



Electoral College: The Debate Continues

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In the wake of the Presidential election of 2000, the value of the Electoral College has been questioned and debated. Does the Founding Fathers' vision still apply today, or should this system be reevaluated? On May 21, the National Archives Experience presented a program examining these crucial questions.

David Broder, Journalist

Judith Best, political science professor at the State University of New York, Courtland, and author of *The Choice of the People? Debating the Electoral College*

George Edwards III, political science professor at Texas A & M University and author of *Why the Electoral College is Bad for America*

Gordon Wood, professor of history at Brown University

Ed Goetas, president and CEO of The Terrance Group

Mark Mellman, president and CEO of The Mellman Group.

ALLEN WEINSTEIN: Our program this evening takes a serious look at the Electoral College the unique American institution and controversial feature of the U.S. Constitution since its inception. It is well worth the time that we're going to spend with it this evening. Now the man I'm about to introduce--I won't say he needs no introduction but he comes about as close as any journalist could to not needing an introduction. He is the most recognizable figure in the field of political journalism, and it's almost unnecessary to recite his well-known list of accomplishments and honors. David Broder is a Pulitzer Prize-winning journalist, author, commentator, university professor. Currently, he writes a weekly political column--biweekly political column for the "Washington Post," teaches at the University of Maryland. He taught also at New York--he's worked--sorry at the "New York Times," "Congressional Quarterly," and the "Washington Times." For many years, Mr. Broder has appeared on "Washington Week in Review" or "Meet the Press" and other



current affairs television programs and I think it is fair to say without argument--without too much argument that he's affectionately and wisely considered by his colleagues as the dean of the Washington press corps. We look forward to the panel discussion. We know he will moderate effectively for us this evening. David Broder, the floor is yours.

[Applause]

DAVID BRODER: Are we all wired up?

WOMAN: I hope so.

BRODER: Well, good evening. I look forward to refereeing this bout and let me just tell you quickly what the format is going to be. We're going to invite our 4 distinguished experts to speak in turn, each for about 5 minutes expressing a viewpoint on a opening question that I will put to them and then we will have some free kind of discussion here at this end of the room and then we will turn to you for your comments and questions. The format does not include a vote at the end of the proceeding, but I will not object if there is a spontaneous movement to conduct a referendum on this question. Let me very briefly introduce our 4 very distinguished panelists. Professor Judith Best teaches at SUNY Cortland has written many books about the presidency and the political process, and I am counting on these very ingenious professors to cleverly work into their talks the titles of the books and where you can buy them.

[Laughter]

She will take the position, I believe that the Electoral College is a blessing not to be disturbed. Arguing the other case is Professor George Edwards from Texas A&M. I've heard him argue the case, and he is a fierce opponent so you can anticipate a very good time. Then we have two practitioners, two people who live closer to my tawdry world of journalism because they are actually in politics. Ed Goeas is a Republican pollster of great renown and equally famous in his party--Mark Mellman--and finally to give us at least a little bit of basic, solid, reliable information.

[Laughter]

We have Gordon Wood, a professor of history at--excuse me--

GORDON WOOD: Brown.



BRODER: I can't read my own writing Brown University. Thank you very much. We'll begin with the historian and orient ourselves a little bit in how we came to have this strange creature called the Electoral College.

WOOD: Well, we have to first start with James Madison who is, as you know, the father of the Constitution because he drafted the Virginia plan which was the working model for the convention that met in Philadelphia in 1787. Now Madison actually did not think much about the executive in planning for this constitution. In fact, Washington wrote to him in April--that's a month before the convention convened and Washington asked him, "What about the executive?" And Madison writes back and says "I haven't given it much thought" either to the powers that would adhere to the executive or the manner in which the executive would be selected. So the convention really did not think about this and the issue of the presidency, how the president would be--in fact, there was some doubt of how many people would serve as president. Could be one person or would be 3. They quickly decided that it would be one person but the actual selection was delayed until almost the end of the convention. The end of August, the early September--the convention, as you know finally adjourned September 17 so it was very near the end of the convention that they finally resolved the problem. The problem was how to select the president. The first suggestion was what many people want today. Let's have everybody just vote, straight democratic vote. Now that was turned down not because they mistrusted the people, as often suggested but they just said--after you get past Washington and the few illustrious founders or revolutionary leaders how would people know whom to vote for? They had no political parties. They didn't anticipate political parties. In fact, they feared the development of political parties. They had no modern media, so how would you know-- if you were in Massachusetts, how would you know who's notable, who's worthy of the presidency who might live in South Carolina or Virginia? So this was a problem. How would you know whom to vote for? So the general election by each individual just didn't seem plausible. So next they said, "Well, let's have the Congress "elect the president." Well, then the president's going to be dependent on the Congress and if he wants to be reelected at the end of 4 years he's going to kowtow to that Congress and not be a free, independent agent. So they said, "Well, let's make his term one term 7 years long, and he won't have to kowtow to the Congress."

He would be a free man but then they said, "Well, 7 years is too long." And so they went back and forth, really uncertain of how to select this chief executive and they finally hit upon what has become the Electoral College, which is an alternative Congress. If you think about it, it's just another Congress elected to do one thing and then go out of business. Now that is a little different from the present Congress because of the 23rd Amendment, which gave 3 electors to the District of Columbia but the original idea was to create an alternative Congress that would have one task only and that was to elect the president and the vice president. The idea at the outset, of course, was the person who

got the second most number of votes--always assuming a majority--would become vice president. Now they intended it to work, I think, in a way that has never quite worked. They assumed--and at first before the 12th Amendment--the original Constitution says that if no one gets a majority, then among the first 5 candidates the names will be thrown into the Congress--into the House of Representatives and from those 5, the House, the Congressional Delegation voting by state will select the president. That is to say, even if you had 50 electoral votes or you had a lot of representatives--a lot of Congressmen in your state you would still just have one vote for that state. The idea was that the--probably once you get past Washington that no one would get a majority and therefore, it would normally be thrown into the Congress, where the small states would have equality with the large states. So the idea was that the first stage of nomination so to speak, would occur with the electoral votes this alternative Congress voting nobody getting a majority, and then it would be thrown into the existing House of Representatives where the small states would have equality because each state would have only one vote would choose among those 5 the president. Now in 1804, the 12th Amendment modified this somewhat. The electors now had to designate who was going to be president, who was going to be vice president which was not originally planned for and then the top 3 members, the top 3 vote-getters would be thrown into the congress.

So that was the original plan for it and of course with the development of political parties and tickets and the mass media, the whole thing has not worked out at all the way, I think the Founders intended but we have an institution that is very unlikely will every be eliminated because the small states benefit from it, and of course to have an amendment, if that's the way you want to change it, you would have to get 3/4 of the states to change it. So I don't have a dog in this fight, so I'm neutral.

I don't see any likelihood of the Electoral College being amended. Take one more minute and explain to us how we got into this pattern of all of a state's electoral votes going to the candidate who wins the plurality in the state. That's right. The states can of course--and Maine and, I think, Nebraska divide up their votes and every state could do that, but of course it's in the states' interests to put all of the votes into one candidate. Otherwise, they dilute the impact of their vote but that is quite possible. I think California has 50-some--53, 55 electoral votes. It could divide them up in proportion to the popular vote but that would reduce the impact of California and states are very reluctant to do that. Maine has done that, but it has only 4 electoral votes and therefore doesn't count.

[Laughter]

It doesn't count compared to a place like California or Texas.



BRODER: I think you just lost the Maine electoral vote. Thank you, Professor Wood. That was very compactly done. Now I'm going to turn to you, Professor Best and have you explain to us why in the 21st Century we should still be using this archaic system that Professor Wood has just described.

JUDITH BEST: Well, I'll begin by saying that some of my students do think I'm an old foggy, but I do support a direct popular federal vote system. I don't think we need living electors. The electoral votes of each state could be cast automatically. It would take a constitutional amendment to do that and I do think we should change the contingency election in the House, converting it to the process established by the 25th Amendment for filling vice-presidential vacancies. The reason why I support having a federal system is because there are multiple purposes for the presidential election and the first and most obvious is to fill the office in a reasonably swift, sure, clean, and clear manner. I mean, the presidency's an office that may never go empty and so prolonged doubt about who the president is would tempt foreign enemies. Thus, any system that would trigger nationwide recounts or prolonged legal disputes or is more likely to provoke run-off elections, I think, must be avoided.

The second thing, a system must support the separation of powers by producing a president who can govern because he has developed broad, cross-sectional support. Because no popular votes can be added across state lines the successful strategy is to win pluralities...in many, many states, and so this makes the distribution of the popular vote as important as the number of the popular vote. So a president who wins the office by running up huge margins of, say, 80% to 20%--let's just say--in the Eastern and Western Seaboards and then loses, is soundly defeated in the middle of the country is not a president who can govern. In fact, he could face a civil war.

A third thing is that the system should support our moderate two-party system which is a great source of our national stability. Multi-party systems are notoriously unstable. Any presidential election system that abolishes the federal unit rule, the winner-take-all rule will encourage multiple minor party entries and so the coalition building that takes place prior to the general election would break down. But last and most importantly, it must preserve the federal principle because without this the separation of powers will fail. The federal principle of state representation is the key because it's the primary barrier to something that Madison greatly feared, which is majority faction. Our Constitution seeks something higher and better than majority rule. It seeks majority rule with minority consent and it gains that consent because the federal principle gives minorities of all kinds multiple opportunities to be part of the majority in the various aspects of the whole government, and so the states are the building blocks of the whole government. An attack on the federal principle cannot be limited to the presidency alone because if the federal principle is illegitimate for the presidency, then what of the Senate? And of course, if the



Senate, then it affects the justices and if it's illegitimate for the president it's illegitimate for amendments and it puts the very ratification of the Constitution in doubt. Speaking against proposals to change the system John Kennedy said, "It's not only the unit vote the winner-take-all vote, for the presidency that we are talking about. It's a whole solar system of governmental power. If it's proposed to change the balance of power of one of the elements of this solar system it's necessary to change the others."

Alexis de Tocqueville said of the federal principle that it was "a great discovery in modern political science. "He said it was "a wholly novel theory." He said the term federal wasn't even accurate. Well, Madison suggested "compound" and I'm going to be bold and suggest "alloy."

"Alloy." I think you all know what an alloy is. I think Tocqueville intuitively understood it's an alloy because it "combines the strengths of both "large and small societies," he said "while avoiding their weaknesses."

Now there are some who say that the federal principle can be abolished, abandoned in presidential elections alone but in my judgment, the proponents of all-national, nonfederal presidential elections are really instigating regime change and I think they have a simple solution to a very complex problem, and as Mencken said "Simple solutions to complex problems" are invariably wrong."

BRODER: Thank you very much. You have a serious challenge now because already you've got lined up against you John Kennedy Alexis de Tocqueville, and H.L. Mencken. Do your best to attack this.

GEORGE EDWARD III: Thank you, David, and thank you, Judy. At the heart of democracy is the view that all voters are equal and that minorities should not rule. Now the Electoral College violates both of these principles first, because the electoral votes are not distributed solely on the basis of population. That's a relatively minor matter actually. Second, there's no necessary relationship between the votes cast in a state and the electoral votes of a state. If only one person shows up, the state gets the same electoral votes which is why slave interests were interested in supporting the Electoral College at the beginning. Most important is the winner-take-all system that you've been hearing about. In effect, the system gives the votes of the people who voted against the winner to the winner. Now this was established--we know a lot about why states turned to this. It's for political greed. That's what it's all about. Whoever has the majority in a state wants all the electoral votes. Now it's easy to understand. It's not surprising, it's not shocking. That's why they do it. That's why Madison complained about it a long time ago. At any rate, just to illustrate In 2000, nearly 3 million people in Florida voted for Al Gore. Because George W. Bush won 537 more votes-- and let's just accept that for the moment,

all right that he got 537 more votes--he got all of Florida's electoral votes. When there are more than two candidates and there frequently are this allows often a minority of voters in a state to determine how 100% of the state's electoral votes are cast. In fact, that was the case for 26 states the majority of the states, in 1996. The system also allows small third parties--think of Ralph Nader in 2000--to actually determine the national outcome of the election because it can determine the outcome of states. In that case, it was New Hampshire and Florida where the Nader votes-- the Naderites hate to hear this but it's unequivocally true-- siphoned off more votes from Gore.

Now the interesting point--and again the indisputable point is that Gore was the preferred candidate in both states if you just had a Gore-Bush race. I'm not saying one candidate is better than the other. That's irrelevant. The point is that small splinter parties under the Electoral College can determine the outcome and distort the preferences of the American public. Now how do we justify that? And what I have said so far, I think, almost everyone would have to agree with. It's really just high-school arithmetic. Now the question is, are there compensations of this? Now Judy thinks there are, and I think there are not so let me try to go to the heart of the matter. I can't cover everything in the few minutes that I have but the core argument on behalf of the Electoral College is that it forces candidates to be more attentive to and protective of state interests particularly small states but I would argue to you that states have no interest as states--as states in the election of the president. Only citizens do. States do not embody coherent, unified interests and communities. Now they do share some common interests--let's say the road system--but they don't play a role. Those kind of issues do not play a role in presidential elections. Candidates don't discuss those issues voters--and we know this very well--do not vote on the basis of such issues and once elected, the president has nothing to do with those issues, or almost nothing to do with those. So there are not interests that require special protection from an electoral college. You've already heard that the Constitution already places many constraints on the acts that simple majorities can take and every college freshman, if not high-school freshman knows about that. The senate over-represents small states. I mean that merely in a technical sense. I'm not trying to abolish the Senate. The filibuster is a powerful tool for thwarting majorities and both Houses are extremely responsive to their constituencies. So interests are well-protected in America and we don't want a presidency responsive to parochial interests in a system that's already prone to gridlock and that offers minorities extraordinary access to policymakers and opportunities to thwart the policies that they oppose.

Now what about small states? Because we hear about that a lot. There is no such thing as a small state interest. Small states do not have common interests to protect and the great battles of American history have certainly not been between small states and large states. Nor are there interests that only occur in small states. Sometimes, people think about agriculture. All you have to do is think of the farm bill and the total volume of



agricultural produce of Texas, Florida, Illinois, and California--4 of the 5 biggest states--exceeds that of the 17 smallest states put together. Now the Electoral College--and, again, we know this because we trace it very carefully doesn't force candidates to pay attention to state-based interests. They don't talk about state-based interests in their speeches, they don't visit small states and they don't advertise in them either and we know about this very, very well.

In 2004, no presidential candidate during the general election, meaning after the conventions visited any of the 7 smallest states those with 3 electoral votes. It's difficult to imagine actually how candidates could be less attentive to small states than they are right now. Small states generally get ignored unless they happen to be one over the very few highly competitive ones

but perversely, the Electoral College also provides incentives to ignore large states. For example, in the 2004 general election the total campaign visits of presidential and vice-presidential major party candidates to California, Texas, New York, and Illinois was two which included George Bush's election eve rally in Texas. Now additionally, candidates ignore large swaths of the country--the Great Plains, the Rockies most of the South. Candidates go where the Electoral College makes them go, and it makes them go to competitive states which is a small number of states and of course especially large competitive states.

Well, what about preserving federalism? The Electoral College does not enhance the power or the sovereignty of states. Federalism is based on representation in Congress. It's based on powers given to states by the Constitution not on the Electoral College. The only element that's really a federal principle is the contingent election if no one gets a majority of the Electoral College vote and it goes to the House of Representatives where every state has one vote. Clearly, and I think we all would agree it's the most egregious violation of democratic principles anywhere in American government. Frankly, I can't find a single defender anywhere about that. So the Electoral College doesn't provide compensation for its violations of political equality and it distorts the preferences of the American people. There's a much better way, and there is a simple way and sometimes, simple ways work. You know, we have one way that we've been electing millions millions of candidates, federal officials state officials, local officials for 200 years. We have an election, we add up all the votes and whoever gets the most votes wins. You probably want to take notes on that because it's pretty hard to understand. Now we've been doing it very well. We understand how this works. We don't need run-offs it doesn't splinter the party system it works very, very well. That would encourage candidates to take their case to all Americans. If we're really concerned about bringing in everyone this would do it because everyone's votes are important in a national direct election and it's also--just in case you worry that "Oh, well, they'll only pay attention to urban areas" first of all urban



areas are getting ignored. It seems to me that it's perfectly reasonable for candidates now to go to Los Angeles and actually campaign. I don't find that offensive. It doesn't bother me that they would do something but you can't do worse than nothing which is what most states get now. So they're already ignored. The Electoral College forces them to be ignored and as anybody--and I'm sure our politicians here our experts on politics will agree--and we've calculated this. We know this very well. It's actually cost-effective to seek votes in small-town America because it's more effective it's less expensive per vote to advertise and that's exactly what the candidates do in the few states in which they actually campaign.

Thank you. Thank you very much.

[Applause]

BRODER: Well, we have the lines drawn very well. I want to turn now to our political consultants to chime in on whichever side of the argument you find yourselves, and perhaps also give us your best estimate as to how the campaign itself would change if we were to change our Electoral College System for a system of direct election.

Ed, would you like to go first?

ED GOEAS: Uh, yes, and I actually--like the historian here-- thought I came into this with no dog in the hunt but I find as I'm sitting here, getting fired up in terms of talking about it. First of all, let me say that I do think the Founding Fathers were very purposeful in what they did. I thought they were very insightful in what they did. I think one of the things that's not being said here--we can sit and debate back and forth--every system has its flaws, and to paint one as not having any and paint the other as having everything I think, is not a legitimate necessarily debate in terms of the system. I think what you can say--and I tend to believe very strongly in federalism and I do believe the Electoral College supports that. I do believe that one of the key things you can say about the Electoral College system is at least what we know today is we have not had a Constitutional crisis under that system, and I think that says a lot about the system, that it does work and it is somewhat insightful. I do find discussions about what happened in 2000 and what happened in 2004 and what happened in this election and this was not represented and that was to be somewhat Monday morning quarterback, if you will. It is very much the equivalent of sitting there on Monday morning after the Redskins game and saying "Well, if the field goals would have counted for 4 points rather than 3 points we would have won the game."

That's not the game. That's not the rules of the game and the rules--the campaign was fought on a certain set of rules from a political standpoint and it was won by Bush on a



certain set of rules. The approach to the campaign would have been totally different. Things that are ignored about what happened in 2000 was because of what the news media did. There was a 25% drop-off of turnout in the panhandle. Had a huge impact on the outcome of that election in that state that night.

Mark will tell you we talked back and forth after the 2004 election. Mark was doing polling for the Democrat presidential campaign. I was doing polling in Florida for the Republican. Mark didn't have a poll, I believe you told me that showed Bush winning that entire campaign.

MARK MELLMAN: But it was not our poll, I hasten to add.

GOEAS: I didn't have a poll. I didn't have a poll that showed Bush losing the entire campaign. There were a few that it was neck and neck within the margin of error. I think the difference was that if you built that poll based on the turnout of 2000, you were going to get a much different look of where that state was if you built the poll on the increase of 25% and I'm going to come back to that for a second. Yes, Bush lost the election by the popular vote

500,000 votes, in that election but it is interesting that in the state of Texas--maybe this reinforces your point that there was not a lot of campaigning in Texas but at the time, he was a very popular governor he did not feel he had to campaign in Texas to win it the Democrats didn't feel they had to campaign to try to close the margin in Texas and as a result, it was over a 20% lower turnout in Texas in that election in 2000. If Texas would have had the same turnout as the average of all the other states you would have made up that margin. With the margin he was running the state you would have made up that margin of the 500,000 votes. So there is a kind of day-after kind of "If we had done it this way "this is how the election would have turned out." But you would have played the rules totally different. So you can't look at 2000 and say popular vote versus electoral vote because the race would have been run totally different. What we do know from the 2000 campaign is that Bush carried 24,000 counties. Gore carried 677. Bush carried 2.4 million square miles Gore covered 580,000. Gore won the big cities by 71% Bush won all the other areas by more than 60%. It was a different game in terms of the targeting. Whether it's right or wrong, you have to at some point not argue the results of that election but argue the flaws in the system going one way or the other. It is interesting to look at 2004. In 2004 on the total increase, Florida and Ohio the two closest states, are about 8.7--about-- it is 8.7% of the electoral vote. Those two states accounted for 24% of the voter increase that was there between 2000 and 2004. So targeting those states that are swing states does have an effect, it does involve those people and it does bring them into the process. I would also say that there has been--as was pointed out by the historian--the states do have the choice of dividing up the electoral votes.

There is one interesting case. Colorado recently voted--voted on whether or not to split up their vote and the results of that election was 34% of the public voted not to do it--voted to do it and 66% voted not to move to splitting up the electoral votes so it is not just the leaders of the state it is just not the power brokers. When you present this to the people as it was done in Colorado there was a very hard and fast decision by almost two to one that "No, we don't want to split that up." But that is always an option and it is an option to look at for the various states. So let me kind of leave it there. Again, I would also say I don't have a dog in this hunt, if you will. I would just like to point out that two things--the rules of the game are the rules of the game and using results of an election after the fact as opposed to changing those rules and seeing what the effect would be would be a very different thing. And the other is everything I've looked at would show that there are flaws doing it both ways. Remember, originally, there were--if you only got a plurality and a majority--not a majority they were going to throw it to the House of Representatives. 3 of the last 4 presidential elections no one got a majority of the popular vote in this country. They only got a plurality.

BRODER: Thank you very much, Ed Goeas. Mark Mellman.

MARK MELLMAN: Thank you very much. Pleasure and honor to be here with all of you. David asked me to be brief. I must warn you that's kind of like asking me to be thin. You can put in a request, but it only takes you so far. I will do my best. There is an old saying in politics that where you stand depends on where you sit. I assume I was not invited here because of my commitment to good government, though I am so committed but as a Democratic political operative whose primary professional concern is winning the next election, if I were back in the seventies and eighties, I would have been opposed to the Electoral College because it displayed a distinct pro-Republican, anti-Democratic bias. The reason for that was fairly simple. Republican strength was concentrated in smaller states because of the federalist principle because of two senators for every state and their relationship to the electoral vote. That gave the Republicans an advantage in the Electoral College through the seventies and eighties. As a Democratic political operative concerned about winning the next election today I would favor the Electoral College because it exhibits a clear pro-Democratic bias. There are lots of ways to do the arithmetic and most of them get pretty arcane pretty quickly but in short because of the increasing polarization in Republican-based states, today, Republicans end up wasting a lot more votes than Democrats.

Let me just start with a couple of examples and then give you the overall math and I hope I can make sense of it Bush--George Bush, 2004, won Alabama's 9 electoral votes by piling up a popular vote margin over 480,000 votes. That was over 53,000 votes worth of margin per electoral vote at stake. John Kerry won Minnesota's 9 electoral votes the same number, with a margin of 98,000 or about 10,000 votes of margin per electoral vote.



Put differently, Bush's popular vote margin in Alabama was 4 1/2 times Kerry's in Minnesota to get the identical number of electoral votes.

Another example. California. Been discussed already. Kerry's margin was 2 1/2 times bigger than Bush's margin in Alabama, but Kerry got 6 times the number of electoral votes from California than Bush did from Alabama. 2 1/2 times the vote margin for 6 times the number of electoral votes. Pretty good tradeoff from the point of view of a Democratic political operative. Same pattern was really evident across the country.

If you average across states, Bush got 30,000 votes in margin per electoral vote. Kerry averaged 13,000 votes in margin per electoral vote. So in short under the current scheme the Bush folks ended up wasting more popular votes than did Kerry. That increase again in the wasted votes since the eighties is occurring because states have become more polarized, giving increasing margins to their candidates of choice, especially in Republican states. 1988, there were just 3 states worth 11 electoral votes that were off the national average in terms of the vote, that is the national popular vote by 10 points or more. 2004, 16 such states worth 135 electoral votes more than 10 points off the national average and all but 4 of those 16 states were Republican states. So as a Democratic political operative today worried about the next election I'm very much in favor of the Electoral College.

Now as a 21st Century citizen of the United States I find the notion that some people's votes count more than others somewhat disturbing. So if I sit here merely as a 21st Century American small "d" democrat, I find that--I do find it somewhat disturbing but finally as a former resident of a smaller swing state I do understand the positive impact of the Electoral College. Yes, it's true that there are smaller states that see no campaigns, but there are smaller swing states that do see important levels of campaigning vast levels of campaigning, which they would not see under a popular vote system. Now you can say why should New Hampshire, for example or why should Wisconsin, a middle-sized state be deluged with that kind of attention and other states, whether it's California or New York on the one side or Idaho and Utah on the other get no attention? And it's a fair point, but the other fact to keep in mind is those swing states do change over time. We get used to our own time period and we look at 2000, 2004, and we see the same map and chances are, we're going to see a very similar map this year in 2008, but you don't have to go back very long to see a very different set of swing states. There was a time when California was a swing state. Jimmy Carter won the presidency without carrying the state of California for the Democrats. There was a time when we looked at Georgia as an important swing state. So this list of swing states does change and the attention that's lavished on these states is considerable, so if you approach this question from the point of view of being a resident of one of these swing states, there's obvious benefits perhaps not in the sense of coherent interest on particular issues, but you get a lot of attention

and people like getting that kind of attention. Whether you're a citizen or a governor you like that attention. Finally, we should probably note that all this only matters when the

popular vote is quite close. The reality is, if you lose the popular vote by 10 points or even 3 points, it's just not--the discussion's merely academic. The popular vote and the electoral vote results will almost invariably be the same but the truth is, 5 out of the last 12 presidential elections have produced margins narrow enough that the popular vote and the electoral vote could have diverged. Of course, they actually did so only once and that experience, I think, weighs heavily in our thinking, perhaps too heavily in our thinking. This is a possibility that happens extraordinarily rarely, this divergence between the popular and electoral vote but it can happen, and as Ed rightly said whether it can happen, whether it does happen or doesn't happen, the entire apparatus of the campaigns the entire focus of the campaigns is based on the assumption that it could happen and it is that assumption that drives the attention to these smaller swing states. If you're from one of those smaller swing state you should really like the Electoral College a lot.

BRODER: Thank you all, and thank you for doing it all with great economy of time. I want to come back to you, Professor Wood for one question. You suggested earlier that it was basically the problem of voter ignorance that kept the Founders from going for direct election. Was that the only hang-up? If they'd had the wonders of the Internet back then so all voters could be wonderfully informed would they have gone for direct election?

WOOD: Well, it never came to a complete vote but certainly, that was suggested by a number including James Wilson, who was one of the leading intellectuals along with Madison but I think the problems of knowing whom to vote for was what stopped them.

I mean, I might--I think-- let me just say something about what's been discussed. First of all, we've never been a pure democracy. We know that. Look at the Senate. California has 36 million people Montana has 600,000, and yet they both have two senators, so right away, we've got a massive violation of what you might call pure democracy. That Senate representation is the one item in the Constitution which is not amendable.

Check your Constitution. Article 5 says no state can have its senators taken away without its own consent, so that's not going to ever change. So the other issue that seems to be flying around here which I find startling is--which is not really connected to the Electoral Colleges--is our first-past-the post winner-take-all system.

That, I think, is the beauty of the Anglo-Saxon approach to politics, and I'd hate to see that get endangered which seems to be being suggested. It hasn't anything to do with the Electoral College. It's just a principle on which we work. If we went to a voting where you had some kind of proportional representation, you're going to have a very different result.

We're not Holland, we're not Denmark. That's what they have, and it leads to a very different kind of politics.



The beauty of our system, I think, is this first-past-the-post-- and it works in the Electoral College, as well although that's changeable, as we know, without amendment. You can divide it up, but the beauty of it is that it clarifies things and leads to a kind of decisive result, and I think--so that issue is kind of floating around here which is not quite the same thing as whether the Electoral College is a good or a bad thing.

BRODER: Professor Edwards, we've just heard that our system has never been a pure democracy. Why are you so insistent on applying that kind of mathematical formula to the presidential election?

EDWARDS: Right. Well, it's absolutely correct. It hasn't been a pure democracy, but one of the great things about American history is that we have continuously striven to make it more democratic. The most common form of amendment has, for example, been increasing the franchise so we got rid of discrimination against--on the basis of race on the basis of gender, age, et cetera. We've been expanding the electorate. We didn't used to elect senators. Now we do. So we've been moving in a more democratic direction. Now the Senate is, of course, the biggest exception. The Senate is designed to represent constituencies and it certainly does a marvelous job at that. The president is not. That's not why we have a president. The president is not to be parochial. The president is to be broad. It has a different function in the constitutional system and so we don't want to do more things to encourage parochialism.

We want breadth, and by the way regarding the issue of first-past-the-post a general direct election would be exactly that. It wouldn't change it at all, at all which is how we elect almost everybody.

Professor Best, you've heard the challenge. This system is not designed to represent states it is not designed to represent interests it is supposed to represent people. Why do you not follow that logic? I think it is designed to represent people who live in states. We all--except for those who live in D.C. itself--live in states. We have to obey the state laws. We share the same roads, school, parks, local economy. There are regional differences and state differences in this country, but I would have to say first the first-past-the-post argument is an excellent argument and that's one of the arguments that I have made through the years in favor of the Electoral College. Gordon is right. It could be changed by the states at any time. It's not written into the Constitution but what it does is it normally magnifies the popular vote winner's electoral votes so normally--there are some

occasions where it doesn't work perfectly but normally, the popular vote winner gets a much greater percentage of the electoral vote.



For example, I think Clinton got 43% of the electoral vote and he had a margin of 84 more electoral votes than the majority. It magnified his vote. So that's one thing. Another thing is, I think, Ed is right. You change the rules, you're going to change the game. You're going to change who the contestants are you're going to change how it's played and I usually use a baseball analogy in explaining this to my students. I will raise the question with them and say "Why is it that the World Series champion is decided by the winner of the most games in a 7-game series? Why don't we just have the team that scored the most runs in the series?"

Well, of course, they understand immediately because they understand sports, if not the Electoral College and they understand that it's a far better test of the teams. You run up the score. You run up the score against your weaker opponents.

That's why I'm talking about--what I'm talking about is the election of 1888 when Cleveland lost because he ran up the score in the South he ran a sectional campaign and he lost in the electoral votes. He was winning, like 80-20 in the South and losing by bare margins in the North.

One of the things we need to do is to understand that the rules of the game—if the rules of the game change and we go to direct election, a whole lot of things are going to change, and it's not just the idea that you're going to all go out and you're going to have a big hat and your vote's going to go in it. You're going to have to think of a lot of other things. Are you going to have a minimum requirement? 50%? Are you going to have to have a majority? Are you going to have a 40% minority?

Makes a very big difference. It makes a very big difference because if you go to a direct popular vote you're going to increase the number of candidates. The two political parties will lose control over the nominating process and we could end up with a 30% president with the majority of the vote.

So you have to consider the--not just the general romantic idea of the alternative but the nuts and bolts of it and precisely what are the rules going to be and then you have to sit and think through and these two gentlemen on the ends of the stage here are the ones, I think, who can tell us the most about the kinds of strategies that would be used under a majority-rule or a 40%-rule or whatever.

BRODER: I'm going to come to you in the audience in one minute to start asking your questions and making your comments. There are microphones in either aisle if you want to grab a favored spot there but I want to ask each of the consultants one question before we begin with the audience.



Do you believe that if we went to direct election that we would, in effect, shatter the two-party system and bring on multiple candidacies?

MELLMAN: Personally, I don't think so and I don't think so because what inhibits--in my view what inhibits the growth of third-party candidacies are really a couple things. First, it is the psychological orientation--long-term psychological orientation of the public toward the two-party system. That's a fundamental fact which would take a long time to change.

Second, the difficulty in ballot access on a state level. You're still going to have to get on a ballot somewhere and so presumably even under direct election the states will have control of the electoral process and the states make it very difficult for third parties to get on the ballot and frankly, that's a question I guess one has to answer.

Do the states still control the electoral process in a popular vote system? If they do, you can still end up with very different kinds of rules in different states, but in any event I think the short answer is no.

BRODER: Ed?

GOEAS: I would agree with that. I mean, first of all, the mentality of the American public--and you really see this in primaries the mentality of American public in politics is "Give me two choices. Don't give me a lot of choices."

I mean, they narrow it down very quickly. Also, a lot of what quite frankly Mark and I do as pollsters, the other reason we don't have a European multiparty system is because our radar is constantly on the various concerns of the voters and we're always bringing it back to our party bringing it back to our voters that this may not be a priority for the party but this is out there and you need to incorporate it. So I think there's a certain amount of that. I do think that there is one thing I have to mention as being, from just practical politics I go back to the Founding Fathers and their wisdom and what works and what doesn't work.

Something that's being left out in this discussion is the two things the Founding Fathers I think, looked at. One was that they wanted to balance--they wanted the balance of power and part of that balance of power was taking the different forms of government and having it come from different people. Something that wasn't mentioned is until the 1800s

the Senate wasn't elected directly by the people. It was elected by the state legislatures and the whole purpose behind that was that they wanted them to both represent the common good for the state, and they wanted them to represent the republic. They wanted them to be more statesmen.



You could argue that what the senate has turned into as we have basically a plurality between the populace--not a plurality but basically an evenness on the populace is that the stalemate in government has been largely driven by the Senate both when we control the Senate and recently when the Democrats controlled the Senate. The rules of the Senate is that they are not any longer looking for the good of the republic or even the good of the state. They're looking for their direct population to represent and I think the original wisdom of the Founding Fathers to split that up was important. The other thing they were very concerned about was the tyranny of the majority and there was a real concern that a direct popular vote that this balance of power, you could have a president run on a popular issue out there and undo the balance of power basically because they could take that popular issue and undo it, and I think that is extremely--a factor that needs to be taken into account here that their original concerns on tyranny of the majority is a very real concern and you can see it in day-to-day elections.

BRODER: Good. Let's go to the audience.

MAN: OK. Why do you think in the primaries the Democrats changed so the electors are sort of proportional and the Republicans still winner-take-all--at least that's my understanding--and, you know, why did they change and did it solve any of the problems that we've been talking about or did it create any of the problems that you've been talking about?

[Goeas laughing]

MELLMAN: Obviously, that's just in the primary process.

MAN: Right.

MELLMAN: You know, it is an interesting analogy, I think because we're talking about the issue of essentially a popular vote versus an Electoral College which magnifies--can magnify relatively small differences almost always does.

Look. The Democrats--we're--we believe in equality and proportionality and all those good things and so we wanted to give everybody their say and you know what? If you get-

-if you get over 15 you're entitled to some delegates at least. Nobody should go home empty-handed.

Republicans are sort of Darwinists, you know? You win, you win everything. It's a winner-take-all system. So it just, I think, reflects some difference in the psychology of the parties but also reflects a different history. I mean, the truth is, proportional representation came out of a series of reforms of the Democratic nominating system in the seventies.



McGovern-Fraser was '72, right, '74, whatever. In any event, some time ago, but part of a series of reforms but it is fundamentally different but it does show--it does make a real difference. Let me just give you a fact here. If Democrats had winner-take-all Hillary Clinton would be the undisputed nominee of the Democratic Party. It is only because we have the system that we have--and they are the rules of the Democratic Party that Barack Obama is likely to be the nominee and similarly on the Republican side it is quite likely that if they had proportional representation and not winner-take-all that John McCain would not have become the Republican nominee, or at least the contest would have been much more protracted and the outcome much less certain.

GOEAS: And I find it hard to believe Mark's sitting there saying that with a straight face when they have the superdelegate system on the Democratic side that really takes it out of the hands of the public.

No. I think one of the things we're seeing this year is that everything was front-loaded and what happened on the Republican side quite frankly is that when the rule-changes started there was a belief that Hillary Clinton was going to be the nominee on February 5 and we were going to be in a protracted fight, and we were trying to shorten that fight a little bit so we wouldn't have to go for months and months and months with them having a nominee and us not.

It's interesting it ended up the other way around. I will also say that I was the pollster for the Rudy Giuliani campaign. I'm now with the McCain campaign but a lot of that rule-change, for example, in Florida we were doing because, as I say, you deal with the rules that are there, and what we were doing this year was kind of rewriting the rules before the game started and then playing that battle. Now unfortunately, those rules didn't benefit us. It ended up being--you know, if we had won Florida you would have seen Rudy there instead of McCain. McCain benefited from the Rudy strategy of this winner-take-all kind of approach to the primary but it really has nothing to do with anything in terms of what we're talking about for the general election except that it has had this kind of strange outcome of the election. You could spend

just as much time talking about how the superdelegates started with the Democrats which was basically a catch that the party leaders if you would, would be able to keep them from making a mistake of nominating someone who was not electable in the general election, and I think you're still seeing a little bit of that debate under the surface.

BRODER: Yes, sir.

MAN: Yes. I guess I would have to call myself both a small "d" and a large "D" Democrat. Growing up with the idea that the Founding Fathers that this country was founded on one simple principle--all men are created equal--now women, now everybody else--and based



on that, when you look at the Electoral College you take a state like Wyoming that has 3 electoral votes. Those 3 electoral votes each represent only 151,000 some-odd people based on the 2000 census. My state, Illinois, has 21 electoral votes but those votes--one electoral vote represents 546,000 people. That's not one man, one vote. That's not all men are created equal and I would also make the observation that if you look at the 2000 election--even if you don't want to abolish the Electoral College at least abolish that there are two electors given to each state because they have senators. If you took away each of the two senators from each state's electoral votes in the 2000 election Al Gore wins the election-- wins the election even if he lost Florida. And the other comment I would make-- and I wish I had the numbers--I think we had a Constitutional Convention--or a Constitutional crisis in 1860 and how much that had to do with the Electoral College versus the popular vote, I don't know but I'd like come comments on those numbers.

BRODER: Professor Edwards, my guess is you may have heard this kind of argument once or twice before.

EDWARDS: Well, I have, I have, and although I don't have the exact numbers in my head, your point is well-taken and I just can't see any reason why some people should have more say in selecting the president than another. I would add that regarding Mark's point about small states getting attention what the hell good is that? I mean, who cares, you know? First of all, they're generally bored out of their minds with the advertisements to begin with but it's not like you're getting something. I mean, if you're going to say that we're going to ignore 14 other small states to give 3 small states attention and then that's really good for those states and that might change over time then you've got to show me that they're getting something out of it. Now we talked about Colorado a moment ago and the Colorado effort. Now I didn't support that particular version of reform in Colorado because it was truly proportioned which would encourage third parties which I don't want to do, but the governor was saying "Oh, we can't do that. It will dilute our clout." What clout? What are you talking about? What clout? In the previous election, nobody showed up in Colorado. There were no ads, no candidates visiting. There was no clout. Now when Colorado becomes--when Colorado becomes competitive in 2004, they did show up and they'll show up-- now they'll show up but before, they didn't show

up and what does clout mean? It has to have some meaning. We can't just talk about this in high abstraction. What are you going to get out of it aside from the entertainment value of seeing the advertisements?

[Audience laughing]

WOOD: I think if you went to a popular election you'd find the campaigning would change. Every vote's the same, why go anywhere? If you think there's money in politics now wait till you had a national election because it would all be television. It would be like



Budweiser Beer across the nation simultaneously because there would be no point in going to any place because every vote is the same. Why would you travel anywhere? So it would be national campaigning from a television station, which costs a lot of money.

BEST: So it hits the major media areas--

MELLMAN: That's where you would go.

EDWARDS: No, no, no. No. In fact, and that's not what you do now actually. I hate to dispute with politicians but we've actually calculated the money spent per major media market and small media market in the states where candidates campaigned in 2004 and they actually spend as much or more on the smaller markets because it's more cost-effective. Right now, almost all the campaigning is through TV anyhow, so, I mean, you're not talking about a fundamental change here. Candidates--why do candidates go? They speak to the converted. They want turnout and that's why they go and speak. They're not trying to persuade people because the crowd is already persuaded.

WOOD: I have a question for George. Are you suggesting a plurality would win or does it have to be an absolute majority?

EDWARDS: Plurality.

WOOD: A plurality? So you could have a president who acquired only 30 of the popular vote?

EDWARDS: We've never had--it's highly, highly, highly unlikely. The smallest vote any candidate has ever received was Abraham Lincoln's because he wasn't on the ballot in 10 states, and he got 39.8% of the vote so I think that there's virtually no chance whatsoever--besides what we've already heard from our experts in politics here about the natural two-party system.

MELLMAN: We're only experts when we agree with you, though. No. I'm just kidding.

EDWARDS: It's a two-party system which is also supported by--and we have lots of studies. We could literally fill this room with studies of party systems and the splintering of party systems across the world. If you have first-past-the-post and if you have--if you have single-member districts then you have two parties, and you don't have to worry--

BRODER: Let--Professor Best, go ahead.

BEST: That's what we have now. What we have now is single-member district plurality elections in the states. That is exactly what we have now and if you're going to change those rules, you're going to change--



EDWARDS: And what we see when we have that is we don't have splintering parties. We elect members of the House, members of the Senate state legislatures and almost everyone else in America that way and it doesn't splinter parties.

GOEAS: But from a pragmatic standpoint there are some things that happen. Number one, minorities in states can make a difference in those states. Nationally, they wouldn't. You can take vote fraud and minimize it to the state rather than having to deal with it to the whole nation. If a party controls the state and they're doing vote fraud you minimize it to that state. On election day, you can have weather. We've seen it. Weather can affect in one section of the country the vote. At least you minimize it. You can have gubernatorial elections senatorial elections that change the turnout that affects for that state. You minimize that. There are very pragmatic things that come from the Electoral College that you're going to have to deal with all of those things along with what the Founding Fathers dealt with in the beginning is how you do you keep the balance of power and not distort it? It is not based on one man, one vote. It is based on balance of power of government that gives us the best government so that they deliberate effectively in terms of government. It is not just one man, one vote.

BRODER: I want desperately to get in a couple more questions. Yes?

MAN: I'm a District resident, so I'm one man, no vote.

[Audience laughing]

But I would like to know--Ed, you made the point that Colorado voted two to one against proportionate representation in the College. Now of course as Dr. Best or Dr. Wood had said well, you're diluting your influence, as it were so it's no surprise that one state would vote overwhelmingly against doing that but say you had a national referendum. How do you think the voters across the country would vote if proportionate representation for each individual state or for all states in the Electoral College were proposed?

EDWARDS: We have a set of polls. Gallup has been baking polls on the form of election people would like for decades and every single one, a majority of people said "We want a direct election, one person, one vote." That I can tell you.

WOOD: That's true. Oh. Sorry.

BEST: I was going to just say in terms of proportional representation, "CQ" did a study of elections between 1960 and 1996 or something like that and they found that if you had used proportional representation, the system would have gone to the House of Representatives. I'd just add, while it's true that you do have--if you ask--first of all, we don't have a system of national referendum which is part of the underlying question here--



number one. Number two, it is clear from the polls that people do favor direct election in the popular vote and oppose the Electoral College. It is also true--and we know this from our experience in 2004--that when there was a result where the popular vote differed from the Electoral College people said in rather large and overwhelming numbers "We should go with the Electoral College "because that's the rule." People understood it was the rule and they supported the rule, even though they said in principle they might prefer direct elections. I don't know where that takes you but that's, I think, the fact on the polls. Let me just take the opportunity--I've stolen the floor--just to respond to a couple things very quickly. One, I think there is a benefit that states get. It may not--you may not care--you may not care about the benefit they get, but there is no question that individual states--and it's not just small versus large, middle-sized--states like New Mexico and Nevada and Colorado that are going to get a tremendous amount of attention this year would not get that attention, and it's not just the entertainment value of the ads frankly. It is real stuff. You know, the candidates are going to have--to take one example. The candidates are going to have a somewhat more vigorous position on whether there should be a nuclear waste dump in Las Vegas, near Las Vegas because Nevada is a swing state that counts. That's going to be a real benefit to people in Nevada. Second, the Latino community, for example, because it is concentrated importantly in those states there's going to be a level of attention focused on the Latino community that would not otherwise be lavished upon that community. So there's a lot of ways in which you can--I think you can look at the situation and say "People do get something concrete." Is it always the same thing, is it always measured in terms of support for agriculture or new bridges? No, but there is some content to the clout.

BRODER: Last question, yes.

MAN: Dr. Best kind of alluded to this a little bit. If the 1996 election does go to the House of Representatives you've got President Clinton not getting 50 but you've got a House of Representatives dominated by Republicans, who were not friends of President

Clinton at the time. Do you feel people would clamor to go back to the Electoral College or do you go to a popular vote at that point?

BEST: Well, you mean having that election decided--

MAN: '96 by the House, but yet you have a popular vote that is overwhelmingly--

BEST: But it didn't go to the house because--

MAN: No. I'm just saying, I mean, hypothetically if it did.



BEST: We already know hypothetically about it because of the election of 1800, but what my point is is that you're making a proposition so contrary to fact that you're making the point.

MAN: No, no. If you had a House or Representatives that was dominated by Republicans do you feel they would have elected Dole as president going against the popular vote?

BEST: Well, that's the election of 1800 where the issue was whether the old House would choose Burr over the clear candidate for the presidency Jefferson and that was one of the reasons why we have the 12th Amendment.

MAN: But would have people been clamoring for the Electoral College to say "We want the Electoral College because if you had that "you would have had President Clinton reelected"?"

WOOD: You're assuming that the mass of the House votes--but that's not the way it works. It's each Congressional delegation and so you can have a bunch-up. A lot of Republicans in one state would only still only have one vote, and so each delegation would be vote, and the majority of that delegation would determine the vote of the state.

GOEAS: But if your question is could they be political as opposed to go with the will, absolutely.

WOOD: Yeah, sure.

BEST: I would say this. I would say this regarding the election of 1992 when I got frantic calls from the Chairman of the Senate Subcommittee on the Constitution to come down because Perot was skyrocketing in the polls and they were in an absolute terror fit. They did not want to have to decide the election. This is Congress. They didn't want to have to

do it and so they were actually so terrified that some of them were proposing a Constitutional amendment to change the contingency election while the game is underway.

[Laughter]

And I had to go down there and say, "Listen to Mother. It's going to be all right. If you want to change it, that's up to you but you can't do it while the game is underway. That's not fair, you know. Listen to Mother." And I predicted--and I think the gentlemen on either end will agree with me, a spoiler candidate like Perot or any of the others can shift who the winner will be but isn't likely to come out a winner himself. He's a spoiler. He isn't going to



come out the winner himself, and he is not really likely to deadlock the college. That's a very difficult thing to do.

GOEAS: Let me just throw out one last thing and this happened in 2000 because there were 50,000 challenged ballots in Florida. It never got to that point, but of those 50,000 challenged ballots, they predominately fit into two categories. They were ex-felons from other states that their state had given them the right to vote again but Florida didn't recognize that. They were challenged. The other is that there was a large group of Democratic voters who voted for Gore and crossed through Lieberman's name. Distinguishing mark on the ballot. If it had gone to a recount, it could have been argued both sides intent versus distinguishing marks. You know, there are other factors that are here that come into play that no one even thinks about and I think I would come back to the Founding Fathers were very smart, they had very specific things they were trying to do. It goes beyond one man, one vote. It goes to balance of power, and no matter what system you go to, there are huge, huge things that could happen and so it's not just a simple debate. It's a very deep debate.

EDWARDS: Ed, I think that you're missing a fundamental point what the Framers were thinking about. They certainly wanted to stop or inhibit tyranny of the majority so they gave minorities the opportunity to stop change. The system is rigged for the status quo. The only time that minorities can actually take positive action is the Electoral College. That's the offensive part.

MELLMAN: Professor Wood, could I just ask? I had the impression from your remarks at the beginning that sort of contrary to what Ed said the Founders weren't really thinking about anything in particular when they came up with this particular solution as opposed to an intricately designed--

WOOD: They just wanted a way of selecting the president that would render him independent and they couldn't anticipate the world we live in, that's all. No more than we can anticipate he world 100 years from now.

GOEAS: But your comments were that they were tired and it was at the end. It doesn't mean that a great deal of thought didn't go into it, and it doesn't mean you can't make a good decision when you're tired.

WOOD: They were fighting about the selection of the presidency through the whole convention and they couldn't agree on it until the end but the discussion went on through the whole convention.



MELLMAN: But would you say that this Electoral College system was an ingenious, carefully considered solution or was it just, "Hey. We found something. Let's do it"?

BEST: May I answer? May I answer? I think they stumbled onto something and they didn't know what it was and they didn't know how it was going to work out and they had a bit of trouble in the beginning getting ahold of it, especially since they made such a grievous error that led to the election of 1800 but they stumbled on it and I think Tocqueville recognized that, too. Oftentimes, inventors of things do not know the full utility of the thing they have created. I mean, they were debating votes by states or popular votes, so they opted for both and you've got popular votes in the House and you've got states in the Senate and they combined it for--and I think that maybe there is something to the saying that God looks after children drunk in the United States of America. I mean, I think they stumbled onto something quite swell.

EDWARDS: There's a note to end on.

BRODER: There you go.

[Laughter]

My apologies to the people who did not get to ask questions. I hope you'll come down front and buttonhole the people that you're after, and meanwhile could all of the rest of us join in thanking this wonderful panel?

[Applause]

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