

From: *White House Studies*, Vol. 3, no. 3 (2003), pp. 261-273.

The Electoral College and the Framers' Distrust of Democracy

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May 2002

Abstract

In popular discourse and in the press it is often asserted or assumed that the main reason that the Framers adopted the electoral college was that they feared that if “the people” were allowed to elect the president that they might be swayed by demagogues. It is the contention of this article that such a distrust of democracy was *not* the primary motivating factor in the creation of the electoral college as a device for selecting the president. After a survey of some political science textbooks that say or imply that the electoral college was adopted because of the fear of democracy, we examine the deliberation of the Framers over the summer of 1787 to make the case that the main motivation for adoption of the electoral college was the need to remove selection from the legislature and at the same time to ensure that the less populous and slave-holding states could preserve the advantage they won through the Connecticut compromise.

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The electoral college provision for electing the president was, according to Alexander Hamilton, the least controversial provision of the Constitution. “The mode of appointment of the Chief Magistrate of the United States is almost the only part of the system, of any consequence, which has escaped without severe censure, or which has received the slightest mark of approbation from its opponents.” Yet by 1804 the 12th Amendment had been ratified, and over the next two centuries the electoral college was the focus of more proposals for constitutional amendment than any other part of the Constitution – more than 700 proposals. During the summer of 1787 the method for selecting the chief executive was the subject of more than thirty votes on twenty-one different days. According to James Wilson, the issue was “the most difficult of all on which we have had to decide.” This article will examine only one aspect of the Framers’ deliberations over the selection of the president: whether their distrust of democracy led them to reject a popular vote for president and to devise the electoral college.

In popular discourse and in the press it is often asserted or assumed that one of, if not the main reason that the Framers adopted the electoral college was that they feared that if “the people” were allowed to elect the president that they might be swayed by demagogues. Thus the dangers of too much democracy, or mob rule, led them to deny the selection of the president to the people directly and give it to electors. The logic seems to be that the Framers were distrustful of democracy, and thus they decided not to rely on the electoral college mechanism *because* of their fear of too much democracy.

It is the contention of this article that a distrust of democracy was *not* the primary motivating factor in the creation of the electoral college as a device for selecting the president when the Framers met in the summer of 1787. A few framers (Elbridge Gerry, Pierce Butler, Charles Pinckney) objected to election by the people because of the dangers of democracy. But more Framers (James Madison, James Wilson, Gouverneur Morris, John Dickinson, Daniel Carroll) favored election by the people. The primary impediment to popular election concerned the uneven distribution of population among the states and the counting of slaves for purposes of presidential election. The electoral college mechanism was chosen because it solved these problems in the political reality of the Convention.

We will first survey some American Government textbooks that say or imply that the electoral college was adopted because of the fear of democracy. We will then examine the deliberation of the Framers over the summer of 1787 to make the case that the main motivation for adoption of the electoral college was the need to remove selection from the legislature and at the same time to ensure that the less populous and slave-holding states could preserve the advantage they won through the Connecticut compromise.

Political Science Textbooks

Lacking space and having to simplify, most textbooks are forced to present a very abbreviated interpretation of the Framers' intent behind the electoral college. While brevity may be the root of misinterpretation, several of these textbooks lead us to believe that the principal explanatory reason for the creation of the electoral college was the Framers' distrust in the people. By mentioning this distrust as a primary reason for the adoption of the electoral college, these textbooks unintentionally foster an incomplete explanation of the origin of the electoral college. Below are several examples from textbooks that underscore a fear of democracy.

In *The Basics of American Politics*, the author writes, "The electoral college was created by the authors of the Constitution as another way of filtering what they feared might be the passions and prejudices of the mass of voters." In another textbook, *The Politics of American Government*, the authors write, "The framers believed that the general electorate would not make an informed, dispassionate, rational judgment...." In *The American Democracy*, the author writes, "The delegates believed that ordinary citizens, most of whom could neither read or write, were too poorly informed to choose wisely. More important, the framers feared that popular election could enable a tyrant to capture the presidency by appealing to the people's fears and prejudices." The authors of *Approaching Democracy* claim the Framers wanted "to insulate that office from what they considered the popular passions and transitory fancies of the electorate." The author of *Inside the System* writes, "Despite many differences of opinion among the delegates about the executive, there was a slow drift toward two points of agreement: 1) The people should not elect the president because that would be too much democracy...." In *The Challenge of Democracy: Government in America*, the authors say, "The delegates distrusted the people's judgment, fearing that public passions might be aroused. Consequently, the delegates rejected the idea of popular election....The electoral college compromise removed the fear of a popular vote for president."

Some presidency textbooks also explain the adoption of the electoral college by the fear of democracy. In *The American Presidency*, the authors write, "The delegates virtually ignored Wilson's proposal for popular election. In principle, the idea was too democratic for their taste. (They thought of democracy mainly as mob rule.)" In *The Power of the American Presidency*, the author writes, "Some [delegates] proposed popular election, which was rejected because the framers feared the president might become tribune of the people."

Our intent is not to criticize or embarrass these well established scholars and authors of political science texts over a minor misinterpretation of the origins of the electoral college. In fact, the senior author of this article made a similar misinterpretation in a book on the presidency, using Mason's statement (considered below) that letting the people vote would be equivalent to letting a blind man choose colors. We do, however, think that the issue is an important one to consider.

Creating an Executive Independent of the Legislature

Of course the Framers *were* distrustful of democracy, and that distrust is reflected in the structure of the Constitution. The separation of powers was designed to assure that power could not be concentrated in one branch. The checks and balances built into the Constitution were designed to slow down policy making so that a sudden impulse on the part of the people could not easily be enacted to the detriment of the minority. The different and overlapping tenure of office in the three branches makes it impossible to change the whole government's elected representatives in one cycle. Federalism ensures that the central government cannot act against the interests of the states. And the Bill of Rights was intended to protect individuals from an encroaching government. The electoral college device, however, was created as a compromise to deal with population differences, not because most of the Framers were convinced that the people would be swayed by a demagogue and cast their votes for a person of poor character.

In trying to understand how the Framers ended up with the electoral college mechanism, it must first be remembered that for most of the convention it was assumed that the executive would be selected by the legislature, and a number of votes reasserted that initial assumption. Both the Virginia Plan, designed primarily by Madison, and the New Jersey Plan called for the executive to be elected by the legislature. The Virginia Plan was introduced on June 1, 1787 and proposed "that a national Executive be instituted, to be chosen by the national Legislature – for the term of [] years (&c) to be ineligible thereafter, to possess the executive powers..." The New Jersey Plan was introduced on June 15 and provided that, "...the U. States in Congs. be authorized to elect a federal Executive ..." But over the summer proponents of each plan were to change their minds about selection of the executive. One key element of the move away from a legislatively chosen executive was overcoming the Framers' fears that an independent executive would necessarily lead to tyranny.

The Framers' early fear of a strong executive was reflected when James Wilson moved on June 1 that "the Executive consist of a single person." According to Madison, Wilson's suggestion was followed by "A considerable pause...", and Edmund Randolph opposed a unified executive as "the foetus of monarchy."

It is understandable that the Framers' first expectation was to provide for a strong legislature and a weak executive, given their experience with what they considered to be a tyrannical George III of England and their suffering under the colonial governors. But two reasons made some of the Framers willing to consider the need for a strong and independent executive. One was the occasional abuses of the state legislatures after the Revolution. Madison remarked on the concentration of power in the state legislatures:

Experience had proved a tendency in our governments to throw all power into the Legislative vortex. The Executives of the States are in general little more than Cyphers; the legislatures omnipotent. If no effectual check be devised for restraining the instability & encroachments of the latter, a revolution of some kind or other would be inevitable.

The other reason the Framers were willing to consider an independent executive was that the central government under the Articles of Confederation had not been particularly effective, in part because there was no separate or independent executive.

In the judgment of some Framers, an executive chosen by the legislature would be dependent upon it, and the danger was that power would then be concentrated in the legislature which might abuse it. And if there were a plural executive or it were within the legislature, it would lack the necessary capacity of dispatch and decision. According to Gouverneur Morris:

We must either renounce the blessings of the Union, or provide an Executive with sufficient vigor to pervade every part of it....One great object of the Executive is to controul the Legislature. The Legislature will continually seek to aggrandize & perpetuate themselves....It is necessary then that the Executive Magistrate should be the guardian of the people, even the lower classes, agst. Legislative tyranny....He saw no alternative for making the Executive independent of the Legislature but either to give him his office for life, or make him eligible by the people....

A single executive was agreed to on June 4, but it took until the end of the Convention for the Framers to agree on how to remove the choice of the executive from the legislature.

At the beginning of the deliberations, on June first, James Wilson, one of the Convention's strongest proponents of a strong executive, argued that the New York and Massachusetts experience with an executive elected by the people was "both a convenient and successful mode," and he was "...in favor of an appointment by the people." George Mason (later to change his mind) " favors the idea, but thinks it impracticable."

On June 2nd the debate continued, and Wilson (in a foreshadow of the electoral college device) proposed a form of selecting electors in which the states would be divided up into districts which would elect members who would then elect the executive, but his proposal was defeated. The same day, votes were taken in favor of the executive being chosen by the legislature and holding the office for seven years but without being eligible for reelection. This was the formula for selecting the executive that was to prevail for most of the summer.

As argued by Shlomo Slonim, these three elements of the executive (how chosen, length of term, and eligibility for reelection) were the three legs of a stool in designing the executive. The stool would not stand unless each element was properly balanced. If the executive were chosen by the legislature, it would be dependent upon it and subject to cabals and intrigues. Thus the term should be relatively long, e.g. seven rather than three years, to provide some independence. If the executive were able to be reelected to office, the legislature would unduly dominate the executive. On the other hand, if the executive were chosen independently of the legislature, the term could be shorter and the possibility of reelection would not undermine its independence.

Many Framers at times during the Convention endorsed appointment of the executive by the national legislature. Some among those who favored this mode felt the executive, as the branch responsible for execution of the laws, ought to be accountable to the legislative branch that made the laws. Roger Sherman of Connecticut “considered the Executive magistracy as nothing more than an institution for carrying the will of the Legislature into effect, that the person or persons ought to be appointed by and accountable to the Legislature only, which was the depository of the supreme will of the Society. As they were the best judges of the business which ought to be done by the Executive department....”

Selection by the national legislature, however, made the president dependent on the legislative branch. Independence of the executive was an important issue for many Framers and was argued for often and passionately by Madison, Wilson, and Morris. Madison summarized the arguments against choice by the national legislature:

Besides the general influence of that mode on the independence of the Executive, 1. the election of the Chief Magistrate would agitate & divide the legislature so much that the public interest would materially suffer by it. Public bodies are always apt to be thrown into contentions, but into more violent ones by such occasions than by any others. 2. the candidate would intrigue with the Legislature, would derive his appointment from the predominant faction, and be apt to render his administration subservient to its views. 3. The Ministers of foreign powers would have and make use of, the opportunity to mix their intrigues & influence with the Election.”

Gouverneur Morris argued that the executive ought not to be

the mere creature of the Legis: if appointed & impeachable by that body. He ought to be elected by the people at large, by the freeholders of the Country....If the people should elect, they will never fail to prefer some man of distinguished character, or services; some man, if he might so speak, of continental reputation. If the Legislature elect, it will be the work of intrigue, of cabal, and of faction...like the election of a pope by a conclave of cardinals....

Arguments for and Against Popular Election

When the Framers turned to the question of the executive on July 17, the question of selection by the people was debated. Charles Pinckney made the argument that the people, if entrusted with the selection of the executive, would be subject to manipulation. “They will be led by a few active & designing men.” Pinckney, Hugh Williamson, and Roger Sherman made the widely shared argument that the most populous states would benefit from a popular election because their citizens would vote for a person from their own state, and the large states might be able to elect the executive to the detriment of the small states.

George Mason on July 17 also argued against popular election of the executive. In his oft-quoted analogy (in Madison's account), "He conceived it would be as unnatural to refer the choice of a proper character for chief Magistrate to the people, as it would, to refer a trial of colours to a blind man." At first glance, it seems that Mason is taking an anti-democratic stand, perhaps for the reasons that Pinkney had just articulated. But note the nature of the analogy. A blind man is not a good judge of colors *not* because he is incapable of solid reasoning; he is not a good judge because he cannot perceive the appropriate information. This reasoning becomes evident in Mason's next sentence: "The extent of the Country renders it impossible that the people can have the requisite capacity to judge of the respective pretensions of the Candidates." Thus Mason's objection was that the states were so separated in terms of travel and communication that most people would not be sufficiently informed about those men of character who would be the best candidates to be chief executive. His objection was a practical one, not a judgment in principle that the people were easily deceived or led astray, such as the argument against democracy that Pickney articulated. Resolutions in favor of election by the people and by electors chosen by state legislatures were defeated and, selection by the legislature was again affirmed by a unanimous vote.

On July 19 the deliberation continued, and Rufus King argued that the executive should be eligible for reelection; he felt that "the people at large would chuse wisely." William Patterson agreed, and proposed that electors be chosen in the states with a ratio of one elector from the smallest states and three from the largest. Wilson saw this as a positive move: "...he perceived with pleasure that the idea was gaining ground, of an election mediately or immediately by the people." Madison then summarized what he saw as the crux of the matter. First, he argued that the "fundamental principle of free govt." was that governmental power be separately and independently exercised and that this meant that the executive must be appointed by some other agency than the legislature. He was thus in favor of popular election: "The people at large was in his opinion the fittest in itself. It would be as likely as any that could be devised to produce an Executive Magistrate of distinguished Character." But the real problem with this formulation, in Madison's mind, was a practical political one:

There was one difficulty however of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than the Southern States; and the latter could have no influence in the election on the score of the Negroes. The substitution of electors obviated this difficulty and seems on the whole to be liable to fewest objections.

Thus Madison favored a mediation of the popular vote by electors, not because he distrusted the ability of the people to make good decisions, but because the smaller and southern states would not go along with a formula that allowed the larger and northern states to have more influence in the election of the executive.

Madison's conclusion that a mediated vote was necessary also reflected his judgment about the major divisions among the states that had to be overcome in

designing the Constitution.

But he contended that the States were divided into different interests not by their difference of size, but by other circumstances; the most material of which resulted partly from climate, but principally from the effects of their having or not having slaves. These two causes concurred in forming the great division of interests in the U. States. It did not lie between the large & small States: it lay between the Northern & Southern.

Some Framers, however, did object to popular election from fear that the people could be deceived. Gerry, agreeing with Pinckney, objected to an election by the people, arguing: "He was agst. A popular election. The people are uninformed, and would be misled by a few designing men." He then suggested that electors of the executive be chosen by the state executives.

In an statement against popular election that appealed to the delegates from the southern states and the smaller states, Hugh Williamson of North Carolina argued, "The people will be sure to vote for some man in their own State, and the largest State will be sure to succeed. This will not be Virga. however. Her slaves will have no suffrage." On a mode that relied on the people, delegates like Williamson did not fear the people, but instead feared the power of the largest states to decide the election. Later in the summer, Williamson would refer to his complaint as the "principal objection agst. an election by the people." Madison, too, recognized this same problem for election by the people, even though he spoke in favor of popular election several times. Clearly, election by the people involved underlying problems not associated with distrust of the people.

On July 25 Madison summarized the problems with the selection of the executive: "There are objections agst. every mode that has been, or perhaps can be proposed. The election must be made either by some existing authority under the Natl. or State Constitutions – or by some special authority derived from the people—or by the people themselves." After considering an electoral college option, he concluded that "The remaining mode was an election by the people or rather by the qualified part of them, at large: With all its imperfections he liked this best." But he recognized that there were objections to a popular election. The first was that people would likely vote for candidates from their own states and that this would disadvantage the smaller states. "The second difficulty arose from the disproportion of qualified voters in the N.[orthern] & S.[outhern] States, and the disadvantages which this mode would throw on the latter." The word "freeholders" was crossed out and replaced by "qualified voters," so it is clear Madison was referring to how slaves could be counted in determining populations for purposes of electing the executive. George Mason reiterated that he preferred election by the legislature. Morris restated the disadvantages of selection by the legislature and spoke in favor of popular election. "He considered an election by the people as the best, by the Legislature as the worst, mode."

Gerry restated his objection to election by the people. "A popular election in this case is radically vicious. The ignorance of the people would put it in the power of some

one set of men dispersed through the Union & acting in Concert to delude them into any appointment.”

John Dickinson rejected Gerry’s reasoning and favored direct election. “He had long leaned towards an election by the people which he regarded as the best and purest source.” Gerry and Butler moved to refer the question of the executive (except for the number) to the Committee of detail, and the Convention adjourned for the day. The next day, July 26, George Mason surveyed the different methods of choosing the executive that had been proposed, and reasserted the formula of legislative choice for a nonrenewable seven year term, which passed.

The Committee on Detail, having considered a number of unsettled issues reported back to the Convention, and the issue of selection of the executive was taken up on August 24. Carroll immediately moved to replace the legislature with “by the people,” but the move was defeated. The question of how the legislature was to vote, by joint ballot or separately in each house was taken up and debated, but there was no accepted resolution to the question. Finally on August 31 the Convention voted to refer the unsettled issue of selecting the executive to a committee of one member from each state, the Committee of Eleven or the Brearly Committee.

Conclusion

On September 4 the Committee reported its recommendations concerning the selection of the executive and presented the option of the electoral college as it was finally adopted, except that the contingency of the lack of a majority of electors was changed from choice by the Senate (which was seen to be too powerful) to the House.

The compromises that went into the creation of the Electoral College were not primarily about who should select the president but about how to allocate the votes among the states. The Framers had decided over the course of the summer that choice of the executive should not be given to the legislature. The most likely alternative, in order to make the president independent of the Congress, was election by the people. But the small states and the slave states would not agree to any formula that would not give them the advantages that they had won in the Connecticut compromise over the composition of the legislature. Thus the electoral college mechanism was a compromise primarily about how to allocate the votes for president, rather than the source of legitimacy of those votes. As a reassurance to state governments, the choice of how to select electors was given to state Legislatures, most of which soon provided for election by the people. By 1832 electors in all of the states except South Carolina were chosen by voters.

We want to reiterate that the Framers were not designing a democracy; they were designing a democratic republic with the branches resting on different sources of legitimacy. We are concerned primarily with the reasons they had for creating the electoral college as the mechanism for selecting the president. The arguments by Madison, Wilson, Morris, and others that a legislative selection of the executive would concentrate too much power and be subject to cabal were accepted by most Framers over the course of the summer. The most likely alternative, election by the people, had the

disadvantage of the large distances and lack of communication made it unlikely that most voters would be familiar with men of “continental” character and would thus vote for favorite sons from their own states.

But more importantly, popular election was unacceptable to the small (less populous) states and states where slavery was practiced. The electoral college mechanism met the separation of powers concerns of Madison and at the same time solved the representation problem of the small states and the south.

End Notes: