

The Popular Election of United States Senators

The Proposal of a Simple Plan for Securing a Constitutional Amendment by the Concerted Action of the State Legislatures, by Their Passing a Uniform Joint Resolution and Application to be Later Submitted to Congress--This Subject is One of the Topics to be Discussed at the Governors' Conference to be Held at Frankfort, Kentucky, for a Five-Day Session from November 29 to December 3, 1910

Proposed: That the governors' conference, to be in session at Frankfort, Kentucky (from November 29 to December 3, 1910, inclusive), discuss the question of a concerted action toward securing a constitutional amendment on the popular election of United States senators.

The suggestion of this subject as one topic on the program of the November conference, having been approved by the committee of arrangements, it is now given to the press, with the facts, figures and arguments, to secure for the question the widest publicity and the fullest discussion. It seems to be shown from the evidence submitted herewith (a) that the people want popular election of United States senators, (b) that they can never secure it through the initiative of congress, (c) that working on the problem as separate states they have failed and must fail, but (d) that they can succeed by concerted action through the conference.

THE PUBLIC'S UNMISTAKABLE DEMAND

The table (A) printed herewith shows that the states have been working on the problem with their legislatures and congress for over fifteen years. Twenty-nine legislatures have passed resolutions and applications to congress. Of the remaining seventeen all but two (as shown on table B) have expressed their sympathy with the movement by directly nominating senators under the law, by directly advising their legislatures, by nominating by party submission or by favoring popular election by a plank in the platform of either the republican or democratic party for the year 1910. The only two states in the entire country that have not expressed themselves in any form on the subject are Delaware and West Virginia.

The public demand for popular elections of senators is further shown forcibly in the fact that thirty states are today nominating or have the power to nominate senators. That they resort to this incomplete, evasive and unsatisfactory method, which never shows the full force of the people's will as would be expressed in an open election, seems proof beyond doubt of their demand.

The latest expression of this persistent battle for the right of the people to determine for themselves who shall represent them in the senate is evident in the following array of planks in party platforms of the present year, all demanding popular election of senators:

Democratic—Maine, Indiana, Ohio, Minnesota, Michigan, Connecticut, New Hampshire, Massachusetts, New Jersey, Utah, South Dakota, Vermont, New Mexico, New York, Rhode Island, Wyoming, Iowa, Wisconsin, North Dakota, Nevada, Idaho, California, Illinois, Kansas, Oklahoma, Montana.

Republican—Iowa, Wisconsin, North Dakota, Nevada, Idaho, California, Illinois, Kansas, Oklahoma, Montana.

Even this showing would have been more convincing were it not that eight states had no elections on state issues this year and three others, having elections, held no convention and made no party platform.

THE FAILURE IN CONGRESS

There is no possibility of such an amendment ever passing congress, that a convention may be called, because on every occasion the senate fails or refuses to vote on the resolution after it has received more than the required two-thirds vote in the house. This is clearly shown in the able speech by Senator Robert L. Owen, of Oklahoma, in the senate of the United States, on May 31, 1910, and it is to Senator Owen we are indebted for some of the other statistics in this summary. On four separate occasions during the past sixteen years the senate has thus failed, when the vote of the house showed more than the necessary two-thirds assent to the amendment, was as follows:

1894—July 21, house vote, 141 in favor to 50 against.

1898—May 11, house vote, 185 in favor to 11 against.

1900—April 13, house vote, 242 in favor to 15 against.

1902—February 13, house vote, unanimous.

This presentation of the broad lines of facts, figures and arguments on the subject of a discussion of the proposed constitutional amendment has been approved by the committee of arrangements as a fitting subject for the consideration of the conference, and by them ordered to be printed and sent to the present governors, to the governors-elect and to the press of the country.

WILLIAM GEORGE JORDAN,
Secretary.

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THE FAILURE OF THE STATES WORKING SEPARATELY

There are frequent statements in the press today that if we secure two or three or four more states the required two-thirds will be reached and congress will call the convention. There is so much conflict, confusion and contradiction that the resolutions and applications as given in the Congressional Record have been carefully studied and analyzed, with the following results.

Twenty-nine legislatures passed resolutions. Twelve applications, there is hardly a doubt, will be thrown out on the ground that the legislatures did not apply to congress, as is shown in detail in table C.

Four applications, if the information on this point be correct, are doubtful as the record of the application does not seem to be on file in congress.

This reduces the harvest to thirteen states that seem safe; this is not two-thirds but less than one-third. Even of these thirteen there are slips and omissions and technical inharmonies in other phases that would not escape the rigid test of examination by the senate. And all this is the meagre result of fifteen years of struggle since February 16, 1895, when the state of Wyoming started the movement.

As fulfillment it is painfully small; for promise of ultimate success it gives little hope; but as a revelation of a strong public demand struggling toward attainment and of the possibilities of success in a strong, united and unified action, it furnishes striking evidence. If twenty-nine states have reached this action as units. It should be easy to bring a much larger number into active harmony by a concerted movement through the initiative of the governors' conference.

HOW THE GOVERNORS' CONFERENCE MAY SUCCEED

With the governors of the forty-six states meeting in the frank, full interchange of views in the conference, where nearly all of them, or the states they represent, are not merely converted, but anxious, there would be little discussion except as to the best way of formulating their united wisdom in a uniform expression. A form of resolution and application could be prepared that would be absolutely attack-proof by congress and this one form might be adopted by all. Those states that may have lost by disqualification, or those that acted years ago, or in fact all that so desired, ignoring their prior application, could use this form, and inasmuch as forty-two legislatures meet in 1911, it would seem especially opportune. In the resolutions, many of the legislatures urge their congressional representatives to "try and induce favorable action," etc., seemingly forgetting that even if every member of both houses of the congress were bitterly opposed, the call made by two-thirds of the states is mandatory on congress to call the constitutional convention to consider the framing of an amendment.

Some of the many arguments in favor of this constitutional amendment are carefully summarized by George H. Haynes, Ph. D., in his

book on "The Election of Senators," as follows:

Popular election of United States senators—
Would make the senate a more consistent and effective political institution;

Would improve the tone of the senate;

Would make the senate responsible to the people;

Would demand that the senators thus elected would command public confidence;

Would lessen the influence of wealth upon the senate;

Would tend to divorce national from state and local politics;

Would promote the reform of representation in state legislatures;

Would promote nomination and election of members of the legislature upon the simple issue of their fitness for such service;

Would improve the state legislatures;

Would leave legislatures free to do their normal work;

Would elevate the tone of state and municipal politics;

Would insure the states being represented in the senate (during the past fifteen years, in fourteen contests in ten different states, by a deadlock in the legislatures they proved powerless to elect a senator; four states have undergone the cost and inconvenience of a special session to fill vacancies, and six, accepting vacancies, had no representation);

Would prevent the worst evils of minority representation;

Would promote "home rule" in the states;

Would give to the people the final verdict upon senatorial candidates.

THE ISSUE IS ABSOLUTELY NON-PARTISAN

The array of states heartily endorsing the idea and working anxiously for its achievement as an amendment prove the movement is absolutely non-partisan. President Taft said, in his speech at Cincinnati, on July 28, 1908, in accepting the republican nomination for the presidency:

"With respect to the election of senators by the people, personally, I am inclined to favor it, but it is hardly a party question. A resolution in its favor has passed a republican house of representatives several times and has been rejected in a republican senate by the votes of senators from both parties. It has been approved by the legislatures of many republican states. In a number of states, both democratic and republican, substantially such a system now prevails."

WHAT THIS AMENDMENT WOULD MEAN

It has been said that the "house of governors" would eliminate about nine-tenths of the need of constitutional amendment by showing the people how they could exercise by united state action, the power they have always possessed and furnish a new and untried way of securing the amendments that may be deemed absolutely vital, those that represent the people's will, not the people's whim. If the new method succeeded it would prove the second half of this promise.

If in the conference, a spirit of unity and co-operation, sufficient for united action were manifest it would awaken new faith in the constitution as a living, changing document that may be made to meet present-day conditions, if the states act together through the conferences of the governors. If this amendment finally passed the constitutional convention to be called by congress, and were then ratified by three-quarters of the state legislatures, it would be (barring the thirteenth, fourteenth and fifteenth amendments passed at one time merely as measures to end the war) the first amendment since 1804, one hundred and six years ago, although over two thousand attempts have been made, and the constitutional convention would be the first held in this country since 1787, when the constitution itself was born.

TABLE A

States Passing Joint Resolution on Constitutional Amendment for Popular Election of United States Senators

Date of joint resolution, and how the people nominate senators today: