



CONSOURCE

The Constitutional Sources Project

THE CONSTITUTION IN ACTION: THE EARLY REPUBLIC

Political Parties and Presidential Electors: The Election of 1800

TIME AND GRADE LEVEL

One 45 or 50 minute class period in a **Grade 9-12** US history, civics, or government course.
NOTE: To address the issues presented here in greater depth, teachers might wish to devote two days to this lesson. An entire class period could be devoted to the first section of the lesson, which demonstrates how rational arguments are often conjured to produce pre-conceived conclusions for political purposes—hence the term, “rationalizations.”

PURPOSE AND CRITICAL ENGAGEMENT QUESTIONS

History is the chronicle of choices made by actors/agents/protagonists in specific contexts. This simulation places students in the Early Republic and asks them to engage in the politics of those times. Acting as either Federalists or Republicans, they will be asked to develop strategies for electing their party’s standard bearer as president, using the Constitution’s complex system of presidential electors to their advantage at three distinct stages. (a) As state legislators, they determine how electors are to be chosen, a power granted to those bodies by the Constitution. (b) As electors, they decide whether to vote for *both* of their party’s nominees or whether to “throw one away” so their vice-presidential candidate does not “outrun” their choice for president. (c) As Federalist members of the House of Representatives, they will decide whether to vote for Aaron Burr, a Republican of dubious reputation, in order to prevent Thomas Jefferson, a hardened opponent of Federalist policies, from becoming president. By participating in these critical decisions, they will see how the system of presidential electors, which the framers had designed in order to minimize partisanship, was played to partisan advantage by both sides.

LESSON OBJECTIVES

*Students will be able to list the several stages of the elector process for choosing the president, as stipulated in Article II, Section 2, of the Constitution.

*Students will be able to explain why the framers established the electoral college system: to lessen partisan influence in the selection of the president.

*Students will be able to explain how early political parties, Federalists and Republicans, manipulated the elector system at every stage of the process, intensifying partisanship rather than lessening it.

*FOR ADVANCED STUDENTS: By constructing rational arguments that support politically motivated conclusions, they will be better able to deconstruct politically motivated arguments today.

OVERVIEW OF THE LESSON

Prefatory homework:

Handout A: Why Presidential Electors?

In class:

1. Homework review and selection of method for choosing electors: 15 minutes
2. Historical outcome: How states chose electors in 1800: 5 minutes
3. Party loyalty and gaming the system: 10-15 minutes
4. Runoff in the House of Representatives: 10 minutes.
5. Historical outcome: 5-10 minutes

Summary Homework / Extended Activities

MATERIALS

Background Handouts:

A. Why presidential electors? (Two versions, one distributed to student-Federalists and the other to student-Republicans.)

Classroom Handouts

- B. How states selected presidential electors in 1800
- C. Party loyalty and gaming the system
- D. How will South Carolina vote? (Optional)
- E. Runoff in the House of Representatives
- F. Result and legacy of the election of 1800
- G. Vocabulary List

Teacher Resources

- T-A. How presidential electors fueled a two-party system
- T-B. Why didn't the framers see this coming?

PREFATORY HOMEWORK

To half the class, distribute **Handout A-1: Why Presidential Electors?** Students who receive this will respond as Federalist state legislators. To the other half, distribute **Handout A-2: “Why Presidential Electors?”** Students who receive this will respond as Republican state legislators.

CLASS ACTIVITIES: 45-50 MINUTES

1. Homework review and selection of method for choosing electors: 15 minutes

Review the elector system – make sure students understand the various steps.

Ask two or three students who received Handout A-1 (*Federalist* legislators in a Federalist-leaning state) to share their arguments. Presumably, they will decide for statewide elections, which will give Federalists all the state’s electors, or selection by the Federalist legislature, which will produce the same result.

POSSIBLE JUSTIFICATION FOR STATEWIDE ELECTIONS: A statewide election delivers the will of the *majority* of people of this state. In a democracy, majority rules.

POSSIBLE JUSTIFICATION FOR SELECTION BY THE LEGISLATURE: The framers allowed state legislatures to determine the manner of choosing presidential electors. Clearly, they trusted us. We have the good of this state at heart and know who can best represent it. As leaders, we can know *personally* who the best people are, the ones who will make the wisest choice.

Then ask students who received Handout A-2, and who are *Republican* legislators in a *Federalist*-dominated state, to weigh in. Presumably, they will realize that even though they are in the minority, they might pick up a few electors with popular elections by districts.

POSSIBLE JUSTIFICATION FOR VOTING BY DISTRICT: Voting by district gives the people better representation. Why should the entire state go to Federalists, when, say, 45% are Republicans?

Now switch positions. Tell the A-1 people (*Federalists*) that they are in a *Republican*-leaning state. Do they stick with their same argument? If so, their state will get no Federalist electors—and Jefferson, whom they vehemently oppose, is more likely to become president.

Now tell the A-2 people (*Republicans*) that they are in a *Republican*-leaning state. Do they still opt for district elections, which will produce some Federalist electors and might make Adams president?

The moral of the story is evident: rational arguments are often conjured to produce pre-conceived conclusions for political purposes—hence the term, “rationalizations.”

2. Historical outcome: How states chose electors in 1800: 5 minutes

Distribute **Handout B: “How states selected presidential electors in 1800.”** This can be shared by an oral reading, a silent reading, or teacher can present the material to the class.

3. Party loyalty and gaming the system 15 minutes

Distribute **Handout C: “Party Loyalty and Gaming the System.”** Students can read this or teacher can present it. This sets up the last two stages of the lesson: choosing electors in the South Carolina legislature and engaging in the runoff in the House of Representatives.

OPTIONAL: Distribute **Handout D: “How will South Carolina vote?”** In this simulation, all students are Federalist members of the South Carolina Legislature. After students read this, they discuss their responses. Let them know that they do not have to arrive at the same conclusion; there is often dissent over tactics within a party.

After some discussion, bring the class back together and announce the historical outcome: On December 2, with not a day to spare, the South Carolina legislature chose eight electors pledged to Jefferson and Burr. (The Federalists’ scheme discussed in Handout D didn’t matter because Republicans prevailed.) Even in South Carolina, where party organization and allegiances were weaker than anywhere else in the nation and personal connections were particularly strong, political party trumped family and local loyalties.

4. Runoff in the House of Representatives: 10 minutes.

Distribute **Handout E: “Runoff in the House of Representatives.”** Students can read this or teacher can present it.

Students, as Federalist members of the House, discuss strategy: Will they vote for Burr to keep Jefferson from becoming president?

5. Historical outcome: 5-10 minutes

Distribute **Handout F: “Result and legacy of the election of 1800.”** Students read this or teacher presents it. Use this time to introduce selected topics suggested in “Summary Homework / Extended Activities.” Any of these can lead to separate lessons.

SUMMARY HOMEWORK / EXTENDED ACTIVITIES

1. Why didn’t the framers see this coming? Did they really think that the elector system could transcend partisan politics? Below are some possible explanations—these are explored more fully in Handout T-B, **“Why didn’t the framers see this coming?”** Teacher can either share these with students to stimulate their thinking or ask students to come up with ideas on their own.

A. Perhaps the framers wished too hard. Envisioning the best, they attributed nothing but the purist of motives to presidential electors. Because the scheme was new and untested, there was no evidence to contradict the notion that electors could be immunized from

undue political influence by serving only for a brief moment in time. Somehow, the electors' temporary status was supposed to remove them from all political context.

B. Their concept of political intrigue was too narrow in two respects:

- a. Because they associated political intrigue with the goings-on in European national cities like London and Paris, they assumed that decentralizing the election process (electors were to meet separately in their state capitals) would prevent small groups from hatching schemes and exerting undue influence.
- b. They believed that intrigue resulted primarily from “greediness for office,” as Jefferson put it. They did not understand that intrigue could also stem from broader interests: competing groups vying for the soul of a nation that was still being defined. They viewed factions as local groups and did not foresee cross-regional alliances that would tie constituencies together into national parties.

C. By the time a committee submitted the proposal to the Constitutional Convention on September 4, after three months of deliberations, the framers were simply too tired to give the idea close scrutiny.

2. In the elections of 1876, 1888, 2000, and 2016, the candidate who won the popular vote lost out to a candidate who received the majority of electoral votes. Research any of these and evaluate the historical consequences—how might history have been different if the winner of the popular vote had become president?

3. In 1824, no candidate received a majority of electoral votes, throwing the election into the House of Representatives. Research that election and discuss its historical consequences.

4. How have political parties selected their candidates through history? As you examine state party caucuses and conventions, national party caucuses and conventions, and primary elections, comment on how you think the framers would view each process.

4. Today, are electors free to decide? Do you know your elector? Research how these people are actually chosen for your state. If possible, find one to interview. Ask this person what actually happens at what we now call the “electoral college.” (NOTE: the framers did not use the word “college.”)

5. Research and comment on the “rogue electors” in the presidential election of 2016.

6. During each election cycle, people complain about the elector system and talk about a constitutional amendment that would result in popular elections for president. That never happens, however. Why not? In your response, examine each stage of the amendment process, as set forth in Article V of the Constitution. For each stage, how might partisan politics come into play? If at a particular time one party appears to benefit from the change, how might that affect the fate of the amendment? (Note the hurdles any amendment must clear under Article V of the Constitution.)

7. Research the “National Popular Vote” campaign. How does that propose to solve the problem *without* amending the Constitution? Do you think it is workable? Would states always honor their pledges? What challenges might this present?

Parties and Presidential Electors Handout A-1 (for Federalist State Legislators): Why Presidential Electors?

How should the president be selected? The framers of the Constitution were stumped. Most opposed popular election. “It would be as unnatural to refer the choice of a proper character for chief Magistrate to the people, as it would, to refer a trial of colours to a blind man,” George Mason declared at [the Constitutional Convention on July 17](#). “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.” If state legislatures chose the president, the selection process would only aggravate state rivalries. But if Congress chose the president, as matters stood in the Virginia Plan and the Committee of Detail draft, the executive would be dependent on the legislature, which undercut the separation of powers.

On [September 4](#), after three months of deliberations and less than two weeks before the Convention would adjourn, a committee arrived at a solution: the president would be chosen by special “electors” chosen specifically for that purpose. Because they were not political office holders, they would have no vested interests to promote. They would be impartial and judicious men chosen for their wisdom and experience. Only if these electors failed to return a majority would the selection revert to the legislature.

Here, in brief, is how the system was supposed to work:¹

- Step 1: The number of electors for each state is equal to the sum of that state’s United States senators and members of the House of Representatives. Since all states have two senators, a state with one member of the House has three electoral votes, while a state with ten members of the House has twelve electoral votes.
- Step 2: State legislatures determine how to choose electors. They can either choose the electors themselves or set up special elections so the people can select them. Elections can be either statewide or by district—the decision of how to choose electors is entirely in the hands of each state legislature. (Today, all states choose electors by popular vote, not by states legislatures. Maine and Nebraska vote by districts, and all the rest vote statewide.)
- Step 3: Electors meet in their respective state capitals. There, each elector casts two ballots. To make sure electors don’t always favor candidates of their own state, at least one of their two votes must be for a person from a different state.
- Step 4: States transmit the electors’ ballots to the president of the Senate, who opens them in front of Congress. If one candidate appears on the majority of the ballots, that person is the president, and the next highest vote-getter is vice president. ^[1]_[SEP]

- Step 5. If no candidate appears on the majority of ballots, the House of Representatives decides from among the top five contenders, with each state delegation having one vote. (Since representation in the House is proportional to population, large states usually have more say—but not in this case. Small states refused to approve the elector scheme unless they had an equal say.)
- Step 6: If two candidates appear on the majority of ballots but have the same number of votes, the House of Representatives decides between them, with each state delegation having one vote.

The main objective of this complex system was to minimize political intrigue. Electors met in their respective state capitals and cast secret ballots so they would not be unduly influenced. Electors could not be members of Congress or hold any “Office of Trust or Profit under the United States.” To prevent large states from dominating the election, each elector would have to vote for at least one person who is not an inhabitant of that elector’s state.

That was the plan. But could this system, or any system, keep politics at bay?

By 1800 Americans had split into two parties, calling themselves Federalists or Republicans. (See ConSource lessons “*Strict v. Loose Construction*,” “*Who Controls Foreign Policy?*” and “*State Challenges to Federal Authority: The Kentucky and Virginia Resolutions*.”) Since neither party could get its way without controlling the presidency, each decided it should rally behind a candidate of its choosing. Caucusing in Philadelphia, Federalist leaders decided to back the sitting president, **John Adams**. Republican leaders, meanwhile, opted for the sitting Vice President, **Thomas Jefferson**, who had come in second in the balloting for president in 1796.

Most northern states were in the Federalist camp. Since Adams was from Massachusetts, Federalist leaders decided to balance their ticket by promoting **Charles Cotesworth Pinckney** from South Carolina for vice president. South Carolina was what we now call a “swing state,” about equally divided between the parties.

Most southern states were predominantly Republican. Since Jefferson was from Virginia, Republican leaders balanced their ticket with **Aaron Burr** from New York—and yes, New York was also “in play.”

Although electors were not scheduled to meet until December 3, the contest really began in the early spring, when people voted for their state legislators. Those were the men who would determine *how* electors got selected: by the legislature, by statewide popular election, or by popular elections within several districts.

To understand the political consequence of each alternative, place yourself in the position of a *Federalist* legislator in a state with a *Federalist*-dominated legislature. Federalists are a majority in this state, but there are pockets of Republicans clustered in a few districts. What method of selection would give the best chance of choosing Federalist electors?

a. By the legislature. This appears to be the safest—but what if your constituents get upset at not having a chance to vote for the electors themselves? State legislators must stand for election every year, and voters might turn you out of office.

b. Statewide vote of the people. Although the outcome is never certain, your state has voted consistently for Federalists and are likely to choose a full set of electors pledged to vote for Adams and Burr.

c. Popular vote by districts. In this case, although electors pledged to Federalists will likely win most districts, Republicans will probably capture some. In a close election, those few electors could decide the election.

Once you have decided on the optimal course *politically*, construct a *rational* argument in favor of your choice. Show how your way will not only produce the result you desire but is also *the fairest way*. Why is it more *just* to have a statewide vote, or a vote by districts, or place the selection in the hands of the legislature, whom the people have already chosen to be their leaders?

In class, you will be asked to deliver this argument.

¹ Here is the original wording from Article II, Section 2 of the Constitution: “Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector. The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.”

Parties and Presidential Electors Handout A-2 (for Republican State Legislators): Why Presidential Electors?

How should the president be selected? The framers of the Constitution were stumped. Most opposed popular election. “It would be as unnatural to refer the choice of a proper character for chief Magistrate to the people, as it would, to refer a trial of colours to a blind man,” George Mason declared at [the Constitution Convention on July 17](#). “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.” If state legislatures chose the president, the selection process would only aggravate state rivalries. But if Congress chose the president, as matters stood in the Virginia Plan and the Committee of Detail draft, the executive would be dependent on the legislature, which undercut the separation of powers.

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Here, in brief, is how the system worked:¹

- Step 1: The number of electors for each state is equal to the sum of that state’s United States senators and members of the House of Representatives.
- Step 2: State legislatures determine how to choose electors. They can either choose the electors themselves or set up special elections so the people can select them. Elections can be either statewide or by district—the decision of how to choose electors is entirely in the hands of each state legislature.
- Step 3: Electors meet in their respective state capitals, where each casts two ballots, one of which must be for a person who is not an inhabitant of that elector’s state.
- Step 4. States transmit the electors’ ballots to the president of the Senate, who opens them in front of Congress. If one candidate appears on the majority of the ballots, that person is the president, and the next highest vote-getter is vice president. ^[L]_[SEP]
- Step 5. If no candidate appears on the majority of ballots, or if two candidates appear on the majority of ballots but have the same number of votes, the House of Representatives decides from among the top five, with each state delegation having one vote. ^[L]_[SEP]

- Step 6: If two candidates appear on the majority of ballots but have the same number of votes, the House of Representatives decides between them, with each state delegation having one vote. ^[1]_{SEP}

The main objective of this complex system was to keep politics out of the process. Electors met in their respective state capitals and cast secret ballots to minimize politicking. Electors could not be members of Congress or hold any “Office of Trust or Profit under the United States.” To prevent large states from dominating the election, each elector would have to vote for at least one person who is not an inhabitant of that elector’s state.

That was the plan. But could this system, or any system, keep politics at bay?

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Although electors were not scheduled to meet until December 3, the contest really began in the early spring, when people voted for their state legislators. Those were the men who would determine *how* electors got selected: by the legislature, by statewide popular election, or by popular elections within several districts.

To understand the political consequence of each alternative, place yourself in the position of a *Republican* legislator in a state with a *Federalist*-dominated legislature. Federalists are a majority in this state, but there are pockets of Republicans clustered in a few districts. What method of selection would give the best chance of choosing at least *some* Republican electors?

- By the legislature.
- Statewide vote of the people.
- Popular vote by districts.

Once you have decided on the optimal course *politically*, construct a *rational* argument in favor of your choice. Show how your way will not only produce the result you desire but is also *the fairest way*.

Why is it more *just* to have a statewide vote, or a vote by districts, or place the selection in the hands of the legislature, whom the people have already chosen to be their leaders?

In class, you will be asked to deliver this argument.

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Parties and Presidential Electors Handout B. How states selected presidential electors in 1800

Several state legislatures altered the rules of the game to favor their particular party, which, under the Constitution, they were perfectly entitled to do.

In Massachusetts and New Hampshire, Federalist legislatures took the decision out of the hands of the people and gave it to themselves, thereby ensuring a complete slate of Federalist electors.

In Georgia, Republican legislatures took the decision out of the hands of the people and gave it to themselves, thereby ensuring a complete slate of Republican electors.

In Virginia, the Republican dominated legislature changed from district voting to statewide voting to keep Federalists from capturing a few seats.

The Federalist legislature in Maryland wanted to eliminate popular elections by district, which had produced a split group of electors in 1796, and choose the electors themselves to produce a Federalist sweep. But this itself became a major campaign issue and in October Federalists lost control of the state legislature.

In Pennsylvania the Republican Assembly quarreled with the Federalist Senate, and only at the last minute did the two bodies arrive at a compromise that split the state's electors almost equally, eight Republicans and seven Federalists.

New York was a special case. As the law stood early in 1800, electors were to be chosen by the state legislature, which Federalists controlled. Unless that changed, New York would end up totally in the Federalist column, as it had in 1796. Hoping to take a few votes this time around, Republicans pushed for district elections by the people, but the Federalist legislature held firm. Then, in the April state election, aggressive door-to-door campaigning by Republicans placed the legislature unexpectedly in their hands. Each party immediately switched its position: Federalists favored district elections so they could capture a few seats, while Republicans thought it best to keep the decision with the legislature. Real-world politics trumped political theory. What counted was the result, not the process.

In the end, only five states allowed the people to vote for electors, whether statewide or by district. Legislatures in the other eleven states kept the decision in their own hands.

Parties and Presidential Electors Handout C. Party Loyalty and Gaming the System

On January 25, 1789 – ten days before electors were to assemble in their respective state capitals to cast their votes for the first president and vice president under the new Constitution, Alexander Hamilton wrote nervously to his colleague from the Federal Convention, Pennsylvania’s James Wilson: “Every body is aware of that defect in the constitution which renders it possible that the man intended for Vice President may in fact turn up President.” Washington would be almost everyone’s choice for the top spot, but each elector was to vote for *two* men, without distinguishing between president and vice president. This created a potential problem: Might John Adams, who provided regional balance and whom Washington had informally endorsed, actually receive *more* votes than Washington himself? What if a few electors, bearing a grudge against Washington or merely to spite their political foes, refused to vote for him, but did vote for Adams? To prevent Adams from overtaking Washington, he tried to arrange for sympathetic electors to “throw away a few votes” for Adams.¹

Although Hamilton’s fears in this case were not well founded (Adams received only 36 votes compared with Washington’s 69), they caused him to make a remarkable admission: The Constitution could be gamed, and to prevent his foes from doing so, he would game it preemptively. To do this, though, he tried to influence presidential electors behind closed doors. In the language of the times, he engaged in “intrigue.” Ironically, the whole point of having electors was to *avoid* intrigue; electors were supposed to be *above* politics.

In 1796, the first contested election, a dozen Federalist electors did “throw away” their votes for Thomas Pinckney, the Federalists’ vice-presidential candidate. This had huge consequences, however. Although John Adams, the Federalist’s standard bearer, won with 71 electoral votes, only 59 of those electors backed Pinckney—while Thomas Jefferson, the Republican standard bearer, received 68. For the first and only time in United States history, the leader of the opposition party became vice-president.

The heated election of 1800 was a rematch between Adams and Jefferson. About half the country despised Adams, while the other half despised Jefferson. Republicans would do anything to prevent Adams from winning, and Federalists wanted to block Jefferson at all costs. Could either side game the system this time around?

¹ [Hamilton to James Wilson, January 25, 1789.](#)

For the full story and references, see Ray Raphael, *Mr. President: How and Why the Founders Created a Chief Executive*, 199-203.

Parties and Presidential Electors Handout D: How Will South Carolina Vote?

Presidential electors were slated to vote in their respective state capitals on December 3, 1800, but by the last week in November, party loyalties of electors in 15 of the 16 states appeared settled: each party thought it could count on 65 electors. The election hinged on the South Carolina legislature, which had yet to select its electors—and Federalists and Republicans in that state were evenly divided.

For more than a week, in and out of chambers, legislators in Columbia, South Carolina, debated and caucused in preparation for choosing electors. The Federalist's vice presidential candidate, Charles Cotesworth Pinckney, was a local favorite who enjoyed as much prestige and honor as any man in the state. During the Revolution, he was a regional hero who pugnaciously resisted British advances in the South, and at war's end he was promoted to Brigadier General. Although most of the influential Pinckney clan were Federalists, one was not: United States Senator Charles Pinckney, the vice presidential candidate's cousin. "Blackguard Charley" (as his Federalist family and peers called the Republican renegade) lobbied against his own kin.

With allegiances in the state torn, one popular alternative was to put forth electors pledged to a split ticket of Jefferson and Pinckney. That way, if Federalist electors in other states voted for both Pinckney and Adams, but South Carolina voted only for Pinckney, the local favorite would wind up with more votes than Adams, the standard-bearer. Charles Cotesworth Pinckney, although only a candidate for vice president, would become president if he received more votes than Jefferson.

If you were a Federalist in the South Carolina legislature, would you consider a split ticket of Jefferson and Pinckney, or do you think you should vote for electors pledged to both Pinckney and Adams, a straight Federalist ticket.

Parties and Presidential Electors Handout E. Runoff in the House of Representatives

South Carolina tipped the balance. Jefferson received 73 electoral votes and Adams 65. This did not make Jefferson president, however, because Aaron Burr also received 73 electoral votes. Recalling how Federalists had lost the vice-presidency in 1796 by not staying united, every single Republican elector voted for both Jefferson and Burr. Federalists had greater foresight: one elector from Rhode Island voted for John Jay rather than Pinckney to ensure that Adams and Pinckney would not wind in a tie.

The framers had decided that a tie would be settled in the House of Representatives, with each state delegation receiving one vote. (This was to placate small states, which normally have little say in the House.) The Constitution further stipulated that “a *Majority* of all the States shall be necessary” to determine the winner, and that caused a problem. Republicans constituted a majority in 8 of the 16 delegations. (Vermont, Kentucky, and Tennessee were now part of the union). Federalists held 6 states, and two were evenly divided. So for Jefferson to become president, he would need the support of at least one state delegation that was not Republican.

But Federalists held firm. They saw an opportunity to deny Jefferson the presidency by casting all their votes for Aaron Burr. If they could convince just a few Republican congressmen to go with Burr, he would become president—and even though he was a Republican, he would owe the Federalists for placing him there.

As Jefferson-hating Federalists lined up in support of Burr, one prominent leader refused to toe the party line: Alexander Hamilton. Burr was absolutely corrupt, Hamilton said, and he could not be trusted. “Burr loves nothing but himself, thinks of nothing but his own aggrandizement, and will be content with nothing short of permanent power in his own hands.”¹ Of the two evils, even Jefferson was better than Burr. But no Federalists listened to Hamilton. Few had any great love for Burr, but they would do absolutely anything to keep Jefferson from power.

Imagine you are a Federalist member of the House. Jefferson has opposed Federalist policies for years, and you have been fighting tooth and nail to keep him from becoming president. You know that Burr is more of an opportunist, for better or worse. On the one hand, Federalists might be able to strike deals with him, even though he is a Republican. On the other hand, you do not think he is a man of great character.

Will you vote for Burr to keep Jefferson from the presidency?

¹ [Hamilton to Harrison Gray Otis, December 23, 1800.](#)

Parties and Presidential Electors Handout F: Result and Legacy of the Election of 1800

On the first ballot, eight state delegations in the House voted for Jefferson, six for Burr, and two split evenly. That left Jefferson one state shy of the required majority. Members politicked and caucused. Republicans worked on Federalists whom they thought could be swayed, and vice versa. Deals were offered, but none accepted. Congressmen voted again, but the results stayed the same. They voted again and again—33 times over a four-day period—but the result never changed.

Things got ugly. Federalists still controlled the Senate, so if the House could not settle the matter by March 4, the day the new president was supposed to assume his office, the Senate could choose its own president pro tem and make him President of the United States. All the Federalists had to do was stall.

This prospect made Republicans so angry that they threatened to use military force. Republican governors of the two largest states, Virginia and Pennsylvania, made moves to mobilize their militias. Federalists countered by boasting that these greenhorn crews would be no match for the well-drilled militias of New England. They also threatened to hold a national convention that would reconsider the entire Constitution.

Such talk finally settled the election. A handful of moderate Federalists from key states decided that obstructionist tactics must end before a civil war broke out. Preserving the union, after all, was the centerpiece of Federalist ideology, and these men, true to their stated beliefs, refused to continue the battle. On the 36th ballot, the House of Representatives determined that Thomas Jefferson would be the next president.

Following this fiasco, both parties agreed that the system was flawed. The Twelfth Amendment, ratified in 1804, established separate ballots for president and vice-president. This eliminated one glitch, but it did not fundamentally alter the politicization of the elector system. The presidential election of 1800 featured nominating caucuses, tickets with regional balance, party loyalty, and pledged electors. None of these had been anticipated at the Constitutional Convention, yet all would become fixtures in presidential politics.

The election of 1800 has one more claim to fame—or infamy. According to the Constitution, slaves were to be counted for purposes of representation as three-fifths of free people, even though slaves could not vote. If enslaved people had *not* been counted, the southern states, which Jefferson carried, would have been entitled to fewer electors, and Adams, not Jefferson, would have won. The tally in that case would have been Adams 63, Jefferson 61. Federalists dubbed Jefferson “The Negro President,” not because he represented the interests of black people, but because counting slaves had thrown the election his way.

Parties and Presidential Electors Handout G: Vocabulary List

1. Republican: one belonging to the Democratic Republican party, also known as a Jeffersonian Republican.
2. Federalist: (a) A person in favor of a strong central government. (b) One belonging to the political party that elected John Adams president in 1796 and tried to get him reelected in 1800.
3. Anti-Federalist: In this context, a person who opposed extension of the powers of the federal government.
4. Constituency: a body of voters in a specified area who elect a representative to a legislative body.
5. Caucus: a conference of members of a legislative body who belong to a particular party or faction.
6. Magistrate: A civil officer or judge who administers the law.
7. Run Off: A further competition, election, race, etc., after a tie or inconclusive result.
8. Ideology: A system of ideas and ideals, especially one that forms the basis of economic or political theory and policy.
9. Body Politic: The people of a nation, state, or society considered collectively as an organized group of citizens.
10. Cabal: A private political clique or faction.

Parties and Presidential Electors T-A. How Presidential Electors Fueled a Two-Party System

The nation had come to the brink of dissolution not simply because of one small “defect” in the Constitution; that flaw was easily remedied by the Twelfth Amendment, which required electors to distinguish between votes for president and vice-president. The real cause of near collapse was the manner in which that defect was exploited, and the deeper cause of that was the breakdown of honest governance, as the framers construed it. Once positioning for a presidential election had become the main concern of the national legislature, and once the Speaker of the House of Representatives had supported for the presidency a man he believed to be utterly without virtue and susceptible to influence, the dream had died.

The villain in this narrative could be called “faction” or the “spirit of party,” so universally assailed by all the principle players, but factions and parties are not in themselves bad, and besides, as Madison and others readily affirmed, they would always be around. The task of devising workable rules for government was to *contain* factions and parties, not eliminate them. In [Federalist 10](#), Madison revealed the Constitution’s basic containment policy – to keep any single faction from dominating the government:

“If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens.”

By coming together as a body politic that extended across state and regional lines, Madison argued, Americans could ensure they would not live under the dominion of one particular group.

But the creation of the presidency, and in particular the manner prescribed for the president’s selection, undermined that strategy. So too did the strengthening of the presidency during Washington’s administration. By 1800, the president was the presumed leader in setting foreign policy; he and his cabinet not only enforced domestic law but also helped shape it; and he possessed what amounted to an absolute veto. (Party politics made a veto override unlikely unless one party controlled at least two-thirds of both houses but not the presidency, an implausible occurrence. Not until 1845 did Congress override a presidential veto, and not until Reconstruction, when radicals in Congress battled President Johnson, was the override used as a formidable political tool.)

The incentives to capture this office were too great for any interest group to ignore, but to have a realistic chance of success required organizing on a national level. This effectively marginalized minor factions, leaving only two top contenders. When one of these mega-parties proved victorious, it naturally wanted to remain in power, and to satisfy its “ruling passion” (to use Madison’s terminology), it was tempted to sacrifice “the public good and

the rights of other citizens.” Such is the simple logic of must-win contests that require absolute majorities. The very event that Madison most feared had come to pass, courtesy of the Constitution.

It didn't have to be that way. The elector system had facilitated the development of national parties with the ability to command discipline and ultimately control public policy, but imagine for a moment that James Wilson had been successful in his bid to institute popular elections for president. Parties would still have formed, and to increase their chances of success they would have nominated candidates. But the general voting population would not have exercised the discipline evidenced by electors. Would Aaron Burr, a northerner with no particular appeal in the South, really have carried the day in that region? Of course not. Theoretically, electors were supposed to vote according to their own discretion, but by 1800 they didn't. Citizen voters, on the other hand, would have been more likely to vote freely. In a society more regionalized than ours is today, this would likely have resulted in a plethora of candidates, each the darling of some region or interest. Just as Madison had hoped and imagined, it would have proved more difficult for one group to command trans-regional allegiance and therefore take control of the presidency. High Federalists might well have abandoned Adams after he disbanded the army and concluded peace with France. Northern farmers and artisans, although Republican, might have pushed candidates who were not from the Southern slavocracy. Southern Federalists would have been free to vote for General Pinckney if they pleased. Such a wide-open field would likely have resulted in the pluralistic checks Madison had envisioned. Instead, the framers inadvertently created a narrow road to the assumption of centralized power, ensuring that a candidate favored by one of the mega-parties would take the presidency.

(From Ray Raphael, *Mr. President: How and Why the Founders Created a Chief Executive*, 227-229.)

Parties and Presidential Electors T-B. Why Didn't the Framers See This Coming?

The framers of the Constitution had not anticipated the partisan exploitation of the elector system. When the Committee of Eleven reported its elector scheme on [September 4](#), Gouverneur Morris rose immediately to “give the reasons of the Committee and his own,” as Madison wrote. “The 1st was the danger of intrigue & faction” if the president were selected by Congress. “As the Electors would vote at the same time throughout the U. S. and at so great a distance from each other, the great evil of cabal was avoided,” he explained. Under such conditions, it would be “impossible” for any cabal to “corrupt” the electors.

Hamilton, in [Federalist 68](#), had elaborated on this theme. “Nothing was more to be desired than that every practicable obstacle should be opposed to cabal, intrigue, and corruption,” he stated. “The convention have guarded against all danger of this sort with the most provident and judicious attention.” Voting separately and independently, “under circumstances favorable to deliberation,” electors would “enter upon the task free from any sinister bias.” Each would exercise his best judgment, free from any influence.

That men as practical and tough minded as Morris and Hamilton could believe they had devised a system that “guarded against all danger” from influence is difficult to explain. Clearly, the system invited intrigue. It practically summoned men with political motivations to take advantage of the lack of distinction between votes for president and vice president, as Hamilton feared Anti-Federalists would do and he did do at the very first opportunity. Also, because electors were chosen long before they cast their votes, they were open prey for those who wanted to affect their decisions. Further, because men who chose electors (that could be either state legislators or the voting public) cared more about who would *be* president than who would *vote* for president, they might well demand some sort of promise or pledge from a would-be elector before giving him their votes. With all these opportunities, why *wouldn't* men with common interests join together (that is, form cabals) and plot privately (engage in intrigue) to influence the choice of the president?

And voting through electors was only the first of a two-step process. If a group with common interests believed it could muster a majority in the House of Representatives, it could lobby electors to vote for diverse candidates so there would be no clear majority; then, the election would be settled in the House, where that group would prevail.

Conversely, if a group were poorly represented in the House, they could lean upon electors who preferred other candidates to cast second votes for their preference; if just over half the electors agreed on a vice president, and preferences for president varied, the alleged vice president would become president without Congressional involvement.

Finally, whenever an election was thrown into the House, backers of the top five candidates would be foolish *not* to engage in intrigue, trying to attract support in return for promises or favors. This was exactly the scenario Gouverneur Morris and others had tried to prevent by instituting electors, but there it was, a major component of the system.

How did members of the Committee of Eleven, who devised the method of presidential selection, and those on the Convention floor who approved it, and Federalists who gave it such rave reviews, miss all this? Partly, as mentioned, by the time the plan came to the floor delegates were too tired to ask the hard questions. But that is not the full reason, for the central question – whether the plan was really intrigue-proof – could have been answered in the negative with hardly a second thought.

At least three other contributing explanations come to mind. First, the framers wished too hard. After struggling for three months to create an independent presidency and coming up empty, delegates to the Convention simply willed that an unacceptable answer be acceptable. Putting on blinders had become their only option. From a human perspective, this is understandable; the framers were giving birth to a new form of government, and like any parents, they entertained the highest hopes for their offspring. Envisioning the best, they embraced an idealistic fantasy of republican virtue and attributed nothing but the purist of motives to presidential electors. Because the notion was new and untested, there was no evidence to contradict their strange hypothesis: electors could be immunized from influence because they served only for a moment. Somehow, the electors' temporary status would remove them from all political context.

Electors would also meet simultaneously at thirteen different locations, and this “detached and divided situation” (Hamilton’s words) allegedly removed them farther yet from political heat. Gouverneur Morris, in his persuasive speech at the Federal Convention on [July 19](#), proclaimed that a nation-wide election “throughout so great an extent of country could not be influenced, by those little combinations and those momentary lies which often decide popular elections within a narrow sphere.” This wishful argument suggests another reason for their miscalculations. Because they associated cabal and intrigue with the goings-on in European national cities like London and Paris, they assumed that decentralizing the election process would prevent small groups from meeting in secret and exerting undue influence. But this narrow definition of cabal and intrigue led them to underestimate the extent and depth of the influence wielded by small, private groups in political life at any level or location. Intrigue could not be prevented by simple geographic manipulation. Almost any delegate to the Federal Convention, had he looked over the list of political figures with whom he corresponded, could have determined as much.

Finally, men who devised and approved the electoral system failed to comprehend fully many factors that could foster intrigue and cabal. They believed that “greediness for office,” to use Jefferson’s term, led to European-style political divisions, which were characterized in the American mind by intrigue and cabal, but this definition was too limited; even in Europe, motivations were more varied than that limited model would suggest. They understood, too, that local and regional interests in the United States would lead men to divide into factions, engage in intrigue to influence governmental policies, and in worst-case scenarios form cabals that tried to seize power, whether by legitimate means or otherwise – indeed, that’s why they sought a method of electing the president that would not fall prey to this tendency. As Madison famously wrote in [Federalist 10](#), since “the causes of faction cannot be removed, ... relief is only to be sought in the means of controlling its *effects*” – and among those anti-faction safeguards was the decentralization of electors.

But the framers failed to grasp the depth of feeling and commitment that would emerge as competing groups grasped for the soul of a nation that was still being defined, nor did they foresee that cross-regional alliances amongst emerging factions would tie constituencies together into national parties. Further, they did not predict that in the new order public concern over governmental matters would highlight these naturally occurring divisions, thereby adding to the dangers posed by partisan politics. In sum, although we might forgive them this oversight, they did not predict that multiple factions would lead in the end to a two-party system, and that in order for either of these two parties to capture the highest office in the land, political agents would *necessarily* try to influence the selection of presidential electors, and after electors were chosen, each party would seek to secure commitments to vote for particular candidates. In the end, polarized parties would defeat the basic premise of electors, which was to remove the choice of the president from “any sinister bias.”

The framers’ illusion did not last long. In a pamphlet penned during the ratification debates, the ardent Federalist Noah Webster had boasted, “The president of the United States is elective, and what is a capital improvement on the best governments, the mode of choosing him excludes the danger of faction and corruption.” But in 1800, next to these words in a personal copy of his own pamphlet, he jotted down, “This proves how little dependence can be placed on theory. Twelve years experience, or four elections, demonstrates the contrary.”¹

(From Ray Raphael, *Mr. President: How and Why the Founders Created a Chief Executive*, 201-203.)

¹ Richard P. McCormick, *The Presidential Game: The Origins of American Presidential Politics* (New York, Oxford University Press, 1982), 41.

