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THE LODGE-GOSSETT RESOLUTION: A CRITICAL ANALYSIS

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Since 1797, when Representative Smith of South Carolina proposed a con-
stitutional amendment to reform the electoral college, scarcely a Congress has
adjourned without the introduction of one or more resolutions on this subject.[1]
A plan which is currently receiving attention was introduced in the Senate
by Henry Cabot Lodge of Massachusetts and in the House by Ed Gossett of
Texas. The Senate has already passed the so-called Lodge-Gossett proposal
by a vote of 64 to 27—three more than the necessary two-thirds.[1a] There is
actually some chance that the House of Representatives will approve the
measure and send it to the states as it enjoys bi-partisan support and has
received favorable committee action in the House.[2]

The plan provides for three major changes in the electoral system. First, it
would abolish presidential electors but retain the electoral votes of each state
as at present. The purpose of this change is to prevent electors from acting on
their own judgment. In the past, this matter has seemed relatively unimpor-
tant. But the recent election indicated the dangers of an electoral system which
allows a determined minority to seize a national party label and appropriate
electoral votes as the Thurmond forces did in Alabama and Tennessee. The
Alabama voters were not able to ballot for a Truman-Barkley slate of electors,
because the Thurmond faction took over the state Democratic organization in
the primary and nominated pro-Thurmond electors. Although these electors
ran under the traditional Democratic emblem, they cast their electoral votes
for Thurmond. Malcolm C. Hill, a Tennessee elector appointed on the Demo-
cratic ticket, refused until after his selection in November to commit himself
as to which candidate he would support in the college. When the chips were
down, however, he cast his electoral vote for Truman. Another Democratic
elector in Tennessee, Preston Parks, declared that he would cast his vote for

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[1] H. V. Ames, "Proposed Amendments to the Constitution," *H. Doc. 353*, Pt. 2, 54th
Cong., 2nd sess., pp. 77–123; M. A. Musmanno, "Proposed Amendments to the Constitu-
tion," *H. Doc. 551*, 70th Cong., 2nd sess., pp. 44–51, 60–64; Charles C. Tansill, "Proposed
Amendments to the Constitution, *S. Doc. 93*, 69th Cong., 1st sess., p. 143; Carl A. Loeffler,
"Proposed Amendments to the Constitution," Senate miscellaneous publication, p. 111
[Y. 1.3:C76/4/926–47(1949)].

[1a] *S. J. Res. 2*, favorably reported by the Senate Committee on the Judiciary, *S. Rept.
602*, 81st Cong., 1st sess. *Cong. Rec.* (Daily), Vol. 96, pp. 854, 908–920, 971, 981–985, 987,
1087–1095, 1098–1101, 1108–1110, 1176–1191, 1289–1307. Forty-six Democrats and eight-
een Republicans voted for the resolution; and four Democrats and twenty-three Republi-
cans voted against it.

[2] Identical or almost identical resolutions offered in the House are *H. J. Res. 2* by Gos-
sett (D., Tex.), *H. J. Res. 10* by Cannon (D., Mo.), *H. J. Res. 11* by Celler (D., N. Y.),
H. J. Res. 51 by Davis (R., Wisc.), *H. J. Res. 78* by Hays (D., Ark.), *H. J. Res. 81* by
Johnson (R., Cal.), *H. J. Res. 82* by Priest (D., Tenn.), and *H. J. Res. 121* by Boggs (D.,
La.). *H. J. Res. 2* was reported favorably by the House Committee on the Judiciary, *H.
Rept. 1011*, 81st Cong., 1st sess.

Thurmond if appointed to the electoral college. Parks redeemed his pledge despite his appointment on the Truman ticket.[3] A system which permits such maneuvering doubtless needs reform; but it does not necessarily follow that abolition of the electors is the proper remedy.

As Professor Wilmerding has pointed out, elimination of the electors would increase the possibility of electing a President of one party and a Vice President of another. Under the present system, each elector is "pledged" to the presidential and vice-presidential candidates of the same party. There is the possibility that, under the Lodge-Gossett plan, men of different parties would be elected to the presidential and vice-presidential posts.[4] This feature of the Lodge plan would have the merit of forcing the parties to give more careful consideration to the vice-presidential nomination. In any case, this alleged weakness could be overcome by amending the plan so that the voter could ballot only for the presidential and vice-presidential candidates of the same party.

Professor Wilmerding has also pointed out that there may actually be occasions when the electors serve a useful function. If, for example, the first choice of an elector's constituents has no chance of winning the Presidency, the elector may cast his vote for his constituents' known second choice. In 1912, many electors pledged to Theodore Roosevelt declared before the popular election that, if their candidate's cause should prove hopeless and if the contest turned out to be one between Wilson and Taft, they would cast their electoral votes for the latter. This function of the electors might be extremely important, because it is possible that in a three-party contest the candidate with the popular and electoral plurality would be unacceptable to the great majority of the people. Therefore, if the electors are to be eliminated, a method should be provided for determining the people's will when no presidential candidate receives a majority of the electoral vote.[5]

In any case, the situation presented in 1948 in Alabama and Tennessee can be remedied without abolition of the electors. The problem can be met by adoption of a constitutional amendment requiring the presidential electors to cast their ballots for the presidential and vice-presidential candidates of the party under whose emblem they are appointed. The amendment could even stipulate how the electors should cast their votes in case of the death of their party's

[3] *New York Times*, Dec. 7, 14, and 16, 1948. An Alabama law (Act #386, approved July 7, 1945) instructing electors to cast their ballots for the nominees of the party's national convention was declared unconstitutional by the Alabama Supreme Court. *Op. of the Justices*, 34 So. 2d 598 (1948). The Alabama Supreme Court also refused injunctive relief to Adcock et al. who sought to compel the electors to cast their ballots for Truman. The Supreme Court of the United States refused to review the decision of the Alabama Supreme Court. *Adcock et al. v. Albritton et al.*, 335 U.S. 887 (1948). The Supreme Court of the United States also denied motions for leave to file petitions for injunction and mandamus. *Adcock et al. v. Albritton et al.*, 335 U.S. 882 (1948); *Folsom et al. v. Albritton et al.*, 335 U.S. 882 (1948).

[4] Lucius Wilmerding, Jr., "Reform of the Electoral System," *Political Science Quarterly*, Vol. 64, pp. 1, 17 (Mar., 1949).

[5] *Ibid.*, pp. 16–18, 20–21.

presidential (or vice-presidential) candidate.[5a] It could also instruct the electors under what circumstances they could vote for their constituents' second choice for President if that second choice could be presumed as in 1912.

The second alteration provided for in the Lodge plan would make a plurality of forty percent—rather than a majority—of the electoral vote sufficient for election. If no person receives this percentage, the House and Senate, sitting in joint session and voting as individuals, shall choose a President from among the two candidates receiving the most electoral votes. A constitutional majority of the combined membership of the two houses shall be necessary for a choice. These provisions are a part of the so-called Lucas amendment which the Senate added to the Lodge resolution by a voice vote.

Under the original Lodge-Gossett plan, there was no provision for a congressional referendum. A mere plurality of the electoral vote was sufficient for election. In case of tie in the electoral count, the candidate with the popular plurality was to become the President. The purpose of this change was to eliminate the possibility of election by the House of Representatives, where all the states, regardless of population, have an equal voice. It is rather generally agreed that the system by which the President is elected in case no candidate receives an electoral majority stands in need of reform. In 1948, a shift of 3,554 votes in Ohio and 8,933 in California from Truman to Dewey would have thrown the election into the House, although Truman would still have had a popular margin of 2,122,849.[6] When the electoral vote was counted, twenty-one state delegations in the House were Democratic and presumably for Truman, twenty were Republican and probably would have supported Dewey, four were Dixiecrat-Democratic and can be assumed to have favored Thurmond, and three were evenly divided. Seven states, therefore, would have held the balance of power. Admittedly, such an electoral system could be improved; but this does not mean that changing the requirement from an electoral majority to an electoral plurality is the proper change.

The requirement of an electoral majority has the effect of compelling minorities to modify their extreme demands and to seek terms of accommodation with other groups to form parties capable of winning a majority of the electoral vote. This incentive to compromise would be eliminated if the majority requirement were removed. Moreover, as suggested previously, the candidate with the popular and electoral plurality in a multi-party contest may be wholly unacceptable to the great majority of the voters; and the requirement for a majority

[5a] The Senate adopted an amendment proposed by Senator Lucas. Among other things, the amendment would empower Congress to provide by law for the case of the death of any persons from whom Congress may choose a President or Vice-President whenever the right of choice shall devolve upon Congress. *Cong. Rec.* (Daily), Vol. 96, p. 1304. Presumably this does not cover the case of a candidate who dies after receiving the requisite electoral vote. Such a case, it seems, would fall within the provisions of the Presidential Succession Act. 61 *Stat. L.* 380 (1947).

[6] These and all other calculations for the 1948 election, unless otherwise indicated, are the author's and are based on the statistics compiled by the Associated Press from the official canvassing boards in the forty-eight states. *New York Times*, Dec. 11, 1948.

electoral vote reduces the possiblity of such a candidate's winning the Presidency. These were the considerations which led the Senate to adopt the Lucas amendment.[6a]

This amendment eliminates the objectionable features of election by the House. It also has the merit —the Twentieth Amendment being in effect—of assuring the election of a President whose party affiliation would coincide with that of a majority in one, if not both houses of Congress.

The third change projected by the Lodge-Gossett plan would abolish the general ticket system, by which a candidate with the popular plurality in a state is credited with all of that state's electoral votes. Under the Lodge-Gossett plan, the electoral votes of each state would be apportioned among the candidates in exact ratio to the popular vote. In making these calculations, fractional numbers of less than one-thousandth are to be disregarded. In 1948, for example, Dewey polled 50.927 percent of the popular vote in Pennsylvania and received all of Pennsylvania's 35 electoral votes; but under the Lodge-Gossett formula he would have won only 17.824 electoral votes in Pennsylvania. Supporters of the proposal cite these and various other statistics to prove how inaccurately the electoral vote reflects the popular vote. They tell us, for example, that Mr. Truman with 49.5 percent of the popular vote received 57.1 percent of the electoral vote, whereas the Lodge formula would have given him only 48.6 percent of the electoral vote.[7] This, however, is only part of the picture.

The disparity between the electoral vote and the popular vote is not all due to the general ticket system. Actually three factors are responsible. First, the allocation of electoral votes among the states on the basis of congressional representation magnifies the electoral power of the small states. In 1948, the nine most populous states having 51 percent of the population received only 18 of the 96 electors based on representation in the Senate while the other 39 states received 78. To put it another way, one electoral vote in California represented 395,040 people in contrast to one of Nevada's electoral votes which represented 46,667 people.[8]

The second cause for discrepancy between the popular vote and the electoral vote is the assignment of electoral votes to the states without regard to the

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[6a] *Cong. Rec.* (Daily), Vol. 96, pp. 1180–1191, 1289–1307. The House minority report suggested requiring an electoral plurality of 35 percent. *Op. cit.*, p. 27. Senator Ferguson suggested in his minority report that provision should be made for election by a joint session of Congress—voting as individuals and not as states—in case no candidate received the required number of electoral votes. *S. Rept. 602*, Pt. 2, 81st Cong., 1st sess., p. 2.

[7] Joseph E. Kallenbach, "Presidential Election Reform," *Cong. Rec.* (Daily), Vol. 95, pp. 4531–4536, n. 27 (Apr. 13, 1949). Statistics of a similar kind can be found throughout *Hearings* before a Subcommittee on the Judiciary, United States Senate, 81st Cong., 1st sess., on *S. J. Res. 2*; and *Hearings* before Subcommittee No. 1 of the Committee on the Judiciary, House of Representatives, 81st Cong., 1st sess., on *H. J. Res. 2* (serial 3).

[8] Calculations based on United States Bureau of Census estimate of population, July 1, 1947. Of course, considerable shifts of population have taken place since the census of 1940. *Information Please Almanac 1948* (New York, 1947), p. 266.

popular vote. In 1948, for example, one electoral vote in California represented 160,862 popular votes whereas one electoral vote in South Carolina represented 17,821 popular votes.

The third cause of variance between the popular vote and the electoral vote is the general ticket system. The paradoxical aspect of the whole matter is that, with our sectional pattern of politics and our forty-eight different sets of suffrage qualifications, the general ticket system tends in *Republican years* to correct the disparity caused by magnifying the electoral power of the states in which the popular vote is small. The Lodge proposal would abolish the general ticket system without doing anything to correct the other two causes of deviation between the popular vote and the electoral vote. Advocates of electoral reform have correctly stated that an attempt to reduce the electoral power of the small states and to force the Solid South to extend the franchise or to give up electoral power would insure defeat for any reform of the electoral college.[9] It is submitted, however, that the general ticket system should not be abolished unless something is also done to reduce the electoral power of the states in which the popular vote is small.

Those who asked for adoption of the plan before the House and Senate subcommittees on the Judiciary stated time and again that the general ticket system denied the Presidency to the candidate with the most popular votes in 1824, 1876, and 1888. These three cases, as well as a number of others, require examination.

The election of 1824 actually proves nothing about the general ticket system. There is no way of proving that Jackson was the popular choice, because no popular votes were cast in six of the twenty-four states. Jackson was not defeated by the general ticket system but by the constitutional requirement that one must receive a majority of the electoral vote in order to be elected.[9a]

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[9] In 1948, for example, if the election had been determined by the nation-wide popular vote regardless of state lines, 17 states would have had their relative strength increased, and 31 states would have had their relative strength decreased. California would have had her voice in electing the President increased 75.47%, Illinois (55.21%), Massachusetts (43.68%), New York (43.37%), Indiana (38.97%), New Jersey (32.92%), Ohio (28.10%), Washington (23.36%), Michigan (21.13%), Minnesota (20.17%), Connecticut (19.24%), Pennsylvania (16.42%), Wisconsin (16.06%), Missouri (14.80%), Iowa (13.22%), Kansas (7.50%), and West Virginia (2.06%). The following states would have had their voice in choosing the President decreased: *South Carolina* (80.56%), *Alabama* (78.67%) Nevada (77.35%), *Mississippi* (76.70%), *Arkansas* (70.62%), Wyoming (63.19%), *Georgia* (61.95%), *Virginia* (58.45%), Vermont (55.22%), *Louisiana* (54.59%), Arizona (51.66%), *Tennessee* (50%), Delaware (49.38%), New Mexico (49%), *Texas* (45.58%), Maine (42.25%), Idaho (41.43%), North Dakota (39.84%), Montana (38.78%), *North Carolina* (38.38%), New Hampshire (36.92%), South Dakota (31.74%), Utah (24.57%), Oklahoma (21 30%), *Florida* (21.23%), Maryland (18.65%), Kentucky (18.44%), Nebraska (11.15%), Rhode Island (11.02%), Colorado (6.37%), and Oregon (4.69%).

These figures indicate that a constitutional amendment making electoral strength proportional to popular vote could not secure ratification in the requisite 36 states.

[9a] Jackson received only 37.9 percent of the electoral vote. Thus, under the Lucas amendment, the choice of a President would have devolved upon Congress.

Furthermore, the general ticket system was not used in six of the eighteen states in which popular elections were held. In any case, Jackson won 10.209 *more*, and Adams received 14.014 *fewer*, electoral votes under the system used than they would have received under the Lodge formula.[10] If the Lodge formula had been in operation and if each candidate is conceded the electoral votes he received by legislative appointment, *Adams* would have had a margin of 9.223 electoral votes. If the Lucas amendment had also been in effect, however, Adams might not have won the Presidency. He would have had less than 40 percent of the electoral vote, and a joint session of Congress—voting as individuals—would have chosen the President.[10a]

Similarly, the election of 1876 does not prove much about the general ticket system. Fraud and violence attended the popular polling in both North and South. The methods by which Tilden won a popular plurality are not above reproach. In the last analysis, he was defeated, not because of the general ticket system, but because a fifteen-man electoral commission gave the Presidency to Hayes by a vote of eight Republicans to seven Democrats. The facts seem to indicate that Hayes would have won a *free* popular election, but an honest count of the votes actually cast would have given the Presidency to Tilden.[11] Probably the most that can be said for the Lodge formula in this connection is that it would have permitted Tilden's spurious plurality to have won the Presidency for him. In any case, the Lodge proposal is no guarantee against disputed election returns. Indeed, the operation of the Lodge plan in a close contest would likely increase the possibility of contested returns.[12]

[10] Electors were appointed by the legislature in New York, Delaware, South Carolina, Georgia, Vermont, and Louisiana. Electors were chosen by popular vote *in districts* in Maryland, Kentucky, Tennessee, Illinois, Maine, and Missouri. In other words, the general ticket system was used in only twelve states. *Historical Statistics of the United States* (Washington, 1949), p. 288. In any case, Jackson only polled 43 per cent of the popular vote, and his plurality was only 44,804. *Ibid.*, p. 290. At the time these computations were made, the Lodge plan provided that calculations were to be carried to three decimal places "unless a more detailed calculation would change the result of the election." Consequently, these computations were carried to five decimal places. Later the Senate adopted an amendment limiting calculations to three decimal places. In this case, however, the two extra decimal places make no material difference.

[10a] The votes in the House were 87 for Adams, 71 for Jackson, and 54 for Clay. It is nothing more than optimistic speculation to assume that the 54 votes for Clay and the 48 senatorial votes would have been cast so as to have given Jackson the requisite 131 votes.

[11] Paul L. Haworth, *The Hayes-Tilden Disputed Presidential Election of 1876* (Cleveland, 1906); U.S. Electoral Commission, *The Electoral Count of 1877* (Washington, 1877). Not only was there no popular vote in Colorado because the electors were appointed by the legislature, but also there was so much fraud that nobody can determine exactly what percentage of the popular vote each candidate had. No official count of the popular vote was made. According to the Democratic count, Tilden had a plurality of 264,292; but according to the Republican count, his plurality was only 252,224. Application of the Lodge formula to the Democratic count would give him a margin of 11.2 electoral votes; and under the Republican count he would have had a margin of 10.5 electoral votes. For the two counts, see Edward Stanwood, *A History of the Presidency* (Boston, 1904), Vol. 1, p. 383.

[12] Elections would become closer contests as a result of dividing the electoral vote in

Critics of the general ticket system are on more solid ground when they cite the election of 1888. If the Lodge-Gossett plan had been effective and if its operation had not altered America's voting habits, Grover Cleveland's popular margin of 95,713 would have taken him to the Presidency.[13] In two, and perhaps three, other elections, however, the Lodge formula would have defeated the candidate with the popular plurality. In 1880, Garfield won 7,618 more popular votes than General Hancock, his Democratic rival; but the latter would have become the President by a margin of 6.8 electoral votes.[14] In the election of 1896, McKinley polled 50.9 percent of the popular vote in contrast to Bryan's 46.8 percent, yet McKinley would have snatched defeat from victory by a margin of 6.0 electoral votes.[15] The presidential race of 1900 most likely would have been a disputed election; and extended mathematical calculations might have put Bryan in the White House, despite McKinley's popular majority and margin of 861,759. Incidentally this was the greatest popular margin of any presidential candidate up to that time.[16] Application of some

each state. For example, in the election of 1908, the electoral vote margin would have been 3.9; in the election of 1900, there probably would have been a margin of about 0.1 electoral votes. *Hearings on H. J. Res. 2, op. cit.,* p. 99. Moreover, this would make a few hundred popular votes, properly distributed, the determinant of the outcome. See n. 16, below.

[13] According to calculations prepared by the Legislative Reference Service of the Library of Congress, Cleveland would have garnered 202.9 electoral votes instead of 168, and Harrison would have received only 185.8 instead of 233. *Hearings on H. J. Res. 2, op. cit.,* p. 99.

[14] Republicans: popular vote, 4,449,653 or 48.3 percent; electoral vote, 214; electoral vote under Lodge formula, 175.1. Democrats: popular vote, 4,442,035 or 48.2 percent; electoral vote, 155; electoral vote under Lodge formula, 181.9. *Ibid.,* p. 99.

[15] Republicans: popular vote 7,035,638; electoral vote 271; electoral vote under Lodge formula, 215.3. Democrats: popular vote, 6,467,946; electoral vote 176; electoral vote under Lodge formula, 221.3. *Ibid.,* p. 99.

[16] According to the calculations of the Legislative Reference Service, McKinley would have had a margin of one-tenth of an electoral vote. Republicans: popular vote, 7,219,530 or 51.7 percent; electoral vote 292; electoral vote under Lodge formula, 217.3. Democrats: popular vote, 6,358,071 or 45.5 percent; electoral vote, 155; electoral vote under Lodge formula, 217.2. *Ibid.,* p. 99.

According to the author's calculations based on statistics in the *Statistical Abstract of the United States 1908,* p. 42, which seem to be the same statistics used by the Legislative Reference Service, McKinley would have had a pluraltiy of 0.192 electoral votes.

According to Senator Taft's calculations, Bryan would have had a plurality of 4.3 electoral votes. The statistics on which Taft based his computations are as follows: Republicans' popular vote of 52.8 percent and a plurality of 861,000; Democrats' popular vote of 47.2 percent. *Cong. Rec.* (Daily), Vol. 96, pp. 1298, 1300–1301.

A shift of 100 votes from McKinley to Bryan in each of the eleven states of the solid South and in Kentucky would have given Bryan a margin of .002 electoral votes (author's calculations based on statistics in the *Statistical Abstract of the United States 1908,* p. 42). Yet McKinley would still have had a popular margin of 859,059 and an absolute majority of 51.69 percent. Election returns will actually vary by several thousand votes as recounts and more careful calculations progress. For example, according to the *New York Times* compilation for the 1948 election (*op. cit.*), Truman had a plurality of 2,135,336. But according to returns corrected to January 29, 1949, his plurality had increased by 1,189 (*H. Rept., op. cit.,* pp. 14–15). Certainly, these figures suggest that the Lodge formula would give rise to contested returns in a close election.

elementary statistical methods to actual election returns indicates that these three cases are not mere accidents and that the Lodge-Gossett plan would operate to the advantage of the Democrats and to the disadvantage of the Republicans as long as the South remains relatively solid and southern suffrage remains limited.

The difference between the percent electoral vote under the Lodge formula and the percent popular vote for the two parties is instructive:

TABLE I

Year	Democratic Party			Republican Party		
	Percent of electoral vote under Lodge plan	Percent of popular vote	Deviation	Percent of electoral vote under Lodge plan	Percent of popular vote	Deviation
1880	49.295	48.225	+1.070	47.453	48.308	−0.855
1884	50.000	48.842	+1.158	47.307	48.215	−0.908
1888	50.599	48.658	+1.941	46.334	47.817	−1.483
1892	45.653	46.119	−0.466	41.937	43.100	−1.163
1896	49.508	46.824	+2.684	48.166	50.934	−2.768
1900	48.591	45.530	+3.061	48.613	51.699	−3.086
1904	37.605	37.597	+0.008	56.408	56.412	−0.004
1908	46.977	43.051	+3.926	47.785	51.581	−3.796
1912	46.460	41.821	+4.639	21.450	23.178	−1.728
1916	53.540	49.265	+4.275	41.827	46.058	−4.231
1920	40.038	34.666	+5.372	56,478	61.237	−4.759
1924	36.045	28.828	+7.217	48.738	54.054	−5.316
1928	43.616	40.793	+2.823	54.972	58.110	−3.138
1932	61.695	57.411	+4.284	35.706	39.651	−3.945
1936	64.087	60.194	+3.893	33.070	36.539	−3.469
1940	58.380	53.847	+4.533	40.414	44.770	−4.356
1944	55.499	51.644	+3.855	42.147	45.869	−3.722
1948	49.190	49.363	−0.173	41.902	44.988	−3.086

It will be noticed that the Democrats would have had a plus deviation in sixteen of the eighteen elections and the Republicans would have had a consistent minus deviation. The average Democratic deviation for the period would be +3.006, whereas the average Republican deviation would be −2.879. In other words, on a nation-wide basis, the Lodge formula would have consistently given the Democrats a greater electoral vote and the Republicans a smaller electoral vote than they were entitled to by their percentage of the popular vote.[17] In summary, the Lodge formula would reduce the possibility

[17] The author's calculations based on the statistics used by the Legislative Reference Service, *Hearings on H. J. Res. 2, op. cit.*, p. 99. It will be noticed that the author used the electoral vote calculations of the Legislative Reference Service for the election of 1900.

of a Republican's reaching the Presidency even with a popular plurality, but would enable a Democrat to salvage victory from popular defeat.

The Democratic advantage and the Republican disadvantage under the Lodge plan should not be attributed to the magnified electoral power of the small states which results from giving the constant two electoral votes to all states and from giving one additional elector to Delaware, Nevada, and Wyoming, which do not always have the population quota requisite for the election of one Representative in all other states. If this were the cause, one could expect the Democratic deviation to increase in proportion to the number of states carried under the Lodge formula. Actually the correlation is so small as to indicate neither a direct nor an inverse proportion between the Democratic deviation and the number of states carried under the Lodge plan.[18]

The Lodge formula would redound to the advantage of the Democrats and to the disadvantage of the Republicans because the Democratic stronghold is in the South, where a relatively few popular votes will win an electoral vote. The Republicans, on the other hand, must seek their electoral votes in the other states, where more popular votes are necessary to win an electoral vote. It will be noticed that the Democratic advantage under the Lodge formula varies directly with the solidness of the South and/or inversely with popular participation in that area. In other words, the more solid the South and the more Southerners who do not vote in the popular election, the more the Lodge formula will magnify the strength of the Democrats:

TABLE II

Year	Democratic advantage (taken from Table I)	Solidness of South[19]	Southern popular participation relative to rest of country[20]	Year	Democratic advantage (taken from Table I)	Solidness of South[19]	Southern popular participation relative to rest of country[20]
1892	−0.466	61.47	70.31	1944	+3.855	73.66	41.28
1948	−0.173	45.03	43.91	1936	+3.893	83.07	39.18
1904	+0.008	70.33	40.43	1908	+3.926	68.02	42.88
1880	+1.070	59.75	75.74	1916	+4.275	74.73	42.54
1884	+1.158	61.41	73.92	1932	+4.284	83.27	40.66
1888	+1.941	63.45	69.33	1940	+4.533	80.44	40.18
1896	+2.684	66.33	65.58	1912	+4.639	70.94	43.19
1928	+2.823	57.18	38.62	1920	+5.372	67.55	41.22
1900	+3.061	66.27	53.76	1924	+7.217	70.36	36.63

[18] For the Democrats, the rank-difference coefficient of correlation is positive .114; for the Republicans, the rank-difference coefficient of correlation is negative .063, which is so small that it could not possibly account for the Republican disadvantage.

[19] The calculations in Table II are based on statistics in the following sources: Stanwood, *op. cit.*, Vol. 1, pp. 417, 448; and the *Statistical Abstracts of the United States, 1912*

The Democrats would have suffered a disadvantage under the Lodge formula only in 1892, when the Populists polled a sizeable part of a relatively large popular vote in the South,[21] and in 1948, when the Dixiecrats invaded Southern Democracy. It is enlightening to see the deviation between the percent electoral vote under the Lodge formula and the percent popular vote for a period when the South was not solid:

(pp. 727–735), 1917 (pp. 698, 702), 1920 (pp. 758, 762), 1924 (pp. 141–142), 1928 (pp. 166–167), 1933 (pp. 155–156), 1937 (pp. 159–160), 1941 (pp. 174–175), 1944–45 (pp. 251, 253). The "solidness of the South" is an *average* percentage of the popular vote polled by the Democrats in the eleven states, weighting each state according to its electoral vote. This method was used because it makes a great difference, for example, whether the Democrats poll 90 percent of the popular vote in a state with three electoral votes or in a state with twenty electoral votes. Of course, the eleven states of the Solid South are: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

The rank-difference coefficient of correlation between the solidness of the South and the Democratic advantage under the Lodge formula is .680.

[20] Popular participation in the South in relation to popular participation in the rest of the country is measured in terms of the relation between the percent of the national popular vote polled in the South and the percent of the total electoral vote cast by the South. In 1928, for example, the South cast 23.729 percent of the electoral vote (126 out of 531); but only 9.164 percent of the nation-wide popular vote was polled in the South. Of course, 9.164 is *38.619 percent* of 23.729. Thus popular participation of that year was figured as 38.619 percent. In other words, if the election had been determined by the nation-wide popular vote, the South would have had only 38.619 percent of the voice which the eleven states actually had in electing the President. It will be noted that the low popular participation that year partially offset the lack of southern solidarity.

The rank-difference coefficient of correlation between the Democratic advantage under the Lodge formula and popular participation in the South is negative .587; the coefficient of multiple correlation between Democratic advantage and solidness of the South and popular participation in the South ($R_{1.23}$) is .701.

[21] The Democratic disadvantage in 1892 cannot be explained entirely by the relatively high popular vote in the South and the relative lack of southern solidarity. Another important factor was the Populist invasion of Democratic strength in the small western states which are over-represented in the electoral college:

State	Electoral Votes	Percentage of the Popular Vote		
		Republican	Democratic	Populist
Colorado	4	41.1	—	57.1
Idaho	3	44.9	(2 votes)	53.7
Montana	3	42.5	39.7	16.6
Nevada	3	25.8	6.6	66.8
North Dakota	3	48.5	—	49.0
Oregon	4	44.6	18.1	34.4
South Dakota	4	49.5	12.9	37.6
Washington	4	41.5	33.8	21.7
Wyoming	3	50.6	—	46.2

Calculations based on election returns in the *Statistical Abstract of the United States 1912*, pp. 728, 735.

TABLE III

Year	Democratic Party			Republican Party		
	Percent of electoral vote under Lodge plan	Percent of popular vote	Deviation	Percent of electoral vote under Lodge plan	Percent of popular vote	Deviation
1864	44.292	44.940	−0.648	55.708	55.060	+0.648
1868	45.986	47.332	−1.346	54.014	52.668	+1.346
1872	43.470	43.823	−0.353	56.011	55.621	+0.390
1876	50.976(?)	50.933(?)	+0.043	47.995(?)	47.951(?)	+0.044

The South did not participate in the election of 1864 and participated in only a limited way in the other three elections. In 1868, 1872, and 1876, the reconstruction regimes enforced a Republican-Democratic-two-party system with varying degrees of success. In these four elections, the average Republican deviation would have been +0.607 and the Democratic deviation would have been −0.576.[22]

The reason for these deviations can be clearly shown by inspecting the results of the 1948 election. In the eleven states of the Solid South one electoral vote represented 40,260 popular votes, while in the other thirty-seven states one electoral vote represented 107,840. The civil rights question decreased Democratic strength in the South but did not add much to the Republican vote. The principal beneficiaries of Democratic reverses were the Dixiecrats, who carried states in which the popular vote was low. Actually they won an electoral vote for every 29,982 popular votes. In spite of Democratic losses, Truman still would have captured 57.18 of the South's 127 electoral votes under the Lodge formula, and the Republicans would have won only 30.35, giving the Democrats a lead of 26.83 electoral votes in that area. This lead represented a popular margin of 1,194,700. To win 26.83 electoral votes outside the South in order to overcome Truman's southern lead, Dewey would have had to poll a popular margin in the North of approximately 2,893,347. Dewey's necessary popular margin would vary slightly, of course, depending on his success in the small states in relation to his success in the large states.[22a]

In those elections in which the South is more solid than it was in 1948, the Republican handicap under the Lodge formula would be much greater. In 1932, for example, if the Lodge plan had been effective, if the total popular vote had remained constant, and if the distribution of the popular vote between the two parties in the South had remained the same, Hoover could not have won

[22] See n. 17, *supra*. The author used the statistics of the Legislative Reference Service for the election of 1876.

[22a] Calculations carried to five decimal places.

the election without a popular plurality of approximately 5,417,870. That year each electoral vote in the South represented 30,381 popular votes. Under the Lodge formula, Roosevelt's popular margin of 2,250,887 in the South would have given him 103.26 electoral votes to Hoover's 19.87. In the South, Roosevelt would have had a margin of 83.39 electoral votes. In order to win 83.39 electoral votes in the other thirty-seven states, where each electoral vote represented 88,365 popular votes, Hoover would have had to poll a popular plurality of approximately 7,668,757 or an overall North-South plurality of 5,417,870. In other words, Hoover could have had a popular plurality of more than five million and been defeated in the electoral count.[23]

Senator Lodge has stated that he does not understand how the Lodge-Gossett formula would harm the Republican Party since the formula would have given the Republican candidate more electoral votes than he actually received in 1948.[24] Of course, the formula would also have given the Republican candidate more electoral votes in 1932, 1936, 1940, and 1944; but the significant question is not whether the Lodge formula would enlarge the electoral vote of the party which would lose the election in any event. The real question is how the Lodge plan would affect the electoral vote of the party which polled the popular plurality. As has been shown, the formula would endanger a Republican electoral plurality in years when the Republican Party actually won a popular plurality.

On several occasions Senator Lodge has said that it is incorrect to apply his formula to the statistics of past elections because the adoption of his plan would change America's voting habits. In particular, he thinks the South would be blessed with a Republican-Democratic-two-party system. He believes Republicans would come to the polls because their efforts would no longer be futile and Democrats would come to the polls because their votes would no longer be superfluous.[25] There is a possibility that this prophecy would prove true; but what is the probability? The voting pattern of the South has been remarkably uniform ever since the demise of the reconstruction regimes. Even if one compares the primary vote in the South to the general election vote in the other thirty-seven states, the number of Southerners going to the polls is relatively low. As a matter of fact, in the South as a whole participation in a *presidential* election is usually greater than participation in the largest primaries.[25a] And where will Republican votes come from in the South? To expect such miraculous results from mere electoral reform is attaching too little importnace to historical, social, economic, and political factors.

The first possible source of Republican strength in the South is the uncertain number of disfranchised. The Republicans have no power in southern legisla-

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[23] The author's calculation is based on the statistics in Edgar Eugene Robinson, *They Voted for Roosevelt* (Stanford, 1947), pp. 42–46. The popular vote in this hypothetical case is as follows: Roosevelt, 41.7%; Hoover, 55.4%; others, 2.4%.

[24] *Hearings on S. J. Res. 2, op. cit.*, p. 88.

[25] *Ibid.*, pp. 8–9, 71–90; *Cong. Rec.* (Daily), Vol. 95, pp. 2946–2951 (Mar. 22, 1949).

tures to enlarge the electorate. As a matter of fact, Republican popularity among the disfranchised might induce southern Democratic legislatures to tighten suffrage qualifications.[26] In any case, southern Democracy met the Populist challenge with a program of systematic disfranchisement through literacy tests and cumulative poll taxes.[27] That the northern states would retaliate seems unlikely; but if they did not, a northern electoral vote would continue to stand for several times as many popular votes as would be represented by a southern electoral vote. If the North did retaliate, as Professor Hermens of Notre Dame University told the Senate subcommittee, one of the most unhealthy rivalries in American history would result.[28]

The second possible source of Republican strength in the South is among those who now disfranchise themselves by staying away from the polls. Republican appeal to southern conservatives would endanger its liberal and Negro support in all forty-eight states. Appeal to southern Negroes and liberals would alienate those southern conservatives to whom Republican economic and fiscal policy is most likely to appeal. Adoption of the Lodge-Gossett proposal would probably mean that, in years when the Republicans can win sufficient popular support outside the South to give them a national plurality in the popular vote, they would trade large blocks of electoral votes in the North for insignificant numbers in the South. This, in turn, would mean that the Republicans

[25a] For example:

State	Total votes for single office receiving highest state-wide vote in 1942 primaries		Total vote for presidential electors	
			1940	1944
Alabama	(Governor)	279,454	294,219	244,743
Arkansas	(Atty. Gen.)	228,414	200,743	212,954
Florida	(U. S. Represent.)	258,668	485,492	482,592
Georgia	(Governor)	301,686	312,539	328,111
Louisiana	(U. S. Senator)	321,041	372,305	349,383
Mississippi	(U. S. Senator)	133,449	175,824	180,080
North Carolina	(U. S. Senator)	320,755	822,648	790,554
South Carolina	(U. S. Senator)	234,942	99,830	103,375
Tennessee	(Governor)	297,197	522,823	510,792
Texas	(U. S. Senator)	983,512	1,041,168	1,150,330
Virginia	(U. S. Represent.)	41,318	346,607	388,485
TOTALS		3,400,436	4,674,198	4,741,399

Source: *Statistical Abstract of the United States 1943*, pp. 234, 237; *ibid.*, 1944–45, pp. 251, 257.

[26] On this point, see the minority report on *H. J. Res. 2, op. cit.*, pp. 28–29.
[27] Wilfred E. Binkley, *American Political Parties* (New York, 1943), p. 317.
[2b] *Hearings on S. J. Res. 2, op. cit.*, p. 209.

would have to roll up enormous popular pluralities in the North to capture the Presidency, whereas the Democrats who only placed in the popular race could win in the electoral count.

More than the fate of the Republican Party is involved. The operation of a democratic party system, in contrast to a Democratic Party system, depends on the existence of an opposition which has a reasonable chance of winning control of the executive. To make it virtually impossible for the Republicans to win the Presidency even when they poll substantial pluralities or even majorities is to render the Republican Party ineffective as a counterpoise. If the Republicans could remain sufficiently alive under such a system to win control of Congress, at least the Lodge-Gossett plan would increase the possibility that the Republican Congress would be saddled with a Democratic President.

The elimination of electors and the reform of the system by which a President is chosen when no candidate receives the required number of electoral votes are doubtless desirable changes. If the electoral votes are to be divided in each state, the reduction of the electoral requirement from a majority to forty percent is necessary. Otherwise, most Presidents would probably be elected by a joint session of Congress. But this reduction and the division of a state's electoral votes would have more far-reaching consequences than is generally realized.