

Dec. 14 votes going in sets up the possibility of the President of the Senate (maybe not Pence; maybe he recuses and it's Grassley or next person in line who is willing to do this) on Jan. 6 taking the position, well supported by the language of the 12th Amendment in the historical era in which it was enacted, that according to the original understanding of the Constitution, he has sole power to both open \*and\* count the votes — and that he won't count any State where there are two slates and there was never careful, deliberate hearings on the merits, with evidence, on asserted irregularities, either in a court or the legislature. Only Supreme Court could override that (cuz he'd refuse to open the envelopes of the 6 States unless Court orders him, at minimum buying time). If not

the envelopes of the 6 States unless Court orders him, at minimum buying time). If not overruled, he could force hearings in the States, but time would quickly run out, and the state legislatures would have to appoint electors if they wanted to be counted and avoid the election being thrown to the House (if Nancy then refused to hold a vote, Senate would reelect Pence Vice President, and he would become acting president on Jan 20). That's the possible endgame I saw early on, which is why the Dec 14 vote is so critical. I will now write up a brief memo on President of the Senate.