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## **Our Unfinished Constitution**

After 220 years of the electoral college, it's time for Americans to elect their president directly.  
By David O. Stewart

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AFTER 220 YEARS of faithful service, our Constitution needs repair. We mark the anniversary of the Philadelphia Convention on May 25, the date in 1787 when 29 delegates first met to write the Constitution. Yet Americans still do not elect their presidents.

As schoolchildren learn, Americans vote for presidential electors, who are allocated according to how many senators and representatives a state has. The electors, pledged to support specific candidates, then vote for president.

How did we get this clumsy, indirect system?

To put it bluntly, most of the men who wrote the Constitution disdained popular elections. The people "are turbulent and changing," Alexander Hamilton warned, and "seldom judge or determine right." George Mason of Virginia compared popular elections to asking a blind man to judge colors, giving the decision to "those who know least." Also, the delegates feared the logistics of a nationwide canvass in an era when George Washington needed five days to travel from Mount Vernon to Philadelphia.

The alternatives they considered now seem wacky. Some delegates proposed electing regional presidents for New England, the middle states and the South. Others wanted Congress to choose the president, though that might make him the "cringing dependent of powerful men." What if, a delegate asked, 15 congressmen were selected by lot to convene immediately to select the president — before they could be bribed?

The convention accepted the elector system as the best of a bad range of choices, setting only two standards for electors: They cannot hold federal office, and state legislatures direct how they are chosen.

The delegates expected wise electors to reduce the field of contenders to five candidates, allowing the House of Representatives to pick the president. Mason predicted that the House would do so "nineteen out of twenty" times.

The system broke down early. The 1800 election produced a grinding stalemate in the House between Thomas Jefferson and Aaron Burr. The experience spurred adoption of the 12th Amendment, which requires separate candidates for president and vice president.

After that, more changes came through the growth of political parties and through state laws.

States now provide for electors who are "pledged" to party candidates. Except in Maine and Nebraska, which award electoral votes on a proportional basis, the winner of the popular vote gets all of a state's electoral votes.

But not always. In 1960, two states elected 14 "unpledged" electors. Between 1948 and 2000, eight electors did not vote for the candidate to whom they were pledged.

Worse, the system is unfair. Giving each state two electoral votes for its senators exaggerates the power of small states. In 2004, each California electoral vote represented 226,000 votes cast by Californians, while Alaska's electoral votes represented 104,000 Alaskan votes. One person, one vote? Hardly.

On four occasions this bias has produced presidents who commanded fewer popular votes than an adversary — John Quincy Adams in 1824, Rutherford Hayes in 1876, Benjamin Harrison in 1888 and George W. Bush in 2000. It will likely do so again.

The system also distorts campaigns by focusing candidates on "battleground" states that might tip one way or the other. Voters in more than 30 other states are ignored, which suppresses turnout.

The reasons that supported the electoral system in 1787 have long vanished. Americans believe that they have a right to choose their leaders by direct vote. We can certainly conduct a national election on a single day.

The elector system was not the product of uniquely prescient supermen. Indeed, the framers never claimed infallibility. Mason argued for an "easy, regular" way of amending the Constitution because the "plan now to be formed will certainly be defective." The first generation of Americans agreed, adopting 12 amendments in the nation's first 15 years.

An amendment for direct election of presidents would be a simple affair. It could even provide for a runoff if no candidate secured a majority vote.

Last month, Maryland embraced an ingenious strategy for evading the amendment process. A new state law commits Maryland to cast its electoral votes for the candidate who wins the national popular vote, but only after states constituting an electoral majority enact the same law. Governors vetoed similar laws in California and Hawaii, complaining that the state's electoral votes might be cast for a candidate rejected by the state's voters.

That's exactly the point. The statute aims to transform electoral votes by tying them to the national popular vote.

By constitutional amendment or state law, we must seize the right to choose our presidents. After 220 years, we're entitled. And the framers wouldn't mind.