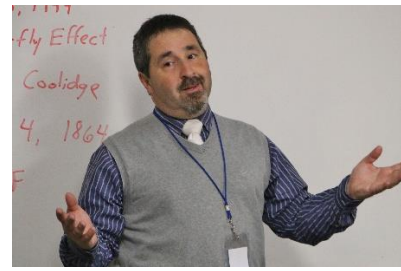




Stewart For Liberty



RIGHTS

www.stewartforliberty.com

Democrat for all New England '24

CIVILITY

NoJoeBiden.us

Independent AGAINST Bernie / Marxism

EDUCATION

E.P.I.C. Party for America epic-party.us

for "Every Politically Independent Citizen"

Guns, Lawyers, and the Electoral College – a Wild Constitutional Expose.

By Mark Stewart Greenstein, August 2024

Hold on tight. This is a very pure, very reasonable, very Constitutional, and possibly necessary proposal. It is premised on the current acrimony, not seen since at least 1860, and possibly never before, for the leading political parties.

*A large chunk of Trump voters are already convinced that if Trump loses, it can only be because of a stolen election. They will take matters into their own hands, and **they have guns.***

*A large chunk of Harris voters are already convinced that if Harris loses, Trump and his fellow Republicans can't be inaugurated. They'll take matters into their hands, and they have **lawyers.***

This is not conjecture. Ask THEM. Ask the stalwarts. They will tell you now that guns and/or lawyers are in their sights. Their sentiments are almost certainly more fierce than those of the abolitionists and the plantation controllers in 1860.

There is a beautiful mechanism for avoiding this warfare / lawfare: **conscientious electors.**

Yes, electors, those unheralded people whose names are never prominent, but technically are on the ballots in all 50 states, are the women and men named to meet in state capitols six weeks after the November 5 "election". They have made a pledge, a breakable one, to a party and possibly a candidate.

The proposal is for electors to vote for what is best, for the party and for America. They take into ACCOUNT the results on November 5th, but these 538 electors stay untethered to the results until heads have cooled, guns are re-holstered, and lawyers quelled. They have six weeks to sort things out and make a wise, even-if-disloyal, choice on December 17.

The discretion each elector has is nearly UNBOUNDED. Literally, an elector can place into contention almost any U.S-born/naturalized citizen age 35 or older. It can even be someone who has not yet acquiesced to becoming president. In states with just three electoral votes, that elector is 1/3 of the state's delegation. In California, that elector is 1/54th of the state's delegation. It takes 270 electors naming the same name nationwide for a single candidate to win on December 17th. So even the 1/54th of California elector could have the power to deny a nominee's ascension.

The pledge is no more binding than “I’ll take out the trash tomorrow morning”. Some states have small penalties, of up to \$2500, for an elector breaking his pledge. They are unconstitutional, and an elector facing a large penalty would certainly win in court.

For all of \$2500, would an elector who has given time and often money to a party ever go outside the box? Yes. Look no further back than 2016. Seven electors, four from Washington State, two from Texas, and one from Hawaii voted against the candidates written on their state’s ballot. Colin Powell, not Hillary Clinton, received the votes of three Washington electors. A fourth elector cast a ballot for an unheralded Democrat named “Spotted Eagle”. Bernie Sanders, not Hillary Clinton, received the vote of a Hawaii elector. Ron Paul and John Kasich received the votes of two Texas electors, not Donald Trump. No elector cast a ballot for the other major party; arguably, all seven were voting to be more representative of their state’s electorate:

One ballot each for libertarian Republican Ron Paul and “moderate” Republican John Kasich better represented Texas’ Republican voters than a Trump monolith.

Three ballots for moderate Colin Powell and one for indigenous “Spotted Eagle” better represented Washington’s voters than a Clinton white-wash.

Casting a ballot for extreme progressive Bernie Sanders better represented Hawaii’s Democrat voters and a Hillary Clinton monolith.

The electoral monolith we usually get is NEVER a good representation of a state’s voters. Indeed a “winner-by-2%-takes-all” is extremely UN-Democratic. The 47% of voters whose candidate loses to a 53%, 52%, or 51% winner are completely unrepresented if electors choose to cast ballots as a monolith. Tradition and some (unconstitutional) state laws push electors to “winner-take-all”, but it is NOT a requirement. State power can still be achieved with a monolith of winning PARTY, and not winning candidate.

Would 2024 Electors ever do this en-masse?

Can loyalty to a party include violating the voters’ November 5 sentiments? Sure. Nov 5, and the early voting preceding it, is a formalized regimentation. Most voters’ top choice for president are not even on their state’s legal ballots. A majority of Democrats would prefer one of Cory Booker, Gavin Newsom, Gretchen Whitmer, Joe Biden, Michelle Obama, or Oprah Winfrey over Kamala Harris. Though closer, a majority of Republicans would prefer one of Carly Fiorina, Chris Christie, Eric Trump, Francis Suarez, George Pataki, Ivanka Trump, JD Vance, Jeb Bush, Jim Jordan, John Kasich, Josh Hawley, Larry Elder, Marco Rubio, Michele Bachmann, Mike Lee, Nikki Haley, Rand Paul, Ron DeSantis, Ron Paul, or Sarah H. Sanders over Donald Trump. Surely a president and cabinet can be melded among them, with or without a Trump.

An Elector who is pledged to a PARTY is loyal to the party if casting a ballot for a melded party’s choice.

Indeed, an overly emotional populace is why the Constitution’s Framers empowered Electors to go off-script. The 1787 Framers COULD, and at least some DID, recognize the ghastly power of popular rebellion. Every Framer could cite the wars in his country (all Framers were born in France, England or an English colony between 1706 and 1753) and could cite the mayhem in

England from 1649 to 1688 with even more temporal closeness than we in 2024 can cite the American Civil War). A second set of U.S. Framers had wide-ranging opportunity to amend the Electoral College in 1803. They made sweeping changes, now enshrined in the Constitution's 12th Amendment, but with an eye towards the murderous factions following the 1789 French rebellions, they chose to leave Elector discretion completely intact.

Could thoughtful Electors in good conscience, announce a pledge to someone other than their party's nominee? Probably. Lifelong Republicans "pledged" to Donald Trump, an opportunist who was a Democrat until 1999, supported Democrats until 2014, broke his own pledges to Republicans from 2016 ("drain the swamp", "build the Wall", "lock her up") and whose prominence now is likely to cause the whole U.S. Congress to revert to Democrat control, could easily say

"We're casting our Ballots for Nikki Haley", or

"We're going with the people's choice of Larry Elder", or even

"We're going with Trump's new surrogate/mentee, Tulsi Gabbard".

More justification for a "dump Trump" among electors: by Dec 17th Mr. Trump could be in prison. Expect more prosecutorial charges, and one could stick. Expect more credible revelations about sexual misconduct. Expect business contractors in New York and Florida to be more forthright on how Trump stiffed them, hired illegals, and/or disparaged them afterwards. So, Electors have very good justification for voting for Party over person. "We recognize that Trump is a 'turnout-machine' for media-influenced low-info voters, and his prominence likely causes our down-ballot candidates to lose. We do this in the name of America and goodness for Republicans. Even if Mr. Trump wins, he and the nation can't escape the baked-in lawfare that will keep him from governing effectively. But more to the point – we Electors are going off-script in December because on November 5, **Mr. Trump might lose**".

Lifelong Democrats "pledged" to Joe Biden and now, in reactionary fashion to Kamala Harris, could easily say "we don't like how mischievous Democrat leaders have steamrolled Bernie Sanders, then Robert F. Kennedy, and then Joe Biden. Kamala is not yet the people's choice, so we're going with a reasonable, traditional Democrat that many Republican electors are choosing; remember **Kamala might lose**".

And who might that "reasonable, traditional Democrat" be? In alphabetical order, both sets of willing-to veer Electors might consider:

John Delaney, businessman, former Congressman and presidential aspirant in 2020;

Ned Lamont, Connecticut governor who has stood against Leftists in his own party;

Jason Palmer, entrepreneur and presidential aspirant in 2024 (earning more delegates for the Democrats than Kamala Harris);

Jared Polis – two-term Colorado governor with a libertarian streak; or

Andrew Yang, entrepreneur, would-be reformer, and the last Democrat in the 2020 primaries to suspend his campaign vs. Joe Biden.

So Electors might announce an alternate choice. This is akin to Parliamentary politics: the November 5 referendum pushes the group of veering Electors to ALL agree to either the

Democrat Electors new choice, or the Republican Electors' new choice. They are in AGREEMENT that all their Electoral votes go to Democrat B or Republican B.

But how? The Constitution and the Internet to the rescue

Electors veering in 2024 is easy. Unity among them is harder. But they are blessed with a Constitutionally-wise six weeks to figure it out, and an Internet to facilitate all the thoughts, promotions, and bargaining.

Here is a proposal – start small, with Electors from 20 small and medium sized states committed to convening, online if not physically, to meld a good presidential choice and possibly and good cabinet.

If done and publicized before November 5, their “slates” can be a recognized ticket for voters. If after November 5, then it’s recognized for one another, particularly the Electors of the OTHER major party.

Here is a proposal: the Electors for Harris/Walz from ten safely “Blue” states hash out a single alternate nominee and perhaps slate. As a default, they meet in Hartford CT December 14, 15 and 16, prior to their headed back to their own capitols for the Dec 17 balloting. The Electors for Trump/Vance from ten safely “Red” states hash out a single nominee and as a default meet in Nashville TN on these same Dec 14 – 16 dates. Ninety-five Electors from each side could come from these 20 medium and small states:

Blue (“Harris/Walz”) Electors		Red (“Trump/Vance”) Electors	
		Alabama	9
Colorado	9	Arkansas	6
Connecticut	7	Indiana	11
Delaware	3	Kentucky	8
Illinois	19	Louisiana	9
Maryland	10	Mississippi	6
Massachusetts	11	Missouri	10
Minnesota	10	Ohio	18
New Jersey	14	Oklahoma	7
Oregon	8		
Rhode Island	4	Tennessee	11
TOTAL	95	TOTAL	95

The Democrats produce a “Slate”, or at least a Presidential choice that’s more acceptable to Republicans and Independents than Harris. The Republicans do the same: a slate or nominee that’s more acceptable to Independents and Democrats than Donald Trump. The groups in Hartford and Nashville agree to respect the other’s choice following clear election results and clear post-election polling in late November. Polling MIGHT include “ranked-choice” by some organizations, to better reflect voter sentiments. These 190 Electors will vote for a single alternative; call this the “Elector Block Choice”.

The tether here is a binding contract with monetary damages; an Elector in this group who agrees and then defects subjects himself to a colossal, bankrupting, financial penalty. The result from these twenty groups of electors is a solid 190 Electoral ballots cast for one of the two. Unless Trump and Harris split by more than 190 Electoral votes, this election yields no clear winner, and the final vote goes to the House, with its newly-inaugurated members in some (the Constitution one-state = one-vote fashion. It would take a 270 – 80 vote, or an even more lopsided count, for Trump or Harris to avoid a House selection.

Electors in other states might join them. That's how 190 for the third choice could become 270 or more. At 270+, both Trump and Harris lose. The new President, the Electors' concerted choice, is a much more agreeable-to-all person.

Could Electors from other states join? Absolutely. They can take it upon themselves, as a statewide group or as individuals, to vote with the 20-state Elector block. They can choose to veer even further, to a candidate less-heralded than Harris, Trump, or the Elector Block Choice, as expressions AGAINST Harris, Trump, and EBC. Ballots cast for fourth choice will help keep a front-runner under 270, but that choice cannot get to the House vote unless s/he garners a top-three total.

Could Electors from other states join and propel the EBC above 270? Yes. That ends it. No House vote is needed.

No 270 – and three strong candidates

What happens if Electors' deviations cause no 270 vote majority? The Constitution takes care of this too. December 17 balloting has a backstop – a Constitutionally mandated choosing by the incoming (starting January 2025) House of Representatives. The Constitution does not prescribe how their consideration should be made, only that in a contested election, each state gets one vote. The top three candidates receiving Electoral votes are in play here, but there is no “seeding”: literally the 260 electoral vote candidate could lose to a 20 electoral vote candidate.

The U.S. House decided two elections this way. The House vote in 1801 yielded President Thomas Jefferson on the 36th ballot; the House vote in 1825 yielded President John Quincy Adams on the first ballot. Adams had finished SECOND in both November popular votes and December electoral votes in December 1824.

For December 2024, the strong “avoid warfare / lawfare” suggestion here is Electors banding together for a SINGLE deviation. That means some conferences among them and possibly some polling they will pay attention to. A single president and VP pair who could win outright is ideal, but so long as their presidential candidate has enough electoral votes to deny Trump and Harris the 270 vote majority, this then goes to a House vote.

Will there be acrimony?

Certainly. “Renegade” Electors denying a win for Trump or for Harris is tough for a “Maga” voter or a Harris-infatuated proponent to accept. But, for every one of these voters now has the equal likelihood that the “hated Candidate” would win. These renegade Electors prevented that; they caused the hated Candidate to lose.

But who will they blame? Right now the villains are any of:

Academia

Cheating Officials

Deep-State

Manipulative Party bosses, and/or

Media

In an EBC choice, they are blaming only electors from their own party. Again, they just might LAUD these electors, if post-polling shows their prized candidate would have lost, and EBC, or EBC + the House vote gets then second best.

The U.S. House got an acrimonious election quelled in 1824 and 1825, with a February vote among three candidates who had garnered 85% of the electoral vote in November 1824. The result was acrimonious, but not VIOLENT, and brought no legal consequences. The big “loser” in 1825 was Andrew Jackson, who won the plurality of the popular vote and a plurality of the electors, but was left on the “outs” in the bargaining that followed. The House delegations eventually selected John Quincy Adams for president and Henry Clay for Secretary of State. Jackson, a skilled lawyer, brought no suit, simply a vow to run again for the 1828 presidency. Though his followers arguably had the steel and firepower to take over most of DC’s institutions, Jackson took no action. He urged no action from supporters, even though he was a violent man (Jackson killed more men in war and duels than every other U.S. president combined. Commander U.S. Grant reportedly shot no Confederates; commander Dwight Eisenhower shot no Axis soldiers).

While allowed Constitutionally, it is unfortunate that the system does not encourage voters to select **electors for “use your discretion”**. No party has ever taken the effort to get on 50 state ballots without specifically endorsing a candidate. A candidate who funds a campaign to get on 50 state ballots usually wants to aggrandize himself, and not entrust a final decision after all that into the hands of 538 electors. But 2024-25 could be a breakthrough here too, one candidate who has been a model of thoughtfulness, and to some extent selflessness, and IS on most state ballots, is Robert F. Kennedy Jr. Votes in a Red state or a Blue state for RFK could signal “electors, use discretion”.

We literally could have internet polling following the Nov 5 results to assess how many Americans really want Harris, Kennedy, Chase Oliver, Trump, Jill Stein, Randall Terry, Cornel West, or none of the above. Polling can even help electors assess “fusion” tickets with one Republican, one Democrat for VP, and one Third Party / Independent for Chief of Staff (arguably as powerful as the U.S. President). A series of polls can help the parties put up the truly best choices, not the “machine-marched” nominees.

Now....the VP.

On Dec 17, electors all have a second vote. That is for Vice President. In the name of “healing”, and just maybe “bi-partisanship”, electors could signal their willingness to vote for a VP from the other major party. The Constitution allows it. It could even be contractual, with the elector’s presidential choice, via a highly punitive contract, obligated to step down after two years. A less severe and more democratic route is to obligate the president to step down based on results of the November 2026 Congressional elections or non-election direct polling in late 2026.

A 190 Elector Block Choice for VP would finish first or second in the VP stakes. Second or first is necessary because the 12th Amendment commands members of the U.S. Senate to choose a VP from among the top TWO, not three, Electoral vote getters. A close third has only the effect of denying 270 to Walz or Vance, but one of them would surely win the Senate's ensuing 2-person balloting.

So the strong suggestion for the Hartford and Nashville groups IF they agree to a 1-2 melded ticket: Nashville Electors - put forth Vance as your PRESIDENTIAL pick if you love him. For the Hartford Electors - put forth Walz as your PRESIDENTIAL pick if you love him. But to both groups – you are better off with a solid new choice instead. If Electors in 1-2 fashion caused us to end up with Nikki Haley + John Delaney, or Jared Polis + Larry Elder, the nation doesn't go to war, doesn't decay via legal monstrosities, and very well gains good governance for the first time in this century.

Better than war.

This may move us toward a parliamentary system. These systems, which have peacefully governed Australia, Denmark, France, India, Italy, Norway, Sweden, and the U.K. for over 75 years are better for shifting voter sentiments. Instead of a complete end-of-party rule every four years, a partial realignment occurs WHEN NEEDED. Parties, not individuals, take center stage. Ideas, not hagiographic individuals, then govern our civics.