

You Might Be Right - Electoral College - Transcript

Allen Guelzo: What we are seeing in the Electoral College is really a representation of what our fundamental identity is, and that is a federal union. That's what's in the Constitution. That's what we are. A division between federal and state authority still is a very important division, even today.

Daniel Ziblatt: How often do I hear people say, "My vote just doesn't count"? If every individual's vote counted equally, then people wouldn't say that. So I think that's a kind of problem for democracy, that people feel that way, that their interests aren't represented.

Marianne Wanamaker: Welcome to "You Might Be Right," a place for civil conversations about tough topics, brought to you by the Baker School of Public Policy and Public Affairs at the University of Tennessee, with funding support from members of our Producers Circle. To learn more about how you can support our work, visit youmightberight.org.

When Americans cast their vote for president on Election Day, they are not voting directly for a candidate, but instead, they're voting to direct how their state's electors will cast their votes for president weeks later through a process known as the Electoral College. Designed by the framers in part as a compromise between electing the president by congressional vote or by direct national popular vote, the Electoral College has usually reflected the will of the people.

But five times in history, including twice in the last six elections, presidential candidates have lost the national popular vote but won the Electoral College and, therefore, the presidency. Is the Electoral College the best process for electing a president? In this episode, our hosts, former Tennessee Governors Phil Bredesen and Bill Haslam, and their guests examine America's presidential election process and the rising clamor for reform.

Bill Haslam: Well, Phil, it's good to be back again. A topic that is both timely and a little controversial, the Electoral College.

Phil Bredesen: It's going to be really interesting for me because I have, in my lifetime, had totally opposing views about this as they've evolved over time, so I'm looking to learn today.

Bill Haslam: This is one of those where, in principle, I get why we have it. I kind of believe in the whole federalism concept, and that's how the country initially came together as the Founders brought the states in that way. So I'm always a little hesitant to blow something up like that, but I do think the consequences of that, we're seeing today.

Phil Bredesen: Yeah. I hate when we have presidential elections and they're all concentrated on six or seven states. It's partly because of the polarization we have, but it's also partly just because of the way the Electoral College works. I think it's healthy – you and I, when we ran for governor, we had to talk to everybody in Tennessee. In some places, we did better than others, but you've got to be there. That's a good discipline.

Bill Haslam: It's a fair point. There'll be a bajillion dollars spent on advertising in this presidential election, but there probably won't be a dollar spent in Tennessee, because people know where it's going, likewise in California and New York and other places. So I understand your point. Let's jump in with our first guest.

Phil, our first guest is Dr. Allen Guelzo. He is the Thomas Smith Distinguished Research Scholar and director of the James Madison Program's Initiative on Politics and Statesmanship at Princeton University. He's been well-recognized, particularly as a Lincoln scholar. I think he's the only double Lincoln Laureate in terms of books in the history of both prizes, and he spent a lot of time thinking about how we got here with the Electoral College and the purpose that it serves.

Phil Bredezen: Welcome. And let me start out, doctor, just by, I think for our guests, maybe just describing briefly how it works, and I think importantly, maybe what the rationale was for it at the time of the nation's founding.

Allen Guelzo: The workings of it are comparatively simple. In the time of a presidential election, people go to the polls in their various states and they cast votes for either of the two major candidates. Well, usually, it's two major candidates. Sometimes we've had three, sometimes we've had four, and sometimes we get write-ins. But basically, most of the time, the attention gets paid to two parties, and people go and they cast their votes for the candidates, in this case, the presidential candidate, of a particular party.

Strictly speaking, they're not actually voting for those candidates. They are voting for the electors who are going to represent those candidates. And what happens is that in each of the states of the Union, the voters who cast their votes on Election Day are taken together, and that determines who wins the, quote, unquote, "electoral vote" of that state. Whoever wins the majority in that state is understood to have captured how many electoral votes that state has to offer.

Two states split their electoral votes. In other words, a winning candidate gets a certain percentage, the losing candidate gets a certain percentage. In all the other states, it's a winner-take-all. Whoever has won the majority of the voters in that particular state wins all the electoral votes of that state, at which point you have— Okay. What's an electoral vote?

Electoral votes are apportioned to the states based on their representation in Congress, and you simply add the number of representatives that are sent to the House of Representatives and the number of senators. That gives you the state's electoral vote. In 48 of the 50 states, whoever wins a majority of the popular vote, those votes elect someone in that state.

You take all 50 states together and then, in Congress, subsequent to the actual Election Day, in Congress, the electoral votes are tabulated. And whoever wins that majority in the Electoral College, as it's so-called, that person becomes the President of the United States. So really,

what we have in our presidential election process is a two-stage event. There is an election which takes place in the individual states, and then there is an election which takes place subsequent to that when all the state electoral votes are cast and counted.

We call that event the Electoral College, although the word college doesn't actually appear in the Constitution. This is a habit that's grown up over long usage. But the electoral system is a long system. And I just want to say this: It's actually the only system mentioned in the Constitution for electing a president. I remember many years ago, I went hunting through the text of the Constitution to find out what the description of the popular vote for president was, only to realize there isn't one.

Bill Haslam: Let me ask a quick question and I'll give it back to Phil. How much free will do the electors have once their states have had the vote and the electors are assigned? Does that elector have any free will about it at that point?

Allen Guelzo: In theory, yes, and there have been times when electors have cast a vote contrary to what the majority vote in their state has been. Sometimes there's been a split. Maybe you get two electors out of, let's say, 12 electors of a state who will cast a vote for the other candidate. That happens pretty rarely, though, and it happens pretty rarely because the electors themselves in the states are generally chosen by party conventions.

So they are people who got allegiances to a particular party. They're not going to cast their particular votes contrary to the instructions of their party. So if their party has won the majority in the vote in that state, then what you effectively have done is you've elected that party's electors, and then that party's electors dutifully cast their votes for the party's national candidate.

But as I say, it has happened on some occasions when some people have, so to speak, defected, and there's a few examples of that even comparatively recently. Sometimes these are called faithless electors. I think that's a very pejorative way of describing them, but there's been some occasions of that.

Phil Bredezen: What you described is certainly a ways away from a one man, one vote concept of democracy. The second half of my question was, what was the original intention? Why was it structured that way in the Constitution?

Allen Guelzo: Well, for one thing, the Constitution doesn't actually contain any provision about one man, one vote.

Phil Bredezen: I understand that.

Allen Guelzo: Yeah. The phrase is not there in the— Some people think it is, but it's not. It's like some very common phrases people think are in the Constitution. It turns out, no, those are matters of interpretation, which have been generally accepted, but they're still not in the Constitution. The rationale for this was debated pretty fiercely in the Constitutional Convention

in Philadelphia in 1787. Almost from the beginning of the convention, people were worrying about, "All right. If we're going to have an executive of this new republic, first of all, should that executive be a single person, or should it be a committee?"

The objections to a single executive really came down to, "Aren't you really recreating a monarchy?" So there was debate about that. Then there was debate about what the powers of the executive should be, and then above all, the question was, how should this executive be elected? And almost from the start of the convention, the fundamental conflict was between those who wanted a general, direct popular vote and people who wanted some other kind of indirect vote, usually being cast by the legislatures of the individual states.

And what you wind up with in the Electoral College is something of a compromise between those two views. People who objected to a direct popular vote were largely doing it because the circumstances of the American republic in 1787 would've made that fiercely difficult. This is 1787. There's no internet. There aren't even any trains. You have an enormously large stretch of territory by the experience of the 18th century, which is rather thinly populated. It doesn't communicate easily. It takes days to get a message from New York to Charleston.

So the feeling was, we're not going to be able to really conduct an election nationally in the same way that you might conduct a New England town meeting. So there's got to be more of a process. Those who objected to the idea that the state legislatures would do it really objected to it on the grounds that this would make the executive simply to be the toy of the state legislatures. And whoever was going to be elected as the executive, as the president, this is the title they eventually choose, is simply going to reduce that person to being whatever of the state legislatures boss that person around into being.

So the debate goes back and forth. Those who want the state legislative election accuse the people who are promoting the popular vote of saying, "Well, if you elect people popularly, what you're going to end up doing is electing a Julius Caesar. You're going to elect a tribune of the people who thinks that he speaks for everybody and, therefore, can do anything he likes." And it goes back and forth, and it goes all through the convention. There's the constant problem in trying to figure out how to do this.

Phil Bredezen: In the discussions at the time and in subsequent couple of decades, was the notion always that electors were pledged to the popular vote, or was the notion more of sending independent people to pick the best possible president?

Allen Guelzo: I think the general sense of the very beginning was that you were electing independent-minded citizens of an elevated sort, and that these people would deploy their wisdom in selecting the executive, but that quickly disappeared with the emergence of the party system. When they were writing the Constitution in 1787, there were no parties. You don't get parties until you move into the 1790s. You have the organization of the Jeffersonians. You have the organization of the Federalists.

By the time we get to the election of 1800, I mean, we're only talking about the third president being elected at this point. By the time you get to that election of 1800, it has now clearly become a matter of the candidates representing a party and the electors also participating as members of a party. So if there was ever an expectation that this was going to be a meeting of the wise heads within each state acting wisely in their own capacity, that dissipated very quickly.

Bill Haslam: Allen, you brought up a great point that when this was devised, it was a very different country. There were no trains. It took days or weeks to find out who even won an election. But I guess the argument would be, that's not who we are today. Today, we know who's won an election with exit polls even before it's over. Why should we keep a system that feels undemocratic? In this election, nobody will spend a dollar advertising in Tennessee, because they know it's going to vote Republican. The contra is true in California and New York, et cetera. Why should we keep a system that seems so fundamentally undemocratic?

Allen Guelzo: Well, there are a couple of reasons that need to be taken into consideration. One is the fact that the United States is, by simple definition, a federal union. We are not simply a nation-state considered that way. We are a federal union. We are a union of 50 states, and we are a union because that's how we started at the time of the Revolution. That's what is captured in the Constitution. We would not have had the Constitution unless it was a federal union, an agreement of these states.

So what we are seeing in the Electoral College is really a representation of what our fundamental identity is, and that is a federal union. That's what's in the Constitution. That's what we are. So it reflects that. And in that way, it reminds us of what we have been, but it also reminds us of what we are, because the division between federal and state authority still is a very important division, even today.

And true, it has become less marked over time as more and more authority and more and more executive power has developed at the center. But there are still large parts of the political landscape in America which divide that authority between the federal level and the state level, and still reflects who we are.

There's a few curiously practical considerations that enter into this as well, considerations which were not all that apparent at the time of 1787, and that is, there's a benefit that gets paid in presidential campaigning. Now, it's not quite the benefit that some people make it out to be, but it is at least this. If we were doing just a national popular election, there would be little point to the candidates ever doing anything but visiting and doing rallies and organizing the vote in more than, let's say, a dozen major urban or metropolitan areas.

Now, there'd be very little point for the candidates to waste their time, because so much of the voting power in America comes from those places where the popular vote is very, very concentrated, and that means large stretches of the country would probably just be ignored by whoever the presidential candidates are and probably by their administrators.

Bill Haslam: But aren't large stretches ignored today?

Allen Guelzo: Oh, yeah. Oh, this is why I say, it's not quite the easy fix that some people would imagine it to be. No one's going and campaigning seriously in North Dakota. And my apologies to anybody from North Dakota, but no one's doing that. On the other hand, it does at least force some spread out of where campaigning takes place and who has to be taken into consideration by presidential candidates. So it's by no means a complete, total fix, but it does tend to spread things out a good deal more outside, let's say, a dozen major metropolitan areas.

Phil Bredesen: You spoke a moment ago about the idea that with a popular vote, people would concentrate on a few heavily urbanized parts of the country where the large numbers of votes are, but that assumes that campaigning is geographic, which I don't think it has to be in today's environment. It also seems like somebody who's running for a party might have to structure the way they think about some of these large issues, think about gun control and others like this, in a way to be not as polarized, but to attempt to bring people in these different camps together to be a force for finding some common ground.

I mean, Bill and I are sitting here looking at each other, but I think if I were campaigning for president, what I'd be wanting to do would be to find people who were, in my case, I'm a Democrat, sort of on the moderate side of the Republican Party and have something to say to them as opposed to what it is now, which is there's no benefit whatsoever for me to try to do that. I mean, is that a reasonable concern?

Allen Guelzo: Oh, certainly it's a reasonable concern. What we want to try to do in our elections is to afford as much of an open voice as possible to people. The question is the way that you do it, because there are ups and downs, there are positives and negatives, no matter how you construe a major election process this way. The Electoral College has its negatives, no question, but it also has some of these positives.

And the curious thing is that among the major democracies of the world, as tempted as we often are to criticize the Electoral College for being cumbersome, for being onerous, if you look at some of the other major democratic nations, they've got electoral systems which make the Electoral College look like simplicity, and a case in point is the German electoral system.

And without wanting to belabor this, it's a very complicated process. You're voting for a chancellor. You're voting for someone who's going to be the president of the Federal Republic. And by the way, again, with Germany, you're dealing with a federal union. You're voting literally for two separate columns of candidates. And even describing it takes so much time that the eyes almost glaze over. It's a very complicated system.

In Britain, of course, nobody votes for the prime minister. You vote for a particular party, the candidates of a particular party, and whatever party achieves a majority in Parliament, it's the leader of that party who becomes the prime minister. So the process of electing a prime minister, in fact, not only is it— You can't even use the word direct or indirect. It doesn't even

exist. So in our system, yeah, there's an element of the cumbersome to it, but you could make an election very, very cumbersome not only by the system we have with the Electoral College.

Bill Haslam: You've given us great historical perspective in the whys of the Electoral College. I'm guessing you like the system and wouldn't change it. But if the country decided we do want to change it, what's the process? What would have to happen to change from the Electoral College to a popular vote?

Allen Guelzo: Well, this is actually one of the other arguments that stands in the way, stands in favor of simply keeping the Electoral College system as it functions now, and that is, the first thing you'd have to do is you'd have to amend the Constitution. And amending the Constitution, in this case, would mean eliminating the current system for the Electoral College.

All right. That's a problem right there, because the description of the functioning of the Electoral College in the Constitution is actually the single largest item in the entire Constitution. I mean, the federal Constitution is about, at least in the original text without the amendments, it's about 4,400 words. The Electoral College description is about a tenth of that. So you'd be needing, first of all, to carve out a very big chunk of the federal Constitution. Then, you would have to proceed to rewrite an entire new series of amendments, because I can't imagine how we would do it with just one amendment.

You would have to write an amendment, and clearly an amendment certainly of the same proportions to describe how a popular vote would be undertaken. That would require a major constitutional convention. And if you thought the debates in the Constitutional Convention of 1787 were drawn out on this subject, I mean, you easily imagine what they would look like in a convention that gets called today. So there's a process problem that you have to take into account this way, and I think that sometimes we don't often consider the dimensions of that process.

Phil Bredezen: I guess I don't understand why it would be that complex. It seems to me that a simple statement that the president is elected by a popular vote of eligible voters in the country would suffice.

Allen Guelzo: Well, because that then involves the question of who the eligible voters are, and the Constitution leaves the determination, in Article IV, of voter eligibility to the states. And if that's the case, then you've got questions about eligibility all across the boards. Now, there have, in the last 50 years, been a number of cases coming before the Supreme Court which have dealt with questions about identifying who voters should or can be.

There's been voting rights legislation, but there has never been any attempt to override the constitutional provision that awards to the states the determination of how voters are identified and how voting procedures are to be undertaken. A simple statement is not going to do the job, because once you make that simple statement, then you have to deal with the variety of voting procedures that take place in the states.

Bill Haslam: Doctor, this has been very helpful. You've given us great historic context and helped us think through some of the issues rounding the vote. Let me ask a final question. We ask all of our guests this. The podcast takes its name from Senator Howard Baker's emphasis on the importance of keeping an open mind and learning from other folks, and saying that, "Always remember, the other person might be right." Can you think of a time when you've realized the person on the other side of an issue, maybe even particularly this issue, was right, and you didn't have your position exactly the way it should be?

Allen Guelzo: Yeah. That took place yesterday. I have to admit, it takes place all the time. There is a certain hubris, and maybe people in academic life, like myself, tend to suffer from it more often than others, but what we tend to think, "Well, I have thought my way all through this. I have all the answers. I must be right." And I tend to think that that's an overestimation of what any one individual can do.

My example this way is, and this won't surprise you, Abraham Lincoln. Abraham Lincoln wrote a letter to Ulysses Grant shortly after Grant won his great victory at Vicksburg in July of 1863. And in this letter, Lincoln said to Grant, "You know, when you set out on this campaign, I thought it was going to end badly. I thought you should have gone downriver and joined the attack on Baton Rouge. And then when you crossed the river successfully, across the Mississippi and got on the Vicksburg side of the Mississippi, I thought that was interesting, but I still wasn't convinced. But then you carried the campaign through, and Vicksburg surrendered to you."

And then Lincoln adds at the end, "I'm writing this letter to you to make it clear that I was wrong and you were right." And I thought that is one of the most remarkable things you could ever hear an American president say, and especially to say to an individual to whom he'd never met, and someone, in fact, whom a lot of people were already talking about as a possible presidential rival to Lincoln. And yet, he makes a concession. I think if that's good enough for Abraham Lincoln, that's good enough for me.

Phil Bredezen: Thank you very much. It's been interesting, and good luck to you in your continued studies.

Allen Guelzo: All right. Well, thank you so much.

Bill Haslam: We appreciate your time and the context and the perspective you gave us. Very helpful. Thanks so much for being with us this morning.

Allen Guelzo: Excellent. All right. Thank you.

Phil Bredezen: That was pretty interesting, and I really took something out of that. I'd been very down on the Electoral College for a bunch of reasons, which was, as I said at the outset, a big, big change for me. But his point about just, "Well, think through what the possibly unintended consequences are of any of the other alternatives you might think of." I think it's a very good

point. I mean, it has me sitting back and saying, "I need to think about this."

Bill Haslam: Fair. I do think— And we'll see what our next guest says. Your point, you actually made me think a little bit and kind of pulled me toward the other side of maybe this current system is just actually contributing to our polarization, because you only have to go certain places and appeal to certain folks, and you can write off everything else. I didn't really hear a good argument back on that.

Phil Bredezen: This is an interesting topic.

Well, Bill, our next guest has, I think, a view from a different perspective of the Electoral College, the issue that we're talking about. It's Daniel Ziblatt. He's the professor of government at Harvard, where he's also director of the Minda de Gunzburg Center for European Studies. His research focuses a lot on Europe and the comparative study of democracy.

He's the author of a number of books, including *How Democracies Die* back in 2018, which, I can tell you, I've read, and it was a New York Times bestseller. And in 2023, he published *Tyranny of the Minority*, an analysis of American democracy in comparative perspectives, recently elected to the American Academy of Arts and Sciences, a Ph.D. in political science from UC Berkeley. So, Daniel, welcome, and we really appreciate your spending this time with us.

Daniel Ziblatt: Absolutely. Really great to be with you.

Bill Haslam: Daniel, let me start off with a broad question. The split in the Electoral College and popular vote has only happened five times in history, so not all that common, but it's been twice in the last six elections. What's going on, and should we expect to see more of that going forward?

Daniel Ziblatt: The Electoral College has always, basically from the beginning, initially overrepresented small states. The electors are selected as through the number of House members and the number of senators. And because the Senate overrepresented small states, Electoral College was biased towards small states. But really, since the 19th century, it's overrepresented rural states.

Now, that, for most of our history, wasn't a problem, because Democrats and Republicans had both urban and rural wings. And so, this rural overrepresentation didn't have a partisan effect. What's happened in recent years, really in the 21st century, primarily, as the parties have become split along urban and rural lines so that Republicans are primarily the party of sparsely populated areas and Democrats are the party of urban areas, densely populated areas, what this means is that this rural overrepresentation has led to a partisan overrepresentation.

And so, what's happened over the last several years is that Republicans, in particular, there's this unfortunate partisan effect, not by design, by any means, where Republicans can win

power, win the Electoral College without winning a majority of the votes. So this disjuncture seems to be coming more common. I think this is why people now begun to discuss it.

I mean, there's certainly a partisan element to it, but I also think there's an element of fairness, because most of our lives, we kind of think that the person with the most votes should win, in the sports game. When I go out to dinner with my family, we vote with my kids, "Where do we go to dinner?" I wish I had more votes than my kids, but I usually don't. It's whoever votes the most, that's who wins. I mean, we have a sort of sense of fairness. So that's, I think, why we are where we are today.

Phil Bredezen: There have been a number of proposals for how to fix it, and coming, I think, not so much from a partisan basis, but out of a sense of the one man, or one man or woman, one vote approach to it, which you alluded to. If you were advising the Congress or someone as to how this might be fixed in a way that was consistent with the values we have in this country, what would you do?

Daniel Ziblatt: Yeah, and I'm glad you put it in that way. I mean, it's easy to think of this through a partisan lens, both for the advocates of reform and the opponents of reform, to think, "Well, my party is going to be hurt." But I think it's good to kind of use some basic democratic theory criteria, and whether it's the idea that the person with the most votes should win. And the problem with not following that method, I should say, is that it kind of creates legitimacy problems.

So in other words, if we have this happening over and over, you're going to begin to have people challenge and saying, "Well, this is not fair." And the legitimacy of our elections would be challenged. Similarly, one person, one vote, that's a basic principle. So how to achieve it is really a set of tricky issues because of the partisan effects of this.

I know there's arguments about defending small states and so on. Small states have an interest, and those are pretty good arguments. But I think the arguments on the other side, to my mind anyway, are better.

My reaction to how to get to a reform, a couple of things. Number one, back in 1970, a reform almost passed. There was this reform in 1960, 1970, where Richard Nixon was in favor of eliminating the Electoral College, the AFL-CIO, the American Chamber of Commerce, the American Bar Association. And the reason that it was a kind of cross-partisan issue, it eventually died in the U.S. Senate, was that it was not immediately clear who the partisan beneficiaries of the reform would be. And I think that there's a lesson in that, that sometimes it's easier to reform when it's not clear who the winners and losers are.

So I could imagine a situation where, let's say, Texas goes Democratic in a couple of presidential elections. And suddenly, you would have a lot of Republicans thinking, "God, we're sure wasting a lot of votes in Texas." And suddenly, it would be less clear who is the beneficiaries of this reform.

And so, I think waiting for a moment where there's either a legitimacy crisis, which is what happened in 1970, George Wallace ran for a third-party bid. So the system really seems vulnerable, and I think there's other ways in which the Electoral College is vulnerable, or where it's uncertain who the winners and losers are. It's in those moments that we should push for reform. But the goal of talking about it now is that we need to talk about it in this particular moment.

Phil Bredezen: I'm always interested in the subject of unintended consequences. And, I mean, any system is going to have attributes and aspects to it that are good and bad. If we were to change the system to a direct popular vote in this country, what might be the problems with that? What new problems might arise that don't exist?

Daniel Ziblatt: Yeah. Very good question. Two things I would say: One is that I think there is this concern that small states would be underrepresented, and that there may be a way in which that's the case, but I think actually over time— I mean, I guess one of the things I would say is that the founding, the establishment of the Electoral College didn't really reflect some farsighted vision. It was really a compromise, because small states felt they would be overrun. And so, it was a compromise. As in any political bargain, it required compromise, improvisation.

And so, we've had this system that initially was intended to protect small states. But I think today, with a highly nationalized political system, I don't think small states are particularly underrepresented. I mean, it's not really clear even what that means. Every state has two senators. Rhode Island has two senators. Delaware has two senators. Vermont has two senators. And that means the Electoral College, they get this kind of weight.

So I think the issue now is a partisan issue where one party seems to be benefiting. One unintended effect would be for one side, and if there's one side, it feels like they're losing out because of this kind of reform. There's concern of like, "What will they do? Does the system lose legitimacy in their eyes? They don't accept election results," and so on. So I think that's a concern, but that's more a problem of our highly polarized, partisan environment.

And so, that's why I would suggest carrying out this kind of reform in a way where it's— And I think, by definition though, it's one of the interesting things about our Constitution, because it requires two-thirds of all the Senate and the House and three-quarters of the states. It has to be bipartisan. So in some sense, bipartisanship would address that partisan nature.

It would affect election campaigning. That would be a second point, but maybe— I'm not sure. And presidential candidates would be campaigning a lot more in Texas and California and New York and Florida. And maybe that doesn't make people in New Hampshire and Iowa happy or whatever, but I think there's nothing inherently wrong with that. I mean, most Americans live in these places.

So the average American isn't an old, white guy, like the three of us, sitting in a diner in Iowa.

The average American is more likely to be a Latina bus driver and living in Los Angeles, right? So in a way, our political system should be more responsive to this. But that's an unintended effect. It may or may not be good, depending on where you sit.

One final thing I'd just like to say very quickly is, there's another way of reforming the Electoral College without abolishing it, which is, if we were to expand the House of Representatives, which is something that happened throughout— This is also in our book. We proposed this actually as a reform, which is something that happened in American history into the 20th century, and then we just stopped doing it. I mean, it's been frozen at the same size since 1920s.

If we were to expand the House of Representatives, thereby making congressional districts smaller, this would have the effect of changing the balance. This would mean that bigger states get more members of Congress. If bigger states had more members of Congress in the House of Representatives, this would also tilt the balance of the Electoral College. So this would be a way of keeping the Electoral College, but changing the number of electors from each state. Not by changing the number of senators, but by changing the number of members of the House of Representatives. This would also be a way of making the system more fair, I would say.

Bill Haslam: Well, let me ask you something. I guess the other, I guess, pushback on this would be we are, by design, a federal union of 50 states. What do you say to that argument, that that was part of the deal the Founders made, was to bring all the states in? If you're a small state, you're not going to get swamped by one of these big states. What's the answer to that, that this is part of our fundamental design?

Daniel Ziblatt: Yeah. I agree that it's part of our fundamental design to be a federal system. I mean, I think that our federal system is a great source of strength. A lot of power is devolved to the states. The question is, how should we organize our national political system? And we do have a system that already gives states lots of influence, no matter the size, through the Senate.

So every state has two senators. We have the most disproportionate Senate, that is, uneven based on population, in the world, the exceptions of Argentina and Brazil. So take Germany, which has a federal system. At their founding in 1948, they considered having two senators from each state, of their German states, but instead, they opted for a system where bigger states had slightly more representatives. So it was not perfectly proportional. Small states are still overrepresented, but just a little bit more proportional.

We continue to have the system which I think is pretty much unreformable of having two senators in each state. So my answer to the point is that we already have a lot of checks in place for small states, and I would say that the Electoral College was not really designed to serve the purpose that it's serving today, which is to kind of balance out party interests. I mean, remember, at the Convention and the founding, the Constitution doesn't even use the word political parties. The Founders weren't thinking about party balances, and the Electoral College

was really the third option that they kind of stumbled on. At the Convention, as they were discussing it, they couldn't figure out how to select a president, because we're a republic, a new republic, first time in history where a mass polity like ours is having a directly-elected executive.

So they kept putting it off. They put it on this committee called the Committee of Unfinished Parts. And at the end of the convention, they settled on this, and it was a kind of compromise. And so, I think we shouldn't treat it as something that is inherently fulfilling some design that the Founders had. Many of the Founders were really skeptical of it, actually, as an institution. George Washington, right after the founding, wrote a letter, in which he said, "The Constitution is an imperfect document. It's up to future generations to improve it."

So I think they expected we would make reforms. Now, I'm not saying that they necessarily would've said, "Get rid of the Electoral College or, in some way, change it." But I think we should be willing to entertain these things and not be afraid, because, in fact, our Founders sort of hoped, not only Thomas Jefferson, but federalists like Washington hoped that we would come back to address things that we see as problematic and keep up with the times.

Phil Bredesen: I have a question for you. My view on this has certainly evolved over time. In a decade or a decade and a half ago, I would've been strongly in favor of the Electoral College. I feel much more ambiguous or ambivalent about it today. It's always seemed to me though that one of the advantages of direct election is that it isn't so much that people would campaign in California and Texas, because I think that in the national system we have, you'd be more campaigning to different kinds of interests and views of the world.

One of the disadvantages of the current system is, I mean, I'm a Democrat. If I were to run for president, I mean, I have no reason to have anything in the world to say to someone who's a Second Amendment supporter. Okay? If Bill were to run for president, he's got no reason to say anything to somebody who is pro-choice. Okay? And yet, it seems to be healthy for someone to have to reach out more broadly across the different lifestyles and different life experiences of people in the country than we have today. Do you see that as a potential advantage, or am I missing what's really going on there?

Daniel Ziblatt: Yeah. No, I do. I think that's a nice way to put it. And if you don't mind, when people ask me about it, I may refer to that, because I think that's a really good argument. And what it reflects is that we have a system that isn't designed to reflect the will of the majority. And so, you can win without winning majorities of voters.

And America is a huge country, very diverse. It's amazing we have only two parties to represent all that diversity. And so, when you're running for president, there's this kind of strategic game where you just focus on the states that are necessary to cobble together this Electoral College majority, which may reflect the popular majority, but may not. It's irrelevant.

In one of the interviews we did for researching our book, *Tyranny of the Minority*, we talked to a political operative who was involved with several presidential campaigns, and we said, "Did you

ever consider trying to win the popular vote?" And he said, "Of course." He was like, "That's the stupidest question I've ever heard. I mean, of course not. That would be like being in the Super Bowl, and instead of focusing on trying to win the most points, trying to have the fewest penalties, you don't really care."

The only thing that mattered is you win the Electoral College. And so, I think what happens by trying to stitch together the states, which no— It makes sense that people do that. Those are the rules, then you kind of ignore where people are. And it does create a bit of a problem of disconnect. How often do I hear, in Massachusetts and California, people say, "My vote just doesn't count"? If every individual's vote counted equally, then people wouldn't say that. And so, I think that's a kind of problem for democracy, that people feel that way, that their interests aren't represented, and that there isn't the same kind of outreach that would have to be necessary.

Bill Haslam: You've been terrific with your time, and you've made some really good arguments. Let me ask you the final question that we always ask our guests. The podcast takes its name from former Senator Howard Baker's argument that we always should remember that the other person might be right. Can you think of a time in your life when you realize, "I didn't have this right. The other side's argument really might be right"? And maybe particularly on this topic, but if not, on anything that would be a good example for us.

Daniel Ziblatt: Yeah. Well, just let me first say, I really admire your guys' show, and you guys are models for how we should all be doing our engaging in political discussion, in this civil way. And so, I really appreciate that, and it comes out of this question as well. I mean, we should be asking ourselves this question more often, because it generates a little bit more modesty, and I think nobody has a monopoly on the truth.

And if we remember that, then we can fight vigorously for our arguments, but then always remember, "Well, if it doesn't go my way, it's okay, because maybe I was not right to begin with and the other guy was, since I wasn't 100% confident in my views," and understand that there's some room for fallibility among humans. I think it's really important. So, again, just thank you for your show, the first thing I want to say.

But then, to answer your question directly, yeah, I think in this domain, one thing that I don't think I fully appreciated was the importance of federalism. Until 2016, I was maybe the classic liberal who thought that federalism is just this kind of excuse to not allow for central responses to big problems. If you think of the Voting Rights Act, the Civil Rights Act, civil rights bills required a strong, vigorous federal government, and federalism is just a justification for Jim Crow. Federalism is just a justification for allowing labor laws to be not as strong in some states than other, and we need a one-size-fits-all solution to everything.

Federalism maybe would be necessary, but I was not a big fan of federalism. And this argument, "Oh, well, federalism protects us from tyranny." I kind of, "Whatever. That's a bunch of hot air." But I think during the Trump era, I kind of grew to recognize that federalism is really a great source of strength in our system, and the decentralization of power, in some ways,

protects us, does in fact protect us from threats of overreaching center.

And if you look at other democracies around the world, Hungary is a country, a highly centralized democracy, unitary state, that when you had a similar figure come to power, it was very easy for Viktor Orbán to entrench himself and rule. So that's something where it's only facing new facts that I realized, "Hey, you know what? Maybe I was not so right about that." And then I've become a bigger fan of federalism, although I continue to think strong federalist responses to common problems are absolutely necessary.

Phil Bredeesen: Very good. We appreciate it. This has been an illuminating discussion, and I think it's going to only intensify over the course of the next year with the election we have coming up.

Bill Haslam: Thanks. You've been incredibly insightful. We appreciate your time very much.

Daniel Ziblatt: Yeah. Thank you so much.

Phil Bredeesen: Appreciate it.

Bill Haslam: Phil, like most complex problems, there's good arguments on both sides, and it doesn't feel like there's an easy, one-two-three answer.

Phil Bredeesen: I was hoping for a one-two-three answer actually. No, I think you're right. It certainly has made the issue a little more nuanced to me in terms of unintended consequences, of other things, and so on. I do come down on the side of, it is not 1787 today, and there's a strong, I think, sort of sense across the country that people's independent votes ought to matter equally.

And I hope we might move towards something where at least the person who wins the Electoral College tends to win the popular vote as well, because otherwise, I think you really get at the basis of the legitimacy of the elections in the first place. Two examples of that in the past 20 years doesn't take a total trend to make, but we'll have to see what happens in the future.

Bill Haslam: Yeah. I'm always a little hesitant to blow up systems that feel foundational, and this is one of those. But it's hard for me to argue with your point about polarization and people feeling like, "Well, I only have to appeal to those voters that are in my target market, and I can forget everyone else." That mentality is not good for us.

Phil Bredeesen: Yeah. I mean, in real life, when you talk to people, I mean, you have to kind of accommodate their views. And I've got relatives who've got different views, and you try to understand. You try to have things to be able to say to them about these issues. And in our political life, nationally, that's not the case anymore.

Bill Haslam: Well done. Thanks for the conversation.

Phil Bredesen: Enjoyed it.

Marianne Wanamaker: Thanks for listening to "You Might Be Right." Be sure to follow on Apple Podcasts, Spotify, or wherever you listen to your favorite shows. And please help spread the word by sharing, rating and reviewing the show.

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