

The Breakfast Club

Constitutional Minute for 8 November 2022

Nine Contentious Elections in America

It only seems fitting on Election Day to review some of the more contentious elections in American history.

1. The **1800 election** pitted incumbent President John Adams against his incumbent Vice President Thomas Jefferson. How did Adams, a Federalist, end up with a VP from the Democratic-Republican Party? Easy. Political Parties were still new and inventing their operations as they grew. Prior to the 12th Amendment, Presidential Electors voted two names for President. The name receiving the most votes became President, and the second-place finisher became VP. As you might anticipate, Adams and Jefferson did not see eye-to-eye on policy and Adams left Jefferson to doodle in his office until Jefferson realized he could be more productive back at Monticello and began spending long visits there.

Approaching the 1800 election, the Federalist wanted to run Adams and Charles Cotesworth Pinckney from South Carolina (to bring in the “Southern vote”) as a “ticket.” But they knew if all their Federalist electors voted for the same two names the result would be a tie, which would force the election into the House of Representatives as per the Constitution (Article 2, Section 2) where state delegations would choose among the top five vote getters, with one vote allotted per delegation. The Democratic-Republicans faced the same challenge with their “ticket:” Thomas Jefferson and Aaron Burr. The Federalists assigned one elector to vote for a third name to avoid the tie and the Democratic-Republicans (DR) tried to do the same but failed to communicate their plan successfully. The people of the several states chose more DR electors than they did Federalist electors, so the outcome was assured: Jefferson would be President. Except for the fact that Jefferson received the same number of votes as Burr, forcing the election into the House of Representatives, where an outgoing majority favoring the Federalists decided they didn’t want either man to be President, so they schemed to prevent Jefferson from obtaining the majority vote of the state delegations he needed. Through 35 separate ballots over several weeks, the impasse went on until the March 4th date for the inauguration of the President loomed large. Finally, a frenzied Alexander Hamilton convinced the Federalist to stop the anarchy and allow Jefferson to obtain the majority vote he needed. The result of this debacle was the 12th Amendment, which required electors to vote separately for President and Vice President, greatly reducing the chance of a tie.

2. The 1824 election brought another constitutional election rule into play. Instead of an electoral vote tie as occurred in 1800, due to the presence of four candidates running for the office of President, no candidate obtained a majority of the votes in the Electoral College. With 131 electoral votes needed to win, Andrew Jackson gained but 99, John Quincy Adams, 84; William Crawford, 41; and Henry Clay, 37. Many states had directly appointed their electors instead of putting their selection to a popular vote of the citizens. Tallying the popular vote in those states which allowed it gave Jackson the meaningless advantage of having more popular votes than any other candidate. Once again, the election transferred to the House of Representatives. Jackson may have been popular with the Electors and the people at large, but he was not

popular in the Lame Duck House of Representatives. On the very first ballot, John Quincy Adams gained the requisite 13 state delegation votes and was declared the President. Jackson sat out the next four years and got his revenge in 1828, beating John Quincy Adams running for his second term.

3. The 1860 election is controversial because it proved to be the catalyst for the “War for Southern Independence,” aka the Civil War (although it was far from civil). Lincoln’s election by a comfortable margin in the Electoral College (180 votes versus the 152 needed to win) was all the southern states needed to see. The election was held on Tuesday, November 6, 1860, and the results officially declared a few days later. From 20 December 1860 to 1 February 1861 seven Southern states (South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas) declared secession and their intent to form the Confederate States of America. Lincoln was inaugurated on 4 March 1861. Virginia voted to secede the next month when Lincoln called for a conscription of troops from the state. Arkansas, Tennessee and North Carolina completed the eleven-state confederacy in May.
4. 1876 was one of the most contentious presidential elections in American history. Its resolution required negotiations between Republicans and Democrats, resulting in the Compromise of 1877, and on March 2, 1877 the counting of Electoral votes, many dubiously cast, declared Rutherford B. Hayes the victor over Samuel J. Tilden. Wide-spread reports of electoral fraud, election violence, and blatant suppression of predominately Republican Black voters clouded the results and left this election the most disputed in American history. Considering the 2000, 2016 and 2020 elections, that is saying a lot. The details are sordid, with barely disguised fraud occurring in both major political parties. Entire books have been written on this election.
5. 1912. Theodore Roosevelt (President from 1901-1909) fulfilled a campaign pledge and declined to run for a third term in 1908 (this was prior to the 22nd Amendment’s ratification in 1951). He supported William Howard Taft to replace him, and Taft was successful in winning the 1908 election. But then Roosevelt and Taft had a major falling out over the direction of the Republican Party, which resulted in Roosevelt challenging Taft for the Republican nomination in 1912 but failing to gain the party’s nomination. Roosevelt responded by forming the Progressive Party to oppose Taft for reelection in 1912. This had the result of splitting the Republican vote and helped Woodrow Wilson win handsomely.
6. 1948. Harry S. Truman assumed the presidency upon the death of FDR in 1945 and completed FDR’s remaining term. When Truman stood for re-election in 1948, his chances looked dim. His partial term of office had been lackluster, albeit punctuated by the successful use of the atomic bomb to end the war with Japan. Truman’s challenger, Republican Thomas Dewey, was a strong candidate, having barely lost to FDR in 1944. On Election Day, George Gallup published a poll predicting a Dewey win over Truman by five points even though the poll had been taken more than a month before. Truman went to bed thinking he had surely lost only to be awakened by his Secret Service agent at 4am announcing the opposite result. We’ve all seen the famous photo of a grinning Truman holding up a copy of the Chicago Tribune’s morning edition, with the headline: “Dewey Defeats Truman.”
7. 2000. Most of us remember the contested 2000 election, where Al Gore “won” the election only to have his victory “snatched from his hands by the U.S. Supreme Court,” or so the Left’s story goes. Florida was initially called for Gore, then it was too close to call, then Bush pulled

ahead slightly. A recount was ordered by the Florida Supreme Court when the two candidates were separated by only a few hundred votes. The recount, with some localities making up their recount rules on the fly, produced the famous pictures of the “hanging chads.” Five long, agonizing weeks after the election, the U.S. Supreme Court had the final word, ruling 5-4 to stop the recount on the grounds it violated the constitutional principle that “all votes must be treated equally.” The Left had a field day with the fact that Bush lost the “popular vote” (note: the “national popular vote” is a complete fiction, found nowhere in the Constitution) while narrowly winning the Electoral College by a mere five votes.

8. 2016. A lot of us went to bed on Election Night thinking the cause was lost, that Hillary had eked out a win, as predicted by all the polls. Like Truman, we awoke to find a different story, except now the narrative was that “Russian Collusion” was somehow responsible for the turnaround. Hillary will never, never, never accept that she lost. Sorry Hillary. But immediately we were then treated to four years of sore loser shenanigans which demonstrated beyond doubt the moral vacuum we call the modern Democrat Party.
9. 2020. The 2020 election was “the most secure election in U.S. history,” the government said so, so it must be true, right? The complete story of this election is yet to be told; hopefully it will be.

Polls have been predicting good news for Republicans for weeks now. Does anyone dare go to bed on Tuesday night before results are conclusive? Of course, we know more than we did two years ago about how to spot fraud, and election integrity task forces across the country will be watching closely.

“May you live in interesting times,” as the saying goes.

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p.s. Don't forget to sign up (by email) for the Virginia Constitution seminar on 10 December in Newport News.