

# THE WALL STREET JOURNAL.

## The Electoral Count Act's Constitutional Role

**An amended ECA should be invoked only to challenge the conduct of the electors, not the conduct of the general election.**

Thomas Berry

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Your editorial “[Preventing Another Jan. 6](#)” (Feb. 17) argues that the Electoral Count Act (ECA) is unconstitutional and “the only real way to prevent future mischief is to repeal” it.

The Constitution directs that Electoral College members mail their presidential votes to Congress, where the president of the Senate shall “open all the certificates, and the votes shall then be counted.” The Framers didn’t specify how the count would proceed. The ECA attempts to fill that silence.

Congress’s power in the ECA to discount invalid electoral votes permissibly fills this constitutional gap. To cast valid votes, the electors must vote on a specific day, sign and certify their votes, and avoid voting for a president and vice president both from their own home state. In the unlikely event that a rule is broken, the first opportunity to enforce the rule is when the votes are unsealed before Congress. An ECA is the best way to formalize the process for an accurate count, which requires discounting votes that are *prima facie* invalid.

To limit Congress to its constitutional role, we should reform the ECA, not repeal it. It should be made clear that the ECA can be invoked only to challenge the conduct of the electors themselves, not the conduct of the general election.

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