



Written by [Joe Wolverton, II, J.D.](#) on October 29, 2012

Will a Close Election Put Electoral College on the Chopping Block? (Part 1 of 3)

On Saturday, October 27, [an ABC News article asked](#), “Would Electoral Win Without Popular Vote be Swan Song for Swing States?”. The piece goes on to offer some scholarly opinions on “the pros and cons of our current Electoral College system.” One of those ivy tower denizens cited in the ABC News article is Alex Keyssar, a professor of history and social policy at Harvard’s Kennedy School of Government. Keyssar sees the electoral college — particularly the way it functions in modern presidential elections — to be a “deformed version” of what the founders intended.



Professor Keyssar’s remedy for the irreparable damage being done to our nation by the two-party duopoly controlling presidential politics is to scrap the electoral college and award the White House to the candidate winning the majority of the popular vote. “My own view is that a popular vote system would make the institutions in this country keep up with changes that have been going on in the social fabric of the country for 200 years,” Keyssar tells ABC News.

[Politico offers another seemingly sarcastic solution](#): “The answer, of course, is for one of the candidates to win a clear Electoral College majority. We should all hope for that outcome, because the alternative could be a nightmare for our political system.”

ABC appears hopeful for the chaos that an electoral college collapse would cause when it recounts a bit of recent history of the effort to supplant the electoral college with a popular vote count:

There is an effort — [Natonal Popular Vote](#) — which has been ratified by eight states, to basically create a legal agreement among states to keep the electoral college, but award the votes proportionally instead of by state.

But it isn’t a Constitutional amendment and there are concerns that a broad agreement by some states would violate the Constitution.

[An article published on a Justia blog](#) predicts that a Romney electoral college loss combined with a popular vote win could energize the efforts to neuter the electoral college.

Because up until now, all of the states that have adopted the NPV bill have been Blue states — states that are generally assumed to lean towards the Democratic, rather than the Republican, candidate for President. And unless a Red state joins soon, it will become increasingly hard to debunk the (wrongheaded) fear that Red state folks have that the National Popular Vote bill is a Democratic scheme, rather than a democratic idea.

Keyssar’s comments and ABC’s commentary that the electoral college is outmoded and not “keep[ing] up with changes” in society, is very similar to a statement from a December 2008 [Wall Street Journal](#)



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[op-ed piece written by Jonathan Soros](#), son of globalist financier George Soros. In the article, Soros insists that the election of the President by the method established by the Constitution of 1787 is “antidemocratic by design.” “The Constitution is no longer in line with our expectations regarding the role of the people in selecting the President,” he said.

Paradoxically — almost certainly unintentionally — Keyssar and Soros are right, but for the wrong reasons. The prevailing spirit of the Constitution is antidemocratic and is so by the very deliberate and express design of the framers thereof.

Witness the response by the Nestor of the Convention, Benjamin Franklin, to an inquiry made by a passerby as he left the State House in Philadelphia. As the story is told, a young woman approached the renowned scientist and diplomat and asked, “Well, Dr. Franklin, what have you done for us?” Franklin responded soberly, “My dear lady, we have given to you a republic — if you can keep it.” Dr. Franklin was speaking the truth. Article IV, Section 4 of the document he helped craft over that hot summer mandates that “the United States shall guarantee to every State in this Union a Republican Form of Government.”

As to the preferability of a republic (a government of law) over a democracy, we may turn to the reliable words of the man known to history as the “Father of the Constitution,” James Madison, who preferred a republic. In [Federalist](#) Number 10, Madison wrote that a republic is able to “refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice, will be least likely to sacrifice it to temporary or partial considerations.” But “democracies,” he said, based on his study of history, “have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property; and have, in general, been as short in their lives as they have been violent in their deaths.”

A very vital aspect of the republican frame upon which our federal government is built is the so-called Electoral College. [Article II, Section 1 of the Constitution](#) sets forth the manner by which the President is to be chosen: “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.”

The remaining instructions for presidential elections given in Article II were altered by the [12th Amendment](#). In relevant portion, that amendment reads: “The Electors shall meet in their respective states and vote by ballot for President and Vice-President.... 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.”

A simple formula: States appoint electors; electors cast votes for president (and vice president); the candidate receiving the most votes wins (provided it be a majority of the total number of votes cast by the electors). Not only that, but the electors would actually deliberate on who the best candidate would be before casting their votes. This is of course a far cry from what the Electoral College has become in practice, where the entire delegation of electors for a particular state is expected to vote as a block for whoever wins the popular vote for president in that state.

Despite the simplicity of the system originally intended by the Founding Fathers, however, there are those, such as Messrs. Soros and Keyssar, who are not impressed, and they do not share the Founders’ fear of the insinuation of democracy into the government of the United States. These opponents of the



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Electoral College prefer a more democratic method of electing the president. In fact, as mentioned above, the ABC News article reports that eight states have passed bills that would scrap the Electoral College in all but name and convert the election of the president of the United States into a purely democratic process. This legislative effort is known as the National Popular Vote (NPV) compact.

For a more complete analysis of the constitutional issues surrounding a national popular vote, please read the next part in this series. Part 2 will be published Tuesday, October 30; part 3, Wednesday, October 31.

Photo of South Dakota electors voting during the 2004 presidential election: AP Images

Related articles:

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