



Written by [Steve Byas](#) on November 11, 2016

Folly of Getting Rid of the Electoral College

The results of the 2016 presidential election will give fresh fuel to those who would like to abolish the Electoral College, with the usual expressed concerns that it is antithetical to “democracy,” that Hillary Clinton could “still win,” because there could be some “faithless electors” who could switch to her from Donald Trump; and then there is the biggest myth of all: Hillary Clinton was the choice of the “majority” of the voters.



It is quite impossible to correct all the myths and misunderstandings about the Electoral College in a single article, but we can address some.

First of all, you have no doubt heard, and will continue to hear, that although Donald Trump won the electoral vote and is thus president-elect under the Constitution, Hillary Clinton “won” the majority of the popular vote.

Actually she did not. It will be some time — if ever — before we know the final tally of the popular vote. But as of now, it appears that Clinton has received 60,467,245 votes to 60,071,650 votes for Donald Trump. Most Internet sites leave it at that, causing some opponents of the Electoral College to complain that “the will of the majority has been denied.” Actually, Clinton garnered 48 percent of the popular vote — a plurality, but not a majority. Libertarian candidate Gary Johnson received three percent of the popular vote; Green Party choice Jill Stein had one percent, with other candidates getting around seven-tenths of a percent. It is true that Clinton’s 48 percent edged out Trump’s 47 percent, but it is not true that she received a majority of the popular vote.

This illustrates one of the problems — but far from the only problem — of choosing a president by direct, popular vote. With the presence of more than two parties on the ballot it is very difficult for anyone to get a majority of the popular vote. Even in 1980, when Ronald Reagan won a 44-state landslide over Jimmy Carter, he mustered only 51 percent of the popular vote. Interestingly, many Democrats at the time repeated their talking point that Reagan was a “minority” president because only a little more than half of Americans who could have voted did vote. According to this odd line of reasoning, Reagan was the choice of only about 27 percent of Americans.

How do we know that Hillary Clinton would have gotten a majority of the popular vote, had Johnson and Stein not been on the ballot? Who knows how the four million Americans who voted for Johnson would have voted, had he not been on the ballot? It is estimated that around 70 percent of libertarians favor the Republican candidate if there is no actual Libertarian Party candidate on the ballot, but we cannot say with any certainty if that would have been true this year. We also cannot say that it is not true.

Is it fair for a candidate who receives a minority of the popular vote, as did Clinton, to win the White House on the basis that we must go with the “will of the majority?”

If we were going to use the “popular vote,” instead of the Electoral College to decide the winner of the election, this very question would be one that must be resolved, and it is not the only problem created



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by use of the popular vote.

If we were to use a national run-off after the general election, by eliminating Johnson, Stein, and all of the other minor-party candidates, when would this election be held? Who would pay for the expense of this run-off?

Which brings us to the next question, which is who would conduct this election? As it stands now, elections are conducted by the states. But if we are going to determine the winner of a presidential election by popular vote, instead of the popular vote simply determining how a state casts its electoral votes, this would seem to necessitate some federal agency that would supervise the election. Otherwise, we would have to deal with the real possibility of voter fraud in some states that lean for one party or the other. As of now, vote fraud no doubt exists, but the reality is that no matter how many extra votes are fraudulently cast in Chicago, the Democrats would get the same number of electoral votes out of Illinois. With a national popular vote, however, the temptation is only increased to stuff the ballot box. And who would investigate vote fraud? Again, one would think this would require the creation of some federal agency.

Another related question is, under what conditions would we have a recount of the votes? After all, with in excess of 120 million votes cast, isn't a difference of less than a half million votes too close to simply accept the results without a recount? We have yet to even count all the votes in this election. What about the votes of military personnel stationed around the world? What about "hanging chads" across America?

One might recall that in the 2000 election between George Bush and Al Gore, with Bush winning Florida by less than 600 votes out of six million votes cast, we were waiting on the "soldier vote" to arrive. And speaking of the 2000 race, the results in Florida were in dispute for over a month.

And that was in just one state.

Consider the possibility of a presidential election so close that one candidate has only one thousand more votes than the next closest candidate (with minor parties getting millions of votes, as well). If the margin can be less than 400,000 out of 120 million votes cast, is it not at least theoretically possible that we could have an election in which only 600 votes separated the candidates nationally?

Can you imagine what a recount conducted nationally would do to the country? Recalling the divisiveness of the 2000 election, a national recount, conducted by an agency of the federal government (with one of the two parties' presidents sitting in the Oval Office) may simply prove to be impossible. Or at least impossible to conduct so that it would be accepted as fair.

Instead of news analyses addressing these concerns about any such national popular vote, we hear more about "nightmare" scenarios involving the Electoral College. For example, AOL ran an article raising the issue of "faithless electors." Realistically, with Trump winning 306 electoral votes, and maybe 310, it would take more than 30 of these folks to swing the election to Clinton.

The average person is led to believe that these electors are just people selected off the street, or at random. But to be an elector candidate, a person must be nominated by his political party. The persons chosen to serve as elector candidates for their party are typically hard-core party activists, or former public office-holders. They are usually tapped at party conventions to honor them for their years of service in party activities — in other words, they are some of the least likely individuals in the country to be elected as an elector for one party, then wind up voting for the other party's candidate.



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It is a testimony to the wisdom of the Founding Fathers that while the Electoral College has not operated exactly as they envisioned it, it has generally accomplished one of its primary objectives. When the Framers settled on the Electoral College as the means of choosing a president, a principal concern was to protect the interests of more sparsely populated states against potential domination by the more heavily populated states. It has done that in this election.

Because we do not choose the president by the popular vote, we simply do not know what the outcome of the popular vote would be if we did. Candidates are trying to win states, not popular votes, so they travel to New Hampshire, or Iowa. They do not bother with California or Oklahoma. Republicans feel they have little chance in California, but if a national popular vote determined the election, instead of the Electoral College, they would no doubt campaign there. Likewise, Democrats could probably get more popular votes than they do now out of Oklahoma, if they made an effort. But having now lost four elections in a row, without carrying a single Oklahoma county, the Democrats choose to campaign in places where they might have a chance, such as North Carolina. Saying the Democrats should have won nationally because they ran first in the popular vote when the rules call for winning a majority of the Electoral College is like saying the winner of a football game is who got the most yards, rather than the most points.

The U.S. Senate is also not chosen according to the will of the majority of Americans. California has many times the population of states such as Wyoming and Alaska, yet every state is afforded two senators. It is the one part of the federal Constitution that can never be changed, even by constitutional amendment.

Even the House of Representatives, referred to as “the people’s house,” is not chosen by a national popular vote. Each member is elected in a single-member district. We do not have a national election, with, for example the Democrats getting 48 percent of the vote and the Republicans getting 47 percent of the vote, leading to an allocation in the House of 48 percent Democrat and 47 percent Republican. The national vote for the House of Representatives is completely irrelevant. To be elected to the House, one must win a specific district’s election. What happens in Texas does not affect what happens in Maine.

The Framers of the Constitution gave us a federal republic, not a unitary democracy. That is because they were not creating a government with “majority rule” being the highest goal. The purposes of the Constitution are enumerated in the Preamble. There are references to justice, liberty, providing for the common defense, and the like, but not one word about making sure the will of the majority prevails. That is because, as was written in the Declaration of Independence, the purpose of government is to protect our lives, our liberty, and our pursuit of happiness.

The Founding Fathers considered popular vote and even election by Congress in the election of a president and rejected both. Instead, in their wisdom, they gave us the Electoral College.

I say we keep it.



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