

**WILLIAM GREENE TESTIMONY – TEXAS HOUSE OF REPRESENTATIVES**  
**COMMITTEE ON ELECTIONS – 03/27/2017**

**TESTIMONY 1:** Thank you, Madam Chairman, and members of the committee. My name is William Greene. I represent myself, standing in opposition to this bill and the other electoral "binding" bills. I am Assistant Professor of Political Science, and Assistant Chair of the Political Science Department, at South Texas College, down in the Rio Grande Valley; I drove all the way up here today to testify against these bills. I've been teaching on the Electoral College for about 25 years. Every semester I teach around 150 students on this subject. This was my impetus for running to be a nominee for the Electoral College for the Republican Party this past year, and the Republican Party did select me to be an Elector nominee. Then on November 8th, I was elected by the people of Texas to be an Elector in the Electoral College. I was one of the two Electors that did not vote for Donald Trump; I voted for Ron Paul in this particular election. I did not do it because of huge problems with the nominee of the party; I did not do it because of the 100,000 emails that I received from people around the country, demanding that I vote for the popular vote winner. I did it because I understand what the Constitution says about the Electoral College. I have written, researched and spoken extensively on the subject. What the Founders wrote, very clearly and specifically, and what they intended, is very clear in their writings separate from the Constitution, as well as at nominating conventions -- the people that spoke on the process for electing our President in the Electoral College manner. I can say, without hesitation, that these bills -- this one and the other ones that are being presented today -- are *prima facie* unconstitutional. The Electoral College is one of the few remaining vestiges of the federal republican form of government that our Founders set up in the U.S. Constitution, and it's the Constitution that we should be most concerned with, and not knee-jerk reactions to the events of the day. Those authors of that document were quite clear that Electors are to be free agents, capable of choosing whomever they believe to be the best qualified person in the country to be our chief executive officer. If you want to statutorily bind presidential Electors, you might as well statutorily bind members of the Texas House of Representatives while you're at it. When the people vote YOU in, they have no control at that point, constitutionally, over your vote. They can vote for someone else in the next election, but they can't force you to vote a certain way. In the same way, when the people vote in Electors, they have no control over them constitutionally. They can vote for someone else in the next election, but that vote by the Elector in the Electoral College is to be a free vote, and not "bound". While twenty-nine States, including the District of Columbia, may have laws, those laws have never been tested constitutionally, and when they finally are -- and I hope Texas is not one of them that has to go to the Supreme Court -- but I have no doubt the Supreme Court will strike down those binding laws. Thank you very much.

**QUESTION FROM REP. PAT FALLON:** Sir, did you give a speech to your Congressional delegation?

**ANSWER:** I did. In fact, the speech that I gave to my Congressional District caucus, where I was nominated to be an Elector, was very clear that I was coming from a strict constitutionalist perspective, and that the Constitution is what I'm all about. Therefore, I made it very clear that I would vote constitutionally. Of course, we had to sign a pledge at that time, that we would vote for the party nominee when it came time in the Electoral College...

**Q:** Did you sign that pledge?

A: Of course. But I also took an oath when I became an Elector, exactly like the oath that you take, to uphold the Constitution, and a constitutional oath supersedes any pledge -- especially a pledge that, in my opinion, is unconstitutional; though that pledge has been upheld, the oath supersedes any pledge that might be taken, and my oath was to the Constitution of the State of Texas and the U.S. Constitution.

Q: So what you just said there -- did you say to the folks that voted for or against you at the caucus?

A: Absolutely.

Q: You said that the vote would be a free vote, and you wouldn't be bound?

A: I wasn't asked that question. But if I had been, I certainly would have.

Q: But you didn't offer that up in your speech?

A: I didn't feel I needed to, because the Constitution is very clear. I would expect that people would understand... *[crosstalk]*

Q: If you give me one second...

A: If you'd give me a second to answer, I'd be happy to...

Q: What would be even more clear is if you had said, "I'm gonna vote for whoever I feel is the best person for the job," because that's what you ended up doing.

A: That's what I ended up doing, because that's what the Constitution requires of Electors. The thing is, Electors can vote for whomever they want to, because that's what the Constitution is very clear about. When you propose a bill to put into law to do something that the Constitution is very clear on -- that this is not legal to do under the Constitution -- that's what you ought to be concerned about. Again, it's a knee-jerk reaction to the 2016 election. Knee-jerk reactions never end well when it comes to the Constitution. If you ran on Constitutional principles, I believe you have a duty to vote against any of these "binding" Electoral bills.

Q: What would have happened, do you think, if you had said to the folks -- when they were trying to decide who they were going to elect as the presidential Elector for their Congressional District -- if you had said to them very straightforwardly, "I may vote for our presidential nominee, and I may not. I don't know yet; it's gonna be up to me and how I perceive the Constitution" -- do you think you would have...

A: I don't have any idea what would have happened if I had...

Q: Do you think you would have won?

A: I have no idea.

Q: I suspect that you probably wouldn't have been chosen...

A: Well, you can "suspect" all you like. The fact is that when the Congressional District caucus selected me to be one of the nominees to Elector, I went on and, on November 8th, the people of Texas elected me an Elector, just like they elected you to be a Representative. The people of Texas, at that point, are being represented, in a sense, by you and by me -- but the people of Texas can't tell you, "You must vote

this way." You wouldn't *dream* of putting "binding" legislation in for legislators like yourself that says, "You must vote this certain way." In the same way, you should not *dream* of putting in laws that would bind Electors in the Electoral College. It's unconstitutional, and really, unethical.

Q: But I think that that analogy really doesn't hold water, because we're elected to take a myriad of votes -- thousands of votes; you're chosen to take one vote. Just one.

A: And that vote must be Constitutional in nature...

Q: Well, obviously we...

A: Not partisan in nature -- that is the *tradition* that has arisen, but that's not the Constitutional foundation that we must rely on.

Q: When you say "Constitutional," I think we all here would describe ourselves as "Constitutionalists."

A: I think you probably would.

Q: In fact, you have Justices on the Supreme Court that often -- there's very few 9-0 votes any more in D.C., in SCOTUS. But they all believe that they're following the Constitution. It's the interpretation of the Constitution that people have differences on, and clearly have one now. We have 29 states and the District of Columbia that bind Electors, and they have it, and they've been allowed to do it as that has not yet been found unconstitutional.

A: Not yet, no.

Q: That's the point.

A: It would be a shame if Texas voted this into law and had to go all the way to the Supreme Court -- it would be a waste of taxpayer money to have to defend an unconstitutional law.

Q: It doesn't seem like any of the other 29 states have ever had to do that. I will say one last thing...

A: Well, they haven't had to yet.

Q: One last thing: I like your tie.

A: Thank you very much. It's got a coffee stain on it, nevertheless.

CHAIR: Representative Reynolds?

**QUESTION FROM REP. RON REYNOLDS**: Thank you, Madam Chair. And just for my edification, I would concede that I'm not an Electoral College/Constitutional expert. But you say that you are, correct?

**ANSWER**: I don't say that I'm an expert; I just have taught it for 25 years.

Q: OK. And you have a long, I guess, study of the subject, correct?

A: I have, yes.

Q: OK. And it is your opinion that, what these bills are attempting to do today is unconstitutional.

A: Yes.

Q: OK. And you say that, with respect to the other 29 states, they have not been challenged in the court of law on, and went up to the Supreme Court yet, so there's no precedent to go with your opinion of that?

A: As of yet, they have not. I expect that probably, as a result of this election, there will be some things that will end up in the Supreme Court, because of a number of the Democratic Electors that didn't vote the way they were wanted to.

Q: And so, going back to the framers of the Constitution, it's your testimony here today that they intended for the Electors to have discretion?

A: Oh, absolutely.

Q: OK. And you say that that is undisputed?

A: Absolutely.

Q: OK. And so, what we're attempting here to do today, you think is reactionary from the 2016 election?

A: I think obviously. I mean, these have been proposed before, and thankfully rejected before, by this same body. But yes, this is obviously a reaction -- because immediately after that vote, the governor said, "I want a bill on my desk; I'll sign it," so that's why it was thrown forward.

Q: Let me post this question to you then: Prior to the 2016 election, have there been Electors that have chosen a different path from the popular votes?

A: That have chosen a different path?

Q: Right, a different person...

A: Within states? Yes.

Q: Within states. What about Texas?

A: In Texas? No, this was the first time in Texas.

Q: OK. So in 2016, this was, I guess, a time when Texas kind of shook up from the precedent that they've had before of everybody kind of voting in step with the popular vote.

A: It was unprecedented, yes.

Q: OK. Thank you.

**TESTIMONY 2:** Thank you, Madam Chairman. My name is William Greene, and I am speaking on behalf of myself in opposition to this bill. Again, my position is Assistant Professor of Political Science at South Texas College, way down in the Rio Grande Valley. First of all, like my opposition to any electoral "binding" bill, I do believe this one is unconstitutional, simply *prima facie*. But I would say that I'm rather surprised to hear the opposition to this bill from several more liberal groups and the Democratic Party. I would assume that they would be more in support of a bill like this, because a bill like this, as well as the other electoral "binding" bills, are really just one more step in the elimination of the Electoral College. If you are going to bind the Electors themselves in the Electoral College, then why have an Electoral College at all? Why have people elected by the people of Texas on November 8th of 2016, and then getting together on December 19th to cast a vote? Why do that at all? If it's really just a "ceremonial" thing, and it's just so that we can get together and have a nice dinner, then just eliminate the Electoral College. Go ahead and pass a constitutional amendment and get rid of the thing, and just go to a popular vote. If what we're interested in is, "Well the Electors are supposed to vote according to the popular vote," whether it's in the State, or whether it's in the entire United States, then get rid of the Electoral College. Do it the Constitutional way; don't do it a "side" way by doing this National Popular Vote Interstate Compact. That compact is Constitutional, if Congress approves of it, but it really is a way to sidestep the Electoral College itself. The Electoral College was put in for a reason. It was not put in there just for show, and just to be pretty, and just to have a nice dinner, and just do fun things, and just to be ceremonial. The Electoral College has a Constitutional duty; and if our duty is simply to vote according to -- as was mentioned by Representative Fallon -- according to the 700,000 people in our district, then I should have voted for Hillary Clinton, because my district overwhelmingly voted for Hillary Clinton in the 2016 election. Of course, I did *not* vote for Hillary Clinton, because she was not the best person in the United States to be President of the United States -- and I have a Constitutional duty, as an Elector, to vote for the best person. So again, I would say that this bill is *prima facie* unconstitutional; but beyond that, I'm surprised that those that would call themselves "constitutionalists" would even propose putting forward such a bill, when it really is just another step towards the elimination of the Electoral College. I thank you for your time.

**QUESTION FROM REP. PAT FALLON:** Thank you again for coming up. Do you think you'll ever be elected or chosen as an Elector again?

**A:** Oh, I have no plans to ever run. I was only wanting to do this once. If I was elected to the Texas House of Representatives, I would only do it once.

**REP. LYLE LARSON:** Well, that makes a lot of sense.

**A:** Yes. Thank you very much. [laughter in room]

**TESTIMONY 3:** Hi, my name is William Greene. I am testifying in opposition to HB 771, for myself. First of all, I would like to say I have no publicist, and I have no PR people, so -- not me! I also was rather disappointed in that particular thing to happen. But, nevertheless -- in response to the testimony that we heard, that we have an "august body" of lawyers that have written bills like this: lots of "august bodies" propose lots of things that appear good on the surface. That doesn't mean that it's constitutional; lawyers are pretty good at writing, and they're pretty good at writing things that look good on the surface, but are actually unconstitutional. I think that the key thing to do is to actually see what the Constitution says, and has been mentioned earlier, in Article II, Section 1, it says that, "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors," and it goes on to talk about that process. Notice what it says, though: "Each State shall appoint, in such Manner as the Legislature thereof may direct," those Electors. Well, the State of Texas has done so -- the legislature in the State of Texas has done so; and the manner of appointing those Electors that the Texas legislature decided on was for the people to vote them into office. That is the manner that Electors are appointed in the State of Texas: the people vote them into office. So, once they are elected, the legislature has no Constitutional power to force them to vote a particular way. So, to try to use that particular phrase in the Constitution as a basis for a law like this proposed law, or any of the other "binding" laws that we've been talking about, is simply a misapprehension of what the Constitution very plainly and clearly says. The manner of appointing Electors is that the people of the State of Texas vote them into office. Once they are voted into office, then *nobody* is supposed to be able to tell them, "You must vote this way." In the same way that, once *you* are elected into office, no one is supposed to be able to tell you, "You must vote this way." People can tell you, "*We want you to vote this way*" -- they can express themselves in different manners to show you that this is what they want you to do; and you have the choice at that point to do so, or to perhaps in the future not get re-elected. In the same way, State officers who are performing a federal function, called "Electors", are not to be "bound." The Constitution is very clear on this, and the State legislature in Texas has already made it very clear how they're to be appointed: they are to be elected. And that's it -- period. Any questions? Thank you very much for your time.

**TESTIMONY 4:** Thank you, Madam Chair. I'm William Greene, testifying on behalf of myself, in opposition to this bill. I would just like to remind the members of the committee of something that I emphasize to my students every semester. When I teach Federal Government, which I teach several sections of each semester, I don't just use a textbook. The way I teach it is, I put the Constitution up on the screen, and we go through the Constitution line by line, from the Preamble to the 27th Amendment. And one of the things that I remind them of from the very beginning is that this is a legal document; and like any legal document -- like this compact among States -- if you have a contract, you must abide by that contract according to its original terms, unless they are modified by agreement of the parties in that contract. And those terms go by the original definitions that -- how those terms were defined in the original document. There's a reason why I'm saying this. The appointment of Electors by the States -- and again, it's very clear that the States are able to appoint Electors in any manner they see fit, and the Texas legislature has seen fit to appoint them by having them elected by the people; and that is the extent of how those Electors are appointed. Once they are elected by the people, there is no further appointment power for the Texas legislature, according to the U.S. Constitution. But secondarily, I want to remind you that the word is "elector." An "elector" is someone who is eligible to elect someone, eligible to vote. So when people go in there and vote for you in November, they are "electors" -- they are what we call "state legislative electors." When people vote for Members of Congress, they are "electors" -- they are what we call "Congressional electors." When the people in the Electoral College, like myself, go in to vote, we are "Electors" -- we are voting for President of the United States. Constitutionally, we are the only ones who get to do that -- to vote for President and, under the Twelfth Amendment, for Vice President of the United States. You would no more -- I would hope that you would not want to pass a piece of legislation that would tell people voting in Congressional or legislative elections, "You must vote for this person." They are "electors" -- they are therefore free, as electors, under the definition of what an "elector" is, to vote the way that their conscience dictates. That's why the framers of the Constitution used the word "Electors" in who's going to be electing the President of the United States. And as Mr. Stringer testified earlier, they were very clear about the fact that they were to be free to vote their conscience; and any attempt to "bind" them as, once again, this bill does -- despite all the hard work you obviously put into this bill, and I appreciate that -- it would be *prima facie* unconstitutional. And I thank you for your time.