



# PICKING THE PRESIDENT

*understanding the electoral college*

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**EDITED BY ERIC BURIN**

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Electoral College*

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

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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

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## **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.

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## **Citizenship, Civil Rights, and Electoral Politics**

Cynthia Culver Prescott

The United States is a democratic meritocracy. Or so we like to believe. While the general trajectory has been toward greater political and social equality, progress has been uneven. Government policies have made the American dream open to many, while disadvantaging or deliberately excluding others. The American West has long been imagined as land of rugged egalitarianism, but white settlement actually exacerbated inequality in important ways. Although the U.S. has had an egalitarian streak since its founding, Americans have also deep reservations about sharing power equitably. This enduring tension between egalitarianism and deep-seated distrust of the American people may help explain the resilience of the remarkably undemocratic Electoral College.

In the decades following our nation's founding, many people residing within the boundaries of the United States did not qualify as citizens entrusted with the vote. Property laws and poll taxes ensured that only the worthiest – read: wealthiest and whitest – men could vote. white women were counted for representation purposes in the legislature and the Electoral College, but they could not vote. Under coverture, married women's legal personhood was absorbed by her husband. Native Americans and African Americans, among others, enjoyed few rights. And, of course, slaves were only counted as three-fifths of a person for representation purposes, and were treated as chattel rather than as citizens with political rights.

Over the past two hundred years, our nation has expanded the privileges of citizenship to more and more Americans. African Americans gained citizenship in 1868 and Native Americans in 1924. Women gained the right to vote in 1920. African American

suffrage was enshrined in the Constitution in 1870; nearly a century later, the Voting Rights Act of 1965 removed legal barriers against Blacks exercising the franchise. We have made our representative democracy more direct over the past two centuries, particularly through the direct election of senators (1913). Initiative, referendum and recall powers were also introduced in many states during the early twentieth century.

Viewed in this context of expanding political rights and greater power for American voters, the Electoral College system appears anachronistic. But our nation's path toward inclusivity has not been as smooth, nor our inclusivity as complete, as we like to believe.

During the nineteenth century, American women steadily gained political and economic rights. But when women were granted suffrage or married women the right to own property separate from their husbands, those gains were often motivated not by a belief in women's equality, but out of male self-interest. Granting women rights became a means to strengthen a particular group's political influence, or to protect familial property. And only native-born white women benefitted from many of these privileges.

Following the Civil War, Radical Republicans sought to reconstruct the social fabric of the South, including granting citizenship and suffrage to African Americans. But those gains were short-lived, as white southerners adopted Jim Crow laws, literacy tests, and other means to limit African-American rights. The 1965 Voting Rights Act finally outlawed these discriminatory practices, but in recent years laws supposedly targeting voter fraud have suppressed voter participation among people of color and both the rural and urban poor.

Third U.S. President (and elite slaveholder) Thomas Jefferson envisioned a nation of yeoman farmers that would serve as the basis of American democracy. A century later, historian Frederick Jackson Turner similarly declared that the western frontier's wide open spaces and supposedly free land formed the basis of American democracy. Many nineteenth-century Americans agreed, and this vision shaped many aspects of federal policy for generations. For example, Jeffersonian agrarianism motivated both the Lou-

isiana Purchase and the Homestead Act. But like our history of expanding civil rights, the legacy of Jefferson's vision is complex. Only people of some means could afford to migrate west to claim land. More than half of claimants failed to prove up on their land. Western lands often wound up in the hands of speculators rather than family farmers. Moreover, white settlement in the West was predicated on the forced removal of native peoples. Indigenous peoples' lives were disrupted or destroyed to enable certain whites to become good democratic citizens.

But even as the U.S. government fought wars and displaced Native Americans to ensure a nation of independent men, many Americans distrusted those western democrats. Painter George Caleb Bingham captured this tension in his famous 1852 painting *The County Election*. Although a blue banner declares "The will of the people is the supreme law," the raucous scene highlights the influence of party politics, money, alcohol use, and even violence on voters – all of them white men, of course. Young boys play with a knife in the dirt and a stray dog wanders through the crowd, but women and people of color are excluded from participation.

Bingham's painting celebrated the participation of white men from different social classes in western elections. But participation by both wealthy businessmen and workingmen does not mean that nineteenth-century elections were egalitarian. Party-specific tickets were cast publicly. *Viva voce* voting persisted in some states. While speaking their choices out loud rather than marking a paper ballot made it possible for illiterate men to participate, it also made them particularly vulnerable to pressure from the political and economic elites.

American agrarian ideals were redefined in the twentieth century. Rather than dreaming of owning an independent family farm, Americans increasingly dreamed of owning a ranch home surrounded by a green lawn in the suburbs. Homeownership replaced homestead ownership at the core of the American dream. Like nineteenth-century land claim laws, government policies enabled wealthier white Americans to buy homes in these suburbs at the expense of others.

For all our faith in Jeffersonian agrarianism as the basis of a free, democratic society, Americans have remained suspicious of the people who make up that republic. Perhaps this tension between trust and distrust explains our pendulum swings between growing civil rights and disfranchisement, and our continued reliance on the Electoral College. Ironically, western lands that were supposed to breed democracy instead have become among the most inequitably treated under the Electoral College system. Due to uneven population distribution, ethnically diverse California and Texas voters are grossly underrepresented in the Electoral College, while heavily white Wyoming and North Dakota voters are overrepresented. And nearly all western states have become among the most reliably “red” or “blue,” thus limiting their impact on the presidential election. In recent presidential elections, the Electoral College system has ensured that a few “battleground states” – and especially white suburban men and women – have determined the outcome of the presidential election. In 2016, rural Americans in Midwestern “swing states” consistently voted for Donald Trump, while urban populations supported Hillary Clinton. white suburbanites proved to be the swingiest of swing voters, and they won the Electoral College for Trump, despite Clinton’s two percent advantage in the popular vote. Our policies ensured that white suburban homeowners living in an earlier trans-Appalachian West would select the next President of the United States.

Americans are not as equal nor as egalitarian as we like to believe. The persistent tension between egalitarianism and distrust of individuals (especially women and ethnic minorities) contributed to our uneven progress toward social equality, and may help to explain the tenacity of the unequal Electoral College system.