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PROPOSED CHANGES IN THE PRESIDENTIAL ELECTION SYSTEM

ESTES KEFAUVER *

A strong and real two-party system is the most intelligent, responsive and lasting way to operate a democracy. The party in power formulates the policy and program of the Government. The minority party criticizes and tries to improve that program.

The present system of electing a president prevents the candidates of the political parties from being truly expressive of the members of the parties. It also results in the heads of the parties taking positions which are out of harmony with a large segment of the party.

POLITICAL PARTIES DO NOT REPRESENT MEMBERS

Recently complaints have been heard from Republicans in the "sure" New England States to the effect that the Republican Party was not taking their viewpoint into consideration in connection with rationing, price control and allocations. We are now hearing a loud and vociferous criticism from Southern Democrats to the effect that President Truman in his Civil Rights Message to Congress was disregarding the "Solid South." Both of these accusations have substance. The truth is that presidential candidates throughout the years have made whipping boys of those sections which are considered to be definitely in the camp of their party. That is, the Republican candidates do not feel that they have to worry too much about Maine, Vermont, Michigan, Wisconsin, etc., in formulating their platform. The Democratic candidates feel that they must appeal to the voters of the North and East in formulating their platform and in carrying out their program. The fault is with the system more than with the individuals. In the light of these circumstances let us examine our present method of selecting a president and see what can be done to make the heads of the parties more responsive to all segments which make up the large political parties.

When one considers the fact that the United States has grown into the strongest and most enlightened nation in the world under our Constitution during the past 160 years, he must marvel at the wisdom and foresight of the Founding Fathers who conceived this memorable document. It is indeed the most remarkable system and formula of government ever devised by human minds. The Constitution makers, however, recognized that changed conditions would require changes in our basic law and they wisely included a provision for amendments. The Constitution, as Jefferson so wisely said, must be a

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growing document which will embrace and guide the conduct of the people in generations to come under circumstances which could not be conceived by the Founding Fathers.

The greatest demonstration of popular government in our time is when 50 million or more American citizens, untrammelled, with freedom of thought and action, go to the polls and determine who shall be the next President of the United States. No patriotic citizen will question the contention that such an election should be conducted under rules which will definitely result in the election of one of the candidates and that all votes should be counted by a method that will accurately and justly reflect the will of the American people. We do not have such a system today. Ever since 1824, when a deadlock threw the election into the House of Representatives, all students of government have recognized that our system of electing a president has serious defects and that they should be remedied.

Section I, Article 2 of the Constitution provides that each state shall be entitled to a number of presidential electors equivalent to the number of senators and representatives of the state in Congress; that the electors of each state shall meet in the state capitol on the same day and choose a president and a vice president.

PROPOSED AMENDMENT OF ELECTORAL SYSTEM

The writer has joined a number of representatives in Congress, both Republicans and Democrats, in sponsoring an amendment to the Constitution. H. J. Res. 108 is the bill pending. It would provide for the elimination of the electors and that each state should be entitled to a number of presidential votes, the same as we have at the present time, and that these votes should be divided between the candidates for President and Vice President in proportion to the number of popular votes cast in that state. For instance, in a presidential election, assuming that the Democratic candidate secures 600,000 popular votes and the Republican 200,000 popular votes, the federal votes for Tennessee would be divided on the basis of 9 for the Democrats and 3 for the Republicans. The votes under the amendment would be directly for the candidates and not for the electors.

Let us see the conditions that have arisen which make this amendment necessary. The Founding Fathers did not anticipate political parties. They intended that the people of a state would elect a superior group of people known as electors and that these electors would use their independent judgment in selecting a president. This method was carried out for about 12 years, but by 1800, with the formation of political parties, the electors became mere robots or automatons of the party-will and since that time we have gone through the rather ridiculous formality of voting for electors who are

not supposed to exercise any discretion in the choice of a president. This, however, places the nation in a dangerous situation. During the last election certain Democratic electors in Texas threatened to vote for someone other than the Democratic Party candidate. Had their threat been carried out, and if this had determined the result of the election, we might have had a very bad disturbance or a revolution in this country. There is no logic or wisdom in holding on to a system which does not represent what the people, by common practice, have decided should be done. We should make our Constitution comply with the practice which is actually taking place.

Under the present provision, if no candidate has a majority of the electoral votes, the election is thrown into the House of Representatives. The House then ballots on the three highest on the list. Each state, regardless of size, has one vote. The Jefferson-Burr controversy of 1801 almost wrecked the young Republic and resulted in the adoption of the 12th Amendment providing for separate votes for President and Vice President. In 1824 the presidential election was thrown into the House. On that occasion the unquestioned will of the people was not followed because Jackson had a plurality of more than 50,000 votes yet the third person on the list, John Quincy Adams, was elected President. The scandal which arose on that occasion did not do our Government any good. The Tilden-Hayes controversy in 1876 was so bitter that Congress could not decide the issue but set up a special commission and agreed to abide by its findings.

These controversies could not arise under the plan proposed in the amendment because in every instance some candidate would have a plurality of the federal votes of the states.

MINORITY DESERVES REPRESENTATION

There are other important and compelling reasons why this amendment should be adopted. Under the present system if any candidate wins by a plurality of one, the entire electoral vote of that state goes for that candidate. The minority, therefore, has no voice in the election of the president. The result is that the Democratic and Republican national organizations fight out every presidential election in a relatively few states. The Republicans mark off the "Solid South"—the Democrats concede certain New England and Mid-Western states will be in the column of the GOP and there is virtually no campaign carried on in those states which are conceded. The people in the solid South and those in the New England States do not actually participate in the presidential election because it has already been determined which way those states will go. Under this proposed amendment every vote would count whether it was cast in the "Solid South" or in the state of New

York. The issues would be discussed in every state and every citizen who went to the polls would be actually participating in the work of our Democracy.

Everyone recognizes that the political control of states has a great deal to do with the benefits that will be secured from the Federal Government. It should not be that way but it always has and it always will be. The Democratic Party is inclined to feel that there is not much need of doing anything for the South because the South will be Democratic in any event. When the Republican Party is in power it does little for the South because its leaders feel that politically there is no need of placing improvements and benefits in our section. As a matter of fact practically every presidential election hinges upon the votes of New York, Pennsylvania, Ohio, Illinois, California and a few other states. And these are the sections that receive the special consideration in the way of patronage and public improvements from the two political parties. If the proposed amendment is adopted, each state in the Union would receive its fair and just share of federal benefits.

Furthermore, the present system makes it impossible for practical purposes for a president to be elected from the South—from New England—or from the West. There are only a few states given consideration when the parties are looking for presidential material. This amendment would change that situation entirely. It would give a candidate from Tennessee an equal chance with one from New York or Ohio.

STRONG TWO-PARTY SYSTEM DESIRABLE

Perhaps the most important reason why this amendment should be put into effect, is that actually the United States is operated by its political parties. In other words, we have party-government. It was not intended to be that way by those who wrote the Constitution but the early statesmen of the country soon found that the best and most wholesome method of operating a democracy was on a party basis. That is, each party presents its platform and its candidate. The people choose between them. The party selected has the responsibility of fixing the policy and of administering the laws during the time it is in power. The minority party has the duty of criticism—of pointing out defects—of prodding the party in power when mistakes are made and in that way trying to win control for itself.

From his years of experience in Congress the writer is convinced that a strong two-party system is the most logical and satisfactory way to operate a democratic form of government. Those countries which have had multiple parties suffer from divided responsibility and this is the cause of many of their failures. But it is not possible to have an effective two-party system under our present Constitution. In the South there is really only one party.

In New England and many other states of the Union there is only one party and both sections lose much of the benefits of criticism—of the incentive to get out the best possible candidates, and of seeing that their party is truly responsive to the needs and demands of the people.

There has been some criticism of this proposal on the ground that it would work to the disadvantage of the Democratic Party. It is true that under the system the Republican candidate for President would secure some presidential votes from the states comprising the "Solid South"; however, analysis of the votes cast over a period of years shows that this loss to the Democratic Party would be made up by presidential votes which the Democrats would secure from the so-called "certain" Republican states of the North and Northeast. If the system were adopted an end would be put to positions and platforms and messages by presidents and presidential candidates which play off one part of the nation against another. The plan would certainly result in more consideration being given to all segments of the political parties by their candidates.

Another important result would be reducing the effectiveness of third parties. Third parties such as the pitiful effort now being made by Henry Wallace, do not expect to capture the presidency. The result, and perhaps the hope of such abortive efforts is to change enough votes in a few pivotal states to throw the election to one or the other of the major political parties. This has happened several times in our history and it could happen in the coming Presidential election. If, under the proposal which several of us in Congress have made, a third party secured a few votes in the pivotal states, the result would not be of great importance. Each party would still receive its proportion of the presidential votes and the third party would receive its small portion. Even if Henry Wallace should take several hundred thousand votes away from the Democratic candidates in New York, the presidential vote in New York would still be fairly evenly divided between the Republican and Democratic candidate. It is important, as I see it, to minimize the result of these third party movements. Certainly a minority party should not be able, by throwing a few presidential votes one way or the other, to control the destiny of the nation.

This amendment has been fully considered by a Subcommittee of the Judiciary Committee of the House. The Subcommittee has taken favorable action upon it. The writer hopes that the House and the Senate will at this session, submit it to the states for ratification and it may well become the 22nd Amendment. The proposal deserves your study and consideration.

Under this system we can transmute the election returns into a fair and accurate common unit of expressing the will of the nation as the votes are counted. We can give the nation a just system of electing a president

and on a plan that will operate definitely, uniformly and accurately under all circumstances. This proposal will make the parties responsible to all sections comprising it. It will reduce the ill results of third party movements. By adopting this plan we will make an important contribution to clean, efficient and progressive government.