

*An Evaluation of Major Election
Methods
And Selected State Election Laws*

Fall 2000

By
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Education Fund*

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The International Institute For Democracy And Electoral Assistance

Some sections of this study, such as the suggested criteria, draw heavily on the work of the International Institute for Democracy and Electoral Assistance (IIDEA) and its Handbook of Electoral System Design. For this reason, we provide a brief description of the Institute and its origins:

Existing democracies as well as emerging ones must select electoral systems that best meet their needs. Seldom is that selection deliberate. More often the choice may be the result of circumstances prevalent at the time of selection, such as colonial status, influential neighbors or a favored political trend of the times.

During the last quarter of the twentieth century, as totalitarian regimes lost power in the 1980s and 1990s considerable efforts were spent on formulating constitutional designs. These attempts created an urgent search for enduring representative governments. The information gathered enables us to take a new look at electoral systems, their functions, performances and overall evaluation.

Founded in 1995 by fourteen countries at a conference in Stockholm, the IIDEA functions like an “election systems think tank,” collecting and analyzing information about election systems worldwide and making the information publicly available. IIDEA objectives include:

- Promote and advance sustainable democracy worldwide.
- Broaden the understanding and promote the implementation and dissemination of the norms, rules, and guidelines that apply to multi-party pluralism and democratic processes.
- Strengthen and support national capacity to develop the full range of democratic instruments.
- Increase knowledge and enhance learning about democratic electoral processes.

The League of Women Voters of Washington Education Fund is dedicated to strengthening citizen knowledge of government in Washington State. The goals of its non-partisan education projects are to help citizens:

- Better understand major public policy issues, and
- Become active and informed participants in their communities and government.

Additional copies may be ordered from League of Woman Voters of Washington, 206-622-8961, lwwwa@lwwwa.org. Cost \$3.00.

Introduction

The Concept of Representation

Thomas Jefferson hoped that the United States would become a “laboratory of democracy,” experimenting, refining and steadily improving our democratic institutions. Sharing that hope, we embark upon this examination of Washington’s election system, how it works and whether or not it might be improved.

Ours is a representative democracy — a few are elected to make decisions for many. The system used for electing our representatives is seldom questioned in the United States. Yet many of the world’s democracies have rejected it in favor of other systems. Only recently, in the face of voter apathy and increased expressions of antipathy towards government, have some Americans begun to consider that there may be a relationship between the method used to select their representatives and peoples’ numerous complaints about the government it produces.

John Adams contended that a legislative body “should be an exact portrait, in miniature, of the people at large, as it should think, feel, reason and act like them.” However, the most common voting system in the United States, the Single Member Plurality system, is not designed to reflect all views within a given district, nor is it a methodology capable of assuring Adams’ larger vision of representation within the legislative body as a whole.

Voters feel well represented when their representative votes as they would have. People who more closely identify with the losing candidates in their district may not feel represented at all, under our winner-take-all system. Voters who belong to or share the views of third or “minor” parties feel especially left out and underrepresented in a two-party system. They feel that their votes are “wasted” because the votes do not help to elect a winning candidate. Such voters may become so disaffected that they cease to vote at all or to participate in the political process. Their perspective is of interest and importance to the League of Women Voters, because the League is concerned with the health of our democracy, with broad and meaningful participation in our political process and with ensuring the voting rights of all citizens.

The Wasted Vote

At several points, this study uses the term “wasted vote.” In most instances, the adjective “wasted” is not intended to be subjective or judgmental, but is used in the way political scientists use it: as a term to describe “votes that do not elect.” When used in this way, the term applies to surplus votes as well as discarded votes. For example, in a one winner race:

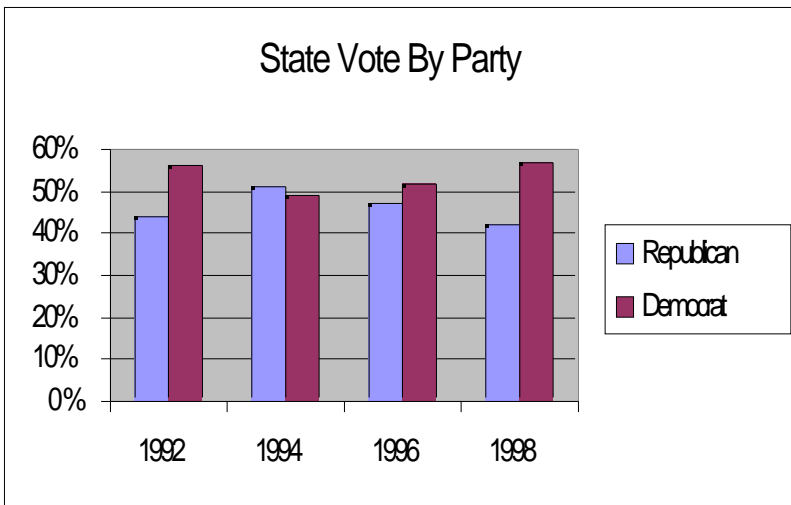
- Candidate A wins with 53% of the vote - 50% + 1 were necessary. The remaining votes were wasted.
- Candidate B receives 47% of the vote -- 47% were wasted.

Officials elected under our current system often assert that they can faithfully represent the broad political spectrum of their constituents: no one gets left out. Such comments, however, often refer to an elected official’s ability to perform constituent services such as assistance in dealing with government agencies. When asked how they can represent constituents with an opposite point of view, some say they “moderate” their positions. Many pieces of legislation are indeed the result of moderated views and compromise. However, when the final vote comes, it must still be a “yea” or a “nay” – and the choice made by their representative is certain to please some constituents, but not all.

The following charts demonstrate how a minor distortion of voter representation at the local level can become a major distortion when multiplied nine times over for a larger area such as all nine Congressional districts of the State of Washington. Before you examine the charts, a note about political parties: As we will discuss in Chapter One, many Washington voters object to being categorized by a political party label. When polled on the subject of party affiliation, approximately 1/3 claims to be independent. However, at election time, most do end up voting for candidates from one of the two major parties, and that party vote is the easiest way of comparing voter philosophy with election results. Some interesting pictures emerge when we compare the relationship, or lack thereof, between party preference and the representatives elected.

Congressional Representation

The first chart indicates Washington’s statewide vote for Congressional Representatives, by party, during the past eight years. Note that the State’s voters are almost evenly split between the two major parties. Then look at the second chart that indicates the political make-up of Washington’s nine-member delegation during the same time period. As the charts make clear, small changes in the popular vote can produce huge swings in party representation, with the relationship between the vote and the outcome inconsistent and disproportionate.



What Happened?

1992 Democrats won 89% of seats (8 of 9) with only 56% of popular vote.

1994 Republicans won 78% of seats (7 of 9) with only 51% of popular vote.

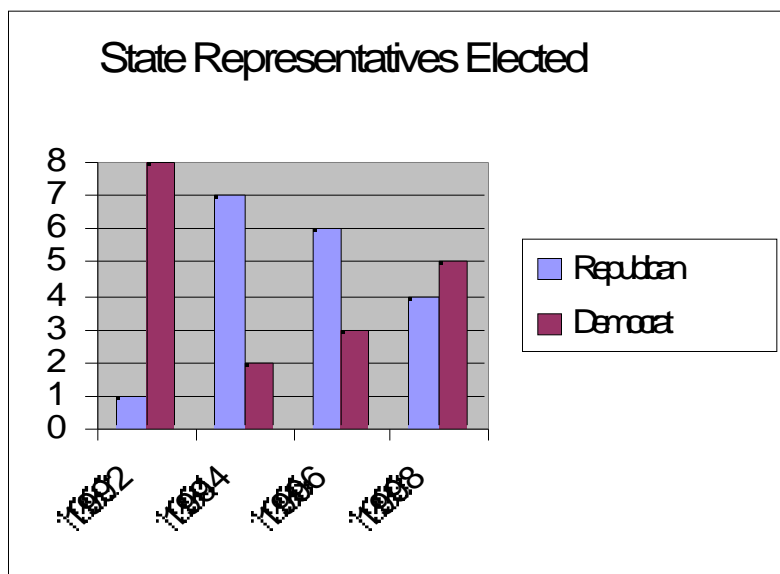
A 7% change in the voting pattern (swing voters), caused a 67% change in party representation.

1996 Republicans won 67% of seats (6 of 9) with only 47% of popular vote (less than a majority).

A 4% change in the voting pattern caused an 11% change in party representation.

1998 Democrats won 55% of the seats (5 of 9 seats) with 57% of the popular vote.

A 5% change in voting patterns caused a 25% change in party representation.



Why Did This Happen?

The election took place in single member districts, many of which were almost equally divided between the two major parties. Only one party could have a winner. Therefore it was only necessary for a very small percentage of the voters to “swing” to the other side to disproportionately change the outcome of the election. District boundaries were the same for each of these elections. Only in the 1998 election did the representation achieved come close to mirroring the popular vote.

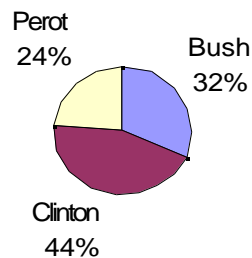
Representation in the State Legislature

The state’s voters are fairly evenly split between the two major parties. Washington currently has 49 legislative districts. Thirty-four of those districts are represented by either three Republicans or three Democrats (two Representatives and one Senator). If you vote with the majority in your district, you have three representatives in Olympia who share your political views; otherwise you have none --- unless you consider the opposing party well able to represent your point of view. The State currently has only 15 districts that have representatives of both major parties. There is no third party representation, even though numerous polls over the last 15 years have indicated strong support for more party choices. Since party caucuses control so much state legislative business, a city or region that has representation in only one party’s caucus may be disadvantaged, as may be the losing voters in each district. Generally, most legislators do not respond to messages from voters outside their own districts, so “sharing” another districts legislator is not an option for most voters.

Although elections for the office of State Representative take place in multi-member districts, state election law requires candidates to run by position. The election for each position is like an election in a single-member district. Federal and state laws require that legislative districts be re-drawn once every ten years, following the census. A five-member commission composed of two representatives from each of the major political parties, plus one member elected by the commission, handles the redistricting task. The parties tend to cooperate in preserving “safe” districts for incumbents, limiting opportunities for change.

Representation of Presidential Votes

The disconnect between votes cast and the resulting representation shows up at every level of government. In 1992, 56% of Washington State voters cast their vote for someone other than President Clinton, yet he was awarded all of the state’s Electoral College votes (see chart, below). The election method that causes this discrepancy between the actual vote and the resulting representation will be discussed in Chapter Four.



Popular Vote

Clinton 100%



Electoral College Vote

Is There a Problem Here?

In ancient Athens, citizens were selected for one-year terms in the Assembly – by lot. Was this a good or bad way to select representatives? Why? On what basis can we answer those questions? How should a society committed to representative government choose its representatives? What benchmarks should we use to judge the quality, value, or effectiveness of election methods in the United States? How do we know when we have a problem, and how do we identify its causes, so that we can remedy it?

The fundamental question for this study is how should society best transform individual choices (expressed as votes) into social choices (winning candidates and ballot measures)? Because not all election systems produce the same results, and outcomes cannot always be accurately predicted, we must also ask, more specifically, whether changes should be made in federal and state law to make it easier for governmental jurisdictions to experiment with other voting systems.

A number of indicators suggest that something is amiss with the public’s perception of elections in the United States. The country has one of the lowest rates of voter participation in the democratic world, one of the highest election costs per vote, complaints about lack of choice among candidates and parties and distortion between votes cast and seats gained. Its election system draws legislative boundaries that tend to reinforce a two party monopoly. A disproportionately low percentage of women, minorities and ethnic groups are elected to office (although this is much less true in Washington State than in many other states). Minority party voters may feel their vote is “wasted” on losing candidates, and that their political philosophy or perspective lacks representation. Readers should ask themselves, “How are these problems related to the election method in predominant use in this country? The stick figure chart depicting election results under six different voting systems might help to answer that question. (See “*Election Results . . .*” chart on the following page)

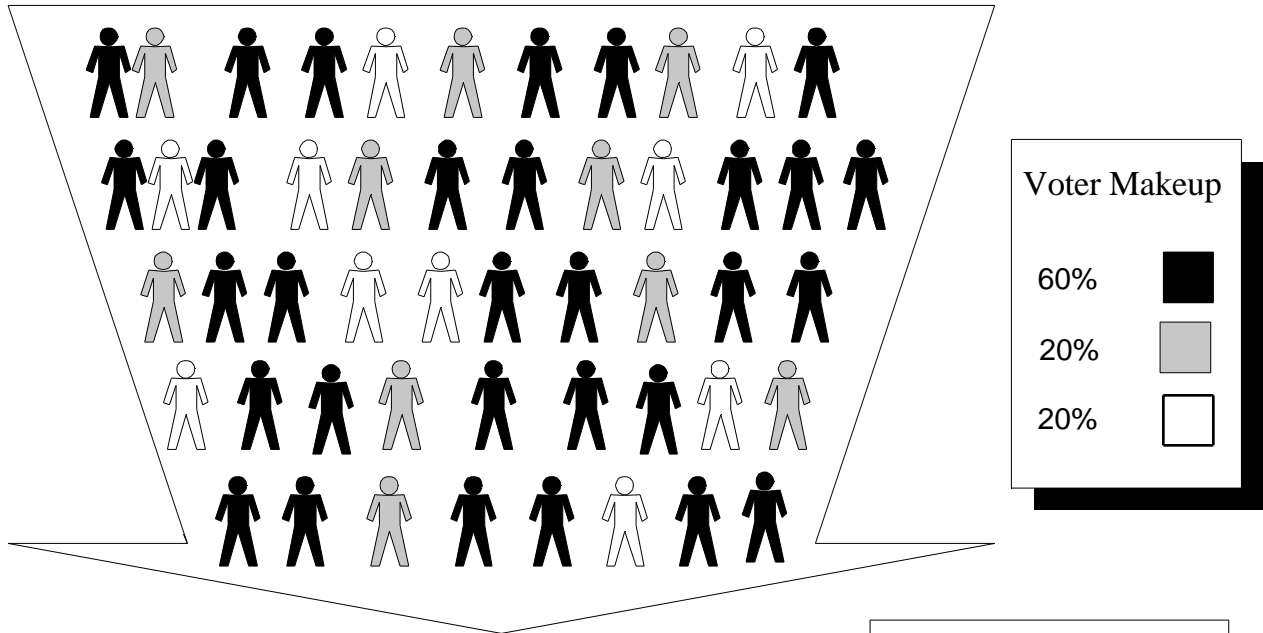
As the chart illustrates, the system in use today in most U.S. jurisdictions leads to unrepresentative electoral results.

America is replete with experts who expound on “fixing” the election system. Proposals for this fix include: Internet and mail voting, “none of the above” ballots, term limits, holiday or weekend election days, and a variety of combinations of these and other remedies. Few of these, however, influence the fundamental issue of election methods, and thus are not able to correct the problem of inadequate representation illustrated by the chart.

Many experts believe that the election methods themselves – the choices our ballots allow and the rules for combining our choices – are more difficult to change than most other parts of the political process. This is in part due to incumbents’ reluctance to change a system that they perceive to be of benefit to themselves and their incumbency, and in part because such changes would in many cases entail an amendment to the Constitution of the United States or of the various states, an inherently more cumbersome process than the adoption of new legislation. In addition, most Americans appear to be uninformed about the variety and ramifications of different election systems. Many are unaware that alternative democratic election systems exist at all.

Fixes to our current election systems are not the main focus of this study – although selected laws and procedures do receive some scrutiny in Chapter Four. Rather, this study is primarily about developing an understanding of the basic structure of the voting system, the methods and procedures for transforming individual voter choices into societal choices. Proponents of election method reform believe that the primary problems with our election system lie in this area, and that these problems cannot be solved without fundamental change.

Election Results Differ Depending on the Election Method Chosen



If representatives are elected in a ratio which reflects the make-up of the electorate this is how they would look.



At Large
5 positions
5 votes

Up to 49.9% of the voters may not elect a representative.



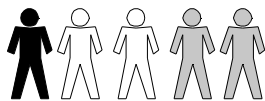
5 Single Districts
1 vote

Unless most of the minority lives in the same district, all their votes will be wasted.



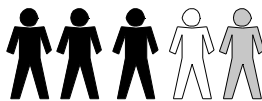
District Nomination At Large Election
1 primary vote
5 general election votes

Unless one of the minority groups comprises a district majority, all their votes will be wasted.



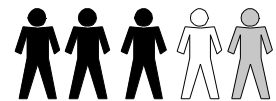
At Large
5 positions
1 vote

If the majority vote for the same candidate, many of their votes will be wasted and the majority will be under represented.



At Large using Single Transferable Vote (Preference Voting)

1 vote with alternatives listed in order of preference. Although some voters won't get their first choice, almost all will get one of their other choices.



At Large using Cumulative Voting
5 positions
1-5 votes per candidate

A semi-proportional system which allows organized minorities to pool their vote on a single candidate. Requires strategic planning if votes are not to be wasted.

The reader is being asked to consider the question: Do we have the right election methods and voting procedures in place today and, if not, why not, and what should we do instead? To answer, we must start with deciding what it is that elections should do, then learn more about how our own and other election systems work. After this, we must determine appropriate criteria to be used in evaluating the various election systems. Only after taking these steps, accompanied by thorough discussion, will we be prepared to make informed choices.

This study provides material about our own election system, how it came into being, and some of its major characteristics, through the discussion of political parties in Chapter One.

Chapter Two describes the major types of election methods in use around the world today. It is not possible to evaluate these systems without an understanding of how they work, their strengths and weaknesses, and the extent to which they fit criteria applied to them.

Chapter Three discusses criteria to be used in evaluating election systems. In reading this chapter, it is useful to keep in mind the findings of Kenneth Arrow, a mathematical theorist who was awarded a Nobel Prize for work that indicated that no election system could be perfect. Each system has different strengths and weaknesses. To evaluate election systems, he stated, it is first necessary to establish criteria for judging them. It should be noted that the list of criteria offered in Chapter Three is not definitive; the reader is encouraged to discard some criteria or add others.

Finally, the study provides material on selected election laws – national, state and local – in Chapter Four.

Political scientist Douglas Rae has observed that “Electoral laws are of special importance for every group and individual in the society because they help to decide who writes the other laws.” It behooves us all to understand the strengths and weaknesses of our current system, and to weigh with care all the alternatives.

CHAPTER ONE

Political Parties

Some historians date the emergence of political parties, as we know them, to late 17th century Britain when opinion was divided over proper succession to the throne. Should James, Duke of York, a Catholic among a Protestant majority, be permitted to succeed to the throne upon the death of his brother, Charles II, who had no legitimate offspring? Those defending James became known as Tories (an Irish term for highwayman) and those insisting on a Protestant heir were known as Whigs (a Scottish term for horse thief). Over time the Tories tended to stand for the older view of a hierarchically organized feudal society and established church, while the Whigs leaned towards more social and political individualism that was associated with growing economic enterprise and the philosophy of John Locke.

Some writers have attributed the seeds of the American Revolution to British Libertarian Whigs of the 1720's, dubbed "coffee-house radicals." Colonialists seeking more freedom from the British crown called themselves Whigs and those supporting the crown called themselves Tories. After independence came, the victorious Whigs began to split over issues of freedom, property rights, and public debt.

The delegates to the constitutional convention in 1787 were determined to erect safeguards that would insure that the federal government would be made up of a variety of interests, none of them able to dominate. Power would be divided between:

- The national government and the States
- The executive and congress
- The house and senate, giving each different modes of election

The founders made no provisions for the emergence of parties since they were keenly opposed to the very notion of party governance. However within three years of President Washington's first inauguration, parties were taking shape and, with minor exceptions, a national pattern of two major parties has prevailed ever since.

Political parties have been defined as organized social groups formed to influence governmental authority through elective means. In addition to providing a meeting ground for people sharing a common philosophy or background and nominating candidates for public office, parties have played major roles in organizing campaigns, raising money, educating voters and getting out the vote. The means used, especially during the country's early decades, developed powerful ward "bosses" who could dole out substantial political patronage. Judgments about whether food baskets and "walking money" represented bribes or neighborly concern probably depended upon which party was doing it.

Political "machines" were most developed in the eastern states. Whether it was the kind of settler who headed west, or changing attitudes that came with the Populist and Progressive movements around the same time, the role of political parties began eroding in the early 1900's, especially in the West.

Statehood for Washington Territory was stalled for 22 years after its legislature began agitating for admission, with 13 of those years coming after its voters adopted a constitution in 1878. One of the big reasons for the delay was concern that it might upset the balance of powers between political parties on a national basis.

A strong streak of independence came with the Territory. It was not unusual for voters, in territorial days and after statehood, to divide their party support, voting for a Governor from one party and legislator from another. Often, party support was divided between the House and Senate.

Although the Democrats and Republicans (earlier known as Whigs) usually held most elected offices, third and fourth parties also occasionally achieved success and even ruled on occasion. Contributing to Washington history were parties by the name of: Knights of Labor, Peoples Party, Loyal Leagues, Farmer-Labor, Socialist Labor, Workers Party, Union Democrats. The Fusion Party swept to victory in 1896 when the Silver Republicans joined forces with the Populists and Democrats. In more recent decades, the Reform, Libertarian, OWL, Natural Law and Green Parties have joined the list of participants.

Various voting systems have also been used. The Act of Congress that authorized Washington to draft a constitution and organize its government in 1889 specified that convention delegates be elected by a system providing for proportional representation. Voters were given two votes with which to elect three delegates from each district. Today, this system is called "Limited Voting," and is one of several types of "semi-proportional" systems described in the chapter on Election Systems.

The 75 delegates to Washington's Constitutional Convention were born in 24 different states, territories, provinces or countries--including Scotland, Germany, Ireland, New Brunswick, Ontario and Wales. They carried with them stories and experiences of other governments' misdeeds, and uppermost in their minds was the need to defend and protect individuals from government excess. The constitution they designed resembled the federal document in many ways.

(Little is known about the details of the discussions and debates that produced Washington's constitution because, although two of the Territory's best stenographers took notes during the 26-day convention, the legislature later refused to authorize the funds to transcribe the notes. Twelve years later, the stenographers announced they would no longer even consider transcribing them.)

At the previous Washington Constitutional Convention, in 1876, delegates chose a Cumulative Voting system to elect their legislature. Each voter could cast as many votes as there were representatives in their multi-member district. Their votes could be cast for as many or as few candidates as they chose. Although approved by the voters, because of the protracted delay of achieving statehood, this constitution was never put into effect and merely became an interesting historical footnote.

Eight years after statehood, Theodore Stiles, one of the original delegates who was then elected to the State Supreme Court, published this evaluation of the new constitution in the Tacoma Daily Ledger:

"--- the convention did its best. It worked honestly and earnestly to accomplish, in the short time allotted to it, the highest good to the incoming State. There were no cranks, and but few politicians in it; and I verily believe that in no body of like character has politics been made more completely subservient to the public welfare. Its weakness was that it had to be chosen from the common people of the Territory, who were not numerous and who had not the training in schools of the most lucid and comprehensive statement. Its members had ideas enough and they knew well what they wanted, but when it came to setting it down in precise and unmistakable language they lacked the necessary experience."(Meany)

Stiles went on to praise the new State's "advanced political methods:"

"In the matter of the elective franchise, Washington took an advanced position. None but citizens of the United States can vote; the ballot must be absolutely secret; and registration is compulsory in all but purely rural communities, where everybody is known. The consequence of these provisions has been that election scandals are almost unknown here, and there is nowhere a more independent body of voters."
(Meany)

Two examples of "Washingtonian's advanced political methods" were Seattle's 1906 charter amendment (brought about by a citizen initiative) which allowed for citizen recall of elected officials and the creation of the Direct Primary in 1907 which historian Edmund Meany described as an elaborate attempt to do away with the "political boss." If there were more than two candidates vying for the same nomination, the voters were given the opportunity to vote their first choice and second choice. If no candidate received a plurality of 40%, the first and second choice votes were added together and the candidate receiving the most combined votes became that party's nominee. (This system could be viewed as a variation of the system we now call "Instant Run Off Voting.")

Primary Elections

Prior to the adoption of primary elections at public expense, it was common for the political parties to select their own candidates in their own way, most commonly in caucus or at conventions. (This is still the case today for "minor" parties in Washington.) The parties prepared their own ballots and sometimes there were complaints about the heavy hands of party "bosses" and "rigged" ballots. Stories were told of "pre-marked" ballots and "selective distribution." Such irregularities contributed to a public mistrust of political parties and probably accounted for most of the states' rapid adoption of the "Australian Ballot" after it was introduced in Kentucky in 1880. With this new primary election practice, state and local governments standardized and printed the ballots and conducted the primary elections. Public funding of partisan primaries may have clouded their main purpose, which is to enable major parties to select their candidates for the General Election. Today, people in Washington state often think of primaries in more general terms: a method of narrowing down the total number of candidates on the general election ballot, as well as making selections among major party candidates. Minor party nominees also appear on the primary ballot, and must obtain a minimum vote of 1% in order to advance to the general election. Every two years, when local, non-partisan elections are held, the primary is also used to reduce the number of candidates advancing to the general election.

An interesting exception to the above description is the method of electing Washington judges. If a candidate for a Superior Court position files and is unopposed, he is deemed elected without his name appearing on any ballot. Candidates for the Court of Appeals go on the primary election ballot, whether or not they are opposed. Any candidate for this court who receives a majority of votes is deemed elected and does not proceed to the general election. Candidates for the Municipal Court are never involved in the primary and go directly to the general election ballot.

In most states, voters receive a single party ballot. If they have to be pre-registered as a member of a party, it's called a "closed primary." If voters can ask for either ballot at the time they vote, it is called an "open primary." In 1935, the State of Washington invented a new wrinkle, the blanket primary. All candidates for an office are listed on the same ballot, allowing voters to switch back and forth between parties.

Many voters like the blanket primary because it allows them to participate in the selection of any party's nominee. They can vote in the races that are most interesting to them, regardless of party affiliation. However, it often occurs that a popular incumbent will not be opposed in the primary by a member of his own party. A blanket primary allows all voters, including supporters of the incumbent, to help select his opposition for the general election. Some polls suggest that significant numbers of voters do "cross over" to vote for the person whom they believe to be the opposition party's weakest candidate; this is one of the reasons political parties believe the blanket primary to be unfair.

Only three states—Washington, California and Alaska—have adopted the blanket primary. Louisiana has a unique hybrid. The most recent state to adopt it (by initiative) was California, where the Democrat, Republican, Libertarian and Peace & Freedom parties successfully sued to overturn its adoption, in a case that was ultimately decided in the U.S. Supreme Court in June 2000.

Although Washington was not a party to the U.S. Supreme Court case, and therefore not directly affected by the ruling, the court decision put Washington's blanket primary in the spotlight. Leaders of the Democratic Party called for an immediate change in Washington's primary election system—to be implemented before the September 2000 primary. An agreement between the state attorney general and the major parties resulted in the assurance that Washington law would be changed, but that the change would be carried out by the 2001 Legislature. The most likely choices would be to adopt a closed primary, an open primary, or a variation of a closed primary that would allow independents to select a party ballot. Another possibility would be to abolish the partisan primary election, allowing each party to conduct its own nominating process, as the minor parties do now. This alternative would shorten the campaign season and reduce the cost of elections to the public as well as to the candidates, but may reduce voter choice. Perhaps readers will formulate other alternatives.

The Supreme Court Case

In "California Democratic Party v. Jones (99-401)" the issue was whether the blanket primary denies political parties' First Amendment rights to freedom of association. Do they have the right to select their own candidates? Two lower courts had earlier ruled in favor of the blanket primary, citing state interests that superseded party interests. The Supreme Court reversed those decisions by 7-2, holding that the blanket primary did deny parties such rights.

The majority opinion by Justice Scalia stated that, "Representative democracy in any populous unit of governance is unimaginable without the ability of citizens to band together in promoting among the electorate candidates who espouse their political views."

The Court noted that it was not asked to speak to the constitutionality of the open primary system, although some lawyers believe that many of the Court's arguments against the blanket primary might also be applied to open systems.

The majority decision quoted from two experts' testimony regarding Washington primary elections; one who testified "... in Washington the number of voters crossing over from one party to another can rise as high as 25 percent..." and another who testified "...only 25 to 33 percent of all Washington voters limit themselves to candidates to one party throughout the ballot." They also contended that, "Selecting a candidate is quite different from voting for the candidate of one's choice" (in a general election) and that a blanket primary simply moves the general election one step earlier in the process at the expense of the parties' ability to perform the basic function of choosing their own leaders.

The respondents' arguments in favor of the blanket primary centered around seven state interests that they believed superseded the parties' rights. These include producing elected officials who better represent the electorate, expanding candidate debate beyond the scope of partisan concerns, ensuring that disenfranchised persons enjoy the right to an effective vote, promoting fairness, affording voters greater choice, increasing voter participation and protecting privacy. The court held that none of these concerns provided a compelling interest that would justify California's intrusion into the parties' associational rights. In his dissent Justice Stevens stated "In an era of dramatically declining voter participation, States should be free to experiment with reforms designed to make the democratic process more robust by involving the entire electorate in the process of selecting those who will serve as government."

Other Washington Election Laws Relating to Political Parties

Washington election law does not treat all political parties the same. Major parties use the state's blanket primary as the means of narrowing the field to a single party candidate for each office. A major party is defined as one that has had at least one nominee for President, Senator, or other statewide office who has received at least 5% of the total vote cast for that office in the preceding election. Minor parties nominate their own candidates using signed petitions and nominating conventions prior to the blanket primary. The names of the candidates nominated by minor parties appear on the primary ballot, as do the names of candidates unaffiliated with any party, who file as "Independent."

Washington law also dictates a great deal of the governance structure of the major parties. State law requires that Precinct Committee Officers (PCO's) be elected from each of the state's 7,267 precincts. The PCO's are responsible for electing their party's County Central Committee. Each county committee elects two delegates to the State Central Committee. Washington law even dictates the sex of the Chairman and Vice-Chairman of a major party's state committee (they must be opposite). The state's right to prescribe party organization in this manner was upheld in the 1979 case, *Marchioro vs. Chaney*. Since population varies dramatically between Washington counties (the three largest, all West of the Cascade Mountains, contain half the state's population), and since two persons are elected from each county, the framework for party governance mandated by state law is not particularly representative, in terms of "one person one vote." State law does allow the parties to make some of their own rules and regulations, and the parties have used this leeway to create structures that more nearly reflect one person one vote. For example, they have established State Executive Boards composed of two members from each congressional district, and the Democrat party has added two representatives from each state legislative district to its State Central Committee.

The state-mandated framework for party governance, and the 5% vote requirement, makes it difficult for minor parties to achieve major party status. On the other hand, many minor parties do not strive for major status because they then lose their ability to select their nominees. Participation by a small party in the blanket primary would make it relatively easy for "outsiders" or even opponents to impose their choices on the party.

The Reform Party of Washington is the only third party to achieve major party status in recent years. It has gone in and out of major party status since 1992.

The major political parties in Washington probably wield their greatest power through their role in organizing the State Legislature. The party in power in each house controls the rules and committee chairmanships. The party leadership also appoints their respective committee members, which

determines, to a large extent, what legislation will be allowed to leave the committee and be voted upon by the larger body.

Another role for major parties comes at election time, when they provide poll workers and help oversee the transport and counting of ballots. This is discussed in more detail in Chapter Four.

Washington's blanket primary and its practice of running local elections as non-partisan (i.e. without indicating a party label on the ballot) are often blamed for the state's weak party system. Active party workers believe voters and candidates would be better served by stronger political parties which would not require every candidate to put so much time, money and effort into organizing an individual campaign. On the other hand, some voters not involved in party politics don't like the idea of increased party control over candidates that a stronger party system could bring.

Voters also tend to hold conflicting ideals when it comes to their legislators, particularly when it comes to accountability and independence. Should an elected representative be accountable for their personal "platform" or their state party's platform? A strong party organization is in the best position to enforce loyalty to the party platform, and thereby achieve the goals espoused by that party. The more independent the candidate, the less likely his party goals are to be met and the more likely there will be voter disenchantment by un-kept campaign promises. Just as all criteria for a good election system cannot be met by one system, it is important for voters to understand the advantages and disadvantages of stronger political parties and to recognize the trade-offs that the system they support will produce.

CHAPTER TWO

Election Methods

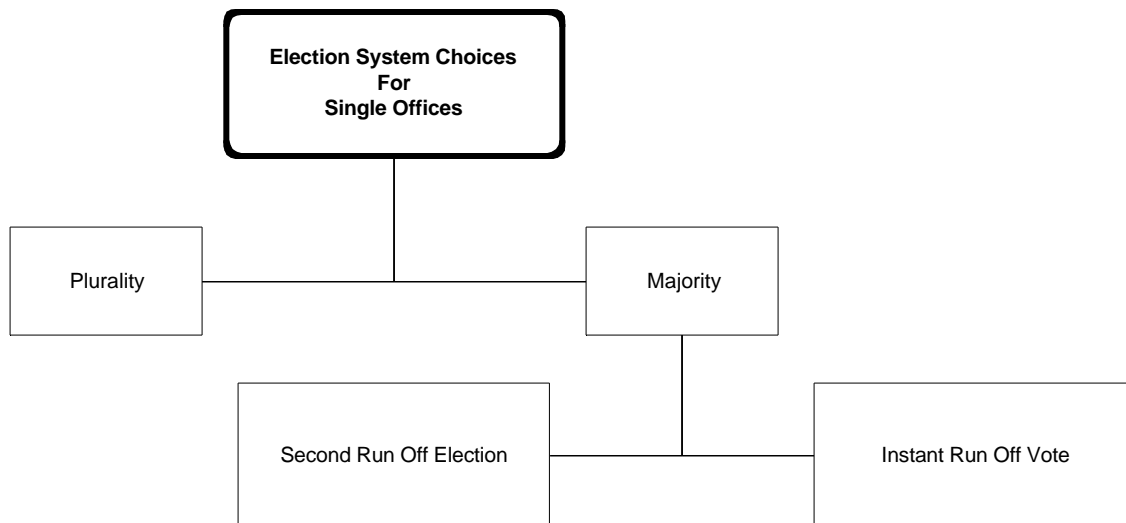
Electoral systems translate votes cast into seats won by parties and candidates. Key variables among the systems are:

- Whether the system is majoritarian or proportional and what formula is used to calculate seat allocation.
- The district's magnitude (how many seats the district has).
- The effect of the system on how district boundaries are drawn.
- Administrative aspects of elections (distribution of polling places, voter registration, nominations).
- Other variables (ballot design, how votes are counted, absentee ballots, voting by mail).

Although there are many electoral systems in use around the world, they fall into three basic families:

- A. Plurality or Majority
- B. Semi proportional
- C. Proportional

A brief explanation of each of the three basic voting systems, their strengths and weaknesses, and a few examples of where they are used comprise the rest of this chapter.



A. Plurality or Majority Systems

The common element in these two election systems is that they are usually applied to single winner elections like mayor or governor, or representative elections in single member districts. The winner in a plurality election is the candidate receiving the most votes. A majoritarian system requires the winner to receive a minimum of 50% + 1 of the votes.

Sample Plurality Ballot One Vote	
Candidate	
Candidate A	
Candidate B	
Candidate C	X
Candidate D	

Single Member Plurality (SMP)

Most elections in Washington State are held in single member districts using the Plurality System, also known as First Past the Post and Winner-Take-All. The United States, Canada, India and a host of ex-colonies, territories and dominions inherited this system from Britain. Many believe that its major asset is its familiarity to the American voter that makes it seem like the simplest voting system. Others believe that this system is, in fact as well as in appearance, the simplest to understand and administer.

Critics believe its major failing is that it over-represents those who vote for the winner and under-represents those who vote for the loser, because there is only one winner. To better visualize this concept, imagine a three-person race where the final vote was:

- Candidate A - 35% of the vote – the winner
- Candidate B - 33% of the vote
- Candidate C - 32% of the vote

In this scenario, a minority of voters named the winner because its candidate received the plurality of votes. Such distortions in the relationship between votes cast and seats won frequently take place in this system. The President of the United States has been elected by a minority of the popular vote in 10 of the last 22 elections.

- | | |
|---------------------------|------------------------|
| ▪ 1876 Rutherford B Hayes | ▪ 1912 Woodrow Wilson |
| ▪ 1880 James Garfield | ▪ 1948 Harry S. Truman |
| ▪ 1884 Grover Cleveland | ▪ 1968 Richard Nixon |
| ▪ 1888 Benjamin Harrison | ▪ 1992 Bill Clinton |
| ▪ 1892 Grover Cleveland | ▪ 1996 Bill Clinton |

Alternative election systems that enable a majority of voters to select winners for single offices are discussed later (Run Off Election or Instant Run Off Vote).

The greatest criticism of the Plurality system comes when it is used to elect members of a multi member group such as a City Council or House of Representatives. When those members are elected in single member districts or separately numbered positions, the distortions of power shown in the example above are compounded greatly and produce the kind of representational inconsistencies demonstrated by the real life Washington examples which were used in the Introduction.

In addition to magnifying the winner's percent of representation, the single district plurality system greatly reduces the loser's percent of seats. For example, in the 1983 British general election the

Liberal-Social Democratic Party Alliance won 25% of the votes but only 3% of the seats; in New Zealand's 1981 elections the Social Credit Party won 21% of the votes but only 2% of the seats. In the United States, it is almost impossible for third parties to win any seats when single district elections are used.

Single Member Plurality elections are winner-take-all elections. Only one candidate is elected, the one receiving a plurality of the votes. Some elections are very close, with voters on the losing side representing as many as 49.9% of the votes cast. If the losing voters are considered to have no representation, do we have democracy for winners only? Some British scholars, critics of the Single Member Plurality system, have labeled this aspect of the system as "only half a democracy." This is the reason for referring to votes that do not elect a candidate as "wasted". When minor party supporters feel that they have no realistic hope of electing a candidate, many may lose their incentive to vote. Even major party supporters may feel disenfranchised if they live in one of Washington's State's 34 "one party districts" described in the Introduction of this study.

Others argue that a vote for a losing candidate does not necessarily mean the voter has lost access or influence, for several reasons. First, most elected officials will listen to the views of citizens, especially those from their district. Secondly, the winning candidate does not know who voted for her, as the ballot is secret; only when the voter has contributed money or actively campaigned for a candidate does her support become known. Thirdly, a strong showing by a losing candidate and her supporters can have a significant influence on subsequent legislative activity. Fourthly, many candidates who appear initially to hold clearly defined political positions and philosophies often discover, when they take office, that inclusiveness, compromise and conciliation are necessary to succeed in politics.

Unlike some other election methods, the Single Member Plurality system requires districts. Any time districts have to be drawn, there is a cost entailed. Also, it has been observed, the drafters take on more power than the voters within the districts. With the help of computers, drafters can and do draw the lines that, except in "swing districts," contribute to shaping the voting results in that district for the next 10 years. That is why, in many districts, the second party in a Single Member Plurality system may not field opposition candidates until the next redistricting takes place.

Because of the exaggerated results plurality elections can cause, this election method can be very unresponsive to modest shifts in public opinion. Unresponsiveness further increases public disenchantment with government.

Ethnic and racial minorities and women are usually underrepresented in Single Member Plurality systems. In 1992, U.S. women comprised 6% of the Senate and 10.8% of the House. The year before, in non-SMP countries women fared much better: 38.1% in Sweden's parliament, 35.8% in Norway and 20.4% in Germany. However, because women are the majority of voters in the U.S., it could be that there are other explanations, such as tradition and cultural factors, for this "under representation." It is also true that there is a high percentage of women in Washington State government.

Table 1: The Representation of Women in 11 Western Democracies

Country	Election System	Percentage of Women Elected to Parliament
Sweden	PR/List	41%
Norway	PR/List	39%
Finland	PR/List	39%
Denmark	PR/List	33%
Netherlands	PR/List	31%
Austria	PR/List	27%
Germany	PR/Mixed-Member Dist.	26%
Great Britain	Single-Member Dist.	17%
Spain	PR/List	16%
United States	Single-Member Dist.	11%
France	Single-Member Dist.	10%

From Proportional Representation: The Case for a Better Election System, by Douglas Amy

The representative-ness of policy-making bodies is one of the main claims by which democratic governments establish legitimacy and authority for their policies. When large segments of the population are severely under-represented, it erodes a perception of legitimacy.

Majority Plurality Systems

A single member majority system is designed to ensure that the winning candidate is the one preferred by the majority of voters. Washington election law does not require majority votes for winning candidates. Many states that do require majority votes also require an additional “run off” election for the top two vote getters.

The Instant Runoff Vote (IRV)

There is a second way of obtaining majority support for a candidate without holding an additional election. It is called the Instant Runoff Vote. Variations are known as the Alternative Vote, Majority Preference Vote or Choice Vote. The electors are asked to rank their preferences (1, 2, 3...). If no candidate has a majority on the first count, the candidate with the lowest number of votes is eliminated and the votes for her are transferred to the voter’s second choice. The process is repeated until one candidate has a winning majority.

Instant Runoff Voting simulates a series of runoff elections all in one, saving money and encouraging voter turn out. It enables a broader number of people to have their votes counted by giving them more initial choices. It preserves majority rule but encourages participation and diversity. This system is used in Australia for its Lower House. Last May, London elected a new mayor for the first time using a form of IRV, and provided a major upset by electing an Independent.

In 1998, the Instant Runoff Vote was approved as a voting option for Santa Clara County, California and the following year as an option for City Council elections in Vancouver, Washington. In 2001, IRV voting legislation will be considered in New Mexico, California, Hawaii, Massachusetts, Oregon, Pennsylvania, Vermont and Wisconsin. In 2002, as a result of an initiative, Alaska will be voting on the system. It will mark the first time that U.S. voters will have a chance to implement an alternative voting system which would apply to all primary, regular and special elections for the election to the state legislature, for the offices of President and Vice-President and for members of the U.S. Senate and House of Representatives. It also provides the option for municipalities or school boards to adopt the alternative voting system upon local approval.

Sample Ballot					
Instant Run Off Vote					
One Vote in order of Choice					
Candidate	1st	2nd	3rd	4th	5th
Candidate A			X		
Candidate B		X			
Candidate C	X				
Candidate D				X	
Candidate E					X

B. Semi-Proportional Systems

Such systems are variants of multi-member plurality elections. Several candidates are elected from each district and those with the most votes win. Semi-proportional systems are designed to enable minor parties or groups of interest to win some representation. Often these systems succeed in ensuring some representation for the second largest party, but do not allow a full range of minority political groups to be elected. In this sense, semi-proportional systems tend to reinforce a two party system.

Cumulative and Limited Voting are examples of semi-proportional systems. Texas currently leads the nation with the use of cumulative voting in 52 school districts, cities, county commissions or hospital districts. Alabama is not far behind with 30 governmental entities using one or the other system. Some elected bodies in New York City, North Carolina, Illinois and Massachusetts also use one of these systems.

Cumulative Voting

Voters are generally given as many votes as there are seats and they may cast those votes as they wish: in a five seat district they may cast one vote per candidate, or all five votes for one or any combination thereof. The cumulative vote is designed to make it difficult for one party to win all the seats in an election and therefore reduces the power of the majority party. To be successful, strategic planning is required by the voters. For example, if a minority group has enough support to win two seats, but casts most of its votes for the same favored candidate, they may only win one seat. Another possible scenario could be that although they only have enough support to elect one candidate, they may not elect any if they split their votes among several. Thus, if they don't vote strategically, voters can end up either under- or over-represented.

The State of Illinois used cumulative voting for 110 years to elect its House of Representatives. They were elected in three person districts, which meant that as long as the minority party made up $\frac{1}{4} + 1$ of the voters, it could gain representation. The result was that Chicago, heavily Democrat, always elected two Democrats and one Republican. The outlying areas, which are heavily Republican, usually elected two Republicans and one Democrat. The party primaries also used cumulative voting, so smaller factions within each party were also able to name candidates. In a move to economize, voters passed a measure in 1980 that reduced the size of the legislature and at the same time formed single member districts. A campaign is currently underway to restore the old system.

Cumulative voting is on the increase in many parts of the United States. At least part of the movement has been the result of court orders or settlements of civil rights suits. One of the most recent examples is the Amarillo (Texas) Independent School District that, despite a sizable minority

population, had not elected an Hispanic since 1984 and had never elected a Black to its board. Using cumulative voting for the first time last May to settle a pending lawsuit, two of the four board positions were filled by racial minorities, one Black, one Hispanic. The election also dramatically increased voter participation from 3.4% in 1998 to 12.7%, supporting the contention that increasing voter choices stimulates more voter participation.

Sample Ballot Cumulative Vote Three Votes	
Candidate	
Candidate A	
Candidate B	2
Candidate C	1
Candidate D	

Limited Voting

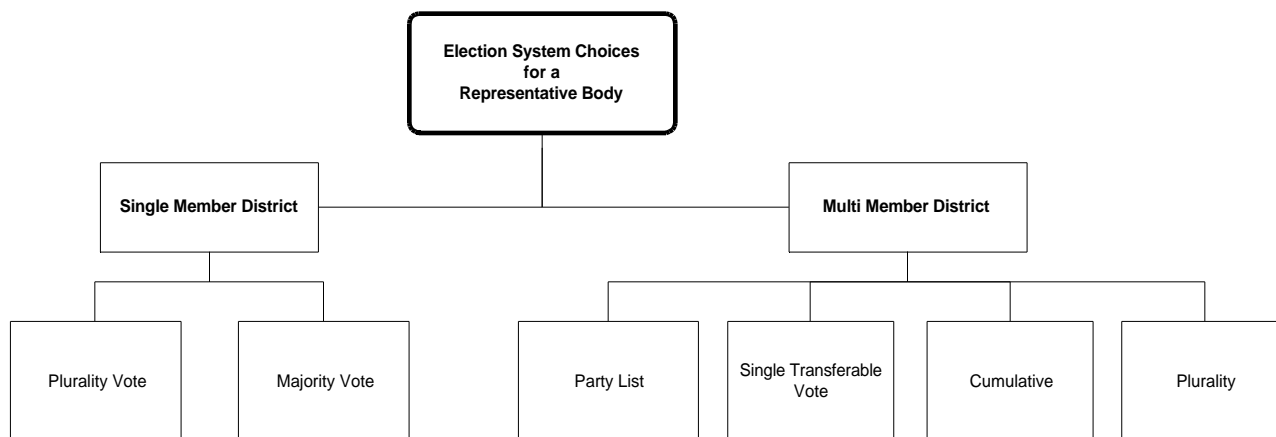
This is another semi-proportional system that uses multi-member or at-large districts. Parties nominate fewer candidates than there are seats to fill and voters cast fewer votes than the number of seats being contested. For example: two votes are allowed for the election of three county commissioners in Pennsylvania and five votes are allowed to elect seven members of the Philadelphia City Council. The purpose in using this system is to make it impossible for the largest party or interest group to elect all the representatives. The greater the difference between the number of votes and the number of seats, the greater the opportunities for more diverse representation.

As in cumulative voting, limited voting's strongest attribute is that it is easy to explain and local governments tend to feel less threatened by the system since it usually reinforces the two party system. By ensuring representation of only the second largest bloc of voters, it does not lessen discrimination of other unrepresented minority groups. In Connecticut, all local governments elected at large use limited voting. It is also used in Washington DC, Pennsylvania, Connecticut, Alabama, New York and North Carolina.

Proportional Representation (PR)

The rationale underpinning all proportional voting systems is to translate a party's share of votes into a corresponding proportion of seats in a House of Representatives, Council or Board. A party winning 30% of the votes would win approximately 30% of the seats.

There are several methods of conducting these elections. We will describe the three major ones: Party List, Single Transferable Vote and Mixed Member. All require multi-member winners. In other words, election to a single member office cannot be proportional. The greater the number of seats, the more accurately the election outcome will mirror the political makeup of the community.



The Party List

This is the easiest of the proportional systems to explain. Each political party develops a slate of candidates equal to the number of seats the party expects to fill. Some countries require a party to receive a minimum percent of the vote in order to win any seats (generally between 1.5% - 10%), but other countries do not require any minimum. No minimum encourages the largest number of parties; higher minimums are intended to discourage some. This system minimizes election costs, both for the candidates and administrators and causes campaigns to focus more on policy issues and less on individual personalities. Parties usually construct their candidate lists to represent the broad electorate (including women and minority groups) in order to assure their slate has the widest possible appeal. Many European countries such as Norway, France, Spain, Belgium, Denmark and Israel use the Party List as well as some African countries, most recently South Africa.

There are two sub groups: “Closed List” and “Open List.” They determine whether or not the voter may change the order of the candidates on the list.

If the Closed List is used, voters for the representative body cast just one ballot to indicate the party of their choice. After ballots have been counted and the percent of the vote each party has won is determined, that number of seats is apportioned in the exact order they appear on the party list. This voting system maximizes party control that results in strong candidate adherence to party platforms and positions.

Sample Ballot Closed Party List Vote One Party				
	X			
Democrat	Green	Libertarian	Reform	Republican
Candidate A	Candidate D	Candidate G	Candidate J	Candidate M
Candidate B	Candidate E	Candidate H	Candidate K	Candidate N
Candidate C	Candidate F	Candidate I	Candidate L	Candidate O

If the Open List is used, one vote is cast for the favorite candidate on the party list. When ballots are counted, the most popular candidates will move up to the top of the party list if they are not already there, increasing the likelihood of their winning a seat – which of course depends on the percent of the vote their party received. This variation transfers some of the candidate selection responsibility from the party to the voter.

Sample Ballot Open Party List One Vote (Counts for both candidate & party)									
	Democrat		Green		Libertarian		Reform		Republican
	Candidate A		Candidate E		Candidate I		Candidate M		Candidate Q
	Candidate B		Candidate F		Candidate J		Candidate N		Candidate R
	Candidate C		Candidate G		Candidate K		Candidate O		Candidate S
X	Candidate D		Candidate H		Candidate L		Candidate P		Candidate T

Single Transferable Vote (STV)

This proportional voting system is also called Choice Voting or Preference Voting. The electors rank the candidates in order of importance (1, 2, 3 etc.). It is easy to vote, but a bit more difficult to describe the counting process. Computer programs have reduced the time necessary for counting the ballots from days to minutes. The number of votes necessary for a candidate to win a seat (threshold) will depend on how many people vote and how many candidates are to be elected. The more seats to be filled, the fewer votes each candidate will require to win. For example, candidates running in a four-seat district will need a little less than 1/4th the vote to win a seat. Candidates in a nine-seat district will need a little less than 1/9th the vote to win.

There are several ways to determine the exact formula for counting the vote. One of the most common is called the Droop Quota and looks like this:

$$\frac{\text{Total Votes Cast}}{\text{Number of Seats} + 1} + 1 = \text{Threshold (\# of votes necessary to win a seat)}$$

With numbers, the equation for a nine-seat body with 100 voters would look like this:

$$\frac{100 \text{ voters}}{9 \text{ seats} + 1 = 10} + 1 = 11 \text{ Votes necessary to win a seat.}$$

The Counting Process

The counting process takes place in several steps. Any candidate whose votes reach or exceed the threshold is elected.

Surplus votes (those that exceed the threshold) are transferred to voters' second choices. This transfer assures that the majority of the voters will elect the majority of winners. (Without this transfer, if candidate A was very popular and garnered twice as many votes as needed, half those votes would be wasted.) Votes are then transferred from the candidate receiving the fewest votes to the voters' next choice. The process continues until all seats have been filled.

The Single Transferable Vote is one of the most sophisticated electoral systems in use today. It can be used for partisan or non-partisan elections. Since the focus is on the candidate rather than a party, "Independent" candidacies are treated with an even hand.

Sample Ballot					
Single Transferable Vote					
One Vote in order of Choice					
Candidate	1st	2nd	3rd	4th	5th
Candidate A	X				
Candidate B			X		
Candidate C		X			
Candidate D				X	

The first half of this century saw a wave of interest in proportional representation and nearly two dozen cities from New York to Sacramento adopted STV for many years. Most of these were changed to Single Member Plurality systems since the 1940’s, for several reasons.

Minority representation was increasing to the point where a black mayor was about to be elected in Cincinnati and two Communist Party members were elected in New York City. There was strong opposition from the Democrat and Republican parties who lost power, particularly in the nomination process. Several of the cities adopted STV along with the City Manager form of government in the 1920’s-1930’s. When they later changed to a Mayor – Council form of government, STV was dropped without much thought.

Professor Hugh Bone of the University of Washington researched this period in New York City history. This is his account of the times:

“From the beginning, the Democrats under PR received an absolute majority, but at the same time did not enjoy a near monopoly, as was the case under the aldermanic system. In the last aldermanic election (1935) the Democrats with 66.5% of the popular vote captured 95.3% of the seats. PR resulted in mitigating the disproportional strength of the Democrats, but at the same time preserved majority rule: the opposition in the council became larger and more varied, resulting in much better balanced councils. For the independent Republicans and Democrats, PR proved a real benefit; for it permitted a number of them, by drawing strength from insurgents and independents throughout a borough, to be elected. Some of the most able councilmen were non-organization Democrats and Republicans who undoubtedly would never have won the primary in a single member district because of opposition from the district machine.” (Zeller and Bone)

In 1947, the New York City Council consisted of 12 Democrats 5 Republicans, 2 Liberals, 2 Communists and 2 Laborites. Mainstream politicians found the presence of Communists on the City Council unacceptable and blamed the proportional election system for it. Frank Sampson, leader of Tammany Hall, urged voters to “throw out this Stalin Frankenstein” and called proportional representation “a foreign political theory”. New York City abandoned PR in 1949. In their study “Repeal of PR In New York City”, Bone and Zeller concluded, “there is no doubt that the one issue above all others responsible for the repeal of PR in 1947 was communism.” In the 1949 elections, the Democrats won 24 of the 25 Council seats while polling 52.5% of the votes cast. The City’s School Board still uses the Single Transferable Vote for its elections.

The City and School District of Cambridge, Massachusetts have used the Single Transferable Vote for over 50 years. It is used to elect Australia's Lower House and is likely to be extended to all of its local governments in the next few years.

In the British Isles, home of the First Past the Post system (single member plurality), discontent seems to be mounting and change is in the air. The Republic of Ireland has used the single transferable vote since 1922. Northern Ireland used the system for local elections beginning in 1973. In 1998 the British government required Northern Ireland to use STV for its Regional Parliament as part of its new constitution. Now that the Scottish and Welsh national assemblies are undergoing devolution (they are gaining some independence from London in national areas) they are changing to proportional systems. Britain now elects its representatives to the European Union using STV and some Canadian parliament members are beginning to talk about it.

Mixed Member System

Also called the Additional Member System, or the German System, this is a combination of the Single Member Plurality and Party List. It is used to elect members to a large representative body in a relatively proportional manner while at the same time preserving the concept of a local representative. The elector casts two votes, one for his/her local district representative and one for party preference.

Because only one person is elected in each district, the winning voters will be over represented and the losing voters will be under represented. The party list is then used to restore proportionality. In the example below, the 100-member legislature elects 50 members from single member districts and 50 from the Party List.

Party Name	% Vote	Elected by District	Elected from List	Total Seats
X	60	40	20	60
Y	30	10	20	30
Z	10	0	10	10

This system allows parties that have no majority in any one district, but broad support in many districts, to win their proportional share of total seats. New Zealand adopted this system in 1996. It is also used in Germany, Bolivia, Mexico, Venezuela, Hungary and Italy. The Italian system is not very proportional since only 25% of the seats come from a party list. The most recent adopters of this system (last May) were Scotland and Wales.

Sample Ballot Mixed Member One Vote Party / One Vote District Rep.			
	District Rep.		Party
	Candidate A		Democrat
	Candidate B	X	Green
	Candidate C		Libertarian
X	Candidate D		Reform
	Candidate E		Republican

Multiple Parties

The most common criticism of Proportional election methods is seen as a strength by others. These voting systems equally affect all parties that qualify, therefore third and fourth parties can grow under proportional systems. What is the optimum number of political parties? Should the voters make that decision through their votes, or should the voting system preclude multiple choices?

Coalitions and “Gridlock”

The biggest concern of some critics of proportional election systems isn't so much the actual number of parties, but the stories about the difficulty multiple parties have in forming coalitions. Defenders say that the only time political coalitions are not necessary is under a dictatorship or one party rule. Founders of our federal government anticipated the need for coalitions between “factions” when they built in checks and balances. They split the houses of Congress giving each different length terms and different geographic districts. The independently elected President was given veto power that could be over ridden by a 2/3 majority. A certain amount of “gridlock” was purposefully built into the system.

The Parliamentary System

This study is about voting systems, not methods of governance. However, since many governments that use a PR voting system are also organized under a Parliamentary form, some people mistakenly believe one is necessary to have the other. That is not the case. If the United States had a proportional voting system, collapse of coalitions would not bring down the government, as it would in a Parliamentary system.

It may be helpful to review the unique features of a Parliamentary system: In a general election the leader of the winning party is called upon, usually by the President or Monarch, to form a new government of which s/he will be the Prime Minister. The cabinet will be selected from among members of his/her party who hold seats in Parliament. If the winning party has a comfortable majority, the government will be made up of a single party.

If the winning party does not have a majority or has only a slim majority, the Prime Minister designate will invite one or more minor parties to participate in a coalition government and will ask one or more of their members to join the cabinet. The minor parties participating will provide the extra votes needed to ensure that the policies of the major party will be enacted. It is here that the minority parties in the coalition can exert influence in support of their own policies. In case of serious dispute over a policy the majority party may call for a vote of confidence. If the government fails to win the vote it is considered a vote of “no confidence” and the government falls. If no other party can form a stable government, a new election must be called.

Table 2: Voter Turnout in Legislative Elections in 10 Democracies

Country	Election System	Turnout Rate (election year)
Belgium	Party – List PR	93% (1991)
Italy	Mixed Member PR	89% (1994)
Austria	Party – List PR	86% (1994)
Sweden	Party – List PR	86% (1994)
Netherlands	Party – List PR	80% (1994)
Norway	Party – List PR	83% (1993)
Germany	Mixed Member PR	78% (1994)
Great Britain	Single Member Dist.	72% (1997)
France	Single Member Dist.	65% (1993)
United States	Single Member Dist.	49% (1996)

From Proportional Representation: The Case for a Better Election System, by Douglas Amy

CHAPTER THREE

Criteria for Evaluating Election Methods

This chapter is about the criteria — the yardsticks — that might be chosen to compare various election methods. One might think it possible for groups to agree on the “right” way to select public officials democratically by applying some list of agreed-upon criteria.

In 1951, Nobel prize-winning theorist Kenneth J. Arrow listed five highly desirable properties that one would expect any reasonable voting system to possess. He then went on to prove that no possible voting method could satisfy these properties in all situations. Every voting scheme will, at times, exhibit shortcomings. This impossibility theorem destroyed the dream of social philosophers who had sought fair and non-manipulative social choice mechanisms for more than a century.

Thus, instead of being able to find the most “perfect” system, it seems we must choose among imperfect systems, which fall short in unique ways, with unique consequences. But then a question arises: If all methods of social choice are inherently flawed, how do we make the social choice about how to decide such questions – for instance which election methods to use? Arrow offers some useful guidance:

“It should be made clear that my impossibility theorem is really a theorem [showing that] the contradictions are possible, not that they are necessary. What I claim is that given any voting procedure, there will be some possible set of preference orders for individuals that will lead to a contradiction of one of these axioms. But you say, “Well, okay, since we can’t get perfection, let’s at least try to find a method that works well most of the time.” Then when you do have a problem, you don’t notice it as much. So my theorem is not a completely destructive or negative feature any more than the second law of thermodynamics means that people don’t work on improving the efficiency of engines. We’re told you’ll never get 100% efficient engines. That’s a fact — and a law. It doesn’t mean you wouldn’t like to go from 40% to 50%. In the same vein, one way of developing research on voting is to seek systems that do break down occasionally. Just try to do it in such a way that it doesn’t happen too often.”
(Arrow as quoted in Freeman)

Thus it is reasonable to sift the main election methods and procedures and judge them not only on their theoretical perfection, but also on their “real world” ramifications – for instance, “Does this system favor minorities over majorities?” “Does that system have a tendency to allow some groups to be totally excluded?” “Does this other system create gridlock?”

This chapter will begin by proposing and analyzing a large group of real-world consequences to show how each one – good or bad – is or can be affected by the election methods and procedures that are used. This will form a list of criteria against which we can judge each election system.

Various criteria tend to counter one another. To give just one example, the election methods that work best at “ensuring minority representation” tend to be worst at “producing working majorities.” It’s not that such systems never produce simple working majorities (without coalitions); it’s more likely that, given the whole range of possible voter preferences, there will be many more cases where a working majority requires a coalition than cases where minorities go without representation. The

question that example begs is “Which is more important, minority representation or government without coalitions?” There is no right or wrong answer, only a social choice.

In developing criteria used to select an ideal electoral system, one should begin with a vision of the preferred government that is to be elected, then spell out what one is attempting to achieve and what should be avoided. The criteria should be realistic, assist in accomplishing tradeoffs of competing goals, and cover most significant areas. They should be prioritized according to importance, and, finally, be applied to the assessment of which electoral system best maximizes the objectives.

Eleven Proposed Criteria for All Elected Offices

The following “starter” list of potential criteria for evaluating election systems are drawn from a variety of sources, including the League of Women Voters of the United States’ (LWVUS) positions on government and IIDEA’s suggested criteria in its Handbook. (As these criteria are a starting point only, the reader is encouraged to add or subtract from this list, and to reorder the resulting list according to each criterion’s relative importance.)

Criterion 1: Promote “Representative-ness”

On the meaning of this attribute, John Adams, the second president of the United States, wrote:

“The principal difficulty lies, and the greatest care should be employed in constituting this representative assembly. It should be in miniature an exact portrait of the people at large. It should think, feel, reason and act like them. That it may be the interest of the assembly to do strict justice at all times, it should be an equal representation, or, in other words, equal interests among the people should have equal interests in it. Great care should be taken to effect this, and to prevent unfair, partial and corrupt elections.” (Adams)

An essential aspect of Representative-ness is the protection of the right to representation for ethnic, racial and philosophic minorities. Despite the nearly universal use of plurality or majoritarian (‘winner-take-all’) election laws throughout the United States, the League’s history in regard to the national Voting Rights Act implies support for “effective representation of minority citizens.”

Criterion 2: Promote Accountability

Democratic theory says that elections foster accountability – the means by which electorates may hold officials accountable for their performance. The ability to “turn the rascals out” is, in large part, what distinguishes democracies from other forms of government.

While it is true that the structure of government has a large influence on its accountability (or lack thereof), different election methods may also contribute to, or detract from, governmental accountability through two related factors: the strength and number of political parties, and the strength of incumbency. Critics of our existing election method believe that these two factors are strongly influenced by the society’s election methods.

Political Parties

Strength:

While government accountability shouldn’t be confused with party accountability, strong parties favor governmental accountability for several reasons, first among them being the influence of party cohesion and the resulting government policies. In a country with distinct and vital parties,

candidates are less likely to “freelance” and more likely to “toe the party line.” For voters, this represents increased accountability, because it both clarifies each party’s (and hence candidate’s) positions and reduces the odds that candidates will stray from the party platform.

Numbers:

With respect to the number of parties, governmental accountability would seem to be reduced at either extreme (too few or too many viable parties). States with a single ruling party offer voters little or no true accountability. At the other extreme, it is possible for so many parties to win representation in the government that it cannot ever act decisively, no matter how critical the issue. It is important to note that this “gridlock” may have nothing to do with the number of parties (it may just reflect the division in society). It means, however, that each voter cannot blame – or hold accountable – his or her representatives for government inaction.

Critics of the “two-party system,” such as that in the United States, believe it leads to reduced accountability. A two-party system reduces party cohesion and strength, as party candidates must seek to be all things to all people. In countries with two-party systems, candidates and office-holders tend to choose their party more by pragmatic local considerations (and often even change party as local circumstances change) than by ideological ones. Voters in two-party systems often complain that there is no difference between the two parties, especially when critics are not themselves affiliated with either of the two major parties. Again this is not surprising, since both parties must seek to please the same centrist voters in order to gain a majority. The natural result is the use of similar appeals made in similar ways. It is hard to throw the rascals out, critics contend, because most voters feel they do not have alternatives.

Other observers, however, believe that voters look for a variety of qualities in a candidate in addition to party affiliation, and that they will not hesitate to hold their elected officials accountable at the ballot box regardless of the number of viable parties. It has also been observed that the two major parties, even in recent history, are often far apart philosophically, which is more apt to create polarization and legislative gridlock than political consensus or voter confusion.

Incumbency

Incumbency also affects accountability. Incumbents have always enjoyed many natural advantages in reelection contests, and there are usually a few officeholders here and there who are all but unbeatable because they are so personally popular. Neither of those are what is meant by incumbency here.

Incumbency that reduces political accountability is the incumbency that permits even average officeholders (i.e., not the unusually-popular exceptions) to not only win out against challengers, but to reliably win by landslides or, even better, to face only token challengers, if any. This manifestation of the power of incumbency says less about the incumbents than it does about the weakness or absence of opponents.

This strong incumbent power can arise in a number of ways. Lopsided party dominance reduces accountability. For example, some states in the U.S. are essentially one-party states in which one of the two major parties has, for all practical purposes, quit contesting most races. In state legislatures, Idaho is now overwhelmingly Republican despite the fact that Democrats get 35%-40% of the vote, while in Massachusetts and Arkansas, Republicans don’t even run enough candidates to have a theoretical chance to win a majority. In Congress, Massachusetts’s entire delegation is Democrat (ten House, two Senators) and Oklahoma’s entire delegation is Republican (six House, two Senate). Critics of the current system contend that this denies voters accountability. However, also to be

considered is the question of how often incumbents in single party districts or states receive serious challenges from members of their own party. In addition, historic changes in party affiliation have occurred in various nearly or solely single-party areas, such as in the South after the Civil War and again in the 1980's when the Democratic south turned Republican in large numbers.

Even in cases where both parties function, a strong incumbency sometimes can occur. A strong factor in creating an incumbent-friendly environment can be the ability to gerrymander: to draw election districts in such a way as to provide electoral advantage to particular political parties.

Gerrymandering can increase incumbency for both major parties, because the electorate is divided into safe seats for both. When possible, the stronger party attempts to see that districts are drawn so the weaker party cannot win any representation. If this extreme level of gerrymandering cannot be accomplished, then districts are drawn so the largest blocks of the weaker party's voters are "crammed" into the fewest possible districts. While this costs the stronger party those few seats, it gives this party a greater number of safe seats elsewhere. Thus, both sides will represent incumbent-friendly districts that may be held as long as they like, safe from both primary and general election challenges - provided that no significant voter demographic or philosophic changes occur.

In Washington State, however, one party cannot monopolize the redistricting process unless it controls 2/3 of both houses of the Legislature. As the result of a Constitutional Amendment in 1983, a state Redistricting Commission, made up of four voting members and one non-voting member (the chair), was mandated to redistrict every 10 years based on the most recent census information, and on a set of criteria which required that no political party or group be favored or discriminated against. Because the voting members of the commission are evenly divided between the two major parties, and three votes are required for taking action, it is virtually assured that neither party can unevenly disadvantage the other. Mutual advantage, however, may be sought -- particularly in the assurance of "safe" districts for incumbents and parties. Other considerations to be applied by the Commission in drawing district boundaries include reasonably equal population numbers, contiguous territory, compactness and convenience, and separation from other districts by natural geographic barriers, artificial barriers, or political subdivision boundaries. The Legislature may amend the redistricting plan by a 2/3 supermajority of each house, but must do so by the 30th day of the first legislative session after submission of the plan to the Legislature. After that day, the plan, with any legislative amendments, constitutes state redistricting law.

In the 1998 U.S. House of Representatives races, 95 out of 435 (22 percent) had only one major party candidate; the other major party didn't bother fielding a candidate. Voters in those districts have few options for holding their member of Congress accountable, except perhaps by encouraging another member of the same party to run against the incumbent.

Criterion 3: Promote Openness

An open government system is one that offers the citizenry opportunities to observe, comment and evaluate the performance of elected bodies. This transparency is essential to democratic governance.

While many variables must be taken into account in analyzing this topic, such as the effects of campaign finance disclosure and open meeting laws, critics of America's predominant two-party electoral system believe that different election methods lead to different degrees of governmental openness, and that, all else being equal, government openness increases as the number of political parties increase.

In a two party system, critics argue, there may be little incentive to develop a broad consensus if one party has sufficient votes to carry out its policies (assuming that the Executive is of the same party and hence declines to wield her veto powers). In such a system policy debates may be more frequently closed and internal policy differences hidden. Such differences, if made public, are considered a breakdown of party discipline and a sign of weakness.

With multi-parties represented, coalitions of minority parties likely would be required to span a broader spectrum of views, which could lead to more open discussion of differences. The more diverse interests which have a chance of winning, the more policy issues should emerge during campaigns and after winners are seated.

Criterion 4: Promote Responsiveness

Some election methods tend to reflect societal changes in an almost linear way, albeit lagging usually somewhat behind the electorate. In such systems, if popular support for a party platform doubles or triples, it would be unusual if the number of party candidates elected did not increase, possibly doubling or tripling. These are fairly responsive systems.

Other election methods tend to act in a more binary (on/off) fashion, and fluctuate between extremes. For example, in majoritarian systems, a policy position with only 15% support in the electorate is likely to have no elected advocates in government. Likewise, a doubling of support is still not likely to produce many Representatives in office. Even tripling support for this idea does not guarantee that any elected officials will advance this policy. However, the next increment of increased support is likely to cause enormous change. Once a majority shares this same view, the system may leap to the new position in a single bound. All the advocates of the old view may be swept out, and only advocates of the new position may be in office and in leadership in the government – even if their majority is very slim.

Another analogy might be the comparison between an on/off light switch and a dimmer switch. The light switch is moved and nothing happens, until all at once the light is on. Proportional voting systems are more like dimmer switches, move them a little bit and the light gets a bit brighter or dimmer.

A slow-then-hyper-responsiveness is typified by the U.S. House of Representatives. Dominated since mid-century by the Democratic Party, the entire leadership (determined by the party winning the most seats) changed on Election Day in 1994. Political scientists analyzing the returns noted that a change of fewer than 20,000 votes would have kept the Democrats in control. Thus, for years, millions of voters chose Republican candidates again and again, but the majority, the leadership, and thus the power in the House remained with the Democrats. And then a tiny shift – equal to about 4% of residents in a single district – resulted in an enormous power shift. Thus the election method used has a great deal to do with the extent and rate at which the resulting governments tend to respond to citizen desires.

Criterion 5: Promote Voter Participation

One test of a healthy democracy is voter turnout. Democracy is founded on the principle of “consent of the governed.” This principle is weakened when fewer than half of all eligible voters are electing the officials who make decisions that affect everyone.

Election methods and procedures can dramatically affect turnout. In addition to procedures that overtly reduce turnout by making voting harder (barriers to registration, distant polling places, ballots in only one language, etc.), election methods and procedures may affect turnout in subtler

ways. One example is the “safe district” dominated by one party. Citizens opposed to that party are easily discouraged from voting because, they feel, their vote has no chance of affecting the outcome – that their vote is actually not as powerful as the votes of citizens who support the dominant party. Also, in districts with uncontested races, voters of the dominant party may not take the trouble to vote, viewing that vote as pointless. Some voters as a matter of principle will not vote in any uncontested race. However, when a variety of closely contested races and issues are also on the ballot, turnout may be improved.

Political scientists often measure the percentage of voters who supported a winning candidate. Election methods differ greatly on this. Some methods routinely use the votes of more than 80% and even 90% of the electorate to choose the officeholders. Other methods tend to produce much lower percentages. Not surprisingly, turnout correlates remarkably well with these measures of winning votes. Simply put, citizens seem most likely to vote when they feel that their vote is most likely to count (make a difference in the results).

Criterion 6: Reduce Election Costs

Although campaign financing is not the focus of this study, it is important to note that the election methods and procedures that a society uses have a great deal to do with how much money campaigns require.

Election rules – not just campaign finance rules – have a great deal to do with how much candidates feel they must raise and spend. In particular, the winning threshold – the minimum percentage of votes needed to win — has a great effect on campaign spending. Lower thresholds allow lower spending, while higher ones (up to the maximum of 50% +1) correlate with the highest spending.

Another aspect of costs refers to the administrative costs incurred in holding the election. The IIDEA Handbook notes, in observations pertinent to both national and local elections:

“Elections do not take place on the pages of academic books but in the real world, and for this reason the choice of any electoral system is, to some degree dependent on the cost and administrative capacities of the country involved...it is important to remember that, while cost and administrative issues should always be borne in mind, simplicity in the short term may not always make for cost-effectiveness in the longer run. An electoral system may be cheap and easy to administer but it may not answer the pressing needs of a nation, and when an electoral system is at odds with a country’s needs the results can be disastrous. Alternatively, the “best” electoral system in any given case may at the outset appear a little more expensive to administer and more complex to understand, but in the long run it might help to ensure the stability of the state and the positive direction of democratic consolidation.”

Criterion 7: Ensure Majority Support for Single-Winner Offices

Majority’s wishes can be frustrated when a plurality winner (receiving less than a majority of the votes) is elected. In other words, a plurality election makes it possible for a candidate preferred by a majority of voters to be defeated by a candidate strongly opposed by a majority of the voters. The more candidates there are for a position the more likely this is to happen. For example in a 1999 Seattle Port Commissioner race, the top two candidates each received only 18% of the primary vote. It is not usual for eventual winners to have received less than 35% of the vote in the primary election. Plurality winners violate a basic democratic ideal—“majority rule.” Without a mandate supported by the majority, public confidence in government may be eroded and it can be difficult for

an elected official to assume a leadership position. Since not all single-winner election methods allow plurality winners, this is a criterion that can be used to judge election methods.

Criterion 8: Promote Efficient Decision-Making and Effective Legislative Performance

Both efficient decision-making and effective legislative performance are greatly influenced by the divided structure of American Federalism. With its separate executive and legislative functions, the system is widely accepted as biased against efficiency and rapid decision-making. In sharp contrast to a Parliamentary system, the Framers' sought "checks and balances" to prevent an overactive government.

Still, election methods play a role here. Election methods that favor establishment of clear majorities in a legislature promote decisiveness. Legislatures thus elected will likely face less difficulty in passing a program and overriding any executive vetoes that may occur. Systems favoring establishment of clear majorities, however, could be seen to be less representative than more proportional systems, even as they may enhance decisiveness and, perhaps, effective performance. Since election methods differ greatly in the extent to which they promote clear majorities or cohesive coalitions, election methods can influence decisiveness and effectiveness.

Criterion 9: Promote Meaningful and Accessible Elections

Two additional criteria, suggested by the IIDEA, should be considered. Note that the IIDEA uses "parliament" as the generic term for all legislative bodies.

Excerpts from the IIDEA Handbook of Electoral System Design explain these terms.

Ease of voting—ensuring access to polling places, removal of barriers to registration and voting, accuracy and currency of the electoral rolls, confidence in ballot secrecy.

Wasted (or Losing) votes—"[T]he broader issue of ensuring whether an individual's vote makes a difference to the final results. If you know that your preferred candidate has no chance of winning a seat in your particular district, what is the incentive to vote? In some electoral systems the number of "wasted votes" (i.e., those that do not go towards the election of any candidate, as distinct from spoiled or invalid votes, which are ballots excluded from the count) can amount to a substantial portion of the total national vote."

Proportionality of results—Referring to the corrosive effect resulting from a widespread perception that the system is "rigged" and produces unfair (very disproportionate) results.

As IIDEA writes in the Handbook:

"... even within democratic parliamentary systems, the choice of the electoral system can influence the legitimacy of institutions. For example, the Australian Senate between 1919 and 1946 was elected by a highly disproportional electoral system (the Alternative Vote in multi-member districts) that produced lop-sided and unrepresentative results. This tended to undermine the actual legitimacy of the Senate itself in the eyes of both electors and politicians.... After the system was altered to a fairer proportional system (the Single Transferable Vote) in 1948, the Senate began to be perceived as more credible and representative...."

Criterion 10: Provide Incentives for Inclusion and Discourage Negative Campaigning

Also included from the IIDEA handbook:

“Incentives for inclusiveness—Electoral systems can be seen not only as ways to constitute governing bodies, but also as a tool of conflict management within a society. Some systems in some circumstances will encourage parties to make inclusive appeals for electoral support outside their own core vote base; for instance, even though a party draws its support primarily from black voters, a particular electoral system may give it the incentive to appeal to white, or other, voters. Thus the party’s platform would become less divisive and exclusionary, and more unifying and inclusive. Similar electoral system incentives might make parties less ethnically, regionally, linguistically, or ideologically exclusive.”

Voters frequently complain about the quality of campaigns. Campaigns that focus on personal attacks may drive voters away from the polls and increase voter cynicism about elections in general. Some experts suggest that the kind of election system used affects campaign strategy. For example, systems that require people to cast a vote for a party seem to encourage less of a focus on individuals and more of an emphasis on issues and party platforms. Proponents of election systems that use multiple votes or rank candidates argue that their systems discourage mudslinging campaigns since a candidate is less likely to conduct a negative campaign against another candidate if they believe they might receive a second or third choice vote from the other candidates’ supporters. These systems also discourage negative campaigning because they tend to result in larger numbers of candidates in any particular race. Hence candidates are motivated to stick to a discussion of issues rather than campaigning negatively when there are many likely opponents to criticize.

Criterion 11: Encourage Sincere Voting

Sincere voting has two aspects. First is the problem, related to the issue of minority representation, of ensuring that the majority’s wishes are respected. The second aspect is ensuring that voters feel they do not have to play games or vote strategically to ensure that their vote doesn’t end up backfiring on them.

Strategic voting then is the opposite of sincere voting, and the need for strategic voting is a defining characteristic of various election methods.

Most American voters understand strategic voting whether or not they use the term. They know that, in some cases, a vote for a favorite third party candidate can actually help the least-preferred candidate win, by splitting the vote between the two major contenders, or by drawing votes away from one contender in a close race. In a strong two party system, great pressure is apt to be exerted on the third party supporter, urging her not to vote for her favorite candidate and thereby spoil the race for her second choice candidate. In slang terms, she will be asked to vote for the lesser of evils rather than help the worst evil get elected. The electoral system in use in our country makes strategic voting possible and, some say, vital.

New Mexico experienced the minority winner phenomenon in 1997, when a Green Party and a Democratic Party candidate shared a majority of votes for a seat in Congress—while losing to a Republican candidate who achieved a plurality but not a majority of votes. The same year, the reverse took place in the Alaskan gubernatorial race where Republicans split their votes between two

factions and the Democrat won. These are but two examples of a long-understood facet of single-member plurality elections: “vote splitting” – where a majority of voters, voting their sincere choice, wind up electing the candidate they least prefer.

The choice of election methods and procedures has much to do with whether or not voters feel that they can vote their sincere choice, or whether they must vote strategically (be willing to vote for other than their true preferences). Many people feel that the necessity to vote strategically when more than two parties are on the ballot has a great deal to do with the low rates of citizen satisfaction with and participation in elections. Others believe that strategic voting is part of the reality of political life whenever more than two parties are fielding candidates for office, and that minor party candidates and their supporters, in wishing for a “sincere” vote, simply do not have sufficient pragmatic grasp of this reality. However, an election method, which provides the ability for a failed “sincere” vote to be transferred to a second-choice candidate, could allow a voter the luxury of having her cake (sincere vote) and eating it too (strategic vote as well).

Summary of Criteria

- Promote representative-ness
- Promote accountability
- Promote openness
- Promote responsiveness
- Promote voter participation
- Reduce election costs
- Ensure majority support for single winner offices
- Encourage efficient decision-making effective legislative performance
- Promote meaningful and accessible elections
- Provide incentives for inclusion and discourage negative campaigning
- Enable sincere voting

CHAPTER 4

Selected Election Laws

Previous chapters of this study have all been concerned with the topic of election systems. This final chapter has a different focus. It looks at selected laws and procedures currently in place – at the state and national level – having to do with voter registration, ballot handling and other aspects of the election process.

The Washington State Constitution specifies that the House of Representatives be composed of not less than 63 nor more than 99 representatives and that the number of senators be no more than one-half nor less than one-third the number of representatives. It also provides that senators be elected from single member districts in staggered four year terms and that representative districts cannot be divided in the formation of senatorial districts.

Remaining state election law is determined by the state legislature and appears in the Revised Code of Washington. With the exception of “home rule” (charter) cities and counties, state law outlines the kind of election system to be used by state, county and local governments. It currently allows only two kinds of election; by single member district and at large, by single member position (commonly referred to as single member plurality or winner take all). There is legal disagreement as to how much latitude charter cities may have to design alternative election methods.

The major advantage in having the state prescribe uniform election methods for the lesser governmental entities created under its laws is that they are easily understood when voters move from one community to another. The major disadvantage is that it keeps smaller governing units from experimenting with alternative voting systems which may better suit a community or serve as a “test” for other governmental units. In states that do not have such restrictive election laws, various cities, towns and school boards are experimenting on a case-by-case basis.

The Secretary of State is the state’s chief election officer. The Secretary’s long list of duties includes maintaining a Bureau of Statistics, archiving all statewide voting records and producing a voters’ pamphlet before statewide elections. Voting equipment to be used anywhere in the state must first be approved and tested by the office at the beginning of each election. In each session of the legislature, this department initiates numerous bills affecting voting practices. They are not necessarily adopted by the legislature.

The principal election official in each county, except one, is the County Auditor. King County has a separate Department of Elections to oversee the election process for all governmental entities within the county. The equipment used in recording votes varies from county to county. Some use manual devices that poke holes in computer punch cards, some use newer systems that are hand marked by voters, and are automatically counted by computer as the card is deposited in the ballot box.

Washington Registration Laws

To register to vote in Washington, you must be:

- A citizen of the United States
- A legal resident of Washington State
- At least 18 years old by election day

The registration application must be made or postmarked at least 30 days before the next election, except in-person registration that will be accepted at the county elections department up to 15 days before the election.

Several states allow registration up to and including Election Day. Those who favor “same day registration” argue that campaign momentum often doesn’t build until the last minute, especially for new voters. Jesse Ventura’s third party win for Minnesota governor was attributed, in part, to Minnesota election laws that allow same day registration.

Those opposed to shortening Washington’s registration period to less than 15 days argue that it would increase the cost of election administration (last minute registration would require provisional ballots which require more handling) and that Washington’s high use of absentee ballots already requires campaigns to “peak” before Election Day.

Challenges and Recounts

If a voter appears at a polling station to vote and is not registered in the appropriate book, or if another voter challenges her eligibility to vote, she will be offered a ballot which, after the voter preferences are marked, will be put in two envelopes. The inside envelope contains no identification. The outside envelope is a special Provisional Ballot envelope, upon which is recorded all the information which indicates why the voter believes she is properly registered to vote. Such ballots remain separated from the others cast, until election officials have an opportunity, in the days following the election, to check on the validity of the credentials of the voters who cast them.

A recount, without cost to the candidates, is required if the difference between the first and second place candidates is less than 1%. Candidates may order a recount at their own expense if the result is more than 1%.

Absentee Ballots

Washington State has established very liberal laws governing the use of absentee ballots. Voters do not need to be unavailable on voting day in order to use such ballots. Since its creation of the “ongoing absentee ballot,” the number of voters choosing to use this mail-in form of voting has grown dramatically and it may just be a matter of time before all votes are cast by mail. Pierce and Thurston Counties have probably done the most to encourage use of mail-in ballots, with approximately 60% of their voters registered to receive ongoing absentee ballots.

Absentee ballot requests can be made by telephone, fax or mail as early as 45 days before the next election. Application only needs to be made once for an Ongoing Absentee Voter Request. No absentee ballots are issued on Election Day except to voters who are hospitalized.

Absentee ballots are generally mailed to voters about three weeks prior to the election and must be postmarked no later than Election Day. In recent years several concerns have been voiced about the security and tallying process of mail-in ballots. As the number of mail-in ballots increase every year, concerns about potential mishandling have also increased.

Absentee Ballot Processing

When the ballots are delivered to the appropriate county office they are inside two envelopes. The outer one contains all the identification necessary for election officials to certify that the voter is

registered and that his signature matches election records. The second “security “ envelope contains no identification in order to preserve the secrecy of the ballot.

When the 2000 Presidential Primary ballot required voters to reveal their party choice or lack of affiliation on the outside of the envelope, election officials report that some voters objected, a few going so far as to enclose their ballot inside a blank envelope. Envelopes which display the party designation on the outside makes them vulnerable throughout the entire post office handling process prior to the County taking possession of them. At least once in recent years, ballots have been mislaid by the post office and not counted until after the announcement of election results. Counted later, they would not have changed the election outcome.

State election law allows the ballots to be opened and processed, but not counted, up to ten days before the election if the county uses machines to do the counting (all do). The counting itself cannot begin until the polls open on Election Day. Those who oppose the opening of the security envelopes prior to that day worry that election worker’s knowledge of voting trends could influence the final days of campaigning. Those who defend the practice point out that all who work or observe in the ballot handling area are sworn to secrecy. Election officials sit in the middle of a tug-of-war between the media and elected officials, on one side, who want election returns immediately, and some poll watchers who worry about security issues.

Another issue concerns the vulnerability of ballots that are being “remarked.” Remarketing is the practice of creating new ballots to substitute for ballots that inspectors have declared “flawed” or of using tape to cover voter mistakes that would otherwise have trouble passing through automatic counting machines.

Pierce County

In 1997, a statewide non-partisan citizen research group, Citizens for Leaders with Ethics and Accountability Now (CLEAN), issued a report of their year-long examination of the Pierce County vote by mail process. It raised many concerns which included the timing of ballot opening and placing them in the counting machines prior to Election Day; conducting ballot recounts without notifying the public or affected candidates; improper use of election judges; and unannounced and unpublished locations for ballot “remarking.” They allege that in one election; over 26% of the absentee ballots were remarked (38,808 of the 148,830 votes cast). One of their several legal challenges resulted in a court ordered change in ballot handling practices. Mailed ballots may no longer be placed in counting machines prior to Election Day.

Spokane County

In August, 2000, newspapers reported the launching of a criminal investigation into possible ballot tampering involving Initiative 695 ballots in Spokane County. The initiative appeared on the November, 1999 General Election ballot. Articles in the Spokane Spokesman-Review of August 1 reported that more than 5,000 ballots (about one out of every five) that were cast by mail or absentee were marked both “Yes” and “No,” which had the effect of invalidating the votes. The ballots cast at polling places did not show a similar pattern. State election officials said such a high percentage of “over-votes” could not have occurred naturally. The officials said that, other than attributing them to tampering, the only way to explain the results would be a faulty program in the county’s ballot-counting computer. But the program was tested before and after the election , and apparently worked correctly for ballots cast at polling stations. A state assistant director of elections said it would be unusual for the program to make selective mistakes. Although the investigation is still underway, the County Elections Superintendent retired rather than accept a demotion and the County Auditor has

announced she plans to change the way ballots are counted and secured before the next election. The invalidated votes would not have changed the outcome of the election, but could have tipped closer elections such as a recent Spokane City Charter change that created the strong mayor system – a measure that passed by only 39 votes.

King County

League members on the Election Methods study committee observed King County's pre-count processing of absentee ballots five days before the 2000 Presidential Primary Election and again seven days after when the ballots were also being counted.

The ballots come from the post office to a commercial sorting house that adjoins the room in which county employees do most of the processing. (Potential security concerns about the ballots while in the hands of the post office have been mentioned earlier.) The initial sort separates the envelopes by party and precinct and also establishes the order in which voter signatures will be checked against the voting records.

The ballots are then delivered to the county employees whose computers have been programmed with the voter's registration information in the same order. The signature on the outside of the mailing envelope certifies which party ballot is being voted, and is very quickly compared with the signature on the computerized voter registration form which is then marked indicating which party (not candidate) has been declared. Any signatures that don't match the records are put aside for later investigation by others.

The envelopes are then opened and checked to be sure that the vote was cast for a candidate from the same party that the signature certified. Any that don't match are sent to the "re-markers." The most common mistakes were:

- Forgetting or refusing to certify the party designation on the proper outside envelope.
- Certifying a party different than the one voted for.
- Voting for more than one candidate.
- Missing the proper box with the mark.

If the voter's intention is clear and consistent with the signed party certification, designated election workers remark the ballot. If there is no signature and there is enough time before the election books are closed (10 days after the election), a letter (not the ballot) is sent to the voter asking for a proper signature. Some people use different signatures for different kinds of transactions and forget which one they used when they registered to vote. Finally the ballots are separated from their envelopes and placed in trays to go through the counting machine.

Considerable effort goes into salvaging as many defective ballots as possible by "re-marking" them as described above. Two official party observers (one Democrat, one Republican) were on hand at the time these observations were made, but were sometimes engaged in non-related tasks such as checking empty ballot envelopes while serving in the observer role.

In most counties, party observers are unpaid volunteers and in many cases it is very difficult to attract them. However King and Pierce Counties compensate these observers. A note about the election records being marked with the voter's party designation: these public records are retained for 60 days, after which the party designation is removed.

Presidential Primary

Presidential Primaries are relatively new phenomena. In 1968, only 15 states were holding such primaries and they were seen mainly as a means of demonstrating electoral viability – sort of a dress rehearsal for candidates who would be chosen at their party’s summer National Convention. Delegates to those Conventions were chosen through caucuses and state conventions. This year, 45 states and the District of Columbia held primaries that committed about 90% of the National Convention delegates. The party nominees were selected early in March, before people in half the states had an opportunity to vote.

The State of Washington adopted its Presidential Primary election system by initiative in 1989. Its first two elections were held after the nominees had been selected by other states’ primaries, so the date for the 2000 election was moved forward to February. Washington could not use its traditional blanket primary because courts have upheld the right of the parties to name their nominees system for this election. Voters must, in some way, certify their party preference. In the 1996 Presidential Primary, they had to request one of three ballots. Their choice was Republican, Democrat or Unaffiliated. The majority of voters chose the unaffiliated ballot (67%), yet still voiced complaints about the need to declare their preference for all to see or hear.

A different method was tried in 2000. Voters were given one ballot with three columns headed Republican, Democrat or Unaffiliated. They could cast a vote in only one of those columns. The decision about whether or not to reflect the election results in the selection of delegates to the party’s nominating convention was an individual party decision. In 2000, the Democrats chose not to use the election results, and instead selected their delegates in caucuses and conventions. The Republicans chose to apportion 2/5th of their national delegate allotment based on the election results, the rest coming from convention votes. Both parties made it clear that they would not give any weight to the Unaffiliated votes which comprised 40% of the 2000 Primary vote (Democrats comprised 23%, Republicans 37%).

This election system continues to be criticized by voters, parties and candidates. In 1997, one Senator called it “a discredited system” that costs the taxpayers 3 million dollars. The cost of the 2000 election was closer to 5 million.

In Washington, members from both major parties say the primary serves little purpose other than to provide the major parties with updated lists of party declarations by voters. But, since this primary came about through the initiative process, they are reluctant to invite voter displeasure by abolishing it. Opponents of Presidential primary elections argue that:

- It is an unnecessary expense to the public
- It greatly increases the cost of candidate campaigns, requiring two national campaigns instead of one
- It lengthens the campaigns, wearing out both voters and candidates
- Voter participation was less than 25% the first two elections. In 2000 it rose to 42.6%
- The election sometimes takes place after the national selection has already been made
- It undermines the grass roots precinct caucus system, which is the only opportunity for most party members to participate in the formation of the platform
- It eliminates one of the main purposes of party National Conventions (this year the two major parties will each receive approximately 13.5 million dollars in Federal support for those conventions.)

- Its main value is to provide the major parties with an updated list of voter party preferences.

Supporters of a Presidential Primary for the State of Washington point to candidates' repeated state visits as ample justification for holding the election. Those visits are preceded by briefings and familiarization with Washington issues. They also note that more voters seem willing to go to the polls than to turn out for party caucuses; greater numbers of voters could be expected to participate in a selection process that includes a primary.

Supporters of the Presidential Primary are working on the timing problems that have greatly lengthened the campaign season. Nationally, the three major proposals for scheduling changes are:

- A rotating Regional Primary that would divide the country into four regions holding an election a month apart.
- "The Delaware Plan" which would allow the smallest states to vote first in February, followed by the next smallest in March, then a month later in April the midsize and finally in May the largest -- all in groups of 10 or 12.
- A National Primary that would take place on a single day in May or June.

There is mixed opinion about whether Iowa and New Hampshire would keep their claim to fame by continuing their early primaries in any of the above scenarios.

The National Voter Registration Act

In response to growing concern about declining voter participation and inconsistent voter registration practices, Congress passed a National Voter Registration Act that took effect January 1, 1995. It is better known by its nickname — "Motor Voter."

The thrust of the Voter Registration Act has been to make it easier to register new voters and more difficult to cancel names of inactive voters. Last year, a "60 Minutes" television program devoted a segment to problems it implied had been compounded by this federal legislation. Titled "Vote Early, Vote Often," it questioned the integrity of the American voting registration process. The League of Women Voters of the United States immediately issued a press release charging biased reporting and defending the legislation. The process American citizens use to register to vote seems to have become a highly charged, political football.

The law was not intended to address practices that are conducive to voter fraud, nor does it claim to do so. Voter registration is largely a matter of trust. Voters are not asked to provide proof of citizenship, in fact in most states, including Washington, it is possible to register and vote by mail, never seeing or talking to an election worker. Public employees who hand out registration forms for voters to fill out do not attempt to evaluate an applicant's eligibility. They do not routinely ask if the applicant is an American citizen, nor verify whether the applicant understands the statements on the registration certificate.

Summary of Specific Requirements

The Voter Registration Act applies to all federal elections and mandates that states pass legislation to make the provisions of the act apply to state and local elections. It requires states to register voters in three specified ways, in addition to any other procedures they use for voter registration:

- Simultaneous application for driver's license and voter registration
- Mail application for voter registration
- Application in person at designated government agencies, including public assistance agencies, agencies providing services to people with disabilities and military recruiting offices. States may designate other agencies or offices.

Any agency providing services to the disabled in their home must also provide voter registration in those homes. No political signs may be displayed at registration sites and no statements may be made to influence an applicant's party choice, discourage the person from registering or infer that registration will affect the availability of services or benefits. A mail registration form must be offered with each service provided plus a form asking if the client wants to register with "boxes" labeled "Yes" or "No."

An application for, or a renewal of, a driver's license will serve as an application for voter registration unless the applicant does not sign the voter registration portion of the form. The voter registration portion of the form must include:

- A statement specifying eligibility requirements for voter registration(including citizenship),
- An attestation that the applicant meets these requirements,
- The applicant's signature under penalty of perjury, and
- A statement that assures confidentiality and the absence of coercion.

Any driver's license change-of-address form will serve as notification of an address change for voter registration unless the person states that the address is not for voter registration purposes. Applications must be transmitted to the appropriate election office within 10 days, or sooner if the registration deadline is near.

The following must occur at agencies doing voter registration:

- Voter registration forms are to be given with each of the agency's own forms,
- Help in filling out the form unless such help is refused, and
- Transmittal to the elections office (same as above).

The U.S. Department of Justice may bring legal action to enforce the provisions of the law. Private citizens may seek enforcement by notifying election officials so that any problems may be corrected before legal action is taken. A court may order corrective action but may not award money damages or other penalties.

The cut-off date for voter registration can be no longer than 30 days before the election. States must make a reasonable effort to update voting lists. Voters may not be removed from voter lists simply for not voting. The only reasons for removing a voter's name from the official list are:

- Death of the voter
- At the voter's request, or notification that the voter has registered at another address
- By reason of criminal conviction or mental incapacity (if specified in state law)
- When change of address has been confirmed in writing by the applicant

Election officials may send an address verification notice to voters whom they believe have moved and must make three separate attempts to reach the voter before canceling a registration.

How is the law working?

Judging from the following charts, it is probably too soon to draw conclusions about the effect of the law upon voter registration and voter turn out.

Concerns heard during research for this study included:

1. Record-keeping. Some election workers view the required increase in paper work as costly and complicated. As a result of the restrictions on purging non-voters from the election rolls, some records are bloated with inactive names. This is especially true in college towns that may have a high percentage of student voters who then leave the city or state but their names remain on the poll records. Washington records are periodically checked for dual registrations, but there is no such mechanism for comparing registrations with other states.
2. Qualifications of registrants. Some public employees are uncomfortable with the fact that they are now responsible for registering people they sometimes fear are not qualified. They are not allowed to question applicants regarding citizenship or other eligibility requirements. Critics contend that the system is too lax and may result in registration of unqualified voters. They point out that citizens are routinely asked for identification in circumstances far less important than voting; for example, a birth certificate is required when registering a child for Little League or other sports.

The most ardent proponents of the Motor Voter law contend that it should be given a chance to work, and sometimes imply that criticism of a law intended to bring more Americans into the voting process is rooted in prejudice and discriminatory attitudes. However, concerns expressed by poll workers, party workers and election officials indicate that public discussion approached in an unbiased manner could be very constructive.

Voter Participation in the State of Washington PRESIDENTIAL ELECTIONS — 1952 to 1996

Year	Estimated Voting Age Population*	Registered Voters	Percent of Voting Age Population Registered	Votes Cast	Percent of Registered Voters Voting	Percent of Voting Age Population Voting
1952	1,533,500	1,392,594	90.81	1,116,414	80.17	72.80
1956	1,622,500	1,451,375	89.45	1,164,104	80.21	71.75
1960	1,753,700	1,527,510	87.10	1,257,952	82.36	71.73
1964	1,857,900	1,582,046	85.15	1,276,956	80.72	68.73
1968	1,975,000	1,649,734	83.53	1,310,942	79.46	66.38
1972	2,306,000	1,974,849	85.64	1,519,771	76.96	65.91
1976	2,546,000	2,065,378	81.12	1,584,590	76.72	62.24
1980	2,992,000	2,236,603	74.75	1,722,904	79.27	57.58
1984	3,182,000	2,457,667	77.24	1,931,546	78.59	60.70
1988	3,417,000	2,499,309	73.74	1,923,016	76.94	56.28
1992	3,818,000	2,814,680	73.72	2,324,907	82.60	60.90
1996	4,122,000	3,078,208	74.67	2,293,895	74.52	55.65

*Statistics obtained from the U.S. Census Bureau

MID-TERM ELECTIONS — 1952 to 1998

Year	Estimated Voting Age Population*	Registered Voters	Percent of Voting Age Population Registered	Votes Cast	Percent of Registered Voters Voting	Percent of Voting Age Population Voting
1958	1,703,200	1,375,035	80.73	978,400	71.15	57.44
1962	1,813,500	1,446,593	79.77	971,706	67.17	53.58
1966	1,869,400	1,472,054	78.74	987,134	67.06	52.80
1970	2,078,000	1,562,916	75.21	1,123,000	71.85	54.04
1974	2,419,000	1,896,214	78.39	1,044,425	55.08	43.18
1978	2,651,000	1,960,900	73.97	1,028,854	52.47	38.81
1982	3,119,000	2,105,563	67.51	1,404,831	66.72	45.04
1986	3,307,000	2,230,354	67.44	1,358,160	60.89	41.07
1990	3,650,000	2,225,101	60.96	1,362,651	61.24	37.33
1994	4,000,000	2,896,519	72.40	1,733,471	59.85	43.34
1998	4,257,000	3,119,562	73.28	1,939,421	62.17	45.56

**Statistics obtained from the U.S. Census Bureau*

12/3/98

The Electoral College

Our nation's founders decided against direct election of the President, instead using a delegate body called the Electoral College. Each state has the same number of Electoral College delegates as it has members of Congress (Representatives + Senators). This formula purposely gave less populated states disproportionate weight. This system that is provided for in the Constitution was modified in 1804 with the 12th Amendment. Over the years there have been additional legislative modifications. In the beginning each elector cast two votes for President, one of which could not be a "favorite son." The candidate receiving the most votes was named President, and the candidate with the second highest votes was named Vice President. Today the electors cast one ballot for President and one for Vice President, assuring that the winners will be of the same party. (Political parties and national campaigns were not anticipated at the time the Electoral College was devised.)

Today each political party names its slate of electors. All states now hold elections, but the electors' names seldom appear on the ballot. The electors meet in their respective state capitol on the second Wednesday of December and cast their secret ballots that are opened and read to Congress on January 6th. If one candidate has not received a majority of the votes, the House of Representatives casts one vote per state from among the top three contenders.

Critics of this system believe that this method of electing the President is an anachronism that reflects early concerns that voters might not be wise enough to make such a big decision. While voters tend to complain about the system every four years, currently there doesn't seem to be political will to change it. Critics worry that the constitutional amendment which would be necessary to eliminate the Electoral College will not be embraced until a future candidate who receives the highest popular vote loses the election to another candidate who receives more Electoral College votes. This happened in 1888 when Harrison won the Presidency even though Cleveland had the larger popular vote. A problem that occurs with even greater frequency is that the president elected through the Electoral College process is one who received only a plurality of the popular vote, not a majority. This has been the case in almost half of the elections since 1872 (10 elections out of 22).

Most voters and many legislators don't realize that each state has the power to modify the way its electoral votes are allocated. If states wish to have their electoral votes reflect the popular vote, they have the power to do it, even without a national constitutional amendment.

Currently, all but two states award their electoral votes to the candidate receiving the highest number of popular votes on a winner-take-all basis. Maine and Nebraska divide their votes to reflect the candidates who receive the highest popular vote in each congressional district. Bills have been introduced, but not passed, in Washington that would apportion its 11 electoral votes to reflect the state's popular vote. For example, a candidate receiving 40% of the popular vote would win 40% of the state's electoral votes. In 2002, Alaska voters will address an initiative that would use Instant Runoff Voting to require a candidate to win a majority of the votes in order to receive all of the states Electoral College votes.

One Washington State Representative argues that more accurately reflecting the popular vote in the state's allocation of electoral votes would make elimination of the Electoral College, his preferred goal, more difficult. Other opponents argue that splitting a state's allocation of votes among several candidates could keep any candidate from receiving a majority of Electoral College votes. Small states worry that candidates might ignore them if the candidates only stand to gain part of their electoral votes. Populous states respond that the winner-take-all system, used by most states, already encourages candidates to concentrate their campaigns and platforms on what would appeal to the eleven most populous states that have enough votes to elect under any system. If electors were apportioned to reflect the popular vote, smaller states, where an opponent appears to have "locked up" the vote, would no longer be "written off."

Political Scientist A. James Reichley contends that it is the Electoral College that, quite by accident, has proved the linchpin of the American two-party system.

The LWVUS position on Election of the President calls for abolishing the Electoral College. Since 1970, the League has supported direct election of the President by popular vote as essential to representative government. The League also testified in 1971 on behalf of a proposal for a national runoff election in the event that no candidates received 40% of the vote. In the event that total elimination of the electoral college couldn't be achieved, the League also called for reforming it by allocating electoral voters proportionally within each state and Washington, D.C. – or binding electors to vote as directed by the electorate.

A Word About The Future

Echoing Jefferson's desire that the U.S. "laboratory of democracy" experiment refine and steadily improve our democratic institutions, jurisdictions are trying out new ideas in the field of election methods. Below are some of the major trends that call for future investigation and vigilance.

All-Mail Balloting

There is a difference between absentee ballots and all-mail balloting. Absentee balloting takes place when voters have a choice of going to the polls to vote or submitting their vote by mail. All-mail elections take place entirely by mail — there are no polls for a voter to go to. In the past, all-mail elections have taken place primarily in small, rural locations that might present a transportation difficulty, especially in the winter. Recently, auditors have been experimenting with all-mail elections for smaller, special elections. Pierce and Thurston counties have been most aggressive in

this change. The means used for balloting can affect election outcomes. All-mail balloting, for example, may increase voter turnout and alter voter demographics. Some school districts have resisted all-mail balloting, fearing higher voter participation could have an adverse impact on passage of school bond and levy measures.

The Increasing Role of Computers

The role of computers in all phases of campaigning and voting is in its infant stage, but growing fast. Although the equipment varies, all Washington counties use computers in one way or another in their election-related work. The potential exists for computer use at every stage of the political process: dissemination of campaign information; official and unofficial voters guides; voter registration record-keeping; and ballot casting and counting. Computer software is being tested and marketed that would enable direct “online” voting, either as an alternative to the casting of ballots at polling places and by mail, or, eventually, in place of it.

As computer use and dependency grows, so do concerns about security. Can election data be successfully protected from tampering and from system failures? Can digital identification methods under development today provide total assurance that someone voting by means of a home computer is the person he claims to be? As we contemplate greater use of “new technologies” in governmental operations, are we being sufficiently vigilant in weighing the benefits against the risks?

Computer use in campaigns raises another set of issues. For example, a tug-of-war is taking place between government agencies that wish to place a dollar value on Web site election information for campaign finance reporting purposes and those defending the right to freely communicate on this inexpensive medium. Organizations such as the League of Women Voters must exercise care in the way they present candidate information on their voter service websites, lest it be construed as a “contribution” to one candidate or another, reportable under campaign finance laws.

How to research, select and install major new computer systems (and train employees in their use) is a challenge common to both the private and public sectors—but cost overruns and performance shortcomings seem especially troubling when they are massive and occur in the public sector. Some believe this happens all too frequently, and that the problem isn’t being adequately investigated and addressed. When it comes to computer use in elections, there are relatively few companies in the U.S. that provide hardware and software specific to this purpose, and probably not as many computer literate public employees and elected officials as are needed to make good decisions and perform effective oversight in such a specialized field.

Safeguards from Fraud

There seems to be a very strong public trust in the veracity of our election system. Yet there are remarkably few investigations made which could provide assurance that security of the ballot box is as solid as most voters would like to believe. The trend from poll voting to mail voting removes more of the process from public view. The need for knowledgeable observers is great.

Momentum for Change

Much of the momentum for changes in American voting systems has come about since 1962, when the U.S. Supreme Court first agreed to accept voting rights cases. Until that time, the Court had held that respect for the separation of powers between the three branches of government denied their jurisdiction. The majority of the election law cases since then seem to deal with the way boundaries are drawn for legislative districting, violations of the 1965 Voting Rights Act and the Constitution’s

equal protection and right of association clauses. Those cases added the “one man – one vote” principal to the political science vocabulary.

Most of the recent adoptions of proportional or semi-proportional voting systems in U.S. jurisdictions have been as a result of this body of legal precedents. Thus far the cases have largely centered on racial or ethnic minorities. Some are predicting that the next round of redistricting, which will come following the 2000 census, will bring about an even greater number of cases. In 1967, Congress reacted to the increased involvement of the Courts by passing a law that requires single member congressional districts. During the last several congressional sessions, bills have been introduced which would reverse that law and allow multi-member districts for proportional or semi-proportional representation.

Readers of this study will be particularly well equipped to understand and take interest in proposals for change in election systems that seem certain to be a part of the political and legislative landscape in the months and years ahead.

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