
TAKING THE FIRST STEPS TOWARDS A MULTIPARTY SYSTEM IN THE UNITED STATES

————— JOHN B. ANDERSON and JEFFREY L. FREEMAN —————

“Among the numerous advantages promised by a well constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction.”¹ With these words, written 209 years ago, James Madison began his now famous argument against the danger that factions represent. Madison and the other framers of the U.S. Constitution attempted to minimize the problem of factions by trying to create an electoral system wherein political parties could thrive. The new Constitution, Madison argued, would prevent the rise of a multitude of factions in the young nation and thus secure a more stable and effective form of national government. Implicit in Madison’s argument in *The Federalist* No. 10 is that a multiparty system is one means to avoid the rise of factions in the United States.

Despite Madison’s statements, most of the last two centuries have seen the political scene in the United States dominated by two major parties. This article discusses the dynamics of a third party on the national scene, focusing primarily on the presidential electoral process. Beginning with a historical examination of third parties and the electoral system in United States, this paper analyzes the development of the duopoly of power, which actually had its origins in the early split between the followers of Jefferson and those of Hamilton. This section also examines the attempts to promote third parties despite the constitutional and political obstructions that have confronted these efforts.

In addition, we will discuss the present difficulties encountered by third-party candidates, including such basic issues as ballot access, participation in the presidential debates and attracting media attention. This section also examines the overall effects of third-party candidates on the race, including their ability to focus the major party candidates on specific issues.

Finally, we close by suggesting two methods by which a multiparty system can begin to take root in the United States. The first of these two, coalition

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building, is perhaps the best manner of promoting the diverse viewpoints of a pluralistic society. The second, the idea of the fusion ticket, is another important first step towards building sustained national support for a national third party.

A Brief Historical Examination of Third Parties in the United States

The history of the electoral system in the United States dates back to the inception of the nation. During the late eighteenth century, the development of the political infrastructure was determined by both the limitations of the new Constitution and by the restrictive nature of electoral laws in the states. Madison's and the framers' fear of factions stemmed from their desire for a pluralist democracy. They also realized that in order to fashion a workable national government, they were obliged to deal with the growth of interstate rivalries that had occurred under the Articles of Confederation.

The danger of the development of factions would have been mitigated had the framers recognized that the origins of factions lay in the relative homogeneity of those eligible to participate as electors in the newly created system. Many of the original states had electoral rules that restricted voting rights to a small group of individuals whose personal beliefs were representative of a select segment of the national population. In order to vote in many of the states, one had to be at least twenty-one years of age, male, a holder of real property, and, more often than not, white. While it is true that this group might still encompass a wide variety of beliefs, it is also true that the political spectrum of the members of this group was very limited compared to that of the disenfranchised majority of the citizenry. The purpose of this massive disenfranchisement at the founding of the republic was not based solely on the fear of factions. It grew out of a political and socioeconomic culture inherited from Great Britain, which was, in that day, extremely class-conscious. However, by curtailing the variety of views that entered the political discussion, the likelihood that a few divisive issues would dominate grew.

Under the first-past-the-post system, the first candidate to win an outright majority of the votes wins the election. If no one achieves an outright majority in the general election, a special run-off is scheduled for the top two vote-getters. The third place finisher is eliminated, and perhaps forgotten by the electorate. These were the two most powerful aspects of the system that perpetuated the ideas which became the two-party system.² The combination of these two methods has strongly promoted the continuance of the two-party system by requiring each candidate to pursue a winner-take-all strategy. In practical terms, this has required the coalescence of resources and viewpoints, which in turn promotes the submergence of many third party viewpoints into one of the two main parties so as to achieve victory.³

Another important reason why our political system has evolved into a two-party state is found in the structure of government established by the Constitution. The manner in which the president and the legislative branch of government were originally selected indicates that the framers maintained an

inherent distrust of the average citizen. The executive was to be elected not through a vote of the people, but rather by the electoral college, whose members, according to the Constitution, were to be appointed by each state in a manner determined by its legislature.⁴ In most states, the candidate who had the most votes in a state won all of that state's electoral votes; it is possible for a candidate to win the popular vote but lose the electoral vote, and, with it, the election. Likewise, only one-half of the legislative branch was to be elected by a direct vote of the people. Originally, the members of the Senate were to be chosen by the legislature of each state.⁵

Due in part to these electoral and institutional constraints, control of the political arena over the past two centuries has been limited largely to only two major parties. These constraints have been assisted by a partisan voter identification with one of the two major parties that has developed over time into an accepted feature of our political culture. Many people in the United States identify with one party or the other simply because their parents and grandparents supported that party. This undoubtedly has contributed to a strong regional party identification, such as the "solid south" enjoyed by the Democratic Party for almost 100 years. The southern electorate grew to identify with the Democratic Party due largely to the policies of the "Radical Republicans" instituted during the post-Civil War period. The citizenry of the Democratic South typically voted a straight party ticket, regardless of the views espoused by the candidates. This made it almost impossible for a third-party candidate to make inroads with the voting public.

These historic reasons, however, have not prevented several meaningful attempts at the formation of a national third party. All of these parties have faced significant, and in most cases insurmountable problems under the prevailing electoral system. Due to the constraints detailed above, the only times that a third party has made a significant impact on the presidential elections have occurred when the nation has been faced with a compelling national issue that the two major parties of the time either were unwilling or unable to deal with because of extreme internal divisions.

Over the years, the success of a third party has largely depended on the salience of the issue that produced the division. The most successful third party in the history of the United States came into existence at the time of the greatest crisis ever faced by the nation. The Republican Party began in 1854 as a third party that strongly supported the northern abolitionist movement. The two major parties of the time, the Democrats and the Whigs, found themselves sharply divided over the issues of slavery and states' rights. These divisions rent the major parties along regional lines. During the late 1850s, the

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Whig Party literally collapsed, with many of its members joining either the Republican, Democratic, or Constitutional Union parties.⁶ At its 1860 national convention, the Democratic Party saw its southern delegates walk out and form a new party, the National Democratic Party, which in turn nominated John Breckinridge, a pro-slavery candidate, for president.⁷ The Republican Party, in only its second attempt at fielding a national candidate, managed to win 40 percent of the popular vote thanks in large part to the solid support of

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the northern abolitionists. However, this 40 percent allowed the Republicans to carry all of the northern and western states and, thanks to the first-past-the-post system and winner-take-all method of calculating electoral college votes, 59 percent of the electoral college votes.⁸ After the turmoil of the Civil War period, the nation quickly saw a return to a more traditional two-party system, now featuring the Democrats and the Republicans. This system would not face its next major challenge until Theodore Roosevelt ran as the candidate for the Progressive, or Bull Moose Party, in 1912.

The election of 1912 found the country facing continuing crises caused by growing economic disparities among the population. The political parties were still coping with the nation's industrialization and the changing dynamic of the role the government should play vis-à-vis private enterprise. While the Democratic Party nominated a reform-minded Woodrow Wilson, the incumbent President Taft managed to engineer his renomination at the Republican Convention through the use of old-fashioned back-door politics, alienating Teddy Roosevelt and the entire reform-minded wing of the party.⁹ This group became the core of Roosevelt's third-party candidacy under the Progressive label. With his proposals for greater government oversight of business, Roosevelt was able to take second place behind Wilson and ahead of Taft. Due to a lack of foundational support and Theodore Roosevelt's own lack of interest, the Progressive party was unable to thrive beyond the election of 1912, and the reforms instituted by the Wilson administration seemed to win over many of the Progressive party voters.¹⁰

In the past 30 years, the United States has seen three significant third-party candidacies for the presidency. In 1968, George Wallace, the former governor of Alabama, ran under the American Independent Party banner, supporting continued segregation and a military solution to the war in Vietnam.¹¹ While the majority of the population was against both of these issues, Wallace was supported by a significant minority whose views were not represented by either of the two major parties. This allowed him to gain over 13 percent of the national vote, with the majority of his support coming from southern states. By the 1972 presidential election, however, the U.S. had drawn down its military position in Vietnam, and opposition to racial integration had lessened.

In 1972, Wallace abandoned the American Independent Party and ran as a candidate for the Democratic Party nomination. His campaign ended after an attempt on his life on May 15, 1972, left him severely injured and forced him to withdraw from the race.

On April 24, 1980, one of the authors of this article, John Anderson, announced an independent candidacy after first seeking the G.O.P. nomination in nine of that party's primaries. After narrowly losing the Massachusetts and Vermont state primaries, he was defeated by Ronald Reagan in his home state of Illinois in March 1980. Reagan was, by then, the overwhelming favorite in a field of declared G.O.P candidates that originally numbered nine, including such luminaries as former Texas Governor John Connolly, Senators Robert Dole and Howard Baker (both of whom went on to become Senate Majority Leaders) and George Bush, who would eventually become Reagan's running mate.

Anderson broke with the Republican Party over a wide variety of issues. Anderson's principal issues related to fiscal policy. He derided supply-side economics as based on "smoke and mirrors," and opposed Reagan's proposed 30 percent tax cut. He stressed his fiscal conservatism and opposition to what Ronald Reagan was proposing and later carried out with the help of Congress: a huge increase in defense expenditures. Anderson also pointed to the energy crises that had begun in 1973 as a rationale for a 50-cent per gallon gasoline tax, designed both as an energy conservation measure and as a means of raising revenue to cut the deficit while permitting social security payroll taxes to be cut in half. He dubbed it his "50-50 Plan." On such pivotal issues as women's rights and civil rights, he attacked the Republican Party's platform and nominee for abandoning the historic positions of the party. None of these issues was being addressed by the candidates of either major party.

Anderson confronted a major stumbling block after formally announcing his independent bid on April 24, 1980: ballot access. It took 10 law suits in states from Maine to New Mexico, all of which were prosecuted successfully, to eventually gain a ballot line in all 50 states. One case, *Anderson v. Celebrezze*, eventually went all the way to the U.S. Supreme Court. Anderson emerged the victor over the state of Ohio in a 5-4 decision. However, as we will discuss later in the paper, these legal victories did not totally eliminate the problems of ballot access.

The election itself was not destined to be so close. Although he garnered almost six million votes, just under 7 percent of the total cast, he received no electoral votes. His principal setbacks were:

1. Expenditure of a significant portion of the campaign resources for staff and attorneys' fees in order to mount petition drives and litigate for ballot access;
2. Participation in only one of two nationally televised debates. He opines that exclusion from the second and last debate on October 28, 1980, probably cost him the opportunity to at least double the approximately 7 percent of the vote that he did receive.

3. Inability, after Labor Day particularly, to get media attention and coverage. Anderson's 318-page platform, which contained a number of proposals not treated in the platforms of the two major parties and not dealt with by their respective nominees, received very little attention despite some of its unique features.

Anderson's independent candidacy in 1980 should have been a predictive indicator to Ross Perot, the leading candidate of a non-major party in 1992 and 1996, of the difficulties he would confront, notwithstanding his access to the ballot in all states and more adequate public funding than any such candidate in prior history.

Ross Perot first ran for the presidency in 1992, arguing that the major party candidates were not paying heed to the economic challenges facing the nation, in particular the huge and mounting federal deficit. His campaign rode a wave of voter contempt for career politicians and their perceived lack of responsiveness to voter concerns. While Perot did not prevail in his candidacy, he did help to determine and focus the issues that became central to the 1992 campaign. More important perhaps were his contributions to the creation of the Reform Party in 1996.

Perot's 1996 campaign as the nominee of the Reform party fared much worse than his 1992 campaign. In the 1996 election, he won only 8 percent of the popular vote, compared to the 19 percent he received in 1992. The reasons for this are twofold. First, the main issues of his 1992 campaign, the economy and budget deficit, are no longer among the general public's top concerns. The economic health of the nation has improved since 1992, and the budget policies of President Clinton and the Republican Congress have lowered the budget deficit to levels not seen since the early 1980s. The second reason for Perot's relatively weak showing in the 1996 campaign was his lack of media access. During the 1992 campaign, Perot was invited to participate in each of the debates between the major-party candidates. Additionally, Perot was able to purchase prime time television slots so that he could air his 30-minute campaign infomercials. In contrast, his 1996 campaign faced a complete reversal of fortune. The Commission on Presidential Debates, established by the two major parties, refused to allow Perot to participate in the debates, citing his weak standings in the polls (around 6 percent), and the overall likelihood that he did not have a realistic prospect of prevailing in the national election. Furthermore, Perot has been limited in his ability to purchase desirable time slots from the major television networks.

Prospects for a Multiparty System

Difficulty in gaining media access is only one of the many problems faced by third-party candidates who attempt a run for the presidency. The challenges facing third-party candidates run the gamut from ballot access to campaign financing. While three Amendments¹² to the Constitution have vastly changed the makeup of the electorate since the late eighteenth century when

our Constitution was written, many of the structural impediments, although weakened, remain in place.

Perhaps the foremost challenge any third-party candidate faces is that of ballot access. As the two major parties entrenched themselves in the political system after World War I, they found that the simplest way to ensure their own survival was to prevent potential challengers from even having their names placed on the ballot. Restrictive ballot access laws began in the 1920s and grew increasingly restrictive up until the late 1960s.¹³ The ballot requirements ranged from simple notification of candidacy in a few states like Kentucky, to the California electoral code, which at one time made no provision for outsiders to even petition for ballot access.¹⁴

Once a third party has attained access to the ballot in all 50 states it still faces numerous obstacles if it hopes to prevail in the election. As shown by the campaigns of Perot and Anderson, access to print and electronic media can be difficult to achieve. The scenario that usually unfolds is something like the chicken-and-the-egg dilemma. The media is generally unwilling to offer extensive coverage to candidates who lack a strong showing in the tracking polls. However, many of these candidates are not capable of building a broad base of support without the kind of exposure afforded by the mass media. While several media outlets do attempt to showcase some third-party candidates, none of these candidates receives the amount of exposure lavished upon the nominees of the major parties.

Various reforms have been proffered to rectify the problem. Many of these focus on the national television networks giving each candidate a set amount of free airtime, provided that they can demonstrate a certain quantifiable measure of national support, defined under the Federal Election Campaign Act as 25 percent of the presidential vote in a general election. It seems unlikely that the problem of equal access can be resolved fully by relying on the generosity of network television to provide free time until a third party achieves the status of a major party. Under these conditions, the problem of equal access will probably be a lingering one. However, as the networks lose market share and cable television expands, the problem may be ameliorated.

Campaign finance reform must precede a successful new party effort. The Federal Election Campaign Act of 1971 (F.E.C.A.), together with amendments enacted in 1973 and 1979, provides for federal matching funds during the presidential primary season. In addition, major parties receive a federal pay-

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ment which, in the 1996 general election phase, will amount to approximately \$68 million for each nominee. On a formula basis, because of his 18.9 percent of the 1992 presidential vote, Ross Perot has received approximately \$29 million. If he falls below 5 percent this year, the Reform Party candidate four years from now will lose any entitlement. Public funding is not the only financial advantage enjoyed by the two major parties. Tens of millions of dollars in soft money donated to party committees will make 1996 the most expensive campaign in history. It is particularly in this area that a new party is at an enormous disadvantage. Indeed, until genuine campaign finance reform is achieved to staunch the flow of soft money contributions to established parties, new parties will remain at an overwhelming financial disadvantage.

Coalition Building: A Possible Approach for a New Party

If history teaches us anything about the subject of the prospects for a multiparty system, it is that it is unlikely that a viable third party can be built on the success of a presidential campaign alone. The Republican Party, founded in the early part of 1854, aggressively campaigned in the mid-term congressional elections held in November of that year. They won not a majority but a plurality of seats in races where Democrats, Whigs and candidates from a few other minor parties, such as the Freesoilers and Liberty Party, were contenders. It was not until six years later, again with less than a majority vote, that Abraham Lincoln was elected the first Republican president of the United States.

To win even a plurality of Congressional seats today will require reform of the electoral process through the introduction of proportional representation (PR). PR would require the creation of multimember districts in lieu of our present system of single-member districts. Seats would then be allocated on the basis of the percentage of the total vote received by the candidates of a party. Recent U.S. Supreme Court decisions striking down race-based districting in Texas, Georgia and North Carolina may spur the effort to find a new method of assuring minority representation. Creating multimember districts which could then employ PR would be one solution. One bill to afford states such an option was introduced in the 104th Congress by Rep. Cynthia McKinney (D-Ga.). In multimember districts where the vote can be divided proportionately, in contrast to the winner-take-all method used in our present single-member districts, it would be far easier to elect new party members to a seat in our national legislature. There they could gain the visibility and with it, hopefully, stature as a viable new force on the national political scene.

Even with electoral reform, which offers the possibility of gaining some purchase on the system to begin effecting legislatively the real change desired by the voters, there remains fundamental resistance to the idea of more than two parties. This resistance is grounded in the fear that without a clear majority the new party could not govern. The obvious answer to such fears is that it would be necessary to form coalitions on important issues with the other

two parties, or at least with a sufficient number of the members of each to fashion the majority required to enact legislation.

Students of American politics are by no means of one mind on the feasibility of coalition politics in a presidential system like ours. This is because for most of the last 40 years we have had divided government with a president from one party and a Congress controlled by the other party. Empirical evidence of coalition building is much easier to find in western democracies that function under a parliamentary system. In Germany, for example, during the post-World War II period, the so-called "Grand Coalition" saw the two principal parties, the Christian Democrats (CDU) and the Social Democrats (SPD), neither of whom enjoyed a majority in the Bundestag, share power and move legislation through that body.

The Fusion Ticket: Possibilities for New Party Support

In the U.S. presidential system, unlike in a parliamentary system, there are inherent obstacles to building a coalition of support in the legislative branch by a new party during its formative years. Virtually the only, and surely the best, hope for a new party is to co-opt members of the major parties on critical issues. This could be accomplished through a system of cross-endorsements or by running a fusion slate. The fusion ticket is one in which a candidate can appear on the ballot under the banner of more than one party. For instance, Candidate A could run as the nominee of both Party A and Party C. This would allow the voters to distinguish between a candidate and a party; the candidate would be elected, but would also know if voters disagree with his party's platform. In the long run, a fusion slate offers the voters a better opportunity to express their views and gives the parties a better chance to exhibit the base of their support. A century ago, fusion tickets, which joined populists and agrarian reform party nominees with Democrats in the North and in some cases with Republicans in the South, played a significant role in building the strength of the Populist Party, which gained about 8 percent of the presidential vote in 1892. Since then, 40 states have banned fusion. A recent decision by the U.S. Court of Appeals for the Eighth Circuit ruled that the State of Minnesota's law to that effect was a violation of the First Amendment right of political parties to run their affairs free of state interference; if two parties agree to cross-endorsement of fusion tickets, the state should not interfere.¹⁵ It is heartening to note that the Court of Appeals echoed James Madison's idea that as the number and variety of political parties increases, the chance for oppression and factionalism is diminished, and acceptance of new ideas, rather than skeptical dismissal, is increased.¹⁶

The case has been appealed to the U.S. Supreme Court, and a decision is expected sometime next spring. The affirmation of the Eighth Circuit's decisions would be a giant step toward reviewing the practice of fusion and would offer encouragement to those who view it as a practical solution to the problem of fostering the coalition-building capacity of a new party.

Conclusion

A viable third party will not be built in a single election. It will most likely prosper as an alternative to the existing two major parties in a period when events have indicated rather conclusively that their shortsightedness has placed us in a position of some peril. It would further demonstrate that the partisan hardening of our political arteries has put our nation at risk. If for some time previous to these events, another voice has been heard urging a dramatically different course and a clear alternative to what have come to be viewed as ruinous policies, voters would suddenly become very attentive.

If that alternative voice is a new third party honed by the experience of running candidates at the Congressional level and perhaps other candidates at the state and local level, it could seize that open moment in history to finally give us a new party system. Unlike the so-called classical realigning elections of 1800, 1860, 1896, and 1932, it would succeed in detaching the American electorate from the idea that their choice is so restricted as to be either-or and thus take us one more step away from the tyranny of factions feared by Madison more than 200 years ago.

Notes

1. James Madison, *Federalist* No. 10.
2. See, Daniel Mazamania, *Third Parties in Presidential Elections*, (Washington: Brookings Institution, 1974), 56.
3. Mazamania.
4. U.S. Constitution Art. II Sec. 1 cl. 2.
5. U.S. Constitution Art. I Sec. 3 cl. 1.
6. Steven J. Rosenstone, Roy L. Behe, Edward H. Lazarus, *Third Parties in America*, (Princeton: Princeton University Press, 1996), 56.
7. Rosenstone, et al., 60.
8. Mazamania, 46.
9. Howard P. Nash, *Third Parties in American Politics* (Washington: Public Affairs Press, 1959) 252-256.
10. Edgar E. Robinson, *The Evolution of American Political Parties* (New York: Harcourt, Brace and Co., 1924) 336.
11. Mazamania, 14-16.
12. These amendments stated that the citizens of the United States shall not be denied the right to vote based upon race (The 15th Amendment, ratified in 1870), gender (The 19th Amendment, ratified in 1920), or age, provided one is at least 18 years of age. (The 26th Amendment, ratified in 1933).
13. Mazamania, 90-97.
14. Mazamania, 91.
15. *Twin Cities Area New Party v. McKenna*, 73 F.3d 196 (8th Cir. 1996) (*cert. granted* — U.S. —, 116 S.Ct. 1846 (1996)).
16. William R. Kirschner, Note, *Fusion and the Associational Rights of Minor Political Parties*, 95 Col. L. Rev. 683, 712 (1995).

