PICKING THE PRESIDENT

understanding the electoral college

EDITIED BY ERIC BURIN

Picking the President

Understanding the Electoral College

Edited by
Eric Burin

The Digital Press at the University of North Dakota
Grand Forks, ND

2017 The Digital Press @ The University of North Dakota
in collaboration with *North Dakota Quarterly*

Book Design: William Caraher
Cover Design: Kyle Cassidy

ISBN-13: 978-062833445
ISBN-10: 0692833447

Table of Contents

Documents

Preface

The 2016 presidential election has sparked an unprecedented interest in the Electoral College. In response to Donald Trump winning the presidency despite losing the popular vote, numerous commentators have weighed in with letters-to-the-editor, op-eds, blog posts, and the like, and thanks to the revolution in digital communications, these items have reached an exceptionally wide audience. In short, never before have so many people had so much to say about the Electoral College.

This remains a high-stakes debate, and historians, political scientists, philosophers, and other scholars have an important role to play in it. They can enrich discussions about the Electoral College by situating the system within the history of America and other societies; untangling the intricacies of republicanism, federalism, and democracy; articulating different concepts of political morality; and discerning, through statistical analysis, whom the Electoral College benefits most. In spotlighting the Electoral College from various vantage points, this volume aims to empower citizens to make clear-eyed decisions about it.

If one of this volume's goals is to illuminate the Electoral College, another is to do so while many people are still focused on the topic. This project came together quickly. The entire enterprise went from conception to completion in a mere five weeks. That swiftness was made possible by working with The Digital Press at the University of North Dakota, which embraces a cooperative, transparent model of publication with the goal of producing open-access, electronic works that can attract local and global audiences. Likewise, this volume came to fruition speedily because the contributors agreed to pen brief essays in short order. As a result, while their works have the hallmarks of scholarly articles, they do not constitute an exhaustive examination of the Electoral College. Indeed, many germane subjects are not addressed. Even so,

these learned ruminations can enhance the ongoing debate about the Electoral College.

Essays of this sort are much-needed, for the post-election dialogue about the Electoral College has been warped by partisanship. Republicans who reckon that Electoral College benefits their party usually have defended the system. Conversely, Democrats, smarting from the fact that in a span of sixteen years they have twice lost the presidency despite popular vote triumphs, typically have denounced it. This mode of assessment is unfortunate, for it impairs our ability to analyze the Electoral College on its own merits, as opposed to how it affects one party or another. Put another way, the Electoral College is an inherently political institution, but appraisals of it need not be invariably partisan.

To facilitate and expand the conversation about the Electoral College, this volume offers short essays that examine it from different disciplinary perspectives, including philosophy, mathematics, political science, communications, history, and pedagogy. Along the way, the essays address a variety of questions about the Electoral College: Why was it created? What were its antecedents? How has it changed over time? Who benefits from it? Is it just? Should we alter or abolish the Electoral College, and if so, what should replace it? In exploring these matters, *Picking the President* provides timely insights on one of America's most high-profile, momentous issues.

14

"Empathy for the Unicorn": Teaching About the Electoral College

Brad Austin

I approach the topic of "teaching the electoral college" from two different, if related, perspectives.[1] The first is that of an historian trained in modern American history, someone who teaches about the disputed elections of 1876 and 2000 and who notes how a few thousand votes in specific states would have denied John F. Kennedy the presidency in 1960 and given the nation President Nixon ahead of schedule. Like most teachers, I address the basic "rules of the game" of the Electoral College and explain how a candidate can attract more popular support than his (and now, her) opposition but still lose the election. Other essays in this volume offer teachers and other interested citizens the historical contexts they need to teach the mechanics and specific consequences of the Electoral College and those elections.

My second perspective is that of someone who trains future high and middle school history teachers and who spends most of my "methods of teaching history" course encouraging my students to make their own classes about more than the mere memorization of names, dates, treaties, and battles. As someone who emphasizes the importance of teaching historical thinking skills (close reading of sources, chronological thinking, determining causation, identi-

[1] Oddly enough, I discussed the relationship between North Dakota and the Electoral College with my Massachusetts university students during a wide-ranging conversation on the day after the election. If I recall correctly, my remark was something along the lines of "One of the consequences of the electoral college is that individual North Dakota voters have a lot more power than we do in presidential elections."

fying perspectives, etc.), I embrace the opportunities that studying the Electoral College provides to teachers who want to challenge their students' assumptions and to give them materials and questions that push them to formulate arguments and to think for themselves.

Sam Wineburg, in his path-breaking *Historical Thinking and Other Unnatural Acts*, recounts the story of Marco Polo and the world's ugliest unicorns.[2] As Wineburg explains, during his travels, Polo came across an animal with a head "like a wild Boar" and a short, stubby horn. Obviously, it was a unicorn. Polo concluded that this animal was "a passing ugly beast to look upon, and is not in the least like that which our stories tell of as being caught in the lap of a virgin; in fact, 'tis altogether different from what we fancied."[3] Modern readers, of course, recognize that Polo was describing a rhinoceros, not a unicorn, even if they might concede that virgins (and non-virgins alike) might be wise to avoid having one sit on their laps.

I include this story not because I find it intrinsically interesting (although I do), but because I second Wineburg's call for history instructors to use their lessons and their classes to enhance their students' capacities for empathy, for understanding how others perceive and experience the world. This story demonstrates how even very worldly, learned people are often inclined to consider new information and evidence within the confines of existing belief systems and paradigms for understanding the world. Put differently, we are too often blinded by what we "know" to recognize what we see.

After the 2016 presidential election results proved pundits to be spectacularly wrong, many commentators pointed to Americans' increasing inclination to avoid exposure to conflicting ideas and evidence as a reason for the surprise many felt when the out-

---

[2] Sam Wineburg, *Historical Thinking and Other Unnatural Acts: Charting the Future of Teaching the Past* (Temple University Press, 2011), 24.

[3] Marco Polo, *The Travels of Marco Polo: The Complete Yule-Cordier Edition* Dover Publications, 1993), 285.

come became clear. The causes of our current inability to agree on basic facts or the authority of experts will probably spawn a thousands dissertations and keep political scientists and sociologists employed for a generation, but it is not the focus of this essay. Our current situation, in fact, reminds us of the obligation history teachers have to prepare students for the demands of civic life, and teaching the Electoral College offers multiple opportunities for us to fulfill that obligation.

Teaching about the history of the Electoral College, and the ideologies and assumptions that led to its creation, allows instructors to challenge their students to see something new (a rhino) instead of seeing just another unicorn, if an ugly one. If our students are going to develop the ability to understand and appreciate different perspectives and viewpoints, then studying history is a great place to practice that skill. Specifically, it is vital that our students realize that "they" (the founding generation) did not think like "us." Heck, "they" didn't even think like each other, a fact that explains the emergence of Federalist and Anti-Federalist camps before the ratification of the Constitution and the almost immediate evolution of political factions into parties after the new government was formed. These divisions and disagreements present us with an abundance of opportunities for our students to explore how particular experiences (the Revolution, opposition to George III, Articles of Confederation, etc.), regional perspectives (coastal, in-land, North, South, small state, large state, etc.), economic situation (merchant, farmer, plantation owner, tradesman, enslaved person, etc.) led to different conclusions about the desirability of the new government and, especially, its purposefully convoluted and anti-democratic way of choosing a chief executive. In short, a close look at the intellectual roots of the Electoral College challenges students to understand how and why our "Founding Fathers" held vastly different opinions about the desirability of this system for selecting a president and to consider the roots of those disagreements.

Teachers looking for specific ways to do this need only to consult the Documents section of this volume to find abundant

primary sources that can help them accomplish their pedagogical goals. For example, if teachers want to illustrate the wide variety of options considered by the delegates to the Constitutional Convention, then they can ask their students to read (and perhaps translate to 21st-century language) James Madison's notes on "Debates Concerning the Method of Selecting the Executive," especially those from June 1st and September 4th. The notes on June 1st illustrate some of the options initially considered (direct election, Congressional choice, Senate choice, etc.), and the September 4th notes document the ways that several leaders argued over the proposed Electoral College plan, with Governeur Morris offering a succinct six-part defense of the plan in response to some pointed criticism. While teachers would be well served to familiarize themselves with the rest of the debate, these two sections alone give students enough to see how personal experiences, others' histories, and political philosophies led delegates to very different conclusions about the Electoral College.

Students will also be interested to see that the text of the Constitution reflects the delegates' desires to cede considerable power to the states and their legislature. As one can see in Documents section, Article II, Section 1 of the Constitution reads, in part, "Each State shall appoint, in such manner as the Legislature may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector." Teachers can ask students to create an imaginative and comprehensive list of different ways those states could have chosen their electors, given only these instructions, and to consider the says these options would have empowered different groups.

Given the popularity of the Broadway musical based on his life, Alexander Hamilton's involvement in the debate might attract the attention of students. While he participated in the convention debates, Hamilton's most important contributions to our understanding of the purpose of the Electoral College are found in his essay, *Federalist* No. 68, available in the Documents section.

Here, Hamilton notes that the Electoral College might be the one part of the Constitution that had not yet sparked great discussion, something he credited to the fact "that if the manner of [selecting the president] be not perfect, it is at least excellent. It unites in an eminent degree all the advantages, the union of which was to be wished for." The next several paragraphs outlines those advantages for readers, and they do so in language that is accessible to students who want to see the best case Hamilton could make for the Electoral College. Teachers might want to know if their 21st century students agree with Hamilton about the value of these elements of the Electoral College.

If they have their students read Hamilton's thoughts, then teachers might also want to introduce their students to *Antifederalist* No. 72, in which Republicus questions the wisdom of using an Electoral College to choose an executive. In this essay (also available in the Documents section), the author offers an extended critique of this method:

> "I go now to Art. 2, Sec. 1, which vest the supreme continental executive power in a president -- in order to the choice of whom, the legislative body of each state is empowered to point out to their constituents some mode of choice, or (to save trouble) may choose themselves, a certain number of electors, who shall meet in their respective states, and vote by ballot, for two persons, one of whom, at least, shall not be an inhabitant of the same state with themselves. Or in other words, they shall vote for two, one or both of whom they know nothing of…
>
> Is it then become necessary, that a free people should first resign their right of suffrage into other hands besides their own, and then, secondly, that they to whom they resign it should be compelled to choose men, whose persons, characters, manners, or principles they know nothing of? And, after all (excepting some such change as is not likely to happen twice in the same century) to intrust Congress with the final decision at last? Is it

> necessary, is it rational, that the sacred rights of mankind should thus dwindle down to Electors of electors, and those again electors of other electors? This seems to be degrading them even below the prophetical curse denounced by the good old patriarch, on the offspring of his degenerate son: 'servant of servants'."

Given that there was clearly a public debate over the Constitution and its many provisions, teachers can seize the opportunity to put their students in the shoes of the partisans. In this case, in order to have their students understand some of the most important arguments for and against the Electoral College, teachers could have students use Madison's notes, Hamilton's *Federalist* No. 68, and the Anti-Federalist essay as their main sources for a classroom debate, with students being free to offer their own suggestions for choosing a president as well. This exercise would allow, but not require, students to research the biographies of the central figures and, among the more creative and theatrical students, it could lead to *Hamilton*-style "cabinet meeting" rap battles that draw on specific primary sources and present historically accurate arguments.

I'd like to conclude with a final note about how we can profitably talk about assumptions and the Electoral College in the classroom. It is worth noting (or leading our students to the realization), that however much they disagreed about the mechanics and desirability of the Electoral College, the participants in this debate shared some common assumptions about who should have the right to vote and to participate in the political process. As other essays in this volume point out, one of the purposes of the Electoral College was to protect the rights of slaveholders by giving them disproportionate political power, thanks in part to the Three-Fifths clause elsewhere in the Constitution. Students should note that almost no one in the late eighteenth century publically advocated for women's political rights and that Massachusetts's new constitution stripped voting rights from citizens who did not meet the new, higher property-owning threshold for voting. Moreover, in the early 1800s, New Jersey stripped women of the right to vote in that state, and several other states passed new laws denying African

Americans the right to the franchise that they have had previously enjoyed. Essentially, "the people" in the new republic had a different connotation than it does today. When we ask our students to think about why the Founders designed such a complicated, undemocratic system as the Electoral College, it is useful to broaden the discussion to include *all* of the assumptions they made about the trustworthiness of the American electorate and who should properly have their views represented in the new government.