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Rethinking the Electoral College: Processes, Historical Foundations, and Current Debates

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Introduction

When voters go to the polls in November 2004, what will they be voting for? Will they be casting votes for the future president of the United States? No, despite popular belief, the president is not elected by popular vote. The votes citizens cast in November will be for state electors. These electors are part of the Electoral College, the institution that determines the next president of the United States. Among legislators, the Electoral College has been one of the most debated topics. Over 700 amendments have been placed before Congress since the Electoral College's inception in 1787. Those supporting the Electoral College claim that it is an important aspect of federalism and that the proposals for reform would cause more problems than they would fix. Many of the proponents emphatically state that the Electoral College has done its job, why fix something that has worked correctly?

On the other hand, opponents of the Electoral College claim that the system is flawed. Used correctly, the Electoral College can produce Presidents who did not win the popular vote, yet won the Electoral College vote. Not only can the system produce "wrong presidents," the Electoral College relies on the votes of electors who are not required to vote for the candidate that the voters have chosen. Furthermore, by using this system, it proves to the American people that the government does not believe they are intelligent enough to choose to whom to award the office of President. In spite of all the reasons scholars give for retaining the Electoral College, including its status as a historical compromise established by the Founding Fathers, it has too many flaws and lacks viability in the nation today. When all arguments are considered, the conclusion that this author has come to is that the Electoral College should be abolished in favor of a system of direct election.

The historical origins of the Electoral College and the current debates over the institution are discussed within this paper. To provide a proper background from which to begin elaborating upon the Electoral College debate, the United States electoral system will be discussed, looking first at the overall system and second at the presidential election in particular. To properly place the Electoral College in context, the Constitutional Convention and *The Federalist* papers will be examined. Then, the Electoral College debates will be presented, first looking at the support for the institution, then at the arguments against it. The final section of the paper includes the author's thoughts on the Electoral College and a proposal for reform.

The United States Electoral System

The United States uses a version of the First Past the Post, or winner-take-all, system in a presidential government. The members of the Senate are elected on a statewide basis while elections for the House of Representatives use single member districts. The voters are able to cast one vote for each office holder to be elected. The candidate with the most votes wins the office. When the election is competitive, it is possible that neither candidate will receive the majority of the votes, thus the candidate with the plurality of the votes wins the office. The only notable exception to this rule in Federal elections is that the presidential candidates must receive a majority of votes in the Electoral College in order to win.¹

The most prominent aspect of the United States electoral system is the two-party system. A consequence of single member districts and winner-take-all voting, the two-party system has been an accepted part of the electoral system. The competition between the Democratic and Republican parties has existed for almost 140 years. Because elections in the winner-take-all system aggregate the majority or plurality, it has been one of the key factors leading to the

¹ Joseph E. Cantor, Kevin J. Coleman, and Thomas H. Neale, "The Election Process in the United States," in *Electoral College and Presidential Elections*, ed. Alexandra Kura, (Huntington: Nova Science Publishers, Inc., 2001), 36-37.

dominance of the two-party system in the nation. Additionally, the single member district and lack of proportional representation tend to act as deterrents to the development of competitive third parties or a multi-party system.²

Not only has the single member district and winner-take-all system contributed to the use of the two-party system in the United States, the nature of the parties themselves have led to their acceptance. The parties in the American system tend to include many coalitions of wide-ranging political beliefs. This inclusive nature of the parties has contributed to their status. Additionally, the parties have proved particularly talented at incorporating the most popular elements of minority party platforms into their own platforms. They are able, in this way, to maintain a broad appeal to the people. Finally, the two-party system has become institutionalized in state and local politics, especially as many states have legal requirements for the electoral process that favors the two-party system, discouraging the creation of minority parties.³

The Influence of Federalism

Not only does the United States electoral system refer to local and state elections, it incorporates federalism into its works. Federal officials, representatives, senators, electors, the president, and vice president are federal offices that must be filled. The Constitution makes the bare minimum in terms of provisions for the elections of federal officials. Members of the House of Representatives are allotted to the states according to the population of the states with the guarantee that all states will have at least one representative. Every ten years, the seats in the House are reallocated to reflect the changes in population. The House membership has been

² *Ibid*, 37-38.

³ *Ibid*, 52-53.

limited to 435 members, so the reallocation only determines if the state is going to lose, gain, or keep representation.⁴

Each state has two duly elected members of the United States Senate; there are one hundred members in the Senate. Senators were originally elected by the legislatures of the states that they were from as was dictated by the Constitution; however, the 17th amendment changed their method of election. Senators are now chosen by direct popular election. Presidential electors, on the other hand, are chosen as the state legislature directs. Most often, this means that the voters mark a presidential candidate's name on the ballot, which then elects the electors who are promised to that candidate. These officials' only job is to vote for the president and the vice-president.⁵

The Presidential Election Process

The election of the President and the Vice President is a significant piece of the federalist system seen in the United States governmental structure and electoral system. A majority of electors in the Electoral College chooses the President and Vice President of the United States. If no majority is reached within the Electoral College, it falls to the House of Representatives to elect the next President while the Senate elects the Vice President.⁶ The presidential election process includes many stages, some of which occur before the Electoral College is involved.

Pre-Electoral College Stages

The pre-election process, national conventions, and primaries are not part of the Electoral College process, but are important parts of the Presidential electoral process. The pre-election process refers to the nomination of the presidential candidates. This phase involves determining if the public will support the candidacy of potential presidential nominees. The national party

⁴ *Ibid*, 39.

⁵ *Ibid*, 40-41.

⁶ *Ibid*, 41.

conventions stage refers to the time when potential nominees try to obtain support from likely delegates to the national party convention. The primaries refer to the direct popular vote by the people to select the nominee. The delegates to the national conventions are usually bound by the results of the primary.⁷

The Nomination of Presidential Electors

The Electoral College's job begins after the nomination of the presidential candidates by both parties. The first stage is the nomination of presidential electors. According to Article II, Section 1(2) of the United States Constitution,

“Each State shall appoint, in such manner as the legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed Elector.”⁸

The Constitution does not dictate how the electors should be appointed; therefore, each individual state has its own laws regarding their appointment. Thirty-seven states nominate electors by state party conventions, ten states nominate electors by a party committee, Florida's governor nominates electors based on state party committee recommendations, Arizona has a separate primary, Mississippi has a convention-primary system, and in Pennsylvania each party's presidential nominee appoints the electors.⁹

Election of the Presidential Electors

The election of the presidential electors is the next stage in the Electoral College process. The Constitution does not specify the way the state legislatures should appoint their electors. By 1865, every state appointed the electors using direct popular election by the citizens. However,

⁷ Robert M. Hardaway, *The Electoral College and the Constitution: The Case for Preserving Federalism* (Westport: Praeger Publishers, 1994), 41-45.

⁸ Clinton Rossiter, ed., *The Federalist Papers: Hamilton, Madison, Jay* (New York: Penguin Putnam, Inc., 2003), 549, 550.

⁹ Hardaway, 45.

each state has the power to change the method of selecting those electors if they so choose. Some restrictions to the power of the legislature to appoint the electors do exist, as can be seen in the court case *Williams vs. Rhodes*. In this case, the Ohio American Independent party and the Socialist Labor party fought against Ohio's process to be put on the ballot. According to the Supreme Court, the state had made it very difficult for a new political party with many members or even old parties with smaller numbers of members to be placed on the state ballot so that electors pledged to specific presidential and vice-presidential candidates could be chosen. Thus, the Supreme Court stated that the method of electing the electors could not be at odds with any other provisions of the Constitution, as it was in this case by abridging the Equal Protection Clause of the Constitution.¹⁰

The method most often preferred by the states is the "general ticket ballot" method. In this method, the electors are lumped together as one unit. Voters are only given the option of voting for the entire slate of electors for the party, or presidential candidate. The names of the electors are not listed; the entire slate is usually titled with the name of the presidential nominee. Many states have only the name of the presidential nominee, leaving off any reference to the fact that voters are voting for electors, not the presidential candidate. Thus, many people actually believe that they are voting for the president rather than the electors.

All but two states elect their electors on a statewide basis. The winner-take-all nature of this contest means that although a candidate may receive millions of popular votes, he or she will not receive a single Electoral College vote. Two states, Maine and Nebraska, elect their electors on a district basis, effectively reducing the winner-take-all consequences. Two of the electors are chosen on a statewide basis, to parallel the election process for senators, while the other two are elected within each district. Most states use the general ticket system because of the theory

¹⁰ *Ibid*, 45-47.

that that process influences the election more than the district system. The states can switch to any system they choose to determine their electors, however, once one state began to use the general ticket system, the others probably felt compelled to switch so as not to lose any of their state's influence over the election.¹¹

The final issue that deals with electing the electors concerns the qualifications of the electors. The Constitution only states that an elector must not be a Senator, Representative, or person holding an office of trust. The political parties add another important qualification to the list. They require their chosen electors, before the election, to pledge to cast their vote for their party's presidential nominee. Many states are also requiring this pledge; some states are even creating laws that treat the violation of the pledge as a crime. These restrictions are being instituted to reduce the problem of the faithless elector, an elector who has pledged to support one candidate, but actually votes for a different candidate.¹²

The Election of the President by the Electors

The next phase of the Electoral College process is the election of the president by electors. The Constitution, amendments to the Constitution, and the U. S. Code contain information regarding the specific actions that must be taken to elect the president. Article II, Section 2 of the Constitution, states that:

“The Electors shall meet in their respective States, and vote by ballot for two persons...The person having the greatest number of votes shall be President, if such number be a majority of the whole number of Electors appointed...”¹³

The “ballot” that the Constitution refers to is not a secret vote. In fact, elector's votes have not been secret since 1800. The Twelfth amendment, which further delineates the process, states that:

¹¹ *Ibid*, 48-49.

¹² *Ibid*, 49-50.

¹³ Rossiter, 550.

“The Electors shall meet in their respective states and vote by ballot for President and Vice-President...they shall name in their ballots the person voted for as President, and in distinct ballots the person voted as Vice President...”¹⁴

The United States Code, the codification by subject matter of the general and permanent laws of the United States, directs the electors to meet wherever the legislature determines on the first Monday after the second Wednesday in December to vote in Title 3. The electors must meet within their respective states on that same day and vote for the President and Vice President on separate ballots.

The Code further explains that lists of the votes cast must be made for both the President and Vice President and sent by registered mail to the president of the Senate, the secretary of state of their state, the archivist in Washington D.C., and the judge in the district where the electors were assembled. The United States Code also allows states to fill any vacancies that might occur on the day of the vote, although the substitutes may not understand the process (or that they need to vote for the candidate that the electors whose places they are filling were pledged for).¹⁵

Certification of the Electoral Slate

The next stage is the state certification of the electoral slate. Each state governor must certify the electoral votes from his state, according to the United States Code, Title 3, Section 6. The Governor is also given the power to determine which electoral slate has been elected if a dispute arises in the course of the electoral cycle. The United States Congress must accept the governor's certification, according to Title 3, section 15, as long as the electoral votes are “regularly given.” What this means is that Congress cannot argue with the state's presidential votes, despite the partisan interests of the representatives. This stage of the process was included

¹⁴ *Ibid*, 560.

¹⁵ Hardaway, 51-52.

after the 1876 presidential election, when Congress had to create a commission to validate the electoral returns from states that submitted two sets of returns. The certification by the state governor was added to limit the role of Congress in the states' business.

Transmission of the Certificates

The Twelfth amendment and the US Code direct that the certified votes must be transmitted to the president of the Senate. The twelfth amendment states:

“The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes then be counted; the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed...”¹⁶

The U.S. Code specifies that the Senate and House of Representatives are to meet on the sixth day of January following every meeting of the electors, at 1:00 p.m. with the president of the Senate as the presiding officer. Further instructions provided in Title 3 concern the specifics of the process, until finally the president of the Senate receives a tally of the electoral votes and he or she announces the results, declaring who will be President and Vice President.¹⁷

Counting of the Electoral Votes by Congress

After the president of the Senate has announced the results of the electoral vote tally, he or she must call for objections, in concordance with Title 3 of the U.S. Code. If objections exist, and are signed by at least one member of both the Senate and the House, then they must be entertained. The two houses of Congress would then consider the objections. If the houses determine that the electoral votes under consideration were not “regularly given,” they could reject the votes. When the two houses meet to consider the objections, each Senator or Representative can speak only once, for no more than five minutes. Additionally, if the

¹⁶ Rossiter, 560.

¹⁷ Hardaway, 54.

objections have not been cleared within five days of the first meeting, the houses must stay in constant session until they are.¹⁸

Referral of the Presidential Election to the House

According to the Twelfth Amendment, after the electoral vote is counted by Congress,

“...if no person have such a majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice.”¹⁹

If the Electoral College fails to produce a majority winner for the presidency, the House of Representatives will choose the President. The procedures for this process require that each state have one vote for the presidency, which is decided after a vote among the representatives from each respective state. The vote occurs among the newly elected House, which is sworn in at noon on the January 3 following the election. The electoral votes are presented to Congress on the January 6 following the election and the new President takes office on the 20th day of January following his election. This means that if a presidential election is referred to the House, the new House elects the president, not the lame duck Congress, an important consideration due to the large turnover in the House of Representatives in each election year.²⁰

Referral of the Vice Presidential Election to the Senate

The Electoral College not only votes for the President, it also votes for the Vice President. Thus, it is possible that no vice-presidential candidate will receive the majority of electoral votes. The Twelfth Amendment provides for such a case, saying that:

¹⁸ *Ibid.*

¹⁹ Rossiter, 560-561.

²⁰ Hardaway, 55-60.

“The person with the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.”²¹

In this case, the Senate is responsible for electing the Vice-President. The procedure is that two thirds of the Senators must vote in a contest between the two candidates who received the most Electoral College votes, and the winner would be the candidate with the majority.

Election of the President by the Automatic Succession Act

Section 3 of the Twentieth Amendment states that “If a President shall not have been chosen before the time fixed for the beginning of his term...the Vice-President elect shall act as President until a President shall have qualified.”²² Additionally, if neither a President or Vice-President have been elected, the amendment says that, “...Congress may by law...declaring who shall then act as President, or the manner in which one who is to act shall be selected.”²³

Congress enacted, in Title 3, Section 19 of the U.S. Code, a policy for such an occurrence.

According to the U.S. Code,

“If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a President nor Vice President to discharge the powers and duties of the office of President, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, act as President.”

The Code also discusses what would happen if the Speaker of the House did not qualify or rejected the office. In that instance, the President pro-tempore of the Senate would take the presidency.²⁴ These steps are part of the Automatic Succession Act, which is the final bastion of

²¹ Rossiter, 561.

²² *Ibid*, 564.

²³ *Ibid*, 565.

²⁴ “Sec. 19,” *U.S. Code*, (12 May 2004). <<http://www4.law.cornell.edu/uscode/3/19.html>>.

defense against the chaos of an unregulated chain of command. It is also the final stage of the Electoral College process.

The History behind the Adoption of the Electoral College

The United States gained its independence and created the Articles of Confederation to govern the new nation. Problems with this arrangement began almost immediately. The Articles of Confederation created a “league of friendship,” but each state retained its sovereignty and independence. The Confederation had no power to enforce its own laws, regulate commerce, or raise money through taxation. In fact, the only way that the Confederation could obtain money was to assess each state, however, the states often declined to pay. In this government, the president had no powers and his only job was to preside over the Congress. The weakness of the Confederation enabled the British to impose economic policies that were slowly strangling the economy of the United States. Additionally, if the Congress met, all decisions had to be unanimous. Thus, many issues were never discussed or resolved. If a state neglected to send delegates, Congress could not sit in session. This very weakness caused James Madison to call for a convention in Annapolis.²⁵

Only twelve delegates from five states came to the convention in August 1786. However, before the delegates left to return to their respective states Alexander Hamilton, a representative from New York, convinced his fellow delegates to agree to call for another convention. He found a phrase in the written instructions to the New Jersey delegates that authorized the negotiation of commercial matters and “other important matters.” Hamilton argued that the problems with the Confederation were more than simple matters of interstate commerce. He so completely aroused the sentiments of the delegates that the convention ended with a recommendation to have another convention to revise the Federal government to be responsive

²⁵ Hardaway, 70.

to the problems of the Confederation.²⁶ The Congress approved the call for the convention when seven states began selecting delegates. However, the Congress restricted the purpose of the convention solely to revising the Articles of Confederation, instead of accepting the open-endedness of the Annapolis convention's recommendation.²⁷

The Constitutional Convention was scheduled to begin on May 14; however, it was postponed until a quorum of delegates from seven states had arrived. The convention began with twenty-nine delegates. During this convention, the delegates from the states wrote a new Constitution, rather than revising the Articles of Confederation as the Congress had stated. The most important issue of the convention was determining how the large and small states would share power in the legislative and executive branches.²⁸ It was also during this convention that the federal system, which was a combination of the New Jersey and Virginia plans (plans for representation that supported either the large states or the small states more), was created by Madison.

The greatest achievement of the Constitutional Convention was the Great Compromise. This compromise had many parts; however, the key issue for the purpose of this paper is the "one state, one vote" principle. That all-important principle is found in the Senate, in the process for amending the Constitution, in the Electoral College, in the event of a House election of the President, and in the event of the election of the Vice President by the Senate.²⁹

One of the important considerations for the delegates at the convention concerned how the head of state, the chief executive, would be chosen. Many proposals were debated, one of which was direct popular election. However, when this system was proposed, only one delegate

²⁶ *Ibid*, 72.

²⁷ *Ibid*, 73.

²⁸ *Ibid*, 76-77.

²⁹ *Ibid*, 79.

voted in support of the plan. One of the chief objections was that the small states would not have any influence over the election. The debate over the various proposals for choosing the chief executive officer occurred only after the vote approving the equal representation of the states in the Senate. It seemed, therefore, that the “one state, one vote” principle must also be adhered to in the election of the executive. Thus, the possibilities considered in the convention were “narrowed to election by Congress (including the Senate where the small states had equal representation), election by the Senate alone, by the House voting by states, or by electors chosen according to the states’ representation in Congress.”³⁰

The decision was made to create the Electoral College, which consisted of electors from each state. The Electoral College was a compromise between the large and the small states because each state’s representation in the Electoral College was based on the total number of state representatives, including Senators. Thus, each state had an equal vote.³¹ Madison believed that the Electoral College allowed the citizens to vote for the president directly, although one step removed from the process, which was a strong argument in favor of the Constitution.³²

When the framers of the Constitution finished writing the document, they had to convince the states to ratify it. To achieve this end, James Madison, Alexander Hamilton, and John Jay wrote articles in *The Federalist*. Through the papers in *The Federalist*, these men effectively explained what each aspect of the Constitution meant, supporting their newly created system of government. This collection of papers contains only one essay fully concerned with the Electoral College; however, that one essay contains a wealth of information about the reasoning behind its implementation. In *Federalist* number 68, Alexander Hamilton stated that:

³⁰ *Ibid*, 81.

³¹ *Ibid*, 81-82.

³² *Ibid*, 86.

“It was equally desirable that the immediate election should be made by men most capable of analyzing the qualities adapted to the station and acting under circumstances favorable to deliberation...A small number of persons, selected by their fellow-citizens from the general mass, will be most likely to possess the information and discernment requisite to so complicated an investigation.”³³

This quote explained that the Electoral College was to be a deliberative body of representatives choosing the next President. The assumption that the public would not know the qualities needed for the presidency is also explicitly stated, explaining that citizens were ignorant of the necessary political knowledge to make a proper decision about the future president.

Hamilton further states that the evils of “tumult and disorder” must not be allowed to rear their ugly heads in the presidential election. The electors are to meet in their respective states to avoid the “heats and ferments” that might occur from a national gathering of electors.³⁴ That the electors would be apt to become aroused over the election of the president when they were together was considered a given among the framers. It is easy to see that the framers believed that the Electors might have difficulty reigning in their passions. This circumstance further explains that the framers did not believe the public would be able to vote well directly. If the framers thought that the Electors, who would be educated and capable of analyzing the qualifications of the candidates, could be so easily swayed by their own passions, they must have assumed that it would be even worse among the populace. The public could not be trusted to control their passions and the Electoral College was framed in such a way that it effectively controlled the passions of the Electors.

The Electoral College was also framed as an important part of federalism. Madison claimed in *Federalist* Number 45 that without the states, no part of the federal government could exist.

³³ Rossiter, 410.

³⁴ *Ibid*, 410-411.

“The state governments may be regarded as constituent and essential parts of the federal system... Without the intervention of the State legislatures; the President of the United States cannot be elected at all. They must in all cases have a great share in his appointment... The Senate will be elected absolutely and exclusively by the state legislatures. Even the House of Representatives, drawn immediately from the people, will be chosen very much under the influence of that class of men whose influence over the people obtains for themselves an election into the State legislatures. Thus, each of the principal branches of the federal government will owe its existence more or less to the favor of the State government...”³⁵

The debate between the Federalists and the anti-Federalists concerned the importance of the states in a federal government. This quote from James Madison explained to the states that the state legislatures would have a very powerful role in the election of Congress and the President. Madison also said that the legislature, not the people, would be responsible for the election of the representatives. Even though the House of Representatives was to be chosen through direct popular election, the legislature would exert a large influence over the citizenry when they cast their vote. Thus, the citizens’ state representatives would control all the political decisions that the people had to make, including the vote for their federal representatives. Therefore, after looking at the Constitutional Convention and the papers from *The Federalist*, one can see that the story behind the Electoral College is not only one of compromise between the large and small states. The institution was also created due to the fear that an uninformed majority of citizens would not be able to adequately analyze the merits of the men running for the position of the chief executive of the United States.

The Electoral College Debate

To provide a good overview of the debate, the views of three scholars are discussed for both the pro and con sides.

³⁵ *Ibid*, 287-288.

Pro: In Support of the Electoral College

The supporters of the Electoral College fear the loss of the Federal principle in presidential elections. The principle upholds the two-party system, which provides national stability and clear-cut winners, while allowing minorities to influence the outcome. Further, without the constraining factor of the magnifier effect, elections would not only fail to produce clear winners; they would induce a rash of runoff elections and cause candidates to question their loss of the election. The electoral process for the president would no longer be as orderly as it had been throughout history. If the Electoral College were reformed or abolished, the very legitimacy of the national government would be questioned.

Robert Hardaway, a professor of law at the University of Denver, supports the Electoral College because it is an integral part of the Federal system. Hardaway argues that although many different plans for reforming the Electoral College have been proposed since the Constitutional Convention of 1787, if implemented, these systems would be the end of federalism and the constitutional compact, the end of the two-party system, and would result in presidential elections without a clear winner. The Electoral College, he says, has worked well since its inception and the only problems that it has are potentialities. Thus, he suggests that although the Electoral College might need to be reformed, it should not be abolished.³⁶

Hardaway further argues that the Electoral College "...has functioned far more successfully than was ever envisioned by the constitutional framers..."³⁷ The institution has done its job, consistently producing definite winners. Although the Electoral College has not always functioned perfectly, the idea that the people would clamor for reform and a governmental crisis would ensue if the popular winner of the election did not win the most

³⁶ Hardaway, 163-164.

³⁷ *Ibid*, 5.

electoral votes is preposterous to Hardaway. Following the election of 1888, when the president elected was not the popular vote winner, no crisis over the legitimacy of the President occurred. Thus, the threat of a “wrong president” is not as important as critics of the institution believe, especially when all the candidates are equally well qualified.³⁸

More importantly, according to Hardaway, is the threat to the legitimacy and authority of the United States government. The Electoral College is one of the key institutions written into the Constitution. The Constitution itself is a compact between the states, whereby they gave some of their sovereignty away to become a nation, an act they had not attained under the Articles of Confederation. If one part of this compact is changed, the nature of the whole Constitution, and thus, the government of the United States, changes. The critics of the Electoral College call for the abolition of a process that is an integral part of the federalist system and of the government. They could wreak havoc with any change to this all-important compact if they do not take into consideration all the possible ramifications of that change.³⁹ Hardaway claims that the Electoral College has done its job, worked as it was supposed to work throughout the history of the United States. The reform or abolition of the institution could threaten the legitimacy of the government. Thus, he argues that the Electoral College should be left alone, except for some minor reforms that would not change the spirit of the institution.

Walter Berns, a Resident Scholar with the American Enterprise Institute (a think tank about economics, politics, and social policy), also supports the Electoral College. Berns asks, “Have we reached the point where the Constitution, alone, is incapable of lending legitimacy to an office?”⁴⁰ Responding to critiques of the Electoral College, Berns argues that the democratic principles of the United States are upheld using this institution. First, he argues that the

³⁸ *Ibid*, 9.

³⁹ *Ibid*, 8-9.

⁴⁰ Walter Berns, “Should the Current Electoral College System Be Preserved?” *Congressional Digest* 80 (2001): 16.

importance of minorities is respected because they have more weight in the states, than they would have in a purely national election. Second, a principle tenet of American democracy is that “government is instituted to secure the rights of all.”⁴¹ The Founders devised institutions to modify or constrain the majority principle because they recognized that the majority could trample over the minority. Further, Berns claims that the principle of majority rule is not the organizing principle of other aspects of the government, like the Senate or federal judges, and that the legitimacy of the government does *not* rest on the one man, one vote principle.⁴²

Berns also claims that the abolition of the Electoral College for the direct popular vote of the President would result in the emergence of many third parties and multiple presidential candidates. Instead of having definite winners, runoff elections would regularly occur, a process that might lead to rampant corruption. Critics of the Electoral College, who tend only to look at the institution in terms of inputs, prefer the direct election proposal, but the Founding Fathers created the institution looking at both inputs and outputs. Direct popular election could result in the election of a president without the necessary qualities to lead the nation.⁴³

Judith A. Best, a professor at the state University of New York, Cortland, agrees with Hardaway in the belief that the Electoral College is necessary because of the Federal principle. She says that, “The proposals to abolish the Electoral College are in fact proposals to abolish the Federal principle in presidential elections.”⁴⁴ She explains that in addition to the Federal principle’s integral role in the government, it is also a national consensus-building device. In presidential elections, candidates cannot win without winning states in different regions of the nation. The presidents who win elections can govern because of this broad national support. If

⁴¹ *Ibid*, 18.

⁴² *Ibid*.

⁴³ *Ibid*, 20.

⁴⁴ Judith A. Best, “Should the Current Electoral College System Be Preserved?” *Congressional Digest* 80 (2001): 20.

the Electoral College were abolished, the president would no longer be required to have consensus-building skills, a necessary quality when the goal of politics is harmony between the majority and minority.⁴⁵

Like Berns, Best believes that in a system like direct popular election, minorities would no longer be an integral part of the process. The Founding Fathers created mechanisms to include the minority in the decision making process, an act that causes the minority consent to majority rule, which is the purpose of the Senate's equal state representation. Furthermore, she argues that the state-based election system balances national and local interests; the national interest must be constrained so as not to harm minorities. Tyranny of the majority is possible and the Founding Fathers implemented these checks over the election process to see that the tyranny did not occur.⁴⁶

Best also argues against reforming the presidential election process, like Berns and Hardaway; however, she frames the argument in terms of national stability. She explains that the current system has been successful in providing presidents who can govern and make swift, sure decisions, reducing fraud, and institutionalizing a two-party system that has provided national stability. Without the magnifier effect of the Electoral College, contingency elections would become ever more prevalent in a nation that has yet to participate in a federal runoff election.⁴⁷ A direct popular election would not have the magnifier effect and could lead to second chance psychology. Best describes second chance psychology as the idea that voters will have a second chance to vote for *their* candidate in a runoff election. These circumstances would lead to many contested election results, requiring recounts to determine if any candidate actually reached the

⁴⁵ *Ibid*, 20, 22.

⁴⁶ *Ibid*, 22.

⁴⁷ *Ibid*, 24.

minimum percentage to win the election. The result of an election system like this would be lengthier election processes, fewer clear-cut winners, and a less stable political system.⁴⁸

The proposed reforms to the system would deform the Constitution according to Best. Additionally, she worries that if the Federal principle is illegitimate in presidential elections that it could be found illegitimate in Senate and House elections. “The Federal principle is an alloy. It not only makes us strong as a Nation, it also allows us to be diverse and flexible, to experiment. It thereby increases our freedom without destroying our national unity.” Best sees the Electoral College as an essential component of the Federal system of government that the United States uses. Abolishing or reforming that institution could lead to a slippery slope, in terms of the Federal principle. Removing it from one branch of the government could lead to calls for its removal from the other branches, an act that would be dangerous to the stability of the nation.⁴⁹

Con: Opponents of the Electoral College

Those in favor of the abolition or reformation of the Electoral College argue that a “minority president” might be elected, faithless electors can be a problem, and that the Electoral College disenfranchises the minority voters. Additionally, the specter of an election thrown to the House and the Senate haunts their worst-case scenarios. Further arguments explain that the historical reasoning was sound for the 18th century, but not for today and that larger and swing states exert a greater influence over the electoral decision than the other states. These concerns have caused more proposed amendments to the Constitution than has any other subject.⁵⁰

Thomas M. Durbin argues that the reform of the Electoral College is needed. The institution is the result of 18th century political philosophy and was a compromise by the

⁴⁸ *Ibid*, 26.

⁴⁹ *Ibid*, 28.

⁵⁰ Richard Durbin, 19.

delegates to the Constitutional Convention. Nevertheless, hundreds of proposals for reform to the institution have been introduced since its inception.

If a popular independent or third party candidate enters the presidential race, splitting the Electoral College votes across the states, it would send the presidential election to the House of Representatives and the vice-presidential vote to the Senate. Even if only two candidates run in the presidential election, it is possible for neither candidate to receive a majority of Electoral College votes. The possibility of an Electoral College winner and a popular vote loser, or minority president, is hazardous in today's society. This particular scenario has only occurred three times, in 1824 with John Quincy Adams, 1876 with Rutherford B. Hayes, and in 1888 with Benjamin Harrison. Durbin believes that public resentment, outcry, and a demand for reform would occur if this scenario came true, as throwing an election to Congress takes the vote farther away from the people. Additionally, if an election were thrown into the various houses of Congress, citizens in the District of Columbia, which has three electors, would be disenfranchised, as the district has no voting Representatives and no Senators.⁵¹

Durbin also claims that a problem with the Electoral College is that it provides small states with an advantage. The institution is based on the number of representatives a state has in Congress, so that no matter how small a state is; it has at least three electoral votes. The citizens in small states exert more influence over their electors than do the citizens of larger states, although the larger states tend to have more influence in a presidential election due to their number of electoral votes.

Durbin finds one last flaw with the Electoral College and that is that presidential electors can vote for whomever they wish when the time comes. Some states try to abridge this

⁵¹ Thomas M. Durbin, "The Electoral College Method of Electing the President and Vice President and Proposals for Reform," in *Electoral College and Presidential Elections*, ed. Alexandra Kura, (Huntington: Nova Science Publishers, Inc., 2001), 13.

constitutionally protected right through laws, but most require only a pledge that the elector will vote for a certain candidate. Additional restrictions occur when some state political parties require electors to pledge their vote. However, electors have the constitutionally protected right to vote for whom they will, not necessarily for the popular vote winner. Since 1948, seven electors have voted differently than their fellows. Thus, the problem of the faithless elector is one of the key critiques of the Electoral College.⁵² The many problems with the Electoral College cause Durbin to call for its reform.

Supporting a system of direct election, Senator Richard J. Durbin of Illinois claims, “The Electoral College is an antiquated institution that has outlived its purpose.”⁵³ The Electoral College was created only after much contentious debate in 1787. Most of the convention’s delegates agreed that the people should not be able to directly vote for president, that matters of such importance should not be left up to the citizenry. Furthermore, the delegates were concerned that citizens living far away from Washington, D.C. would not have enough information to make an educated vote. However, the 17th amendment changed the method of election for Senators from a vote by the legislature to a direct vote by the people. According to Durbin, the nation has suffered no ill from this decision, so the direct election of the president should be considered a viable option. Moreover, the concern about the lack of information for citizens is no longer relevant. The advances in communications technologies clearly enable voters to gather as much information as they need to make a good decision.⁵⁴

Durbin further argues that although the small states have a slight advantage in terms of influence per elector, they are more disadvantaged than the larger states. Presidential campaigns

⁵² *Ibid*, 14-18.

⁵³ Richard J. Durbin, “Should the Current Electoral College System Be Preserved?” *Congressional Digest* 80 (2001): 17.

⁵⁴ *Ibid*, 17, 19.

are focused toward the states with a moderate or large number of Electoral College votes because the candidates need those states to win. Thus, the less populous states are ignored alongside the states that have majority support for either of the candidates.⁵⁵ The Electoral College is flawed in that it distorts the political process. A limited number of states are given more influence in the process because they are swing states or larger states. The presidential candidates pour their resources into these states while the rest of the states are virtually ignored. This means that only a few votes in a few states exert a large amount of power. The essential question here is why a vote in one state, like Florida, should be worth more than a vote in another, like Wyoming.⁵⁶

One of the largest problems with the Electoral College is that it disenfranchises voters. According to Durbin, when the winner-take-all system is used, those citizens who voted for the losing candidate have been effectively discounted from the electoral process. The electors vote only for the majority winner, even if it is a win of 50.01%. These votes are not lost; they are taken away and added to the majority. Essentially, the minority's vote is given to the candidate to whom they are opposed.⁵⁷

Agreeing with Thomas Durbin in that the threat of a minority president is another problem with the Electoral College, Richard Durbin argues that this circumstance could lead to the lack of a popular mandate to govern. Without the mandate to govern, the president would not be able to effectively lead the nation.⁵⁸ Furthermore, Durbin says that:

“It seems strange to me that we rely on a popular vote for virtually every other election in America but not the presidential election. If we have a disparity between the popular vote for President and the electoral vote for President, if we have someone elected President who does not receive a majority of the votes of the America people, it will create a problem for the administration. It is tough enough to lead in this great Nation, tough enough for a President to muster

⁵⁵ *Ibid*, 19.

⁵⁶ *Ibid*, 23.

⁵⁷ *Ibid*, 19, 21.

⁵⁸ *Ibid*, 21, 23.

popular support for difficult decisions to be made. But if that President does not bring a mandate from the people to the office, his power will be diminished.”⁵⁹

With all these problems, Durbin sees no choice but to reform the process by calling for direct election.

Akhil Amar, a professor at Yale School of Law, also believes that the flaws of the Electoral College are too big to ignore. The flaws must be dealt with before they become urgent, just as faulty air bags in cars must be fixed before the driver gets into an accident.⁶⁰ Amar believes that the Electoral College was an institution brilliant for its time. It solved many problems from the 18th century. The problem with the institution is that as the 21st century continues, the nation faces different problems.⁶¹ The Electoral College cannot answer many of these new problems.

Moreover, Amar points out that the Electoral College has been modified in the past. Five amendments of the fifteen ratified amendments to the Constitution have adjusted the original Electoral College. Four other amendments have also modified the system by adjusting the right to vote in federal elections to different populations within the nation. These amendments gave suffrage to blacks, women, and young adults, gave Washington, D.C. votes in the Electoral College, and helped political parties remain in the presidential election process.

Amar also questions the relevancy of the logic that created the Electoral College during the Constitutional Convention. The Framers rejected a president that was dependent upon the legislature, so the parliamentary model of government was out. One delegate proposed direct popular election, but it was determined to have too many flaws. One flaw the delegates saw was the possibility that a popular candidate could lead to a dictatorship. Another flaw was that it

⁵⁹ *Ibid*, 25.

⁶⁰ Akhil Amar, “Should the Current Electoral College System Be Preserved?” *Congressional Digest* 80 (2001): 27.

⁶¹ *Ibid*, 25.

would upset the balance of power among the states. Upon looking at these questions, Amar determined that these arguments are no longer relevant. Amar discounts the idea that a dictatorship is possible, arguing that the rise of political parties enabled direct elections, which protect against that scenario. Regarding the worry the Founders had concerning direct elections, Amar argues that the states do not have a large role in choosing electors, as it is done in direct popular elections.⁶²

Only two arguments against the abolition of the Electoral College are sound, according to Amar, the federalism argument and the argument about inertia. The federalism argument explains why the Electoral College is used to elect the president but not the governors, but Amar questions its validity in modern America, as he believes that the idea that the national government might administer a national election is not as frightening today as it was to the Founding Fathers. Furthermore, thin popular vote majorities could cause recounts, as it has with the thin margins of some Electoral College votes; however, states have managed recounts for some time.

The inertial argument refers to the idea that it is hard to foresee the effects the changes to the presidential process would create. Supporters of the Electoral College fear that without its calming influence, candidates will not care about winning states, only votes. However, it is difficult for Amar to believe that the strategy for winning should change very dramatically when the popular vote leader tends to be the Electoral College leader. The second part of the inertial argument is that a "wrong president" has not been elected in this century. This causes supporters ask why they should change the system. Amar answers with the response, "One day, we will end up with a clear loser President – clear beyond any quibbles about uncertain ballots. And the

⁶² *Ibid*, 27.

question is, will this loser/winner be seen as legitimate at home and abroad?"⁶³ Thus, Amar supports amending the Constitution before the minority presidency appears.

Thoughts on the Electoral College Debate

The writers of the *Federalist* papers proposed a scheme that allowed a space for reflection and deliberation in the election of the President. They also believed that the system should allow those making such an important decision to have the proper amount of information to be able to do that task. Although this author finds the Electoral College to be misguided, there is something worthwhile about the principles that were supposed to be imbued within the process. The critique of the Electoral College provided by this author is completed with this same spirit. After obtaining the proper information and creating a space for reflection and deliberation, this author feels qualified to make conclusions concerning the presidential electoral process.

In *Federalist* 68, Alexander Hamilton assumes that the vast majority of the United States citizens were incapable of analyzing the qualities of presidential candidates. During Hamilton's time, this assumption was probably correct; however, the people are much more educated today. This education enables citizens to properly choose a president. Citizens know how to find the information they need to make that decision. Furthermore, the deliberative body of representatives, the Electoral College, pledges their votes to the majority winner of their respective states. This shows that the people are already making this decision, analyzing the qualities of presidential candidates. Whether citizens use cues like party ties, issue positions, or

⁶³ *Ibid*, 29.

character traits, the people are already using a process to gather the information needed to complete the task.⁶⁴

Although some citizens may be ill informed, the majority have the tools to make the decision. Many of the citizens who do not obtain the proper information or do not have the skills to determine through deliberate reflection and analysis who should be the President are apathetic and fail to vote. The citizens who vote tend to be those with more education.⁶⁵ Do all the people who vote have the abilities and information necessary to elect the President? Of course not, but most of the citizens who vote are now capable of choosing the next President. Because the citizens already know how to gather the necessary information and use a system of reflection and deliberation in making their decision to guide the Electoral College, the principles the Founding Fathers supported would be in existence even if the Electoral College were abolished.

Federalist 45 discusses the importance of the states within the Federal system. The Electoral College was based upon the number of representatives each state had in Congress. In the early United States, the states were the most important part of the nation. However, it is this author's opinion that the link between citizens and the states is weakening. Jobs and people are increasingly more mobile, often moving from one state to another.⁶⁶ It seems that the national affiliation has grown stronger as state ties have weakened. If the state affiliation of citizens is weak, how can state electors actually be representing the citizens to any real degree? The fluidity of the nation calls into question the relevancy of the Federal principle in the presidential election. The presidency is a national position; the people should choose that particular

⁶⁴ Russell K. Dalton, "Citizen Politics: Public Opinion and Political Parties in Advanced Industrial Democracies." (Washington D.C.: CQ Press, 2002).

⁶⁵ *Ibid.*

⁶⁶ U.S. Census Bureau, "People on the Move: Geographical Mobility 1998-1999," *Population Profile of the United States*, 1999, (26 April 2004). <<http://www.census.gov/population/pop-profile/1999/chap03.pdf>>.

officeholder directly. It is not for the states, their legislatures and governors, to make that decision, especially because the office of the presidency has taken on more power than the Founders probably intended. The people of the United States look to the President to right the wrongs in the nation although Congress was created for that purpose. The President is considered the key player of the United States' governmental structure, and as the nation has grown, he has gained more power. A system that adequately represents the people should be used to choose the office that holds "the most powerful man in the world." The states no longer seem so important to the office of the President, rather the President should be the direct representative of the people.

That the Electoral College upholds the Federal principle in presidential elections is true. However, it is just as true that the Federal principle would be retained by the government as a whole if removed from the presidential election process. Some states will think that they are losing the only influence over the process they have if the Electoral College is abolished; that is not the case. As it stands, some states have more influence than others in terms of presidential campaigns, but the only time that states have more procedural influence is when the election is thrown to the House or Senate, something that has not occurred since the early 19th century. Thus, the states do not gain any more influence from the Electoral College than the happenstance of presidential campaign strategy.

The Electoral College was supposed to temper the tyranny of the majority; however, it does not seem to resolve that problem, as the states with the greatest populations are the most influential in the election. With direct popular election, the campaign strategy of the presidential candidates might have to change. A possible change would be a shift to campaigning in regions rather than campaigning only in swing states. Another change could be that the candidates

would use national television campaigns. On the other hand, a switch to direct popular elections could diminish the already miniscule influence of the small states over the election. However, this would be such a small shift that this author cannot think that it is really an issue. Would the shift to direct popular elections temper the majority any more than the Electoral College? It is not likely; but this electoral system would at least cause the presidential candidates to acknowledge that they are running for a national office, not an office based only upon the votes from the large states and the battleground states.

One problem with the Electoral College is not so much a practical problem as a moral dilemma. The problem of the faithless elector is that there is a disconnect between the will of the people and their elected representatives. When an elector breaks his pledge to vote for a certain candidate, he is misusing the trust of the people. How can we say that a system incapable of punishing oath breakers is the best system for usage to elect such an important personage as the President? By using this system, the government is effectively telling the citizens that they are not capable of properly deciding whom the President should be and that even if the electors break their oath, that act is not as dangerous to the nation as having the people make their own decision. This author would argue that having elected representatives who fail to follow through on their promises is much more dangerous to a nation that uses a representative democracy as its form of government.

The “wrong-president” syndrome is another substantial problem with the Electoral College. The supporters of the Electoral College look to the election of 1888, when a candidate won the Electoral College votes but not the popular vote, to argue that it would not be a problem. However, today, with the increased power of the presidency, the alertness of the media, and the protest-happy populace, there is no question that a “wrong president” would cause an uproar.

Furthermore, if this scenario occurred, the mandate to govern, the very legitimacy of the government would be questioned, especially because the citizens of the United States may not understand that when they vote in November every four years that they are voting for electors rather than the President. In any case, if the Electoral College fails to produce a popular vote winner as president the pandemonium would be incredible.

Moreover, when an election is sent to Congress due to the lack of a majority winner, it serves to take the election further from the people of the nation, further delegitimizing the individual chosen as president. If the Electoral College elects a president who is not the popular vote winner, the will of the people is subverted. Although a candidate for the presidency may be competent and qualified for the office, if the people did not vote him into office, he cannot be considered the true figurehead of the United States. In a nation guided by the principle of “government of the people, by the people, and for the people,” if the people do not vote a president into office, how can that person have the mandate to govern?

One must also consider, when reflecting upon the Electoral College, that the institution has been changed as times have changed. The Constitution is a living document, its clauses and phrases take on new meaning as the United States grows older. Other institutions created from the document have also been changed as time has passed. The 17th amendment stated that Senators would be voted for by direct election rather than by the legislature. Why not change the presidential election to direct popular election? The abolition of the Electoral College would not necessarily mean the end of the two-party system either. The type of election as well as the political culture of the United States, which has institutionalized the two-party system, would serve as mechanisms to retain it in the presidential election system.

The inertial argument, which says that effects of the changes cannot be known so nothing should be changed, is not adequately logical. If nothing new is ever tried, nothing better can ever be found. The Founding Fathers created a new breed of democracy when they wrote the United States Constitution; they did not stop for fear of what its effects would be. It is smart to be cautious of change, but when the time for change has arrived all one can do is grasp the changes by the horns and hope for the best. As time passes, nations change. The United States is beyond the need for the Electoral College; therefore, the Constitution should be amended to abolish the institution.

The Electoral College was created in the 18th century to deal with problems from that same century. The United States is now in the 21st century and the current problems faced are very different. The principles that the Founders tried to embed in the presidential electoral process are valid in modern times, however, the process itself, the Electoral College, is no longer the proper way to elect the President of the United States.

A Proposal

What should take the place of the Electoral if it is abolished? This author has, after looking at the research, constructed a suggested presidential election system to replace the antiquated institution. First, a system of direct popular election, with the candidates needing at least 40 percent of the vote to win, would be implemented. These direct elections would utilize the Single Transferable Vote system, a system whereby the voters place numbers next to the presidential candidates on the ballot. This system effectively reduces the risk of requiring a run-off election for the presidency if the results are close. The detractors of direct popular election

argue that the process would enable many candidates and voters to call for recounts; however, with the Single Transferable Vote, there would still be a clear winner.⁶⁷

To explain how the Single Transferable Vote system works let us examine the following scenario. Four candidates are running for the office of President. During the election in November, candidate A receives 35% of the vote, candidate B receives 30%, candidate C receives 20%, and candidate D receives 15%. There is no clear winner, so the candidate with the lowest percentage of votes is dropped from the race. The people who voted for candidate D would not lose their vote, their second choice for president would be added to the remaining three candidates' percentages. This process would continue as many times as needed until a majority winner appeared. In our scenario, after candidate D is dropped from the ballot, 12% of the vote went to candidate B, while 3% went to candidate A. Thus, candidate B would win the presidency with 42%. This system of voting still produces a majority winner, probably reinforces the two-party system, and gives each vote a direct impact on the election.

The Single Transferable System of voting would require more work than the current electoral system, in terms of tallying the ballots to determine the winner. However, as part of this hypothetical electoral system, a network of computers used purely for federal elections would be created. These computers would not be connected to the internet, as that would be asking for trouble. They would only be connected to a federal government server, which would accept the results as soon as someone submitted his votes. The National Security Administration would add guarding the federal computer system to its agenda to ensure that no malicious individual or group could corrupt the election results. The use of computers would make tallying the votes much easier.

⁶⁷ Shaun Bowler and Todd Donovan, "Reforming the Republic: Democratic Institutions for the New America," (Upper Saddle River: Pearson/Prentice Hall, 2004).

Another part of this election process is that a media blackout would be in effect until the day following the election. The media currently has an inordinate amount of influence over the electoral process. As the results come in, the media broadcasts them, so that by the time the polls close on the Western seaboard, people may have given up on a candidate. However, a candidate can still win after the Eastern polls are closed. Thus, the media's influence should be curbed and the results of the election restricted from broadcast until all are tallied.

Finally, the day that people vote for President should be a federal holiday. This would enable those people who do not vote because they work or have other obligations, to vote. The media blackout and voting holiday would allow more time for deliberative reflection concerning the presidency. Furthermore, using the Single Transferable Vote and creating a federal voting holiday might cause turnout to increase, as the voters would know that their votes counted.

The reform of the presidential electoral process holds true to the ideals embedded in the *Federalist* papers in that they provide the time and space necessary for reflection and deliberation. Furthermore, these changes rid the electoral process of the problems of the Electoral College. Although these reforms do not lead to the same answers the Founding Fathers found, the proposed system would allow the citizens of the United States to continue using the system they have already devised to choose the presidential electors every November. Because they already have the skills necessary and know how to find the information, this system updates the process, eliminating a check that is no longer needed.

Conclusions

The Electoral College has spawned the most amendments for reform because it is flawed and no longer suited to the modern United States. Although its historical importance cannot be argued, the Electoral College should be abolished in favor of direct elections. To change the

Electoral College would require a Constitutional amendment; however, such an amendment will not pass due to the states' disputes over power. The likelihood of an amendment passing is not strong unless and until there is a legitimacy crisis caused by the election of a wrong president. The use of the Electoral College illustrates that the government does not trust the people of the United States. Thus, the debate about the Electoral College is not purely a question of how the president should be elected; it is a question of whether the people should be able to rule their own democratic nation. The people should be allowed to choose their own head of state, especially when they elect their other representatives. The United States *is* still a government of the people, by the people, and for the people, is it not?

Bibliography

- Amar, Akhil. "Should the Current Electoral College System Be Preserved?" *Congressional Digest* 80 (2001): 25, 27, 29.
- Berns, Walter. "Should the Current Electoral College System Be Preserved?" *Congressional Digest* 80 (2001): 16, 18, 20.
- Best, Judith A. "Should the Current Electoral College System Be Preserved?" *Congressional Digest* 80 (2001): 20, 22, 24, 26, 28.
- Bowler, Shaun and Todd Donovan. "Reforming the Republic: Democratic Institutions for the New America." Upper Saddle River: Pearson/Prentice Hall, 2004.
- Cantor, Joseph E., Kevin J. Coleman, and Thomas H. Neale. "The Election Process in the United States." In *Electoral College and Presidential Elections*, edited by Alexandra Kura, 34-104. Huntington: Nova Science Publishers, Inc., 2001.
- Dahl, Robert A. "On Democracy." New Haven: Yale University Press, 1998.
- Dalton, Russell K. "Citizen Politics: Public Opinion and Political Parties in Advanced Industrial Democracies." Washington D.C.: CQ Press, 2002.
- Durbin, Richard J. "Should the Current Electoral College System Be Preserved?" *Congressional Digest* 80 (2001): 17, 19, 21, 23, 25.
- Durbin, Thomas M. "The Electoral College Method of Electing the President and Vice President and Proposals for Reform." In *Electoral College and Presidential Elections*, edited by Alexandra Kura, 9-31. Huntington: Nova Science Publishers, Inc., 2001.
- Fishkin, James S. "The Voice of the People: Public Opinion and Democracy." New Haven: Yale University Press, 1995.
- Hardaway, Robert M. *The Electoral College and the Constitution: The Case for Preserving Federalism*. Westport: Praeger Publishers, 1994.
- Rossiter, Clinton, editor. *The Federalist Papers: Hamilton, Madison, Jay*. New York: Penguin Putnam, Inc., 2003.
- "Sec. 19." *U.S. Code*. <<http://www4.law.cornell.edu/uscode/3/19.html>>. (12 May 2004).
- U.S. Census Bureau. "People on the Move: Geographical Mobility 1998-1999." *Population Profile of the United States*. 1999. <<http://www.census.gov/population/pop-profile/1999/chap03.pdf>> (26 April 2004).

Wayne, Stephen J. "The Road to the White House 2004: The Politics of Presidential Elections."
Belmont: Wadsworth/Thomas Learning, 2004.