

Trump floats delaying election, both parties appeal to military as umpire

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Donald Trump cast doubt on the November election's legitimacy yesterday morning, tweeting that it "will be the most INACCURATE & FRAUDULENT Election in history" due to states' decisions to expand mail-in voting during the coronavirus pandemic. As a result, he suggested the vote be postponed: "Delay the Election until people can properly, securely and safely vote???"

Within hours of Trump's tweet, even Republican allies like Senate Majority Leader Mitch McConnell (R-KY), Marco Rubio (R-FL) and Lindsey Graham (R-SC) quickly stated their opposition to Trump's suggestion.

A federal law passed by Congress in 1845 requires general elections be held the Tuesday after the first Monday in November.

Later yesterday afternoon, Trump doubled down on his earlier statement, tweeting: "Must know Election results on the night of the election, not days, months or even years later!"

Trump, who has long threatened to challenge the outcome of any election he loses and to remain in office for several terms, faces an increasingly difficult re-election campaign as his approval ratings tank. This week, the US passed the 150,000 mark in coronavirus deaths, with California, Florida and several smaller states reporting their highest daily death tolls to date. Tens of millions of jobs have been eliminated, while Congress has let additional federal unemployment benefits expire. Though three months remain before the vote, some recent national election polls show Trump's support below 40 percent.

The run-up to the November 3 election and the 11-week period between the election and the January 20 inauguration threaten to be periods of unprecedented political crisis. The military, in preparation for the prospect of mass demonstrations, published training material that refers to protestors and journalists as "adversaries." The training documents, which by order must be reviewed by every member of the armed forces, are an indication that the military is preparing itself for further deployments to violently suppress political opposition.

On Wednesday, the Justice Department deployed dozens of federal agents to Milwaukee, Wisconsin; Detroit, Michigan and Cleveland, Ohio. This follows the deployment of paramilitary forces in Portland, Oregon, who have taken control of the city's downtown and have arrested demonstrators without probable cause, throwing them in the back of unmarked cars for interrogation at undisclosed locations.

At a press conference yesterday, Trump threatened to deploy the national guard to Portland if the state's Democratic governor failed to crack down on what Trump called "terrorist" activity.

The deployment to Milwaukee, Detroit and Cleveland is significant because four years ago the depressed turnout among impoverished African-Americans was a major factor in Trump's razor-thin margin of victory in Wisconsin and Michigan, while polls in Ohio have shown the state to be closely contested this year.

Adding to the prospect of uncertainty, Wisconsin and Michigan have Republican-controlled state legislatures and Democratic governors, meaning efforts to certify election results in those states will likely face long court delays and partisan stonewalling. Pennsylvania and North Carolina, two swing states with 20 and 15 electoral votes, respectively, also have split party control.

More details are emerging about efforts by bipartisan groups of retired military-intelligence officers, elected officials and media figures to "game" possible outcomes of a contested election.

According to Rosa Brooks, head of the Transition Integrity Project, three out of four election gaming scenarios have resulted in an unprecedented constitutional crisis placing the country on the verge of civil war. In these scenarios, both Biden and Trump claim to be the legitimate president at 12:00 PM on January 20, the minute at which the 12th Amendment of the constitution requires power be transitioned from the outgoing to the incoming administration.

On July 28, the *Washington Post* published an article

titled, “As Trump demurs, an unimaginable question forms: Could the president reach for the military in a disputed election?”

The article asks the question: “How would the armed forces respond if pulled into a disputed election?” With legal challenges expected over vote certification in several states, the article notes the possibility that pending lawsuits mean Congress would not be able to certify a winner by January 20.

The *Post* writes: “Crucially, a contested outcome lasting beyond Jan. 20 would force the military to make an implicit decision about who is commander in chief. According to the Presidential Succession Act of 1947, Trump would cease to be president on noon of Jan. 20 if Congress does not certify him as the winner, passing his authority as commander in chief of the military to the acting president, the speaker of the House of Representatives.”

In one scenario gamed by group participants, “the White House might call on the military to protect the president or, more likely, respond to potential protests on ‘law and order’ grounds, possibly leading the president to follow through with earlier threats to send active-duty troops to American cities or take control of state-commanded National Guard members.”

Facing contradictory orders, officials who follow orders issued by the wrong commander-in-chief would be subject to arrest and prosecution for “failing to impede mutiny or sedition,” which carries the death penalty, the *Post* notes.

It is not only Trump who may appeal to the military to intervene and physically determine the outcome of the election. Earlier this year, presumptive Democratic nominee Joe Biden warned that if Trump refused to vacate the White House, the military “will escort him from the White House with great dispatch.”

Indeed, one participant in gaming exercises, Marquette law professor Risa Brooks, told the *Post*: “In so many ways it looks like the military is going to have to be thinking about its role in domestic politics in ways it normally doesn’t.”

Adding to the air of uncertainty, the Constitution also mandates that the incoming Congress elected in November be seated on January 3, more than two weeks before the inauguration of the president. Most polls show Democrats maintaining control over the lower house, thereby placing the Democratic speaker, currently Nancy Pelosi (D-CA), in line to serve as acting president.

But if the election is delayed or if legal challenges produce enough congressional vacancies to prevent a Democratic-controlled House from electing a speaker by January 20, the Senate president pro tem would become acting president. That position is currently held by Chuck Grassley (R-Iowa), but control of the Senate in the upcoming election is

uncertain. If the election produces a 50-50 tie in the Senate, the constitution has no answer for who would become president pro tem (and therefore acting president), since there would be no elected vice president to preside over a Senate tie.

To add even more confusion, if the election is delayed, only 65 senators would remain in the Senate (those not subject to election this year), and a majority of those remaining would be Democrats. On top of the possibility Republicans may flee Washington to prevent Democrats from establishing a quorum, state governors may also decide to appoint senators to fill the 35 vacancies. Since Republicans control a majority of governorships, the position of Senate president pro tem—and therefore of acting president—could remain up for grabs.

With everything subject to legal challenge, it is possible that on January 20, nobody will know who the president is.

Under these conditions of immense political crisis, both major parties are appealing to the military to become the arbiters of state power. Those bourgeois insiders who are gaming the situation are aware of the possibility that different commanders may obey orders from different commanders-in-chief and that it is possible different units may be deployed to confront one another, especially in the District of Colombia, where physical control is most important and where the president commands the National Guard.

In this context, a quickly forgotten *New York Times* op-ed article by former senator Gary Hart (D-CO) acquires greater significance. In his July 23 article, Hart said that he and former senator Walter Mondale (D-MN) “have recently come to learn of at least a hundred documents authorizing extraordinary presidential powers in the case of a national emergency, virtually dictatorial powers without congressional or judicial checks and balances.”

Hart wrote: “We believe they may include suspension of habeas corpus, surveillance, home intrusion, arrest without a judicial warrant, collective if not mass arrests and more.”

Without the intervention of the working class, whichever faction of the ruling class seizes the initiative will drive the political establishment further to the right, relying on the military and risking the imposition of a military dictatorship. In the race between Biden and Trump, there is no progressive faction.



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