



PICKING THE PRESIDENT

understanding the electoral college

EDITED BY ERIC BURIN

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*Understanding the
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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America's Rotten Electoral College System

Manisha Sinha

Something stinks about the recent presidential election. It emanates from the country's rotten Electoral College system for selecting the president of the United States. I use the term rotten advisedly. America's Electoral College in the twenty-first century resembles Britain's "rotten borough" system of electing members of Parliament in the eighteenth and nineteenth centuries. Not only was the franchise restricted to an elite but "rotten boroughs" with very few voters could elect representatives to Parliament like the far more populous industrializing urban centers. With the Great Reform Acts of 1832 and of the 1860s, Britain adopted universal manhood suffrage and did away with rotten boroughs. But the United States persists in retaining its undemocratic and clunky Electoral College.

When the framers of the Constitution devised the office of the presidency as a republican stand-in for the British monarch and indirect presidential elections through an Electoral College, they did so as a check on democracy. Each state was rewarded the same number of electoral votes as their congressional delegation, giving small states that had equal number of senators as larger states and slaveholding states that received greater representation in the House of Representatives because of the three-fifths clause, greater electoral weight in the presidential elections. The anti-democratic nature of selecting the president was amplified by most states, which initially had their legislatures rather than their voters select presidential electors. With the spread of Jacksonian democracy, adult white men got the right to vote for presidential electors except for one hold out, South Carolina until the Civil War.

Constitutional purists who want to retain the Electoral College must recall that American democracy has progressed through constitutional amendments. The blueprint for presidential elections has proven to be one of the Constitution's most inefficient sections. One of the earliest constitutional amendments, the 12th, clarified that electoral votes for the presidency and vice presidency must be distinct. The demise of slavery mandated by the 13th amendment, and with it the three-fifths clause that gave slaveholders such a powerful say in government, made political representation in the United States more equitable. The expansion of suffrage for African Americans and women through constitutional amendments, the 14th, 15th, and 19th amendments and the Voting Rights Act of 1965 were important milestones in the growth of American democracy.

The cumbersome Electoral College however has remained in place, partly because its undemocratic nature has not been so egregiously showcased as in the recent presidential elections. Before 2016, only four times in American history has the winner of the popular presidential vote not won the Electoral College. The most recent instance until this year was the contested Gore-Bush presidential elections of 2000. But this year, the candidate who lost the Electoral College, Hillary Clinton, won the popular vote overwhelmingly, by nearly three million votes, the largest margin ever for the loser of the Electoral College. These results discredit the Electoral College system that weights voters in certain areas more than others and makes many of the states in the heartland and the South the "rotten boroughs" of today. It calls into question the democratic legitimacy of the presidential elections. Over two hundred years ago, American patriots rejected "virtual representation" in the British Parliament for self-government. That tenuous experiment in republican government has survived only by expanding the boundaries of democracy. It is high time then that we got rid of the rotten borough Electoral College system of electing presidents of the United States.