

## POLITICAL PULSE

## How Biden and Trump Can Both Lose. Easily.

Thursday, February 8, 2024

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**We could have a president elected winning only one state and 10 Electoral College votes.**

In client conversations now, everyone seems satisfied that the Fed's July 2023 rate hike was the last in the cycle, that inflation has rolled over and returned to target, and that it's now somewhat academic whether the rate cuts begin in March, May or June. *Suddenly what everyone wants to talk about is the election.*

We have been saying for several months that there is a very strong probability, at least 50/50, that *there will be a "contingent election" in 2024, in which no candidate for president gets the requisite 270-vote Electoral College majority thanks to a credible centrist third party acting as a spoiler* – the bipartisan *"Unity Ticket"* sponsored by the *No Labels advocacy group* (see *"For What It's Worth... TrendMacro's 2024 Presidential Election Model"* December 11, 2noon023). The president would be selected by the incoming 2025 House of Representatives, and the vice president would be selected by the incoming Senate.

- *Once we explain it, you'll be amazed how little it would take to make this happen.*
- It hasn't happened in the United States *since 1824*. It will be called a "constitutional crisis," and *it will likely panic markets* (see *"2024:*

### Update to strategic view

#### US POLITICS, US

**STOCKS:** There is at least a 50/50 chance that the presidential election this year will be a "contingent election," in which no candidate gets the requisite 270 Electoral College votes. The president would be chosen by the House and the vice president by the Senate. Using 2020 results as a baseline, all it would take would be for Trump to make it a tie by getting 37 Electoral College votes flipping Georgia,. ...

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#### Battleground states in 2020 presidential election

	Winning margin	Electoral college votes		Share to independents	Electoral college votes
Georgia	0.2%	16	Alaska	4.4%	3
Arizona	0.3%	11	Utah	4.2%	6
Wisconsin	0.6%	10	Wyoming	3.5%	3
Pennsylvania	1.2%	19	Washington	3.3%	12
North Carolina	1.3%	16	Vermont	3.2%	3
Nevada	2.4%	6	Oregon	3.2%	8
Michigan	2.8%	16	North Dakota	3.1%	3
Florida	3.4%	30	Idaho	3.0%	4
Texas	5.6%	40	Maine 2nd District	2.9%	1
Nebraska 2nd District	6.5%	1	Maine 1st District	2.9%	1

Source: TrendMacro calculations

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[Deflation, Election, and No Recession](#)” January 3, 2024).

Remember, though, that what people usually call a constitutional crisis is just a situation in which you have to actually read the Constitution to find out what to do. In this case, it's all laid out very plainly in [Article II](#) and the [12th](#) and [20th amendments](#).

Using the results of the 2020 election as a baseline (sensible, considering that the very same major party candidates appear to be facing off again), all that would have to happen to trigger a contingent election would be for Joseph R. Biden to get 37 fewer Electoral College votes than last time. That would reduce his total from 306 to 269, and the Constitution requires a majority – 270 votes – to win.

- Ignoring a third party for a moment, if exactly 37 Electoral College votes flip from Biden in 2020 to Donald J. Trump in 2024, then Trump wouldn't get enough to win, either. His 2020 vote total of 232 would become 269, and it would be a tie.
- This is weirdly possible. It would require just three states – the three easiest ones, and no more than 10,341 votes in the hardest case.
- The three narrowest Biden victories in 2020 – the states which it would seem Trump could flip most easily (Georgia, with a winning margin of just 0.2% and 16 Electoral College votes, Arizona with a 0.3% margin and 11 votes and Wisconsin with a 0.6% margin and 10 votes) – produce exactly the requisite 37 votes (please see the table on the previous page).
- If Trump flips any other single state he would win. Of course, all this is contingent on Biden not flipping any states Trump won in 2020 (North Carolina is the state Trump carried by the narrowest margin, at 1.3%, with 15 Electoral College votes).
- It gets more likely when we bring a third party into the mix. A third party would drive a contingent election by taking at least 37 Electoral College votes from Biden, but it doesn't have to be exactly 37. That's because third party votes above 37 count against Biden but don't go to Trump and make him the winner.
- Like Trump, all the No Labels Unity Ticket would have to do is win Georgia, Arizona and Wisconsin which, judging by the narrowness of the 2020 result, would be most open to a moderate candidate (see [“TrendMacro conversation: Representative Dean Phillips, the renegade Democrat who is running against Biden in the primaries”](#) February 5, 2024).
- Those three would do it – but, in fact, the Unity Ticket would drive a contingent election if it wins any three of the four narrowest 2020 states (adding Pennsylvania with 1.2% and 20 – again, see the table on the previous page).
- There's another entirely different path when a Third Party is in the mix. The No Labels Unity Ticket would trigger a contingent election if it wins any seven of the eight states which, in 2020, gave the highest vote-share to third party and independent candidates (again, see the table on the previous page). There are no states with the narrowest margins that also have the highest independent vote share – so a third party has two entirely different universes of likely prospects to draw from.

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... Arizona and Wisconsin, the three narrowest margins for Biden in 2020 with at most 10,341 votes. Then both candidates would have only 269 Electoral College votes. Or a No Labels Unity Ticket could take those states, again throwing the election to the House. Wallace took 46 Electoral College votes in 1968, so it can be done. A combination of Trump flips and Unity Ticket wins could do it, provided Biden is deprived of 37 votes and Trump doesn't get more than 37. The House will be narrowly divided in 2025, with likely 26 GOP state delegations, making Biden unelectable. Trump likely is also unelectable, but a Unity candidate could draw votes from both parties. A president could be elected who had carried just one state. The Senate will have a Republican majority, making Harris unelectable. This easily rules out one-party rule by Democrats, which we believe is the worst-case economic policy outcome. It will feel like chaos, but with the worst-case ruled out, it will be a buying opportunity.

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- But wait – it gets even better. To trigger a contingent election, the Unity Ticket would only have to win a single state – say, Wisconsin with a mere 10 Electoral College votes. If Trump flips Georgia and Arizona, then Biden is deprived of the requisite 270 Electoral College votes, but Trump doesn't get there either. The formula is: the combination of Trump and the Unity Ticket have to take away at least 37 Electoral college votes from Biden, without giving Trump more than 37.
- There are an infinite number of combinations by which the Unity Ticket could trigger a contingent election. The point here is to emphasize that with the tiniest perturbation from 2020 results, the Unity Ticket could be a significant disruptor.
- The last independent candidate to carry any states at all was [George Wallace in 1968](#), and he did better than that: he carried five states and got 45 Electoral College votes. So it's not like it can't be done – but it didn't matter in 1968 because it wasn't a close call between the major party candidates, Hubert Humphrey and Richard Nixon – but this time, if 2020 is any guide (or 2016, for that matter) it will be a very close call indeed.

#### What would happen if... ?

- The newly elected House would to elect a president, or at least try to. The vote is conducted not by 535 individual representatives, but by 50 states, with a majority of 26 required. Partisan districting with 220 red districts, 208 blue and 7 tied suggest that the current narrow GOP majority will remain in place, at least as a base case. But what counts is the state-by-state composition of delegations: today's 26 red states, 22 blue states and 2 ties is likely to continue even if there is some small change in membership, even enough to flip control.
- This means that one outcome we can be sure of in a contingent election is that Biden can't win. Even if, somehow, the GOP loses a state and the Democrats pick up as many as four, it will be a tie at 25 states apiece, and it takes a majority of 26 to elect a president. With the present 26-state GOP majority, Trump could theoretically win, but we suspect divided state delegations would be blocked by Republican Never-Trumpers – six GOP defections out of 25 in Texas would do it. All it would take is any one GOP state.
- In this environment a No Labels Unity Ticket candidate could win, because he or she would be the only one who could create a coalition across red and blue states.
- Stop and savor what that means – it means that this seemingly long-shot third party initiative could elect a president even if it carries only three states and gets only 37 Electoral College votes. This is far from impossible.
- The vice president will be elected by the incoming Senate. The vote is by member, not by state. Based on the happenstance of this year's Senate electoral map (please see the table on the following page) – there are only 11 Republicans at risk (all in safe red states) and 23 Democrats at risk (three in red states and eight in purple states). We take it as given that the GOP will control the Senate next year, even if it's by a margin as narrow as the Democrats' current control.

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2024 Senate election landscape						
Incumbent Democrats						
SOLID D	LIKELY D	LEAN D	TOSS UP	LEAN R	LIKELY R	SOLID R
CA-Open	NJ-Menendez	MI-Open	AZ-Sinema (I)			WV-Open
CT-Murphy		NV-Rosen	MT-Tester			
DE-Open		PA-Casey Jr.	OH-Brown			
HI-Hirono		WI-Baldwin				
MA-Warren						
MD-Open						
ME-King (I)						
MN-Klobuchar						
NM-Heinrich						
NY-Gillibrand						
RI-Whitehouse						
VA-Kaine						
VT-Sanders (I)						
WA-Cantwell						
Incumbent Republicans						
SOLID D	LIKELY D	LEAN D	TOSS UP	LEAN R	LIKELY R	SOLID R
					FL-Scott	IN-Open
					TX-Cruz	MO-Hawley
						MS-Wicker
						ND-Cramer
						NE-Fischer
						NE-Ricketts
						TN-Blackburn
						UT-Open
						WY-Barrasso

Source: [Cook Political Report](#), TrendMacro calculations

- With a Republican majority, one outcome we can be sure of is that *Kamala Harris can't win*. The Senate can only pick from among the top two Electoral College vote-getters (while the House can pick from among the top three). So if it's not Harris, that likely leaves Trump's running mate. If he picks a mainstream conservative like Tim Scott (R-SC), that's an easy win. If he picks Tucker Carlson, it's going to get very interesting.
- *Conceivably both the House and the Senate could deadlock, in which case the speaker of the House would be acting president (which makes House control more important in this election than usual).*

*All this means that what we consider to be the worst-case election outcome is off the table* – as far as economic policy outcomes are concerned. Personal political attitudes and preferences checked at the door, please, it is our judgment as strategic economic analysts that the worst-case is one-party Democratic rule, as we had in 2021 and 2022. We don't want to end up in a world where we are re-litigating Build Back Better – a \$4 trillion tax hike that

would have taken 10% off S&P 500 earnings – and this time without Joe Manchin to stop it (he is now retiring from the Senate).

- The Senate map alone rules that out, of course, even if we ignore the good chance of a contingent election.
- The impossibility of Biden's election by the House rules out four more years of hindering the development of domestic energy resources and transport.
- The impossibility of Harris's election by the Senate rules out her being "acting president" in case the House deadlocks.
- And all this, in combination, would give the economy a fighting chance at extension of the provisions of the 2017 Tax Cuts and Jobs Act that expires on December 31, 2025.

It's potentially going to be quite a circus. But as far as markets are concerned, if we rule out the worst case of Democratic one-party rule, a little panic in a phony constitutional crisis would just be a buying opportunity.

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### **Bottom line**

There is at least a 50/50 chance that the presidential election this year will be a "contingent election," in which no candidate gets the requisite 270 Electoral College votes. The president would be chosen by the House and the vice president by the Senate. Using 2020 results as a baseline, all it would take would be for Trump to make it a tie by getting 37 Electoral College votes flipping Georgia, Arizona and Wisconsin, the three narrowest margins for Biden in 2020 with at most 10,341 votes. Then both candidates would have only 269 Electoral College votes. Or a No Labels Unity Ticket could take those states, again throwing the election to the House. Wallace took 46 Electoral College votes in 1968, so it can be done. A combination of Trump flips and Unity Ticket wins could do it, provided Biden is deprived of 37 votes and Trump doesn't get more than 37. The House will be narrowly divided in 2025, with likely 26 GOP state delegations, making Biden unelectable. Trump likely is also unelectable, but a Unity candidate could draw votes from both parties. A president could be elected who had carried just one state. The Senate will have a Republican majority, making Harris unelectable. This easily rules out one-party rule by Democrats, which we believe is the worst-case economic policy outcome. It will feel like chaos, but with the worst-case ruled out, it will be a buying opportunity. ▶