

Governance | The 2020 Election

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Corporate Governance and Business Transactions

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Spoiler Alert: No matter whom you voted for, reading this will not change your mind about your candidate or his opponent.

No one is happy with the 2020 U.S. Elections and its aftermath. Not the Biden camp, not the Trump camp, and most other camps of the American electorate. “Why doesn’t Trump concede already?!” “Why won’t the courts listen to the President’s lawyers?!” Yes, some of it stems from partisan preference and one’s personal and business concerns about the direction of American enterprise, culture, and National character.

Yet, media coverage so far has failed in spectacular proportions. Abysmal word selection and laziness by “reporters” have agitated, misled, confounded, and confused. Words such as “unprecedented,” “overturn,” “reverse” and “concede” have become darling crutches for writers and editors seeking to stoke each juicy cliff-hanger. Other more precise and informative words such as “challenge,” “litigate,” and “certify” are hard to find in the journalistic orgy.

The 2020 Election is not the first contested and extended election (even the laziest and youngest in journalism can find their way to *Bush v. Gore*). Nor is it anywhere near the most dangerous the Nation has experienced. Our first acrimonious “transition of power” occurred in 1800 when the Adams administration, which was largely an extended post-Washington government, was unseated by the Thomas Jefferson faction of the Founders. **[1]** The very men who risked their lives to conceive and establish the

Nation brought out the knives in a fashion that makes 2020 seem tame by comparison. The Election ended up in the House and took 36 separate votes to resolve the deadlock for Jefferson.

Historian Adam E. Zelinsky[2] writes:

“Adams did not attend the inauguration. Having accepted defeat in the early winter and largely remaining unseen for the remainder of his term, the former president slipped away by carriage in the early hours of Inauguration Day. His last great act as president was nominating John Marshall to be Chief Justice of the Supreme Court. Marshall, a vocal Federalist who despised Jefferson, nonetheless was the individual who swore in the third president.”[3]

Adams lost the Presidency. Yet, he appointed to SCOTUS a man who, with six weeks of law study in his background, contributed as much to Constitutional law and our system of governance as any one of the “Founders.” The profound impact of Chief Justice Marshall,[4] creator of “Judicial Review,”[5] ties directly to President Adams’ crushing loss of the White House in 1800. Our system says that, regardless of electoral bitterness and divide, and all other issues that rankle voters and elected officials, we look to the courts to make decisions. As some like to say, they “call balls and strikes.” Yes, some umpes seem to use a mystical strike zone from time to time. But we all work through it and move on.[6]

The Elections of 1824 and 1828 collectively involved notables such as J.Q. Adams, Jefferson, Hamilton, Jackson, Burr, Calhoun, *et al.* These Elections also were nasty affairs that bent the arc of history. Guess what: 1824[7] was the first time the winner of the *electoral AND popular* votes lost the Presidency: J.Q. Adams cut a deal with, of all persons, the man our elementary teachers taught us to revere as “the Great Compromiser” Henry Clay, then House Speaker. Jacksonians labeled the deal a “corrupt bargain,” but J.Q. Adams managed to slip past Jackson when the Election was decided in the House.

By 1828[8] the deadly seeds of the Civil War were planted, watered, and fertilized. The Jackson/Calhoun ticket took 68% of the Electors and 56% of the popular vote, thus sending Adams the younger into history as a one-term president along with his illustrious Founder dad.

Had the global 24/7 news machines been around for those elections, we might not have as many Founders’ statues in parks and portraits in galleries. The American

system that evolved from the Declaration and the Constitution turned out to be a rough and tumble system of government, yet one that has served the Nation and the planet well albeit imperfectly. Only recently have we grown accustomed to round-the-clock on-the-spot video coverage with hordes and legions of talking heads, barking their spin at us.

What is going on now (and possibly to be concluded soon) is not "overturning" or "reversing" an election. Rather, interested parties entitled to do so are ***litigating a contested election***. Roughly half of us were saddened on November 3, and the other half celebrated. It has happened thusly for some 220 years. It will again in 2022, 2024 and so forth. Be grateful. Stop wasting time and nervous energy watching "Breaking News" for a couple of weeks. Maybe plot your route to an early CV19 vaccination. The Georgia Senate races and January 20 will be here soon enough.

Yours for Better Governance

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[1] 1800: <https://tinyurl.com/y23qdhxr> | <https://tinyurl.com/y32haro5>

[2] Zelinsky: <https://tinyurl.com/y3lh4e5o>

[3] See, Note 1, above.

[4] C.J. Marshall: <https://tinyurl.com/y5vu5mut>

[5] Judicial Review: <https://tinyurl.com/y476zh22>

[6] To our dear friends who remain loyal to the President, his tribulations in the courts may stem, in part, from failure by his party and campaign to mount challenges timely to those disputed non-legislative state election rules changes and ballot handling. No one ever will know the outcome of those challenges if filed in Spring or Summer, with time for deliberate crafting of points of law and under less manic, floundering arguments and evidence gathering post-election.

[7] 1824: <https://tinyurl.com/yxna43xg> | <https://tinyurl.com/y2q8d6bm>

[8] 1828: <https://tinyurl.com/yxgmpesf> | <https://tinyurl.com/y4bn8j3k>