



The

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The Way We Elect Our Presidents

Hillary Clinton's first legislative proposal since her election as Senator was to call for the abolition of the Electoral College. It's no surprise that she will use her celebrity status to advance a series of bad ideas, and this is one of the worst.

The Electoral College is one of the legacies of the inspired genius of our Founding Fathers. It was part of the great compromise which transformed us from a bunch of rival colonies into a constitutional republic.

This great compromise brought together the large states and the small by means of a national Congress based on equal representation of the states in the Senate regardless of population, and unequal representation of the states in the House of Representatives based on their unequal populations. The Electoral College is the mirror image of this same brilliant compromise: it allows all states, regardless of size, to be players in the process of electing our President.

The Electoral College induces presidential candidates to gear their time, money and policies toward the whole country, not merely toward the half dozen most populous states. If we had a popular-vote process, the temptation would be irresistible for presidential candidates to offer the moon wrapped in federal dollars to the handout hunters where big-city machines can pile up extra millions of votes.

The Electoral College is the vehicle that gives us a President who achieves a *majority* in a functioning political process. Because of third parties, it is difficult for a candidate to receive a majority (over 50 percent) of the popular vote. No U.S. presidential candidate achieved a popular-vote majority (over 50 percent) in 1948, 1960, 1968, 1976, 1992, or 1996, but we elected a President when the candidate who received a plurality in the popular vote received a majority (over 50 percent) of the whole number in the Electoral College.

In his post-election strategy, Al Gore tried to claim that he should be President because he won the popular vote (as opposed to the Electoral College vote), and that therefore George Bush's election is not "legitimate." But contrary to Al Gore's whining, it really doesn't matter who wins the popular vote because the Electoral College

is decisive. One can draw an analogy between the Electoral College and the World Series. The Pittsburgh Pirates won the 1960 World Series 4-3, even though the New York Yankees outscored the Pirates in runs 55-27, and in hits 91-60. No one challenged the fact that the Pirates won fair and square.

Without the Electoral College, we would always be saddled with minority Presidents without an adequate basis of support for leadership. The Electoral College saves us from the fate of other nations that suffer from the complexities, uncertainties and agonies of coalition governments patched together when no candidate or party wins a majority.

In the 1970s, Senators Birch Bayh (D-IN) and Ted Kennedy (D-MA) proposed a constitutional amendment to abolish the Electoral College and instead elect Presidents who get a plurality of at least 40 percent of the popular vote. But that would pose all the same problems of recounts and legal challenges if a presidential candidate received 39.99 percent of the vote and would also contain a built-in incentive to encourage straw candidates to prevent an unwanted candidate from achieving the 40 percent. Fortunately, the Bayh-Kennedy effort was defeated in a close Senate vote in July 1979.

Another advantage of our unique Electoral College is that, except as a last resort, it keeps the meddling fingers of Congress out of the election process. It serves as a buffer against federal dictatorship. The Electoral College is the only function of our national government that is performed outside of Washington, D.C. The President is elected by electors chosen in their states according to their own state election laws, who meet and cast their ballots in their own state capitals. No Senator, Representative, or other federal official is permitted to be an elector in the Electoral College.

Whereas other countries handle their succession of chief executives by revolution or angry mobs, the only street ruckus during our 2000 dilemma was a little pushing and shoving by Jesse Jackson's friends. The Electoral College has served us well for more than 200 years and there is every reason to believe it can continue to serve us for the next 200.

The Problem of Close Elections

The Electoral College is particularly advantageous in circumstances of close elections because it saves us from the calamity of having to recount votes in all 50 states. If the election of George W. Bush or Al Gore were dependent on the country's total popular vote, we would suffer demands for recounts and legal challenges in practically every state, including those states that carried big for one or the other candidate, as the parties endeavor to scrape up an additional few hundred votes.

It would be very easy to make credible charges of election fraud in almost every state. Our voting procedures and mechanisms make frauds a scandal that has been waiting to burst into the open. The old-fashioned way of stuffing the ballot box was ghost voting from the graves of those who are deceased or moved away but whose names were never removed from the voting rolls (a favorite practice in Cook County, Illinois, where Gore's campaign chairman Bill Daley grew up). Now there are so many other ways: voting by illegal aliens and by felons, busing in the mentally challenged from nursing homes, hauling persons to more than one voting place for multiple voting, giving away cigarettes to induce the unregistered homeless to vote, and keeping polling places open beyond the legal closing time.

Many recent "reforms" opened up other opportunities for fraud. These include same-day voter registration, motor voter registration, voting by mail, manipulation of absentee ballots, and reprogramming or fixing the counters on voting machines.

Al Gore has shown us that a candidate can demand a third count of Florida ballots, not because there was any election fraud or even machine malfunction, but just because the election was close and he didn't like the outcome of the first and second counts. His strategy was to keep recounting until his Democratic partisans could scrounge up more votes.

In 1960, Richard Nixon gave us an example of a presidential candidate who gracefully accepted the results of an imperfect election, declining to file a contest. Not only were there credible charges of election fraud that could have made the difference in the Electoral College, but some even argue that Nixon actually won the popular vote over John F. Kennedy.

Pulitzer-Prize-winning historian Walter A. McDougall says that, whereas most sources show Kennedy with a popular-vote margin of 118,574 over Nixon (only 0.1 percent of the national total), the Kennedy total included 318,303 votes from Alabama. But only five of Alabama's 11 Democratic electors supported Kennedy. The other six voted for Senator Harry Byrd's States Rights Party. If the votes of those pro-Byrd Democrats are subtracted from the 1960 Democratic total, Nixon won the

popular vote, not Kennedy. ("The Slippery Statistics of the Popular Vote," *New York Times*, 11-16-00)

The election frauds in 1960 that caused Kennedy to win in the Electoral College were an entirely different matter. The stuffing of the ballot boxes in Cook County, Illinois and in Texas has been so well substantiated that it is no longer disputed today.

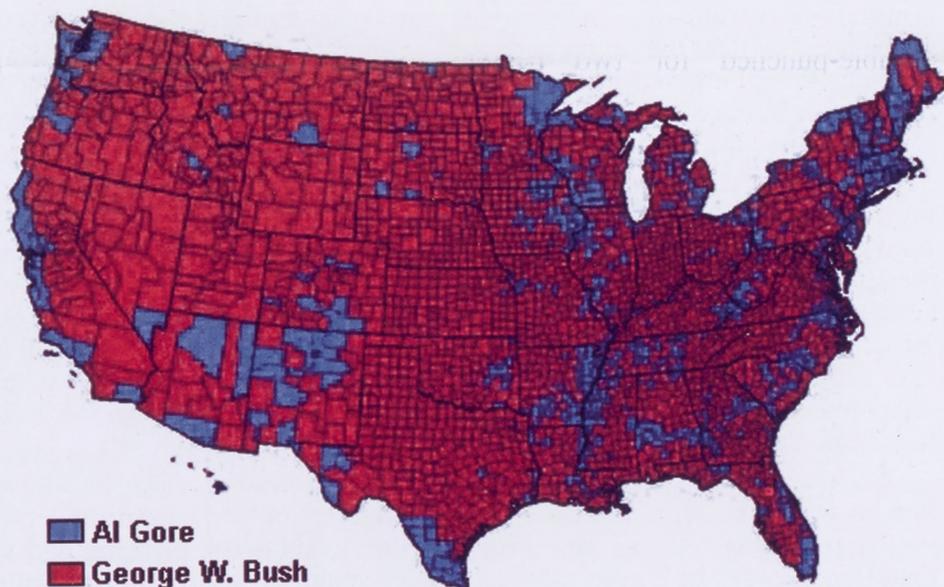
The most recent evidence that the 1960 Democratic frauds are common knowledge was a long article in the liberal *Washington Post* ("Another Race to the Finish," 11-17-00, p.1). It describes how the political correspondent of the *New York Herald Tribune* documented the facts of how the 1960 election "was stolen in Chicago and in Texas," but was removed from his investigation by his bosses. Richard Nixon refused to contest the election because he didn't want to precipitate a political crisis. A challenge to the Chicago frauds by Republicans was dismissed by a Democratic judge who was later rewarded with an appointment to the federal bench by President Kennedy.

The 1976 election was even closer. A swing of just a few thousand votes would have changed the result in the Electoral College. A shift of a mere 11,950 votes in Delaware and Ohio would have resulted in a Electoral College deadlock (though Jimmy Carter still would have had a healthy 9-million popular-vote lead over Gerald Ford). If 5,548 voters in Ohio (0.14 percent) and 3,686 voters in Hawaii (1.2 percent) had voted for Ford, he would have beaten Carter in the Electoral College.

In 1948 Harry Truman beat Thomas E. Dewey by 2.2 million in the popular vote, but a swing of 30,000 votes in California and Ohio would have reversed the outcome in the Electoral College.

Most elections are actually quite close. The Founding Fathers were inspired in setting up the Electoral College to elect our Presidents. It's a better system than anyone else has ever suggested.

The 2000 Presidential Election, County by County



Gore won in 676 counties; Bush won in 2,436 counties, according to preliminary results. Population of counties won: Gore 127 million; Bush 143 million.

Source: AP, USA Today.

Making Every Vote Count?

In waging his contest of the 2000 presidential election, Al Gore's mantra is Make Every Vote Count (except the votes of servicemen). But Gore's pious platitude should be subject to qualifications. We want to count only one vote per person. We want to count only votes cast by citizens eligible to vote. We want to count only ballots containing votes that can be objectively read, not votes that permit election officials to speculate about or "interpret" what may have been in the voter's mind. We do not want to count phantom votes or re-created votes. And, of course, we want a scrupulously honest count monitored by observers from both political parties.

Florida's vote for President on November 7 was very close, triggering an automatic recount that showed Bush the winner by 930 votes. The Gore machine, run by Bill Daley of Chicago, went into action immediately (some say even before the polls closed) with a dozen different claims to garner more votes.

Gore demanded a manual recount of the ballots in four heavily Democratic counties where he believed he could pick up votes with Democratic election officials making subjective determinations of voters' intent. This opened up endless partisan wrangling, using constantly changing standards, about how to count hanging chad, swinging chad, three-corner chad, sunlit chad, pregnant and dimpled chad.

Most of the chad problem was voter error, not machine malfunction. In Palm Beach County, the following rules were prominently displayed on every voting station: "After voting, check your ballot card to be sure your voting selections are clearly and cleanly punched and there are no chips left hanging on the back of the card."

Gore and his campaign manager Bill Daley charged that there was something fishy about Palm Beach County having thrown out 19,120 ballots that were double-punched for two persons for President. Obviously, such ballots could not be counted, but the question is, how did they get double-punched? Gore and Daley blamed this on seniors being confused by the "butterfly ballot." But that ballot had been selected by the Democrats, circulated in advance of the election without complaint, and was satisfactorily used nationwide by about 18 percent of U.S. voters.

There may be another explanation for Palm Beach County's double-punched ballots, and we'll probably never learn the truth. In Palm Beach County, Bush received less than 65 percent of the registered Republican vote, while Bush received more votes, on average, than the number of registered Republicans in all other Florida counties. It is possible that many of these 19,120 ballots were originally Bush votes that were secretly double-punched by an individual wielding a stylus before the counting started. In the old days of paper ballots, we called this the short-pencil trick; the

hand of cheaters is quicker than the eyes of election observers.

The *Miami Herald* (Dec. 1) exposed the scandal that thousands of votes in Florida were illegally cast by convicted felons, of which 75 percent were cast by registered Democrats. The *Herald* found 62 robbers, 56 drug dealers, 45 killers, 16 rapists, and 7 kidnappers who cast ballots. One who voted is on the state registry of sexual offenders, and his son told the newspaper, "He's got Alzheimer's and he can't even carry on a conversation any more." County election boards have the duty to purge felons from the registration lists, which can be done by running a computer match with the Department of Corrections database. Some Florida counties refused to do this.

Another source of concern is the skyrocketing use of absentee ballots by people who could go to the polls on Election Day. Fraud and intimidation by labor unions are far easier to carry out with absentee ballots that can be pre-marked and handed out. Absentee ballots also make it easy for Party workers to exploit nursing home patients.

We would like some remedy for the way some people were discouraged from voting by the false election-night pronouncements of the media. The most consequential election fraud on November 7 was probably committed by the television networks in falsely announcing, while the polls were still open in Florida's Panhandle (which operates on central time), that Gore had won Florida. Many people standing in long lines, or still on their way to vote, then went home thinking their vote didn't matter.

That could have amounted to thousands of people, a decisive margin in Florida. The Panhandle has ten counties with a population of 739,523, was experiencing a heavy turnout, and is pro-Bush in some parts by up to four-to-one.

Many people believe that the networks ran this false information in a deliberate attempt to discourage Bush voters. The apologies/explanations/excuses given the next day on CBS-TV and by the *New York Times* were completely unpersuasive and tend to confirm the widespread public perception that the media are advocates, not reporters. The networks' announcements later in the evening, retracting the false story, then calling Florida for Bush, and then retracting that call, were all after the Florida polls had closed and had no effect on voters.

Major media spent the weekend after the election telephoning Republican electors all over the country and asking them two questions: Since Al Gore received the popular vote, would you consider changing your vote from Bush to Gore? and, Do you know you are not legally bound to vote for Bush? Was this survey designed to locate those who sounded uncertain in their replies so they could be "worked over" to persuade a handful of Bush electors to switch to Gore and give him the margin of victory?

What Is to Be Done?

It's long overdue for the American people and the media to focus on the inefficient voting systems used in most of the country which produce error rates in excess of automatic recount thresholds, plus so many possibilities for cheating with so little risk.

We need a system that does not permit the counting of phantom votes, *i.e.*, (1) votes by people who have died, or moved away, or don't exist, or claim invalid addresses (such as abandoned public housing units or warehouses), (2) votes for which there is no paper trail to verify that they were legally cast, and (3) voting machine counters showing more votes than there are names of eligible voters on the registration list.

The *New York Times* reported in 1998 that the percentage of registered voters who are ineligible because they have died, moved or registered at multiple addresses is 16.8 percent. This allows plenty of opportunity to vote the graveyards, the nursing homes, the absent students, and the homeless who can be enticed with beer or cigarettes. In their book *Dirty Little Secrets*, University of Virginia Professor Larry Sabato and *Wall Street Journal* reporter Glenn R. Simpson asserted that 2 million to 3.4 million "phony registrations" were on the voting rolls in California.

We need a system that screens out illegal voters, *i.e.*, (1) votes by illegal aliens (apparently a commonplace practice in California), (2) votes by felons (the *Miami Herald* reported that up to 5,000 felons may have illegally voted in Florida, including hundreds in Palm Beach County), (3) votes by persons who are allowed to vote without signing the voter registration application, and (4) votes by persons whose signature does not match the signature on the precinct register.

Rep. Bob Dornan of California lost his congressional seat in 1996 by 979 votes, largely because of the votes of illegal aliens. Al Gore rushed through the naturalization of at least 75,000 aliens with arrest records in time to get them registered to vote Clinton-Gore in November 1996. (See the *P.S. Report*, Oct. 2000, p. 4, and *Sellout* by David P. Schippers.)

We need a system that does not permit the counting of re-created votes, *i.e.*, (1) permitting election officials to "discern" (in David Boies's word) the votes of those who failed to vote properly by trying to imagine what was going on in the voter's mind, a mystical reading of chad (like tea leaves) using constantly shifting standards, and (2) votes by the mentally incapacitated or people in nursing homes who *are voted* (note the passive tense of the verb) by the practice of "assistance voting" with "help" from a partisan campaign worker.

We need a system that does not permit multiple voting, *i.e.*, (1) by persons driven from precinct to precinct to cast several or even dozens of phantom votes, and (2) by college students who vote at their college location and absentee from their homes, too.

We need a system with absolute security at all times

to guard the ballots and the voting machines, with guaranteed observation by both parties of the setting and reading of the counters.

Here are the bare essentials to reform the way votes are currently cast and counted. (1) Registration at least 30 days prior to an election should be mandatory for all voters in order to check proof of residence and citizenship, and to give election clerks time to delete obsolete registrations from other jurisdictions. Same-day registration, allowed by some states, is an open invitation to fraud. Likewise for the 1993 federal Motor Voter Act, which allows people to register to vote by mail for federal elections on forms that can be picked up at any government office.

(2) On Election Day, every voter should be required to show a picture I.D. and a voter registration card with a bar code that is scanned into a computer for verification, and should sign with a signature that matches the one given at the time of registration.

(3) Before every election, all registration lists should be systematically purged of all persons who have died, moved away or been convicted. In the computer age, there is no excuse for not doing this.

If machines are used, they should kick out a paper receipt so the voter can verify that his vote was properly recorded and so that a paper record is available for a recount. The rules for absentee voting and assistance voting should be substantially tightened. Voting by mail should be prohibited because it destroys the secrecy of the ballot, and internet voting should never be permitted because of its susceptibility to manifold fraud.

The protections against vote fraud should be as detailed and tough as the protections every bank takes to protect our money. We should make cheating as difficult and dangerous as robbing a bank.

The whole process of self government is at stake if we can't rely on the integrity of the ballot box. What can "one man one vote" or "count every vote" possibly mean if our votes aren't honestly counted — or if our votes are diluted by phantom or illegal votes?

Phyllis Schlafly has attended every Republican National Convention since 1952, most often as an elected Delegate, either from Illinois or Missouri. She is a former First Vice President of the National Federation of Republican Women and President of the Illinois Federation of Republican Women. Her 1964 book *A Choice Not an Echo*, one of the top ten best-selling conservative books of all time, which is a history of Republican National Conventions, is currently under revision.

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