

OPINION OF COUNSEL

TO: THE HONORABLE MICHAEL R. PENCE
VICE PRESIDENT OF THE UNITED STATES

The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

January 4, 2021

Dear Vice President Pence:

Please feel free to rely on this open Opinion of Counsel as legal advice with respect to your legal authority, obligations, and responsibilities in your capacity as President of the Senate and as the presiding officer (and Chair) of the Joint Session of Congress which is due to count the electoral votes pursuant to Title 3, U.S.C. §§ 1-21 and the United States Constitution, on January 6, 2021 or as otherwise rescheduled.

Due to the massive and expanding evidence of fraud, illegal conduct, and extremely serious violations of law that occurred during the election process in, but not limited to, Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin, during the 2020 General Election, it is clear that under the authority of the United States Constitution (in these particular circumstances), you have the authority and legal obligation:

(1) to exclude and discard the Certificates of Ascertainment and Certificates of Electoral Votes in the States where the fraud occurred that were signed by the State Executives (Governors) and Electors (for Biden & Harris) before or during the Joint Session; and,

(2) to accept (in lieu of or otherwise) the Electors and any Certificates of Electoral Votes and other related papers as directed by the State Legislatures, before or during the Joint Session regardless of any objections made (or results thereof) under Title 3, U.S.C. § 15, or other statute, procedure, or rule.

The legal reasons are set forth below:

FROM:

BRIAN C. REMY

Constitutional Attorney

United States Court of
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Circuit

United States District Court
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I. THE CONSTITUTION SUPERCEDES ALL OTHER STATUTES & RULES

Your legal authority and obligation to act in your capacity as President of the Senate and as the presiding officer (and Chair) of the Joint Session of Congress comes from the United States Constitution itself and supersedes all other statutes or rules that are in conflict with it. *Marbury v. Madison*, 5 U.S.C. 137 (1803).

Thus, for example, if any provision of Title 3, U.S.C. §§ 1-21 is in conflict with the United States Constitution with respect to the performance of your duties as President of the Senate or as the presiding officer of the Joint Session of Congress, you are legally obligated to follow the United States Constitution and ignore any portion of the statute that is in conflict.

II. THE APPOINTMENT OF ELECTORS BY STATE LEGISLATURES SUPERCEDES ANY CONFLICTING APPOINTMENT BY STATE EXECUTIVES UNDER THE UNITED STATES CONSTITUTION

Article II, section 1 of the United States Constitution clearly states, "Each State shall appoint, in the Manner as the Legislature thereof may direct, a Number of Electors . . ."

Thus, it is Electors that the State Legislatures appoint in the manner they direct which controls and supersedes any conflicting slate of electors, even if the conflicting slate of electors is certified by the Executive of the State pursuant to statute (such as Title 3, U.S.C. §§ 1-21, e.g., where the Governors (& Secretaries of State) sign Certificates of Ascertainment of Electors who then sign the Certificates of Votes).

In addition, the Supreme Court has reaffirmed that "the state legislature's power to select the manner for appointing electors is plenary, it may, if it so chooses, select the electors itself . . ." *Bush v. Gore*, 531 U.S. 98, 104 (2000), citing *McPherson v. Blacker*, 146 U.S. 1, 35 (1892).

Accordingly, you are legally obligated in your capacity as President of the Senate and as the presiding officer of the Joint Session of Congress, to:

- (1) accept any Certificates of Ascertainment, Certificates of Electoral Votes and/or other related papers or instructions from and as directed by the State Legislatures, before or during the Joint Session, under the authority of the United States Constitution; and
- (2) to exclude and discard any conflicting or competing Certificates of Ascertainment and Certificates of Electoral Votes from the same States that were signed by the State Executives (Governors & Secretaries of State) and Electors (e.g., for Biden & Harris), before or during the Joint Session, under the authority of the United States Constitution;

despite any conflicting provision in Title 3, U.S.C. §§ 1-21, any objections made under the same (or results thereof, e.g. under 3 U.S.C. § 15), and despite any other conflicting provision in any other statute, procedure, or rule.

**III. THE BIDEN & HARRIS ELECTORS WERE NOT APPOINTED
IN THE MANNER THE STATE LEGISLATURES DIRECTED
WHERE THE FRAUD OCCURRED & MUST BE EXCLUDED
UNDER THE UNITED STATES CONSTITUTION**

All State Legislatures require the appointment of Electors to be based on non-fraudulent elections (in some form or fashion). Clearly, the evidence of fraud, illegal conduct, and serious violations of State law are massive and expanding in the above-mentioned States.

Therefore, the appointments of such electors were clearly not made in the Manner the State Legislatures directed as required by the United States Constitution (Article II, Section I).

Accordingly, you clearly have the authority and are legally obligated in your capacity as President of the Senate and as the presiding officer of the Joint Session of Congress, under the authority of the United States Constitution to:

(1) exclude and discard the "Certificates of Ascertainment" ascertaining the appointment of such electors which were signed by the State Executives (Governors & Secretaries of State) and to exclude and discard the "Certificates of Votes" signed by such electors (e.g., for Biden & Harris) in those States where the fraud occurred, before or during the Joint Session;

despite any conflicting provision in Title 3, U.S.C. §§ 1-21, any objections made under the same (or results thereof, e.g. under 3 U.S.C. § 15), and despite any other conflicting provision in any other statute, procedure, or rule.

**IV. THE CERTIFICATES FOR BIDEN & HARRIS ARE NOT
CERTIFICATES OR PURPORTED CERTIFICATES
AS DEFINED BY STATUTE & THE UNITED STATES CONSTITUTION**

The "Certificates of Ascertainment" of the electors (for Biden & Harris) sent to you (in your capacity as President of the Senate) and to the Archivist of the United States that were signed by the State Executives (in those States where the fraud occurred) are **not** "Certificates of Ascertainment" nor purported Certificates, as defined by statute and the United States Constitution.

For example, Title 3, U.S.C. § 6 defines a "Certificate of Ascertainment" of electors as being made "under and in pursuance of the laws of such State providing for such ascertainment." Clearly, that did not occur because of the massive evidence of fraud, illegal conduct, and extremely serious violations of State law that occurred during the election process in the above-mentioned States. Moreover, such "Certificates of Ascertainment" ascertaining such electors were clearly not made in the Manner as the State Legislatures directed as required by the United States Constitution for the same reasons (Article II, Section I).

Therefore, it is clear that the above-referenced "Certificates of Ascertainment" (purported or otherwise) as that term is defined by statute and as that term is inherently defined by the United States Constitution, was never sent nor received.

Likewise, the "Certificates of Votes" sent to you (in your capacity as President of the Senate) and to the Archivist of the United States that were signed by the electors (for Biden & Harris in those States where the fraud occurred) are not "Certificates of Votes" nor purported Certificates, as defined by statute and the United States Constitution.

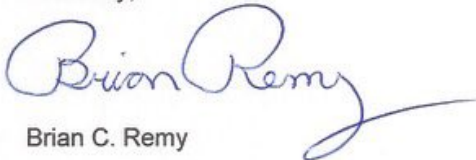
For example, Title 3, U.S.C. § 9 defines such a "Certificate of Votes" as being made and signed by "electors" that are defined in § 6 as being appointed "under and in pursuance of the laws of such State." Clearly, such "Certificates of Votes" were not made and signed by "electors" "under and in pursuance of the laws of such State," because of the massive evidence of fraud, illegal conduct, and extremely serious violations of State law that occurred during the election process of such electors in such States. Moreover, the appointments of such electors and their "Certificate of Votes" were clearly not made in the Manner the State Legislatures directed as required by the United States Constitution for the same reasons (Article II, Section I).

Therefore, it is clear that the above-referenced "Certificates of Votes" (purported or otherwise) as that term is defined by statute and as that term is inherently defined by the United States Constitution, was never sent nor received.

Accordingly, you clearly have the authority and legal obligation to exclude and discard the above-referenced "Certificates of Votes" and "Certificates of Ascertainment" (including "purported" ones), under the authority of the United States Constitution (before or during the Joint Session) including utilizing the procedures for non-receipt under Title 3, U.S.C. § 12 & 13, since they fail to meet the above-mentioned statutory and/or constitutional definitions.

Please feel free to contact me if you have any questions or if you would like to discuss further.

Sincerely,

A handwritten signature in blue ink that reads "Brian Remy". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Brian C. Remy