

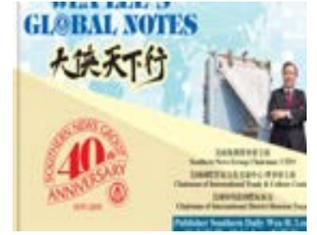


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Wall Street jumps on bets of Biden victory, stimulus hopes



FILE PHOTO: The New York Stock Exchange is pictured in the Manhattan borough of New York City, New York, U.S., October 28, 2020. REUTERS/Carlo Allegri

(Reuters) - U.S. stocks jumped on Tuesday as investors bet that one of the country's most divisive presidential races would end with a clear victory for Democratic nominee Joe Biden and a swift deal on more fiscal stimulus.

All 11 major S&P indexes were up in early trading, led by financial, healthcare and industrial stocks.

The consistent lead for Biden in national opinion polls has raised hopes of a decisive outcome in Tuesday's election as well as a bigger stimulus package post-election, analysts and portfolio managers said, even as both campaigns are preparing for post-election disputes.

"Markets are expecting not only a clear Biden victory but also a policy reaction that is quite reflationary and one that will come with more fiscal spending," said Chris Bailey, Raymond James strategist in London.

Democrats are also favored to emerge from 14 hotly contested U.S. Senate races with full control of Congress in Tuesday's election, although final results from at least five of those contests may not be available for days, and in some cases, months.

Still, the competition in swing states is seen as close enough that President Donald Trump could piece together the 270 Electoral College votes he needs to stay in the White House for another four years

Despite a coronavirus-driven crash earlier this year, the S&P 500 has risen about 55% since Trump clinched an upset victory in 2016 as lower tax rates under his administration boosted corporate profits.

Graphic: "Biden" shares vs "Trump" shares -

Reuters Graphic
The CBOE volatility index, known as investors' fear gauge, retreated for a second day after touching a 20-week high last week on surging coronavirus cases globally.

Kim Forrest, chief investment officer at Bokeh Capital Partners in Pittsburgh, said a Biden victory could lead to some inflation, which would be beneficial to banks in particular.

"A Federal Reserve committed to keeping rates lower and yet allowing not a flat curve but one with some steepening to it, and then some inflation and you get yourself a hip hip hooray for banks."

The S&P banking subindex surged 2.6% to its highest in more than a week, while industrials Caterpillar Inc and Honeywell International Inc rose about 2% each.

By 10:11 a.m. ET, the Dow Jones Industrial Average was

up 553.70 points, or 2.06%, at 27,478.75, the S&P 500 was up 57.67 points, or 1.74%, at 3,367.91, and the Nasdaq Composite was up 171.87 points, or 1.57%, at 11,129.49.

Technology and communication services stocks, which powered Wall Street's rally from the coronavirus-driven slump in March, were among the smallest gainers.

Arista Networks Inc jumped 18.6%, among the leading gainers on the benchmark S&P 500, after the network-gear maker reported a better-than-expected quarterly profit.

PayPal Holdings Inc reported better-than-expected quarterly results, boosted by a surge in digital payments. However, its shares dropped 3.1% after more than doubling in value since March.

Advancing issues outnumbered decliners 7.52-to-1 on the NYSE and 5.34-to-1 on the Nasdaq.

The S&P index recorded 14 new 52-week highs and no new low, while the Nasdaq recorded 33 new highs and 11 new lows.

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WEA LEE'S GLOBAL NOTES

11/03/2020

CORONAVIRUS DIARY

Today Is Showdown Time

For almost all of the last two years, the people of America and all around the world have been really concerned about our presidential election. Finally, today is the showdown time.

Our news team along with many scholars and community leaders will get together tonight to discuss the outcome of the election.

In the past one hundred years, because the United States is the strongest world leader, our influence spreads into many fields including the democratic political system and we want many countries to follow our lead.

Tonight the final counting of the ballots will show who will be the winner for president. This election year has been very unusual. Because of the coronavirus pandemic, most of the voters needed to cast their votes early or through the mail.

We as the Asian American community understand that many federal government policies are directly related to our lives, especially in the areas of immigration, education and social welfare. Most people who came to this country were looking for an opportunity and not for a handout.

We are so glad that these political



games are over and whoever becomes our next president will unite us as a nation and not divide us.

Your comments and attendance will be highly appreciated by us as well as by the many in the audience from all around the globe.

I really appreciate our news team and the many guests who will join us tonight.



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BUSINESS

Wear Mask!

Legal Uncertainty About Resolving A Disputed Presidential Election



By Guest Writer Richard Pildes
Professor of Constitutional Law, New York University

Compiled And Edited By John T. Robbins, Southern Daily Editor

The Constitution does not create rules or an institutional structure for resolving a modern, disputed presidential election. It provides a fail-safe mechanism for only one situation, which has not happened since 1824: If no candidate gets the necessary majority of votes in the Electoral College, then the House picks the president from the top three Electoral College candidates. But that's not the path the most disputed presidential elections have taken since 1824. Nor is it the likely path if this year brings us to that dark place.

And the way the country's legal system is structured, we can't get clear answers in advance to some critical legal questions, unless things actually get complicated enough to bring the courts into the picture.

The threat of a contested election

When the U.S. confronted the most intensely disputed presidential election in our history, the post-Civil War 1876 election, the country and Congress discovered we had no rules or institutional structure in place for addressing the form of conflict which that election raised.

Here's what happened: Four states sent two or more competing slates of electors to the Electoral College, each claiming to rep-

resent the valid vote of their states. When Congress performed its constitutionally assigned power to count these votes, that meant Congress had to determine which slate to treat as valid. The issue was which candidate had won a majority of these electoral votes, not that no candidate had failed to garner a majority.

Congress decided on the spot to create an ad hoc, 15-member commission, with five Supreme Court justices, and agreed to be bound by its judgment unless both chambers, controlled by different parties, rejected it. Four months later, a compromise resulted in the election of Republican Rutherford B. Hayes, not the winner of the popular vote, Democrat Samuel Tilden.

In the wake of this barely averted disaster, Congress realized the country needed something better than an ad hoc arrangement. Resolving a disputed election for chief executive is one of the potentially most explosive situations any democracy can face; democracies have come apart in these situations.

After a decade of deliberations, Congress bequeathed the Electoral Count Act in

1887, designed to provide the framework, which still governs today, for how Congress should deal with a state that certifies two or more slates of electors.

How Congress Could Decide The 2020 Election



If the the 2020 U.S. presidential election is contested, both campaigns are preparing to take the matter to court. But the Founding Fathers meant for Congress to be the backup plan if the Electoral College did not produce a winner. Generally, the framers sought to avoid congressional involvement in presidential elections. They wanted an independent executive who could resist ill-considered legislation and would not care about currying favor with members of Congress, as James Ceaser explained in his definitive 1980 text, "Presidential Selection."

That's why they created the Electoral College, assigning to state legislatures the responsibility for choosing "electors" who then determine the president.

But the framers could foresee circumstances – namely, a fragmented race between little-known politicians – where no presidential candidate would secure an Electoral College majority. Reluctantly, they assigned the House of Representatives to step in if that happened – presumably because as the institution closest to the people, it could bestow some democratic legitimacy on a "contingent election."

Tied or contested election
The founders proved prescient: The elections of 1800 and 1824 did not produce winners in the Electoral College and were decided by the House. Thomas Jefferson was chosen in 1800 and John Quincy Adams in 1824. Over time, the development of a two-party system with national nominating conventions – which allows parties to broker coa-

litions and unite behind a single presidential candidate – has basically ensured that the Electoral College produces a winner. Though the Electoral College has changed significantly since the 18th century, it has mostly kept Congress out of presidential selection.

A tie in the Electoral College remains a possibility, however remote. There are 538 electors, so a minimum majority to win is 270. The website 270toWin lists 64 hypothetical scenarios in which both Joe Biden and Donald Trump could get 269 electors. That would throw the election to the House.

What Could Replace The Electoral College?



The U.S. is the only democracy in the world where a presidential candidate can get the most popular votes and still lose the election. Thanks to the Electoral College, that has happened five times in the country's history, including in 2000 and 2016.

Rather than totaling up how many people vote for each candidate nationwide and declaring a winner, the U.S. assigns each state a number of electoral votes based on how many representatives and senators are sent to Congress. Washington, D.C. gets three. In D.C. and 48 states, those electoral votes are assigned to the presidential candidate who wins that state's popular vote. In Maine and Nebraska, candidates earn two electoral votes for a statewide win, plus one more for each congressional district they win in.

Not all states have the same Electoral College influence
Wyoming has the fewest people of any state, who determine its three Electoral College votes. California has 66 times as many peo-

ple – but only 18 times as many Electoral College votes



The Electoral Collage map showing the number of electoral votes for each state.

This system gives voters in states with smaller populations more influence than voters in larger states – assuming everyone turns out to cast a ballot. The result is that different candidates can – and do – win the popular vote and the electoral vote.

The U.S. could consider, if it chose to change how the president is elected. Research has found better human rights protections in countries that elect presidents who are supported by a majority of voters – which is something U.S. Electoral College does not guarantee.

Though the House has a Democratic majority, such an outcome would almost certainly benefit Trump.

Here's why: In a concession to small states concerned their voices would be marginalized if the House was called upon to choose the president, the founders gave only one vote to each state. House delegations from each state meet to decide how to cast their single vote.

That voting procedure gives equal representation to California – population 40 million – and Wyoming, population 600,000.

Currently, this arrangement favors the Republicans. The GOP dominates the delegations from 26 states – exactly the number required to reach a majority under the rules of House presidential selection. But it's not the current House that would decide a contested 2020 election. It is the newly elected House that would choose the president. So the outcome depends on congressional races.

One more caveat: Split decisions are considered abstentions, so states that cannot reach an agreement would be counted out.

(Continued on page C4)

Editor's Choice



Residents are silhouetted as they watch the Blue Ridge Fire burning in Yorba Linda, California. REUTERS/Ringo Chiu



People line up to vote in the 2020 U.S. presidential election at P.S. 198 in Manhattan, New York. REUTERS/Andrew Kelly



A giant inflatable monster, one of a collection of monsters that have appeared to mark Halloween is seen in front of an office block in Manchester, Britain. REUTERS/Phil Noble



Joe Biden takes a knee next to Lady Gaga at the University of Pittsburgh's voter activation center in Pittsburgh, Pennsylvania. REUTERS/Kevin Lamarque



Women dressed in red pose at the Spanish Steps as they record a video to raise awareness of gender-based violence ahead of the International Day for the Elimination of Violence Against Women on November 25, in Rome, Italy. REUTERS/Remo Casilli..



People walk past the boarded up Empire State Building building ahead of the election, in Manhattan, New York. REUTERS/Carlo Allegri



An Amish boy looks out of the window of a horse-drawn buggy as he travels through Lancaster, Pennsylvania. REUTERS/Hannah McKay



A Dia de los Muertos, Day of the Dead, altar honoring 1,308 UFCW Local 770 grocery, drug store, and food processing essential union workers who have died from the coronavirus, in Los Angeles, California. REUTERS/Lucy Nicholson

(Continued from page C2)

Legal Uncertainty About Resolving A Disputed Presidential Election



House Majority Leader Nancy Pelosi is reportedly preparing for the possibility that presidential selection ends up in the House. (Photo/Tom Williams/CQ-Roll Call, Inc via Getty Images.)

By Guest Writer Richard Pildes

Professor of Constitutional Law, New York University

Compiled And Edited By John T. Robbins, Southern Daily Editor

Congressional commission

Another way Congress could become involved in the 2020 election is if there are disputes about the vote totals in various states...

voted along party lines to give all 20 disputed electors to Hayes.

To prevent the Democratic-dominated Senate from derailing Hayes' single-vote triumph over Tilden by refusing to confirm his decision...

Bush v. Gore The 2000 election offers the only modern precedent for contested vote returns...



The scene outside the Supreme Court, Dec. 11, 2000. (Photo/Shawn Thew/AFP via Getty Images)

11, 2000. (Photo/Shawn Thew/AFP via Getty Images)

But Bush v. Gore was never intended to set a precedent. In it, the justices explicitly stated "our consideration is limited to the present circumstances."

In that case, the House would have decided the 2000 election. The Electoral College must cast its ballots on the first Monday after the second Wednesday in December - this year, Dec. 14.

The best bet for American democracy, history shows, is a clear and decisive victory in the Electoral College, as the framers intended.

Unanswered questions

Yet for all that deliberation - or maybe because of it - the Electoral Count Act is still riddled with major legal uncertainties.

Here is just one example. Federal law, the Presidential Election Day Act, makes Election Day the first Tuesday after the first Monday in November.

But the law then says that if a state "has failed to make a choice," the legislature can step in and decide how the state's electors should be appointed - which includes the legislature appointing electors itself.

The question of when an election has "failed" thus takes on paramount importance. A natural disaster that completely prevents a state from conducting its presidential election would be the classic example.

But what if - more relevant this year, perhaps - a state cannot quickly enough to determine who has won the vote? That means reaching a final resolution, including any litigation that could affect the outcome...

That is a rather large question to leave up in the air.



Voters lined up in Philadelphia on the final day to cast their early voting ballots at the satellite voting station on Oct. 27, 2020. (Photo/Mark Makela/Getty Images)

Send in the judges?

Now the courts enter the picture - or more accurately, this is where you might expect the courts to enter the picture. But they don't.

If the courts had given a definitive interpretation of what it means for an election to have "failed," there would be a settled meaning of this term and other unresolved ones...

The Supreme Court has also never interpreted the Electoral Count Act. Nor will there be any ruling on what a "failed" election means before the moment when Americans actually face potentially explosive political conflicts...

The reason is that our federal courts, unlike those in some states and other constitutional democracies, will not address any legal issue unless it arises in the middle of what's termed an actual "case or controversy."

In legal terms, the federal courts will not issue advisory opinions. That means federal courts will refuse to answer any question in the abstract about the legal meaning of a statute...

This principle is conventionally described as a way of limiting the role of federal courts in American democracy. Courts will resolve disputes over the meaning of law only when they absolutely must enter the fray.

No shelter in the storm - judicial interpretation ultimately required

But as this election and many other contexts illustrate, this doctrine can also be dangerous for the country, as well as the courts themselves.

Ultimately, judicial interpretation could be required to resolve a disputed presidential election.

At that moment, the courts are no longer operating behind a veil of ignorance, which would mean they would be blind to any knowledge of who would benefit.

Worse than that, even if the courts decide that question in exactly the same way they would behind that veil, the half of the country whose candidate loses will almost certainly perceive the courts as having acted for the purpose of favoring that candidate.

One major purpose of a well-constructed legal regime is to provide a clear framework in advance for resolving contentious issues. Being in conflict about the very content of those rules...

The country does not want to be debating how long the term of office for a president ought to be at the same time it is choosing a president, which is why the Constitution specifies the four-year term.

But to settle the meaning of many rules on the books, judicial interpretation is required. Yet that is exactly what the "case or controversy" requirement precludes - until we are in the midst of that controversy.

Legal experts offer conflicting views, or give "on the one hand, on the other hand" answers to questions about exactly how a disputed election might arise and be resolved.

Legal experts offer conflicting views, or give "on the one hand, on the other hand" answers to questions about exactly how a disputed election might arise and be resolved.

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