

DISSECTION AND REFORMATION OF THE ELECTORAL SYSTEM

It comes as no surprise that 2016 is an election year. It is virtually impossible to ignore or avoid the headlines, media accounts and advertising of one candidate or another for national office (President, House of Representatives or Senate). The President, 34 Senators and all 435 Congressmen will be elected this November.

In light of these elections, it is significant to note that our electoral system, by which we choose our legislative branch, and the electoral college, by which we choose our president, have both become distorted in ways that neither we nor the founding fathers did not or could not contemplate. Various developments have resulted in anomalies which cause us to focus on a few “key” states declared to be vital to final presidential results. Moreover, only 23 House and 10 Senate seats are truly competitive, due to developments over the last many years. Cook Report, April 8, 2016.

The electoral college is described in the Constitution, including the 12th Amendment, although interestingly neither “electoral” nor “college” appear. Each state “appoints” electors in the manner that its legislature directs (Article 2; Section 2); the number of electors is equal to the sum of a state’s Senate and House seats. In practice, all states **now** allow the people to vote. In all but two of the states (Nebraska and Maine), electoral votes are awarded on a winner-take-all basis. The total number of electoral votes is 538-435 House seats, 100 Senate seats, and three electors from the District of Columbia; consequently, 270 electors are required to “win” the Presidency.

From this brief description, several inferences and conclusions may be drawn. The formula for the number of electors runs counter to the principle of one person, one vote recently reaffirmed by the United States Supreme Court. A small state’s electors have an influence on the final electoral count that is disproportionate to the population difference between that state and a much larger one. Secondly, because of the “winner-take-all” rule, it is possible that the loser of the national popular vote wins the electoral college vote. (It has happened four times, most recently in 2000). Thirdly, the system results in everyone “writing off” 40 or more states where the outcome of the popular vote is reasonably well known, and instead focusing on 10 or less states where electoral votes may well determine the winner. In recent years, Florida and Ohio have led the pack of battleground states with large numbers of electoral votes at stake. Fourthly, the elector system allows a third party candidate’s vote, however small, to swing an election in a state and perhaps the nation (Ralph Nader, Florida, 2000) Alternatively, such a third party candidate can distort the electoral vote. Bill Clinton prevailed in the electoral college 370-168, but only received 43% of the popular vote due to the presence in the race of H. Ross Perot. Fifthly, this undue attention to key swing states may affect policy positions of candidates seeking to cater to the idiosyncrasies of voters in those states.

Because amending the constitution is an arduous and difficult process, various state legislative proposals have sought to address the issues inherent in the electoral college process. Maine

and Nebraska allocate electors based upon the vote in Congressional Districts; other states have considered similar proposals. but the efforts have not succeeded. A National Popular Vote Interstate Compact, under which electoral votes from a state must be cast for the winner of the national popular vote, has passed in several states, but would not become effective until states with a majority of the electoral votes pass such a law. All of this is against a background of multiple Gallup Polls which reflect that most Americans (65% to 32%) would prefer a national popular vote.

Part of the reluctance to emulate Maine and Nebraska derives from a perception that legislative districts, including Congressional Districts, suffer from gerrymandering. As such, the electoral college's systemic problems might be exacerbated rather than solved. Gerrymandering has resulted in fewer and fewer competitive Congressional races; what competition exists is generally from the fringes of a political party challenging a more moderate member of the same party.

In the United States, voters grouped into districts elect members of Congress, state legislators, and many county and municipal office holders. At least once a decade, usually after a Census, district lines are redrawn. During the interim, some districts will gain residents and others will lose them. District boundaries are redrawn to ensure that each district has approximately the same number of people.

Each state redraws it's own boundaries. Most often, state legislators draw the map, which must be approved by the governor. Some states have special commissions that advise legislators on drawing the map or serve as backup mapmakers if the legislature deadlocks. A few states have independent commissions so that politicians cannot draw their own districts.

Gerrymandering is drawing political boundaries to give your party a numeric advantage over an opposing party.

Partisan gerrymandering undermines the whole notion of a representative government. It serves to protect parties and incumbents thereby having a direct bearing on which matters a legislature chooses to deal with.

The simplest reform would be to take redistricting out of the hands of politicians and setup independent commissions. This has been done in California, Arizona, Washington and Idaho. By making districts competitive, one major advantage of incumbents is reduced.

Texas is ranked by many as among the most gerrymandered states when looking at Congressional districts. Houston Chronicle, May 6, 2015. Congressman Lloyd Doggett's District 35 packs together liberal areas of San Antonio and Austin in a narrow district running all along I-35. Congressman Marc Vase's District 33 connects liberal parts of Fort Worth and Dallas in a barbell-shaped district. These two are "squigglier" than 97.9% and 98.6% of districts in the United States, respectively.

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