

The U.S. Electoral College

The president of the United States is elected, not by a direct national popular vote, but by an Electoral College system in which (in almost universal practice since the 1830s) separate state popular votes are aggregated by adding up electoral votes awarded on a winner-take-all basis to the candidate who wins a plurality of votes in each state. The Electoral College is perhaps the most distinctive and controversial of U.S. political institutions.

Why is the president elected in this fashion? The answer goes back to the framing of the U.S. Constitution in 1787, where the mode of selecting the president was one of the most troublesome issues. The menu of options included selection by states, selection by Congress, or some kind of popular election. As originally designed, the Electoral College was a mixture of these modes. Each state was to appoint “electors,” equal in number to its total representation in Congress and in a manner determined by its legislature, whose sole duty was to cast votes for President. Each elector was required to cast two equal and unranked votes for two different candidates, at least one of whom was a resident of another state; to be elected by the Electoral College, a candidate needed to receive votes from a majority of electors and more votes than any other candidate. (Given the two-vote system, more than one candidate might receive votes from a majority of electors.) In the event that no candidate had the required majority, or that two (or more) candidates with the required majority were tied, the House of Representatives, voting by state delegations each casting one vote, was to select the president from among the top five electoral vote getters or the tied candidates. In any event, the runner-up would become vice president.

The original Electoral College was a cleverly designed compromise intended to operate in a non-partisan environment. But from the outset, electors were in fact loyal party men who — like those who selected them and most everyone else — thought of a presidential election, not as an occasion to cast two votes for two worthy presidential candidates, but as an occasion to elect their party’s presidential-vice presidential ‘ticket.’ In party terms, the Electoral College produced anomalous results in the elections of 1796 (when the presidential candidates of the rival parties were elected president and vice president respectively) and 1800 (when an electoral vote tie between the presidential and vice presidential candidates of the winning party threw the election into a House controlled by the losing party). The Twelfth Amendment (ratified in 1804) accommodated the developing two-party system by making the following changes: electors would now cast separate (single) votes for President and Vice President, and the required electoral vote majority for each office became a simple majority of votes cast; if no candidate receives the required majority for President, the House (still voting by state delegations) chooses from among the top three candidates; and if no candidate receives the required majority for Vice President, the Senate (voting individually) chooses from among the top two candidates. The Twelfth Amendment remains the constitutional language governing presidential elections.

By the 1830s, the Electoral College had been further transformed by party practice and state law into the system that exists today. From the outset, each party nominated candidates for elector pledged to support its national ticket. State legislatures moved to popular election of electors and, in particular, to elections on state-wide party slates. These practices together produced the system of state-by-state popular votes coupled with winner-take-all state electoral votes that characterizes the existing Electoral College. Moreover, the two-party system virtually guarantees that one or other ticket receives the required majority of electoral votes, thereby keeping elections out of the House

and Senate. In this way, the Electoral College has been transformed into an institution quite different from what its designers intended, so neither its virtues nor its defects can be credited to, or blamed on, the framers. For all practical purposes, the Electoral College has become a mere vote counting system that takes the popular votes in each state, translates them into blocs of electoral votes, and declares a winner on that basis. While this transformed Electoral College has proved to be a serviceable institution, it is problematic in a number of ways.

The principal strategic implication of the Electoral College today is that it focuses electoral attention on a relatively few states. Because all that matters is which party ticket carries each state, not the margin of victory or defeat, states that are expected to be close become “battlegrounds,” while non-competitive states are largely ignored in a way that some characterize as “disenfranchising” their voters.

Another troublesome feature of the Electoral College was illustrated in the 2000 election, when George W. Bush was elected on the basis of electoral votes even though Albert Gore received almost 550,000 more popular votes nationwide than Bush. While rare, such inversions are always possible under the Electoral College system.

The Electoral College has other problematic features. Electors occasionally cast electoral votes contrary to their pledges, and such “faithless” electors could conceivably determine the outcome of an election. State legislatures might change the mode of selecting electors to advantage the party in control, and such a gambit might tip the outcome of the subsequent election. A relatively popular third-party or independent candidate (especially a candidate with strong regional support like George Wallace in 1968), might carry enough states to deny any candidate an electoral vote majority, thereby throwing the election into the House; in this event, the most and least populous states would have equal weight, and at best a President would not be elected until a few weeks before Inauguration Day (and at worst the House might deadlock beyond that date). Moreover, the Twenty-Third Amendment (ratified in 1961), which gave electoral votes to the District of Columbia, has produced an even number of 538 electoral votes, allowing a 269-269 tie that would deny either candidate an electoral vote majority even in the absence of a third candidate.

Because of these problematic features, many constitutional amendments have been proposed to modify or replace the Electoral College system. An amendment providing for direct popular election of the President passed the House of Representatives by a large majority in 1969 but it later failed in the Senate. Even if it had passed the Senate, ratification by three-quarters of the states was doubtful. Recently the “National Popular Vote Plan” (NPVP) has been proposed as a way to bring about direct popular election of the President while circumventing the constitutional amendment process. The basic idea is that any state could cast its electoral votes, not for the presidential candidate winning the popular vote of that state, but for the candidate winning the popular vote nationwide. The NPVP is a proposed compact among states controlling at least 270 electoral votes that commits each member state to cast its electoral votes in this manner, thereby guaranteeing election of the national popular vote winner. As of October 2019, 15 states and the District of Columbia, controlling 196 electoral votes, have enacted legislation in support of NPVP.

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From Robert S. Rycroft, ed., *The American Middle Class: An Economic Encyclopedia of Progress and Poverty*. Santa Barbara: ABC-CLIO Press, 2017, pp. 386-389. Updated, November 2019.

Further Readings

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