

The States and the Presidency

In spite of facility in adaptation and innovation, most Americans of Anglo-Saxon origin are strongly traditionalist at heart. This is not to say that those of the original breed are in any way superior people. They merely recognize that our institutions were developed by their ancestors, and that the preservation of this inheritance is therefore something of a personal responsibility.

Nowhere is this stubborn sense of tradition stronger than in the field of politics. There we adhere to inherited practices which are literally senseless if our true objective is to centralize power in behalf of world leadership. Of course it could be argued that this conservatism roots in ignorance. Harry Hopkins thought that most Americans are "too damn dumb" to appreciate the efforts made for them by an elite in Washington. But the tendency to cling to "horse and buggy" procedures in politics could also be intelligently based. It could reveal a determination to preserve our federal system in spite of the obstacles it raises

for bureaucratic planners. The issue deserves analysis. And it is logical to focus that analysis on our most important collective political undertaking, which is the choosing of the Chief Executive.

The procedure of a Presidential election is certainly not democratic, and nobody will pretend that it is efficient from any overall national viewpoint. One knows in advance that no aspirant from a State with a small electoral vote has any chance of nomination, no matter how ideal his qualifications. One also knows that to be successful—to date at least—a candidate must be a white man of Anglo-Saxon extraction and a definite church affiliation. The laws to this effect are not less binding because unwritten. Moreover, the conditions controlling a candidate's campaign are as well defined as are the personal qualifications.

For months before the election, dispassionate and objective consideration of any national issue is all but ruled out. The candidate is expected to appear personally in as many States as possible, and to slant his speeches towards the dominant interest of the locality, regardless of the resulting inconsistencies which partisan critics will be on the *qui vive* to detect. In moderating these conditions somewhat, radio and television have simultaneously established new ones. The candidate now must be nicely groomed, reasonably photogenic and something of an actor to boot. Possibly a Robert Montgomery could make another Abraham Lincoln an acceptable candidate today. But it would require a lot of make-up, in every sense of the word.

The staging of the Presidential campaign is also stereotyped. There must be countless rallies, with a heavy concentration on banalities, platitudes, histrionics and double-talk. The formula further demands that tons of newsprint be consumed in reporting these largely meaningless garrulities. Expenditure of money is almost as lavish as the waste of time, for a major purpose of each camp is to cancel whatever political effect has been achieved by the other. The incongruous antithesis of elephant and donkey is well chosen. They never come to grips with each other in natural life, and not much more so in politics.

Behind all this façade, however, a number of shrewd professionals are operating with keen intelligence. This dexterous political manipulation is readily apparent at the precinct level, where fanfare and window dressing are at a minimum. There the concentration is on the machine and not the man. As its operation moves up to the culminating circus of the national convention the party machine is progressively concealed by the panoply of showmanship. But we all know that the strategy is determined in hotel suites, controlling the tactics followed on the floor of Convention Hall. Of course, as in all big battles, the high command sometimes loses control.

What should be better appreciated is the fact that the farther we get from the local community, the more gaudy and the less democratic our politics become. It is at the grass roots, or in the city blocks, that they have the greatest reality. There politics are truly popular, or can be made so. On the national level there is much stimulated sound

and fury—indeed an approximation of bedlam—but the significance so far as democracy is concerned diminishes. To be a ward or precinct leader you do not have to be an Anglo-Saxon Protestant; you need not dress well, look well or speak well. Indeed such attributes are likely to be handicaps. The characteristics necessary for a President are decidedly not the ones of those who are most influential in selecting the candidates for that office.

There is nothing even remotely cynical in this realistic appraisal of our major political enterprise. As a wise Frenchman said: "*On se moque de ce qu'on aime.*" Those who have learned political folkways as city hall reporters are not those who love them least. Like all folkways, there is good practical reason for cherishing them. To examine a tradition closely is to find that, though possibly outworn, it is at least logical and reasonable in origin.¹

If you consider the United States as a federal union of fifty largely self-governing republics, then the protracted carnival of a Presidential year makes plenty of sense. The overall expenditure of time and money and energy on politics must be divided by the number of States to get a true proportion. It isn't a President of the American *people* that is being chosen, but a President of the United *States*. So it is altogether fitting and proper that Rhode Island should try to put on as much of a show as Texas; that Nevada as well as New York should desire visits by the candidates.

¹ This is well brought out by Frank R. Kent in *The Great Game of Politics*, William Morrow & Co. (New York 1923). See also his *Political Behavior* (New York 1928).

A vitally important part of the quadrennial election is the choosing of the local officials. And the union of the self-governing commonwealths in a compound republic is given nationwide recognition by the fuss and fun and frolic over the rival aspirants to the White House.

In each State, moreover, the campaign objective is not so much the election of the President as it is party control over the electoral vote of that State. This point is fundamental, yet easily overlooked. It is made clear by turning from the method of nomination to the very definite rules, completely undemocratic in nature, that govern the election of a President of the United States.

Although many think otherwise, no American has ever voted directly for any Presidential candidate. The vote, by States, is only for the unduplicated Presidential electors nominated separately in each State. These electors are equal in number to the total Congressional representation of each State and so cannot be less than three, which is currently the case for Alaska, Delaware, Hawaii, Nevada, Vermont and Wyoming. The minimum of electors for a State is three, but there is no set maximum, since population determines the size of each State's representation in the House, and even when the total number is not increased there is a reapportionment after every decennial census. This necessarily brings some States up, and others down, in the number of electoral votes and therefore in the scale of political importance.

At present, New York has the largest electoral vote—

45—followed by California and Pennsylvania with 32 each. In 1948, New York had 47 electoral votes, Pennsylvania 35, Illinois 28 (now 27), while California was then only tied with Ohio for fourth place, at 25 electoral votes. It is, of course, a matter of great political significance that California gained seven electoral votes by the 1950 census, while New York lost 2, Pennsylvania lost 3 and Illinois lost 1. The 1960 census seems destined to give California a bloc of electoral votes not far short of that of New York, though this further shift of political power to the West Coast will not take full effect until the Presidential election of 1964.²

Since there are currently 100 Senators and 437 members of the lower House the total membership of the Electoral College is 537. A majority of this figure, meaning a minimum of 269 electoral votes, is necessary to elect a President by what has come to be regarded as normal procedure. But if no candidate secures this majority the election is thrown into the House of Representatives, under the provisions of Article II, Section 1 of the Constitution, as revised by the Twelfth Amendment. This happened in 1800 and 1824. We should examine the latter occasion closely, because its repetition is always possible. Indeed, the founding fathers expected the President to be elected “frequently” by the House of Representatives. In No. 66 of the *Federalist* papers Hamilton predicted this

² Hawaii, with only one Representative to start, will obtain another by the 1960 reapportionment.

and further observed that “this ultimate though contingent power” of the House might well operate “to outweigh all the peculiar attributes of the Senate.”

With only two major candidates, and as long as the total of the Electoral College is an odd number, a President obviously must be elected, if only by a bare majority of the electors, on the appointed day.³ But whenever there is a third strong candidate, likely to win a sizable number of electoral votes, the situation is altogether different. Then there is no certainty that any one candidate will get a majority and a distinct possibility that the front-runner will have only a plurality. That is not less likely because the six most populous States together currently have 34.5 per cent of the electoral vote; the next six States together have 17.1 per cent; the remaining 38 States (counting Alaska and Hawaii) together have only 48.4 per cent, which is a minority of the Electoral College. So, in a three-cornered Presidential campaign, it is arithmetically possible for a candidate to win more than three-quarters of the States on election day, but not be elected until the House has acted, on the purely federal basis of one State one vote. Something like this happened in the Election of 1824, which had momentous consequences.

That, which was the tenth Presidential election, was the first in which any attempt was made to count the popular vote. This had previously been impossible to tabulate, by candidates, because then only the names of the electors

³ A tie vote between two candidates is barely possible in the case of an even number of total electoral votes.

appeared on the ballots and these electors were originally uncommitted. In the Election of 1824, for instance, two of Louisiana's five electors voted for John Quincy Adams and three for Andrew Jackson, a division regarded as black ingratitude by the hero of New Orleans.

The elasticity of the original system extended to the time and method of choosing the electors. For the election of 1824, Congress had stipulated that they be chosen between October 27 and December 1. In Ohio and Pennsylvania the choice was made by the voters, who went to the polls on October 29. In Louisiana and South Carolina the State legislatures chose the electors and did not act until November 22. Thus the first stage of the 1824 election—the selection of the electors—was spread out over a period of more than three weeks and even so was wholly inconclusive, except for the easy triumph of John C. Calhoun as Vice-President. For the Presidency itself the Electoral College divided, 99 for Jackson, 84 for Adams, 41 for William Crawford, and 37 for Henry Clay. None had a majority, so nobody was elected.

This, of course, was wholly in accord with the Constitution, as it stood and still stands. Article II, Section 1, permits each State to appoint its electors "in such manner as the Legislature thereof may direct," the only limitations being that nobody holding office under the national government, nor any member of the Congress, shall be an elector. The objective was to have the President chosen by non-political community leaders—thoughtful men in a "detached situation" to quote from the analysis of this

highly undemocratic procedure made by Alexander Hamilton.⁴ “It was desirable,” Hamilton concedes, “that the sense of the people should operate in the choice of the person to whom so important a trust [the Presidency] was to be confided.” But:

It was equally desirable that the immediate election should be made by men most capable of analyzing the qualities adapted to the station, and acting under circumstances favorable to deliberation, and to a judicious combination of all the reasons and inducements which were proper to govern their choice.

Furthermore, it was deemed “peculiarly desirable” to safeguard the choice of the President against “democratic passion.” The localized selection of many electors, Hamilton concluded, “will be much less apt to convulse the community with any extraordinary or violent movements, than the choice of *one* who was himself to be the final object of public wishes.”

Hamilton’s defense of this federalized electoral system is the more interesting because he himself was a nationalist, usually very luke-warm to the whole theory of federalism. But if nationalism implied democracy he was for federalism as much the lesser evil. And there was general agreement on the indirect election of the President, through the medium of an independent Electoral College. The result is that this vital choice is even now not really a national election but rather a collective election by the

⁴ *The Federalist*, No. 68.

States, which were and still remain its indispensable basis.

The professional politicians, who have to make this complicated system work, have therefore from the beginning concentrated on the *electoral* rather than on the popular vote. For a long time that meant concentration on State almost to the exclusion of national politics, since some of the State legislatures appointed their electors until the Civil War and in the South especially were jealous of the prerogative. In the quadrennial Presidential election one might reasonably expect domestic politics to be national rather than local in emphasis. But due to the device of the Electoral College, often criticized but still inviolate, local considerations remain paramount. This was demonstrated in the 1956 election, when President Eisenhower himself won easily, but was unable to carry either House of Congress for his party. The reverse anomaly, for Mr. Stevenson, was of course equally pronounced.

Up to a point, the development of party organization has modified Presidential election procedure. Manifestly, such organization would have been futile if the original conception of a wholly independent Electoral College had endured. Political parties must by their very nature endeavor "to convulse the community with" those "extraordinary or violent movements" against which the Electoral College seemed to Alexander Hamilton reliable insurance. There was certainly no point in organizing the electorate to vote for a Presidential candidate when the popular vote was not even tabulated. And the only way in which a vote

for an elector could be counted as a vote for a President was first to have the electors presented as party nominees and then to get each state-wide bloc of electors pledged to the party candidate.

That did not come overnight, and it is important to realize that there is still absolutely no legal compulsion for an elector to vote as pledged. In 1948, Truman polled 270,402 votes in Tennessee, Dewey 202,914 and Thurmond only 73,815. But an independent-minded Tennessee elector named Parks nevertheless cast his conclusive ballot for the "Dixiecrat" candidate. The right of Mr. Parks to do so could not be questioned and the official records show that in this election Truman got 11 electoral votes in Tennessee, Thurmond one and Dewey none. Even more noteworthy was the action of an Alabama elector, Mr. W. F. Turner, in 1956. Instead of casting his electoral vote for Stevenson, who had carried all but eleven of Alabama's 67 counties, Mr. Turner voted in the Electoral College for Circuit Judge Walter B. Jones, who was not even a Presidential nominee in Alabama or in any other State.

There are many other instances of electoral independence. In 1916 Woodrow Wilson received one electoral vote from West Virginia, although Charles E. Hughes carried the State. In 1904 Maryland gave one of its electoral votes to Theodore Roosevelt and the other seven to Alton B. Parker. Before the turn of the century divisions of a State's electoral vote were frequent. In 1892, North Dakota gave one of its three electoral votes to the Democratic, one to the Republican and one to the Populist candidate.

Every historian of Jackson's era has noted the "swelling demand," as Marquis James describes it, for some measure of political democracy which marked that period. The application of a greater degree of democracy to Presidential elections began to be urged when James Monroe, running for his second term in 1820, received 231 of the then total of 235 electoral votes, a victory almost as disproportionate from any representative viewpoint as Roosevelt's 523 to 8 triumph over Landon in 1936. This virtual unanimity of Monroe's second election stimulated the rise of party organization, and the introduction of a certain measure of democratic practice following the bitter election of 1824. Also, the leadership of the Revolutionary period had by then served its time; the frontier had been pushed beyond the Mississippi; new interests and new problems occupied the minds of the electorate, and new electoral methods were desired to deal with them. The stage was set for change when Monroe, the last of the "Virginia dynasty," made it plain that he had no intention of challenging the already firm two-term tradition.

There were at first five avowed candidates, all strong men but none with a binding party label, for one must remember that there were then no established parties in the modern sense of the word. Calhoun, however, shrewdly switched his candidacy to the Vice-Presidency when a Pennsylvania Convention, on March 4, 1824, abandoned his cause to endorse Andrew Jackson, the newly elected junior Senator from Tennessee. At this State convention, significantly, "all sound Democrats" were

urged to vote for electors favoring Jackson, who at the time was still calling himself a Republican.⁵ So were the other three candidates, John Quincy Adams, heir to the anti-democratic, Federalist tradition of his father, most appropriately by modern standards; Henry Clay, the debonair, clever, unscrupulous Speaker of the House, a serious threat to Jackson's Western support; William H. Crawford, of Georgia, Monroe's Secretary of the Treasury, at the outset a leading contender, but in the fall of 1823 stricken with paralysis.

This was a fateful illness for American politics, because it helped to destroy the old system of nomination by Congressional caucus. Crawford, like Senator Taft in 1952, was the most popular of the candidates in Congress. But the caucus method of nomination was for that very reason under vehement attack by all his rivals. When the caucus attempted to nominate the obviously incapacitated Crawford this criticism burst all bounds. In the upshot a majority of the members boycotted the gathering, and jeered from the gallery of the House when Crawford, and Albert Gallatin for Vice-President, were nominated by a rump group of 66.⁶

⁵ James, *Andrew Jackson*, p. 390. See also Wiltse, *Calhoun*, Vol. I, pp. 282-4.

⁶ The nomination was not unanimous, though Crawford, counting the two proxies, received 64 of the 68 votes cast. Albert Gallatin received 57 votes for the Vice-Presidential nomination. The desperation of those backing the stricken Crawford was evidenced by selection of the foreign-born Gallatin as his running mate and presumable successor. Gallatin, one of the lesser known but most able of American statesmen, was born in Geneva in 1761, almost half a century after Rousseau, who unquestionably influenced the younger man's thinking. (See Raymond Walters, Jr., *Albert Gallatin*, The Macmillan

It took some time to build the system of national nominating conventions on the ruins of the caucus. Separate state conventions, of which our present Presidential primaries are the heritage, filled the gap. But the old system of nomination by Congressional caucus had its death blow when Crawford was fruitlessly named on February 14, 1824. "The caucus," said the then Representative Daniel Webster shrewdly, "has hurt nobody but its friends. . . . Mr. Adams and General Jackson are likely to be the real competitors at last."⁷

And so they were. Jackson carried 11 of the 24 states to seven for Adams, with Crawford and Clay leading in three apiece. But the electoral vote was divided in many of the States, and Jackson's total of 99 electoral votes was under 40 per cent of the total of 261. So a House run-off election was necessary, between the first three contenders, as provided in the Twelfth Amendment. The crippled Crawford stayed in the fight, for he had won 4 more electoral votes than Henry Clay. The Speaker of the House had been eliminated as a possible President, but not as a President-maker.

There are various accounts of the deal negotiated between John Quincy Adams and Henry Clay. In the mind of Marquis James, Jackson's most careful biographer, there is no doubt that Clay sold his great influence in the

Co. (New York 1957) p. 8 and p. 318. Gallatin was nineteen when he emigrated to America, towards the close of the Revolutionary War. His "foreignness" was the more of a political handicap in 1824 because he had then only recently returned from ten years of almost uninterrupted diplomatic service in Europe. Gallatin did not die until 1849, when he was 88.

⁷ Quoted by James, *op. cit.*, p. 389.

House to Adams in return for a promise that the “Kentucky gamester” would be made Secretary of State. James traces the secret agreement to the night of January 9, 1825, exactly one month before the run-off election.⁸ The indisputable fact is that in this election the tables turned sharply and surprisingly in Adams’ favor. He had won in only 7 States at the polls, but received the support of 13 under the unit rule by which the House voted on February 9. Jackson now had only 7 States behind him, and Crawford 4. So John Quincy Adams, by a bare majority of the then 24 States, was elected and duly inaugurated on March 4. And it is a further fact that Clay had by then already been named as Secretary of State, and that 14 Senators out of 48 resentfully voted against his confirmation.

That historic election of 1824 deserves remembrance, not only because of its intrinsic interest but also because its salient features could easily be re-enacted. Indeed, in 1948 the election was not far from being thrown into the House for the third time, as we shall now recall.

⁸ *Ibid.*, pp. 427 ff. See also p. 852.