



The Electoral College: A Misunderstood Institution

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Notes

1. We examined the second and third editions of Ogg and Ray (1925, 1928) because they were available to us. We have no reason to believe the first edition differed in format from the later versions.
2. The UCLA Higher Education Institute's annual survey of college freshmen found the class that entered in the fall of 1995 to be the most politically apathetic in its thirty-year history. (Sanchez 1996)
3. While we changed the approach of the course, we did not change its position in our curriculum. It is offered in the fall term of what is normally a student's sophomore year. Many, but not all, of the students taking the course will have had introduction to Politics, which focuses on comparative ideologies and institutions, and is the normal entry-level course in government.
4. Several scholars have recently given attention to the transformations in American political values in response to their changing context. See for example, Huntington (1981), Ellis (1993), and Wiebe (1995).
5. A number of scholars have proposed that the American political system—or portions of it—be considered as a succession of distinct models or paradigms. Dodd (1991), in his call for a "Transformational Perspective" for studying American politics, outlines a succession of political eras and periods of transition, each with its own distinct pattern of institutional interaction. Similarly, Kelly (1994), identifies five distinct political eras in American politics. A well-known classification of American party systems is presented in Chambers, Burnham, and Sorauf (1975). Skowronek (1993) distinguishes four distinct cycles of presidential leadership. Roskin (1974) has proposed "generational paradigms" in American foreign policy. Koh (1990) suggests a historical succession of "national security constitutions," each having distinct legal and political relations among the three branches of American government.
6. After spending about two weeks introducing the students to the approach we are going to take in the course and leading them through the Founding period, we use about

one week of class time for the Jacksonian and each of the other nineteenth and early twentieth century systems. This gives us approximately half of the term to deal with the New Deal and post-New Deal systems.

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The Electoral College: A Misunderstood Institution

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"It was of great importance not to make the government too complex." Thus did Caleb Strong, a Massachusetts delegate at the Constitutional Convention of 1787, argue against the use of the electoral college to select the president and vice president. Most college textbooks for the introductory American government course discuss the mechanics of the

electoral college, so we decided to examine eighteen textbooks and their treatment of the electoral college.¹ Written by prominent political scientists, these texts contain many errors on the workings of the electoral college. It would appear Strong's concern was a valid one.

Some might object to an examination of the accuracy with which po-

litical scientists treat the electoral college as either trivial or a "cheap shot." Yet we pay close attention to treatment of the electoral college because it is of interest to many students. One subject for which otherwise unenthusiastic students *do* show enthusiasm and interest is the electoral college. Often, questions on the subject come up very early in the

course. In fact, the electoral college is one of the few subjects that bring questions from all over the classroom and even from students who seldom speak up. Authors of introductory American government texts should therefore be accurate in their description of the mechanics of the electoral college. Also, at least every four years the reform or abolishment of the electoral college is proposed. Yet, one cannot evaluate ideas for reform or abolition without accurate information on how the electoral college works.

Selection of Electors

One of the most common errors in the texts we examined relates to selection of electors. Here is what the Constitution stipulates: "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, . . ." (Article II, Section I, Clause 2). Several selection methods were proposed at the Constitutional Convention: by state legislatures, by governors, and popular election. Convention delegates, probably motivated by the desire to secure ratification, left it to the states. Three basic methods of selection were used in the first presidential election: state legislature, popular vote, and a hybrid of these two methods (Pierce 1968, 60, 309). States experimented with various methods, ultimately settling on popular election, but are still constitutionally free to use their method of choice.

Several texts, however, imply that selection by state legislatures is the constitutionally mandated method. One text states, "they [the Framers] designed a selection system of 'electors' chosen by state legislatures" (Berman and Murphy 1996, 70). Four texts (McKenna 1994, 517; Barrileaux 1996, 49; Lineberry et al. 1991, 77; Lowi and Ginsberg 1996, 475) make this error. They state that the Framers assigned selection to the voters, and another stipulated that either the voters or the legislature could select the electors. Seven texts do not mention the constitutional provision concerning the selection of electors, while three (Schmidt et al. 1995; Wayne et al.

1995; and O'Connor and Sabato 1995) correctly report that each state can select the method for choosing electors.

Winner-Take-All

States also control the electoral college by how they allocate the vote. The Constitution does not prescribe a method. Tradition has resulted in all but two states using the winner-take-all system, sometimes known as the "general ticket system" or "unit rule." Under this system, the slate of electors (considered pledged to a particular candidate) with a plurality of the statewide vote wins the right to cast the state's electoral votes.

It is important to note that unit rule is not constitutionally prescribed. It is a choice made by the states. One of the strongest criti-

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cisms of the electoral college is the possibility that the popular vote winner can be the electoral vote loser. Unit rule is one reason for this possibility. Thus, students frequently characterize this system as unfair and cite it as a major reason for abolishing the electoral college. It is important, therefore, to note that unit rule was not mandated by the Framers, need not be amended out of the Constitution, but can, at any time, be changed by state law.

This distinction is frequently absent from the texts. It would be misleading for a text to imply that unit rule is *the* system for allocation of electoral votes. Yet, several texts do imply this by not mentioning that the Constitution does not *require* this system. For example, McKenna (1994) reports, "the electoral college system awards all of the state's electoral votes to the candidate who

wins a majority of popular votes in the state." Not only does the author attribute the winner-take-all method to the electoral college *system*, he also mistakenly reports it is based on a majority rather than a plurality vote. This is not the only text that mistakenly uses majority rather than plurality (Lasser 1996, 282). In another example, the authors write, "The Constitution also created a system whereby the president is . . . chosen by an electoral college . . . this is a 'winner take all' method (Miroff et al. 1995)."

Some texts indirectly point out state choice by noting (often in a footnote) that Maine and Nebraska do not use the winner-take-all system. One text (O'Connor and Sabato 1995) failed even to discuss how the votes are allocated; three texts (McKenna 1994; O'Connor and Sabato 1995; and Lowi and Ginsberg 1996) do not mention the Maine and Nebraska exceptions; and four (Welch et al. 1996; Lasser 1996; Miroff et al. 1996; and Lineberry et al. 1991) incorrectly report that Maine is the only state using a different system.

The Wrong Choice

The electoral college is probably most criticized for the possibility that the national popular vote winner can be the electoral vote loser. The general ticket system discussed above, which all but two states opt to use, contributes to this possibility. If one candidate wins landslides in popular votes in certain states (but not the requisite majority of electoral votes) and barely loses in the remaining states, the electoral winner can in fact be the popular vote loser (Arrington and Brenner 1994, 239). How many times has this happened?

Only in 1888 did a candidate win in the electoral college, yet lose in the national popular vote. The textbooks, however, tell a different story. Lasser (1996) writes, "It has actually happened twice in American history—in 1876 and 1888." But the electoral college did not decide the 1876 election, and neither was the House contingency used. That year, the Hayes-Tilden Commission decided disputed electoral votes and awarded

them to Hayes, who received fewer popular votes than Tilden. Two other texts (Wayne et al. 1995 and Lowi and Ginsberg 1996) give two dates for the electoral college making the “wrong” choice. Of the twelve texts touching on this subject, five (Schmidt et al. 1995; Welch et al. 1996; Burns et al. 1993; Janda et al. 1995; and Bibby 1992) give three dates: 1824, 1876, and 1888. In 1824, the House contingency was used to elect John Quincy Adams in spite of the fact that Andrew Jackson had more popular votes.

The “wrong choice” phenomenon is typically used as a major reason for abolishing the electoral college. Textbook authors describe it as “distressing,” “a serious objection,” “the most serious criticism,” “the most troubling aspect,” and “undemocratic.” When mentioning this phenomenon the texts typically lump the three elections (1824, 1876, and 1888) together. The authors usually fail to mention the role of the general ticket system (which is *not* required by the Constitution) in furthering the possibility, and they fail to distinguish the 1824 and 1876 elections which were not due to mathematical circumstances, but rather to the House contingency and Hayes-Tilden Commission respectively.

Other Errors

If textbook authors did not make an error concerning the above topics, they often made other errors or misleading statements. For instance, Schmidt, Shelly and Bardes (1995) report that the Framers wanted only male electors. Of course, that *may* be true, but when that statement is preceded by citation of Article II, Section 1, the reader might be led to believe this was constitutionally mandated.

One text incorrectly states that when the Senate contingency is used to elect the vice president “each state has one vote” (Welch et al. 1996, 196). In fact, the delegates debated this at the Convention and approved per capita voting.

Some texts, when discussing the House contingency, state that the Representatives must “choose from

the five highest candidates.” In fact, the Constitution did state this, though the 12th Amendment does require the contingency to choose from the top three candidates.

One text (Berman and Murphy 1996, 389) sustains the myth that the Constitution prohibits the election of a president and a vice president from the same state. Although the Constitution does prohibit an elector from casting both votes for candidates from the same state, this does not rule out the election of a president and vice president from the same state. Use of the contingency plans could also produce a president and vice president of the same state.

The Framers might be shocked to learn that the electoral tie between Jefferson and Burr was due, as Wilson and DiIulio (1995, 350) put it, to a “defect in the language of the Constitution.” This would particularly surprise the Framers since they included a provision in the Constitution stating, “if there be more than one who have such Majority [of electoral votes], and have an equal Number of Votes, then the House of Representatives shall immediately elect one of them president (Article II, Section 1, Clause 3, superseded by the 12th Amendment).

Another text (Harris and Wasserman 1990, 43) errantly states that the 12th Amendment “was passed to prevent a president from being saddled with an opposing presidential candidate as vice-president.” If that were true, it would probably have been proposed during the Federalist administration of Adams when the Democratic-Republican Jefferson served as his vice president. The 12th Amendment was passed, rather, so that the electors could specify which vote was going for president and which for vice president.

Prior to the 12th Amendment, a presidential candidate elected vice president did not need a majority of the electors to win. The framers, in their elaborate design, had a reason for this: the first vote cast by an elector would go to the state’s favorite son, and thus the vice president would come from this list. Anticipating a dispersed vote, they did not require a majority vote. Hardly any of the authors described this detail,

but Bibby (1992, 46) contradicted the Framers design by stating that under the original Constitution both president and vice president needed a majority of the electors to win.

In one text (O’Connor and Sabato 1995, 518), the complexity of explaining the electoral college resulted in a gross historical error: “In 1796 . . . a tie in the electoral college sent the election into the House of Representatives, which selected Federalist John Adams as president and his political opponent, the Democratic-Republican Thomas Jefferson, as vice president.” However, the presidential election of 1796 was *not* decided by the House of Representatives; Adams won a majority of the whole number of electors, while Jefferson came in second.

One text (Lowi and Ginsberg 1996, 518) reported that there were 535 electors, neglecting to mention the three assigned to Washington, D.C. by the 23rd Amendment.

Finally, although not an error, some authors would reduce their readers’ confusion by not referring to electors as “delegates.” Students may be likely to confuse electors with delegates to the national nominating conventions (Wayne et al. 1995, 516).

Although errors can be found in any textbook, it is important for political scientists to correctly describe the electoral college. These errors are particularly important since so many apply to the perennial debate about the electoral college. Furthermore, when students show a particular interest in a subject, it is important that their information be correct. One might expect first edition texts to contain errors. Of the eighteen texts examined, eleven were first editions. But of the remaining seven, two were second editions, with the remaining in their 4th, 5th, 6th, or 15th edition. When students raise questions about the electoral college, professors should be able to answer them without pointing out problems or errors in their textbooks.

Notes

1. The eighteen textbooks examined are: (1) Steffen W. Schmidt, Mack C. Shelly II, Barbara A. Bardes, *American Government and Politics Today*; (2) James Eisenstein, Mark Kessler, Bruce A. Williams, and Jacqueline Vaughn Switzer, *The Play of Power*; (3) Susan Welch, John Gruhl, Michael Steinman, John Comer, and Susan M. Rigdon, *American Government*; (4) Edward S. Greenberg and Benjamin I. Page, *The Struggle For Democracy*; (5) George McKenna, *The Drama of Democracy*; (6) William Lasser, *American Politics*; (7) Larry Berman and Bruce Allen Murphy, *Approaching Democracy*; (8) James Q. Wilson and John J. DiIulio, Jr., *American Government*; (9) Fred R. Harris and Gary Wasserman, *America's Government*; (10) Ryan J. Barilleaux, *American Government in Action*; (11) James MacGregor Burns, J.W. Peltason, Thomas E. Cronin, and David B. Magleby, *Government By The People*; (12) Kenneth Janda, Jeffrey M. Berry, and Jerry Goldman, *The Challenge of Democracy*; (13) John F. Bibby, *Government By Consent*; (14) Stephen J. Wayne, G. Calvin Mackenzie, David M. O'Brien, and Richard L. Cole, *The Politics of American Government*; (15) Karen O'Connor and Larry Sabato, *American Government*; (16) Robert Lineberry, George C. Edwards III, and Martin P. Wattenberg, *Government in America*; (17) Theodore J. Lowi and Benjamin Ginsberg, *American Government*; and (18) Bruce Miroff, Raymond Seidelman, and Todd Swanstrom, *Democratic Debate*.

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