
THE PUBLIC POLICY

by Marc F. Plattner



Electoral College Reform: Benjamin Harrison Never Again

Although few Americans may be aware of it, the nation is currently in the midst of the latest in a long line of attempts to abolish the electoral college. Last year, with the support of President Carter, Senator Birch Bayh introduced a resolution that would amend the Constitution to provide for direct election of the President. That resolution passed the Senate Judiciary Committee by a narrow margin in September of 1977 and is expected to reach the Senate floor sometime this year.

Much of the impetus for the current effort at reform was provided by the close outcome of the 1976 presidential contest, in which a shift of about 8,000 votes to Gerald Ford in Ohio and Hawaii would have given him an electoral vote majority, despite Jimmy Carter's 1.7 million advantage in the popular vote. The main argument of proponents of direct election has been that such a reversal of the popular-vote verdict would cause consternation among the American people and severely weaken the legitimacy of a president elected under these circumstances.

Another danger in the present system is the possibility that a strong, regional third-party candidate may gain enough electoral votes to prevent either of the major-party candidates from winning an electoral college majority. In that event, the third-party candidate would be in a powerful bargaining position, whether the election were thrown into the House of Representatives or he chose to cut a prior deal in the electoral college itself. This of course was George Wallace's strategy in 1968. Although the attempt failed, the specter of another Wallace candidacy in 1972 spurred efforts at reform in the 91st Congress; a direct-election amendment passed the House by a substantial 338-70 margin in 1969, but

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fell victim to a filibuster in the Senate.

Public opinion polls show that a large majority of the American people do not really understand the workings of the electoral college system and would favor a change to direct election. In addition, direct election has been endorsed by a wide range of interest groups (including the AFL-CIO, the U.S. Chamber of Commerce, the League of Women Voters, and the American Bar Association) and politicians (including Gerald Ford and Robert Dole, as well as President Carter and Vice-President Mondale). Yet many of America's most distinguished political scientists are opposed to direct election, fearing that it will bring certain consequences—largely unforeseen by its proponents—that would weaken the two-party system and the federal balance.

Most direct election proposals, including the Bayh Amendment, require that the leading candidate obtain at least 40 percent of the total popular vote in order to win the election; if no candidate receives that much, a runoff election is held between the two leading vote-getters. This provision is likely to offer an incentive to new minor parties to enter the presidential race in hopes of forcing a runoff and thereby extracting concessions from one of the leading candidates in exchange for support. The 40-percent threshold would also provide a greater incentive for "splinter" candidacies of major-party factions that lose (or choose not to contest) their party's nomination. Under the present system a splinter candidate would find it difficult to win many electoral votes, but under direct election he might realistically hope both to come in second in the popular vote and to prevent the winner from reaching the 40-percent threshold, and thereby have a chance for victory in the runoff.

Direct election would deprive the states of any formal role in presidential elections. It might consequently lead candidates to focus their campaigns on relatively undifferentiated national constituencies and pay less attention to local concerns and ethnic

or interest groups concentrated in particular states. The result would be a more plebiscitary style of presidential elections, with less of the coalition-building across ethnic and regional lines that now characterizes the campaign process. This would prompt an even greater reliance on the media and a corresponding decrease in the importance of state party organizations. Moreover, the logic of direct election seemingly calls for a shift to national presidential primaries as well—a development that would further weaken the political importance both of the states and of state party organizations.

All these arguments in favor of and against abolishing the electoral college were recently debated by a Twentieth Century Fund Task Force on Reform of the Presidential Election Process. This group, co-chaired by Jeanne Kirkpatrick of the American Enterprise Institute and Stephen Hess of the Brookings Institution, was composed of a diverse and bipartisan mix of political scientists, journalists, and political strategists (including Reagan advisor John Sears and Carter advisor Patrick Caddell). Throughout most of its deliberations, the Task Force was more or less equally divided between supporters and opponents of the electoral college; but then the group hit upon a new compromise proposal, subsequently dubbed the "national bonus plan," which, remarkably enough, gained almost unanimous support and became the featured recommendation of the Task Force's report.*

The national bonus plan, in the words of the report, "calls for adding a national pool of electoral votes to the existing state pool of electoral votes. The national pool would consist of two electoral votes for each state (plus the District of Columbia), which would be awarded on a winner-take-all basis to the candidate with the most popu-

* The report, along with a background paper by William R. Keech, will be published late this spring by Holmes & Meier.

lar votes nationwide. The state and national votes would then be added together, and the candidate with the majority of electoral votes would be elected to the presidency."

The national bonus plan effectively meets the main objections put forward by opponents of the existing system. First, it virtually eliminates the possibility of a divergence between the popular-vote and the electoral-vote outcome. Since the popular-vote winner is awarded 102 votes by the national bonus, he need receive only 219 of the 538 state-based electoral votes to gain an electoral-vote majority (i.e., 321 of the new total of 640 electoral votes). If the national bonus plan had been in effect in past elections, the popular-vote winner would in every case have received the most electoral votes as well.

Second, the national bonus plan makes it almost impossible for a regional third-party candidate to produce an electoral college deadlock, as Wallace hoped to do in 1968. In that year Wallace received 46 electoral votes, and if Nixon and Humphrey had split the remaining state votes fairly evenly, no candidate would have won a majority under the existing electoral system. But under the national bonus plan, even if the two leading candidates had split the remaining state-based electoral votes evenly, the popular vote winner would still have gained an electoral-vote majority with the help of the 102-vote national bonus.

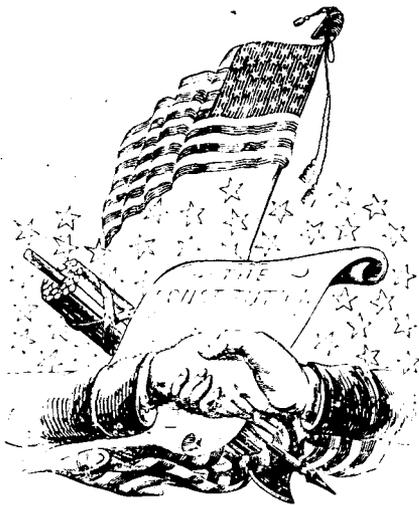
It is also worth noting a third complaint against the electoral college which is remedied by the national bonus plan. Advocates of direct election argue that in states heavily dominated by one political party there is now very little reason for the other party to campaign very vigorously; furthermore, they allege that a citizen in a one-party state who favors the presidential candidate of the weaker party is effectively disenfranchised, since he knows his vote cannot help the candidate of his choice. Under the national bonus plan, however, there would be 102 critical electoral votes contested on a national basis. Candidates would therefore be vitally interested in maximizing their popular-vote total even in states they had no chance of winning, and voters in one-party states would have a much stronger incentive to go to the polls.

Although it promises to achieve the major objectives of supporters of direct election, the national bonus plan does not entail the same risks. It offers no new incentive to minor-party or splinter candidates—if anything, it reduces some of the incentives that now exist. And it maintains the federal character of presidential elections by leaving the states with a decisive constitutional role in the electoral process.

Might there be other potential consequences of the national bonus plan that the Twentieth Century Fund Task Force has overlooked? The late Martin Diamond, in a brilliant pamphlet defending the electoral college,† argued that a change to direct

election would not make our presidential election system *more* democratic, but would transform it from a procedure that now is *federally* democratic to one that is *nationally* democratic. Viewed in these terms, the Twentieth Century Fund Task Force's plan adds a distinctly national element (the 102-vote national bonus) to what remains a preponderantly federal method of aggregating the presidential vote. It may be expected, then, that the potential liabilities, as well as the strengths, of the national bonus plan *vis-à-vis* the existing system will flow primarily from its nationalizing aspect. By the same token, these liabilities will generally be less acute versions of problems that beset the *wholly national* method of direct election.

Since the national bonus plan makes it all but certain that the popular-vote leader will win the presidency, it could conceivably encourage campaign strategies that



ignore state boundaries and coalition building across regions and aim simply at amassing a nationwide plurality. In other words, it could lead candidates to act as they would under a system of direct election. Yet the fact that over 80 percent of the electoral votes under the national bonus plan would continue formally to be awarded to the winners of individual states should pose a formidable psychological barrier to this nationalizing tendency. Moreover, if a popular-vote winner's nationwide plurality derives from overwhelming support in a single region and only modest support elsewhere, there still remains the possibility that he could fail to gain an electoral-vote majority.

Another set of potential difficulties with the national bonus plan involves the counting of the national popular vote (which determines the award of the national bonus). Under the current system, the only official tally is the electoral vote count, and

† Martin Diamond, *The Electoral College and the American Idea of Democracy*, American Enterprise Institute, Washington, D.C., 1977.

each state is free—within certain constitutional limits—to determine in its own fashion such matters as how parties and candidates qualify for a place on the ballot, how ballots are structured, who is qualified to vote, what the hours, places, and methods of voting are, and what procedures are used for vote-tallying and recounts. It would theoretically be possible to allow for continued diversity in these matters under the national bonus plan. But since interstate variations might significantly affect the national popular-vote count, there would probably be considerable pressure for Congress to enact uniform national standards in this area. (Such pressures would obviously be even sharper under a system of direct election.) There is a good case to be made for the desirability of uniform standards of election administration, but the nationalizing of this function could also open the way to serious partisan abuses. This whole question is one that merits further exploration and debate before *any* reform of the electoral college is enacted.

Assuming that problems of election administration would not prove to be a significant liability, is it worth amending the Constitution to substitute the national bonus plan for the electoral college? Authorities from Aristotle to James Madison may readily be cited on the undesirability of changing fundamental political laws for light or transient causes. One Twentieth Century Fund Task Force participant was fond of citing not only Lord Falkland's epigram, "When it is not necessary to change, it is necessary not to change," but also its homelier American equivalent, "If it ain't broke, don't fix it." And it must be admitted that, even from the perspective of its detractors, the electoral college has not broken down since 1888, when Benjamin Harrison won the presidency despite running second in the popular vote—a "breakdown" that did not seem to shake the foundations of the Republic.

On the other hand, a much more populist spirit reigns in the United States today than a century ago. Hence it is likely that any future electoral college outcome that reverses the popular-vote count will, whatever its other consequences, spur a headlong rush into instituting direct election. Indeed, direct election might well be adopted without such a stimulus; it may even be approved by the Congress this year (although the odds seem to be against it). And given the risks to our political system inherent in direct election, there are strong grounds for constitutional conservatives to back the national bonus plan as a much safer way of remedying the defects of the electoral college. Any reform always carries with it the potential for unexpected mischief, but the national bonus plan is a conservative reform in the best sense—one designed to preserve insofar as possible the desirable features of the present system. □

THE TALKIES

by Ben Yagoda



Rock-and-Roll Grandeur

I'll tell you 'bout the magic
that will free your soul,
But it's like trying to tell a stranger
about rock-and-roll.

So sang the Lovin' Spoonful, back in a time when it seemed that the music really could set America free, until everyone was gyrating to the same beat, not talking about it—because you couldn't tell a stranger about rock-and-roll—but *feeling* it, man, and the world would be made anew.

It didn't work. Rock, which began almost a quarter-century ago as a broad-based, energized reaction to a socially repressed time, and had its moment of hubris in the sixties, is now firmly entrenched in its decadence. To be sure, the American pop song has been irreversibly changed, and good rock is still being made, but the music is no longer anything more than that. The current rock panoply consists of mellow crooners, balding ex-superstars, depersonalized and mindless disco outfits, strung-out heavy metalists, and various other contingents, each appealing to an ever-narrower audience. As for pink-haired punk, or "the New Wave," many see it as a revitalizing force, a return to the energy, simplicity, and anger of rock's roots; others argue, perhaps more persuasively, that Johnny Rotten, Meat Loaf, the Dictators, and company are a glorified death rattle.

As a rule, cultural phenomena begin to be viewed from a historical perspective only when they have lost their currency, and so it is fitting that we are now being treated to a spate of movies about the rock era. (More are on the way—*Grease*, *Hair*, *Sergeant Pepper's Lonely Hearts Club Band*, *The Buddy Holly Story*, and, no doubt, others.) To proceed chronologically, *American Hot Wax*, set in 1959, is about Alan Freed, the Ohio-born disc jockey who is credited with coining the term "rock-

and-roll" and with bringing the music to the public's attention, and who was the principal victim of the payola scandals of the early sixties. According to *Hot Wax*, Freed was the innocent victim of an evil coalition from officialdom which combined to stop the first-anniversary rock show at the Brooklyn Paramount (the film's climax), and then sent him out of the music business and to his early death in 1964. Accepting money from record companies was a universal practice among DJs, contend director Floyd Mutrux and screenwriter John Kaye; the establishment was really afraid of the sexual energy released by rock and the prospect of "black kids and white kids boogeying together." The unspoken but strongly implied conclusion is that, *vide* the sixties, we lost the battle but won the war, that Freed died so that rock might live.

Hot Wax has been upbraided by some for whitewashing Freed, misrepresenting his foes, and getting the details all wrong. A rock journalist friend of mine, on the other hand, tells me that the film's facts are substantially correct, since Freed's ex-manager was a consultant (although Freed's ex-manager probably isn't the most objective source in the world). But finally, it doesn't matter. Fictions, even if they are based on real events and people, should not be judged on historical accuracy, on how much Brian Keith looks like Teddy Roosevelt, but on their own terms, as works of art.

On that score, *American Hot Wax* fails badly. The story is shapeless. The secondary characters are unreal, especially the pin-striped heavies. The closest Mutrux and Kaye come to interpreting an eminently interpretable decade is showing us pompadours, *Mad* magazines, narrow lapels, big fins, and other fifties' artifacts. The script offers no insight into Freed's devotion to rock or the reasons for his appeal. As for "the music" (as it's repeatedly called), supposedly the source of all the commotion, we are fed the simple-

minded idea that the kids just want to have a good time, the grown-ups want to stop them, but the music's bigger than them all. This credo is expressed in a series of numbing, "significant" lines, ranging from a budding songwriter's "I never had anything till I found the music" to Freed's climactic "You can close the show. You can stop me. But you can never stop rock-and-roll!"

Two things make the film watchable, and occasionally something more than that. The first is Tim McIntire as Freed. McIntire does a hundred things right: the Buddha-like grin when listening to the latest release; the slight Midwestern twang; the straight, almost square mike style (as opposed to the fast-talking hype we expect from AM jocks); the portly imitation of Chuck Berry's duckwalk during the Paramount concert. His performance gives us a glimpse of a far better film that might have been. So do Carl Earl Weaver, Al Chalk, Sam Harkness, and Arnold McCuller as the Chesterfields, a fictional black *a cappella* group "discovered" by Freed. They not only make fine music, but their spirit communicates what distinguished fifties rock: the way anyone, so long as he had three other guys and a bathroom, subway station, or streetcorner, could create it. When Freed, secretly watching the Chesterfields rehearse, murmurs, "That's it, that's it," we may be put off by the portentous way the sentiment is expressed, but we can't help agreeing.

I Wanna Hold Your Hand, another New York period piece, is somewhat less ambitious than *American Hot Wax*, and is to that extent more successful. The year is 1964, on the day of the Beatles' initial appearance on the "Ed Sullivan Show." The Fab Four, cleverly, are not shown (not above the waist anyway); the focus is on six suburban teenagers who are determined to catch a glimpse of their heroes, or die trying. Along the way, they manage to carry out every hotel sight-gag in the book:

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