

A Case for the Electoral College

And why and how that case might fail.



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Debates about the Electoral College, like the one that Democrats have lately instigated, often get bogged down in disputes about the intentions of the founding generation — whether they were trying to check mob rule, prop up Southern power, preserve the power of small states, or simply come to a necessarily arbitrary constitutional compromise.

These disputes are historically interesting but somewhat practically irrelevant, because everyone agrees that the college doesn't work the way the founders expected. It doesn't allow wise electors to veto demagogic candidates, it doesn't throw most presidential elections to the House of Representatives — and as my colleague Nate Cohn pointed out last week, it doesn't always give extra influence to the smallest states. (Donald Trump won because he overperformed in big swing states, not because he cobbled together a coalition of small ones.)

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Instead the Electoral College really just does one big thing that a popular-vote system wouldn't do: It makes it possible for close elections to yield a president supported by a minority of voters, especially in circumstances where that minority is regionally concentrated rather than diffuse.

Is there a case for a system that sometimes produces undemocratic outcomes? I think so, on two grounds. First, it creates incentives for political parties and candidates to seek supermajorities rather than just playing for 50.1 percent, because the latter play is a losing one more often than in a popular-vote presidential system.

Second, it creates incentives for political parties to try to break regional blocs controlled by the opposition, rather than just maximizing turnout in their own areas, because you win the presidency consistently only as a party of multiple regions and you can crack a rival party's narrow majority by flipping a few states.

According to this — admittedly contrarian — theory, the fact that the Electoral College produces chaotic or undemocratic outcomes in moments of ideological or regional polarization is actually a helpful thing, insofar as it drives politicians and political hacks (by nature not the most creative types) to think bigger than regional blocs and 51 percent majorities.

Thus the electoral/popular split of 1888 pointed the way to William McKinley and Teddy Roosevelt's national Republican majorities, and the near-splits of 1968 and 1976 pushed us toward Reagan's nationwide landslides and Bill Clinton's successful center-left campaigns. Time and again a close election leads to hand-wringing about the need for Electoral College reform; time and again, politicians and parties respond to the college's incentives, and more capacious and unifying majorities are born.

Does this theory fit our current situation? In a sense, yes. Donald Trump could win the presidency without a popular-vote majority only because both parties have been locked into base-turnout strategies that are partially responsible for our government's ineffectiveness and gridlock. And to the extent that Hillary Clinton's campaign leaned into this polarization (writing off many constituencies that her husband competed for), she deserved her electoral-college loss.

Trump could also only win the presidency without a popular-vote majority because a large region of the country, the greater Rust Belt and Appalachia, had been neglected by both parties' policies over the preceding decades, leading to a slow-building social crisis that the national press only really noticed because of Trump's political success. In this sense, Clinton's weird post-election boast that *her* half of the country was way more economically dynamic indicated the advantages of a system where a declining region can punch above its popular-vote weight — because it makes it harder for a party associated with economic winners to simply write the losers off.

However: This defense of occasional countermajoritarian presidencies assumes that the political system will, over the medium-term, be responsive to the Electoral College's incentives — that parties will be capable of overcoming polarization and addressing specific regional grievances, that politicians will be capable of working toward Rooseveltian or Reaganesque majorities, that presidents who win with a popular-vote minority will either adapt and gain a majority the next time (as George W. Bush did) or lose like Benjamin Harrison and John Quincy Adams.

And neither political party has responded to 2016 the way my defense of the Electoral College predicts they should. A countermajoritarian outcome has not produced supermajoritarian ambitions. Instead of trying to expand its base, the Trump-era G.O.P. seems to be relying on the Electoral College to actively avoid any sustained outreach, while Trump's likely Democratic rivals seem to be taking Clinton's popular-

vote margin as a license to march leftward.

This points to a reality that the college's defenders need to recognize: If neither party can escape 50-50 politics, if polarization makes electoral/popular splits recur cycle after cycle, then the Electoral College's arguable virtues will no longer apply, and it will just be one more delegitimizer in a system shadowed by partisan disillusionment, one more potential catalyst for a true constitutional crackup.

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Getting Rid of the Electoral College Isn't Just About Trump

But does anyone really think popular vote losers make better presidents?



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At a CNN town hall in Jackson, Miss., on Monday night, Senator Elizabeth Warren of Massachusetts called for shutting down the Electoral College. “I believe we need a constitutional amendment that protects the right to vote for every American citizen and to make sure that vote gets counted,” she said.

Her suggestion brought a sharp response from Republicans.

“The desire to abolish the Electoral College is driven by the idea Democrats want rural America to go away politically,” Senator Lindsey Graham of South Carolina said on Twitter. His colleague Marco Rubio posted a similar note, calling the Electoral College a “work of genius” that “requires candidates for president to earn votes from various parts of country. And it makes sure interests of less populated areas aren’t ignored at the expense of densely populated areas.”

President Trump weighed in as well: “With the Popular Vote, you go to just the large States — the Cities would end up running the Country. Smaller States & the entire Midwest would end up losing all power — & we can’t let that happen. I used to like the idea of the Popular Vote, but now realize the Electoral College is far better for the U.S.A.”

It’s not hard to guess why Republicans are riled by Warren’s embrace of a national popular vote. Without the Electoral College, neither Trump nor his Republican predecessor George W. Bush would have won the White House on their first go-round. At the same time, these self-interested or party-specific arguments are part of a larger conversation.

In February, I wrote about the Electoral College, its origins and its problems. Whatever its potential merits, it is a plainly undemocratic institution. It undermines the principle of “one person, one vote,” affirmed in 1964 by the Supreme Court in *Reynolds v. Sims* — a key part of the civil and voting rights revolution of that decade. It produces recurring political crises. And it threatens to delegitimize the entire political system by creating larger and larger splits between who wins the public and who wins the states.

Many readers disagreed, making arguments similar to those used by the president and his allies. But those claims — that the Electoral College ensures rural representation, that its counter-majoritarian outcomes reflect the intentions of the framers and that it keeps large states from dominating small ones — don’t follow from the facts and are rooted more in folk civics than in how the system plays out in reality.

Take rural representation. If you conceive of rural America as a set of states, the Electoral College does give voters in Iowa or Montana or Wyoming a sizable say in the selection of the president. If you conceive of it as a population of voters, on the other hand, the picture is different. Roughly 60 million Americans live in rural counties, and they aren’t all concentrated in “rural” states. Millions live in large and midsize states like California, New York, Illinois, Alabama and South Carolina.



The polling station in Sherman Township, Iowa. Mark Makela for The New York Times

With a national popular vote for president, you could imagine a Republican campaign that links rural voters in California — where five million people live in rural counties — to those in New York, where roughly 1.4 million people live in rural counties. In other words, rural interests would be represented from coast to coast, as opposed to a system that only weights those who live in swing states.

Totaling the 2016 numbers, Sam Wang, a molecular biologist at Princeton who also runs a widely read election website, found that out of almost 400 campaign stops made after the conventions, neither Hillary Clinton nor Donald Trump made appearances in Arkansas, Oregon, Idaho, Wyoming, Montana, the Dakotas, Kansas, Oklahoma, Louisiana, Mississippi, New York, South Carolina, Tennessee, Kentucky, West Virginia or Vermont. It doesn't matter that Trump won millions of votes in New Jersey or that Hillary Clinton won millions in Texas. If your state is reliably red or blue, you are ignored.

By contrast, under a national popular vote, the margin of your loss within a state matters as much as the size of your win. Democrats would have reason to maximize their share of the vote in the Deep South, and Republicans would see the same incentive in the Northeast (and the West for that matter).

Still, you might argue, the Electoral College keeps large states from dominating small ones. If there were no such system, campaigns could win by focusing all their attention on the largest states. As a matter of math, that is unlikely. In 2016, New York, California, Texas and Florida cast about 35 million ballots, roughly a quarter of the total 137 million. Even if you somehow won every single one of those ballots, you'd still have to campaign elsewhere for tens of millions more votes, assuming a 50 percent threshold. Take the total of 2016 presidential votes in the 10 largest states, and you'd get only 71 million ballots, or about 52 percent of the vote.

In the incredible event that a candidate won every ballot cast in those states, then yes, under a national popular vote, he or she could ignore the rest of the country and become president. But that isn't politically possible. Even an attempt to "run up the score" and retreat to the largest cities isn't viable — there just aren't enough votes.

Compare that with what we have under the Electoral College, where hypothetically a bare majority in the 11 largest states is all it takes to win 270 electors and become president — an actual instance of big-state domination.

Beyond the numbers, it is a conceptual error to focus on states in a race for votes. Who wins Virginia has implications for down-ballot races for Congress, but it's just a curiosity in the fight for the White House. What would count are voters and communities, and candidates would have multiple avenues for building majority coalitions across state lines.

This gets to a larger point. As James Madison observed during the Constitutional Convention, the political interests of the states aren't actually tied to size. Instead, whether states share interests will depend on shared conditions and connections. Massachusetts and Tennessee have populations of similar size but little in common otherwise; Massachusetts and Connecticut, on the other hand, are linked by history and geography.

In modern politics, intrastate political differences are as important as interstate ones. Voters in Milwaukee may have more in common with voters in Richmond, Va., than they do with those in Superior in the northwest of the state. A national campaign would probably follow suit, with candidates looking for connections between regions, cities and metropolitan areas versus a singular focus on a few states.

It is true the founders feared "mob rule" and "pure democracy." But electing a president isn't the same as either. When Madison referred to "pure democracy" in Federalist No. 10, he meant direct governance by the people. "A society consisting of a small number of citizens, who assemble and administer the government in person." He contrasted this with representative democracy, or "republican" government. And while Madison agreed to an Electoral College, he also saw the merit of choosing a chief executive by popular election.

“The people at large,” he argued during the Constitutional Convention, “would be as likely as any that could be devised to produce an Executive Magistrate of distinguished Character. The people generally could only know & vote for some Citizen whose merits had rendered him an object of general attention & esteem.” His main reservation was slavery and how it made “the right of suffrage” more “diffusive in the Northern than the Southern States.”

Beyond issues of representation, there are other practical problems with the status quo. When margins between candidates are large, the Electoral College aligns with the national popular vote. But narrow margins throw it into chaos. The 1968 presidential election nearly went to the House of Representatives; in 1976, if you move roughly 6,000 ballots from Jimmy Carter in Ohio and roughly 18,000 in Wisconsin and Gerald Ford becomes president despite losing by nearly 1.7 million votes.

Indeed, the recurring prospect of a president elected with a minority of the vote inspired a major push to end the Electoral College beginning in the 1960s. In 1966, Senator Birch Bayh of Indiana — who died last week at 91 — introduced a constitutional amendment to elect the president by national popular vote. In 1968, Bayh spoke before a committee of Congress in support of his amendment. His words still resonate. In 1968, addressing a committee of Democrats in Indiana, Bayh urged fellow Democrats to support his proposal.

“We are living in a dangerous world where the stability of the United States of America is one of the most important things facing us,” he said. “When we have an Electoral College system which threatens to elect a man who has fewer votes than his opponent, we tend to erode the confidence in the people of this country and their president and in their form of government.”

James Michener, an author who served as a presidential elector in 1968, was even blunter. The Electoral College, he wrote, was a “time bomb lodged near the heart of the nation.”

It still is.

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