



Electoral Map 2004, US Presidential Election, jcalhoon84, 03 May 2006, flickr.

Taking Back the Constitution - Part 19 – Electing the President

Donald N. Anderson
17 March 2014

The electoral college

Our mode of electing the President of the United States is a bit strange. Many people believe the Electoral College is an obsolete part of the Constitution. They think we would be better off eliminating it and determining the winner based on the nationwide popular vote.

Other people are not even aware of the Electoral College and know only in the most general way that the President who is elected does not always reflect the popular vote.

Before we run off and kill the Electoral College, let's review how the Constitution specifies the President is to be elected. It was originally detailed in Article II, Section 1. [1] A four year term is specified and each state has a number of electors equal to the number of their representatives plus the senators. It also provides that the President (and vice-President) shall be at least 35 years old and natural born citizens.

Amendment XII [2] changed the rules so that the electors voted specifically for the President and Vice President rather than just voting for President with the highest vote getter becoming President and the runner-up the Vice President. It also said the votes would be counted by the Senate President in the presence of both House and Senate. It provided that if no candidate

received a majority, the House of Representatives would elect the President from the top three candidates and the Senate would elect the Vice President.

Amendment XX, Section 3 [3] provides for succession if the President just elected dies before inauguration.

Amendment XXII limits the President to two terms and XXIII gives the District of Columbia three Electoral votes.

In summary the procedure for electing the President (ignoring the special cases of his death or tie votes) is:

- 1) Each state selects a number of electors equal to the number of it's Senators plus Representatives. Thus, the seven smallest states and Washington D.C. get three electors and only four states have over 20. [4] There are a total of 538 electors in the Electoral College.
- 2) In all states but Maine and Nebraska the candidate with largest vote total gets all the state's electoral votes. [5]

Changing to a nationwide popular vote

Changing to a popular vote is favored by those who believe that "one-man-one-vote" is an overriding principle in a democratic country.

The 33 states with less than average population would lose power since the 102 electors assigned to states rather than congressional districts would disappear. The smallest population states like Delaware, Alaska, North and South Dakota, Vermont, and Wyoming would lose the most influence over who became president. The largest 17 states headed by California, Texas, New York and Florida would gain the most influence. The required three-fourths of the states to ratify such an amendment are just not there.

Other states are considering adopting a proposal that promises, by state law, to assign their state's electors to the winner of the national popular vote regardless of the popular vote in their state. Lawsuits would hit court immediately and it is doubtful the scheme would pass muster.

These "one-man-one-vote" purists ignore the founders' special provision to make election of the Senate indirect through the states and the election of the President indirect through the electors. Our founders feared democracy because it often violated individual's property rights and led to tyranny. They attempted to create a republic capable of acting to defend people without trampling on their individual rights. [6]

Another very pertinent objection to direct popular election is FRAUD.

Fraudulent voting, or ballot box stuffing, in very few localities can effect a close nationwide election. By indirect voting with the Electoral College fraud only affects the state in which the fraud occurred. A bunch of graveyard votes in one state does not give that state more power than it's already allocated electoral vote.

With a nationwide popular vote, a state would gain power with every expansion of its vote regardless of validity. What if a state gave two ballots to every voter. By doubling the number of votes, their opinion of who should be President would count for twice as much as the voters in other states. A popular vote scheme encourages dishonesty by the states because their voters benefit from weak election scrutiny. A state voter registration office can “forget” to purge their rolls of dead voters and slip the list of those who should be purged to their friends to be fraudulently voted.

Few states have sufficient resources to identify and remove illegal and obsolete registrations.

Before the 2012 election an election integrity group sent legal notices to 160 counties across the U.S. that had more voters on their rolls than actual live, eligible voters in their counties. The counties with potential fraud are spread across 19 states with 230 electoral votes. [7] No one knows if these gross over-registrations represent fraud, or just indicate dead, relocated voters, or felons remaining on the rolls. The Motor Voter Act has made the screening of voting applicants and the cleanup of the voter roles tedious to impossible. [8]

Now that the anti-minority laws are essentially dead in all states, it may be time to reemphasize the state control of election procedure and allow them to establish their own rules to prevent fraud.

Investigators in Florida compared a sample of jury excusal forms claiming non-citizenship to the voter registration rolls. In their small sample they found dozens of illegals who voted. A hard working reporter interviewed some of these folks, and one Naples lady did admit being an illegal – she had voted 6 times in the past 11 years. Others denied they had registered or voted, although their names and addresses matched the voter rolls. Non-citizen voting is a Federal felony. At one point Florida estimated they had 220,000 illegal voters.

The techniques for stealing an election are well known and may be in use in every state:

- 1) sign up illegal aliens to vote (always check the box saying you are a citizen),
- 2) request a permanent mail-in ballot (mailed to a different address),
- 3) sign up felons to vote (they overwhelmingly vote Democrat),
- 4) keep the dead on the voting rolls.

Mail-in voting for illegals in those states that permit it, often becomes a mass production fraud operation with many ballots going to the same address. [9]

Opposition to the Electoral College

Opposition to basing our Presidential elections on the Electoral College is rather an alliance of convenience like the Baptists and bootleggers of the prohibition controversy. In this case, the

“one-man-one-vote” idealists are the Baptists and the “election-stealing-operatives” are the bootleggers. Both benefit from a nationwide popular vote for president.

Our society cannot achieve the fraud-free elections that would make the “one-man-one-vote” national elections reasonable.

Only by isolating and localizing portions of the election can fraud be of limited impact. It can also reduce to scope of election audits and make it possible to detect the location at election-stealing-operatives do their dirty work.

Using the Electoral College

I am proposing in the amendment below an extension of the electoral college to isolate fraud within congressional districts to make investigation easier. It also makes such fraud less likely to tip a whole state’s Presidential vote.

This is an attempt not only to combat fraud but to retain the clear and definitive results possible with the electoral college.

Amendment _____

The voters of each congressional district shall elect one Presidential Elector who corresponds to the Candidate desired by greatest number of voters in that district.

That Elector shall vote with the other Presidential Electors from other congressional districts in that state for the two additional Electors who will represent the state.

If the vote for the statewide Presidential Electors is tied between two candidates, the two statewide Electors shall support different candidates; otherwise they shall vote as the majority of the Electors decide.

Voter qualifications shall be the responsibility of each state, except that each shall electronically publish a list of all their registered voters with names, addresses, birth date and birth city.

[1] Article II, Section 1;

“The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

“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 an Elector.”

(The 3rd paragraph contains the voting procedure for electors. It was replaced by Amendment XII).

“The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

“No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.”

[2] AMENDMENT XII

Passed by Congress December 9, 1803. Ratified June 15, 1804.

“The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; -- the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall 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; and if no person have such 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. (Sentence superseded by section 3 of the 20th amendment) The person having 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. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.”

[3] AMENDMENT XX, Section 3

“If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.”

[4] For the decade after the 2010 census the states and their electoral votes are:

<u>Electoral Votes</u>	<u># of states</u>	<u>States</u>
3	7 + DC	AK, DE, MT, ND, SD, VT, WY
4	5	HI, ID, ME, NH, RI
5	3	NE, NM, WV
6	6	AR, IA, KS, MS, NV, UT
7	3	CT, OK, OR
8	2	KY, LA
9	4	AL, CO, MN, SC
10	2	MD, WI
11	5	AZ, IN, MA, MO, TN
12	1	WA
13	1	VA
14	1	NJ

15	1	NC
16	2	GA, MI
18	1	OH
20	2	IL, PA
28	1	FL,
30	1	NY
38	1	TX
55	1	CA

[5] Maine (4 votes) and Nebraska (5 votes) can split their votes by congressional district. In practice this has happened only once. In 2008 Nebraska gave one electoral vote to Obama.

[6] Those rights predate the Constitution and the Declaration of Independence as expressed in the latter "... to which the Laws of Nature and of Nature's God entitle them,"

[7] <http://www.theblaze.com/stories/2012/08/06/election-integrity-watchdog-sends-notice-to-160-counties-it-says-have-more-registered-voters-than-are-actually-eligible-to-vote/>

[8] The national 1993 law known as The Motor Voter Act has been a failure in encouraging more voting, but still exists adding costs to the registration process, ballooning registration lists, and enabling much greater fraud:

<http://www.cato.org/publications/congressional-testimony/motor-voter-act-voter-fraud>. Some writes refer to the Motor Voter Act as a fraud-machine: <http://toprightnews.com/?p=1824>.

[9] Roger Hedgecock has a good summary of fraud techniques in "Stealing the Election of 2012" with special reference to California: <http://www.humanevents.com/2011/06/10/stealing-the-election-of-2012/>