

Los Angeles Times

*Also published in the Savannah Morning News,
the Tallahassee (Fla.) Democrat
and the Athens (Ga.) Banner-Herald*

October 26, 2012

That pesky Electoral College

by JOSHUA SPIVAK

The Electoral College is one of the most controversial and ridiculed parts of the Constitution.

It is not just for the obvious reasons — the “wrong winner” elections of 1876, 1888 and 2000. The college has also focused the nation’s attention on a few swing states, allowing candidates to ignore a large percentage of the voters in their campaign.

Today, the three largest states get little attention, except as ATMs for campaign fundraising.

Criticism of the Electoral College is rampant, and defense of it rarely goes beyond “why change?” What is rarely discussed is why it was created and what it was designed to do.

The college was very much a part of the philosophy of the Constitution — an intelligent compromise between many competing interests, part of the system of checks and balances.

An important reason to have an Electoral College was because the young nation had little experience in directly electing executives. In most states, the governors were not chosen by the voters. Instead, in eight of the 13 original states, the legislature chose the governor. And in two of the other states, if no candidate received an absolute majority of votes, the legislature ended up making the choice.

This was the model the constitutional conventioners drew on. The original plan that was brought to Philadelphia, and the first outlines of a presidency adopted by the convention, provided for election of the chief executive by Congress.

The option of choosing a president by popular vote was voted on a number of times during the convention, but only two states were in favor of it. There were a number of reasons to oppose it. Many of the conventioners believed the country was too large to directly elect the president.

Some Southerners realized their states’ impact would be diluted, as the compromise that counted three-fifths of slaves as part of the population for representation and taxation purposes gave the slave states more impact in Congress than they would have in a popular vote.

But the idea that Congress would choose the president failed the checks-and-balances test. The conventioners were worried that a congressionally chosen president would be owned by his selectors. So they created the Electoral College to act as an alternative Congress. It contained the same number of members as Congress.

The system was not perfect. Congress was called on to select a president in 1800 and 1824. In the first instance, Thomas Jefferson and his running mate, Aaron Burr, both got 73 electoral votes. That election led to the creation of the 12th Amendment, which divided up each elector’s vote into one for a presidential candidate and one for a vice-presidential candidate and lowered the number of candidates sent to Congress from five to three.

In 1824, there was a four-way split, which played a large role in helping to create our current two-party political system.

If the vote in November is close, the Electoral College is guaranteed to come under increased scrutiny and another avalanche of complaints. Although the likelihood of change is small, it bears considering how the college came into being and that it met the founders' basic goal of a system of checks and balances.

Joshua Spivak is a senior fellow at the Hugh L. Carey Institute for Government Reform at Wagner College.