

The Electoral College back in the spotlight?

by JOSHUA SPIVAK

Donald Trump may be losing in the polls, but thanks to the Electoral College system, he will have a chance to pull an unlikely ace from the hole. In every election as we get closer to the finish line, the critical Electoral College maps only gains in importance. Even if there is no “wrong winner” — where the winner loses the popular vote — like in 1876, 1888 and 2000, the wisdom of having an Electoral College will once again be called into question.

There are plenty of reasons to criticize the Electoral College system. Not only may it lead to a popular vote loser winning the election, it also effectively cuts out most voters from the political process. California, Texas and New York, to name three of the biggest examples, are ignored by the presidential contenders. But while there may be legitimate reasons to change the system, it is worth understanding why there is an Electoral College in the first place and what it really was designed to do. Its focus was not to limit popular choice. Instead, it was an intricate compromise, adapting the existing electoral frameworks available in the states. Its key goal was to have a system that gave the country a clear leader selected by an agreed upon process.

While there some conventioners who were in favor of direct elections — notably future Supreme Court Justice James Wilson — for the most part, the idea was not particularly popular. Some thought the country was too large for direct elections, others worried that the small state voters wouldn't have a real say, the Southern states thought they would lose out on their power due to the three-fifths compromise. And, of course, a number of people didn't trust the mass of the population.

Despite reasons that we might not like, the Electoral College system was popular. Alexander Hamilton claimed it was the one part of the constitution that avoided attack, and the anti-Federalists opponents trained their fire elsewhere. The structure of the system fit into the goals of the new government.

The model that the convention was drawing from was the one used by the states. And for the most part, governors at the time were not popularly selected. The legislature directly chose the governor in eight states and in two others, they legislature made the choice if no candidate received a full majority of vote (Vermont still has the later model).

Yet, the states' method of election was not adopted. The conventioners were concerned about corruption, factionalism and executive totally beholden to Congress, so they instead created an alternative one-shot Congress that would be handed the job. Each elector cast two votes, one for someone from another state. The second-place finisher became vice president. Just to be on the safe-side, federal officials were banned from serving in the Electoral College, and the electors did not meet together as one national group, but were instead separated to vote in each individual state.

The individual nature of each separate Electoral Colleges shows a lesser realized fact — the Electoral College not have been expected to actually choose a candidate who would receive an absolute majority of the vote. Instead, the convention went to another check and balance system. The expectation may have been that, after George Washington won his terms, favorite son candidates would win in a number of states. If no one received a majority, Congress would finally step in. Under this reality, the Electoral College would not have been expected to elect a

president, but instead would have served as a nominating convention. Much as in the statehouses, Congress, in a state-by-state vote of the House delegations, would choose a winner.

This system was changed very rapidly. In 1800, Thomas Jefferson and Aaron Burr tied, leading to an extended battle in Congress and eventually the 13th Amendment dividing the electoral vote from two candidates into one for the president and one for the VP, and lowering the number of candidates that Congress could choose from five to three. The 1824, which led to a four-way split in the vote, eventually led to Congress having to choose from three candidates. The fallout from choosing John Quincy Adams over Andrew Jackson led to the development of our current two-party political system.

Despite some notable failures, the Electoral College has succeeded in creating a stable presidency. Every attempt to overturn the system, including an ongoing one that grew out of the 2000 race, has failed. Eventually, it could be that the system will be tossed out. But until then, it pays to understand why we have this unusual structure deciding the election of our most powerful office.

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