



# Electoral College: The Debate Continues

May 21, 2008

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.

## **Part I: Introduction and The Role of the Federal Register**

**Archivist Allen Weinstein** offers opening remarks, and **Raymond Mosley**, Director of the Office of the Federal Register discusses how this office coordinates the functions of the Electoral College.

**ARCHIVIST ALLEN WEINSTEIN:** Good evening, ladies and gentlemen. I can't hear you. Good evening.

**AUDIENCE:** Good evening.

**WEINSTEIN:** Once more. Good evening.

**AUDIENCE:** Good evening.

**WEINSTEIN** That's better. Those of you sleeping in the back, time to stop. Let me start the proceedings by shutting this off and if you have any -- [Music plays on cell phone] There. Welcome to the National Archives. Tonight's program lies at the heart of the National Archives' mission although we won't roll out a single paper document from our stacks. However, what we do have is a good supply of such paper records, more than 10 billion pages in our various repositories and we serve American democracy or try to by safeguarding and preserving the records of the federal government, ensuring that citizens can discover, use, and learn from this documentary heritage. That heritage is also illustrated by the millions of photographs and films in our holdings. It comes alive in the maps and models from wars and land surveys and in the artifacts we preserve in the dozen presidential libraries which are part of the National Archives. That's a little known fact that the presidential libraries are administered by the National Archives, but they are. There will be 13 soon when the Bush library goes up. This historical record will also be accessible to future generations through the Electronic



Records Archives now being built. Tonight in hosting this program on the continuing debate the very crucial debate surrounding the Electoral College the National Archives honors one of our most important functions, supporting American democracy through civic education. As Archivist of the United States-- it's true I was introduced once as the Alchemist of the United States, but that--

[Audience laughing]

--that didn't work very well. As Archivist of the United States I have never been called a president but this evening I suppose I could be considered for the title temporarily of President of the Electoral College and I'll tell you why in a second. You probably know that the Electoral College is not a standing agency of the federal government housed in a federal building. If you don't know it, you should. But in reality, the National Archives through its Office of the Federal Register does house the ongoing apparatus of the Electoral College established in the United States Constitution. For that reason, it is altogether appropriate that this evening's program take place in the home office, if you will, of the Electoral College. As you know, at every level of government there are administrative duties to be carried out. In counties, there are county clerks in the 50 states, there are secretaries of state. These officials receive, certify, issue, and record legal actions ranging from issuing marriage licenses to certifying the results of elections but the U.S. Constitution left undefined the means by which these latter duties of the federal government certification of elections, could be performed and by default early in the republic the Secretary of State became a clerk for the U.S. government. For more than 150 years, the Department of State was the repository of the key documents and functions of government but in the massive reorganization of the federal government in 1949 these administrative functions were finally removed from the Department of State and assigned in part to the National Archives. Among these functions was the responsibility associated with the Electoral College and delegated to the Office of the Federal Register and the Federal Register is also part of the National Archives. I want to--by the way, how many of you knew that the presidential libraries are part of the Archives before I mentioned that fact? That's about right. How many of you knew that the Federal Register was part of the National Archives? Just what I thought. I want to welcome you all to the National Archives that I'm privileged to lead and I hope you'll have a chance to explore our exhibits and perhaps conduct some research in the near future.

It is my pleasure now to introduce the Director of the Federal Register to provide an overview of the work it does in connection with the electoral college. Raymond Mosley--Ray Mosley has served as Director of the Federal Register since 1997. He's a key member of our senior staff. The Federal Register is published daily



and the Code of Federal Regulations is updated by the dedicated staff of the Federal Register. Every 4 years, that office steps into the limelight when they play a key role through the Electoral College in the election of the President of the United States. Here's the Director of the Federal Register Ray Mosley. Ray.

[Applause]

**RAYMOND MOSLEY:** Thank you, Allen. Good evening. I'd like to extend my welcome to all of you, as well to what promises to be a lively debate this evening.

Before the discussion begins, I'd like to give you a brief cook's tour behind the scenes of the operations of the Electoral College. Although the Electoral College is largely conducted at the state level there are a few federal requirements so as in each presidential election year this summer, the Archivist will send to the governors of the 50 states and the mayor of the District of Columbia detailed instructions about their responsibilities. Their duties, as you know, were defined in the Constitution and in federal statute. The Constitution requires the states to submit two different certificates to the federal government. The first is called a Certificate of Ascertainment. This certificate lists the names of electors chosen by the voters and the number of votes they received. Certificates of Ascertainment also list the names of all other candidates and the number of votes they received. The second certificate submitted by the states is called the Certificate of Vote. Certificates of Vote contain the electors' votes for president and vice president. While federal law does not proscribe the general appearance of the certificates, they must contain two distinct lists one for president and the second for vice president. Under federal statutes, the states send both of these certificates to the Archivist in care of the Office of the Federal Register. We examine them upon receipt to make sure they are legally sufficient. We also place them on public inspection meaning any member of the public may come to our offices and look at them and obtain copies of them. In addition as the process unfolds we answer questions from the state--from the states from officials of the states and the general public.

Let me at this point plug our Web site which is filled with information about past elections about our duties and responsibilities and about the duties and responsibilities of the states and of course of the Congress. You can find our Web site at the National Archives Web site. Go to [archives.gov](http://archives.gov), and along the left side of that first page you will see Electoral College. Click on that, and that will take you to the opening page of all of the information, which is plentiful that we have available on that site. In 2004, that site received over 990,000 hits on election day.



In addition, as I mentioned, we answer questions from the public, as well as help the states in carrying out their duties. If you would like to e-mail us, our e-mail address is [electoral\\_college@nara.gov](mailto:electoral_college@nara.gov). As you know, when you and I vote for president in the general election, we are actually marking our ballots in favor of candidates for the Electoral College, who are committed to the presidential candidate of our choice. The electors' names are not listed on most state ballots but rather are represented on the ballots by each of the party's candidates.

This year, as you know, the general election will take place on November 4. It is the results of the general election that are reported on the Certificates of Ascertainment. Each state prepares 7 originals authenticated by the governor's signature and the state seal. One original and two certified copies are to be sent to the Office of the Federal Register. States will have until December 15 to forward these certificates. In late December or early January...members of my staff and I will meet with the Secretary of the Senate and the Clerk of the House to deliver one set of copies of the Certificates of Ascertainment to Congress. On December 15 of this year, the Constitution requires the certified electors in each state to meet and cast their ballots for president and vice president. During this meeting, the electors record their votes on 6 Certificates of Vote which are paired with the 6 remaining original Certificates of Ascertainment. The electors sign, seal, and certify packages of electoral votes and immediately send one set of votes to the President of the Senate and two sets to the Office of the Federal Register for the National Archives and hold the second set in reserve subject to the call of the President of the Senate to replace missing or incomplete electoral votes. Under federal law, the President of the Senate and the Archivist should have the electoral votes in hand by December 24. While states don't face a legal penalty for failure to meet this deadline the Archivist may take extraordinary measures to retrieve duplicate originals. On occasion, previous Directors of the Federal Register have gone to the post office on Christmas Eve to search for Certificates of Vote. I personally have not had to do that yet but it's been close a few times.

On January 6, 2009, the new Congress will meet in a joint session in the chamber of the House of Representatives to count the electoral votes. The president and vice president candidate must obtain a majority of electoral votes--that's 270--to be elected. If there is no majority, the House selects the president and the Senate selects the vice president.

Finally, on January 20, 2009, the president-elect will take the oath of office as the 44th President of the United States. Of course, in most years, the results of the election of the next president are known long before the votes of the electors of the Electoral College make it official but in some years, as you are well aware



this unique Constitutional feature of our system of government has created great suspense and intense political battling over the outcome. It's when the winner of a majority of Electoral College votes differs from the winner of the majority of the popular votes that sets the stage for the fascinating topic of this evening's program. All of us at the Office of the Federal Register are honored to play a small role in the process of electing the president.

We hope you will enjoy the debate this evening and we hope that you will vote on November 4 for your favorite Electoral College representative.

[Audience laughing]

Thank you.

[Applause]

**WEINSTEIN:** You see why we keep him around. Well, I am going to be booking reservations to someplace south of Washington by late December but well before Christmas Eve. Oh, there will be no blue books passed out. Now just a few more words, and we'll get the program started. Thank you, Ray, for that excellent summary of the role of the Office of the Federal Register in the Electoral College process.

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