

Original Ballots must have a physical form that allows voting choices to be examined and properly interpreted by the naked eye.

Ballots must have features designed to prevent counterfeiting.

An auditable system for tracking the status of all ballots must be implemented and maintained in the State of origin. The total number of printed ballots must equal the sum of the number of cast ballots, spoiled ballots, and unvoted ballots.

Ballot tabulation must be conducted by two independent and unrelated systems. The difference in totals between the two systems must be less than one half the margin of victory or 0.1% of the vote total, whichever is less. Tabulating machines must only tabulate and not modify ballots in any way, or be connected to the internet.

Before the results of an election can be certified, the ballot counts must be reconciled with the voter records. The margin of uncertainty must be less than one half the margin of victory or 0.1% of the vote total, whichever is less.

Lists of qualified electors must be purged of unqualified persons 180 days before an election. Voter Rolls should be vetted and compared with available government records to identify duplicate or ineligible registrations.

Laws and regulations governing an election may not be changed for 180 days prior to that election.

All election records should be retained and preserved for not less than 22 months.

Voter identification for provisional ballots must be verified, with information provided by the voter, prior to that ballot being counted.

REGARDING JOINT SESSION OF  
CONGRESS TO COUNT ELEC-  
TORAL BALLOTS

**HON. SHEILA JACKSON LEE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 6, 2021*

Ms. JACKSON LEE. Madam Speaker, as a senior member of the House Committees on the Judiciary and Homeland Security Committee; Ranking Member of the Judiciary Subcommittee on Crime, Terrorism, Homeland Security, and Investigations, and the Congressional Voting Rights Caucus, I rise today to offer thoughts and reflections on the congressional responsibility to bear witness to the counting of electoral votes to determine formally the persons elected President and Vice President of the United States and on the campaign and election that brought us to this day.

The outcome of that count is not in doubt and has not been since November 7, 2020, when it became clear that Democratic candidates Joseph R. Biden and KAMALA HARRIS had won the states of Georgia, Pennsylvania, and Arizona to become the 46th President and 59th Vice-President of the United States, earning 306 electoral votes, 36 more than the 270 needed for election.

The results in those states, as well as every other state that chose presidential electors on November 3, 2020, has been certified and wherever necessary upheld against legal challenge by the courts in the affected states.

On December 14, 2020, presidential electors met in their respective state capitols to cast their votes for President and Vice-Presi-

dent, with the documentary and video evidence clearly demonstrating that the Biden/Harris ticket was the clear and unassailable choice of the Electoral College.

The counting of the electors' ballot today will ratify the outcome that has been foretold for months and only those with the most conspiratorial mindset and the willing suspension of disbelief, like the current occupant of the White House and his band of acolytes consisting of 140 Members of the House and 12 U.S. senators, could persist in the delusion that the vox populi, the voice of the people, has not spoken clearly and definitively.

Madam Speaker, the Biden/Harris ticket won the national popular vote going away, by more than 7 million votes, 81.3 million to 74.2 million.

Their victory was so sweeping that it won the majority of states, including five states won four years ago by the loser, including Georgia, which a Democratic candidate had not won since 1992, and Arizona, which last voted Democratic in 1996.

This day is not like its counterpart of 2001, when the determination of the winner hung in the balance on the outcome of the contest in Florida, where 537 votes out of 5.82 million votes cast separated the candidates and the U.S. Supreme Court halted the vote recount ordered by the Supreme Court of Florida, thus leaving reasonable persons to question who was the true winner of that state's decisive 25 electoral votes.

This day is not like 2005, where the outcome hinged on the 18 electoral votes of Ohio, and where state officials refused to count provisional ballots and engaged in other tactics alleged to be taken to suppress the votes of racial minorities.

And certainly this day is not like 2017, when Congress met to count the electoral votes cast in the state's first American presidential election in which the U.S. Intelligence Community had confirmed was the subject of cyberattacks and other subversive activities of entities allied with the Government of Russia that were undertaken for the express purpose of influencing the outcome to secure the election of its preferred candidate, Donald Trump, who it should be added, openly invited a hostile foreign power to launch cyberattacks against his political opponent.

Another important distinction involving the 2016 election is that it was the first presidential election held since the Supreme Court issued the notorious decision in *Shelby County v. Holder*, which neutered the preclearance provisions of the Voting Rights Act and adversely affected the ability of hundreds of thousands of persons to cast a ballot and have their vote counted.

In contrast, American voters in 2020 were forewarned and forearmed against Russian interference, propaganda, and disinformation and with no backing but with the active resistance of the Chief Executive, the governments of the United States and the individual states took active measures to ensure the security and integrity of election systems against fraud and undue interference.

This effort was so successful that the Election Infrastructure Government Coordinating Council (GCC) Executive Committee, consisting of the U.S. Cybersecurity and Infrastructure Security Agency (CISA), U.S. Election Assistance Commission, National Association of Secretaries of State, and the Na-

tional Association of State Election Directors, issued the following statement on November 12, 2020:

The November 3rd election was the most secure in American history. Right now, across the country, election officials are reviewing and double checking the entire election process prior to finalizing the result.

When states have close elections, many will recount ballots. All of the states with close results in the 2020 presidential race have paper records of each vote, allowing the ability to go back and count each ballot if necessary. This is an added benefit for security and resilience. This process allows for the identification and correction of any mistakes or errors. There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.

Even United States Attorney General William P. Barr, the most politically biased person, to hold that office, publicly acknowledged that although U.S. attorneys and FBI agents had followed up on specific complaints and information they had received, "to date, we have not seen fraud on a scale that could have effected a different outcome in the election."

Under the laws of every state, the Trump Campaign was entitled to bring legal challenges to the administration of the election in any state where it felt aggrieved, and it took ample advantage of these opportunities, bringing scores of lawsuits alleging "wide-spread fraud," requesting recounts, or demanding that votes cast for the Democratic candidate be thrown out or simply not counted.

These legal challenges were met with colossal failure, the Trump Campaign suffering stinging defeats in more than 65 cases; its lone success came in Pennsylvania where a court granted its request to allow monitors to observe ballot tabulation from a distance of six rather than 10 feet away.

Which brings us to this day, when die-hard followers of the current occupant of the White House, a group I call the "Lost Cause Caucus," now seek to revive and press forward with the discredited and rejected claims of the Trump Campaign that the elections in the states that were key to bringing about his resounding defeat were "rigged" or "fraudulent" or the result of some vague conspiracy by the "Deep State."

Madam Speaker, this is utter nonsense; which I show by examining the challenge to the electors from Pennsylvania, where like Robert E. Lee at Gettysburg, Trump pitched his flag and made his grand stand.

Over 6.9 million Pennsylvanians voted in that election, with over 2.6 million of those voters using mail-in or absentee ballots; Vice President Biden received 3,459,923 votes, easily beating Trump, by 81,660 votes.

Vice-President Biden's vote margin was twice as large as was Trump's when he won the state in an upset in 2016.

Madam Speaker, it is not difficult to understand why so many Pennsylvanians voted in 2019, and by mail in unprecedented numbers.

In 2019, with broad and bipartisan support, the Pennsylvania General Assembly enacted Act 77 of 2019, which made several important updates and improvements to Pennsylvania's Election Code, Act of Oct. 31, 2019 (P.L. 552, No. 77), 2019 Pa. Legis. Serv. 2019-77 (S.B. 421) (West) ("Act 77").

Among these were provisions that, for the first time, offered the option of mail-in voting to

all Pennsylvania electors. See 25 P.S. §§3150.11–3150.17.

This change was a significant development that made it easier for all Pennsylvanians to exercise their right to vote and brought the state in line with the practice of dozens of other states.

Under Act 77, voters had until October 27, 2020, to request a mail-in ballot for this year's November 3rd General Election. 25 P.S. §3150.12a(a).

Act 77 set 8:00 p.m. on Election Day as the due date for returning those ballots to the county boards of elections. 25 P.S. §3150.16.

The Election Code provides for a variety of safeguards to ensure the integrity of this process. See 25 P.S. §3146.8(g)(3); 25 P.S. §3146.2c; 25 P.S. §3146.8 (g)(4); 25 P.S. §3150.12b(a)(2).

The presidential election results were certified, and Pennsylvania Governor Tom Wolf signed the Certificate of Ascertainment on November 24, 2020, long in advance of the required date to fall under the "Safe Harbor" provision of three-day the governing Electoral Count Act of 1887, 3 U.S.C. §5, making the certification of Pennsylvania's electors conclusive.

Madam Speaker, multiple challenges were made to the certification of Pennsylvania's electors, all of which were rejected by both state and federal courts.

First, there is no merit or truth to the claim that the Pennsylvania Secretary of State "abrogated" the mandatory signature verification requirement for absentee or mail-in ballots. See *In re Nov. 3, 2020 Election*, 240 A.3d 591, 610 (Pa. 2020) (Election Code does not authorize county election boards to reject mail-in ballots based on an analysis of a voter's signature. "[A]t no time did the Code provide for challenges to ballot signatures.").

Far from usurping any legislative authority, the Pennsylvania Supreme Court refused "to rewrite a statute in order to supply terms which [we]re not present therein." *Id.* at 14.

A federal judge reached the same result. See *In Donald Trump for President, Inc. v. Boockvar*, 2020 WL 5997680, at \*58 (W.D. Pa. Oct. 10, 2020) ("[T]he Election Code does not impose a signature-comparison requirement for mail-in and absentee ballots.").

Second, there is a similar lack of merit and truth to the claim that certain Pennsylvania county boards of elections did not grant pollwatchers access to the opening, counting, and recording of absentee and mail-in ballots. See *In re Canvassing Observation*, A.3d \_\_\_, 2020 WL 6737895, \*8–9 (Pa. 2020) (holding that state law requires candidate representatives to be in the room but the viewing distance is committed to the county boards, which, in that case, was reasonable); *Trump for President, Inc. v. Sec'y of Pennsylvania*, 2020 WL 7012522, at \*8 (3d Cir. Nov. 27, 2020) (affirming dismissal of poll-watcher claim, in part, because the Trump Campaign "has already raised and lost most of these state-law issues, and it cannot relitigate them here.").

Third, there is no basis to a claim that certain Pennsylvania counties adopted differential standards favoring voters in Philadelphia and Allegheny Counties with the intent to favor former Vice President Biden.

This claim was raised and dismissed in *Trump v. Boockvar*, 4:20—cv—02078 (M.D. Pa. Nov. 18, 2020) because those charges

were backed by neither specific allegations nor evidence. *Trump for President, Inc. v. Sec'y of Pennsylvania*, 2020 WL 7012522, at \*8 (3d Cir. Nov. 27, 2020).

Fourth, that certain counties permitted voters to cure minor defects in mail-in ballots was permissible under Pennsylvania law because minor defects—such as a failure to handwrite the voter's name and/or address on the declaration—did not, in fact, void the ballot. See *In re Canvass of Absentee & Mail-in Ballots of November 3, 2020 Gen. Election*, 29 WAP 2020, A.3d \_\_\_, 2020 WL 6866415, \*15 (Pa. Nov. 23, 2020) ("We have conducted that analysis here and we hold that a signed but undated declaration is sufficient and does not implicate any weighty interest. Hence, the lack of a handwritten date cannot result in vote disqualification."); *Trump v. Boockvar*, 2020 WL 6821992, \*12 (M.D. Pa. 2020) ("it is perfectly rational for a state to provide counties discretion to notify voters that they may cure procedurally defective mail-in ballots"), *aff'd* 2020 WL 7012522.

Fifth, there was no state law violation when the Pennsylvania Supreme Court temporarily modified the deadline for the receipt of mail-in and absentee ballots, because state constitutional law required it. See *Pa. Democratic Party v. Boockvar*, 238 A.3d 345, 369–72 (Pa. 2020).

Nothing in the Elections Clause of Article I "instructs, nor has the Pennsylvania Supreme Court ever held, that a state legislature may prescribe regulations on the time, place, and manner of holding federal elections in defiance of provisions of the State's constitution." *Arizona State Legislature v. Arizona Indep. Redistricting Comm'n*, 576 U.S. 787, 817–18 (2015) (AIRC). The same is true for the Electoral Clause in Article II.

Sixth, there is no truth to the claim that Pennsylvania "broke its promise to the U.S. Supreme Court to segregate ballots and commingled illegal late ballots."

The Pennsylvania Secretary of State had already instructed that all ballots received during the three-day period be segregated and counted separately and Justice Alito adopted these instructions by the Secretary as an order of the Court.

The Pennsylvania county boards of elections complied with that order; qualified ballots received during the three-day extension were segregated and counted separately.

The number of such ballots is too small to change the outcome of any federal election in Pennsylvania.

Finally, there is nothing sinister, surprising, or fraudulent in the fact that late-counted mail-in ballots eviscerated Trump's temporary lead in the popular vote by disproportionately favoring Vice-President Biden.

The votes counted before 3 a.m. and those counted afterwards were indisputably not "randomly drawn" from the same population of votes, as those counted earlier were predominantly in-person votes while those counted later were predominantly mail-in votes.

Even the proponents of this bogus challenge to Pennsylvania's electors admit that Democratic voters voted by mail at two to three times the rate of Republicans.

Both this fact and the expectation that it would result in a shift in President-Elect Biden's favor as mail-in votes were counted were widely reported months ahead of the election.

Madam Speaker, as I noted at the outset, we are here today to exercise a duty imposed on Members of the House and the Senate by the Constitution and laws of the United States.

But it is true that although we are called upon to bear witness to the counting of electoral votes, our role is not confined to passive observation.

The Constitution and the law, specifically Section 15 of the Electoral College Act, 3 U.S.C. §1 et seq., authorizes Representatives and Senators to object to the counting of any vote cast by an elector if in their judgment the vote was not "regularly given" or the person casting the vote was not "lawfully certified" as an elector.

The Constitution devolves this solemn duty upon the people's representatives, the Congress, because the linchpin of representative democracy is public confidence in the political system, regime, and community.

That confidence in turn rests upon the extent to which the public has faith that the system employed to select its leaders accurately reflects its preferences.

At bottom, this means that all citizens casting a vote have a fundamental right and reasonable expectation that their votes count and are counted.

For these reasons, I owe it to my constituents and to the American people to consider each electoral vote certificate as it is presented and accept those that appear to be meritorious.

Were any electoral vote certificate not to satisfy the statutory requirement that the votes reflected on the lists were "regularly given" by "lawfully certified" electors I would oppose it.

But that is not the case before us because the votes before us were regularly given by lawfully certified electors, whose status was resolved, where need be, at least six days before the meeting of electors pursuant to laws that were in place before the election as required by Section 5 of the Electoral Count Act, 3 U.S.C. §5.

That means the validity of their appointment is conclusive and their vote preferences binding on us.

For this reason, I oppose the objections raised and accept the final vote tally that will be announced by the President of the Senate at its conclusion, and in doing so will be keeping faith with the admonition and prayer made by President Lincoln over the graves of patriots that "government of the people, by the people, for the people, shall not perish from the earth."

CONGRATULATING BOULDER COUNTY COMMISSIONER ELISE JONES ON HER RETIREMENT

HON. JOE NEGUSE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 6, 2021

Mr. NEGUSE. Madam Speaker, today I wish to recognize the accomplishments of an incredible public servant, County Commissioner Elise Jones.

Commissioner Jones has proudly served as a Boulder County Commissioner since 2013, and has shown throughout her impressive career a passion for helping those in need. She has fought for social justice and advocated for