Editorial Page

Monday, May 20, 1968

1787 Electoral College Makes Little Sense Today

The Electoral College made sense when the U. S. Constitution was written in 1787. It doesn't today, and if the Constitution were being written today it would never be included. This doesn't mean, however, that the procedure established in the Constitution hasn't worked, or that it must be junked posthaste. It can't be anyway because a change requires a Constitutional amendment.

Criticism of the Electoral College procedure has been particularly vigorous this year because of the possibility that the third-party candidacy of George Wallace could throw the election into the House of Representatives. The wheeling and dealing that might accompany this eventuality is enough to give people nightmares.

The likelihood, however, isn't as great as many fear, according to a recent study by Neil R. Peirce ("The People's President" published by Simon and Schuster). The "actual statistical likelihood of an Electoral College misfire may have been grossly overstated," he writes.

The election could wind up in the House this way:

There are 538 electoral votes, which is the total of the representatives and senators of the 50 states, plus three for the District of Columbia. When public votes in November, it votes not for the presidential and vice presidential candidates of the party of his choice but for a slate of electors. The elected electors in turn meet in their respective state capitals in December and are morally —but not legally—bound to vote for the candidates they represented on the ballot.

The Constitution provides that when no candidate receives a majority (270) of the electoral votes, the House of Representatives must choose the president from the top three candidates, with each state's delegation casting one vote. (Senators vote as individuals for one of the top two vice presidential candidates.)

Although criticized, the Electoral College has served the country in the past.

For one thing, it, along with the single-member district, has contributed to sparing the U.S. from the divisive characteristics of splinterparties. The electoral system gives the candidate with the most popular votes all of a state's electoral votes, even if his popular majority was one.

This winner-take-all system, because it maximizes the victory of the winner in a close election, has undoubtedly served to reconcile the voters whose candidate lost.

In 1960, John F. Kennedy had a popular majority of a mere 118,000 out of 68 million popular votes, but in electoral votes he defeated Richard Nixon by 303 to 219. There have been 14 other presidents, including Abraham Lincoln, who did not receive a majority of the popular vote, yet who won decisively in the Electoral College.

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Proposals for Reform

Proposals for reform include the simple, and obvious, one of doing away with the Electoral College entirely, electing the president by popular vote as all other federal officers are. Another proposal would eliminate the office of elector and cast each state's electoral votes directly for the candidate having a majority in that state. A related plan would retain the elector's office, but require them legally to vote the way their state did, thus removing any possibility that an exercise of discretion could frustrate the popular will.

Yet another plan would apportion the electoral vote according to the percentage of the popular vote in each state.

Another idea calls for the vote to be divided by congressional districts with the winner in a state taking the two at-large votes.

An examination of the system today leads to the same conclusion that an American Bar Association committee reached: Elect the president by popular vote.

Or, if that jars tradition too much, why not provide that a state's electoral vote is cast either automatically or by legally-bound electors, for the candidate with the most votes in that state. Eliminate the possibility of the election in the House by providing that the candidate with the most electoral votes, majority or no, wins the office.

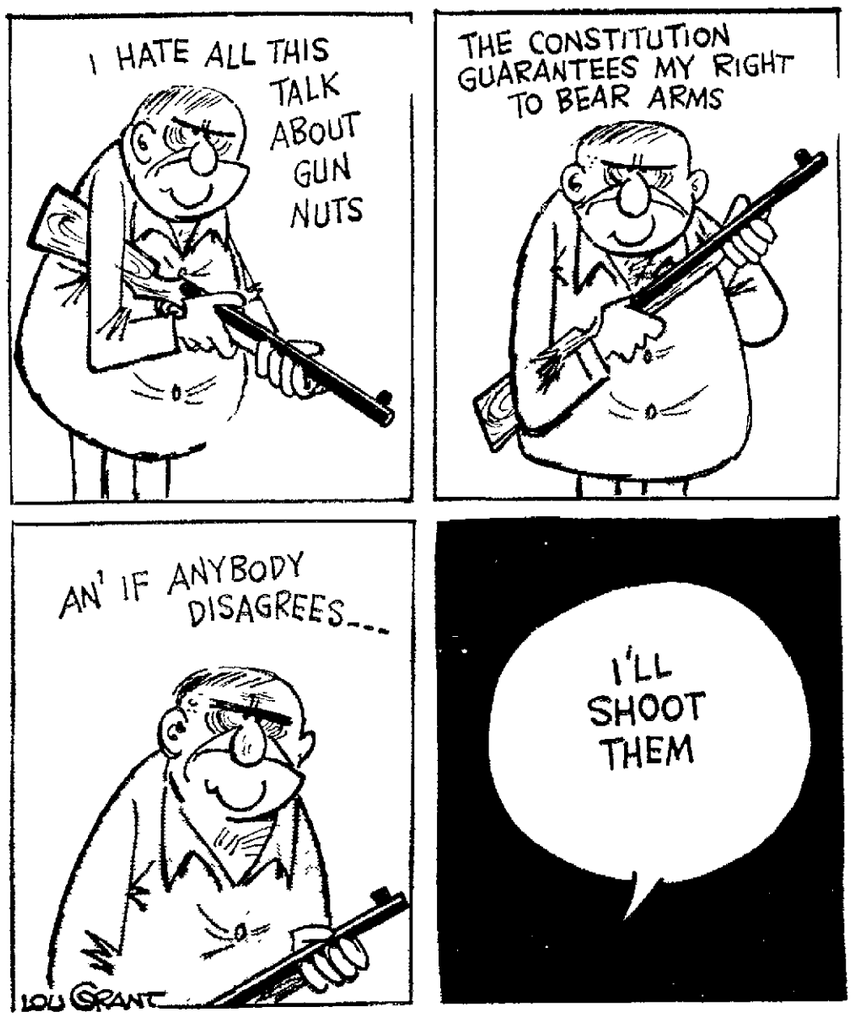
20 Years Ago Today

May 20, 1948

Brisk buying in this community during the "Christmas Quarter" of 1947 pushed the Iowa City retail sales total for last year well over the $30,000,000 level to set an all time record, according to figures released by the State Tax Commission.

The Coralville Heights Club celebrated its 20th anniversary this month with its annual spring luncheon. The event was held in the home of Mrs. Bruce Bundy.

The 30th anniversary of the United States air mail service has been noted with a one week observance. Postmaster Walter J. Barrow points out that Iowa City also is marking its 28th anniversary as a stop in the old trans-continental air mail network.



Free Press - Fair Trial: A Long Debate Continues

By DANA BULLEN

WASHINGTON — Readers of articles about "the hot free press - fair trial controversy" must wonder what all the fuss is about.

What with the war in Vietnam, the threat of riots, crime, fears for the dollar and a host of other things to worry about, it must seem that the lawyers and the editors ought to be able to get together.

Well, they can. But it isn't going to be easy.

For one thing, some of the concern expressed by press spokesmen 18 months ago when an American Bar Association committee unveiled proposed crime and court news rules has been proving justified.

In a speech at last month's meeting in Washington of the American Society of Newspaper Editors, J. Edward Murray, managing editor of The Arizona Republic, reported that the ABA's guidelines now are "being cited almost daily to suppress legitimate news."

The lawyers dispute this.

At a talk in Washington two weeks ago, Justice Paul C. Reardon of the Massachusetts Supreme Judicial Court, who headed the ABA committee that drafted the crime and court news guidelines, insisted that they "do not restrict in any sense full coverage of trials or close any court records."

In Los Angeles, however, 15 days of proceedings in the murder trial of William Anthony Clinger were closed to the public, apparently on the basis of the ABA's guidelines.

A state appeals court recently ordered release of the record of the closed sessions.

In Massachusetts, the highest state court two weeks ago heard arguments over the power of a judge to fine a newspaper and one of its reporters for printing the prior criminal record of a defendant during his trial.

The newspaper was fined $1,000. The reporter was fined $100. The mention of the defendant's record, according to an account of the argument,

Washington Close-Up

had been in the ninth paragraph of the story involved.

In a companion case, a reporter for a different newspaper also was fined $100 for writing that a judge had denied a motion to suppress evidence in a narcotics case.

The power of a judge to close a preliminary hearing in a criminal case is before the U.S. Supreme Court in still another appeal by two defendants in a Phoenix, Ariz., case.

In this case, the defendants failed in an attempt to have the trial judge close the preliminary hearing. They then asked a federal court to order the state judge to do this.

The federal judge, Walter E. Craig, a former ABA president, granted the request and ordered the hearing closed.

In an opinion reversing this action, the U.S. 9th Court of Appeals said Craig had lacked sufficient evidence that an open hearing would prejudice the defendants, a lawyer and a bondsman accused of receiving stolen property.

One problem that press spokesmen see in cases such as these is that the ABA's guidelines call for blanket restrictions in all cases to reach instances of possibly prejudicial publicity in a comparatively few cases.

The ABA's recommended guidelines, for instance, would prohibit lawyers and police in all cases from releasing information about a defendant's record, his statements to police, scientific test results and the identity and expected testimony of witnesses.

They also suggest that judges bar the public from pretrial hearings and from trial proceedings outside of the presence of a jury in most cases in which a defendant requests this.

"In my opinion, Justice Reardon and his colleagues are using a sledgehammer to kill a gnat," said E. Clifton Daniel, managing editor of The New York Times.

Daniel, in a talk in Washington last week similar to the one two weeks ago by Reardon, charged that ABA "heavy-handedness" could "wreck freedom of the press" and "shatter the very keystone of our democracy."

If these statements are any indication of the tone of similar discussions going on across the country between lawyers and press spokesmen, the prospect for early settlement of the free press-fair trial controversy is not too promising.

What is needed, it seems, is greater willingness on both sides to take a fair-minded further look at the situation.

Reardon, for example, admits that little hard data is available on the actual effect of pretrial news stories on jurors in criminal cases. Daniel, on the other hand, commends more responsible reporting.

There should be a middle ground here short of measures contained in the ABA guidelines.

It may be that open-minded discussions, especially at the state and local level, will be sufficient by themselves to bring about goals recognized as desirable by both sides.

This certainly would be better than a battle to the death in a mistaken effort to try to decide which of two equal constitutional rights—the right to a free press and the right to a fair trial—should be superior.

Faster Progress On Race Favored

By LOUIS HARRIS

The response of the people to the assassination of the Rev. Martin Luther King Jr. and its aftermath is that progress on racial matters should be speeded up. By a 3-to-2 margin, the number who want to speed things up outweighs those who want to slow things down. Among white people, sentiment for acceleration in race progress is 4-to-3, while among Negroes it is close to 7-to-1.

In this fall's election, the race issue is now likely to be the most volatile and could go a long way toward determining the ultimate outcome. The public was asked a parallel series of questions about each of the most prominently mentioned candidates for President. For each man, people were asked to estimate what they thought that man would do on racial progress if elected.

Here are the results, compared with what the public itself wants to do:

PUBLIC VIEW OF LEADING CANDIDATES ON RACIAL ISSUE IF ELECTED WOULD:

	Slow Down	Keep As Is	Speed Up	Not Sure
	%	%	%	%
George Wallace	61	8	5	26
Gov. Ronald Reagan	24	14	15	47
Richard Nixon	22	30	21	27
Sen. Eugene McCarthy	8	17	34	41
Gov. Nelson Rockefeller	8	19	38	35
Vice Pres. Humphrey	4	24	46	26
Sen. Robert Kennedy	4	8	69	19

PUBLIC'S OWN VIEW:

Total	29	19	43	9
Whites	30	18	41	11
Negroes	9	19	61	11

Although public familiarity with the civil rights positions of the candidates shows wide variations, a clear-cut pattern emerges from the results:

—Former Gov. George Wallace of Alabama and Gov. Ronald Reagan of California appear to the public to favor slowing down racial progress, out of line with the prevailing views of both whites and Negroes.

—Former Vice President Richard Nixon, the leading contender for the GOP nomination, is widely viewed as standing for the status quo on the race question, with almost precisely the same number feeling he wants to speed things up as believe he would slow them down. In today's public mood, Nixon would appear to be positioned further on the side of caution than the public as a whole in registering racial progress.

—Sizable percentages of the voters are not certain of the position of either Sen. Eugene McCarthy or Gov. Nelson Rockefeller. However, among those with estimates of their positions, both appear to be closely in line with the dominant public view of race relations.

Harris Survey

—Vice President Hubert Humphrey is seen as on the side of speeding things up a fair degree more that way than the balance of public opinion. He is viewed even more this way in the South.

—Sen. Robert Kennedy's position is viewed as even more on the side of acceleration of racial progress. More than any other candidate, his perceived program on race is closest to that of the rank and file of Negroes. Other tests have consistently shown that Negroes prefer Kennedy to any other potential nominee of either party, and the black vote could be pivotal in next November's election.

A cross section of 1,168 voters was asked early in May:

"What would you like to see done on achieving equality for Negroes—slow things down a lot, slow things down a little, keep things as they are, speed things up a little or speed them up a lot?"

SPEED OF RACIAL PROGRESS

	Total Public	Whites	Negroes
	%	%	%
Slow down a lot	13	11	2
Slow down a little	16	16	7
Keep as is	19	18	19
Speed up a little	27	28	20
Speed up a lot	16	13	41
Not sure	9	11	11

Lumping the answers into broader categories, the results are:

Slow	29	30	9
Keep as is	19	18	19
Speed up	43	41	61
Not sure	9	11	11

Strongest feeling about speeding up racial progress exists on the East and West Coasts, among residents of the suburbs, young people under 35 and the college-educated. The most solid pockets advocating a slowdown are among low-income whites and people in rural areas and the South.

Can Candidates Be Tested For Emotional Hangups?

By MAX LERNER

Some of the best reading I have seen recently has come out of Barry Goldwater's testimony in his libel suit against Ralph Ginzburg. I write this before the trial is over, and I aim to stay clear of any comment on its issues. But beyond the strictly legal question of libeling a political figure, which is clamped tighter than all get-out in the court decisions, there is the sheer delight of the testimony itself and a few nonlegal questions it raises.

One is about the so called psychiatrists who are willing to stake their professional reputation on psychoanalyzing presidential candidates from a distance. Take the now historic number of 1,189—the psychiatrists who, in answering the Fact magazine questionnaire, found Goldwater "unstable," "paranoid," "schizophrenic," "psychotic." These men must have grappled, week after week, with the intractable material of their own patients. They must have known how complex and elusive the human psyche is even if you watch it at close range for years.

Yet these same men, with not even a chance to have Barry on their couch for a flicker of a moment, most of them never having met him in their life, loftily condemned him as a poltroon and a lunatic. Quite aside from the freedom-of-press issue, it was one of the shoddiest displays of both psychiatry and journalism in my experience.

I am sorry that this kind of attack has to be challenged on the basis of a libel suit, where the cherished freedoms of the press are involved, rather than on the basis of the sheer crumminess of the performance. I am not saying that no one has the right to think about the psyche of the presidential candidates offered to the voters. This is a post where a man can stand up or crumple in a crisis, where he can play it cool or panic, use iron nerves or blow up half the world in a fit of triggered anger or hate.

This question of the emotional stability of a candidate is a relevant one if we could ever get beyond guess or gossip about it. But it isn't a topic for fools to rush into without expense nor even for experts to rush into without truth, truth or research.

That is what it amounts to.

the candidates obviously have neuroses—or emotional hangups—and the exercise of power may bring them out dangerously. Yet there is no way for the voter to search out the candidate's neurosis, as he can search out the candidate's stand on the war or the gold drain or open housing or a gun-control law. That happens to be the voter's own hangup.

There are several levels on which the emotional composition of the candidates might be validly discussed. One is what happens today: you talk and write about them as you might talk about acquaintances you have watched for years, giving what impressionistic evidence you have, not pretending to an authority you don't possess. That is what most of us do, genially or with malice, when we write about Kennedy and Nixon, McCarthy and Reagan, Humphrey and Rockefeller.

Another would be the expert level—if you could get it. Jerome Frank used to say, before he became a federal judge, that every judge should be psychoanalyzed before assuming the robes so that we could know the nature and sources of his inevitable bias. I suppose the same proposal might be made, with even more weight, for presidential candidates who may be wielding unparalleled power, for the world's weal or woe. But it would be too sticky to attempt. Imagine the kind of debates you would have, comparing Rorschach tests and matching evidence of schizophrenia.

A third is the fun-and-games level. The current issue of Esquire as it happens, runs a Presidential Personality Test at some length, devised by Drs. Singer and Gould, for the reader to try out on himself, with the tantalizing head: "Are you, among other things, psychosexually fit to be President of the United States?" I suppose fun-and-games is the only level on which the dangerous inquiry can be pursued, without giving shock of incurring libel.

Unfortunately, the editors have a hangup of their own, and they get bogged down by their satiric assumption of a composite psychograph of a President which is a mirror-image of the total psychograph of the American people. That gets them and us almost nowhere, as shown by their final admission that—using their own questions—"John F. Kennedy probably would have failed much of the test."

The mapping out of what is emotionally desirable in the Presidency still remains to be done, with a touch of seriousness along with the fun-and-games.

As for Barry, he seems—with all his extroverted squareness—far more credible and persuasive on the witness stand than he ever seemed in real presidential-candidacy life. And funnier, too—not unconsciously, but with a wit I had not expected in a conservative True Believer.

—Today— In History

Today is Monday, May 20, the 141st day of 1968. There are 225 days left in the year.

Today's highlight in history:

On this date in 1927, Charles A. Lindbergh began his solo flight across the Atlantic.

On this date:

In 1506, Christopher Columbus died in Spain.

In 1861, North Carolina voted to secede from the Union.

In 1862, President Abraham Lincoln signed the Homestead Act, providing millions of acres of free land to settlers in the West.

In 1902, the United States ended the occupation of Cuba.

In 1943, the United States and Britain ratified a treaty abolishing extraterritorial rights in China.

In 1962, President John F. Kennedy addressed a rally of 20,000 elderly persons at New York's Madison Square Garden during his drive to get Congress to pass the medicare bill.

Ten years ago — An airliner and a military jet training plane collided over Brunswick, Md. Twelve persons were killed.

Five years ago — The Turkish government crushed a rebel group's attempt to seize power.

One year ago — U.N. Secretary-General U Thant said he feared the Middle East situation was more menacing than it had been in 10 years.

—Governor-Elect To Get More Data— Selden Asks Financial Details

By HARRISON WEBER

DES MOINES — State agencies are being asked to supply the comptroller's office with considerably more detail on their financial operations than ever before.

State Comptroller Marvin R. Selden, Jr., explained both legislatures and governors are "demanding" more exacting information on the operation of the 130 state agencies.

Selden said this additional information will help the next governor, whomever he is, and the legislators "better evaluate" the budget requests.

The transitional period from one governor to another is always a trying time, mainly because of the budget.

Immediately after the November general election the governor-elect must begin budget hearings. The hearings which usually last a minimum of 30 days, are necessary for the new governor to get his financial feet on the ground.

On the basis of presentations by various state department heads the governor-elect presents his budget to the legislature for the next biennium. With the state budget averaging $496 million a year and expected to rise at least 10 per cent this is no small chore.

The governor is required by law to make his budget to the lawmakers no later than Feb. 1.

There is a standing appropriation of $10,000 to provide the governor-elect with an office and staff during this transitional period, from the time of election until he takes office.

Selden plans to present the governor-elect with a series of workbooks, containing historical data, on each of the state agencies. There also will be a list of the new programs being requested by each state department.

The so-called "trust accounts," such as the collection of a tonnage tax on commercial feed, also will be covered under this new budgeting procedure.

In short, the next governor will have a thorough review of the past and a penetrating preview of the future when it comes time to formulate the state's budget for the next two years.

Around The Rotunda

Only two telephone lines remained in operation after the tornado hit Charles City and both of these lines were limited to out-going calls. The Civil Defense Command Center at Des Moines, which is staffed around the clock, finally had to step in and commandeer one of these lines because reception of messages at Des Moines from ham radio operators in the Charles City area was very spotty. The poor reception was blamed on electrical interference.