



# For Better or Worse

Understanding the Electoral College

*A look at how your vote counts* By Jan Hardt

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Although it has many critics, the Electoral College is our method for selecting the president of the United States. Calls to abolish the system were the subject of bitter public debate after the 2000 presidential election, when Al Gore won the general election popular vote but lost the Electoral College vote to George W. Bush. That election reminded Americans that voting for president is not just about the popular vote, but rather a convoluted system invented by the Founding Fathers.

## To Have and to Vote

The Constitution Framers were wary of giving citizens, state legislatures, or even the federal government too much control. They devised the Electoral College through a series of compromises. First, they believed average citizens were mostly ignorant, too easily swayed by popular sentiment, and might pick a candidate that was not in the best interests of the country; they chose instead to have elites (electors) within each state select the eventual winner. Second, the system appeased both advocates of federal selection and those who favored states' rights; while electoral votes would be certified by Congress, states were allowed to establish procedures for choosing their electors. Finally, the Electoral College made allowances for the varying size and population of states; the number of electors for each state is equal to the sum of its U.S. representatives (a variable number based on population, which favors large states) and senators (static at two per state, which gives small-state votes the same weight as large-state votes).

The beginnings of the Electoral College are found in Article II of the Constitution, which says that “Each State shall appoint . . . a Number of Electors” who shall “meet in their respective States, and vote by Ballot for two Persons.” These ballots were to be sealed, transported, and counted in the presence of the Senate and House of Representatives. At the time, candidates ran alone, not with a running mate. Under the one-ballot formula, the top two vote recipients were elected president and vice president, regardless of political affiliation. The candidate with the greatest number of votes would be president, so long as that person received a majority from all electors. The vice president would be the candidate that received the second-most votes. If the majority vote was tied between candidates, the House would immediately choose one of them by ballot to be president.

The flaws in this procedure were revealed almost immediately. The system raised the possibility that the president and vice president could be selected from different political parties and then forced to work together. Today, it would be hard to imagine President George W. Bush serving with Vice President Al Gore after the 2000 election. But in 1796, President John Adams and Vice President Thomas Jefferson, men who disagreed mightily on important issues, were elected from opposing parties. The election underscored political differences and how electors would cease to be true “free agents” as the Framers intended, instead compelled by competing groups to vote along party lines. It paved the way for a two-candidate ticket (naming president and vice president running mates) and the practice of nominating electors who would pledge to vote the “party ticket.”

The 1800 election revealed more problems with the system. Electoral College votes produced a tie between Democratic-Republican candidate Thomas Jefferson and his running mate, Aaron Burr. Burr did not step aside from consideration for president, so the decision was thrown into the House of Representatives, where the vote remained deadlocked for days. Federalist Party members controlled the House and were loath to support Jefferson; neither were they inclined to back Burr, who appeared opportunistic. Finally, after 36 ballots, Jefferson received a majority of votes and was elected president. To resolve this one-ballot weakness and prevent similar tie votes, Congress adopted the 12<sup>th</sup> Amendment in 1804, establishing two separate ballots: one for president and one for vice president.

Despite the changes of the 12<sup>th</sup> Amendment (and the framers’ best intentions), flaws remain in the Electoral College system. For example, the 1824 election produced a president without a majority of popular votes or electoral votes. The Federalist Party had fallen out of favor, so, for a time, U.S. politics rested on a one-party system. With multiple candidates from a single party, none could gain a majority and four candidates split the electoral vote: William H. Crawford, Andrew Jackson, John Quincy Adams, and Henry Clay. Jackson won more popular and electoral votes than the other candidates, but failed to achieve a majority. The election was again thrown into the House where, under the 12<sup>th</sup> Amendment, only the top three candidates would be considered, eliminating Henry Clay. As Speaker of the House of Representatives, Clay wielded great influence over the proceedings and lent his support to Adams, who emerged the winner. Within days, Adams nominated Clay to be Secretary of State, a move that was bitterly protested by Andrew Jackson, who called it a “corrupt bargain,” though the allegation was never proven. The election marked an important turn in American politics. After losing in 1824, Andrew Jackson campaigned for the next presidential election under the newly-formed Democratic Party, traveling the country to take his message “to the



Republican National Convention, Sept. 1-4, 2008. Republicans raise ‘Country First’ signs as their leaders speak, St. Paul, Minnesota. Photo by Carol M. Highsmith, courtesy Library of Congress, LC-DIG-highsm-03851

people.” The evolution of our present two-party system, the campaign trail, and strategies to capture electoral votes can be traced back to this formative time in our history.

### In Majority and Wealth

The greatest defect in the Electoral College system is that the candidate who receives the most popular votes can lose the election. Prior to 2000, this was always a concern, but the last time it happened was so long ago (1888) that no one truly believed it would happen again. The elections of 1916, 1948, 1960, 1968, and 1976 were narrow; most notably, the 1960 election between Democrat John F. Kennedy and Republican Richard Nixon could have produced the same results as the 2000 election if just a few thousand votes switched in three states. It was not until the 2000 election that most Americans realized that when they vote for a presidential candidate in November, three elements are put into motion: 1) determining the *national* popular vote winner (which does not count); 2) choosing the popular vote winner for their *state*; and 3) selecting the *state of electors* who cast Electoral College votes.

The state popular vote decides how Electoral College votes are cast, making it the most important part of the vote. The method for choosing electors varies from state to state and even from party to party. Many are selected through party conventions or ballots. These electors usually vote for their state’s popular-vote winner, although they are not necessarily bound to do so. Twenty-seven states require that electoral votes reflect the popular vote, either by state law or pledges made to political parties, though no elector has been prosecuted for voting outside a pledge. In Oklahoma, it is a misdemeanor to be a “faithless elector.”

Recognizing the importance of the state popular vote, references to *red*, *blue*, and *purple* after the 2000 election came to mean *Republican states*, *Democratic states*, and *competitive states*, respectively, not just colors in a crayon box. The 2000 election revealed that the system is not politically neutral—in fact, far from it. Simply put, the Electoral College gives certain states, voters, candidates, and political parties an advantage over others.

Once candidates have received the nomination from their parties, the Electoral College system forces them to address individual states. If only the national popular vote “counted,” candidates would appear and campaign in only the

most populous states (California, Texas, New York, and a few others). With the emphasis on the *state* popular vote, candidates are forced to campaign in competitive (purple) states, large and small. As the 2000 election showed, every individual state and each elector can make a difference in a close election.

Overall, the Electoral College enhances the political clout of states because each state gets to vote as a unit; however, the winner-take-all system clearly benefits larger states. Remember, each state's number of electors is equal to its total of U.S. senators and representatives. Today, California has 55 electors or 10.2 percent of all Electoral College votes. But small states have an advantage, too. The seven smallest states (such as Delaware, Rhode Island, and North Dakota) are said to have the "Senate Bonus," two votes that give a portion of their electoral votes equal weight with larger states.

The Electoral College system also provides advantages to certain candidates. To win the popular votes of states, candidates need significant financial resources for campaign ads, coast-to-coast travel, and staff. The results of successful fundraising were evident in the 2008 election. Republican John McCain raised over \$306 million for his campaign; Democrat Barack Obama raised over \$750 million. Why such a difference? McCain chose to accept federal funding for his campaign, while Obama chose not to accept it, meaning he could raise as much money as needed. It was the first billion-dollar presidential election in U.S. history. Obama raised more money than all private contributions raised by *all* other Republican and Democratic candidates combined. This gave Obama a tremendous advantage by allowing him to spend money when he needed it most, such as the \$77 million he spent on advertising alone in the first two weeks of October 2008, reportedly more than fast-food giant McDonald's spends on advertising in a month. McCain, by contrast, had only \$85 million to spend from Labor Day to the November election. More ads and "face time" with voters increases a candidate's chances of capturing the popular vote and, consequently, electoral votes.

The two major political parties also clearly gain from the Electoral College system. Candidates must have a majority of electoral votes to win, which favors a two-party system. A third-party or Independent candidate would have to win the popular vote in numerous states. This can be problematic for non-major party candidates because, unlike the two major party candidates, they are not guaranteed a space on the presidential election ballot. They

would do better under a system such as *proportional representation* where candidates can win less than 50 percent of the popular vote and still get electoral votes. With winner-take-all, however, this is such an impossible feat that no third-party/Independent candidate has really had a chance in the modern era. Even Ross Perot with his 18.9 percent of the vote in 1992 was unable to gain electoral votes; in his best state, Maine, he garnered only 30.4 percent of the vote.

There are also clear losers: non-competitive states and the voters living in those states. Being a solid red state (Republican) or solid blue state (Democrat) makes it is very difficult for candidates to change the outcome

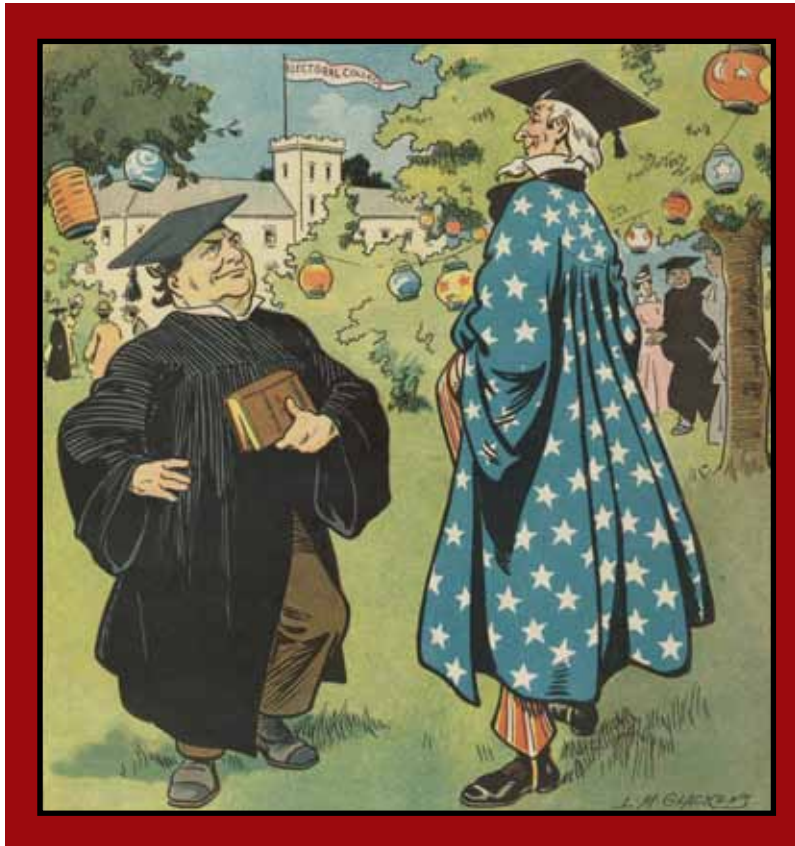
of those winner-take-all state votes; thus, very few presidential candidates come to a solid red state like Oklahoma. Both parties know that it would take the equivalent of a political tornado for the Democratic nominee to win here. No Democratic candidate has won the state since 1964. Oklahoma is a clear loser from the standpoint of civic engagement, because both major parties are reluctant to visit, spend money on television campaign ads, or mount grassroots efforts in such a non-competitive state. As a result, voter turnout in presidential elections is often lower in non-competitive states, unless there is an exciting race further down the ticket, such as for governor or senator, or state ballot questions that attract voter attention.

This lack of competition also creates a lesser known but

significant disadvantage for some voters. It is well known that minority groups are clustered geographically, often in non-competitive states, thus weakening their voting influence. In large Midwestern states like Iowa, Michigan, Minnesota, and Indiana, there are comparatively fewer minority groups compared to states like Texas, New York, or California. In the last few presidential elections, these large Midwestern states have had little competition and thus have not received the attention from candidates they might have deserved given the size of their minority populations.

### Until Death or Reform

Given all of these flaws and advantages, it is not surprising that the Electoral College has often been a candidate for political reform. More than 700 different proposals suggesting reform or abolishment of the system have been introduced in Congress. Reform alternatives generally fall into two camps: those that would keep the Electoral College intact and those that would abolish it.

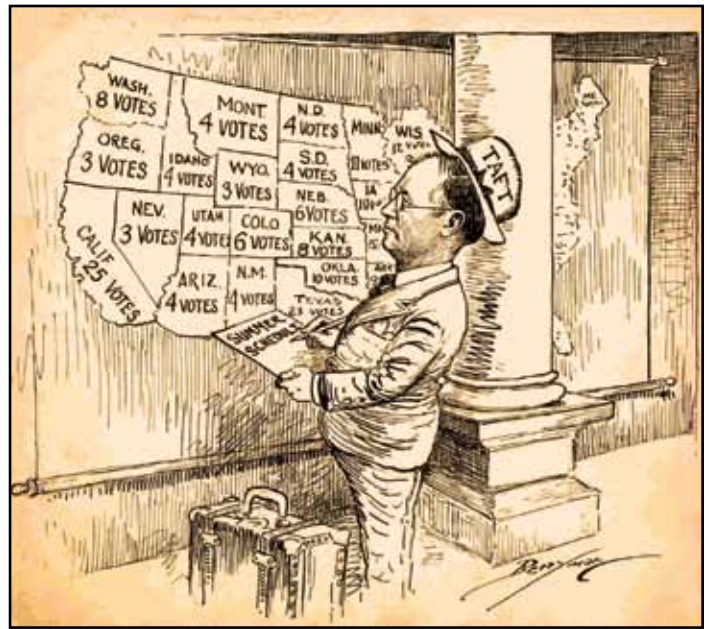


ON THE ELECTORAL COLLEGE CAMPUS. Uncle Sam and William Jennings Bryan chat at the graduation ceremonies of the Electoral College. Bryan holds a book titled *Reveries of a Candidate*. Illustration by Louis M. Glackens, c. 1907 by Keppler & Schwarzmann. June 12, 1907, *Puck* magazine. Library of Congress, LC-DIG-ppmsca-26174

“Intact” options include the *district plan* and the *proportional plan*. Under the district plan, already used by Maine and Nebraska, the candidate who wins the plurality (the most votes) as opposed to the majority vote (50% + 1) in each congressional district obtains that district’s electoral votes; the candidate who wins the statewide vote receives the two bonus senatorial-representation votes. While the district plan makes the Electoral College more reflective of the nationwide vote, it still does not eliminate the possibility that the plurality vote winner could lose the election. The proportional plan, which was rejected by Colorado voters in 2004, would award electoral votes proportionally based on the state popular vote. It would be complicated to administer and, more significantly, would make it extremely difficult for a candidate to receive a majority of electoral votes because minor party candidates would no longer be shut out. This could throw the election into the House of Representatives, making it possible that a minor party candidate could essentially “hijack” the election until one party or candidate capitulates (much like the 1824 election where Henry Clay marshaled House votes in support of John Quincy Adams over the two other candidates under consideration).

The simplest reform to abolish the Electoral College would be for the candidate with the most votes nationwide to win the election. Called a *plurality vote*, this method is most consistent with the “one person, one vote” concept and would produce the fairest election. However, there are concerns that this would encourage candidates to compete in only a few populated states and win the vote with a small fraction of the public. There are also concerns that this could encourage fringe candidates since they would not have to necessarily compete nationwide to win. An alternative would be a plurality vote with a runoff election, such as used by Oklahoma, Louisiana, and other states for their state-office elections. The top two vote recipients in the general election would compete in a runoff several weeks later. This would guarantee that the winner could claim support from a majority of voters. Yet, it adds another election (primary, general, then runoff), requiring a lengthened campaign season, more money, more endless campaign ads, and perhaps more bored voters. The third proposal to abolish the Electoral College is the instant runoff vote, similar to the runoff system except voters would indicate their rank-ordered preferences on the original ballot. Vote totals would then be recalculated until a winner emerges. This system probably would be confusing to voters, requiring more information costs for voting, and might encourage more candidates to run because votes for third-party candidates would no longer be “wasted.”

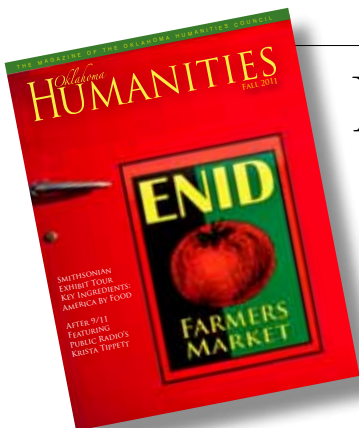
Despite wide discussion of reform, abolishment of the Electoral College seems unlikely. The last time that significant reform modifying the Electoral



*Summer Schedule.* One Member of Congress Who is Not Going Abroad this Summer. Depicts Ohio Senator Robert A. Taft, son of former President William Howard Taft, examining an electoral map to plan his “summer schedule” of campaigning as a presidential candidate. Drawing by Clifford K. Berryman, published July 24, 1947 (ARC 1693481). A collection of nearly 2,400 pen-and-ink drawings by Berryman, originally published in Washington newspapers from 1898 through 1948, is now held in the U.S. Senate Collection, Center for Legislative Archives, National Archives.

College made any progress was in 1804. The challenge for reform is that changing the Electoral College would require a constitutional amendment, which requires that two-thirds of both the House and Senate propose the amendment and that three-fourths of state legislatures ratify the amendment. This is unlikely to happen anytime soon. It would take only 13 of the 99 state legislative bodies (House and Senate in each state legislature, except for Nebraska which is unicameral) to block such an amendment. And there are numerous differences *within* each state (rural versus urban, coastal versus non-coastal, etc.) that would make agreement unlikely. Too many states benefit from the current system. Small and large states as well as competitive states have a definite stake in keeping the Electoral College exactly the way it is.

Electoral College reform is probably never going to happen—even though the presidential election in 2000 made many voters “see red.” For the foreseeable future, American voters and their presidential candidates are wedded to the Electoral College system, for better or worse. Yes, the system can be confusing, but striving to understand the Electoral College can inform our votes—and even make us better citizens. 🐾



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