



The Electoral College: Combining Democracy and Federalism

Troy E. Smith

The Electoral College is one of the most fascinating and controversial institutions of American federalism. Do you know why the framers of the U.S. Constitution created this presidential election system?

The challenges the founders faced in creating the selection method were how to make the presidency broadly representative of the nation, keep it independent of the legislative and judicial branches of government, and moderate the dangers of democracy. Their solution is broadly democratic, while its structure is fundamentally federal. As a result, presidential campaigns to this day create and follow strategies that are federal in nature.

CONVENTION

CONSIDERATIONS

Delegates to the 1787 Constitutional Convention agreed on a republican form of government, meaning that all government authority rests on the consent of the people. They agreed, too, with the principle of majority rule and that the purpose of government is to protect people's rights and promote the public good.

Their experience with majority tyranny in some of the states during the era of the Articles of Confederation, however, taught them that majority rule can result in a tyranny of the majority if it is not anchored in properly constructed institutions. Hence, they rejected a popular vote for president, which might have allowed the more populous states to outvote the less populous states or allowed popular, national organizations, such as the Order of Cincinnati es-

tablished in 1783 after the Revolutionary War, to dominate the national election.

They also considered letting Congress, governors, and state legislators choose the president. Each was problematic. For example, allowing Congress to select the president would have weakened the separation of powers by making the president subordinate to Congress, and it would have been even less democratic than the Electoral College. Unwilling to concentrate power anywhere, even in elections, the Constitution's authors found a solution in federalism.

The framers hoped their selection method, later called the Electoral College, would make the president more representative of the country's broad and diverse interests by moderating the power of the large, populous states and powerful interstate factions. Rather than selecting the president by who wins the most popular votes, their system selects the

presidential candidate by who receives the most state-by-state electoral votes. That requires the winning presidential candidate, in either the Electoral College or House of Representatives, to assemble a broad coalition of support across interests and different parts of the United States.

FACILITATING FEDERAL DEMOCRACY

Electoral votes are limited today to 538 votes. Those votes are distributed among the states according to how many representatives and senators each state has in Congress (the District of Columbia gets three, which equals the votes

**'DELEGATES TO THE 1787
CONSTITUTIONAL CONVENTION
AGREED ON A REPUBLICAN
FORM OF GOVERNMENT, MEAN-
ING THAT ALL GOVERNMENT
AUTHORITY RESTS ON THE CON-
SENT OF THE PEOPLE.'**

of the smallest state). This distribution of votes decreases the electoral power of the most populous states and increases the electoral power of the less populous states. By moderating the unequal power differential between states, the founders created an election system that requires presidential candidates to win a broad coalition of states and interests rather than a few big ones.

Besides checking the dangers of democracy, the Electoral College provided a solution to voters' lack of interest, lack of good information, and lack of leisure to carefully study the issues and candidates to make a fully informed decision. The founders wanted the political system to take "the sense of the people" but recognized that individual passions and the interests of factions might cause poor choices (*Federalist* no. 49). To correct this problem, they created a presidential selection method that relies on two, and sometimes more, elections that combine democratic and federal features. In so doing, the founders sought to make federalism and democracy compatible.



Image Credit: Tom Nappi

MULTIPLE ELECTIONS

The first election is in November when the public votes by state, not for their preferred presidential candidate, but for their preferred slate of electors. The number of electors on each slate is equal to each state's electoral

**BESIDES CHECKING THE
DANGERS OF DEMOCRACY,
THE ELECTORAL
COLLEGE PROVIDED A
SOLUTION TO VOTERS'
LACK OF INTEREST,
LACK OF GOOD INFORMATION,
AND LACK OF LEISURE TO
CAREFULLY STUDY THE ISSUES
AND CANDIDATES TO MAKE A
FULLY INFORMED DECISION.**

votes, and the individual electors are selected by each state's political parties. The winning slate of electors gathers in their state capitol in mid-December for the second election where they vote for their preferred presidential candidate. Those votes are then sent to the U.S. House of Representatives in Washington, DC, which, in January, counts the votes and – if one of the candidates receives a majority of electoral votes – declares the official presidential winner.

If no candidate receives a majority of Electoral College votes, then a third presidential election occurs in the U.S. House of Representatives. This time, each state gets one vote, and the next president is the first to get a majority of those votes. Sometimes, a majority vote does not happen the first time, which then requires additional rounds of voting. In the 1800 election, the House voted 36 times before selecting Thomas Jefferson as the next U.S. president. This system also requires a candidate to be popular across the geographical interests of the states.

Each of these elections is democratic and federal. They are democratic in that the voters are either the people themselves or representatives chosen by the people, and the winners are decided by majority rule in the Electoral College or states in the House. These elections are federal because the multiple elections are state-based rather than national. This combination of state and national, democratic and federal elements is part of what led James Madison to describe the U.S. political system as a "compound republic" (see *Federalist*, no. 39).

DEMOCRATIC ARGUMENTS AGAINST THE ELECTORAL COLLEGE

The federal nature of the Electoral College requires presidential candidates to win state by state rather than by a national majority of the voting public, and the disproportionate distribution of electoral votes diminishes the influence of the most populous states. The Electoral College, consequently, violates the modern, democratic

principle of one person, one vote, and, thereby, rule by 50 percent plus one.

Further, winner-takes-all laws in 48 states may discourage some voters. Under these laws, the presidential candidate who wins a state election by one or more votes receives all that state's electoral votes. Consequently, voter turnout may suffer in states where one party has a clear majority. For example, how many Democratic voters in Texas or Republican voters in California do not vote for a presidential candidate because they believe their party will not win that state? The disincentive to vote and the distribution of electoral votes by state rather than by the national popular vote leads some people to charge that the Electoral College is undemocratic.

Charges that the Electoral College is undemocratic increased after the 2000 and 2016 presidential elections when the winners (George W. Bush and Donald J. Trump, respectively) received fewer public votes than their opponents. This also happened in 1800, 1824, 1876, and 1888.

The undemocratic nature of the Electoral College, critics claim, impairs the president's legitimacy.

ADDITIONAL CONSIDERATIONS

The federal nature of the Electoral College shapes presidential candidates' campaign strategies, voter turnout strategies, and voting behavior. Presidential campaigns tend to focus their resources on the competitive states and give less attention to the states their party will easily win or will almost surely lose. Partisan voter turnout strategies often share a similar federal focus.

Would a popular, democratic election system foster more moderate candidates and campaigns that appeal to a broad cross-section of America, or would it favor narrower and more extreme but populous factions of groups and interests?

Direct popular presidential elections would certainly create very different presidential and voter turnout strategies and campaigns, voting behaviors, and, consequently, voting results. We should beware of projecting the behavior and results of a federal electoral system onto a national popular-vote system. For example, adding the states' popular votes from the existing federally structured election system cannot provide a surrogate indicator for which candidate would have won in a national popular election because candidates, parties, and voters will behave differently under a national popular-vote system.

CONCLUSION

Because the winner of the Electoral College is the person with a majority of votes in multiple elections, it is democratic, but because voting is based on the states, it is federal. The founders' objective in creating this system was consistency with democracy, understood as the consent of the people, while using federalism structures to correct for known democratic failures and recognize that the nation is a union of states. Whether they succeeded in that objective without unnecessarily impairing democracy is a question for our day.

REFERENCES:

- Diamond, Martin, "The Electoral College and the American Idea of Democracy," *As Far As Republican Principles Will Admit*, ed. by William A. Schambra (Washington, D.C.: The AEI Press, 1992), pp. 186-205.
- Edwards III, George C., *Why the Electoral College is Bad for America* (New Haven: Yale University Press, 2019).
- Madison, James, *Notes of Debates in the Federal Convention of 1787* (New York: W.W. Norton & Company, 1987), p. 368.
- Sanford Levinson and John McGinnis, "Should We Dispense with the Electoral College?" *University of Pennsylvania Law Review* PENnumbra 156 (2007): 10-37.

ABOUT THE AUTHOR



Troy E. Smith –
Brigham Young University
— *Hawaii*

Troy E. Smith's work has been published by Oxford University Press; the Brookings Institution Press; *Publius: The Journal of Federalism*; *The Review of Politics*; *Congress & The Presidency*; and elsewhere.