

🇺🇸 ELECTORAL COLLEGE – SHOULD WE KEEP IT?



Stephen L. Bakke 🇺🇸 October 11, 2012

It is the time for a presidential election, so we hear about the intricacies and disadvantages of the electoral process. There is a movement afoot to amend the Constitution, or otherwise change the election process, and replace it with a method closer to a direct election of the President and Vice-President. The “ticket” receiving the most **popular votes** would serve as President and VP.

If one were to conclude that we shouldn’t retain the “electoral college” (EC), that presumes an analysis has been made of the Founders’ reasoning relative to the formation of this process, and that those reasons were found “wanting.” Let’s go through this step by step. As I start writing this **I am honestly not sure of my conclusion**. I will let common sense and logic “have sway with me”!

*In any evaluation of our government’s structure, one should understand how our Founders’ goals differ from those of modern day liberals. The Founders made every attempt to **dilute the power** of government in order to protect citizens from what they foresaw as possible tyranny. Today’s liberals believe in **concentrating the power** of the federal government to promote their concept of the “common good.”*

Keep in mind that the Founders had a cautious and skeptical view of some aspects of human nature, and many of their decisions sought to protect the country from “the dark side.” Such was the case in the Founders’ decision to have an indirect method of electing the President – this to protect against a tyrannical leader winning a majority of voters. This process provided “another set of eyes,” as an “abundance of caution.” – obscure (but very wise) economic and political pundit, Stephano Bakkovich

Expressions of the Founders’ “distrust” of human nature:

[T]here is a degree of depravity in mankind which requires a certain degree of circumspection and distrust. – James Madison

Sometimes it is said that man cannot be trusted with government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question. – Thomas Jefferson, First Inaugural Address, 1801

What is the Electoral Process?

- The citizen voters vote for a combined presidential and vice presidential “ticket.” Based on this result, on a state by state basis, the electors are selected based on the popular vote of the electorate from that state.
- The electors, eventually known as the Electoral College (EC), meet on a specified date and vote for a combined ticket. Prior to 1804, each of the electors voted for two candidates for President with the second place finisher serving as VP. In 1804 the Twelfth Amendment

changed the procedure to vote separately for both. A 50% majority is required for the electors to select the President.

- Casting those votes would be the electors who had pledged their support for that candidate. **That pledge, however, is NOT a legal obligation for the elector!**
- If one candidate does not capture a majority of the electoral votes, the responsibility is left up to the House of Representatives to arrive at make the selection. This isn't likely to happen under the current system.

What Does the Constitution Say?

Article II. Section 1. Clause 2. states:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the Congress: but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Article II. Section 1. Clause 4. states:

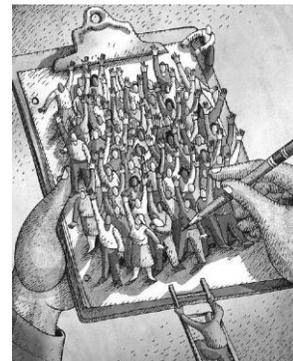
The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Article II. Section 1. Clause 3. is quite lengthy and detailed, but concludes with the indication that the individual obtaining the most votes, and being over 50% of the electors, would serve as President. If a majority is not achieved, the House of Representatives selects the President.

What Were the Original Assumptions, and What Has Changed?

Some of this may be a surprise to many – it was to me! It appears there were some important assumptions “in play” as the Founders deliberated this issue. It was assumed that:

- Each state would employ the district system of allocating electors.
- Each presidential elector would exercise independent judgment when voting.
- Candidates would not combine on the same ticket with unique designations as candidate for President and VP.
- The system as designed would rarely produce a winner, thus sending it Congress routinely.
- While the individual voters are, collectively, an important step in the selection process, the system as designed was intended to insulate the citizenry from the final selection.
- The prior point describes what was viewed as a guard against a tyrannical leader unduly influencing the electorate. In other words, the EC would be an “extra set of eyes” on the appropriateness of the election process.



Some things have changed:

- Originally it was left to the states to determine how the electoral process was carried out, and as a result, some of the original expectations didn't "pan out."
- The states, currently all but two (Maine and Nebraska), have established a policy whereby the winner of the popular vote will be allocated all of the state's electoral votes – "winner takes all."
- A two party system was not anticipated. Under the two party system, the presidential and VP candidates ARE uniquely identified as such, and combined on the same ticket, which was not anticipated.
- Given the advent of the two party system, and the methods established by the states for selecting and allocating electors, it's almost impossible NOT to have a majority of the electors voting for a single presidential candidate.
- Because of the last point, if it was expected/intended that most elections fall to the Congress, that goal was missed entirely.
- Because they probably expected anything but a "two party" system, the Founders would have expected electors to rarely achieve the 50% majority requirement. It's likely they anticipated having three or more major presidential candidates.

Why All the Concern by the Founders? Didn't They Didn't Want a True Democracy?

It seems that the EC was created for basically two reasons: to create a buffer between population and the selection of a President; and to give extra power and representation to the lesser populated states. Hamilton and other Founders who have gone on record felt that electors would be able to insure that only a qualified person becomes President. In fact, they were worried that the general citizenry could be manipulated and a tyrant could become President.

As the distinguished and perceptive Mr. Bakkovich expressed above, not everyone can be counted on to be "good folks"! Hence, the Founders came up with a hybrid form of government with an abundance of "checks and balances" and indirect methods of accomplishing things. It was a "representative republic" which elicits confusion to this day as to what it really means for us all.

Benjamin Franklin announced outside Independence Hall after the Constitutional Convention was concluded, we have "*a republic, if you can keep it.*" In other words, IT WON'T BE EASY – A MAJOR CHALLENGE! Why? While the ideals of the system are obvious, temptations to subvert this amazing concept could be rampant, thought the Founders. Here again we see the distrust the Founders had for the dark side of human nature. But nevertheless, they were ultimately willing to take a chance and give it a try! While many of us grew up unaware of these details, we should be aware of the fact that creating a direct democracy was judiciously avoided by the Founders.

*I pledge allegiance to the flag of the United States of America, and to the **Republic** for which it stands, one Nation under God, indivisible, with liberty and justice for all.*

More About the 18th Century Debate

There were actually two competing ideas for the process of electing the President. Some thought Congress should do it – thereby carrying the concept of insulating the population from the election one step further. But most were intent on restricting the power of Congress, as was their consistent

goal throughout. Others said it should be a national popular vote of eligible citizens (another topic for another day – i.e. who should be eligible to vote?).



But many were concerned that a direct vote would produce a hodgepodge of local celebrities dividing up the vote. Obviously the final process was a compromise and was enshrined in the second article of the Constitution.

Ultimately, unless a candidate/ticket gets at least a majority of electoral votes, the election goes to the NEWLY ELECTED House of Representatives. Each state's delegation in the House gets one vote and a candidate must win a majority of the states to be elected President. In 1824, Andrew Jackson won the most popular votes and the most electoral votes, but there were four candidates which split the electoral votes and no one candidate prevailed with a majority. The race went to the House, and JOHN QUINCY ADAMS, who had actually come in second, was the new President. Rarely in our history has there been a popular vote winner who lost in the EC – but it has happened!

Arguments For the Electoral Process

- We must maintain, to the extent possible, our original “Constitutional Republic.” All of the elements thereof, including the methods of representation and the checks and balances, fit together like a hand and glove and are interdependent.
- Under this system, candidates must build a much broader popular base, both geographically and philosophically.
- Complaints are seldom the consequence of our indirect election of the President. Rather, they are the result of “winner takes all” for allocating most of the states’ electors. This could be fixed if the States were to reexamine their process and change their approach. Not easy, but doable if this is the real problem – much easier than a Constitutional Amendment.
- The system protects the interests and influence of the small states. Without the current electoral system, the concentration would be on urban centers and “fly over country” would be neglected both in campaigns and in eventual political influence.
- “Winner takes all” enhances presidential legitimacy by magnifying narrow popular vote margins – e.g. In 2008 Obama got 49.7% of the popular vote but 67.8% of the electoral vote.
- The process helps to ensure that majorities will tend not to be ideologically or geographically concentrated.

Arguments Agin’

- There isn’t an electoral system in the world where the person with the most popular votes doesn’t win.
- It violates the spirit of one person/one vote – i.e. the smaller, rural states are given slightly more say in electing president since all states receive two electors corresponding to their two Senators – the same as higher population urban states. Stated another way, the lower population states have more electors per person than the higher population states.
- Since the allocation of congressional House seats is based on the total numbers living in those districts, including legal and illegal aliens, this tends to give more influence to the

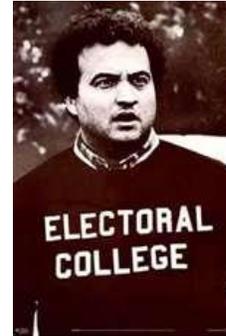
states with the most resident “non-citizens.” Our constitutionally mandated 10-year census does not ask respondents to declare citizenship status.

- The EC operates today in a manner far different than the Founders envisioned – e.g. they did not anticipate political parties.

My Opinion

In spite of the disadvantages of the electoral system, I probably would shrink from enthusiastically supporting an attempt at amending the Constitution. While I wouldn't be afraid of such an attempt in a philosophical way, I believe any attempt would be futile. It would require ratification by ¾ths of the states, and what chance would that have of passing, considering the fact that no smaller state would support it? A waste of time for sure! I would encourage the states, individually, to take a long hard look at how their own application of the electoral process has evolved, or not evolved, with the goal to be having a more logical process at the state level – I refer to the “winner take all” policies. Here are quotes from some “august” leaders and policy makers with whom I must agree:

The Electoral College is just a “cog” in a much larger wheel which includes many checks and balances and was established to collectively prevent tyranny, including “tyranny of the majority.” – obscure (but very wise) economic and political pundit, Stephano Bakkovich



Once you get rid of the Electoral College, the election will be conducted in New York and San Francisco. – Former Senator Alan Simpson of Wyoming

It is not only the unit vote for the president we are talking about, but a whole solar system of governmental power. If it is proposed to change the balance of power of one of the elements of the system, it is necessary to consider the others. – President John F. Kennedy