

Third Parties & The

THIRD PARTY CANDIDATES FACE A HIGH HURDLE IN THE ELECTORAL COLLEGE

by Walter Berns



state. To have any electoral effect, then, a party must win outright within states. Regional third-party challenges generally fare better under this system. Southern favorite Wallace actually captured 46 electoral votes. Yet the electoral college still deflated his challenge. Although he had received nearly

14 percent of the popular vote, he got only eight percent of the electoral vote. Some 4.1 million Wallace votes cast outside the states he carried were “wasted.”

A third party with an even national appeal but lacking plurality support within any state will be stymied by the electoral college. Millard Fillmore and the Know-Nothings won 21 percent of the popular vote in 1856, but received only 2 percent of the electoral vote. Republican William Howard Taft was the choice of 23 percent of the voters in 1912, but of less than 2 percent of the electoral college. That same year, Theodore Roosevelt mounted the biggest third-party challenge of the twentieth century, taking 28 percent of the popular vote, yet he ended up with just 17 percent of the electoral vote. Most recently, we had Ross Perot’s 1992 campaign, when he won nearly 20 percent of the popular vote but didn’t earn a single electoral vote.

The fear of vote-wasting is the main psychological burden imposed by the electoral college’s deflation of third-party efforts. As election day approaches, third-party candidates often see their support fade, because voters don’t want to squander their ballot on someone who won’t win. This happened to both Wallace and Perot.

Despite the failures of Theodore Roosevelt, George Wallace, Ross Perot, and others, it is always possible that a third-party candidate may prevent either of the major party candidates from winning the electoral college majority required by the Constitution. Recent changes in the law make this easier. Court decisions have made ballot access for third-party candidates simpler, and the Federal Election Campaign Act ensures public funding, in advance of an election, for any minor party that received at least 5 percent of the vote in the previous presidential race.

If ever someone mounts a third-party campaign that prevents an electoral college victory by one of the major parties, a little-known set of constitutional, statutory, and parliamentary rules governing the choice of a president and vice president would kick in: The newly sworn-in members of the House of Representatives, with one vote per state delegation, would choose the president from among the top three vote-getters in the electoral college. Support of at least 26 state delegations is required for a president to be selected. Simultaneously, the newly sworn-in members of the Senate would vote individually for vice presi-

In the century and a half since the emergence of our current two-party system the United States has avoided any crisis in selecting a new president and vice-president—in part because the electoral college amplifies the margin of victory in the popular vote. This amplification gives us a clear winner even when the popular vote is close enough to be called a “photo-finish.” John Kennedy, for example, won only one-third of a percent more popular votes than Richard Nixon in 1960, but collected 38 percent more electoral votes. Bill Clinton, who garnered just 43 percent of the popular vote in 1992’s three-way race, captured nearly 70 percent of the electoral college.

It is always possible that a third-party candidate, by taking a state or two, may prevent either of the major party candidates from winning an electoral college majority, but this has not happened in the last 170 years. In such an event, the Constitution specifies that the election is thrown into the House of Representatives. It is quite likely, however, that in the weeks between the election and the gathering of the electoral college, the third-party candidate would entertain “bids” for his electors from one of the leaders—in return for policy or personnel concessions.

This was the express purpose in 1968 of George Wallace, who hoped to become kingmaker to either Richard Nixon or Hubert Humphrey. Deadlocking the vote in the electoral college will always be a ticklish undertaking, however. A third party not only must capture some states, but must be careful elsewhere not to draw votes from only one of the two major candidates, thus giving the other a landslide.

Wallace’s campaign turned out to be the most successful third-party bid in over 50 years. Yet while Nixon and Humphrey each received only 43 percent of the vote (Nixon just over and Humphrey just under), Nixon nonetheless picked up a decisive 56 percent of the electoral vote.

This occurred because the voting procedure of the electoral college deflates the strength of minor parties and inflates the margin of the winning party. By state law, all electoral votes (except Maine’s and Nebraska’s) are awarded on a winner-take-all basis to the candidate who captures the most votes within that

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dent, choosing among the top two vote-getters in the electoral college, with 51 votes required for victory.

These mechanisms would produce a president and a vice president with unchallengeable constitutional claims to those offices. In a world where government succession is often bent to the dictates of force, the importance of this cannot be exaggerated.

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THIRD PARTY CANDIDATES WON'T NECESSARILY BRING REFORM

by Gordon S. Black

Periodically in American politics an election takes on unusual significance. The 1936 race between Franklin Roosevelt and Alf Landon was such an election. The issues fought out then—passive vs. activist government, free markets vs. government redistribution—defined for the future what it meant to be a Republican or a Democrat. Enduring party loyalties were forged on that battlefield.

These turning-point elections generally center around issues rather than personalities. They grow out of problems that have festered for a long time, frustrating large numbers of Americans. And they involve clashes between contestants who promise to take the country in distinctly different directions.

The 1996 campaign has the potential to become precisely this kind of election. The broadest question at issue is whether elected officials will be permitted to continue the three-decades-long process of pillaging public treasuries in order to extend their own period in office. Will Americans permit incumbents of both parties to mortgage our future to pay off the interests that finance their elections?

In addition to the candidates offered for president at this critical juncture by the two major parties, there are third party possibilities. Jesse Jackson, Bill Bradley, Pat Buchanan, and others could yet run as independents. Ross Perot claims he is not especially interested in running for president this time. Colin Powell has said he doesn't feel the fervor to campaign as either a Republican or an independent.

The media presented Colin Powell as a "perfect" candidate, but he is someone with a weak understanding of the unhappiness of contemporary Americans. There is a real rebellion

welling up in American politics, and Powell has so far operated as if he is totally oblivious to this fact. He looks and sounds like a leader, but he doesn't have anything to say about the issues over which Americans are in revolt.

In Ross Perot, on the other hand, we have an imperfect candidate with a shrewd understanding of the discontent in American politics. The national establishment dislikes Perot every bit as much as they love Powell, but Perot says what the discontented middle wants to hear. Now he faces the decision of whether to run at the top of the new political party whose state-by-state founding he has committed himself to funding.

One thing Perot's move to create a national party for independents has done is to virtually preclude a Powell run at the head of a third party. Unless Powell is prepared to do business with Perot, which seems unlikely, there is probably no room for him as an independent. (For that matter, I doubt he could have won the primary nomination of the Republican party this year.) The most likely option for Colin Powell is to run as vice-president.

I believe, however, that Perot is the third player who will shape much of the content of the 1996 race, as he did in 1992. If he wants the issues about which he cares presented to the American public, I think Perot has no choice but to run. When he does, he will attack the two parties for their persistent failures over the past generation. His themes—breaking the hold of lobbyists on Washington, restoring choice to elections, ending budget deficits, reducing mandates and unfunded liabilities—resonate with Americans. Perot will spend liberally to get these messages across.

The problem for Perot is that voters like much of the message but not necessarily the messenger. Perot doesn't seem much to care about this, but he should. Voters who dislike Perot will not tune in to his television presentations, regardless of the content. He doesn't have the curiosity factor going for him that he did in 1992. Moreover, Americans intuitively understand that governing is a collective enterprise, and they will rebel against the idea of Perot in the White House unless he broadens the visible leadership within his campaign.

The more successful Perot is, the more likely it is that the election will be defined by reform issues—whereas a run by Colin Powell would have focused the election away from issues onto personalities. Powell probably doesn't think of himself as the enemy of reform, but his general popularity coupled with his insulation from the discontent in America make him just that. Electing Colin Powell would have enormously set back reform in Washington. At least Clinton and Dole and today's other candidates have the public sensitivity to acknowledge that Americans are massively discontented.

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