

Outline the differences between the electoral systems for the US Presidency, the US Senate and the House of Representatives. What advantages did the framers of the constitution see in creating these differences? Do they continue to be advantageous or problematical in modern America?

This essay will discuss the stated electoral systems, their purposes with regards to the framers of the constitution and their problems as three separate entities. As with any political system, problems with the issues of representation are inevitable. The problems of the electoral system in the US are clearly illustrated with the current Presidential elections but this will be discussed later in the essay. The concept of divided government and questions of popular mandate as well as the deviation from the original ideals and intentions of the constitution's framers will be discussed also. This essay will also explore the link between these three separate entities.

Firstly, to tackle the issue of Presidential election. The population does not directly elect the presidency; an electoral college elects it. Each state plus the District of Columbia, has a number of members in the Electoral College equal to the number of congressmen and senators representing it. The President is voted for every four years and it is down to the individual states to decide how their Electoral College votes are cast. Every member of a state's Electoral College number is expected to vote for the Presidential candidate that won the popular vote in that state although, this is not written in law and any member of the Electoral College is under no legal obligation to vote for the candidate that receives the plurality of the popular vote in their state.¹ A majority in the Electoral College must elect the President and, since there are 538 members, this equates to 270 votes. In the case of no majority being reached by a single candidate, the vote is then referred to the House of

Representatives to decide on the Presidency, with delegates from each state receiving one vote between them.

The reasons for the framers of the constitution deciding on the Electoral College system of choosing the President were various. The direct election of a strong executive by the people was rejected because the framers assumed that the franchise of voters what qualities make a good President. They also feared that the various voters would not be able to decide on a single candidate and would cast votes for “favourite son”² candidates. Also with a first past the post system, the most populous states would nearly always provide the President. So with direct election out of the question, the two main alternatives were to let either the Senate or the House of Representatives elect the Presidency. These plans were rejected also on the grounds that firstly, the Presidency could not claim to be an independent executive if it was chosen by congress and secondly, if the legislators of the states were allowed to decide on the executive leadership then the President would owe them something which would allow them to encroach on his authority as the leader of the federal republic. With the two main points of view on how the President should be elected, one making him too weak the other too strong, in deadlock, the compromise of an Electoral College was reached, in which the states choose the President. As Alfred H Kelly explains:

“ The committee recommended the Electoral College method of electing the President. Each states was to choose it’s own electors in a manner prescribed by its legislature. This provision recognised the states, yet allowed for the possibility of popular choice by electors.”³

The system of Presidential election in the US is easy to criticise but it is important to remember that the modern system for the election of the executive branch of government is not the same as that envisaged by the framers of the constitution. The twelfth amendment to the constitution has changed the way in which Presidential elections are held but, more importantly the advent of partisan politics, which is something the framers assumed the Electoral College would transcend.⁴ The Electoral College also raises the question of the President claiming a popular mandate. When all of the Electoral College votes go to the candidate who wins the popular vote in that state, then it becomes important that a candidate or their party to win states with the most Electoral College votes. This has become important in the current election as the result hangs on the outcome of a few thousand votes. In the past examples such as in the 1948 election, despite Harry s Truman's lead in the popular vote of over two million votes, a shift of less than thirty thousand votes would have given the Presidency to his opponent.⁵ So a President cannot claim a popular mandate, as can be seen in this election, when such a small percentage of the popular vote would change the outcome of an election. Yet, the Electoral College method is not the arcane method that McKeever suggests⁶, but a unique and radical system of choosing a leader and head of state that has deviated from its framers original intentions.

The elections of the members of the House of Representatives are by direct election by the people. They are elected every two years and represent small, local constituencies by population. The amount of representatives from each state that are elected to the House varies on the size of the population of the state. Originally intended to be one representative per thirty thousand populations, this has now

changed with, for example, California, being the most populous state (over 29million) having fifty-two representatives. They are elected by a basic majority system by their district's inhabitants.

The framers of the constitution saw the House of Representatives as the seat of major control in the country as the directly elected body representing the people. In their decision to directly elect the House, they were influenced by the ideas of the separation of powers, bicameralism and federalism.⁷ Along with the question of liberty, this was the revolutionary, at the time, concept of republicanism. The members of the lower house were not intended to represent state interests but to represent the local issues of their constituencies. The two-year term was seen as a way of ensuring this, as the voters are unlikely to forgive and forget any major grievances that they had with a representative, in such a short time. As James Madison explains in 'Federalist No.57':

“The elective mode of obtaining rulers is the characteristic policy of republican government. The means relied on this form of government for preventing their degeneracy are numerous and various. The most effectual one is such a limitation of the term of appointments as will maintain a proper responsibility to the people.”⁸

The idea was that those elected to the House of Representatives would be directly responsible to the voters who put them there. It is worth noting though, that the framers concept of the voting franchise was much different than that of today. Native Americans, Blacks and women of any race were excluded from the franchise.⁹ This is also tied in with the other constitutional idea of no taxation without actual representation; this leads to virtual representation¹⁰, which is when those who actually vote are also seen to be voting for those who do not, either by right or by choice. So it

can be seen that the framers' design of the voting system for the lower house was put in place to ensure that the section of government they saw as having the most popular influence in the republic, would be directly accountable to the people who had voted for them.

Like the electoral system for the Presidency, the system for electing the House of Representatives can be criticised by highlighting the paradox between the theory behind the system and the empirical workings of it. Firstly, the idea that the representatives in the lower house, due to the frequency of elections are easily swayed and become over responsive to public opinion. The frequency of elections also raises the issue of how much time the representatives can spend on actual governmental issues compared to the amount of time spent on preparing for re-election. In the case of the 1990 House elections, a large amount of incumbents had already collected huge funds almost a year before the election.¹¹ Yet if the representatives had not fulfilled the promises made to their constituents then they would surely not be re-elected. The framers' intentions have been fulfilled in the fact that the House of Representatives are frequently subjected to "more popular influence than any other branch of federal government."¹²

The system for the election of the two Senators from each state has changed historically. The original system was for the state legislature to each elect the senators for their own state. This was changed by the 17th amendment on 31st May 1913 to the direct election of the Senate by the people. Senators each serve six-year terms, with one third of the Senate up for re-election every two years. The system is,

since the 17th amendment, based on the winner gaining the plurality of the popular vote.

The constitution's framers for the original style of electoral system for the Senate and it was designed to be different from the system of election for the House of Representatives:

“Virtually everything about the framers’ Senate was designed to protect it from the majoritarian winds of the day.”¹³

The Senate had to be a stable house and hence the framers decided on less frequent elections. This allowed those elected to Senate to keep a more long-term view on the runnings of government than the other half of the congressional branch of the system. The fact that only one third of the Senate is up for re-election at any time means that one election will not completely clear the house and was again designed to keep it more stable. They were seen by the framers as a more ‘aristocratic branch’¹⁴ of the congress and were there to ensure that the will of the people was being acted upon. The longer space between election of Senators allowed them to do this. The reasons for changing to a popular vote for the Senate were being debated long before the ratification of the 17th amendment actually took place. The mood slowly changed over time until in the immediate years preceding the ratification the reason can best be stated thus:

“Congressman Norris denounced the great combinations of wealth controlling the Senate and nullifying the will of the people. ‘The evils of the present system are so great and so apparent that it seems to me this change ought to appeal to every reasonable citizen’”¹⁵

So the original intentions of the framers were seen as being undermined by the very system that they had designed for election, hence the 17th amendment was ratified.

In the modern electoral system, the Senatorial elections have changed with regards to the framers' original intentions. The 17th amendment has had an impact on this as it changed the whole electoral system but, partisan politics has had an impact also. McKeever suggests that the Senate is more resistant to sudden change¹⁶ yet the influence of party politics has had more of an influence on the Senate than on the House of Representatives due to the longer terms of Senators. The distance between elections has allowed them to tow a party political line rather than acting on the will of the people, with the direct election system in place, this can be seen as a reason for incumbent Senators finding it difficult to get re-elected compared to incumbent House members. For example, between 1980 and 1988 in five elections, twenty percent of Senate incumbents lost their seats compared to only five percent of House incumbents.¹⁷ This means that the modern Senate has become responsive to the will of the people, which is the opposite of what the framers of the constitution intended.

It can be seen how the electoral systems for these three sections of the US government have deviated with regards to the framers original intentions. The changes have come about due to the advent of partisan politics and the changing mood of the public. These changes to electoral systems need not necessarily be seen as problematical but, as a reflection of the changes in the political system as a whole. The framers wished to avoid majoritarianism and the idea of partisan politics by creating a system of government based on the revolutionary idea, at the time, of republicanism but, with the political mood changing, the ideals of democracy have

become prevalent and the changes in the electoral system are an essential and necessary part of this.

¹ Asher, H.B.(1998). Presidential Elections and American Politics. (4th Ed.). USA. The Dorsey Press. P 315

² Congressional Quarterly. (1997). Presidential Elections 1789-1996. Washington D.C. Congressional Quarterly Inc. p7

³ Kelly,A.H.(et al). (1983). The American Constitution. Its Origins and Development.(6th Ed).London. WW Norton & Co. p101.

⁴ Congressional Quarterly. (1997).p1

⁵ Asher. (1988).p317

⁶ McKeever, R. (et al). (1999). Politics USA. Essex. Prentice Hall.p190

⁷ Herrnson, P.S. (1995). Congressional Elections: Campaigning at Home and in Washington. Washington D.C. Congressional Quarterly Inc.p7

⁸ James Madison. Federalist No.57 in Lasser, W. (2000). Perspectives on American Politics. Boston. Houghton Mifflin.p274-5.

⁹ Mary Frances Berry in Arrington, K.G. (et al). (1992). Voting Rights in America: Continuing the Quest for Full Participation. Michigan. Leadership Conference Education Fund.p64

¹⁰ Kelly. (et al). (1983).p78

¹¹ Davies, P.J. (1992) Elections USA. Manchester. Manchester University Press.p154

¹² McKeever. (et al). (1999).p184

¹³ Abramowitz, A.I. & Segal, J.A. (1995). Senate Elections. Michigan. University of Michigan Press.p10

¹⁴ McKeever (et al). (1999).p185

¹⁵ Abramowitz & Segal. (1995).p21

¹⁶ McKeever (et al). (1999).p185

¹⁷ Abramowitz & Segal. (1995).p228