

# **THE ELECTORAL COLLEGE**

## **LECTURE OUTLINE**

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**Fall, 2020**

- I. Introduction: 2016 - Could It Happen Again?**
- II. The Constitutional Convention of 1787 considers how to choose a President**
  - A. First look in early June**
    - 1. Popular election of Executive rejected**
    - 2. Idea of using electors rejected**
    - 3. Tentative agreement: let Congress choose the Executive**
  - B. Second look in mid-July**
    - 1. Popular election rejected again (strongly)**
      - a. People are uninformed**
      - b. People are gullible**
      - c. Big states will dominate the process**
      - d. Negative impact on slave states**
    - 2. Idea of using electors rejected again**
    - 3. Many other options considered (and rejected)**
    - 4. Decision: stick with letting Congress choose the Executive**
  - C. Third (and final) look in early September**
    - 1. Committee on Postponed Parts redesigns the Presidency**
    - 2. Madison and Dickinson resurrect idea of using electors**
    - 3. Not much enthusiasm for this idea (everyone is tired)**
    - 4. Roger Sherman's modification satisfies everyone (i.e., let the House - not the Senate - resolve elections when electoral college does not produce a winner)**
- III. Framers' Intent?**
  - A. No pre-established intent to use electors**
  - B. Skepticism about the people's ability to choose wisely**
  - C. Using electors was a compromise**
  - D. Electors were expected to be better informed**
  - E. Geography and the states mattered**

**IV. The Final (Original) Design (Article II, section 1)**

- A. State legislatures (alone) determine method of selecting electors**
- B. Number of electors = 2 plus number of state's representatives in House**
- C. Restrictions on who can be an elector**
- D. Each elector voted for 2 candidates (one from out of state)**
- E. Person with majority of votes became President; runner-up became VP**
- F. House (voting as states) chooses winner if no one gets a majority of electoral votes**

**V. Problems Immediately Surface**

- A. Electors could not specify their top choice**
- B. Strange result in 1796 election (Jefferson was Adams' VP)**
- C. Complete mess in 1800**
- D. Leads to passage of 12<sup>th</sup> Amendment (now electors cast separate votes for P and VP)**

**VI. Evolution of the Electoral College**

- A. People can vote for electors in all 50 states**
- B. Most states adopt "winner take all" rules**
- C. Electors now tied to specific candidates**
- D. The faithless elector Supreme Court case (July, 2020)**

**VII. Arguments for Abolishing the Electoral College**

- A. It is undemocratic**
  - 1. Does not reflect the "voice of the people"**
  - 2. Violates "one person, one vote"**
  - 3. Goes against the arc of democracy**
- B. It suppresses voter participation**
- C. It could "lock up" if no one gets a majority of electoral votes AND House is unable to choose a winner**

**VIII. Arguments for Keeping the Electoral College**

- A. It stabilizes confidence in our system of government**
- B. It reduces chances (and scope) of any necessary recounts**
- C. It makes run-off elections unnecessary**
- D. It provides winners with a clear mandate to govern**

**E. It glues the country together**

**IX. What's More Important: Democracy or Federalism?**

**X. Routes to Change**

**A. Constitutional Amendment**

**B. States abandoning "winner take all" rules**

**C. The National Popular Vote Interstate Compact**

**D. A Gentleman's Agreement Using the 25<sup>th</sup> Amendment**