AMERICAN ELECTION TURMOIL: NOTHING NEW

Electoral fraud. Threats of violence. Poor ballot design. Disputed state electoral results. A questionable elector. Is this the election of 2020 or 2000? Surprise—it's neither. This was 1876, and it was a major constitutional crisis not fully resolved until 72 hours before Inauguration Day in 1877.

Article I, Section 4 of the Constitution states, "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations [. . .]" Article II, Section 1 lays out the actual mechanism for electors to cast ballots for president and vice president. This is commonly referred to as the Electoral College, whose workings continue to mystify Americans.

It is both ambiguity and a complex mix of state and federal laws that set the stage for occasional problems.

US elections, even for president and Congress, are largely state affairs. They are governed by the laws and regulations of the fifty states and thousands of local levels of government regarding ballot design, the listing of candidates, polling places, polling hours, early voting procedures, and mail-in ballot rules.

Small wonder, then, that turmoil occasionally occurs, as in the "hanging chads" election of 2000. But electoral problems due to the Constitution's wording began as early as 1796 and came to a head in 1800 and 1824.

Originally, electors cast two ballots for president with no ability to make distinctions for vice president. The rise of political parties was not foreseen by the Founders. The result of the 1796 election was President John Adams, a Federalist, and Thomas Jefferson of the Democratic-Republican Party.

The constitutional quirk arose again in 1800, when Jefferson and running mate Aaron Burr defeated the Federalist team. But the electoral votes produced a tie between Jefferson and Burr, even though it was widely understood that Jefferson was to be president. The House of Representatives was charged with picking the president, and it took until February and 36 ballots to select Jefferson. The 12th Amendment permanently fixed this quirk by separating the balloting for president and vice president.

In 1824, four candidates ran. Since no one received a majority of the electoral votes, the House again had to choose the president. It selected John Quincy Adams, even though Andrew Jackson had more popular and electoral votes. Believing the election had been stolen from him, an angry Jackson declared a "corrupt bargain" to have occurred when Adams selected opponent Henry Clay to be Secretary of State. Jackson won the 1828 rematch in what histori-

ans consider to be among the nastiest campaigns in history.

But 1876 stands out as the election that could very well have unraveled our entire electoral system. That contest was between Republican Rutherford Hayes, a former Ohio governor, and Democrat Samuel Tilden, a lawyer and former New York governor.

Black voters heavily favored Republican candidates after emancipation and the Civil War. Black men had gained the right to vote under the 15th Amendment, but rampant violence and intimidation throughout the South kept many from exercising that right. Fraud was widespread. Democrats in three states (Florida, Louisiana, and South Carolina) went so far as to put Abraham Lincoln's picture next to Tilden's name on ballots, a sort of shortcut to get votes from the illiterate population.

Those three states sent in competing slates of electors totaling 19. Oregon's Democrat governor disputed one Republican elector, claiming the man was ineligible because he was a former postmaster. Thus, when the president of the Senate, a Republican, went to announce the final result of the electors' votes in January 1877, it was Tilden 184, Hayes 165, and 20 in dispute.

To avert a constitutional catastrophe, Congress created an Electoral Commission of eight Republicans and seven Democrats to settle the matter. The 20 electoral votes in question from four states were all eventually awarded to Hayes in a series of 8–7 votes, which gave Hayes a 185–184 electoral victory just days before his inauguration.

But there is more to the story. Historians are fairly certain another backroom deal, or corrupt bargain, akin to 1824 took place. Why would Democrats just agree to let Hayes become President? Federal troops still remained in South Carolina and Louisiana, and Democrats wanted them out. Hayes removed them within months. But would they have been withdrawn anyway? Outgoing President Grant removed federal troops from Florida even before Hayes was sworn in. Some also cite evidence the South was promised a transcontinental rail line through the territory, but if it was part of any deal, it never happened.

Subsequent elections ran smoothly, though the popular vote winner in 1888 lost the presidency. Another fractious election occurred in 1912: Former President Teddy Roosevelt sought to unseat his hand-picked successor William Taft, calling him a "fathead" with the "brains of a guinea pig." Roosevelt ran as a third-party candidate when denied the GOP nomination. He was famously shot in the chest during a speech in Milwaukee but finished it before seeking medical attention. This election also saw the highest-ever vote total for a Socialist presidential candidate: Eugene Debs got six percent. The Taft/Roosevelt split handed the election to Democrat Woodrow Wilson.

Future turmoil is probable given how closely divided the country is. The rise of mail-in ballots plus advances in social media and technology have many wondering if we will be voting by smart phone soon. And who will make sure it's not someone's ten-year-old child touching the application? Stay tuned. ★

Jeff Szymanski

Jeff Szymanski taught high school economics and government for 15 years and has worked in state government and the travel industry before joining AMAC's political communications team.