



**An Interview with John C. Fortier, Editor of  
*After the People Vote: A Guide to the Electoral College*  
Third Edition**

Q: *Why do we have an electoral college instead of letting the popular vote determine the winner of the presidential election?*

A: The electoral college was, as Martin Diamond puts it, “the product of the give-and-take and the compromises between the large and the small states.” Proponents of the electoral college point out that the election is a popular election within each state. Furthermore, the electoral college system supports the two-party system, protects minorities, discourages regional candidates, and has selected excellent presidents.

Q: *Was the near tie in the 2000 election a fluke, or could it happen again?*

A: The electorate is just as divided in 2004 as it was in 2000, so it is possible that one or more key states will again be subject to recounts.

Q: *But didn't the Supreme Court case Bush v. Gore resolve the recount dispute?*

A: The Supreme Court held that the recounting of the votes that the Florida Supreme Court had ordered would violate the equal protection clause of the Constitution—because recounts would take place using different standards in different counties—but indicated that *Bush v. Gore* was not intended to be a sweeping precedent. Nonetheless, future plaintiffs will surely raise the equal protection issue if there are court-ordered recounts. The Court also left open the question of whether the Florida courts, in setting new deadlines for recounts, were, in effect, changing the election law written by the legislature.

Q: *In 2000, Bush won the electoral college vote, but not the popular vote. Is that a possibility this time around?*

A: Bush was the first president in more than one hundred years to win the electoral college vote but not the popular vote. Nonetheless, it could happen again this time around—especially considering that no candidate for president has received more than 50 percent of the popular vote since 1988. In addition, there is a real possibility that this election might result in an electoral college tie. For example, if all of the states voted the same way they did in 2000, but New Hampshire and West Virginia (or Nevada) switched to John Kerry, there would be a tie.

Q: *How would a tie be resolved?*

A: In January the House of Representatives would vote for the presidential candidate. The House would vote by state delegation, with a majority of twenty-six states required to elect a president. The Senate would select the vice president. As of now, the Republicans control thirty state delegations; Democrats control fourteen; four are tied; and an independent represents Vermont. Republicans control the Senate 51-49. A change of just a few seats in the November election could change the party that holds a majority for selecting the president.

Q: *Could the House and Senate select nominees of opposite parties: for example, Bush and Edwards or Kerry and Cheney?*

A: Yes. The House could vote for a president from one party and the Senate could vote for a vice president of the other. If the Democrats win a majority in the Senate with this election, a tie could indeed result in a split ticket.

Q: *What if Congress is unable to select a president or vice president by January 20?*

A: The presidential succession act would kick in, elevating the Speaker of the House to the presidency for a four-year term or until the election is resolved.

Q: *Have there been any past elections as controversial as the 2000 election?*

A: Three controversial elections stand out.

In 1800, Thomas Jefferson and Aaron Burr received an equal number of electoral votes, prompting a deadlock that was ultimately broken by Congress.

The 1824 election resulted in the presidency of John Quincy Adams, who—in a four-candidate race—did not win the popular *or* electoral vote. Adams was selected because of the support of House Speaker Henry Clay, a deal that Andrew Jackson termed the “corrupt bargain.”

The 1876 election was similar to the 2000 Florida election controversy, but worse in that there were questions about the results of four states. The cause was not a divided electorate as it was in 2000, but rampant corruption on both sides. The 1876 election was not decided until two days before the inauguration.

Q: *When and where does the electoral college meet?*

A: The electors actually do not come together in one place to vote. The slates of the electors meet in their respective states and the District of Columbia to cast their votes. This year they meet on December 13. The votes are not revealed until Congress counts them on January 6.

Q: *Who are the presidential electors and how are they selected?*

A: The presidential electors are selected by a variety of methods by the states. In general, they are loyal to

the party that selects them. In some states the names of the electors appear on the ballot, but in others they do not.

Q: *Do electors have to cast their votes in accordance with the popular vote of their state?*

A: Over the years, there have been ten “faithless electors,” who have cast their votes in opposition to the wishes of the voters of their state. No “faithless elector” has ever changed the outcome of an election. Some states impose penalties for “faithless electors.” There have been news accounts in 2004 that one of the West Virginia electors pledged to Bush might consider voting for Kerry.

Q: *Does the winner of the popular vote in the state receive all of the electoral votes of that state?*

A: In almost all states, there is a winner-take-all system. For example, if a candidate wins California, even by a very small margin, a slate of fifty-five electors will be selected for that candidate. Maine and Nebraska are the exceptions to this rule. The candidate with the plurality of the popular vote wins two electors, but the remaining electors (two in Maine and three in Nebraska) are determined by the winner of the presidential vote in the congressional districts. In 2000, Al Gore won Maine by 5 percent, but George W. Bush came within 2 percent of winning the second district of Maine. Had Bush lost the state but won that congressional district, Maine would have split its electoral votes with three going to Gore and one to Bush. There is an initiative in 2004 on the Colorado ballot to change the way the state allocates electors to a proportional method, where each candidate would receive a number of electors in proportion to the popular vote in the state. For, example, if George W. Bush were to win 55 percent of the vote to John Kerry’s 44 percent, Bush would receive five electors and Kerry would receive four.