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BOX 618, ALTON, ILLINOIS 62002

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American Election Procedures

Electoral College

The Senate Subcommittee on Constitutional Amendments has approved a proposed amendment to the U.S. Constitution which would eliminate the Electoral College and replace it with a direct popular national election in which the U.S. President would be elected with 40 percent of the vote.

This radical proposal, if adopted, would encourage presidential candidates to gear their time, money, and policies toward the half dozen most populous states where big-city machines could roll up extra millions of votes. The rest of the country would become irrelevant to the executive branch of the Federal Government, even though the policies and tactics involved in securing extra votes in New York City or Washington, D.C. are usually contrary to the best interests of most of the rest of the country.

If the plurality required for the election of a President were reduced from 50 percent to only 40 percent, the system would provide a built-in incentive for many candidates to try for the 40 percent, and conversely an incentive to field straw candidates in order to prevent an unwanted candidate from achieving the 40 percent. With many candidates in the race, no one would receive 40 percent, and the final decision would almost always be thrown into the hands of Congress.

This would effectively transfer control over the election of the President from the states and the people to the U.S. Congress, which is the exact opposite of the intent of the Founding Fathers. This would replace our present separation of powers with the European parliamentary system of government.

The present Electoral College is the only occasion in our political process in which 50 percent of the entire nation must agree on something or someone. This provides a basis for the leadership our country needs in time of crisis. Under the proposed constitutional amendment, we would always have minority Presidents with an inadequate basis of support.

When a candidate wins a lopsided victory, no one demands a vote recount. It is the close elections that cause the problems and for which our system must provide. The Electoral College reduces the problems involved in a close election to a minimum. The Senate was engaged for months during 1975 in trying to resolve the disputed election for a New Hampshire Senate seat. Just imagine the confusion if we were faced

with vote recounts in all 50 states at the same time in order to determine if a presidential candidate got 39.999 percent of the vote or 40 percent. The present Electoral College system effectively prevents a contest in more than a couple of states in any given election.

One of the principal purposes of our unique Electoral College is to keep the meddling fingers of Congress out of the election process. The Electoral College is the only function of our national government that is performed outside of Washington. The President is elected by electors chosen in their states according to state election laws, who meet and cast their ballots in their own state capitals. No Senator, Congressman, or Federal official is permitted to be an elector in the Electoral College.

The Electoral College has served us well for 200 years, and there is every reason to believe it can continue to serve us for the next 200.

Postcard Registration

If you thought the spenders in Washington have already devised every possible way to spend our tax dollars, you are wrong. They are working overtime to establish a brand new bureaucracy called the Voter Registration Administration whose principal function would be to mail postcard registration forms to 90 million Americans prior to every federal election, even though most of them are already registered. Quite apart from the waste, the red tape, the cost, and the unnecessary extension of federal control involved in such a scheme, there are two major kinds of problems it would cause: the honest problems and the dishonest problems.

Among the many types of honest problems would be those caused by the fact that registering voters requires positive identification of the exact location of each voter's residence. James C. Kirkpatrick, formerly the president of the National Association of Secretaries of State, and now still the Secretary of State of Missouri, pointed out that a voter who completes a postcard giving his proper mailing address, as, for example, "Rural Route 1, Harrisonville, Missouri," simply cannot be registered to vote because that is not enough information to assign a voter to a precinct. Rural Route 1 is 84 miles long and passes through five different precincts.

This situation is not unusual. Nearly 33 percent of Missouri households are located on rural routes or in

small towns without street addresses. Outside the metropolitan areas of the two largest cities, more than 60 percent of all households have mailing addresses which do not locate them accurately enough to be assigned to election precincts.

If rural election authorities are swamped with postcard registration forms, it will be impossible for them to complete the necessary follow-up without massive federal assistance and funds -- which will in turn bring more cost and more federal control.

The endless administrative problems would also include the inevitable duplicate registrations, the illegible handwriting, the paperwork involved in catching up with people who have moved, and the confusion created by dual registration systems.

The dishonest problems that would be spawned by postcard voter registration would be infinitely worse. In areas of big-city machine politics, where the dead vote early and often, the postcard voter registration bill would create more ghosts in every ward than there are in the haunted house at Disney World.

A study made by Professor Richard G. Smoika of American University for the American Enterprise Institute, based on the postal registration experience in Maryland and New Jersey, discovered a wide variety of nonelection misuses of voter registration cards, such as illegal aliens registering to vote and then using the voter cards as proof of citizenship to obtain jobs, under-age youths using the voter cards for the illegal purchase of liquor, and prostitutes registering under different names in order to avoid records of multiple arrests.

The certainty of administrative confusion plus the immense potential for election frauds, especially of the types that are very difficult to detect, make it imperative that the postcard registration bill be defeated.

The Right Not To Vote

After the 1974 election returns showed that only 38 percent of the voting-age population cast ballots, the American people have been subjected to recriminations from do-gooders who bemoan the failure of the majority to do their "citizen's duty" and exercise their franchise.

Voting in the Soviet Union is an obligation -- enforced by the government in order to demonstrate a fictitious 99 percent support for the Communist Party candidates. Voting in the United States is not and should not be an obligation; it is a right that may be freely exercised or not, as the individual wishes.

By choosing *not* to vote, the citizen is consciously or subconsciously expressing his view that it doesn't make any difference which candidate wins. This was precisely the message sent loud and clear by the 62 percent majority who chose *not* to vote in the 1974 election.

It is hard to blame the average citizen for concluding that there's not a dime's worth of difference between the national candidates. In 1972, the voters rejected George McGovern as too out of step with America to be President, but got Richard Nixon who soon proved to be also out of step.

In 1968 the voters chose Richard Nixon and his conservative platform, and then after the election saw him adopt Hubert Humphrey's liberal policies. In 1964 the voters selected Lyndon Johnson, the so-called man of peace, over Barry Goldwater who was alleged to be a

trigger-happy warmonger. And what did we get after the election? Eight years of war.

It is time to do some innovative thinking about alternative methods of giving the voters an honest choice. After all, there is nothing in the U.S. Constitution that binds us to the two-party system. It is grafted onto our system of government by a network of state laws that can be changed if the voters choose to do so. If the two-party system really has the vitality claimed for it, it can survive without its artificial props.

Maybe we should experiment with ballots for national and state elections that group candidates by the office they seek instead of by party. This is already done in many local elections, and would enable Presidential, Congressional, and state candidates to run on their individual merits and to be held individually accountable by the voters.

In any event, those who are making plans for 1976 must figure into their equation the fact that the Independent bloc of voters now accounts for about one-third of the electorate -- more than the number of Republican voters. The surprise victory of Independent James Longley as Governor of Maine may indicate a new desire by the voters to look for candidates not affiliated with either of the two major parties. In past elections, Republicans have been the chief beneficiaries of the Independent voters, but that certainly was not true in 1974.

The balance of power in American politics lies in the millions of unaffiliated voters. The big question is, which party and which candidates will relate to their problems and their hopes?

Ballot Laws

Our Founding Fathers, whose great vision gave us the American Constitution, not only did not plan our two-party system, they did not want political parties at all. As these unanticipated appendages grafted themselves onto our body politic, they also became institutionalized by a network of federal and state laws that give the two major parties an official role in the conduct of elections.

One of the many ways that the dominance of the two-party system is maintained and competition from upstart new parties is frozen out, is by the format of the ballot itself. Candidates are listed in columns by their political party, thus making it easy and often compelling for the voter to vote a straight-party ticket by placing a single X on the paper ballot or by pulling one lever on the voting machine.

It is thus unnecessary for the voter to make individual judgments about individual candidates, or even to know their names. In many large cities, the control of the straight-party ballot voting is the key to winning elections.

The argument in favor of this system is party responsibility, that is, the voter can hold the party responsible if it nominates bad candidates. This argument has merit, however, only if the candidates of one party, in general, represent a different philosophy from the other, and if the voter can identify significant differences between the two parties. Recent officeholders, however, have so blurred the lines between the two parties that the present ballot system has become obsolete.

For example, the Republican Party has long been reputed to stand for fiscal integrity, yet the Nixon and

Ford Administrations have given us by far the largest budget deficits in peacetime history. Nixon abandoned practically every conservative plank he ran on and adopted policies that were more like Humphrey's.

Our two largest states, California and New York, elected Governors in 1974 thought to be liberal Democrats in the Kennedy tradition, but their hard line on state spending projects has dismayed their supporters. Another liberal Democrat, Senator Adlai Stevenson of Illinois (whose father was the self-styled original liberal egghead), has been making surprisingly forthright statements about the folly and cost of taxpayer-financed easy credit to the Soviet Union.

The Vermont Legislature in 1975 passed a ballot reform bill which is one of the most sensible ideas to surface in a long time. It would establish a ballot on which the candidates are grouped by the office they are running for, rather than by party. This would require the voter to make a judgment about the candidates for each office, instead of abdicating his responsibility by making a single mark.

Although this bill was vetoed by the Vermont Governor, his veto message did not come to grips with the real issues involved. More state legislatures should examine this idea. It would breathe new life into the election process and enable us to discard the party stereotypes that are no longer relevant.

Party Convention Rules

There are two basic approaches to permitting people to participate in their government. The first, called functional representation, is based on the theory that society is made up of different constituencies, including labor, business, church, academic, ethnic, racial, and other groups.

Each group is allocated a certain number of seats in the legislature or convention. The allocation of each group's percentage is necessarily arbitrary and imposed by a dictator or other force from above. This was the type of government used in Franco's Spain and in Salazar's Portugal.

The second type of public participation, called electoral representation, is based on the premise that society is composed of individuals who live in different communities. Under this system, the territory is divided into geographic areas, and individuals vote for their representatives from that district.

This is the type of governmental participation always chosen by democratic political systems, and it has served us well in America for nearly 200 years.

Minority militants, however, have been diligently working in the Democratic and Republican parties to restructure their National Nominating Conventions into racial, ethnic, and sex groups, rather than on the basis of delegates democratically elected from geographical areas. The militants are trying to force on each party convention a system of quotas for various minority groups. They don't call them quotas, but they amount to the same thing.

The success of these militants at the 1972 Democratic Convention led directly to the nomination of George McGovern at what regular Democrats now think was the most unrepresentative Convention in generations.

At the 1972 Republican National Convention, the militants seeking to McGovernize the party were overwhelmingly defeated by a margin of more than

two-to-one. However they are working behind the scenes through what is called the Rule 29 Committee to impose their rules changes on the 1976 Republican National Convention.

Congressman Philip Crane, who has shown particular leadership in opposing those trying to McGovernize the Republican Party, stated recently: "Quotas -- no matter how disguised -- . . . do violence to the values and freedoms of Americans in all societal groups, and they frustrate the ability of the people to name the delegates and party officials they desire through elections and conventions."

The minority militants in both political parties represent a movement that is alien to our form of government and in fundamental opposition to the democratic process. It should be clearly recognized as an attempt to suppress the right of the voters to elect whomever they choose to represent their districts at national party conventions.

Super Majorities

The 1975 battle in the U.S. Senate over changing the Senate rules to lower the vote required to break a filibuster from a 2/3 majority to a 3/5 majority has caused some people to question ever requiring a super majority. Why should we ever allocate more legal weight to a "no" vote than to a "yes" vote? Why not always stick by the principle of "one man one vote"?

In the *Federalist Papers*, the Founding Fathers stressed the need to protect ourselves against "the superior force of an interested and overbearing majority," and they enshrined a requirement for a super majority in four different places in our Constitution. Treaties may be ratified only with the advice and consent of 2/3 of the Senators present and voting.

The Constitution requires a 2/3 majority of both Houses to propose amendments, and then a 3/4 majority of state legislatures for ratification. A bill may be passed over the President's veto only by a 2/3 majority in both Houses. It takes a 2/3 majority of the Senate to convict for impeachment.

In 1971 the U.S. Supreme Court twice upheld the right of various bodies to require a super majority on particular issues. In the case of *Gordon v. Lance*, the Supreme Court upheld a requirement of the West Virginia Constitution for a 3/5 majority to incur bonded indebtedness. The Court stated, "There is nothing in the language of the Constitution, our history, or our cases that requires that a majority always prevail on every issue."

In *Brenner v. School District of Kansas City*, the U.S. Supreme Court affirmed a scholarly three-judge decision holding that the Missouri constitutional requirement of a 2/3 majority for school bond elections was constitutional. The Court then concluded: "The utilization of a 2/3 majority vote on questions considered to be of particular difficulty and importance, establishes that the Founders never for a moment considered, as plaintiffs argue, that 'the sense of the majority should prevail' in all cases or that they accepted the notion that rule by a simple majority was an inflexible 'fundamental maxim of a republican government'."

In *Rimarcik v. Johansen*, a Federal Court upheld a Minnesota statute requiring a 55 percent majority to adopt a home rule charter. In *Hall v. Thornton*, another Federal Court upheld a South Carolina constitutional requirement that a majority of those voting for incorpo-

ration is not sufficient; there must be a majority of those eligible to vote.

In 1975, a three-judge Federal District Court in Chicago upheld the right of state legislatures to require a 3/5 or other super majority for ratification of Federal constitutional amendments.

Robert Rules of Order and other similar sets of rules governing parliamentary bodies set forth many different motions that require a super majority.

Time and experience have proved that these constitutional, legislative, and parliamentary requirements for a super majority are good rules designed to empower the majority at the same time that they respect the rights of the minority.

Tyranny of UN Majorities

When U.S. Delegate to the United Nations John A. Scali delivered his remarkable speech lambasting what he called "the tyranny of the majority," he expressed the views of most Americans who were dismayed by the hypocrisy of the UN in welcoming the Palestine Liberation Organization, while expelling Taiwan from the UN, South Africa from the General Assembly, and Israel from UNESCO.

Mr. Scali's speech was long overdue -- a breath of realism for a generation that has been taught to revere majority rule, one-man-one-vote, and the United Nations, as values to be preferred over the checks and balances of the limited government created by the American Founding Fathers.

Those who have made a pseudo-religion out of the United Nations have trained our youth to believe that the road to peace lies in submerging the United States in some form of world government, just as the 13 American colonies joined to form the United States.

Yale University President Kingman Brewster, Jr., summed up the goals of the world government advocates in an article in the 50th anniversary issue of the journal, *Foreign Affairs*. He urged us to celebrate our coming Bicentennial by issuing "a resounding Declaration of International Interdependence."

Mr. Brewster called on us to "pool" our sovereignty with other nations and warned that "we shall have to abide by lawfully achieved results even when we might have wished or voted otherwise."

Most Americans can now clearly see that, although the recent UN actions were taken by majority vote, they were wrong and destructive of the rights of little countries. Cut adrift from any lasting moral principles, the UN has been drowning in a sea of words, or, as Mr. Scali put it more diplomatically, "it will fade into the shadow world of rhetoric."

The framers of the U.S. Constitution had the wisdom to protect Americans against a tyrannical majority. They specified many functions that can be performed only by very large majorities instead of by a simple majority, including approval of treaties, overriding presidential vetoes, and enacting amendments to the Constitution.

More important, our Constitution lists many things that a majority cannot do at all, such as denying freedom of speech, religion and press, taking private property without just compensation, and denying trial by jury in the district wherein the crime was committed.

The problem Mr. Scali put his finger on in the UN was forecast by Franklin D. Roosevelt in a 1930 radio address when he said: "The moment a mere numerical

superiority by either states or voters . . . proceeds to ignore the needs and desires of the minority, and for their own selfish purpose or advancement, hamper or oppress the minority, or debar them in any way from equal privileges and equal rights -- that moment will mark the failure of our constitutional system."

The recent behavior of the United Nations demonstrates clearly that our rights are far safer under the U.S. Constitution and Declaration of Independence than they are under the UN or any form of world government.

Book Notes

The First Nine Months of Life by Geraldine Flanagan is one of the most remarkable books ever published. Every mother, every father, and every mother-to-be and father-to-be will want to own a copy. It gives a sensitive and scientifically accurate account of the development of a baby from egg cell to birth. The illustrations are spectacular and give a new insight into the miracle of human life. Already a best-seller in 14 other languages. Now newly available in paperback at \$2 from Ten-Mill Books, P.O. Box 10399, Glendale, California 91209.

The Conservative's Cookbook by Anne Mudd Cabaniss is a new cookbook of delicious recipes attractively spiced with conservative humor and illustrations. "In your mouth, you know it's right." One-half of all profits go to Young Americans For Freedom. Order for yourself and for gifts from the author, Box 573, Alexandria, Virginia 22313, \$3.50.

Books by Phyllis Schlafly (available from Pere Marquette Press, Box 495, Alton, Illinois 62002):

Kissinger on the Couch (1975, \$12.95). Everything you ever wanted to know about Kissinger's policies, but didn't know how to ask.

Mindszenty the Man (1972, \$2.00).

Safe Not Sorry (1967, \$1.00).

Strike From Space (1965, \$1.00).

The Gravediggers (1964, 75c).

A Choice Not An Echo (1964, 75c).

Phyllis Schlafly is the co-author of four books on nuclear strategy: *The Gravediggers* (1964), *Strike From Space* (1965), *The Betrayers* (1968), and *Kissinger on the Couch* (1975). She has testified on national security before the Senate Foreign Relations and Armed Services Committees. Her 1972 series of interviews with military and nuclear experts was aired on 70 television and 50 radio stations. An honors graduate of Washington University and member of Phi Beta Kappa, she has a Master's Degree from Harvard University.

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Box 618, Alton, Illinois 62002

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