

Some Facts About the Electoral College

I'll begin with a disclaimer: "I am not an expert in regards to the Electoral College, and do not pretend to be." So what you will read here are facts or some other persons' opinions. You make up your own mind how you interpret what is here. I have tried to keep things simple. The indented content is from other documents – so if you do not care to read that content this is a fairly short essay.

What is said in the U. S. Constitution

The use of the Electoral College is for the election of the President and the Vice President. The original wording meant:

- Each State has a total number of Electors equal to its number of Representatives in the House + 2 for its two Senators.)
- The State's Legislative body appointed the Electors in a manner they saw fit.
- The Electors met in their respective States (all the States met on the same day) and each individual voted for two (2) individuals for President, one of whom was not to be from that State.
- The Electors of each State then sent their State's list of names and the votes for each to the U. S. Senate President.
- The Senate President, in the presence of the House and Senate members, totaled the voting results. The individual with the most votes became the President and the individual with the second most votes became the vice President.
- If there was a tie for 1st or 2nd then the House of Representatives got involved in the choosing

The following is the actual language:

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 Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List 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 shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing 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. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

In 1804 the language was amended by the Twelfth amendment:

- The Electors now met in their respective States to vote for a President and a Vice President, a ballot for each.
 - At least one of the individuals for President and one individual for Vice President had to be from another State.
 - The Electors of each State then made a list of those for President and respective votes, and a list and respective votes for Vice President.
 - The Electors of each State then sent their respective two lists to the Senate President
 - The process then became similar as in the original process (Article II, Section 1.)
- The following is the actual language of the Twelfth Amendment:

Amendment XII

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. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in case of the death or other constitutional disability of the President. — 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.

Note:

In the original language (Article. II. Section 1.) there is no consideration of 'Party.' So when John Adams became the 2nd President (Thomas Pinckney was his VP running mate) his presidential opponent, Thomas Jefferson (Aaron Burr was his VP running mate) became Vice President. In the next election Jefferson became President and his VP running mate Aaron Burr became VP. But the circumstances surrounding that election prompted the Twelfth Amendment.

Even with the Twelfth Amendment the President could come from one Party and the VP from another. But if there was an Electoral tie for President and one party controlled the

house and there was also a tie for VP with the Senate controlled by the other Party then you could have a President from one Party and a VP from the other. (To an extent this is now precluded by the instructions the respective Parties give to their Electors. More on this in the next section.)

How Electors are Selected

The bottom line is that in leaving it to the State Legislative Bodies to determine how Electors are chosen the respective State's Legislative Bodies have deferred to the Political Parties by way of State Code (Law.) For example, Virginia's Code states its qualified voters choose their Electors. But how that choice is made is left to the Political Parties. The Political Parties have chosen to hold a convention at which the qualified voters who are approved to attend vote. (If you have been at such a convention then you realize how political the process is.) Consequently there is a full roster of Electors for each of the Political Parties who has a Presidential candidate. The Virginia Code provides for requiring the elected Electors to vote as the respective Party instructs. But even with that requirement each Elector can vote as they wish if they are so inclined.

The language of the Virginia code is as follows:

Electors for President and Vice President

[§ 24.2-202](#)

The qualified voters of the Commonwealth shall choose the Commonwealth's electors for President and Vice President of the United States at the general election in November 1996, and every fourth year thereafter. Each voter shall vote for a number of electors which equals the whole number of senators and representatives to which the Commonwealth at that time is entitled in the Congress of the United States.

(Code 1950, § 24-7; 1970, c. 462, § 24.1-8; 1993, c. 641.)

Convening of electors; filling vacancies; how electors required to vote

[§ 24.2-203](#)

The electors shall convene at the capitol building in the capital city of the Commonwealth at 12:00 noon on the first Monday after the second Wednesday in December following their election. Those electors present shall immediately fill, by ballot and by a plurality of votes, any vacancy due to death, failure or inability to attend, refusal to act, or other cause. When all electors are present, or the vacancies have been filled, they shall proceed to perform the duties required of such electors by the Constitution and laws of the United States.

Electors selected by the state convention of any political party as defined in § 24.2-101 shall be required to vote for the nominees of the national convention to which the state convention elects delegates. Electors named in any petition of qualified voters as provided in § 24.2-543 shall be required to vote for the persons named for President and for Vice President in the petition.

(Code 1950, §§ 24-8, 24-9, 24-290.6; 1962, c. 536; 1970, c. 462, §§ 24.1-9, 24.1-162; 1993, c. 641; 2001, c. 630.)

Why the Electoral College and Not a Popular Vote

How the President was to be chosen (elected) was a debated issue during the Philadelphia Convention. Perhaps Federalist Paper 68, which thought to have been written by Alexander Hamilton, provides the best insight for why an Electoral College was adopted. (Note: Hamilton was a strong supporter of the College and thought to be the proponent who caused it to be.) In Federalist Paper 68 Hamilton states:

- "It was desirable that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided." I.e., an Elector.
- "This end will be answered by committing the right of making it, not to any preestablished body, but to men chosen by the people for the special purpose, and at the particular conjuncture."
- "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, and to a judicious combination of all the reasons and inducements which were proper to govern their choice. 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 such complicated investigations."
- "It was also peculiarly desirable to afford as little opportunity as possible to tumult and disorder."

The content of the first three statements is almost universally interpreted by experts to mean the Framers did not trust that the general public was sufficiently well informed or intelligent to choose who would be President. The fourth statement was an effort to avoid the influence of the European Nations.

Additionally, in the Federalist No. 10, James Madison argued against "an interested and overbearing majority" and the "mischiefs of faction" in an electoral system. That is interpreted by the experts as meaning a popular-vote method was not trusted.

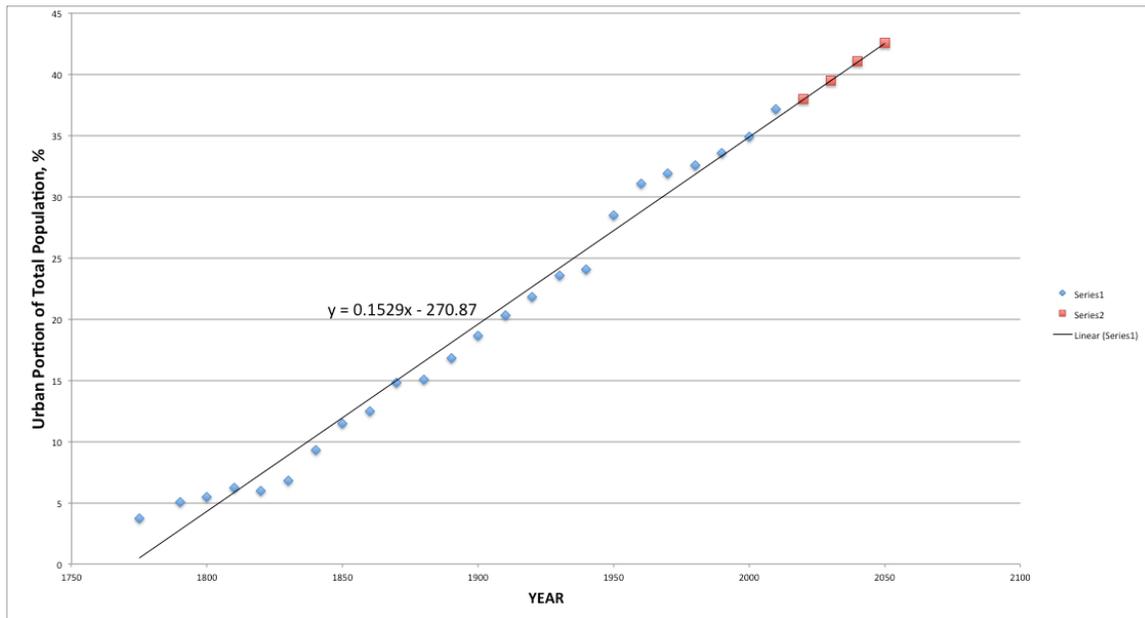
That each State's number of Electors was the sum of that State's number of members of the House of Representatives plus two for its two Senators was a compromise in an attempt to balance the voices of large and small population States.

A second reason a popular vote approach was discarded was because of the difficulty to get consensus on the proposal given the prevalence of slavery in the South. Madison stated this on July 19th, as is recorded in his Notes on the Philadelphia Convention.

Madison, in his August 28, 1823 letter to George Hay, expressed interest in an Amendment to the Constitution that said Electors would be selected by Congressional Districts and would vote accordingly as apposed to a Winner Take All. The concern was because in the 1820 Election about 10 of the 23 States were using a Winner-Take-all (Statewide) approach. Apparently the Framers never anticipated a State Wide approach. Madison believed that a State Wide approach violated the intended purpose of the Electoral College. (Today, all the States but Nebraska and Maine use Winner-Take-All.)

Did The Framers Take into Account the Influence of Large cities?

United States Census data provide the following graph.



In 1790 the portion of the total population living in the 20 major cities was 5.1 %. (In 1775 there were 4 major cities and they had 3.7 % of the total population. So in 1787 the percentage was somewhere between 4 and 5 percent.

Nothing I have read in Madison's notes on the Philadelphia Convention, the Federalist Papers, or private communication of the Framers mentioned a concern with the effect of city population on the final vote. As said earlier the Federalist Papers and Madison's Notes do indicate a concern for leaving the vote for President in the hands of the ordinary citizen, such as would be the case for a popular vote.

By 2010 the percent of the population living in the 20 largest cities was 37.2 %. The four red data points are projections based on a linear regression fit of the earlier data. By 2030 the city portion of the population is projected to be 39.5 %. I chose the year 2030 because recently a Pentagon Video projected that by that year 60 % of the world population will live in major cities. Apparently the Pentagon is concerned that such a large urban population will lead to societal instability and disruption. (Given what I see in recent news for the United States alone this may be a realistic concern.) I should add that there are plotted data that state if all cities are taken into consideration then in 2000 the percent of the U. S. population living in urban areas was 81 %. I have not seen the raw data or its basis for selection so it may or may not be correct. Moreover, the effect of small urban areas may or may not be different than that for large cities. (So bottom line: Yes, the larger the % living in large cities the more it seems the effect/sway of progressivism. This is the only opinion I will make in this paper – you make your own.)

What Effect Did Winner Take All have on Trump's Election?

As observed above, all but two (2) of the fifty (50) States and D.C. use a Winner-Take-All approach to the Electoral College. The two (2) exceptions are Maine and Nebraska.

To be elected requires 270 of the 538 Electoral Votes. Trump won with 306. If the vote distribution would have been by Congressional District and overall majority in a State in regards to the two Senators from each State then he would have had 290 Electoral votes. This would have been the result if George Hay's Amendment in 1823, with Madison's modification, had been passed.

Conclusion

I have mine. You make your own.