardless of how small a State's population might be. But it must be noted that this compromise was not considered crucial at the time. It had not been sufficient to mollify the small States when attached to a proposal for election of the President in Congress. At no time after the Committee of Eleven reported was any mention made on the Convention floor of the supposed advantage to
small States of the Senatorial 'counterpart' votes. Nor was this apparent concession mentioned in the subsequent ratifying conventions.

What was considered a major concession to the small States was the provision of the intermediate elector plan which stipulated that in the event there was no majority in the electoral college, the choice of the President would be transferred to the Senate, where each State would have equal voting power. (The convention subsequently voted to shift the contingent election responsibility to the House of Representatives, but the provision for equality of State voting power was preserved.) The delegates apparently believed that many of the Presidential electors would vote for men from their own State and region, making a final choice in the electoral college unlikely and throwing most elections into Congress. The small States were expected to benefit further from the provision that the Senate (or later the House), when called upon to choose the President, would be required to choose from among the five persons who received the most electoral votes. There was a good chance that one or more of the five would be small State candidates. Roger Sherman of Connecticut, who had been a member of the Committee of Eleven, told the Convention that if the small States 'had the advantage in the Senate's deciding among the five highest candidates, the large States would have in fact the nomination of these candidates.' Madison subsequently wrote that the Presidential election provisions were 'the result of compromise between the larger and smaller States, giving to the latter the advantage of selecting a President from the candidates, in consideration of the former in selecting the candidates from the people.'

Thus the electoral college was created, but one additional compromise was needed. This was in relation to the actual electors and how they were to act:

The authors of the Constitution intended that each State should choose its most distinguished citizens as electors. Once the electors had been selected, by whatever means the State legislature desired, it was expected that they

13Peirce, People's President, pp. 36, 37.
would deliberate and vote as individuals in choosing the President.¹⁴

However, the criteria for the selection of the electors have not always been as high as the founding fathers might have wished:

Over the years since then, the weight of political reality has crushed, one by one, the frail hopes of the idealists among the Founding Fathers for the ineffable scheme they devised. If there remained a vestige of possibility that electors might yet be chosen with an eye to their capacity to exercise superior judgment, it was made a mockery by the 1948 Electoral College of Michigan. Faced on their voting day by six vacancies in their ranks, the remaining thirteen electors fell to the task, as prudence requires and the State law permits, of filling them. They descended to the streets of Lansing, rounded up half-a-dozen passers-by, and swore them in. Their qualifications -- they belonged to the right party.¹⁵

At first, State legislatures chose electors as they were empowered to do. However, by 1804, most of the electors were being elected by direct popular vote. There were several plans in use and one of the most favorable early plans of choosing the electors was the district plan: one elector was chosen by the voters of each Congressional district and two were elected by those of the State at large.

Eventually the district system was gradually abandoned for the unit vote system whereby the State delivered its entire electoral vote to the Presidential and Vice Presidential candidates that carried the State. This eliminated the splitting

¹⁴Tienken, Proposals to Reform, p. 15.

of the State's electoral vote between two or more candidates. States which employed a unit vote (or general ticket system) were able to assign all their electoral votes to the candidate receiving the highest popular vote; with the result that these states were able to exert greater influence in presidential election. When the first States began using the "en bloc" system the remaining States were impelled to convert to the unit vote system in order to maintain an equal footing. Every State, since 1892, has used our present system.

In the early days of the Union the practise of shifting the method of choosing Presidential electors from year to year for the benefit of ruling circles in each State was one of the most criticized aspects of the electoral system.

In 1826 a Senate report authored by Thomas Hart Benton noted that the various States' methods of choosing electors 'change with a suddeness which defies classification,' a practise producing 'pernicious effects.' The case was put even stronger by Senator Mahlon Dickerson of New Jersey in 1818. 'The discordant systems adopted by the different States,' he said, 'are the subject of constant fluctuation and change -- of frequent, hasty and rash experiment -- established, altered, abolished, re-established, according to the dictates of the interest, ambition, the whim or caprice, of party and faction.'

However, a much greater storm was rapidly approaching on the American horizon which would soon bring doom to the original method of election, and almost, to the country. The original method of election lasted only four elections after its ratification by the States and its alteration was the result of the Jefferson-Burr incident in the election of 1800.

16Peirce, People's President, p. 75.
Political parties were one thing that many of the founding fathers disdained most and had hoped would never develop. Yet by 1800, two political parties (the Federalists and the Republicans) had developed and were beginning to operate rather efficiently. In previous elections accident and careful design (along with underdeveloped political parties) had preempted the possibility of a tie vote in the Electoral College between any two Presidential candidates. However, in the close race for President the Federalist Party electors each cast one vote for Thomas Jefferson, their party's understood choice for President, and one vote for Aaron Burr, their party's understood choice for Vice President. As it happened the Federalist "ticket" won but neither man was elected President since they were voted for jointly and not by separate, distinct ballots for President and Vice President. Thus the election devolved into the House of Representatives where it became stalled. For a time it appeared as if the country would be without a President because of much "wheeling and dealing" by a lame duck Congress. The actual election was in suspense for more than two months because of the political construction of the House but Jefferson finally emerged as President on the thirty-sixth ballot. However, the inadequacies of the system became obvious and the dangers were threefold:

First, there might be a tie vote, as occurred in 1800 -- bringing an inferior man like Burr perilously close to the Presidency through the kind of intrigue and cabal the founding fathers had hoped most to prevent. Second, if some electoral votes were withheld from the man intended for Vice President, there was a chance that the opposing party's candidate for President might win the Vice Presidency. This occurred with Jefferson's election as
Vice President in 1796 over Pinckney, the man the winning Federalists favored that year. And third, the minority could, if it so chose, switch some of its votes to the Vice Presidential candidate of the opposing party and thus make him President.17

As a result Congress proposed the Twelfth Amendment which included a method that would alleviate such incidents. Finally, after several unsuccessful attempts, both the House and the Senate acted favorably (with a necessary two-thirds majority) on the proposal and it was submitted to the States on December 8, 1803. The States ratified with unexpected rapidity, and the Amendment was declared in effect September 25, 1804, in time for that year's election.18

The text of the 12th Amendment -- which, with slight changes, remains the law of the land today -- effected the following changes from the original Constitution:

1. The Presidential electors must vote separately for President and Vice President, instead of casting two undifferentiated votes.

2. If an election is thrown into the House of Representatives because no candidate has a majority, the House shall pick from the three top electoral vote recipients, rather than the five stipulated in the Constitution.

3. If the House is called on to pick the President and does not make a selection by March 4 (this date was

17Ibid., p. 71.

changed to January 20 by the Twentieth Amendment, ratified in 1933), then the new Vice President will become President. The original Constitution had no comparable provisions.

4. A majority of electoral votes is also required for election as Vice President. The original Constitution had simply provided that the person receiving the second highest number of electoral votes, regardless of whether they constituted a majority, would be elected Vice President. The Twelfth Amendment left the contingent election for Vice President in the Senate. The authors of the original Constitution had contemplated throwing the Vice Presidential choice into the Senate only if there was a tie for that office.

5. The age, citizenship and residence requirements of a Vice President are to be the same as those for a President. The original Constitution was silent on this point. 19

Thus the Electoral College system of electing the President and Vice President evolved from the Constitutional Convention as a vague outline that was created from a shroud of controversy, compromise, and even fear. The Founding Fathers knew that it was not perfect but were interested in a scheme that would work for a tie and also one that could be "sold" in the immediate context of 1787 (as this Constitutional document still

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19Peirce, People's President, p. 74.
had to be accepted by the several States).

However, James Madison, the "father of the Constitution," perhaps was as frank about the problem as any of the framers could ever be when he wrote some thirty-six years later:

The difficulty of finding an unexceptionable process for appointing the Executive Organ of a Government such as that of the U.S., was deeply felt by the Convention; and as the final arrangement took place in the latter stages of the session, it was not exempt from a degree of the hurrying influence produced by fatigue and impatience in all such bodies; tho' the degree was much less than usually prevails in them.20

20 Ibid., p. 52.
PART III:

THE ELECTORAL COLLEGE SYSTEM
The Electoral College System

The Electoral College derives its "raison d'être" from the Constitution of the United States in Article II, Section I, clause 3. However, this entire provision (because of the election of 1800) has been superseded by the Twelfth Amendment which provides that:

The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate; -- the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; -- the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorom for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, [before the fourth day of March next following,] [this was changed to noon on the twentieth day of January by the Twentieth Amendment ratified in 1933], then the Vice-President shall act as President, as in the case of the death or other constitutional
disability of the President. -- The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States. 21

In addition to this procedure the Twenty-Third Amendment provided the District of Columbia with three electoral votes.

According to the Constitution the electors are chosen in any manner that each State legislature directs, which at present is by direct popular vote, but could be in any other manner prescribed by the State legislatures. These electors in turn elect the President and Vice-President of the United States. However, the salient issue is that the people of the United States do not (and never have) directly elect the two most important officials in our country but have only an indirect voice in their election. Each State's electors act as the voice of the people. These electors are known as "colleges" within each State and collectively are known as "the Electoral College."

The present system, as now employed, has four methods of electing the Presidential and Vice Presidential electors. 22 The first is the Presidential short ballot where the names of only the Presidential and Vice Presidential candidates are printed on the ballot in the general election. This method


22Peirce, People's President, pp. 119-121.
implies that the unknown electors who are chosen will be expected to vote for candidates whose names appeared on the ballot.

Another method has both the names of the Presidential and Vice Presidential candidates and the names of the electors printed on the same ballot. This also implies that a pledge exists that the electors will vote for the candidate with whom their names are joined.

The third method has only the names of the electors on the ballots. These electors are unpledged and if elected in the general election, are not obliged or even expected to vote for any particular candidate. They vote as individuals for the candidate of their choice which closely resembles the manner that was established in 1789, when the framers of the Constitution wanted the electors to be independent, conscientious selectors of the President and Vice President.

The fourth method combines methods two and three and presents the voters with a list of both pledged and unpledged electors. This method is the least popular of the four but was the one used by the State of Alabama in the close election of 1960. Much of the controversy as to whether Kennedy or Nixon was the actual popular choice arose out of the use of this plan because no one was (or is) sure as to how to count Alabama's votes in that particular election.

Each plan functions with a degree of success that is mainly dependent on what each individual State hopes to accomplish.

Arguments in Favor of the Present System

Senator John F. Kennedy expressed the basic philosophy
of the proponents of retaining our present unit vote system when he stated in 1956:

> It is not only the unit vote for the Presidency we are talking about, but a whole solar system of governmental power. If it is proposed to change the balance of power of one of the elements of the solar system, it is necessary to consider the others.23

Senator Kennedy's "solar system" refers to the elements in the American governmental structure -- the Presidency, Congress, the Supreme Court, and State and local governments.

Arguments in Favor of the Electoral College

The proponents of this philosophy and of retaining our Electoral College system present the following arguments:24

1. Our existing system has successfully endured the test of time since it came into existence in 1789, with only minor amendments adjusting it.

2. The electoral system has given us only three minority Presidents; that is, Presidents who had less popular votes in the general election than their chief opponent.

3. Our present system gives ample representation to both the small and the large States without infringing upon the rights of either.

4. The electoral system provides adequate expression of the metropolitan vote in Presidential elections to counter-balance the rural influence allegedly evident in Congress.

5. The Electoral College has had very few problems in

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dealing with "splinter" parties, thus strengthening our age-old two party system.

6. The electoral vote exaggeration of the winner's margin serves as apparent national approval and acceptance of the newly elected candidates by the people.

7. No other method has found general acceptance by the people; therefore, we should not abandon a system that has proven its dependability.

8. The present system affords organized minority groups attention that they might not necessarily receive.

9. Both parties must and do have similar public appeal, thus limiting extremism in our government.

Comments

The proponents argue that our present system has operated effectively for almost two centuries, however, we did have a crisis situation in 1800 and a near miss in 1960. We have also had candidates who received less votes than their opponents for President (three times). Whether or not such incidents occurred only three times is irrelevant; what is important is that we have had minority Presidents. Is this the manner in which our democratic system should function or should it be designed so that this could never occur?

If the present system gives ample representation to both large and small States why have candidates in modern times concentrated their campaigns in the large "pivotal" States? The answer is simple: large States influence elections more than small States and thus the value of the vote in large States is
worth more. Computer analysis has proven this.\textsuperscript{25}

It is also possible -- maybe not probable -- for a candidate to be elected President and have carried only twelve of our fifty States. Appendix A in this study lists the twelve states and the number of electoral votes to which each is entitled as of the 1960 census. These twelve States possess the 270 electoral votes necessary to elect the President and Vice President of the United States. (There are 538 electoral votes and a candidate needs only one more than half to be elected.) This simply means that a candidate can carry these twelve States, lose the remaining thirty-eight, and still become President.

The argument concerning the counter-balancing effect -- adequate representation of the metropolitan vote in Presidential elections to counter-balance the rural influence allegedly evident in Congress -- is rapidly losing its validity as a result of recent Supreme Court decisions. (\textit{Baker v. Carr}, \textit{Wesberry v. Sanders}, and \textit{Gray v. Sanders}) concerning reapportionment.\textsuperscript{26}

The present system does adequately handle "splinter" parties and does limit extremism in our government but in doing so does it give a meaningful choice or just limit us to choosing between "Tweedledum and Tweedledee," (although the election of 1968 tends to invalidate this "splinter" party argument)? Is this what we want from our democratic system? However, it does not seem likely that if we changed our present system of electing the President it in turn would alter the method by which our two-

\textsuperscript{25}Peirce, \textit{People's President}, pp. 362, 363.

\textsuperscript{26}Ibid., pp. 240-248.
party system operates. Most probably it would function in the same manner under any of the proposed plans of constitutional change.

The exaggeration in the electoral vote gives the appearance that the newly elected President is approved, accepted, and backed by the entire nation. This can be advantageous to our newly elected President as it adds to his necessary legitimacy. If the Electoral College does nothing else, it does strengthen the solidarity that the world's greatest nation must possess in order to maintain its position of leadership.

Organized minorities under our present system do receive attention that they might not ordinarily receive under another method. Should candidates be dictated by the whimsical desires of minority groups in the populous, key States only because their bloc vote might be the deciding factor of the election results in that State?

Is it fair, is it honest, is it democratic, is it to the best interest of anyone, in fact, to place such a premium on a few thousand labor votes, or Italian votes, or Irish votes, or Negro votes, or Polish votes, or Jewish votes, or Communist votes, or big-city-machine votes, simply because they happen to be located in two or three large, industrial, pivotal States?27

But, on the other hand, is there any other way in which minority groups can express themselves and make their voices heard? The author's answer to this is definitely yes because of the "broker theory" of politics and a candidate's desire to win.28

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If a new proposal is to be adopted, it must be one that will be acceptable not only to the large, industrial States but also to the small, rural ones. This is the problem -- to develop and adopt a plan that has the general acceptance of the citizens of all fifty States and the District of Columbia (or at least two thirds of the States, but preferably all fifty). The Electoral College will remain in existence as long as this is not accomplished.

Arguments Against the Present System

As mentioned earlier many proposals have been advanced in regard to reforming or abolishing the Electoral College and although each has failed they have all served to point out the evils and weaknesses of the present system. The following is a list of these "evils" and weaknesses as expressed by the proponents for change:29

1. There is no uniform method of choosing Presidential electors; each State elects the electors as it sees fit.

2. There exist in the electoral system "independent" or unpledged electors who are not legally bound to cast their vote in the manner directed by the people.

3. The Electoral College system tends to restrict national campaigns to a dozen or so key pivotal States. In conjunction with this the "winner-take-all" system tends to restrict the choice of Presidential candidates to men who are from the large pivotal States

that possess a large block of electoral votes.

4. The founding fathers never intended the unit vote system to evolve into a system whereby a candidate receives all the electoral votes of a State regardless of his majority of victory. A corollary argument concerns a candidate receiving credit for his opponent's votes in the States he carries but not receiving any credit for his own votes in the States his opponents carry.

5. Each State, regardless of its size, is allowed to cast only one vote for President when the election devolves upon the House of Representatives and the elected candidate from here may not even be the choice of the majority of the American people.

6. A possibility exists that the President and Vice President may not be of the same party if neither candidate qualifies in the general election.

7. The Electoral College system has permitted the election of fourteen "minority" Presidents; that is, Presidents who did not receive at least fifty percent of the popular vote cast in the general election and three of whom had less votes than their major opponent.

8. The electoral College permits and invites control and domination by organized minority groups within the key States, and encourages the development and solidarity of religious, economic, and racial blocks within these States.

9. The final count of the electoral vote does not always
accuragely reflect the popular vote of the people.

Comments

There is a conflicting trend of thought in many arguments for and against the present system. Custom and tradition have greatly altered the operation of the system as the founding fathers envisioned. Some of the criticisms are directed at the original system, like the method of choosing electors and how the electors are to function, and others at aspects of its development. However eager conservatives may be to point to the original document and justify the selection process of electors and the actions of the electors, they realize that these arguments are weak. Not even they could justify the selection of electors by State legislatures, which would be perfectly legal according to the Constitution. Since 1796 with the birth of the first faithless elector much criticism has been directed toward that practise also. He was picked as one of the two Federalist electors in Pennsylvania, so that everyone expected he would vote for Adams, the Federalist candidate. But instead he decided to cast his vote for Jefferson. An exasperated Federalist complained in the United States Gazette, "What, do I choose Samuel Miles to determine for me whether John Adams or Thomas Jefferson shall be President? No! I choose him to act, not to think."30

That Presidential campaigns tend to be restricted to a

30 Peirce, People's President, p. 64.
dozen or so key pivotal States is a "political fact of life" that has been discussed previously. (See Appendix A.) This results from the unit rule plan that has been used in every State in every Presidential election since 1892. All of the reformers have been quite interested in rectifying this particular evil present in the Electoral College system. What consolation is it to a candidate to have carried thirty-eight small and medium sized States and yet have lost the election to his opponent who carried the twelve key States?

This unit vote system has another major disadvantage -- it credits all the electoral votes to the candidate that carries the State regardless of his margin of victory. The operation of the general ticket system is said to result in massive disfranchisement of minority voters because their votes are taken away from the man for whom they were cast and actually given to the winner (since the winner gets all the electoral votes of a State that he carries).

A study of the impact of the general ticket system on a small number of States demonstrates its inherent inequality. For example, in the neighboring States of Illinois and Indiana in 1960, Nixon won a total of 3,554,108 votes to Kennedy's 3,330,204. But Kennedy had narrowly won Illinois, thus receiving her twenty-seven electoral votes, while Nixon won a strong victory in Indiana, bringing him thirteen electoral votes. Thus the two State electoral vote was twenty-seven for Kennedy, thirteen for Nixon -- or 67.5 percent for Kennedy, based on only 48.4 percent of the two States' popular vote total.\[31\]

Reviewing the operation of the general ticket system half a century ago, one observer said:

\[31\] Ibid., p. 138.
A plurality or majority in one section may, it is true, at times be conteracted by one in another section, and thus the net result be a rude approximation to fairness, taking the country as a whole; but this theory of averages may not work constantly, and the steady suppression of minority conviction in a State is an undisputed evil.32

The phenomenon of the House choosing a new Chief Executive has occurred twice in our history -- the elections of 1800 and 1824 -- and has come dangerously close several other times. Except for the founding fathers, few Americans have ever found much to commend in the system of contingent election in the House. This general disdain was eloquently expressed by Senator Oliver P. Morton of Indiana in an 1873 Senate speech:

The objections to this Constitutional provision need only to be stated, not argued. First, its manifest injustice. In such an election each State is to have but one vote. Nevada, with its 42,000 population, has an equal vote with New York, having 104 times as great a population. It is a mockery to call such an election just, fair or republican.

Morton showed that under the apportionment then in effect, forty-five members of the House, drawn from nineteen States, could control an election in a House then consisting of 292 members representing thirty-seven States. The nineteen States with an aggregate 1870 population of a fraction over eight million people would be able to outvote eighteen States with an aggregate population of thirty million. The comparable figures based on the 1960 census showed that seventy-six members of the House, drawn from twenty-six States, could elect a President in a House of 435 members representing fifty States. The twenty-six States with an aggre-

32 Ibid., p. 138.
gate population of 30.7 million people would be able to outvote twenty-four States with a total population of 148.6 million.\textsuperscript{33}

The possibility of a further and maybe more complex problem, because of America's position as a world leader, arises from the fact that the Senate and not the House elects the Vice President when the election is not decided in the general election. If the House and Senate were not controlled by the same party there is a good possibility that the new President and Vice President would be of different political parties. This could have a devastating impact on a nation such as ours.

It has been shown that the existing system does not clearly reflect the results of the popular vote. Not only does it cast an untrue picture of the vote, but it may also, as it has previously done, result in the election of a minority President. This fact is not new to the American people; it has occurred fourteen times since this system's inception. Appendix B contains a list of the fourteen minority Presidents (that is, Presidents who did not have at least fifty percent of the popular vote) -- three of whom had less votes than their chief opponent.

The large States are not only conducive to strong two-party systems but also to the undue pressure of organized minorities. In a well-balanced two-party State where the result of an election is never decided until the last vote is cast, the large minority groups that cast their votes as a block (generally) can and do exert an enormous degree of influence, and they may

\textsuperscript{33}\textit{Ibid.}, pp. 132, 133.
often turn the result of an election end for end, even in the closing minutes of the campaign. Critics who support pressure group politics would consider this a healthy aspect of American democracy and those who also believe in the present electoral system would go so far as to say that this healthy condition would abate in the absence of pressure group politics. Actually this may not be healthy since it tends to elevate the value of fraud in an election. It also seems as if the second argument is weak since politicians are out to win and would still try to reach as many block votes as possible.

The percentage of electoral votes received by a candidate on a nationwide basis rarely coincides with his percentage of the popular vote. Since 1916 there has been only one election -- that of 1948 -- in which the winning Presidential candidate failed to run at least ten percentage points better in the Electoral College than he did in the popular vote. There are three reasons for this situation:34

1. The general ticket (or unit vote) system, in which all the electoral votes of a State are credited to whichever elector slate receives a plurality of the State vote. Minority votes in a State are washed out completely in the national electoral vote count.

2. The distortions caused by the existence of the "Senatorial" electoral votes in each State.

3. The fact that each State casts the number of electoral votes accorded it in the national apportion-

34 Ibid., p. 137.
ment, regardless of how few or how many citizens actually go to the polls.

Thus many of the weaknesses and disliked elements of the present system have been presented. President Nixon in a message to Congress expressed the convictions of many Americans when he said:

One hundred and sixty-five years ago, Congress and the several States adopted the Twelfth Amendment to the United States Constitution in order to cure certain defects -- underscored by the election of 1800 -- in the electoral college method of choosing a President. Today, our presidential selection mechanism once again requires overhaul to repair defects spotlighted by the circumstances of 1968.35

Robert L. Tienken, an acknowledged authority in this field, wrote:

Since January 6, 1797, when Representative William L. Smith of South Carolina offered in Congress the first Constitutional Amendment proposing reform of our procedure for electing a President, hardly a session of Congress has passed without the introduction of one or more resolutions of this character.36

And yet, 172 years later, our current President is still asking for reform. Of the many plans presented there are four general themes or plans and they will now be examined.


36Tienken, Proposals to Reform, p. 17.
PART IV:

PROPOSALS TO REFORM THE PRESENT SYSTEM
PART IV:

PROPOSALS TO REFORM THE PRESENT SYSTEM
SECTION I:

THE AUTOMATIC VOTE SYSTEM
Proposals to Reform the Present System

The Automatic Vote System

This plan is sometimes called the "minimal proposal" since it would effect the least change in the present Electoral College system. It was first introduced in Congress by Representative Charles E. Haynes of Georgia in 1826 and over the years has become known as "the automatic system" since it would simply write the general ticket or "winner-take-all" system of casting State electoral votes directly into the Constitution and abolish the actual office of elector.\(^{37}\)

The automatic system would provide by Constitutional Amendment for the automatic operation of the present system. The Electoral College and the electoral vote would be retained but the person and the office of the elector would be abolished. Each State would be entitled to a number of electoral votes that is equal to its total number of Senators and Representatives in Congress. The electoral vote of each State would be credited to the candidate receiving the greatest number of popular votes of that State.

If no candidate receives a majority of the electoral vote then both Houses of Congress sitting jointly and voting as individuals would choose the President from the candidates, not exceeding three, with the highest number of electoral votes. Three-fourths of the total number of Senators and Representatives would constitute a quorum and the person receiving the

\(^{37}\)Peirce, People's President, p. 177.
greatest number of votes would be declared President. The Vice President would be elected at the same time and in the same manner. 38

Another proposal, almost identical in nature and content to the automatic is known as the "pledged elector" proposal. The only difference is that the office of elector would be retained and the elector would be required by Constitutional mandate to pledge his vote to his party's choice for President and Vice President.

Both of these plans will be discussed jointly in the name of the "automatic vote system" as their advantages and disadvantages are basically the same.

Advantages of the Automatic Vote System

Proponents of this plan have cited the following as favorable aspects of the automatic vote system: 39

1. The automatic system would insure that all the electoral votes of each State went to the candidate who carried that State.

2. The automatic vote plan would eliminate the "independent elector.

3. This plan would preserve the unit rule system and change it from a matter of custom to Constitutional statute.

4. The automatic method would provide that the election of the President, whenever necessary, would devolve

38 Tienken, Proposals to Reform, pp. 125-6, 131-2.

upon both Houses of Congress with each member having one vote, thus eliminating the undemocratic contingent election as it now exists in the House of Representatives.

5. The political balance between urban and rural influence would be preserved.

6. The automatic plan is a minimal change, preserving the basic mature of our present system and the principal of federalism.

Comments

That this system would eliminate the "independent" and "faithless" electors is undisputable since it would be unconstitutional to do otherwise if this proposal became a reality. It would also insure that all the electoral votes of each State went to the candidate who carried that State since it would freeze the unit rule into the Constitution. However, the unit rule is one of the aspects of the present system that potential reformers (this author included) have most vehemently opposed and therefore would not actually remove the present "evils" of the system but in actuality would give "aid and comfort to the enemy."

Apparently the only other favorable reform included in this plan, beyond eliminating "faithless" and "independent" electors, is the fact that it takes the contingent election out of the House, where each State has only one vote, and places it in the hands of a joint session of Congress. Once in this joint
session of Congress, the large States would be able to voice their choice for President with emphasis in direct relation to their numbers. Each State would have as many votes as it has Senators and Representatives instead of the previous undemocratic one vote per State. This aspect may not be in accordance with a strict interpretation of federalism (States' rights) but is definitely much closer to popular democracy than the present situation.

It is claimed that this plan would preserve the political balance between the urban and rural interests. This assumption is undeniable since the automatic system does nothing to change the constituencies of electors. However, in light of recent Supreme Court decisions concerning reapportionment, this fact seems to be of diminishing importance.

The automatic system does propose a minimal change and does preserve the basic nature of the present system and the principal of federalism. The system has had the full support of Presidents Kennedy and Johnson and yet has never gained widespread support in or out of Congress. This fact arises because the automatic plan does not rectify enough of the evils in the present system to be worth the effort of passing it and at the same time actually magnifies (in the eyes of reformers) many of the evils in the present system.

Arguments Against the Automatic Vote System

Critics of the automatic vote system offer the following arguments:

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40 Tienken, Proosals to Reform, pp. 143, 144.
1. The automatic system does not achieve reform in depth.
2. This method would preserve the unit rule system with all of its inequities and dangers and actually freezes it into the Constitution.
3. The adoption of the automatic system would serve as an obstacle to any meaningful reform in the near and possibly distant future.
4. The possibility of having a minority President would not be eliminated under the automatic system.
5. The results of the Presidential election could still be affected by fraud and weather conditions.
6. An automatic vote was not the intent of the founding fathers; they did not foresee that the State would automatically cast its electoral vote for the candidate that carried it.
7. The automatic system would not eliminate the inequalities that exist under our present system relating to voting qualifications and requirements established by State laws.

Comments

This plan preserves the evils of the unit rule, does not achieve reform in depth, and undoubtedly would serve as an obstacle to any meaningful reform in the future. For those interested in a compromise solution to the present problems this plan would be acceptable since it does alleviate some of the inequities in the present system but for those interested in a sweeping reform this plan would not be of much value. Since it would be an impediment
to future reform this author believes that the automatic system would be worse than having no reform at all.

This plan does not eliminate the possibility of minority Presidents and still retains the possibility of electing a President and a Vice President from different political parties. This would probably not be healthy for the country. Another unhealthy aspect of this plan is that it would still allow Presidential elections to be severely affected by fraud and weather conditions. (This line of reasoning has been analyzed previously.)

It is also unrealistic to discuss the intent of the founding fathers since they left the plan open to custom and accident and never really knew how the system would work.

The disparity which exists in the voting qualifications and requirements in the several States would not be eliminated by the automatic vote system. But to abrogate such differences would constitute a violation of our federal principal. Each State has the authority to establish its voter qualifications as long as they are not contrary to the Fourteenth and Nineteenth Amendments. Should the federal government under any reform plan be permitted to deny this right to the States?

Opponents have also said that the automatic system incorporated such minor changes that it might never have a bearing on any election. "Indeed," said Senator Ervin on the Senate floor, "it is hardly worth cranking up the complex and protracted amendment process to accomplish so little -- it would be almost like chasing a fly with an elephant gun."41

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41Peirce, People's President, p. 181.
The death knell for the automatic system was apparently sounded on May 18, 1966, when Senator Birch Bayh, the Constitutional Amendments Subcommittee chairman and chief Senate sponsor of the Administration's plan, announced he was abandoning it in favor of direct popular vote of the people.\textsuperscript{42}

\textsuperscript{42}Ibid., p. 181.
SECTION II:

THE DISTRICT PLAN
Proposals to Reform the Present System

The District Plan

The district plan would preserve the person and the office of the elector, although the electors would be pledged to specific candidates, and the Electoral College would be kept intact. However, it would eliminate the practice of giving a State's entire electoral vote to one candidate as is done under the unit vote system. A number of electors, equivalent to each State's number of Representatives and Senators in Congress would be chosen by the voters -- one for each Congressional or similar district and two for the State at large in congruence to the two Senators of each State. The geographical lines of these districts would be set by the State legislatures, and they would not have to be identical to their present Congressional districts. Every voter would vote for three electors -- one from the district and two statewide candidates. In each electoral district, the Presidential candidate receiving the most popular votes would win that district's electoral vote and the Presidential candidate receiving a plurality of the State's total popular vote would win the two electoral votes of the State. The Presidential candidate receiving a majority of all the electoral votes would be elected President. If no candidate received a majority of the electoral vote, the Senate and House of Representatives (with each member having one vote) voting as a single body would choose the President from the persons having the three highest numbers of electoral votes. If no person for
Vice President had a majority of electoral votes, the Vice President would be chosen in the same manner. A quorum would be three-fourths of the total number of Senators and Representatives and a majority of the whole number would be necessary for election.

In the 84th Congress, the district plan became known as the Mundt-Coudert Plan, named after Senator Karl. E. Mundt of South Dakota and former Representative Frederic R. Coudert, Jr., from New York.43

This proposal to divide each State into separate districts for the casting of electoral votes was first made by Representative John Nicholas of Virginia on March 14, 1800, and was the subject of extensive debate in Congress and the State legislatures during the first decades of the nineteenth century. A significant minority (though never a majority) of the States employed the system during the first few elections and it was last used by Michigan in the election of 1892.44 The major backing for the district system has always come from those who saw the general ticket or unit vote system of casting electoral votes as the chief evil of the American electoral system.45 James Madison has been quoted as saying that the district system was the one "mostly if not exclusively, in view when the Constitution was formed and adopted."46

43 Tienken, Proposals to Reform, p. 74.
44 Ibid., p. 73.
45 Peirce, People's President, pp. 152-3.
46 Tienken, Proposals to Reform, p. 72.
Advantages of the District Plan

The following are the major arguments given in support of the district plan:47

1. Under the district system, popular votes would tend to be reflected more clearly and accurately than under our present system.

2. The district method would apply the same principles of representation, and thus political pressure, that apply in the election of members of Congress to Presidential elections.

3. This method would eliminate the "unpledged" elector by having each elector pledge his support to a candidate previous to the general election.

4. The political importance of large States would be diminished because the unit vote system would be abolished and this would cause the major parties to seek more electoral votes from all States -- large and small.

5. This plan would be more favorable for, and offer encouragement to, the establishment and maintenance of a well-organized two-party system.

6. The influence of organized minorities in metropolitan areas would be reduced to their actual numbers in the population of those areas.

47Peirce, People's President, pp. 152-64. Tienken, Proposals to Reform, pp. 82-9.
7. By preserving the electors, the district method would not involve any threat to the role of the State in the Presidential election; our basic principle of the federal system would be preserved.

8. Each voter, regardless of where he lived, would vote for two at-large State electors and one district elector, thus giving equal weight, based on population, to both rural and urban interests.

9. This system would establish a uniform method of choosing Presidential electors.

Comments

Proponents of this plan claim that it would alleviate the most notable inequity of the present system -- the "winner-take-all" concept. However, this is only partially valid since the small States (those with three electoral votes) would still be employing the unit plan. The two votes corresponding to each State's two Senators are dependent on each candidate's statewide vote totals and in small States with only one Representative the one remaining electoral vote would also be dependent on the statewide vote as this is "the district." This would probably give the small States a slight advantage in the political arena as they would still enjoy the power of the unit vote plan. One definite shortcoming of this plan is that a voter would continue to "waste" his vote if the candidate he favored failed to carry either his district or the State as a whole. These possibilities cast much doubt on the argument that the
district system would reflect the popular vote more clearly and accurately than the present system.

If the same principles of representation were applied to the election of the President and Congressional Representatives it would soon become apparent that both candidates would be succumbing to the same political pressures. This would go far to promote "party responsibility" but would be a clear violation of our "checks and balances" doctrine.

The candidates for electors would have to pledge their support to their party's choice for President and Vice President. This pledge would supposedly eliminate the independence of electors and the unpledged elector (according to the Supreme Court decision in Ray v. Blair, 342 U.S. 214 (1952), upholding the policy that it is constitutional for a party to force its candidate for elector to pledge his support to his party's candidates). However, the feasibility of enforcing such a pledge is doubtful and will be discussed later.

With the probability of dividing the electoral votes of the large States, which presently cast huge blocks of electoral votes, there would be a reduction in the power they now have to exert excessive political influences. This would also lessen the importance of choosing a Presidential candidate from one of these key States. In addition, as opposed to the present situation, would be the unlikely fact that large States would continue to carry undue weight in the development of national party platforms or that they would claim disproportionate attention during the campaign. This would elevate the importance of reaching all (or as many as possible) the States during
the campaign as Richard Nixon did during the 1960 Presidential campaign. This would be rough on the candidates but good for the country -- after all, the President is President for all the people. Interestingly enough, the district system would have brought about the election of Nixon over Kennedy in 1960 by an electoral vote count of 278 votes to 245 votes -- a clear-cut Electoral College victory.48

Proponents who stress the fact that the district system would preserve or even strengthen the two-party system are using this for the most part to discredit the proportional plan (to be discussed later) whereby each vote cast for a third or splinter party candidate, within the State, receives full credit for these votes in the Electoral College. Under the district system a third or splinter party candidate would have to, at least, win a district in order to receive any credit in the Electoral College vote.

The role of the States would be threatened because the unit rule would no longer be in effect. However, the crux of this argument concerns the retainment of federalism and this principle would not be altered -- each State would continue to have the same number of electors as they presently have.

The influence of minority groups would probably be reduced to their actual numbers in the population, thus eliminating their overall impact in determining the destiny of the statewide electoral vote as is claimed they now do. Splinter

48Peirce, People's President, p. 163.
groups would have influence only within their electoral districts and their degree of influence would depend upon how well they were organized and the amount of pressure they were able to exert as a concentrated body of districts. The voices of minorities would seldom be heard in Presidential elections unless they could find a new method to adequately express themselves and let their views be known.

Both the rural and urban districts would vote for only three electors as previously explained. This would give equal weight to each vote in all areas and would be in accord with the "one-man, one-vote" principle established by the Supreme Court.

Arguments Against the District Plan

The district plan has been criticized for the following reasons:

1. Election of the President under the district plan would not necessarily reflect more clearly or accurately the results of the popular vote.

2. The district system would not automatically convert the election of an elector into an electoral vote for a particular candidate.

3. The adoption of this plan could result in the existence of two separate, distinct districts within a State, one Congressional and one electoral.

4. The district method would lead to gerrymandering of

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49 Tienken, Proposals to Reform, pp. 89-93.
electoral districts.

5. The system might tend to overweight and unduly favor the political power of the rural and small-town areas.

6. Minority group influence would be intentionally reduced under this method.

7. "Splinter" parties would concentrate their efforts in a few districts in every State in order to shift the balance of power in close national elections with the hope of throwing the election into Congress where their voice would have more weight.

8. Presidential campaigns would be concentrated in marginal districts, as opposed to the present concentration in large pivotal States, resulting in even more expensive Presidential campaigns.

9. The district plan would not eliminate the possibility of placing a minority President in the White House.

Comments

Under the district plan the votes of the loser in each district are disregarded just as they are now under the present system. Thus the disfranchisement argument, which has been discussed previously, crops up immediately and with a good amount of validity. Since the district system operates at the micro-level just like the present system operates at the macro-level, the evils of the unit rule are just being weakened but not destroyed. So, in actuality, the unit rule retains its vitality
but in a smaller dimension. Each electoral vote in each district would go to the candidate receiving a plurality of the popular vote and this would allow a minority President to win. It would be less probable under the district system than it is now but not impossible. This could happen if the candidate won most of his electoral votes by slim majorities or pluralities, while his main opponent received a large number of his electoral votes by huge margins. It could also happen if the winner drew disproportionate support from low-population States or States with low voter turnout ratios where there are fewer voters for each electoral vote.

In a 1952 Supreme Court decision (Ray v. Blair), the Court upheld an Alabama practise (of the Democratic Executive Committe) whereby candidates for elector were required to pledge to support the Presidential and Vice Presidential candidates of the party's national convention as a condition to being certified as a candidate in the Democratic primary. But the Court did not rule on the constitutionality of State laws that require electors to vote for their party's candidates, or indicate whether elector pledges, even if given, could be enforced. The preponderance of legal opinion seems to be that statutes binding electors, or pledges that they may give, are unenforceable. The view of James C. Kirby, Jr., an expert on Electoral College law, is:

If an elector chooses to incur party and community wrath by violating his trust, and voting for someone other than his party's candidate, it is doubtful if there is any practical remedy.50

50Peirce, People's President, pp. 125-126.
One major complaint that this author has regarding this plan is that it could and probably would result in two separate, distinct districts within a State, one Congressional and one electoral. This would be confusing for the voters and would probably cause a multitude of administrative (registration, etc.) problems. Furthermore, this would probably result in another exercise of gerrymandering. If one party were predominant in a State the legislature could gerrymander the electoral districts even though such districts were "compact and contiguous" territories. Large metropolitan areas would be especially vulnerable to this sort of thing and rurally dominated legislatures would be keenly aware of this fact. This applies equally well to an urban dominated legislature that could easily divide the rural vote making it ineffective. Thus the balance of political power could sway to either the rural or urban interests, depending upon which interest controlled the State legislature.

It is argued that "splinter" parties would concentrate their efforts in a few districts in every State in order to shift the balance of power so as to throw the election into Congress where they would supposedly have a stronger voice in deciding the selection of a President. However, this is at least unlikely since "splinter" parties at present rarely muster up enough strength to elect their candidate in a Congressional race.

Campaign costs are soaring higher with each election and it is doubtful if this plan would really skyrocket the costs of a campaign as much as critics argue. They claim that more money would be needed because campaigns would become concentrated in marginal districts as opposed to their present concentration in
pivotal States. If the campaigns would shift as is predicted it would seem that the candidates could use the money saved from less campaigning in pivotal areas and apply it to their new marginal campaign.

If campaigns did shift in this manner, it would seem that, more importantly, there could be a shift of emphasis from national issues to local issues. This shift in emphasis would have an adverse affect for the nation because the Presidency is a national office and not a local office.

The greatest problem facing the district system is a political one. Members of Congress of both sides of the aisle realize that they could reap political advantages from this plan but realize also that it could backfire. Thus, both Republicans and Democrats are leary of this plan. Another, and probably the largest, major hurdle in the path of this plan is that it is regarded with much distaste by the large and near-large States. This would paralyze the strongest muscle in their political bodies -- the unit plan -- while at the same time preserving, or possibly even increasing, the present strength of the small States. Thus it seems that this plan for reforming the Electoral College is destined for failure for lack of the necessary political support.
SECTION III:

THE PROPORTIONAL PLAN
Proposals to Reform the Present System

The Proportional Plan

The proportional plan for choosing a President would retain the constitutionally mandated apportionment of electors to the States, based on their representation in Congress, but would divide each State's electoral vote to reflect the share of the popular vote for President cast by the voters of the State. The plan was first introduced in Congress by Representative William T. Lawrence of New York on December 11, 1948.51

This plan would eliminate the present "winner take all" system and would give the Presidency to the candidate winning the most electoral votes throughout the nation. Electors would be eliminated and each candidate would automatically receive the same percentage of the state's electoral vote as he had received in the popular vote statistics. Some plans would give the Presidency to the plurality candidate but most require a certain minimum percentage (usually forty percent). The proportional electoral vote for each State is determined by multiplying the number of popular votes a candidate has received by the State's electoral vote allotment and then dividing the sum derived by the total popular vote of the State. If no candidate received the minimum percentage necessary for an outright victory, the House and Senate sitting jointly and voting as individuals would choose the President from the two candidates having the

51Ibid., p. 164.
highest number of electoral votes. The Vice President would be elected in the same manner and at the same time. The early plans rounded fractions so as to keep the electoral vote in whole numbers, but modern plans have carried out fractional votes three decimal places and fractional numbers of less than one-thousandth would be disregarded unless such computations would change the result of the election. The proportional plan is other called the "Lodge-Gassett" plan in honor of its two most ardent advocates -- fromer Senator from Massachusetts, Henry Cabot Lodge Jr., and former Representative from Texas, Ed Lee Gassett.

Another similar plan is known as the Daniel Substitute Plan. In 1956 it was offered on the Senate floor as an amendment to the Lodge-Gassett plan when proponents of the proportional plan joined forces with proponents of the district plan.

The amendment permitted each State to adopt either the district plan or the proportional plan. Under this plan, a State could distribute its electoral votes among the three top candidates according to their statewide popular vote; or, if the State Legislature preferred, the electors could be chosen as senators and Representatives are now chosen -- two by statewide vote and the rest by Congressional districts.\textsuperscript{52}

This plan was highly popular at first but never attained the sufficient two-thirds vote (Constitutional amendment) for passage and is rarely mentioned anymore.

\textsuperscript{52} Tienken, Proposals to Reform, pp. 98-99.
Senator John Kennedy (1956) discredited the Daniel Substitute by saying:

The two schemes joined together by this shotgun wedding ... are wholly incompatible, the sponsors of each having thoroughly and accurately assailed the merits of the other over the years. The Mundt proposal multiples the general ticket system; the Daniel proposal abolishes it. The Mundt proposal continues the importance of States as units for electoral purposes; the Daniel proposal reduces it. And yet it is now proposed that the Senate, being unable to give its approval to either system, should lump them together and give each State its choice. No surer method of introducing confusion and loss of public confidence in our electoral system could be devised.

Thus the Daniel plan was discredited and has never recovered. For purposes of further analysis only the Lodge-Gassett proposal will be considered.

**Advantages of the Proportional Plan**

The following arguments are used in favor of the Proportional Plan:

1. Proportionate distribution is the nearest approach to electing a President by direct popular vote while retaining and preserving the present strength of each state in the election of the President (the idea of Federalism).

2. For all practical purposes it would be virtually impossible to have a President that received less votes than his chief opponent.

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\(^{53}\)Ibid., pp. 108-116.
3. Voter participation would be encouraged because every vote would count. Popular votes for the losing candidates would no longer be "wasted."

4. There would be a more equal balance of power among the States because the unit vote system would be abolished.

5. The proportional plan would strengthen the two-party system; the opposition party would be encouraged in one-party States because every vote would have some effect in the national election.

6. Unfavorable weather conditions, fraudulent voting practices, and accidental circumstances would be unlikely to defeat the choice of the people under the proportional system.

7. Presidential and Vice Presidential candidates could be selected from a broader base because the necessity of a candidate coming from a large State would be diminished.

Comments

The genius of the proportional plan is that it does come very close to direct popular election while at the same time it preserves the relative strength of the States in the electoral system. It eliminates the much hated unit vote so that every man's vote counts, while at the same time preserving the idea of Federalism but in a slightly weaker position. It is a brilliant compromise measure that would abolish many of the evils of the
present system which would please the liberals and at the same time leave room for acceptance by the conservative States' rightists.

This plan would virtually eliminate the possibility of electing a minority President. There would be a slim possibility, because of the perversion factor resulting from the "Senatorial" electoral votes but since every man's vote would count (as opposed to the huge blocks of wasted votes for the losing candidate which are disregarded under the present system) it would be highly unlikely. This factor would also probably increase voter participation. Since their votes would no longer be wasted, Republicans in the South would be more likely to make an effort to vote and Democrats realizing this would redouble their efforts to get their voters to the polls. Thus, the "solid South" would no longer be solid. This same influence would also take place in the Republican Midwest. This, in turn, would probably result in a strengthening of the two-party system since every vote would count. "However, as long as the winning candidate had to have more electoral votes than any other candidate, parties would not be likely to multiply rapidly." \(^{54}\)

The provision in the proposed amendment requiring election by at least forty percent of the total electoral vote would help to check any tendency towards breakdown of the two-party system. It would also reduce the possibilities of the election being thrown into the Congress through the efforts of minor parties since it would require them to secure at least twenty percent

\(^{54}\)Ibid., pp. 108-116.
of the electoral vote to do so.

Since no State would control huge blocks of electoral votes, as they now do because of the unit rule system, it would tend to balance the power among the States. This fact would also tend to diminish the present importance of inclement weather and fraudulent voting practises since these factors could no longer influence the entire electoral vote in a State, but only a small proportion of it. The abolishment of the unit vote system would also decrease the importance of selecting Presidential and Vice Presidential candidates from large pivotal States for reasons similar to those discussed under the district plan.

Senator Thomas H. Kuchel of California has stated what is probably one of the best single statements in favor of the proportional plan. He said, "a proportional system undeniably provides the best reflection of popular desire in the framework of a federal system that retains the States as voting units."

Disadvantages of the Proportional Plan

Critics of the proportional plan find the following flaws in it:

1. Proportionate distribution of the electoral vote would weaken the power of the major parties because it would be easier for minor parties to win a number of the electoral votes.
2. The proportional plan provides no positive assurance

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55 Peirce, People's President, p. 175.
that the will of the people would prevail in every Presidential election.

3. Undue political importance might be given to States having the least voters relative to electoral votes.

4. This plan would permit a candidate that only received a plurality of the electoral vote to be elected President; the present system requires a candidate to procure a majority of the electoral vote to become President.

5. The abolition of the Presidential electors may create some problem by eliminating the flexibility that exists in our present system.

6. States would no longer have importance as single units in the Presidential election if the proportional plan were adopted.

7. The Constitution should not be amended unless it would be certain that the general welfare of the people will benefit from it.

Comments

It is generally agreed that the two-party system has helped to unify the United States and has thereby strengthened the country. Opponents of the proportional plan fear that, if implemented, this plan would lead to a splintering of the presently strong two-party system because minority groups would be able to obtain electoral votes. This argument has been previously discussed, but there are other dangerous possibilities which have not. Robert L. Tienken has stated that:
Proportionate distribution might result in less activity by the major parties to unify diverse political groups. The existing electoral system gives the major political parties an incentive to seek the votes of minority groups in key States. It helps to assure that the legitimate interests of these groups will be represented. As long as both major parties give recognition to the interests of minority groups, the members of such groups have little incentive to rally behind extremists and form special interest blocs or parties. The proportional plan, be reducing the political importance of minority groups in large, doubtful States, would make it possible for the major parties to give less attention to the interests of minor groups -- whether economic, sectional, national, religious, or racial. While some of these minorities may now seem to command more than their share of attention, it would be undesirable for national unity if any of these groups were to be systematically under-represented. 56

This is certainly possible, but not probable under this plan, because a party would need as many votes as it could procure in order to win the election. Under this plan every vote counts toward a victory because the unit would be abolished.

The proportional plan does not positively assure that the will of the people would be carried out in every election, but there is no way that this could be guaranteed. This plan comes closer to this ideal than all other plans excluding the direct election method and even it could be shipwrecked because of certain circumstances (such as fraud).

States with a small population would have a slight advantage because of the minimum of three electoral votes per State. Based on the 1960 census, thirty-five States and the District of Columbia are technically "over-represented in the

56Tienken, Proposals to Reform, pp. 117-118.
Electoral College and fourteen States are under-represented.\textsuperscript{57} (See Appendix C.) However, these statistics are based on the total population of each State and not on actual voter participation which varies throughout the country. The only way in which perfect representation could be achieved would be through the implementation of the direct popular vote.

The argument against allowing a plurality candidate to assume office is for the most part ungrounded. With the abolition of the unit rule it would be much more difficult to attain an Electoral College majority. Furthermore, under the present system a candidate who received only a plurality under the proportional plan could very likely have carried more of the popular vote than another candidate who received a majority of the electoral vote.

In the past, electors have at times introduced a useful element of flexibility into the election process. In 1912, Theodore Roosevelt's electors could declare, before the election, that if Roosevelt could not win, then they would vote for Taft instead of Wilson. If electoral votes were retained purely for counting purposes, it would not be possible to make such commitments.\textsuperscript{58}

Opponents of the proportional plan claim that States would lose their importance as single units in Presidential elections. From their point of view, this is correct since the unit vote system would perish. However, they are failing to realize

\textsuperscript{57}Peirce, People's President, p. 138.

\textsuperscript{58}Tienken, Proposals to Reform, p. 120.
another important aspect of this plan. Senator Joseph S. Clark of Pennsylvania has speculated that:

The South -- now happily not so solid -- would acquire an even greater importance in the Democratic Party under this scheme because the monolithic nature of its one-party vote in a general election would give nearly all of its Electoral college votes to the Democratic nominee. Of course, he usually gets them all anyway under the present system, but they are more than offset by the votes of the big doubtful States where a small majority carries all the State's electoral vote. Similarly, the conservative one-party Republican States where Democratic office holders are uncommon, such as Kansas, Nebraska, and Vermont, would have their stature within the Republican Party magnified.59

Thus this argument is not completely true since some States would retain a large amount of importance as single units.

That the Constitution should not be amended unless it would be certain that the general welfare of the people will benefit from it is a rather distasteful statement in the opinion of this author. This statement is of such nebulous character that it hardly merits discussion. First, who decides what the general welfare of the people is, and secondly, who could ever be certain that any proposal would guarantee benefits for the people? Time is the only element that would determine this.

The Lodge-Gossett proposal was passed by the Senate in 1950 with the required two-thirds majority but could not get through the House. It was revived again in the Senate in 1956 and this time it received its death certificate. The opposition was led by Senators Douglas of Illinois and Kennedy of Massachusetts.

59 Joseph Clark, Congress: The Sapless Branch, pp. 221-223.
In view of this, there is some irony in the fact that the opposition that defeated the Lodge-Gossett amendment was superbly led by the man who might four years later have been the victim of the anachronistic Electoral College -- the junior (and freshman) Senator from Massachusetts, John F. Kennedy. He skillfully led the attack that not only sent it back to committee, never again to emerge, but won away many of its sponsors.60

SECTION IV:

THE DIRECT ELECTION PLAN
Proposals to Reform the Present System

The Direct Election Plan

The direct election plan was first introduced by Representative William McMannis of New York in 1826 and would function as its name suggests -- the people of the United States would vote directly for the President. This is the only plan that would elect the President and Vice President by a nationwide popular vote. It would abolish the office of elector, the Electoral College, the unit vote system, and the possibility of contingent elections in the House and Senate for the President and Vice President respectively. As opposed to the other reform plans, the direct election plan would provide for a runoff election between the two persons who received the greatest number of votes cast for President but did not receive a majority. However, a substantial number of proposals would require only a forty percent plurality in order to win in the general election.

Advantages of the Direct Election Plan

The advantages of the direct election plan are as follows:

1. The direct election plan would abolish the unit vote

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system and substitute direct election which would eliminate the massive disfranchisement of the minority voters in each State.

2. Direct election would have more appeal to the people thus encouraging more voter participation.

3. The American people would actually and legally elect the President and Vice President instead of merely "appointing" electors to express their wishes.

4. The one-man, one-vote doctrine would apply to the election of the President as it now applies to Congress and the State legislatures.

5. There would no longer be the chance that the man who won the most popular votes could be deprived of the Presidency through the mathematical vagaries of the Electoral College.

6. Direct election would abolish the confusing ballots which contain the names of the President and Vice President and/or the electors since there would no longer be electors.

7. This plan would strengthen the two-party system -- especially in one-party States because the unit plan would not be in effect.

8. Minority groups would have political power equal to their actual membership numbers and could no longer exert undue pressure in the political system.

9. Presidential candidates would be legally elected on election day, thus eliminating the delay between election day and the day the electors cast their
voter.

10. The election of President and Vice President would never devolve into Congress because a runoff election would be held if no candidate received a sufficient number of popular votes to be elected.

11. Fraudulent practices and weather conditions would have little or no effect on the outcome of the election.

12. There would be less necessity of selecting candidates from the large pivotal States.

Comments

This is the only proposal plan that would make every man's vote of equal weight with every other man's vote. This plan eliminates the unit vote with all of its inequities but of even greater importance is the fact that it completely ignores the federal principle. States would lose all significance as voting units and this would completely establish the one-man, one-vote principle in its purest form. Opponents of this plan claim that this denies the principle of federalism which is one of the most basic elements of American democracy. However, opponents counter this claim with their own logic:

Why, for some mysterious reason connected with federalism, should the votes of men from Wyoming and New Hampshire be given more weight than the votes of men from New York and California — or possibly the reverse? How would these inequalities be explained in the day of one-man, one-vote?63

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63 Peirce, People's President, p. 266.
This is what completely differentiates this plan from all the other proposed reforms.

Direct election would appeal to the people because every man's vote would count and count equally with every other man's. This would encourage and increase voter participation. Since electors would be eliminated, the confusing ballots including the names of electors would also perish.

Under this plan the American people would legally elect their President instead of appointing electors to do it for them. This would completely eliminate the possibility of an intermediary body depriving the people of their choice of President. Proponents of this plan claim that these factors in conjunction with the abolition of the unit vote plan would strengthen the two-party system. This is probably correct because every vote cast in every State would be equally weighted. This would be especially beneficial to the minority electorate in one-party States and follows much of the reasoning discussed more thoroughly in the section concerning the proportional plan.

Minority groups would lose their ability to swing the entire electoral vote of a State and would therefore encounter a reduction in political power. However, they probably would not lose an unduly amount of power because most politicians would want to include their wishes in their political platforms in order to receive as many votes as possible. Even under the present electoral system there is the possibility that both major parties could systematically exclude certain minorities from their platforms -- but they do not and there is no reason to believe that this practise would begin under any system.
Many Americans now think that the President is legally elected in the popular election in November. However, under the present system this is untrue as the real election takes place when the electors meet and cast their votes. This delay is confusing to the people and could result in serious problems if certain situations arose. For instance, no one is quite sure as to what the electors would or could legally do if the President were to die before the electors met to cast their votes. This delay would also present serious practical problems in a disputed election. Neither candidate would know for sure who would be President until December when the electors would meet and cast their votes and this would give the new President very little time to take care of such important matters as choosing his Cabinet members. At present the contingent election takes place in the House of Representatives if no candidate receives the necessary majority in the Electoral College vote. The first three reform plans discussed would place this contingent election into a joint session of Congress with each member having one vote. Proponents of the direct election plan feel this is much too undemocratic and open to corruption and this is why they have provided for a runoff election between the top two vote recipients in cases where no one candidate receives the necessary number of votes in the general election.

The last two arguments are again related to the States as units and the current use of the unit plan. With a shift of importance away from these factors and to the people fraudulent voting practices and inclement weather candidates would have little effect in the results of the election. There would
also be less emphasis placed on choosing the candidates from large States since they would no longer pad their vote totals with this large number of electoral votes from "back home."

An outstanding argument in favor of the direct election proposal has been eloquently expressed by Neal Pierce in his book *The People's President*:

Democratic elections do not always guarantee that the best man will win. Even when we have shed the barnacles of the electoral college from the ship of state, there is no guarantee that we or our descendants may not one day elect a charlatan or an ideologue to the Presidency. For all our talk of great American Presidents, we have elected some pretty grim mediocrities to that office, and we could again -- although the modern levels of education and political sophistication in the United States today make it far less likely. But even when one admits that the vox populi may err, the fact remains that through our entire national experience we have learned that there is no safer, no better way to elect our public officials than by the choice of the people, with the man who wins the most votes being awarded the office. This is the essence of "the consent of the governed." And no matter how wisely or foolishly the American people choose their President, he is their President. No one has been able to show how the preservation of a quaint 18th-century voting device, the electoral college, with all its anomalies and potential "wild cards," can serve to protect the Republic. The choice of the Chief Executive must be the people's, and it should rest with none other than them.64

Arguments Against Direct Election

Opponents of the direct election plan criticize it for the following reasons:65

1. It is possible that direct election would lead to

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64Ibid., p. 297.

an increase in the number of "splinter" parties.

2. Direct election might impair the "unifying" function of the two major parties.

3. Direct election would deprive small and sparsely populated States of the slight advantage they enjoy through the distribution of electoral votes according to the size of Congressional delegation.

4. Direct election of the President could result in enlarged federal control over political parties and replace the existing system of parties being regulated mainly by State law.

5. This proposal, if adopted, could seriously impair the principle of federalism which is one of the most basic elements of American democracy.

6. With direct election, the States would cease to be "electoral entities" in the choice of President.

7. Campaigning would continue to be concentrated in metropolitan areas and cities in large States, and would perpetuate the current practise of ignoring rural communities and the small States.

8. The importance and relative weight of each State's vote would no longer depend upon population but rather upon the number of votes cast.

9. It is doubtful that the direct election amendment would be approved by the necessary two-thirds vote in both Houses of Congress and ratified by three-fourths of the States.
Comments

The American Bar Association has conducted an in depth study of the Electoral College and has published a report in favor of the direct election plan. In this report the conclusion was reached that the implementation of the direct vote would neither damage the two-party system nor encourage the growth of "splinter" parties.66

The small States now enjoy a slight mathematical advantage in their number of electors per population. However, it is highly debatable as to whether or not this is meaningful in a system that places so much emphasis on the large blocks of electoral votes that large States possess.

One of the greatest safeguards in our country against the usurpation of power by the national government (away from the States) is the dependence of national party structure on State political organizations. Opponents of the direct election plan fear that it would result in enlarged federal control over political parties. Neal Peirce has countered this argument in his book The People's President by saying that there would be little change in the existing power structure "as long as the national convention method of nominating Presidential candidates continues."67 Since there is little hope for national primaries and little reason to believe that States would voluntarily give up this power it seems that this fear is ungrounded.

67 Peirce, People's President, p. 278.
Opponents of the direct election plan argue that it would impair the principle of federalism. This fear has been one of the main arguments against the plan but again Neal Peirce has eloquently rebuked this argument by saying:

For in truth, there are rich benefits for the citizens of all the states stemming from federalism in America. But they stem from entirely different grounds: from the representation each district and state enjoys in Congress, from the right of each state to fashion governmental policies particularly suited to its own citizens, from the protections from overbearing federal power which stem from the special rights of the states under the Constitution. If one wants to preserve "states' rights" and the American federal system, there are many better ways to do so than by preserving the fictional advantages of the electoral college.68

From this analysis it would seem that the doctrine of federalism would be in little peril if the direct election plan were to be implemented.

With direct election, the States would cease to be "electoral entities" in the choice of President, but this can be easily justified by the one-man, one-vote doctrine. After all, "it is people who have preferences, not States."69

Another ramification of this loss of "electoral entity" status would be that the weight of each State's vote would no longer depend upon population but upon the number of votes cast. Is this not the way it should be in order to comply with the equitable one-man, one-vote doctrine?

Opponents of this plan, who obviously support the district plan, claim that campaigns would continue to be concentrated in metropolitan areas and cities in large States. The

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68 Ibid., p. 264.
69 Ibid., p. 263.
district plan is the only plan that would force candidates into the more remote areas of the country and this is because candidates would have to construct a majority from the many separate districts across the country. This is probably a very worthy idea but is overshadowed by the many shortcomings of the district plan. However, the direct vote plan would urge candidates to reach as many people as possible because every vote in their favor would be valuable with the one-man, one-vote doctrine in effect.

The last and probably most pragmatic argument against the direct election plan is a political one -- can proponents of the direct election plan collect enough support to get this plan approved? Both large and small States feel that they have a mathematical advantage under the present system and until these are proven to be false there is little hope for its passage. However, the American Bar Association's report on electoral reform is optimistic in its overwhelming support for the direct election plan and seems to have the solution for this political dilemma when it states:

The present system obviously cannot favor both large and small States vis-a-vis each other. One of the two opposing views must be unsound in its premises. But in the ascendancy of one-man, one-vote, it is impossible to justify any system on the grounds of voter inequality. Both arguments are unsound in principle.  

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70 American Bar Association, The Case for Direct Election, p. 3.
PART V:

CONCLUSION
Conclusion

This study has presented the Electoral College as an element of the American political system. The historical background was presented in a realistic and factual manner in order that the reader could understand how an undemocratic institution such as the Electoral College became a reality in a democratic country. Here the word "realistic" was carefully chosen so as not to discredit the founding fathers in the eyes of the idealistic American people who firmly believe that they (the founding fathers) were infallible. It would be ludicrous to debate the intelligence of the founding fathers in reference to the Electoral College because they openly admitted at the time they created this "sleeping monster" that they did not know how, how well, or how long the plan would function effectively. They created a maleable structure that custom and time would mold. The point is, however, that the founding fathers did not envision the Electoral College as one of the cornerstones of our governmental system, as they did "separation of powers" and the system of "checks and balances." They purposely injected a procedure for amending the Constitution if one of its elements began to function improperly or unrealistically. At its inception the Electoral College was probably the best possible method of electing a President in a large country with poor modes of communication. However, time has changed the realities of our world and yet people claim that the Electoral College is still the best method of choosing a President. This author has presented and analyzed both the arguments in favor of...
and the arguments against the Electoral College system and concludes that it is no longer an acceptable method. It contains too many inequities for the people that it serves; such as the unit rule which counts one man's vote unequally with another man's while at the same time actually disfranchising millions of voters who voted for the candidate who failed to carry their particular State, the undemocratic use of intermediary electors, and finally the possibility that those "faceless" intermediaries could be unfaithful and neglect the desires of the people who chose them, and elect an unwanted candidate. This author feels that this system should not be allowed to survive in today's world.

It is easy to criticize and offer nothing better, but critics of the Electoral College have offered at least four major proposals that would reform the present system. These plans include: the automatic vote system, the district plan, the proportional plan, and the direct election plan. The case -- both pro and con -- for each of the proposed election plans has been presented; the arguments in favor of and the arguments against each proposal have been stated and analyzed. This author feels that any of these four would be better than the present system and some would be better than others.

The automatic vote plan would reform the present system in that it would eliminate the possibility of faithless electors. However, this is the only major reform that would take place under this plan and it would actually incorporate the rest of the evils of the present system into its operation. This author rejects the automatic vote system for this reason in conjunction
with the fact that there are better plans being offered.

The district plan is also rejected by this author. There are four reasons for this:

1. Better plans have been offered.
2. In many States it would cause unnecessary confusion for voters because States would be allowed to use the present districts for Congressional elections and create new ones for Presidential elections.
3. It would perpetuate the disfranchisement of voters on the district level just as the present unit rule disfranchises voters on a statewide basis.
4. It would continue to give unequal weight to votes cast in different States because each State would still be entitled to cast their current number of electoral votes.

The proportional plan has also been rejected by this author but only after a great amount of mental debate had taken place. It is basically very sound and very commendable. It would abolish all but one of the evils of the present system and that is the fact that it counts popular votes in different States in differing weights (here again the reader must be directed to Appendix C). However, it is debatable as to whether or not this is actually an evil in the present system. If this author held uncompromising views concerning the nature and relative importance of federalism he would not have found any flaws in the proportional plan. However, the normative judgment was made and this author decided that the right of people to have
their votes treated equally was more important than the loss of power that States would endure if this plan were implemented.

Thus we come to the direct election plan which this author feels to be the best and most equitable plan. It would abolish all of the evils of the present system and give an equal voice to all of the people in selecting the President. It must be this way because the power of the vote is a sacred right of the people in a democratic nation.

This author's greatest dilemma was that this plan might be an abuse to the federal system. However, it was decided that giving States certain mathematical advantages in the election of the President was not an integral part of the federal system. His greatest fear was that the direct election plan might result in a great transfer of power from States to the federal government. It is political parties that serve as a check on this power and as long as they continue to remain active in the political affairs of the States and continue to nominate Presidential candidates in the present fashion there is little to fear.

There has always been a trend in America toward direct democratic participation at every level. It the early years of the republic this may not have been predicted but it has promulgated itself in the Fifteenth, Seventeenth, and Nineteenth Amendments to the Constitution. It is now time to reiterate that trend and provide for popular election of the President, the last major office in the country over which the people do not have a direct vote.
The future looks bright for this amendment. It passed in the House on September 18, 1969, by a vote of 339 to seventy. President Nixon views this plan with favor and on September 30, 1969, he sent a request to the Senate stating:

I believe that contrary views are now a luxury -- that the need for electoral reform is urgent and should be our controlling consideration. I hope therefore, that two-thirds of the Senate will approve the House passed Amendment as promptly as possible so that all of us together can then urge the States also to give their approval.

This report must and will end with a prophecy and a warning if this prophecy is never realized. The author believes that the direct election plan will be the next Constitutional Amendment. The electoral College is an archaic and undemocratic structure that has become imbedded in our political system. It is not the only thing wrong in America today and it alone will not destroy our country but if it and other things like it continue to prosper they will eventually spell our doom. Here it would be altogether proper and fitting to leave the reader with a comment made by Sir Charles P. Snow in his famous Rede lecture on "The Two Cultures and the Scientific Revolution:

I can't help thinking of the Venetian Republic in their last half-century. Like us, they had once been fabulously lucky. They had become rich, as we did, by accident. They had acquired immense political skill, just as we have. A good many of them were toughminded, realistic, patriotic men... Many of them gave their minds to working out ways to keep going. It would have meant breaking the pattern into which they had crystallized. They were fond of the pattern just as we are fond of ours. They never found the will to break it.

73 Clark, Congress: The Sapless Branch, p. 249.
APPENDIX
Appendix A

Twelve States That Can Elect a President: 74

<table>
<thead>
<tr>
<th>State</th>
<th>Electoral Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York</td>
<td>43</td>
</tr>
<tr>
<td>California</td>
<td>40</td>
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<tr>
<td>Pennsylvania</td>
<td>29</td>
</tr>
<tr>
<td>Ohio</td>
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</tr>
<tr>
<td>Indiana</td>
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</tr>
<tr>
<td>Alaska</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>271</strong></td>
</tr>
</tbody>
</table>

## Appendix B

### Minority Presidents (Those Who Received Less Than 50% of the Popular Vote)

<table>
<thead>
<tr>
<th>ELECTED</th>
<th>OPPONENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>YEAR</strong></td>
<td><strong>Name</strong></td>
</tr>
<tr>
<td>1824...J.Q. Adams....31.9</td>
<td>Jackson.........42.2</td>
</tr>
<tr>
<td>1844...Polk...........49.6</td>
<td>Clay...............48.1</td>
</tr>
<tr>
<td>1848...Taylor.........47.3</td>
<td>Cass...............42.5</td>
</tr>
<tr>
<td>1856...Buchanan.......45.6</td>
<td>Fremont...........33.3</td>
</tr>
<tr>
<td>1860...Lincoln........39.8</td>
<td>Douglas..........29.4</td>
</tr>
<tr>
<td>1876...Hayes..........47.9</td>
<td>Tilden..........50.9</td>
</tr>
<tr>
<td>1880...Garfield.......48.3</td>
<td>Hancock.........48.2</td>
</tr>
<tr>
<td>1884...Cleveland......48.5</td>
<td>Blaine..........48.3</td>
</tr>
<tr>
<td>1888...B. Harrison....47.8</td>
<td>Cleveland......48.6</td>
</tr>
<tr>
<td>1892...Cleveland......46.0</td>
<td>B. Harrison.....43.0</td>
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<tr>
<td>1912...Wilson.........41.9</td>
<td>T. Roosevelt...27.4</td>
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<tr>
<td>1916...Wilson.........49.3</td>
<td>Hughes..........46.1</td>
</tr>
<tr>
<td>1948...Truman.........49.6</td>
<td>Dewey..........45.1</td>
</tr>
<tr>
<td>1960...Kennedy........49.5</td>
<td>Nixon..........49.3</td>
</tr>
</tbody>
</table>

Appendix C

Ratio of Electoral Votes to Population in Each State and the District of Columbia for 1964 and 1968 Presidential Elections (Based on 1960 Census)

<table>
<thead>
<tr>
<th>Rank and State</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Alaska</td>
<td>75,380</td>
</tr>
<tr>
<td>2. Nevada</td>
<td>55,003</td>
</tr>
<tr>
<td>3. Wyoming</td>
<td>119,022</td>
</tr>
<tr>
<td>4. Vermont</td>
<td>120,000</td>
</tr>
<tr>
<td>5. Delaware</td>
<td>143,764</td>
</tr>
<tr>
<td>6. New Hampshire</td>
<td>151,730</td>
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<tr>
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<td>27. Mississippi</td>
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<td>330,579</td>
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National average: 333,314
BIBLIOGRAPHY

Books


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"Message from the President of the United States," 89th Congress, 1st Session, House of Representatives, (February 1, 1965), page 2.

