

The Electoral College — God Save the Republic!

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Sadly, the American public remains poorly informed about “the history” and “the facts” about the American constitutional arrangement — especially, the electoral college. There’s lots of information available. There is even information overload — more information than the people want or can consume. And, there are powerful people and groups that have every reason to distort information about the electoral college.

Given the Presidential Election of 2000, it is time to discuss the electoral college. The possibility for Constitutional change in the United States comes rarely, and when it comes, people of good will must act efficiently and quickly before the opportunity passes.

“In the beginning” the American Presidency was an experiment within an experiment. Ours is not the first Constitution in history, but it was the first “assembled constitution,” that was clearly based on republican principles. Throughout the world, in 1787, the executive model in place was a *divine right monarchy*. In parts of Europe the monarchy was being “limited” by constitutional principles and traditions, but nowhere was there an elective monarch. Ways of selecting the President, our “Republican Monarch,” were debated right up until the very end of the Constitutional Convention. In fact, the Electoral College was invented by the “Committee on Postponed Matters.” Nothing like it had ever existed before, and probably no one has had reason to imitate it since.

The Presidency (our “Republican Monarchy”) was possible because everyone knew that George Washington was to be the first President. He could have been “President for Life,” if he had so wished, and the Constitution included no limit on the number of four-year terms a President might serve.

Under the Constitution of 1787, each state was to select a number of Electors equal to its seats in the Senate and House of Representatives. Each state could decide how to select its Electors, and initially, all electors were chosen by state legislatures. Each elector was to be a wise man, competent to cast two votes. This “College of Gray Beards” or wise men was supposed to select the ablest man in the country to be President and the runner-up would be Vice President. Initially there was no separate balloting for President and Vice President. **Note well that after George Washington, Presidents and Vice Presidents were not expected to be chosen by the College of Electors.** It was expected that there would be no national consensus and no man would have a majority of the electoral vote — the President would be chosen in the House of Representatives, with each state having one vote. The runner-up would become Vice President. If there was a tie for runner-up, the Vice President would be selected in the Senate. Thus, the original intent was that the Electoral College would prepare a short list of able men and send that list to the House of Representatives, which would select the President and Vice President.

By 1793 the original plan for a College of Electors was distorted by the birth of the Federalist party, and by 1795 the Federalists were opposed by the Democratic-Republican party. In 1796 John Adams (a Federalist) was selected to be President and Thomas Jefferson (a Democratic-Republican) was selected to be Vice President. It has been said that “The spirit of ‘96 was party,” and by 1800 parties controlled the process, but the winning party forgot to tell one Elector not to vote for Aaron Burr — thus, the House of Representatives had to select Jefferson over Burr.

Surely by this point, gentle reader, we have given you enough background history. The Elections of 1800 and 1824 were decided in the House of Representatives. There are remarkable parallels between the 1824 and 2000 elections, but that is a topic for another essay. The “Disputed Election of 1876” was settled in Congress by sending out committees to help “count” the votes in five states. Four times in American political history the candidate winning the popular vote was not elected President by the Electoral College (1824, 1876, 1888, and 2000). Again, “in the beginning,” electors were chosen to vote on the basis of their knowledge and to choose the best man to be President of the United States; however, parties reduced the importance of electors — in most states, voters are not even aware that they are choosing the electors who will choose the President & Vice President. In a close election, some analysts have feared that the outcome would be determined by “faithless electors,” but only a dozen have deviated from their commitment, and no faithless elector has come even remotely close to affecting the outcome..

Every four years journalists trot out the bogeyman of the misfiring of the Electoral College and the election of a minority President. In 2000, the journalists had a special opportunity. Not only did the Electoral College system misfire, but the whole, shabby, unkempt election machinery failed to produce a credible count in the decisive state that made George Bush a minority President. ***If we are not careful, all the reform impetus generated by the Election of 2000 will be directed at the election machinery and the Electoral College will go limping into the future without repair, surgery, or political euthanasia.*** Clearly, “Florida” could have happened anywhere — our anti-government posture keeps us from reforming (even when the costs are fairly low) until a crisis forces us to act. For the price of one fancy tank or plane cut from the military appropriations, we could have a model election apparatus in the United States. Leaving the entire election process up to local governments with few state constraints and almost no state funding has been the pattern (and, God help us, may continue to be the pattern, if the Election of 2000 example is allowed to fade from memory quickly).

There are **three major distortions in the Electoral College**. First, there is the “**federal principle**” distortion — each state gets two electoral votes for “being a state,” no matter how small or large its population. In 1990 Wyoming had a population of 453,588 compared to that of California, 29,786,021. That is a ratio of about 1 to 65.

Secondly, all states get one vote for their proportional share of the population, **no matter how small their population**. About a half dozen states lack the population to earn their “population elector.” This further distorts the “representativeness” of the assignment of electors based on population.

Finally, there is a large state bias in the electoral college. Immediately following the advent of political parties, the **winner-take-all tradition** took hold. Thus, in Georgia in 1996, Dole polled 1,080,843 votes to Clinton’s 1,053,849 votes, but Dole received all of the 13 electoral votes of Georgia. All states except Maine and Nebraska currently use the winner-take-all principle to allocate their electoral votes to the winner of their state. Winning the ten largest states produces an electoral college bonanza — thus, the ten or twelve **largest states** are “targeted,” and receive constant attention from the major party candidates — the campaigns spend an inordinate share of their precious campaign dollars in these states, and the people in the largest states thus have “power” to balance off other distortions that favor the voters in the small and medium sized states. The large state bias distorts the political process on behalf of groups within the large states — the large states contain the **biggest cities**, and the biggest cities contain the largest concentrations of **minority and ethnic populations** — and many of the biggest cities contain populations that are heavily **unionized**. In other words, the bias toward the large states overlays a bias on behalf of minorities and organized labor.

Given the current political party coalitions, the *small state bias benefits the Republican party* and the *large state bias benefits the Democratic party*. Both parties develop their coherent campaign strategies around these biases. Any political structure that favors some states at the expense of other states (and groups of people) can only be altered by substantial political effort!

Any change in the Electoral College will require a Constitutional Amendment. Since 1789 only twenty-seven Amendments to our Constitution have been added. Enough said!

In 1826 Representative Charles Haynes (Georgia) proposed to constitutionalize the winner-take-all principle but do away with the office of elector. This does away with the possibility of “faithless electors,” but maintains the large and small state biases. You might call this the *Automatic Plan*. Under this plan, if no candidate received a majority of the electoral vote, the President and Vice President would be chosen in a joint session of Congress.

As early as 1848 a *Proportional Plan* was introduced. In 1949/50 it was debated as an amendment proposed by Senator Henry Cabot Lodge of Massachusetts, a Republican, and Representative Ed Gossett of Texas, a Democrat. It passed the Senate by a vote of 64 to 27 but was rejected in the House by a vote of 134 to 210. The office of elector would be abolished under the **Lodge-Gossett Amendment** and the electoral vote of each state would be proportioned on the basis of the popular vote received, going up to two decimal places. Note well that the proportional plan washes out the large state bias but retains the small state bias.

The District Plan was first introduced in Congress in 1800 and was championed by Senator Thomas Hart Benton of Missouri in the 1820s. This plan was revived in the 1950s by Senator Karl Mundt of South Dakota and Representative Frederic Rene Coudert of New York, both Republicans. Under the **Mundt-Coudert Amendment** the office of elector was abolished. Electoral votes were allocated as follows: the candidate carrying a state by a plurality or majority would win the two “Senatorial Electoral Votes,” and the candidate carrying each district within the state would get one electoral vote. The districts for this plan could be those set up by the legislature for Congressional Elections or could be special districts drawn for the purpose of the Presidential Elections. Like the proportional plan, the District Plan would wipe out the large state bias and retain the small state bias even better than Lodge-Gossett. This plan enjoyed less success (almost none) in Congress than Lodge-Gossett.

In 1978 the Twentieth Century Fund created a blue-ribbon task force of scholars and political leaders to study the Electoral College. Perceiving the danger of an election of a minority president, the task force recommended a *Bonus Plan*. They would create a bonus of 102 electoral votes to be awarded to the candidate winning the national popular vote; abolish the office of elector; provide for a run-off election in the event that no candidate won the electoral vote; and recommend a set of procedures to guarantee the integrity of the conduct of presidential elections. This plan goes very far toward abolishing not only the small state bias but also the large state bias — the bonus awarded to the popular vote winner would, hopefully, entice presidential candidates to campaign nationwide and not to target the largest states.

Finally, former Indiana United States Senator Birch Bayh advocated a *Direct Popular Vote*. His plan was given much attention by the Twentieth Century Fund Task Force. He would abolish the office of Elector and go to a direct popular vote. If the winning candidate (plurality) did not receive at least 40% of the vote, there would be a run-off election between the two top vote-getters. By the way, there

came a point in Senator Bayh's advocacy of this plan when organized labor, women's groups, and minority groups suggested that he consider the consequences of his proposal — they preferred the electoral college as it exists. Consider, if you will, given the "Florida experience," what a nationwide recount would be like. Could we risk having a nationwide election (popular vote) and leave the election machinery in the hands of fifty states and the District of Columbia? Would there not have to be a national "Board of Elections" and the authority to oversee and protect the integrity of the election process?

For years, institutional conservatives have said "if it ain't broke, don't fix it." Now, some might say, "it is broke — we had better fix it." The Electoral College has had two advantages — **it produces a winner, and it usually exaggerates the popular-vote-winner's "mandate."**

I must close this essay with a quote from Lyn Ragsdale, Presidential Politics (p. 117): "Some Americans think that the electoral college is a small liberal arts institution of higher learning in the Northeast. Others wish that it were. No one fully understands the electoral college, the device that the framers of the Constitution created, after much haranguing, to elect the President." I might add that most Americans don't want to know about the electoral college and they are going to be quite annoyed by reformers who remind them about the Election of 2000, which they really want to forget.