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New lawsuit demands state legislators be allowed to meet and name electors

'Kings and queens dissolve legislative bodies, not governors'By **Bob Unruh**

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President Donald J. Trump gestures with a fist pump to the crowd of cadets as he arrives Saturday, Dec. 12, 2020, to attend the 121st Army-Navy football game at Michie Stadium at the U.S. Military Academy at West Point, New York. (Official White House photo by Shealah Craighead)

A new election lawsuit filed in federal court in Washington, D.C., asks that state legislators be allowed to choose their state's electors before the Electoral College votes are tabulated in Congress next month.

The reason is that several governors of states whose 2020 presidential election results are being challenged have refused permission for their elected representatives to meet.

The case is being brought by the Amistad Project of the Thomas More Society, which has filed election-related lawsuits in five states.

Amistad is asking that legislatures in Arizona, Georgia, Michigan, Pennsylvania and Wisconsin be allowed to meet to certify their electors before Congress acts. Joe Biden currently has 306 electors, while President Trump has 232.

The foundation for the argument isn't complicated.

Amistad explained that while many states allocate their Electoral College votes based on the popular vote, the Constitution specifically gives the authority to legislatures to choose the electors.

"Because the U.S. Constitution places ultimate authority for designating presidential Electors in the hands of state legislatures, it is the responsibility of the people's elected representatives to judge the relevant facts and appoint an appropriate slate of Electors, subject only to the sole deadline set forth in the U.S. Constitution — 12:00 noon on January 20, 2021," the organization explained.

Amistad contends current federal and local statutes are interfering with state legislatures' constitutional right to certify electors, violating the separation of powers.

Should state legislators be allowed to meet and pick the electors for president?

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"Kings and queens dissolve parliaments and legislative bodies, not governors. At least that was the case until this year. Governors in these contested states have declared themselves to be the law due to COVID and are now actively preventing the state legislatures from exercising their constitutional authority to review the election process," said Amistad's director, Phill Kline.

Numerous lawsuits challenging the 2020 results argue the constitutional authority granted to state lawmakers was usurped by election state officials, bureaucrats, governors and judges.

Consequently, hundreds of thousands of invalid votes were counted, which was enough to change the results of the elections.

"The governor of Pennsylvania is refusing to allow the legislature there to meet, while in Michigan the attorney general is threatening legislators who disagree with certification with criminal investigation, and Gov. Whitmer uses COVID – and later a non-existent threat – as an excuse to prevent Republicans in Michigan legislature from entering the Capitol Building while Democrats were allowed in the building to vote on certification," Kline said.

He said there's been great opposition to state legislatures meeting to review, investigate and debate the method in which the election was conducted.

"No one person, or small group of persons, should be able to prohibit the state legislature from performing its constitutional responsibilities," Kline said.

Erick Kaardal, lead attorney for the Amistad Project, said "current federal and state code has allowed a constitutionally non delegable legislative function and responsibility to become a ministerial process."

Amisdtad said that while federal code provides various vote-reporting deadlines, the only one constitutionally imposed is the Jan. 20 deadline for the inauguration.

It argued in a white paper that the U.S. Constitution "is the highest law in the land, holding precedence over both state and federal laws.

"In the event that federal law presents an obstacle to faithfully adhering to constitutional requirements, it is necessary to disregard the statute in favor of the plain meaning of the Constitution."

In its lawsuits challenging the 2020 election outcome, Amistad alleges that illegal conduct by state and local officials led to more than 1.2 million potentially fraudulent ballots, including failing to count legal votes and counting illegal votes.

In each of the states, the number of potentially fraudulent ballots far exceeds the margin separating the leading presidential candidate, Amistad says.

"Through rigorous investigations supporting our litigation, we demonstrate that state and local officials brazenly violated election laws in several swing states in order to advance a partisan political agenda," said Kline. "As a result, it is impossible for those states to determine their presidential Electors in line with the arbitrary deadline set forth via federal statute in 1948, and thus, the only deadline that matters is January 20, 2021."

Among the issues Amistad has identified in the 2020 vote:

- In Arizona millions of dollars in private money was tossed into the election pot, giving "some voters in the state access to advantages that were unavailable to voters in other parts of the state."
- In Georgia, Fulton County officials took more than \$6 million in private grants that imposed conditions on the conduct of elections without authority from the state legislature. The state also reached an agreement with Democrats over vote counting that "directly contradict the legislature's intent."
- In Michigan, Secretary of State Jocelyn Benson gave "private activist organizations direct access to the state's voter files, which should only

be accessibly to election clerks." She also broke the state law that requires signatures for absentee ballot requests.

- In Pennsylvania, some counties, including Allegheny, Philadelphia and Delaware, got more than \$10 million in private money that put conditions on the election "without legislative approval." And state officials violated the law by giving permission for "unlawful practices."
- In Wisconsin, the law requires photo ID for absentee ballot requests, but the law was ignored in the 2020 election.

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