



Electoral College Halfway Fixed!

By: Hendrik Hertzberg- July 24, 2013

Ever since August 8, 2011, when California became the ninth state to join the National Popular Vote interstate compact (the tenth if you count the District of Columbia), the movement had been stalled with just under half of the electoral-college votes it would take to bring the compact into effect—which is, not coincidentally, the same number of electoral votes, two hundred and seventy out of five hundred and thirty-eight, that it takes to elect a President.

You remember N.P.V., don't you? The ingenious plan to elect our Presidents the same way we elect everybody else—by adding up all the voters' votes and giving the job to the candidate who gets the most? And to do it by following, not changing, the Constitution? (If you don't remember, or don't even know what N.P.V. is, there's an explanation here.)

Last week, in Providence, Rhode Island, N.P.V. broke through the fifty-per-cent barrier. Both houses of the legislature passed the bill, and Governor Lincoln Chafee presided over a little ceremony marking his signing of it into law.

The new state-by-state tally is a hundred and thirty-six electoral votes—50.4 per cent of the magic number.

Here's the roll of honor so far, in the order they signed on:

- Maryland (2007, a year after the plan was announced at an ill-attended, sparsely reported news conference)
- New Jersey (2008)
- Illinois (2008)
- Hawaii (2008)
- Washington State (2009)
- Massachusetts (2010)
- D.C. (2010)
- Vermont (2011)
- California (2011)
- Rhode Island (2013)

Two aspects of the Rhode Island breakthrough were especially gratifying.

The first is that Rhode Island is the quintessential small state. Defenders of the electoral-college status quo always assert that it's good for the little guys. After all, Rhode Island has 0.34 per cent of the American population, but it gets 0.74 per cent of the electoral college. If the status-quo fans are right, every extra vote in Rhode Island is worth double the trouble—buy one, get one free! If they were right, though, Presidential campaigns would pour money and organizational muscle into Rhode Island and its little red brothers, like Wyoming, and little blue sisters, like Delaware. But, of course, the campaigns totally ignore Rhode Islanders and their concerns, because Rhode Island is a one-party lock: in 2012, Obama beat Romney there sixty-three per cent to thirty-five per cent. Same deal in Delaware, which Obama won 59–40, and Wyoming, where Romney beat Obama 69–28. The status quo is not good for small states. It's not good for big states. It's not good for medium-size states. The only states it's good for are the swing states, and their ranks are shrinking. Last time, there were just nine, marking the first election in a century or two in which the number of swing states was in single digits. There are now fewer of them than there are N.P.V. states.

The second gratifying aspect is that Rhode Island's support for N.P.V. was bipartisan. In the Rhode Island House, where the Republican minority leader made a point of whipping his caucus into line, the vote, 48–21, followed party lines. But in the upper chamber, eighty per cent of the Republican senators voted "aye." (Admittedly, there are only five of them. Still: four out of five ain't bad.) And Governor Chafee, long an enthusiastic supporter of N.P.V., is bipartisanship made flesh. He served the state in the U.S. Senate for eight years as a Republican. In 2010, he was elected governor as an independent, defeating a Republican and a Democrat. Seven weeks ago, he registered as a Democrat.

Rhode Island has just four electoral votes. New York, which some of us think will be the next state to climb aboard, has twenty-nine. That would boost N.P.V. over the sixty-per-cent mark.

There's been a lot of action in Albany during the past three years, at once frustrating and tantalizing. The New York State Senate has passed the N.P.V. bill twice. In June of 2010, when the Democrats were in control, it zipped through by a 52–7 vote. Dems were for it by 30–2, Reps by 22–5. In June of 2011, when the Republicans were in control, the "yea" vote was a little less lopsided. But only a little: the bill passed 47–13. This time the Democrats were 26–2, the Reps 21–11.

The bill has long had overwhelming support in the Democrat-controlled Assembly, but, for some reason, the autocratic Speaker Sheldon Silver never allowed it to come to a vote. This year, he relented, and on June 12th the Assembly passed it, 100–40, with majority support in both caucuses, Democratic (seventy-eight in favor) and Republicans (twenty-two). But then, maddeningly, the Senate didn't even take it up. There's still an outside chance the Senate will act when the legislature returns from its summer recess for a brief session in the fall. If not, we'll be back to square one until next January, and both houses will have to pass it all over again. Either way, though, N.P.V. supporters are reasonably optimistic that the bill will be on Governor Cuomo's desk before another year passes. (If you're a New Yorker, this would be as good a moment as any to have a word with your state senator and/or your assembly member.)

The idea of electing the President by national popular vote always gets comfortable majorities in public-opinion polls. Democrats and independents are more receptive than Republicans, but not by much: only about a quarter of the former tell pollsters they don't like the idea, as do only about a third of the latter. Republican politicians and operatives tend to be more suspicious, though. Some see N.P.V. as payback for W. and 2000, just as the Twenty-second Amendment was payback for F.D.R. and 1932, '36, '40, and '44. Some fear that it's a recipe for domination by

the urban masses. (Not to worry: only about fifteen per cent of the population, including the odd Republican, lives in the nation's fifty biggest cities.) Other Republicans (and a few Democrats) see N.P.V. as a sneaky "end run" around the Constitution. (It's not: the Constitution gives every state absolute freedom to "appoint" its Presidential electors on any basis it likes, including coin flips and Ouija boards. The only caveat is that if a state chooses to let voters participate in choosing electors, it's not supposed to deny people the right to vote on account of race, color, or previous condition of servitude.) The two biggest Republican-friendly think tanks, the Heritage Foundation and the Cato Institute, are against N.P.V. So is a majority of the Republican National Committee. "Movement" conservatives, some of whom don't even like popular election of U.S. senators, are mostly opposed. But there are important exceptions.

Perhaps the most encouraging feature of this year's Albany debate on N.P.V. was that the Conservative Party of New York State came out strongly in favor. Because New York permits "fusion" voting—i.e., a candidate can be nominated by more than one party—we have a number of non-trivial "third" parties, of which the Conservative Party is the largest. In 1965, William F. Buckley, Jr., was the Conservative Party candidate for Mayor of New York City; in 1970, Buckley's brother James was actually elected to the U.S. Senate on the Conservative line alone. Nowadays, many Republican officeholders owe their winning margins to its endorsement, just as many Democrats owe theirs to the labor-supported Working Families Party—or to a Conservative Party decision to withhold support from a Republican. In other words, the Conservative Party is a serious enterprise. Its "legislative memo" on N.P.V. is an admirably clear summary of the case for it.

For N.P.V., the partisan brambles are especially thorny. Nobody really knows which party would benefit from having a national vote. Everybody acknowledges that N.P.V. would increase voter turnout in what are now the spectator states, but there are Democratic as well as Republican legislators who like voter turnout just the way it is—low. Because Democrats mostly like N.P.V., a lot of Republicans figure it must be bad, or at least bad for them. When Republicans and conservatives turn around and support it, some Democrats suddenly decide it's not such a good idea after all. Some Democrats think that the electoral-college status quo should remain because they calculate that it gives their party an undeserved advantage—i.e., they think that in the future, contra 2000, a Democratic candidate is more likely than a Republican to lose in the vote of the American people but still win the White House via the perverse operations of winner-take-all by state. Whether this view is or (as I believe) is not correct, it is ignoble. Shamefully so.

I place my hopes in two suppositions, one low and one high.

The low one is that N.P.V. is in the self-interest of politicians and businesspeople in the forty-odd spectator states, regardless of party and regardless of the color of their state. Once the national tickets are set, a spectator-state legislator or governor or county chairman is of no use to his party's Presidential campaign. His help is not solicited; his advice is not sought; his influence is nil. It doesn't matter if his party is predestined to win his state or lose it. Either way, he's a nobody. N.P.V. would make him a somebody. And his state would benefit economically. Its TV and radio stations and cable systems would get their fair share of all those Democratic, Republican, and Super PAC billions.

The high one is that N.P.V. would be good for the country—its political health, its people, and the legitimacy of its most powerful office. You won't catch me making a whole lot of moral equivalences between the parties. But these are things that Republicans as well as Democrats are capable of caring about.