# **CHAPTER 12**

# Toward a Different Kind of Party Government: Proportional Representation for Federal Elections

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#### CHAPTER 12 -

TOWARD A DIFFERENT KIND OF PARTY GOVERNMENT: PROPORTIONAL REPRESENTATION FOR FEDERAL ELECTIONS

### **A Different Kind of Party Government**

The notion of a system of responsible political parties as articulated in the 1950 APSA report was one in which the parties would set out a "choice between the alternatives of action" (APSA Committee on Political Parties 1950). The report specifically, in its very title, understood that to mean *two* possible courses of action—a responsible twoparty system. The core notion of a "responsible party" is one that not only sets out a course of action, but is able to follow through on it if elected to power.

Our contribution to this discussion nearly three quarters of a century later will not be to elaborate on whether such a model is or ever was desirable. Independent of its desirability, a responsible party is almost impossible under a presidential form of government. The separation of executive and legislative electoral processes and the separate survival of the elected branches (via fixed terms) provide too many countervailing incentives for party-policy responsibility to be feasible. Parties under such conditions are much more likely to be "presidentialized" than responsible. What this means is that presidential candidates set out their own priorities to win their separate contests, while legislators cater to localities or interest groups that may have different priorities from those of the presidential candidate (Samuels and Shugart 2010). Once in office, the absence of the parliamentary confidence mechanism means there's little to hold the executive to a collectively agreed policy platform (see also Azari 2017).

Thus we do not attempt to reiterate the case for responsible parties, understood as collective teams offering competing governing options. Rather, we propose a different kind of "responsible" party

## ABSTRACT

The old case for a two-party system did not: (a) fully grapple with 'presidential' democracy, (b) foresee the dangers of polarization, or (c) give sufficient weight to demands for representation. We therefore sketch a vision of *multiparty presidential democracy*, introducing relevant literature along the way. This vision rests on reforms to make multiple parties viable, push that system toward pre-election coalition, and improve descriptive representation regardless of how many parties there are. Key features are proportional representation (PR) for U.S. House, then reforms of singleseat offices (like President and Senator) to let multiple parties compete as parties. We give some 'pros and cons' of three PR forms: mixed-member proportional, single transferable vote, and open-list proportional. We also explain why PR might not lead to the sort of fragmentation that some critics and proponents alike expect.

government, consistent with the themes of this wider task force, that could institutionalize a process of reflecting the diversity of both opinion and sociodemographic constituencies currently either subsumed within or left outside of the two-party system.

As a starting point, we posit that it would be inaccurate to claim that the U.S. party system finally arrived at the "responsible two-party system" in the form of today's polarized parties (see, e.g., Mounk 2018). What we have in the American system today is not a variant of responsible parties. If anything, parties have become *ir*responsible. Their nomination and policy-setting processes allow highly organized groups to pull each party away from the median voter.<sup>1</sup> Yet the polarization and unwillingness to compromise seen most especially in the GOP (Hacker and Pierson 2015) is a far cry from the model of responsible parties setting out competing programs of government.

It is not that a wide range of opinions about policy and ideological options are not already represented in the U.S. two parties. However, most voters have

little opportunity to cast an effective vote to express their preferred paths, due to winnertake-all contests, including at the primary nomination stage.

We sketch (and introduce relevant literature on) a different way of representing

the diversity of ideological and policy preferences of American voters. This alternative relies on a form of proportional representation (PR) for the U.S. House, combined with other reforms for bodies where PR is not practical due to the election of single offices, such as the presidency and Senate (absent major constitutional amendment).

Contra some critiques of PR (see below), we see it as a potential contribution to *responsible multiparty* politics. We mean "responsible" in a similar way as the 1950 report: voters signaling policy direction via their party choices. However, the "responsibility" for implementing policy would rest with *coalitions of parties*. Those coalitions could emerge either

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before or after elections. Future elections would offer opportunities for voters to shift to different parties if they were unhappy with the records of their previous parties. Crucially, that would not mean shifting to the single party on the other side of the political divide.

It is likely that the presence of the Senate and the presidency would encourage parties to form electoral alliances (pre-election coalitions). Therefore, in most elections, there would continue to be two major such alliances. With PR for the House (and other rules for other bodies that we shall address briefly later) some parties would agree to cooperate in elections with other parties with whom they share basic affinity.

> For instance, "progressive" and "center left" could be distinct parties within a broad left alliance, and social conservatives and economic conservatives could be distinct parties but would cooperate in a broad right. Or, when circumstances called for

something different (like a 'pro-democracy alliance'), the institutions we describe might help bolster that. Such a model can offer voters more voice in the setting of policy direction, without sacrificing the building of electoral majorities. In fact, alliances of this sort are common in existing PR systems (Carroll and Cox 2007; Ganghof 2015; Golder 2006), and PR generally is more favorable to ensuring legislative majorities that reflect a majority of the electorate (Lijphart 1997; McDonald and Budge 2005; Powell 2000).

In a sense, this notion of alliance-facilitating PR could harness the best of the current U.S. party system, yet marginalize that system's worst features. The current system sees progressive and center-left actors in the

<sup>1</sup> We mean "median voter" in the multidimensional sense (Huber and Powell 1994, 293; McGann and Latner 2012, 831). In the U.S., this person might be 'operationally' liberal and 'symbolically' conservative (Cayton and Dawkins 2020; Ellis and Stimson 2012; Grossmann and Hopkins 2015).

Democratic Party, while the Republican Party hosts both economic conservatives and authoritarians. Consider the observation of Henry Droop (2012 [1869]) on two-party politics and "majority voting" (i.e., winner-take-all):

As every representative is elected to represent one of these two parties, the nation, as represented in the assembly, appears to consist only of these two parties, each bent on carrying out its own programme. But, in fact, a large proportion of the electors who vote for the candidates of the one party or the other really care much more about the country being honestly and wisely governed than about the particular points at issue between the two parties; and if this moderate non-partisan section of the electors had their separate representatives in the assembly, they would be able to mediate between the opposing parties and prevent the one party from pushing their advantage too far, and the other from prolonging a factious opposition. With majority voting they can only intervene at general elections, and even then cannot punish one party for excessive partisanship, without giving a lease of uncontrolled power to their rivals.

We do not have to believe a strict interpretation of Droop's words—that most voters are "moderate" to understand the value to current conditions of the prescription he offered more than a century and a half ago: a proportional system. The problem of one party "pushing their advantage too far" is an even greater problem in an era of two-party polarization, as is the inability of voters who are less aligned with the mainstream of their preferred party to rein it in other than by voting for the opposing party that they likely find unacceptable. The larger point is that the country consists of more options than any given voter has placed before her by the candidates of the two dominant parties. A PR system might expand the menu, allowing different parties to reflect different "alternatives of action." It also, as we shall discuss, allows for a given party to have multiple candidates, whose personal attributes reflect different socio-demographic groups, placed before the voters. At present, the only opportunities voters have to select from among policy options and candidate attributes within these broad left and right camps is at presidential primaries-and even then, often only for voters who happen to be in early states on the primary calendar when a plurality of voices are still competing for delegates.<sup>2</sup> A PR system for the House would permit this sort of competition to take place in forging the main majority-seeking caucus options inside the House of Representatives instead of just at the quadrennial party conventions (and only for some primary voters). It therefore gives voters a chance to weigh in at general elections for Representatives and not only at the candidate-selection stage. It also does not present them with the stark choice at present, which is either to swallow their disagreements with the dominant tendencies in their preferred parties or cross party lines (an untenable option for many voters, at least at present).

#### **PR and Fragmentation**

What many readers think of when PR comes up is party fragmentation, difficulty building governing majorities, and amplification of fringe voices (Hermens 1941). However, these concerns are mostly caricatures of real-world PR systems. To the extent that these concerns contain grains of truth, they are largely irrelevant to the U.S. context. Or they are mostly problems of elite will to compromise (Lijphart 2013; Rosenfeld 2020; Santucci 2020; Ziblatt 2017).

From a strictly technical perspective, there are at least two reasons why any realistic version of PR for the U.S. House would be unlikely to foster 'excessive'

<sup>2</sup> And it is well worth remembering that this competition for delegates takes place within a form of proportional representation in the Democratic Party, and also does so in several states (especially those early in the calendar) in the Republican Party (Jones, McCune, and Wilson 2020).

fragmentation. First, the sort of PR system that could be reasonably adopted in the U.S. is a moderate version. With 435 House seats—or even a plausible increase to say 600—and 50 states, an extremely proportional system is not in the cards.<sup>3</sup>

We assume the multi-seat districts required for any PR system could not span state lines.<sup>4</sup> That is, a state could serve as a multi-seat district (electing members "at large" by a proportional method). Quite likely, the larger states would be subdivided into multiple districts, in order to avoid excessively large numbers elected per district. Most advocates of PR in the U.S. indicate a preference for a range of district magnitude (the number of seats per district) of no more than 5 or 7.<sup>5</sup> Such a PR design prevents the extreme fragmentation associated with PR in countries such as the Netherlands (with its single nationwide district of 150 seats) or Israel (with its single district of 120). Moreover, the *seat product*—the assembly size

times mean district magnitude, which is a strong predictor of the shape of a party system (Shugart and Taagepera 2017; 2020; Taagepera 2007)—would be modest.<sup>6</sup>

The second reason, aside from a relatively low district magnitude

and modest seat product, why a U.S. PR system might not be fragmenting is the presence of the Senate and presidency, for which plurality and majority systems

# Descriptive Representation and Institutional Design

The political representation of racial, ethnic and linguistic minorities is a perennial issue in American politics. Resolutions have taken several forms over the years: disenfranchisement (Valelly 2016), incorporation on dominant-group terms (Shefter 1986), the post-Voting Rights Act (Davidson and Grofman 1994) settlement on single-seat districts (SSD), and recent attempts to use that law to reduce descriptive representation (Latner et al. 2021).

> Single-seat districts (SSDs) have proven capable of representing some groups more-or-less in proportion to their numbers (Collingwood and Long 2019; Davidson and Grofman 1994; Lublin et al. 2009). Substantively, representation via SSDs has reduced economic

inequality, at least in jurisdictions that the VRA used to cover (Aneja and Avenancio-León 2019; Cascio and Washington 2014; but see Eubank and Fresh 2022).<sup>9</sup>

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remain the only realistic options (again absent major reform for the Senate<sup>7</sup>). Thus parties competing with distinct party labels in proportional contests (for U.S. House seats) could have incentives to present joint (or "fusion") candidacies for these other offices. In turn, the incentive to present joint candidacies might hold down fragmenting tendencies in the proportional contests.<sup>8</sup>

<sup>3</sup> See Hermens (1936, 412-3) for an example of "extreme" proportionality. The interwar German electoral law set up several 'layers' of nested districts, so that very few votes would be 'wasted.'

<sup>4</sup> That is, nationwide proportionality is out of the question, including systems of "compensation" where there might be local districts, but proportionality would be determined by pooling votes across districts (Elklit and Roberts 1996) and thus across all states or groups of states. We assume such designs are non-starters because the Constitution states that House seats are apportioned to states, which implies they can't be effectively shared between states.

<sup>5</sup> For states with as few as three Representatives, PR is still feasible. For states with two, PR means that most of the time each of the top two parties would earn one seat from the state. For states with just one, PR is impossible. This need not doom a PR system as a whole; some existing PR systems have a few districts that elect just one member. Solutions such as expanding the House can minimize the number of such states, or a minimum of three per state could be set (tolerating some degree of malapportionment of states in exchange for proportional representation of voters). These are complicated questions that we shall not attempt to resolve here, but which need not detain us from evaluating the potential effects of the sort of moderate PR system sketched here.

<sup>6</sup> The current seat product of the US House is 435 (the number of seats in the House times district magnitude which is 1). If a PR system had a mean magnitude of 4, for example, the seat product would be 1740a bit smaller than the modest PR systems of Spain or Sweden and a far cry from the values of really extreme PR systems like Israel (14,400) or the Netherlands (22,500).

<sup>7</sup> One "major reform" might give each state three Senators, elected at the same time.

<sup>8</sup> Again, the incentive to coalesce depends on pre-existing will to compromise; as noted earlier, such pre-election coalitions are common in many existing PR systems.

<sup>9</sup> The Supreme Court invalidated the VRA 'coverage formula' (Section 4) in 2014.

Yet limits to the SSD remedy are well known: it works where groups are geographically concentrated and where there are relatively few 'communities of interest' to represent (Abott and Magazinnik 2020; Gimpel and Harbridge-Yong 2020; Leib 1998). Protecting more geographically dispersed or internally heterogeneous groups (e.g., Latino and Asian voters) has proven more difficult under SSDs (Kogan and McGhee 2012). Moreover, ascribing protected classes to a single constituent interest can foster "tokenism" and weaken coalition policymaking capacity (Guinier 1992; Lublin and Voss 2000).

Partisanship also increasingly matters. The electoral "capture" of voters of color by the Democratic Party makes it possible to take majority-minority districts for granted and focus resources onto "swing" voters (Frymer 2010). It also gives Republicans in state legislatures an incentive to undermine the VRA by packing targeted groups into uncompetitive Democratic districts (Keena et al. 2021; Levitt 2013). Meanwhile, the U.S. Supreme Court is increasingly calling into question any use of race-conscious districting, referring to the case law as "notoriously unclear and confusing." (Merrill v. Milligan 2022, 6). If the Court further insulates state legislatures from federal voting rights protections, alternatives to the SSD regime will likely be in higher demand.

Proportional representation is one possible response to these challenges. The argument that PR improves minority representation typically rests on the ability of racial and ethnic parties to win seats through lower 'thresholds of exclusion' (Lijphart 2004; Norris 2004; Reynolds 1995). Yet it also rests on evidence that larger parties run more inclusive slates under PR (Latner and McGann 2005; Shugart and Taagepera 2017, 76-77, 89-90). PR permits dispersed groups to aggregate their votes over larger geographic areas. It also might permit groups less attached to established parties to form new ones if they so desired.<sup>10</sup>

Yet PR is not a panacea. Even in proportional systems, candidate-centered ballots permit voters to withhold support from minority candidates (Negri 2017; Protsyk and Sachariew 2012; Sipinen and Söderlund 2022). Some forms (like MMP below) may not be viable without constitutional amendment. Others require extensive voter education and elite coordination (Pildes and Donoghue 1995, 270-2). More generally, those who have fought for generations to secure representation under current rules have good reason to look skeptically at changing those rules.

## What type of PR?

This section gives some 'pros and cons' of three common PR forms. One of them, mixed-member proportional (MMP), combines two kinds of seats: one 'tier' elected in single-seat districts, then a second tier from party lists from which seats are allocated so that parties' final seat shares are proportional to their vote shares.<sup>11</sup> Another is single transferable vote (STV), recently dubbed 'proportional ranked-choice voting.'<sup>12</sup> A third is open-list proportional representation (OLPR), which permits voters to set party-list order by choosing among candidates.<sup>13</sup> A vote then helps elect a candidate and their party. For space considerations, we do not cover closed-list PR (in which voters choose among parties only).<sup>14</sup>

<sup>10</sup> See Dyck and Johnson (2022) on how party identification varies over time for some groups in the U.S.

<sup>11</sup> For details on MMP, see Shugart and Wattenberg (2001) or the explainer offered by the New Zealand Electoral Commission:

https://elections.nz/democracy-in-nz/what-is-new-zealands-system-of-government/what-is-mmp.

<sup>12</sup> For an introduction to 'pure' STV, see C.G.P. Grey's video explainer: https://www.cgpgrey.com/blog/politics-in-the-animal-kingdom-single-transferable-vote. 'Pure' means without mechanisms like ticket voting. 13 See Kosar and Santucci (2021) for an explainer.

<sup>14</sup> Moreover, many see closed-list PR as a non-starter for U.S. conditions due to its lack of candidate choice. Eberhard (2018) gives focus-group results to this effect

#### Mixed-Member PR (MMP)

Political scientists who specialize in electoral systems typically rate MMP as among the very best options (Bowler and Farrell 2006; Carey et al. 2013). Recent research confirms its ability to balance national expertise-based policymaking with local responsiveness (Shugart et al. 2021). MMP also might not disrupt race-conscious (single-seat) districting (although we have noted other problems with that). Two issues nonetheless raise questions about viability in the U.S. context: how to construct the 'compensation tier,' and the potential for 'decoy lists' in that tier.

Achieving proportionality under MMP requires compensation via the party-list tier. It would work best with a *much* larger U.S. House. MMP often has 50% of seats in single-seat districts and 50% from compensation lists. It can deliver a high degree of proportionality with a lower share (perhaps as low as 25%) but only on condition that the compensation regions be relatively large—ideally nationwide. We assume that nationwide or multi-state regional compensation is a nonstarter in the U.S. It likely is unconstitutional on its face. The Constitution stipulates that seats are *apportioned* among states, not *shared* among them. Thus only state-level compensation is doable, leaving even a significantly larger House insufficient for proportionality.<sup>15</sup>

The second problem is the possibility of large parties defeating the compensation mechanism via decoy lists. These are possible under 'two-vote' MMP (which would be necessary if reformers sought to induce multiparty politics). Party X directs voters to vote for Party X candidates in districts, but to cast their list vote for its decoy. When this happens, instead of Party X getting its district seats and only whatever number of list seats it needs to compensate for disproportionality arising from the district tier, it gets those district seats plus a fully proportional share of the list seats for its decoy. This practice can be avoided only by having a nationwide electoral administrative agency overseeing list registration (as in Germany and New Zealand) or by having only a single vote for both tiers (which however vitiates key advantages of MMP).<sup>16</sup>

#### **Single Transferable Vote**

STV is theoretically compatible with nonpartisan elections and permits electoral coalitions that defy party grouping (Lakeman and Lambert 1970: 111; Richie 2022). These properties make it popular but raise questions about longevity, given parties' likely responses. For a sense of administrative issues, which include voter education, see Anthony et al. (2021).

Where STV has been stable, various mechanisms exist for tempering its nonpartisanship (Bowler and Grofman 2000; Clark 2020; Farrell and Katz 2014). These include disciplined multi-party politics (Ireland), rules to give first-choice votes outsized importance (Malta), and a ticket-voting option so widely used that the system works effectively as closed-list PR (Australian Senate).<sup>17</sup>

In the U.S., by contrast, STV historically has not been stable. It was adopted in 22 cities from 1915-47, then repealed in all but one by 1962.<sup>18</sup> Reasons for this trajectory include: frustration with vote counts and election results (Harris 1930), bipartisan

<sup>15</sup> In current House apportionment, thirteen states have 1 or 2 members, and MMP arguably requires four (perhaps three) in a state as an absolute minimum for compensation to work. Even with a House of 600 seats, several states would have fewer than three members. MMP nonetheless may be viable for state legislatures (Nagel 2014). On the possibility of expanding the House, see Drutman, et al. (2021).

<sup>16</sup> Regulation might be done on a state-by-state level, but this would empower one or a few states to undermine a national election's integrity by turning a blind eye to decoy lists.

<sup>17</sup> Since 2016, Australian voters have had the option of ranking parties rather than either voting for one party ticket or else having to rank all candidates on their Senate ballot (McAllister & Muller 2018). This new option is still more akin to closed-list PR than to any other system, except that it allows the vote to transfer from one party to another.

<sup>18</sup> This figure does not include two federally administered towns with advisory councils or two more former single-tax colonies.

opposition from party elites (Amy 1996; Weaver 1986), and weak party discipline due to party change (Santucci 2022, Ch. 7).

#### **Open-List PR**

We have arrived at OLPR by working through what it might take to implement MMP, taking seriously some challenges associated with STV, and looking for a reasonable alternative. We are not the first to have followed such a path (Lien 1925; Gosnell 1939).<sup>19</sup>

OLPR systems come in many 'flavors,'<sup>20</sup> and a 'onevote' version may be easiest to implement. It would not make new demands on voters or election officials. It just means each voter's vote is for *both a candidate and the list as a whole*. In this way, the system might offer the advantages of PR, while remaining relatively familiar to stakeholders.

#### **Descriptive Representation in STV and OLPR**

Space constraints prevent an extended discussion of how these systems might shape racial and gender representation. This is an active research area. Key issues include: the extent to which voters 'shun' candidates from target groups (Crowder-Meyer, Gadarian, and Trounstine 2023; Protsyk and Sachariew 2012; Sipinen and Söderlund 2022), whether parties field such candidates in the first place (McGing 2013), and whether the need to maximize party vote share leads party leaders to nominate fewer such candidates (Valdini 2012). How do different forms of PR compare to one another in terms of delivering descriptive representation? Comparison of closed lists with STV and OLPR suggests closed lists outperform both (Dhima et al. 2021). A tentative conclusion might be that nominations matterracist/sexist parties mean racist/sexist outcomes. Cultural attitudes also matter (Valdini 2012), but again these may shape nomination practices (Hirczy 1995). Quotas also seem to shape party behavior in the long run (Barnes and Holman 2020).

### **Reforms for Single-Seat Offices**

How might results of U.S. Senate and Presidential elections be aligned with those to the House? One possible reform is cross-endorsement ballot fusion, which permits multiple parties to endorse the same candidate.<sup>21</sup> This would be compatible with allowing OLPR (for the House) to feature joint lists (Shugart and Taagepera 2017, 92-5). Another possibility for these offices is single-seat STV, also known as 'instant runoff' or the Alternative Vote.<sup>22</sup>

## Conclusion: Potentially More Than Two Parties

PR adoption in the United States far from guarantees a multiparty system. It is important to recognize that *the U.S. already has a smaller number of parties than it 'should have'* given the fundamentals of its current House electoral system. Even electoral systems consisting only of winner-take-all SSDs should be expected to have more than two parties if they have hundreds of districts (see Shugart and Taagepera, 2017; 2020; Taagepera, 2007). The experiences of Canada and even the United Kingdom show that SSDs with plurality rule are compatible with multiparty politics. Thus SSDs are not the only factor constraining the number of parties. Other constraining factors would persist even if the House were elected by PR.

One such constraint is the Senate (with its coequal powers). A body for which, at any given election,

<sup>19</sup> MMP did not 'exist' when those studies were published. However, the broad conclusion in each was that simple ballot formats might not have provoked adverse reactions by voters and election officials. 20 For instance, "flexible" lists are not truly "open" but are sometimes conflated with them: voters have votes for candidates but these votes alter party-set list order only when a candidate's votes cross some threshold. "Free" lists permit voters to cast multiple votes for candidates on more than one list.

<sup>21</sup> Cross-endorsement fusion stands in contrast to cross-filing, whereby one candidate may declare multiple party designations. See Masket (2009) on cross-filing as an anti-party reform. 22 Getting inter-party coordination under instant runoff might mean requiring voters to rank all candidates (Reilly and Maley 2000; Reilly 2021).

only 33 or 34 seats are being filled in such a highpopulation country suppresses the emergence of additional parties.

Another constraint is 'unit-rule' allocation of presidential electors, which may lead voters to 'desert' minor-party candidates.<sup>23</sup> The reforms we proposed for single-seat offices might alleviate voters' incentive to desert. Or they might lead to fewer 'spoiler' candidacies overall.<sup>24</sup>

Finally, we should not discount the role of primaries. When we look at the range of countries with first-pastthe-post (FPTP) elections (given no primaries), none with an assembly larger than Jamaica's (63) has a *strict* two-party system. These countries include the United Kingdom and Canada (where multiparty competition is in fact nationwide). Whether the U.S. should be called 'FPTP' itself is dubious, and not only because some states (e.g. Georgia) hold runoffs or use the Alternative Vote (e.g. Maine). Rather, the U.S. has an unusual two-round system in which the first round winnows the field. This usually is at the *intraparty* level, although sometimes it is without regard to party (e.g. in Alaska and California). Some of that winnowinground competition might become *interparty* at the general election if PR were in place. On the other hand, it is perhaps difficult to imagine total abolition of primaries, and if they were to remain, new-party entry might remain more limited than otherwise expected.

In sum, adopting PR for the House of Representatives, particularly a model in which district magnitude is typically not much higher than five, might not proliferate parties as much as its critics fear and some proponents desire. We nonetheless hope to have sketched (and introduced scholarship on) how a responsible multiparty system might work.

<sup>23</sup> Presidentialism per se is not the reason for a lower than expected number of parties in the USA. Shugart and Taagepera (2017) show that the seat product model of how party systems are connected to the assembly electoral system is just as reliable in a large dataset of elections around the world when a system is presidential as when it is parliamentary.

<sup>24</sup> Fusion, instant runoff, and other single-seat reforms do not fully obviate 'spoiler' candidacy. The key issue is whether the putative 'spoiler' otherwise would be part of some larger coalition (Riker 1982, 765).

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#### CHAPTER 12-REFERENCES

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