Coolidge or Chaos Issue in Election, Says George Harvey

Former Ambassador Analyzes Unusual Situation Confronting People With Crystal Clarity.

(Continued from Page One.)

were increased by 8 from West Virginia, 3 from Delaware, 8 from Maryland, 18 from Missouri, 8 from Nebraska, 3 from Nevada, 10 from Oklahoma, 15 from Indiana, 24 from Ohio and 12 from California—an incredible supposition—he would still lack a majority.

Mr. La Follette, whose highest hope is to reach second place, admittedly would have no chance of attaining first.

The only question is, could Mr. Coolidge obtain a clear majority over the two combined? Let us see. Conceding him as one might do safely at the present time, New England, the middle states, Ohio, Illinois, Michigan, Utah and Oregon, he would secure 218 electoral votes. He would require, for a majority, 48 additional from the following aggregation of states:

Wisconsin	13	Montana	4
Minnesota	12	Wyoming	4
Iowa	13	Colorado	6
Missouri	18	New Mexico	3
North Dakota	5	Idaho	4
South Dakota	5	Arizona	3
Nebraska	8	Washington	7
Kansas	10	California	13
Oklahoma	10		

Could Mr. Coolidge, next week, obtain 48 votes from this group of states? We doubt it.

In any case, whether our misgiving be correct or not, one fact stands forth as clear as the noonday sun. This campaign has resolved into a contest, not between the republican party and the democratic party, not between Coolidge and Davis, but between Coolidge and No Election.

What Constitution Requires.

That is the sole practical issue. A vote for Coolidge would be a vote for a president to be elected by the people. A vote for either Davis or La Follette would be (1) a vote for a president to be selected by a house of representatives chosen two years ago; or (2) for a president to be designated first as vice president by a senate, of whose members 32 were elected six years ago; or (3) by a secretary of state, for whom not a single vote for president would have been cast. Which of these three would actually be installed in the White House, in the event of no election, is a problem, which finds no solution in precedent and none that is clear in the constitution and statutes.

The method of procedure, in the event of no candidate receiving a clear majority of electoral votes, is provided by the Twelfth amendment to the constitution, which reads as follows:

"The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom, at least shall be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person has such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the House of Representatives shall choose immediately, by ballot, the president.

But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a president, whenever the right of choice shall devolve upon them before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice president shall be the vice president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of the senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States."

Procedure That Is Possible.

Two instances of no choice by electors are recorded. The first was in 1800, three years before the Twelfth amendment was adopted, and the second was in 1824. In each case the house of representatives finally chose a president by a majority vote. Neither, therefore, affords a precedent for the prospective situation, which involves a virtual certainty that no one of the three candidates could obtain a clear majority of votes by states in the present house of representatives, which would be called upon to make a choice.

Each state, as provided by the twelfth amendment quoted, would have one vote, and 25 would be requisite to a choice of the three candidates who had received the largest number of votes by electors.

The ballots in the house of representatives as now constituted, making no allowance for possible deaths or resignations of members, would be as follows:

FOR MR. COOLIDGE.

California.	Minnesota.
Colorado.	North Dakota.
Connecticut.	Ohio.
Idaho.	Oregon.
Illinois.	Pennsylvania.
Indiana.	Rhode Island.
Iowa.	South Dakota.
Kansas.	Utah.
Maine.	Vermont.
Massachusetts.	Washington.
Michigan.	Wyoming.

FOR MR. DAVIS.

Alabama.	Nevada.
Arizona.	New Mexico.
Arkansas.	New York.
Delaware.	North Carolina.
Florida.	Oklahoma.
Georgia.	South Carolina.
Kentucky.	Tennessee.
Louisiana.	Texas.
Mississippi.	Virginia.
Missouri.	West Virginia.

FOR MR. LA FOLLETTE.

Wisconsin.

EQUALLY DIVIDED.

Maryland.	New Hampshire.
Montana.	New Jersey.
Nebraska.	

Totals: Coolidge, 22; Davis, 20; La Follette, 1; not counting, under the precedents established in 1800 and 1824, 5.

No Election in House.

Mr. Coolidge would lack three of a majority, Mr. Davis five and Mr. La Follette 24. The suggestion of a transfer, by the farm bloc, of Wisconsin and four additional states from Mr. Coolidge to Mr. Davis, thus giving the latter the requisite 28, may be disregarded. If the democratic party had nominated a radical for president, such transference would have been within the range of conjecture, but the fact that Mr. Davis, whom Mr. La Follette and his followers depict as "the Wall street candidate," is vastly more offensive in their eyes than Mr. Coolidge, definitely eliminates the possibility. Nor is it conceivable that the democrats would join with the recalcitrant republicans in voting for Mr. La Follette.

Clearly, there could be no election of a president by the house of representatives.

What the Senate May Do.

Simultaneously,—that is to say, on February 11 next, as provided by the statutes,—while the house of representatives would be balloting in vain for a president, the senate would be engaged in electing or trying to elect a vice president. Under the 12th amendment quoted, their selection, assuming Mr. Wheeler to have polled the fewest votes, would be restricted to a choice between Mr. Dawes and Mr. Bryan, and the votes would be cast, not by states, as in the house for president, but by individual senators.

Forty-nine are required for an election.

The senate now comprises nominally 51 republicans, 43 democrats and two farmer-labor members. Assuming further, as must be assumed, that the two farmer-labor members, Senators Shipstead and Magnus Johnson, would not vote for Mr. Dawes, a loss of three nominal republicans would prevent his election. Of these Senator Norris might be one, but in any case Senators La Follette, Brookhart, Frazier and Ladd could not be expected to vote for Mr. Dawes for vice president, likely to become president.

A combination of six out of the seven—Senators La Follette, Brookhart, Frazier, Ladd, Norris, Shipstead and Magnus Johnson—would control the situation.

They could (1) furnish the six additional votes required by the democrats for the election of Mr. Bryan, or, (2) by absenting themselves, they could prevent the election of either Mr. Dawes or Mr. Bryan, the only eligible persons.

The probability is that they would accept the first alternative and elect Mr. Bryan, who is not only akin to themselves in populistic and pacifistic doctrines but is committed irrevocably to all of the variegated notions conceived and espoused, during the last 30 years, by his more versatile elder brother, who unquestionably would continue to act as his guide and counsellor. That Senator La Follette would be able to obtain whatever pledges he might see fit to exact from the two brothers may be taken for granted.

Bryan Becomes President.

Presumptively, then, Mr. Bryan, at noon on March 4, 1925, would become president of the United States for a period of four years.

Not only presumptively, but probably; although at this stage there enters a question of interpretation of fundamental law.

The constitution (Article II, Section 6) provides specifically that only "in case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of said office," shall "the same devolve on the vice president."

Strictly and perhaps legally speaking, none of the conditions, thus depicted and restricted, would exist in the circumtsances anticipated. The president would not have been removed from office, he would not have died nor resigned, nor would he have shown "inability to discharge the powers and duties of his office."

There would be no president. On the stroke of 12, meridian, on March 4, 1925, the term of the present incumbent would have expired and Mr. Coolidge would have become a private citizen. There would be a vacancy. And not only is no provision for filling a vacancy made by either the constitution or the statutes; but there is no authorization in the constitution for the congress to make such provision.

"The congress (Article 1), Section 6) may by law provide for the case of removal, death, resignation or inability both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly until the disability be removed or a president shall be elected."

That is all. A vacancy is not contemplated, and the powers of the Congress are restricted accordingly to the exigencies specified.

It Might be Hughes.

This limitation is recognized and observed in the Succession Act, approved January 19, 1886, which in identical language provides that "in case of removal, death,, resignation, or inability of both the president and vice president of the United States, the secretary of state"—then the secretary of the treasury, et al.—"shall act as president until the disability of the president or vice president be removed, or a president shall be elected."

Here again provision for filling a vacancy is noticeable by its absence, for the obvious reason doubtless that the Forty-ninth congress realized that it lacked authorization to make one. The same question arises, therefore, as to the legality of the succession of the secretary of state as that which pertains to the eligibility of the vice president.

There is, however, one highly important difference between the two officials as possible presidents by succession. If the eligibility of the vice president should be established and recognized, Mr. Bryan would be installed in the White House for a full term of four years. The accession of the secretary of state, on the contrary, would be subject to the following provision contained in the Act of 1886.

Provided, that, whenever the powers and duties of the office of president of the United States shall devolve upon any of the persons (secretary of state, et al.) named herein, if congress be not then in session, or if it would not meet in accordance with law 20 days thereafter, it shall be the duty of the person upon whom said powers and duties shall devolve to issue a proclamation convening congress in extraordinary session, giving 20 days' notice of the time of meeting.

The implication of this proviso conveys the unmistakable intent of the statute that the secretary of state should act as president ad interim, only, in the words of the statute, "until a president shall be elected," at a time and in a matter to be prescribed by the congress, which he is charged to "convene in extraordinary session," presumably for that purpose.

The final determination of these legal points would lie unquestionably in the supreme court, but how the question involved could be submitted to, and adjudicated by, that august body while the house of representatives and the senate still possessed authority to elect respectively a president and a vice president, i. e., prior to noon of March 4, is a puzzle in court procedure, from which a layman, to say nothing of a lawyer, retreats in dismay.

Spur to the Plotters.

The political situation would be less complex. We have set forth certain very practical persons for the surmise that Senator La Follette and his associates would co-operate with the democrats in electing Mr. Bryan vice president. There is another that would appear to them as hardly less cogent. They are aware, of course, that no tenure of office is fixed for a secretary of state and that consequently Mr. Hughes would continue to hold his present position, irrespective of the expiration of the term of President Coolidge, and, in the event of no election of either president or vice president, might and probably would, assume the duties of the chief magistracy, from which, even though serving only ad interim, he would exercise a large measure of control over subsequent proceedings.

Inasmuch as Mr. Hughes is also a Wall street lawyer, between office holdings, and quite as offensive in Mr. La Follette's eyes as Mr. Davis himself, it is hardly conceivable that the radicals would hazard a possibility of his elevation to the presidency for so much as a day.

Wherefore we are concinced that, in the event of no election, Governor Bryan would be chosen vice president before March 4; that his title to the vacant presidency, if challenged at all, would be confirmed, through broad construction of the fundamental law, upon the ground that the constitution, like nature, abhors a vacuum, and never contemplated an empty chair at the head of the government; and that on March 4, Vice President Bryan would be duly inaugurated president of the United States for a term of four years.

Even though, in the end, the outcome should be that anticipated, there could not fail to be, in the meantime, immeasurable confusion and utter chaos, with all attendant evils, the very recital of which would be little short of terrifying, spelling, in the grave words of Senator Borah, "as tragic a situation as, outside of actual war, could arise in a republic."

We conclude as we began:

Neither Davis nor La Follette can, at any time, win a majority of votes in the electoral college.

It is doubtful if Coolidge could obtain a clear majority now or next week.

Looking to November then, the paramount issue is:

COOLIDGE OR CHAOS.

And Chaos spells Calamity.