

The Electoral College: A Scripted Conversation

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Introduction

One of the most difficult and contentious issues in the Constitutional Convention of 1787 was provisions for the selection of the President. Some delegates wanted the President selected by the legislature. Other delegates favored direct election and argued that selection by the legislature would mean that the president would be continually trying to please legislators and would not be truly independent. This would be an even larger concern if the President could serve more than one term. Some delegates were opposed to direct election and expressed concern that Presidents would always come from states with larger populations. They also questioned whether the public would have enough knowledge of the various candidates to make a wise selection. Discussion on this issue proved so contentious that a committee comprised of one delegate from each of the states was assigned to settle the outstanding issues and work out a compromise. The committee presented a plan to the Convention on September 4, 1787. They recommended that the Convention support the Electoral College method of choosing the President. The final decision of the delegates was to have electors chosen by the state legislatures. These electors would select the President.

In order to understand the reasons the Convention had for choosing the Electoral College method, it is essential to know the historical time period and the issues that the Founding Fathers were trying to solve. They faced the difficult question of how to select a President in a nation that:

- was composed of thirteen States, some large and some small in population, that were concerned only of their own rights and powers and that were very suspicious of any national government power.
- was barely connected by transportation or communication. There were four million people who were very spread out and lived very independently from others in the country. National campaigns were very impractical and not deemed necessary.
- had leaders who were deeply influenced by political thinkers such as Henry St. John Bolingbroke and others who believed that political parties were not helpful and maybe downright evil.
- felt that men should not seek public office by campaigning. The office should seek the man, not the other way around.

How, then, without political parties and national campaigns, should our country select our President? This selection must be done without upsetting the balance between the President and the Congress and between the States and the federal government. The Constitutional Convention considered several possible methods of selecting a President.

One idea was to have the Congress choose the president. This idea was rejected because some felt that making such a choice would be too divisive an issue in the legislature. Others felt that such a procedure would invite political bargaining, corruption, and even interference from foreign powers. Such an arrangement could also upset the balance of power between the legislative and executive branches of the federal government. A second idea was to have the State legislatures select the President. This idea was rejected because of fears that a President so beholden to the State legislatures might permit them to erode federal authority and thus undermine the whole idea of a federation. A third idea was to have the President elected by direct popular vote. Direct election was rejected not because the Framers of the Constitution doubted public intelligence but rather because they feared that without sufficient information about

candidates from outside their State, people would naturally vote for a "favorite son" from their own State or region. At worst, no President would emerge with a popular majority. At best, the choice of President would always be decided by the largest, most populous States with little regard for those with smaller populations.

Finally, after no one plan gained much traction, a committee (designated the Committee on Postponed Matters), with one representative from each of the eleven states present, proposed an indirect election of the President through an Electoral College.

Report of the Committee of Eleven: [*Madison, 4 Sept.*] Each State shall appoint in such manner as its Legislature may direct, a number of electors equal to the whole number of Senators and members of the House of Representatives, to which the State may be entitled in the Legislature. The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves; and they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify and transmit sealed to the Seat of the Government, directed to the President of the Senate--The President of the Senate shall in that House open all the certificates; and the votes shall be then & there counted. The Person having the greatest number of votes shall be the President, if such number be a majority of that of the electors; and if there be more than one who have such a majority, and have an equal number of votes, then the Senate shall immediately choose by ballot one of them for President: but if no person have a majority. Then from the five highest on the list, the Senate shall choose by ballot the President. And in every case after the choice of the President, the person having the greatest number of votes shall be vice-president: but if there should remain two or more who have equal votes, the Senate shall choose from them the vice-President. The Legislature may determine the time of choosing and assembling the Electors, and the manner of certifying and transmitting their votes. The details and workings of the original Electoral College plan are described in Article II, Section 1 of the Constitution. There have been some necessary changes to the first plan as provided by the 12th Amendment to the Constitution. These changes were needed because, by 1800, political party loyalties started becoming more important than State loyalties. This created new problems in the selection of a President. The 12th Amendment fundamentally altered the design of the Electoral College and accommodated political parties as a fact of life in American Presidential elections.

Sources

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Publius: The Federalist 68, New York Independent Journal, 12 March 1788

Websites

TeachingAmericanHistory.org

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Cast (In order of appearance)

Moderator

James Wilson – Pennsylvania

Gouverneur Morris – Pennsylvania

Hugh Williamson – North Carolina

Charles Pinckney – South Carolina

Elbridge Gerry – Massachusetts

George Mason – Virginia

Roger Sherman – Connecticut

Edmund Randolph – Virginia

John Dickinson – Delaware

Oliver Ellsworth – Connecticut

James Madison – Virginia

Caleb Strong – Massachusetts

Abraham Baldwin – Georgia

Alexander Hamilton – New York

Script

Moderator: Good Evening and welcome. Tonight we are very fortunate to have many of the ‘stars’ of the Philadelphia Convention with us. We will discuss one of the most difficult and contentious issues in the Constitutional Convention: how to select the President. We know there were several different ideas on how accomplish this. I will let each of our panelists help us to understand their preferences and how the discussion played out during the Convention. Gentlemen, it is indeed an honor to have you with us this evening, welcome.

All Panelists: Good Evening, Hello, It’s great to be here, etc.

Moderator: Many people today have trouble understanding why our President is not elected by a popular vote. At the Convention, many of you, at least originally, felt the same way. Mr. Wilson, you made this argument early on during the discussion of this issue.

James Wilson: [Yes, that is correct.] In theory, I was for an election by the people. Our experience, particularly in New York and Massachusetts, showed us that an election ... by the people at large was both ... convenient and successful. [The candidates] must be persons whose <accomplishments are well known>¹.

Gouverneur Morris: [The President] ought to be elected by the people at large, by the freeholders of the Country . . . If the people should elect, they will never fail to prefer some man of distinguished character, or services.

Hugh Williamson: There are at present many distinguished <people>² who are known to almost everybody. This will not always be the case.

Charles Pinckney: [I am against] an election by the people. . . . They will be led by a few active and designing men.

Elbridge Gerry: A popular election in this case is radically vicious. The ignorance of the people would put into power ... men <from throughout>³ the Union ... acting in concert to <deceive>⁴ them.

Gouverneur Morris: It is said that in case of an election by the people the populous States will combine and elect whom they please. Just the reverse [is true]. The people of such States cannot combine. If there be any combination it must be among their representatives in the Legislature. It is said the people will be led by a few designing men.

Moderator: So, the size of our country will prevent this from happening?

Gouverneur Morris: [Correct.] This might happen in a small district. It can never happen throughout the continent. ... It is true they [could] be uninformed of what [laws] passed in the <Legislature>⁵, ... but they will not be uninformed of those great and illustrious <people>⁶ which have merited their esteem and confidence.

James Wilson: [I still think the best choice is] an appointment by the people. [In my opinion] both branches of the legislature . . . and the Executive [should] be appointed by the people, without intervention of the State Legislatures, in order to make them as independent as possible of each other, as well as of the states.

George Mason: I favor the idea, but think it [is very] impractical. It would be as unnatural to <give>⁷ the choice of . . . <President>⁸, to the people, as it would, to <give>⁹ a <choice>¹⁰ of colors to a blind man. The <size>¹¹ of the Country <makes>¹² it impossible that the people can . . . judge the candidates.

Moderator: We know that the idea of a popular vote was an important part of the discussion. What other ideas were brought forward during the Convention?

Roger Sherman: I am for the appointment by the Legislature, and for making [the President] dependent on the Legislature. . . . Any independence of the Executive . . . is, in my opinion, the very essence of tyranny.

Elbridge Gerry: I am opposed to the election by the national Legislature. There would be constant . . . bargaining between the Legislature and the candidates . . . [and the Legislature] would give votes [for the President] under promises or expectations of <rewarding>¹³ them by services to members of the Legislature or to their friends.

Gouverneur Morris: If the Legislature elect, it will be the work of <secret plans>¹⁴, of <private interests,>¹⁵ and of faction. If the Legislature have the Executive dependent on them, they can perpetuate and support their <taking charge over the government>¹⁶ by the influence of tax-gatherers and other officers.

James Wilson: My particular objection with . . . an absolute election by the Legislature is that the Executive would be too dependent to [be able] to stand as mediator between the <secret plans>¹⁷ and sinister views of the Representatives and the general liberties and interests of the people.

Charles Pinckney: The National Legislature being most immediately interested in the laws made by themselves, will be most attentive to the choice of a fit man to carry them properly into execution.

George Mason: I prefer . . . the election by the National Legislature . . . [though I] admit there is a great danger of foreign influence.

Gouverneur Morris: If the Executive [is] chosen by the National Legislature, he will not be independent [of it]; and if not independent, <power grab>¹⁸ and tyranny on the part of the Legislature will be the consequence. This has been the case in England in the last century, in Holland, where their Senates have [taken] all the power. It has been the case everywhere.

Hugh Williamson: [We] have the same difference between an election . . . by the people and by the Legislature, as between an appointment by lot, and by choice.

Moderator: We can see that there were large differences of opinion concerning the idea of having the Legislature select the President. Such a diverse group of men, it seems, would always have many

different opinions on almost any subject. Were there any other ideas that were brought up during the Convention?

James Wilson: [I proposed] that the Executive . . . be elected in the following manner: That the States be divided into districts and that the persons qualified to vote . . . elect members for their respective districts to be electors of the Executive . . . that the electors . . . meet . . . and elect [the President] by ballot, but not [someone from their own group of electors].

Moderator: So, the states would have little or no role in the selection process?

James Wilson: [I am] in favor of an election without intervention of the States. [This method of selection] will produce more confidence among the people . . . than an election by the National Legislature.

Elbridge Gerry: I like the principle of Mr. Wilson's [idea], but I fear it would alarm . . . the State . . . as tending to supersede altogether the State authorities. I think the Community is not yet ripe for stripping the States of their powers. . . .

Moderator: What then was your solution?

Elbridge Gerry: I moved that the National Executive should be elected by the Executives of the States whose proportion of votes should be the same with that allowed to the States in the election of the Senate. If the appointment should be made by the National Legislature, it would lessen the independence of the Executive which ought to prevail. . . . The Executives would be most likely to select the fittest men, and that it would be in their interest to support the man of their own choice.

Edmund Randolph: I urge strongly the <inadvisability>¹⁹ of Mr. Gerry's mode of appointing the National Executive. The confidence of the people [in the President] would not be secured.

Moderator: In other words, the states will feel slighted if they had not role in the process?

Edmund Randolph: [Exactly.] The small States would lose all chance of an appointment from [their own state]. Bad appointments will be made [because] the Executives of the States [know] little of [people outside] their own small spheres. The State Executives . . . would prefer . . . favorites within the States . . . or . . . may be expected . . . to be partial to the interests of the State. A National Executive [chosen in this way] will not be likely to defend . . . the national rights against States.

John Dickinson: Let the people of each State choose its best citizen. The people will know the <most respected people>²⁰ of their own States, and . . . they will select [the people] of which they . . . have the greatest reason to be proud. Out of the thirteen names . . . selected, [the President] may be chosen either by the National Legislature, or by Electors appointed by it.

Oliver Ellsworth: [I would prefer] the appointment . . . be chosen by electors appointed by the Legislatures of the States.

Elbridge Gerry: I prefer Mr. Ellsworth's [idea] to appointment by the National Legislature, or by the people. . . . Electors . . . should be allotted <to the States proportionally>²¹.

Hugh Williamson: I have no great confidence in the Electors to be chosen for [this] special purpose. They would not be the most respectable citizens . . . [and] they would be liable to undue influence.

Oliver Ellsworth: [I would propose] any persons might be appointed Electors, except . . . members of the National Legislature.

James Madison: The ratio [of Electors] ought to either be made temporary, or so varied as that it would adjust itself to the growing population of the States.

Hugh Williamson: In future elections . . . the number of Electors . . . shall be regulated by their . . . numbers of Representatives.

Gouverneur Morris: [I proposed] that Electors . . . shall not be members of the National Legislature, nor officers of the United States, nor shall Electors themselves be eligible to [be President].

Caleb Strong: It is of great importance not to make the government too complex which would be the case if a new set of men like the Electors were introduced into it.

Elbridge Gerry: I still hold that an election at all by the National Legislature is radically and incurably wrong. The Executive should be appointed by the Governors . . . of the States, with advice of their councils . . . or by Electors chosen by the [State] Legislators.

James Madison: There are objections against every mode that has been, or perhaps can be proposed. . . . The Legislatures of the States <have shown a natural tendency>²² to a variety of <harmful>²³ measures. One object of the National Legislature was to control this <tendency>²⁴. One object of the National Executive . . . is to control the National Legislature. . . . [If you have] the appointment of the National Executive [selected by] the State Legislatures, this controlling purpose may be defeated. The [State] Legislatures can and will act with some kind of a . . . plan . . . the National Executive would be rendered subservient to them. With an appointment by the State Executives . . . they could and would be courted . . . by the candidates . . . and by foreign powers. . . .

Moderator: If these options have problems, what is your proposed solution?

James Madison: [Our choice is] between an appointment by Electors chosen by the people [or] an appointment by the people. The [choice of Electors is] free from many of the objections [presented] and greatly preferable to an appointment by the National Legislature.

Moderator: With so much difference of opinion, am I correct in recalling that the Convention decided that each State would select a representative to serve on a committee?

James Madison: [Yes.]

Moderator: The “Committee of Eleven” was to take up all unresolved issues and report back to the entire Convention. The committee decided to endorse the popular election of the President using State Electors. How did members of the Convention react to this proposal?

George Mason: I confess that the plan of the Committee . . . removed some . . . objections.

Gouverneur Morris: The principal advantage . . . [was] that of taking away the opportunity for <private interests>²⁵ . . . Other inconveniences may be no less <solved>²⁶ on this plan than any other.

Abraham Baldwin: I think the plan [was] not so objectionable. . . . The increasing <communication>²⁷ among the people of the States would <make>²⁸ important <people>²⁹ less and less unknown.

Moderator: The person receiving the second highest number of votes by the Electors would be the Vice-President. Other details still needed to be agreed upon. If no person has enough votes for a majority, the committee gave the choice to the Senate. How was it later decided to give that choice to the House of Representatives?

George Mason: It was liable . . . that nineteen times in twenty the President would be chosen by the Senate, an improper body for the purpose.

Edmund Randolph: I preferred [another plan of selecting] the Executive, but if change was to be made, I [wanted] to know why the eventual election was referred to the Senate and not to the [House of Representatives]. I [saw] no necessity for this and many objections to it.

Gouverneur Morris: The Senate [was] preferred because fewer could then, say to the President, you owe your appointment to us.

Edmund Randolph: We [had] in some [versions of] this plan made a bold stroke for Monarchy. We [then were] doing the same for aristocracy. . . . Such an influence in the Senate over the election of the President, in addition to its other powers, [could make] that body into a real and dangerous aristocracy.

John Dickinson: I [was] in favor giving the eventual election to the [House of Representatives], instead of the Senate. It [was] too much influence [for the Senate].

George Mason: I prefer[ed] the Government of Prussia to one which [would] put all power into the hands of seven or eight men, and fix an aristocracy worse than absolute monarchy.

Hugh Williamson: [I thought] it [was] a reasonable precaution against the undue influence of the Senate.

Roger Sherman: If the [House of Representatives] were to have the eventual appointment instead of the Senate, it ought to vote . . . by States . . . as the large States would have so great an advantage.

Gouverneur Morris: This would free the President from being tempted . . . to conform to the will of the Senate.

James Wilson: I weighed carefully the report of the committee. . . . I considered [it] . . . as throwing a dangerous power into the hands of the Senate. The power of making treaties . . .

[brought] the additional evil of foreign influence. . . . The President [would] not be the man of the people as he ought to be, but the minion of the Senate.

Alexander Hamilton: I planned to support the plan [of the committee], but I like the new modifications. . . . In [the committee report], the President was a monster . . . having great powers . . . and tempted to make use of corrupt influence. . . . It seemed . . . that some other mode of election should be devised.

Moderator: It was eventually decided to have the House of Representatives break any tie votes for President and to decide the President if no one gets a majority of the Electoral vote. The House of Representatives would allow one vote per State to decide the outcome. The Senate would break a tie for Vice-President.

Alexander Hamilton: [Yes]

Moderator: And with that we will conclude. Thanks to all our panelists.

All Panelists: You're welcome. My pleasure. It was great to be here. etc. . . .

Moderator: I hope that our discussion here has helped you to better understand the creation of the Electoral College. Although, I can't help thinking that some sort of amendment might be in our future to refine this process. Good night and good luck.

Endnotes

¹ merits have general notoriety

² characters

³ dispersed through

⁴ delude

⁵ Legislative Conclave

⁶ characters

⁷ refer

⁸ chief Magistrate

⁹ refer

¹⁰ trial

¹¹ extent

¹² renders

¹³ recompensing

¹⁴ intrigue

¹⁵ cabal

¹⁶ usurpations

¹⁷ intrigues

¹⁸ usurpation

¹⁹ inexpediency

²⁰ most eminent characters

²¹ N.H. 1, Mas. 3, R.I. 1, Con. 2, N.Y. 2, N.J. 2, Pa. 3, Del. 1, Md. 2, Va. 3, N.C. 2, S.C. 2, Geo. 1

²² betrayed a strong propensity

²³ pernicious

²⁴ propensity

²⁵ cabal

²⁶ redressed

²⁷ intercourse

²⁸ render

²⁹ characters

Pedagogical Materials

Lesson Objectives:

- Students will understand the origin, purpose, and function of the Electoral College.
- Students will have a better understanding of the details of how we elect the President.
- Students will evaluate issues of fairness and representation with regards to the Electoral College.

Procedures:

- 1) On the day before reading the script in class, students should have time to read, understand, and ask questions about the introduction.
- 2) Also on the day before, script parts should be assigned and “actors” should practice their parts. Students without speaking parts will also be assigned a cast member to do a quick research.
- 3) Students will write down information about their assigned cast member and share with class.
- 4) Students should have any questions regarding the introduction or reading parts answered.
- 5) The script will be read out loud in class.
- 6) Students will chart positions of the cast on the many ideas for choosing the President.
- 7) Discussion questions will be shared in class or handed out to students.
- 8) Go through Article 2, Section 1 of the Constitution and the 12th Amendment.

Discussion Questions:

- 1) What, in your opinion, is the biggest argument for and against selecting for the President by:
popular vote
National Legislature
State Legislature
Electoral College
- 2) What was the process in the Philadelphia Convention that led to the creation of the Electoral College?
- 3) How does the Electoral College function?
- 4) How and why has the Electoral College changed?
- 5) Take and defend a position on the future of the Electoral College.