

1 OFFICE OF GENERAL COUNSEL
2 U.S. HOUSE OF REPRESENTATIVES
3 5140 O'Neill House Office Building
4 Washington, D.C. 20515

5 SHER TREMONTE LLP
6 90 Broad Street, 23rd Floor
7 New York, New York 10004

8 ARNOLD & PORTER
9 601 Massachusetts Ave, NW
10 Washington, D.C. 20001

11 Counsel for the Congressional Defendants

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **SOUTHERN DIVISION**

15 JOHN C. EASTMAN

16 Plaintiff,

17 vs.

18 BENNIE G. THOMPSON, *et al.*,

19 Defendants.

20 Case No. 8:22-cv-00099-DOC-DFM

21
22
23
24
25 **Exhibit D**
26
27
28

From: Eastman, John
Sent: Saturday, December 19, 2020 8:49 PM MST
To: PIISC <PIISC@poarc.com>
Subject: RE: Latest draft

I have read through it.

No to martial law as well. I will not be associated with any such effort. And again, I implore you not to advance it either.

As for the Legislatures—not a one has acted. *Electors* did in 7 states, but unless those electors get a certification from their State Legislators, they will be dead on arrival in Congress. With such a certification, we will have a deadline that will invoke sec. 15, but the textual claim that the “executive” certification would prevail in such an instance over the legislature-certified slate is contrary to Article II. And at that point, we might well have the opportunity for a Supreme Court resolution without the need to trigger the Pelosi scenario.

John

From: PIISC <PIISC@poarc.com>
Sent: Saturday, December 19, 2020 7:58 PM
To: Eastman, John <jeastman@chapman.edu>
Subject: Re: Latest draft

Dr. Eastman,

Would the use of limited Martial Law, without the use of the Insurrection Act be acceptable?

Have you read through my email below and the attached draft, so that we can discuss what is presented in them?

It is not clear what you are saying about convincing state legislatures or the Republican majority in the Senate. It appears that you have already convinced the state legislatures, since seven states have submitted competing slates of electors to the President of the Senate. Any decisions on these alternate slates of electors will be voted upon by both Houses of Congress, so regardless of whether you convince the Republican majority in the Senate, you will still need to convince the Democrat majority in the House to agree to remove the Biden electors. I do not see how this is possible. PIISC has well explained that there are no unambiguous procedures to follow in the counting of disputed electoral votes. A deadlock appoints Speaker Pelosi as Acting President. Therefore, I do not understand why this approach is being used.

The Constitutional crisis has already occurred, when the U.S. Supreme Court rejected or ignored election cases involving Constitutional issues. If the Court continues to do this, then the U.S. is no longer functioning as Constitutional Republic. America without free and fair elections is no longer even a republic.

The military takes an oath to uphold the Constitution. The Constitution grants the President the constitutional authority, under both the Insurrection Act and limited Martial Law, to immediately remedy these exact circumstances.

It is dispiriting to watch the American Republic fall, when the President has it within his power to immediately prevent this from happening through a national re-vote.

Let's discuss this further.

PIISC

On Dec 19, 2020, at 4:34 PM, Eastman, John <jeastman@chapman.edu> wrote:

PIISC

I'm not going to sign on or support anything that calls for the use of the Insurrection Act.

If we cannot provide enough proof of fraud to convince state legislatures or the Republican majority in the Senate, then even contemplating the Insurrection Act is a non-started. I suspect it would lead to a constitutional crisis of the military ignoring such an order.

Please, I beg you, desist from this path.

John

From: PIISC <PIISC@poarc.com>
Sent: Saturday, December 19, 2020 5:01 PM
To: Eastman, John <jeastman@chapman.edu>
Subject: Latest draft

External Message

Dr. Eastman,

Thank you for getting back to me. I attached the latest draft, which lists only my name, and is a White Paper rather than a cover letter. Please keep in mind that I have been proven correct in all my recommendations to date. Please take that into consideration on these new recommendations as well. I understand that the use of the Insurrection Act is out of the ordinary. Yet, I ask that you give consideration to the various realities that we face.

The U.S. Supreme Court has rejected or ignored the previous election challenge cases, sending a message that it will not get involved in this election. If the Court does get involved, and overturns and remedies the election, then my recommendations are not necessary.

Presently, the problems remain with the ambiguous procedures to count electoral votes in the Joint Session of Congress, documented in [PIISC]'s article. My previous recommendations assumed that the Court would be involved. If the Court continues its noninvolvement, and thereby does not provide judicial remedies for the procedural ambiguities, then my previous recommendations are precluded. I have changed my recommendations, based on the Court's noninvolvement. I believe these new recommendations are the only recourse available.

As a result of the U.S. Supreme Court's noninvolvement in this election, electoral disputes in the Joint Session of Congress will remain unclarified and unresolved. An irreconcilable stalemate could develop that would result in the failure to choose a president-elect or a vice president-elect. Disruption, procedural uncertainties, and delay favor Democrats. Forty objections from Democrats would run out the clock to January 20. In the event that no person receives a majority of the electoral votes, unresolved electoral disputes within Congress would preclude a vote in the House by states. Unresolved disputes would result in the Democrat Speaker of the House being appointed Acting President by default through succession on January 20. The Acting President would nominate a Vice President, who would take office upon confirmation by a majority vote of both Houses of Congress, under the 25th Amendment. This procedural status quo ensures that President Trump will be denied reelection and that a Democrat will be chosen or appointed President.

If the U.S. Supreme Court does not remedy this election, then the present strategy of having states send competing slates of electors to the President of the Senate, and challenging the electoral votes received by Joe Biden, ends up relying upon the procedural quagmire of the Joint Session. Congressman Mo Brooks displays courage in his plan to challenge the votes of various states with flawed election systems. Yet, any challenge would be voted on by both Houses of Congress, and it is unlikely that Rep. Brooks would persuade the Democrat House to join him. Attempts to challenge votes in recent past elections have failed. Senate Majority Leader Mitch McConnell recently said, "But our system of government has processes to determine who will be sworn in on January the 20th. The Electoral College has spoken. So today I want to congratulate President-elect Joe Biden... Our nation needs us to add another bipartisan chapter to this record of achievement." Mitch McConnell warned Republican senators Tuesday during a private caucus call not to object to the election results on January 6. Even if electoral votes could be removed from Joe Biden, a stalemate could develop, as noted above. The Trump team continues to argue that they are right. Yet they forget Voltaire's famous statement: "It is dangerous to be right in matters where established men are wrong." Legal scholar [PIISC] wisely said recently, "Understand the likelihood of the outcome; don't be expecting things that are unlikely to happen." The leadership and the procedural quagmire would lead to President Trump's electoral defeat. His defeat and the consequent social upheaval are not acceptable outcomes.

President Trump is correct in saying, "We're at war. These people are sick. They're sick." America has been attacked by enemies foreign and domestic. Attorney [PIISC] is correct in his tweet: "Our country is headed to civil war." Forty-six percent of Americans believe there was election and voter fraud in the Presidential election, according to a McLaughlin & Associates poll. The majority of Americans will find it intolerable to witness this election stolen from them by Leftists who seek to demolish American's freedom, heritage, and faith in order to fundamentally transform America from capitalism to socialism. The imposed transformation of America from capitalism to socialism is such an enormity of change that it likely would result in the same social upheaval as occurred when America faced the choice between freedom and slavery during the Civil War. A national re-vote is clearly a better choice than President Trump's defeat or a Civil War.

A Democrat victory would institutionalize election fraud and socialism, with outcomes like those of Venezuela. There would not be another free and fair election in America. America without free and fair elections is no longer a republic. The Paper's recommendations are both vital and urgent for safeguarding President Trump's re-election victory, for ensuring the survival of the Republic, and for averting the social upheaval of a Biden/Harris/Pelosi presidency that would "fundamentally transform" America, extinguish American's constitutional liberties, and likely result in a Civil War. If America falls, the world falls. A national re-vote would be far less disruptive than a Biden/Harris/Pelosi presidency.

The most reasonable, realistic, and workable path to victory is a national re-vote for all federal candidates, supervised by the military, through the use of the Insurrection Act and limited Martial Law. The re-vote would be decisive and determinative. The President is fully in control. Whereas the status quo leaves in place a Democrat House and may result in the loss of a Republican Senate, a national re-vote would likely alter the makeup of Congress. Republicans won a legal-vote, landslide victory on November 3, and therefore would likely have majorities in both Houses of Congress through an accurate re-vote. It is far more reasonable for President Trump to be in control of the re-vote process, so that it is conducted fairly and accurately, rather than trust his presidency to the Joint Session's procedural quagmire.

This option has the support of: [PIISC] Esq.; [PIISC] Esq.; [PIISC] Esq.; [PIISC] USA, Ret.; [PIISC] [PIISC] ASAF, Ret.; We the People Convention, and likely 80 million American voters.

I am concerned that while waiting to hear back from the Court on the various cert petitions, the clock will run out on the recommendations that I am presenting, which would preclude their use. Time is running out. There are only two weeks left.

Once President Trump allows himself to be controlled by the #5375, it will be far more difficult to conduct a re-vote.

It is strongly recommended that President Trump set a drop-dead deadline to call for a national re-vote before January 5. He must take action while there is still time. The Trump team is saying that President Trump has until January 20 to act. This give a false sense that there is no urgency. The longer the Trump team waits, the more difficult it will be politically and in the news narrative to sell the idea that they are not overthrowing the will of the people. The longer they wait, the more the Trump team will look desperate at the end.

People ought not be trusting in processes that ultimately lead to defeat, all the while failing to use the constitutional authority granted to the President to immediately remedy these exact circumstances. It is dispiriting to watch America fall, when the President has it within his power to immediately prevent this from happening through a national re-vote.

The Trump team needs to be familiar with the national re-vote process well in advance, so that they can be ready to act at a moment's notice, because if things go bad, people will have to make decisions in an hour, not in a week.

The recommendations of the White Paper ought to be adopted promptly to allow time for a re-vote and before the media narrative of Joe Biden being the President-elect makes people acquiescent. The Insurrection Act and limited Martial Law may be invoked in this election, without the consent of a state government, once there is a showing that an insurrection "opposes or obstructs the execution of the laws of the United States," such as elections, or "so hinders the execution of the laws...that any part or class of its people is deprived of a right...or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right...or to give that protection...the State shall be considered to have denied the equal protection of the laws secured by the Constitution." "The President, by using...the armed forces...or by any other means, shall take such measures as he considers necessary..."

Would you give the recommendations of the White Paper your consideration? I would like to discuss this with you. I look forward to your response.

Regards,

PIISC

PIISC
Property Owners Association of Riverside County
PIISC
PIISC @poarc.com
www.poarc.com

NOTE: This email originated from outside Chapman's network. Do not click links or open attachments unless you recognize the sender and know content is safe.

PIISC
Property Owners Association of Riverside County
PIISC
PIISC @poarc.com
www.poarc.com