Join Jeffrey Rosen, president and CEO of the National Constitution Center, to understand the Electoral College’s controversial origins, the influence of founder James Wilson, and the many attempts to reform it over the years. Explore the history of presidential elections in America and the current constitutional questions on the Electoral College.

- Watch the May 13 session here: https://constitutioncenter.org/interactive-constitution/educational-video/scholar-exchange-learning-about-the-electoral-college

More helpful links:
- Watch recordings of all of our past Scholar Exchange sessions on our YouTube page: https://www.youtube.com/user/ConstitutionCenter
- View the schedule for upcoming Scholar Exchange sessions on our website: https://constitutioncenter.org/interactive-constitution/classroom-exchanges/online-civic-learning-opportunities

INTRODUCTION

Big Questions

- What is the Electoral College, and how does it work?
- Why did the framers create the Electoral College, and what were the historical arguments behind their decision?
- What was the 12th Amendment, and how did it alter the Electoral College?
- How has the Electoral College functioned over time?
- What has the Supreme Court said about the Electoral College over time?
- What are the modern debates over the Electoral College?

Hypothetical Question

Can a state punish an Electoral College elector when she casts her vote for a presidential candidate that differs from the one that actually won the popular vote in that state in the most recent presidential election?
Text of the Constitution

- Article II Section 1 essays on the Interactive Constitution
- 12th Amendment essays on the Interactive Constitution

Electoral College: The Basics

- Today, the Electoral College is made up of 538 electors drawn from the states and the District of Columbia.
- Under Article II of the Constitution, the states are given a number of electors equal to their congressional delegation.
- And the 23rd Amendment granted Washington, D.C., its three electoral votes.
- Today, the American people vote for president and vice president on the Election Day. But these votes don’t directly determine the outcome of the election.
  - Technically, these popular votes determine which electors will be appointed to the Electoral College from each state.
  - The electors eventually meet in December to cast their votes for president and vice president.
  - If a candidate receives a majority of these votes in the Electoral College, she wins—even if she lost the popular vote.
  - But if no candidate secures a majority in the Electoral College, then the election is sent to Congress.
  - The U.S. House of Representatives—voting as states, not individuals—selects the president.
  - And the Senate selects the vice president.

FOUNDING STORIES

Creating the Executive

- Proposal in Virginia Plan: “A National Executive should be instituted. It should be chosen by the National legislature; it should be ineligible to serve a second term; it should have a general authority to execute the National laws.”
- Executive Branch as outlined in Article II

Selecting the Executive

- Congressional Vote:
  - Argument against from Gouverneur Morris: Warned that the result would eventually be the “work of intrigue, of cabal, and of faction,” producing a president who would become a mere tool of his supporters in Congress.
- Election by Popular Vote:
  - Argument against from George Mason: “The extent of the Country renders it impossible that the people can have the requisite capacity to judge of the respective pretensions of the Candidates.”
• **Electoral College:**
  - Argument for by Alexander Hamilton: “Men chosen by the people for the special purpose” of selecting the president “will be most likely to possess the information and discernment requisite to such complicated investigations.”
  - Anti-Federalists arguments: “Republicus” wrote, “Is it then become necessary, that a free people should first resign their right of suffrage into other hands besides their own, and then, secondly, that they to whom they resign it should be compelled to choose men, whose persons, characters, manners, or principles they know nothing of?” He added: “[I]s it not probable, at least possible, that the president who is to be vested with all this demiomnipotence – who is not chosen by the community; and who consequently, as to them, is irresponsible and independent – that he, I say, by a few artful and dependent emissaries in Congress, may not only perpetuate his own personal administration, but also make it hereditary?”

**Early Elections**
- **Election of 1796:**
  - Learn more on Constitution Daily
  - Learn more at the Library of Congress
- **Election of 1800:**
  - Learn more at the Library of Congress
  - View the Tally Sheet at the National Archives

**Later Elections**
In five presidential elections—1824, 1876, 1888, 2000, and 2016—the winner of the national popular vote did *not* become president.

**CASES**
- *Ray v. Blair* (1952)
- *McPherson v. Blacker* (1892)
- *Colorado Department of State v. Baca* (2020)

**ADDITIONAL RESOURCES MENTIONED DURING THIS SESSION**
- Jeffrey Rosen discusses recent Electoral College cases on C-SPAN
- “What Rick Hasen is Missing” by Lawrence Lessig
- The Gilbert and Sullivan Archive