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8. Ginny Skalski, Bill Would Allow People With HIV to Give Organs to Others With Virus, *St. Louis Today*, March 13, 2004, available at <http://www.stltoday.com/stltoday/news/stories.nsf/News/Me>

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9. Medical News, HIV/AIDS Newsroom, available at http://www.thebody.com/kaiser/2004/mar11_04/organ_transplant_hiv.html (last visited March 21, 2004).

10. Steven Smith, More AIDS Patients Get Organ Transplants, *Boston Globe*, Feb. 28, 2004, at A1.

11. *Id.*

The Electoral College is Likely Here to Stay

Katherine Licup

The mantras are beginning to fill the airwaves. National security. Health care. Social security. Tax cuts. Jobs. The promises and finger-pointing can only mean one thing: It's time to vote for President.

Like in 2000, this year's race will probably be a tight one. In the last election, for only the fourth time in American history, a candidate who lost the popular vote ascended to the presidency. George W. Bush received 357,852 fewer popular votes than Al Gore, but edged him in the electoral vote, 271 to 267. This seeming injustice has renewed calls for abolishment of the Electoral College.

"The Electoral College is the most profound example of bad rules leading to bad results," said Dan Johnson-Weinberger, director of the Midwest Democracy Center, whose organization wants to do away with Electoral College.

The College was devised by the Framers in Article II of the Constitution, and later refined in the 12th Amendment, as a concession to delegates from small states who were concerned that more populous states would have increased influence if the President were directly elected. The Framers also were of the opinion that

average citizens did not have enough information about the candidates to cast an informed vote.

Each state is granted a number of electors equal to the sum of its Congressional representation. Illinois, for example, has 21 electoral votes based on its two senators and 19 U.S. representatives. The 538 total electoral votes reflect 100 Senators, 435 Congressmen, and 3 Electors from the District of Columbia. To win the presidency, a candidate must win 270

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electoral votes. In 48 states, the winner of the popular election earns all the state's votes. Electors cast votes in December for both President and Vice President, and Congress opens the ballots in January and then declares the official winner of the election.

"The electoral college is an 18th-century invention that never should have survived to the 21st century," said Sen. Dick Durbin (D-IL),

who introduced a resolution calling for a Constitutional amendment to abolish the Electoral College before the 2000 presidential election. Like many bills before it, the proposal never got off the ground, although many groups such as the ACLU, League of Women Voters, and NAACP support a direct popular vote.

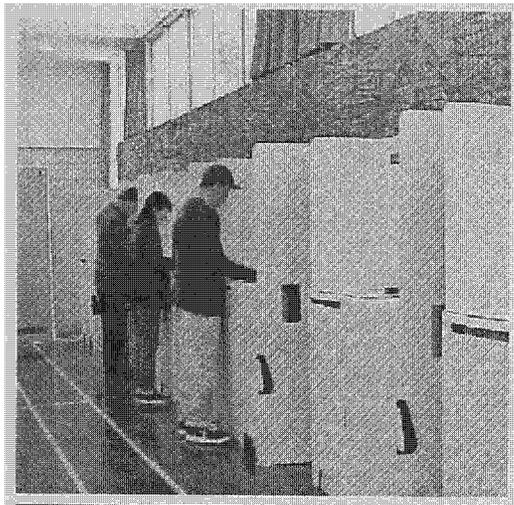
"It's very difficult to get rid of the Electoral College, because there are many who think they benefit from it," said George Anastaplo, a Constitutional Law professor at Loyola University Chicago School of Law.

Candidates must take into account issues in small states who hold valuable electoral votes. They are concerned about how many states they win, not the margin by which they win, so they balance their campaigning between urban and rural areas. In 2000, Bush won 30 states compared to Gore's 20 states. Additionally, Anastaplo said, the system enables us to quickly know who will be the next President without waiting for individual votes to be counted.

Those in favor of a direct-vote system, however, contend that the Electoral College gives undue

weight to small states; the number of residents per electoral vote runs from 165,000 in more populous states to 628,000 in rural states. The allocation of Electors is dependent on population rather than actual voters. Moreover, candidates who know they will not win an entire state, like Al Gore in Texas, or George Bush in New York, do not bother campaigning there.

The bottom line, Sen. Durbin



said, "is the injustice of a few thousand votes in just a few states having a disproportional impact on a national election."

Johnson-Weinberger agreed, but admitted that the system is unlikely to change because small states will not allow it.

"I think we're probably stuck with this ridiculous institution for our lifetimes," he said. "The Electoral College does not immediately offend people's sense of fairness."

Anastaplo is more philosophical. "Ordinarily, the [electoral vote and popular vote] go together so there's not a problem," he said. But in the end, "it doesn't really matter much who wins. It's not life or death who is in the White House."

the Electoral College.

2. League of Women Voters, Electoral College Task Force Report, July 21, 2003.

3. Telephone Interview Dan Johnson-Weinberger, Director, Midwest Democracy Center (Mar. 3, 2004).

4. In Maine and Nebraska, the winner of the popular election gets the two electoral votes earmarked for the senators, and the other votes are apportioned by Congressional district.

5. Durbin Press Release, *supra* note 1.

6. Electoral College Task Force Report, *supra* note 2.

1. Press Release, Senator Durbin, Durbin, LaHood Propose Abolishing Electoral College, Call for Direct Election of the President (Nov. 1, 2000) at www.senate.gov/~durbin/PressReleases/001101.htm. Candidates in the 1824, 1876, and 1888 presidential races won the popular vote but lost