Twitter Thread by Ned Foley



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1/1 On @seanhannity last night (at 5:56 of this clip), @SenTedCruz said that the Hayes-Tilden Commission was "charged with reviewing the evidence and making a determination about the disputed ballots." That's incorrect. The Commission was tasked with determining which rival ...

> Tomorrow is an important day. We have an obligation to protect the integrity of the election & our democratic system. That\u2019s why 10 of my colleagues & I are calling for an Electoral Commission to conduct an emergency 10-day audit to examine voter fraud allegations. pic.twitter.com/fExTpxlmKl
>
> — Senator Ted Cruz (@SenTedCruz) January 6, 2021

2/2 ... group of electors was appointed by the authority within state government entitled to make that appointment at the time the electors cast their votes on the constitutionally required day. Justice Joseph Bradley, who was held the intentionally tiebreaking seat on the ...

3/3 ... 15-member Commission, explained his decision in favor of Hayes by saying that it was NOT the Commission's authority (NOR Congress's, from which the Commission derived its subsidiary power) to determine whether the state properly counted its popular vote. Instead, ...

4/4 ...it was the Commission's job to figure out which of the competing claims was correct concerning who had authority under state law to make the determination upon which the appointment of electors would be based. For Florida, Bradley ruled that the state's canvassing board...

5/5... had this authority at the time the electors voted & thus Congress was obligated to accept the votes cast by the electors that the canvassing board had appointed, and this was true even if the canvassing board's appointment was based on a mistake or even fraud affecting ...

6/6...the counting of the state's popular vote. Bradley is absolutely clear on this: "It is the business and jurisdiction of the State to prevent frauds from being perpetrated in the appointment of its electors, and not the business or jurisdiction of the Congress." He goes on...

7/7 ...to explain that Florida could have corrected the fraud or mistake in counting its popular vote BEFORE the electors met, and then Congress would have been obligated to accept the amended appointment of electors. BUT Florida was

constitutionally required under Article II ...

8/8 ... to make any such correction BEFORE the day that must be uniform in all states for the meeting of electors. AFTER that day (for 2000 election, Dec. 14), any attempt by a state to change its appointment of electors is "unconstitutional and void" (Bradley's words). ...

9/9 ... For more details, see pages 135-135 of BALLOT BATTLES. What @SenTedCruz proposes for his commission is directly contrary to the Hayes-Tilden Commission precedent upon which he's relying. @SenTedCruz is simply misreading, or distorting, the relevant Hayes-Tilden history.