

From: Jacob, Gregory F. EOP/OVP <Gregory.F.Jacob@ovp.eop.gov>
Sent: Wednesday, January 06, 2021 12:14 PM MST
To: Eastman, John <jeastman@chapman.edu>
Subject: Re: [EXTERNAL] Pennsylvania letter

John, very respectfully, I just don't in the end believe that there is a single Justice on the United States Supreme Court, or a single judge on any of our Courts of Appeals, who is as "broad minded" as you when it comes to the irrelevance of statutes enacted by the United States Congress, and followed without exception for more than 130 years. They cannot be set aside except when in direct conflict with the Constitution that our revered Framers handed us. And very respectfully, I don't think that a single one of those Framers would agree with your position either. Certainly, Judge Luttig has made clear he does not. And there is no reasonable argument that the Constitution directs or empowers the Vice President to set a procedure followed for 130 years before it has even been resorted to.

Lincoln suspended the writ when the body entrusted with that authority was out of session, and submitted it to them as soon as it returned. I understand your argument that several state legislatures were out of session. But the role for state legislatures has for our entire history ended at the time that electoral certificates are submitted to Congress. Congress has debated submissions, including competing submissions. It has never once referred them out to state legislatures to decide.

I respect your heart here. I share your concerns about what Democrats will do once in power. I want election integrity fixed. But I have run down every legal trail placed before me to its conclusion, and I respectfully conclude that as a legal framework, it is a results oriented position that you would never support if attempted by the opposition, and essentially entirely made up.

And thanks to your bullshit, we are now under siege.

Sent from my iPhone

On Jan 6, 2021, at 1:33 PM, Eastman, John <jeastman@chapman.edu> wrote:

I'm sorry Greg, but this is small minded. You're sticking with minor procedural statutes while the Constitution is being shredded. I gave you the Lincoln example yesterday. Here's another. In the situation room at the White House during the first Iraq war, the Sec of Interior said the law required an environmental impact assessment before the President could order bombing of the Iraq oil fields. Technically true. But nonsense. Luckily, Bush got statesmanship advice and ignored that statutory requirement.

Dr. John C. Eastman
Chapman University School of Law
(877) 855-3330 x2

(Sent from my mobile device. Please excuse any typos or brevity.)

On Jan 6, 2021, at 10:44 AM, Jacob, Gregory F. EOP/OVP <Gregory.F.Jacob@ovp.eop.gov> wrote:

External Message

Thanks, John. Will call.

Is it unconstitutional for the ECA to direct that the members should do objections, at least in the first instance? Would the constitutional imperative you argue for not kick in only after that statutorily required mechanism has been applied, and failed to uphold the Constitution?

Sent from my iPhone

On Jan 5, 2021, at 9:32 PM, Eastman, John <jeastman@chapman.edu> wrote:

Greg,

Good talk earlier tonight.

Major new development attached. This is huge, as it now looks like PA Legislature will vote to recertify its electors if Vice President Pence implements the plan we discussed.

Give me a call once you've had your sit-down with the VP and let me know where we stand.

Again, thank you.

John

<US Republican Leadership Letter.pdf>

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