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Professor: Here's another card Trump could play to win

'What we can say is that this isn't over yet'



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President Donald J. Trump speaks with military service personnel Thursday, Nov. 26, 2020, during a Thanksgiving video teleconference call from the Diplomatic Reception Room of the White House. (Official White House photo by Shealah Craighead)

President Trump has another card to play after the Supreme Court rejected the Texas lawsuit he called the "big one," contends a George Mason university political science professor.

Jeremy D. Mayer, [writing in The Hill](#), said it begins when the House and Senate meet together Jan. 6 to certify the Electoral College vote.

If one member of the House and one member of the Senate challenge any state ballots, the chambers must meet separately and vote on the challenge.

"Given that 126 members of Congress signed on to the Texas lawsuit to overturn Joe Biden's victory, and that many GOP senators have not accepted Biden as the president-elect, some states are going to be challenged," he wrote.

Where things "get interesting," Mayer said is the possibility of a century-old law, the Electoral Count Act, coming into play.

He said the law is "opaque and has never been fully used," and "may not even be constitutional."

The New York Times, he noted, has insisted such a scenario would be futile for Republicans. Democrats maintain a narrow House majority, and Senate Republicans such as Mitt Romney, Ben Sasse, Susan Collins and Lisa Murkowski likely would vote in Biden's favor. And even if the Senate upholds a challenge, the ECA's tiebreaking provision favors Biden, because if the two chambers disagree, the electors certified by the state's governor prevail.

"But what if the Senate never finishes voting?" Mayer asked.

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"The ECA limits each challenge to no more than two hours of debate," he explained. "Four states were questioned in the lawsuit (Georgia, Wisconsin, Michigan and Pennsylvania), making four challenges and eight hours of delay. Even in the Senate, eight hours of debate can't last more than a couple days, can it?"

He argued the law envisions the ability to challenge electoral votes collectively

or individually.

"Surely a crafty legal mind like Sen. Ted Cruz (R-Texas) would challenge, not each state, but each electoral vote separately. And as a delaying tactic, why wouldn't the Trumpers challenge every Biden state, even Delaware?"

The objective, he said, would be to delay, noting that as the presiding officer under the ECA, Vice President Mike Pence could assist.

The endgame maneuver, he said, is the constitutional provision that if there is no Electoral College winner, the Senate chooses the vice president and the House picks the president.

The Senate would choose Pence and, because the House votes by state delegation -- which the Republicans control -- Trump would be president.

Mayer believes, however, that House Democrats would never let that vote happen, leaving the presidency empty and Democrats claiming, according to the line of succession, that House Speaker Nancy Pelosi is president.

There are many scenarios, he said, with Biden likely prevailing, but "what we can say is that this isn't over yet."

[Talk-radio host Rush Limbaugh discussed Mayer's scenario at length on Wednesday.](#)

"Look, all of this is a real, real long shot, but I'm just pointing out that they're worried about it in the Senate," he told his listeners.

Republican Senate Majority Leader Mitch McConnell, said Limbaugh, is "worried that somebody in the Republican Party is going to try to trigger this and hope for a long shot of upsetting the applecart and preventing Biden from being selected by the Electoral College."

[McConnell on Tuesday](#) urged his colleagues not to object to the states' electoral votes when they are received on the House floor.

Meanwhile, [in an interview Wednesday](#), Trump campaign attorney Jenna Ellis said the legal team will continue to contest the election results even after the Jan. 6 meeting of Congress.

"We're going to continue to press for these critical investigations and I'm happy to see, you know, that Michigan, and Georgia, and other states, and Arizona are starting to make some moves in their state legislatures," she said told Newsmax.

She insisted it's not a partisan issue.

"This is something that every American should be concerned with, so we're going to continue to fight that battle," she said. "We're gonna fight regardless of what happens come January 6, and I hope that we do rectify the correct results of this election."

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