

PART ONE TRANSCRIPT
Tom Klingenstein / John Eastman Interview

Tom Klingenstein:

I'm Tom Klingenstein, chairman of the Board of the Claremont Institute. Today I'm talking with John Eastman, who was one of Trump's election lawyers in the 2020 election. John has been accused of being the mastermind behind what those on the left are, find fond of calling a coup or an insurrection, or even an attempt to overturn the election.

This will be the subject of our discussion. John has been cast out into the wilderness even by most everyone on the right, but for some reason he remains cheerful. Welcome John.

John Eastman:

Thanks Tom.

Tom Klingenstein:

John was a professor at law at Chapman University in Southern California and served three years as the dean of the law school. He is a highly credentialed, widely published lawyer, who among many other accomplishments, clerked for Justice Clarence Thomas and his past chairman of the Federalist Society, federalism in Separation of Powers Practice.

He also founded and directs the Center for Constitutional Jurisprudence at the Claremont Institute, where he is a member of the Institute's Board of Directors, a senior fellow, and a friend of mine. As a friend must, I will try not to serve up too many softballs.

So let's set the stage. The presidential electors, which had been appointed by popular vote, sent their vote tallies to Congress where they were to be open on January 6th. Now, you assisted Trump, who was your client in trying to persuade Vice President Pence to postpone the counting for seven to 10 days.

To be clear, you weren't asking Pence to reject any electoral votes, as I believe Pence has stated. Rather, you are asking Pence to postpone the counting for seven to 10 days, which might have given several key states time to determine who had actually won the election. But even delaying the vote was, as you readily acknowledge, a very aggressive position to take. But, you thought it was defensible or plausible, and in the circumstances worth pursuing, circumstances we shall discuss.

So the central wrong, as you see it, is that the election was stolen. You thought Trump had actually won the election, right?

John Eastman:

Uh, yeah. And bbbboth were normal things of fraud. But, but more importantly, and the things I focused on were the, uh, alterations of state election law, uh, by non-legislative actors, secretaries of state, county clerks, even in some cases, uh, state judges, and they have no authority to do that under the Federal Constitution, which assigns the exclusive power to the state legislature to direct the manner of choosing presidential electors.

So, Pennsylvania law expanded, uh, its, uh, mail-in voting that that expansion was subsequently held to be illegal under the Pennsylvania Constitution, but they expanded it even before the, uh, COVID pandemic hit. Um, but they, but they retained signature verification so that the expanded mail-in voting would still be subject to a check to prevent fraud.

The Secretary of State, uh, in response to what I call a collusive suit by the League of Women Voters, just eliminated on her own the signature verification process altogether. Um, I think that was, uh, an alteration of the state law that the state legislature had put in place and therefore an unconstitutional action in the conduct of the election.

Tom Klingenstein:

Now, were there others? Let's keep to Pennsylvania.

John Eastman:

Yeah, there were others in Pennsylvania. They altered the deadline for return of absentee ballots. Uh, they allowed ballots that were maybe even mailed after election day. If the postmark was, uh, illegible or non-existent, as long as it was, was received, uh, by the Fri Friday after election day, those post-election ballots to be counted.

Um, they, uh, altered, uh, in my view, uh, the ability of people to observe and challenge uh, illegal votes or, or ballots that came in where the signature on the envelope was so unlike the signature on file that, you know, it was a different person. Um, but, but the, the state court, uh, at the urging of the Secretary of State said, we're not gonna allow even challenges to those things.

Tom Klingenstein:

Are these the kind of things that applied in the other swing states and are there other, an example of what?

John Eastman:

So, in, in Georgia, the Secretary of State there entered into a consent decree that severely weakened the signature verification process there, almost to the point that it became meaningless. Uh, in Wisconsin, uh, the Secretary of State and, and, and county clerks essentially got rid of voter ID in the two largest Democrat counties in the state for mail-in ballots. Um, they allowed, uh, ballot harvesting and nursing homes without the statutorily required, bipartisan observation team.

Tom Klingenstein:

Now have you gone through, state by state noting the irregularities and the fraud, which we haven't come to and made an estimate of what might be or might have been the effect on the vote.

John Eastman:

I have. And in each of the swing states, the, the, the number of ballots that are provably illegal, uh, or circumstantially illegal, uh, exceeds the margin in each of those states. So I'll give you one example. In Pennsylvania, the elimination of signature verification. Uh, in prior years, uh, the disqualification rate of ballots that came in and were invalidated because the signature didn't remotely look like the signature on file was about 4%.

Tom Klingenstein:

Uh, and this is historically.

John Eastman:

Historically, uh, and in some counties, like, like Philadelphia County, it was as high as 8%. Um, but in this election it was under 1%. And so if you look at that differential, uh, you say, okay, there are more than 150,000 votes.

Tom Klingenstein:

But now of that 150, we don't know Biden or Trump. So how do you extrapolate?

John Eastman:

You can look at the votes where there was no problem with the signature, and you can look at how those people voted, and that was about two to one for Biden over Trump. Uh, and then you can take that number and assume something similar for the, for the ballots that should have been disqualified but weren't. And that means you deduct a hundred thousand from Biden's total and 50,000 from Trump's total. The margin in Pennsylvania was 80,000 total. That one issue alone would've made up about 50,000 of the difference.

Tom Klingenstein:

So we've accounted for 50,000 of the 80,000 margin that Biden had in Pennsylvania. Now, I assume there are other things that must have brought it over the 80,000.

John Eastman:

Sure. There, there, there were several, um, one, the change in, uh, in, uh, the date for return of absentee ballots. Um, there's some dispute about how many, uh, the Secretary of State claims about 10,000. The Trump campaign people claim about 70,000. So if it was the Trump campaign number of 70,000, that that other issue alone gets you well over the 80,000 threshold.

Tom Klingenstein:

But can't we, uh, can't we ascertain that?

John Eastman:

Well, we can, if we had access to the records, which, you know, in many of these states has been difficult to achieve, um, particularly after the fact.

Tom Klingenstein:

And there's no court action pending.

John Eastman:

There's no court action pending that would force that.

Tom Klingenstein:

So, if you had to guess at this point, what would've been the election results in Pennsylvania? Had they been properly run?

John Eastman:

My, my best guess is Trump probably picks up about 200,000 out of all these totals, which means he wins by 120,000 rather than losing by 80,000. But again, a lot of that is circumstantial and, uh, hard to prove after the fact, which is one of the difficulties of election challenges.

Tom Klingenstein:

Right. But if it went back to the states, the state legislatures would have to make the kind of judgments that you are making.

John Eastman:

Well, th th this gets very complicated because, uh, the very fact that the election was not conducted in the manner that they had directed meant that it was an illegal election. And as a matter of constitutional law, the power devolves back to them to decide how to choose the electors. Politically, unless they can show that the illegalities affected the outcome, it would be politically imprudent to, uh, come up with any certification of electors that was different than the popular vote.

Tom Klingenstein:

So one of the things that skeptics say is there have been lots of recounts and they basically show what the original count was - Biden won. Uh, Maricopa County as an example. Um, again, they, they had a recount and I think Biden received, or they calculated that Biden had 200 more votes than he did uh, the first time around.

John Eastman:

Well, that's true, but the problem is they're recounts of the ballots. They're not assessments of the validity of the ballots. Garbage in, garbage out. If you have an illegal ballot that's in the original count, and then you recount it again, it's not a surprise that they come up with roughly the same number. Uh, the question that, uh, an audit would do rather than a recount, and that's what we're, you know, we needed and we didn't get, is whether the ballots that were there that were being counted were legal and that we didn't get. That was, that option was

closed to the auditors in, uh, in, uh, Arizona. And their, but their report identified, you know, tens of thousand, 50,000 or 150,000 - I don't remember the exact number of ballots that were of questionable illegality.

Tom Klingenstein:

And, and the margin in Arizona was,

John Eastman:

it was about 10,000. So much larger than the margin.

Tom Klingenstein:

The audit - Maricopa County, the auditors identified. All kinds of problems. Now, what's the next step? Is there an investigation?

John Eastman:

Well, their next step originally planned in the audit, which was shut down by threat of criminal prosecution, by the, uh, acting Assistant Attorney General in, in the US Department of Justice, was to go and do a survey, a canvas of voters. But they were threatened with voter suppression, criminal prosecutions if they conducted that canvas.

Tom Klingenstein:

Oh, I see. Now, in Pennsylvania you've talked about there were*200,000 more votes counted than there were people that the state recorded as having voted. Maybe you could explain that.

John Eastman:

So, Representative Ryan, a state representative in Pennsylvania, identified initially, uh, I forget what the number was, 400,000 - 1.1 million, I'm a little fuzzy on the exact number right now. And he was accused, well, you just don't understand that not all of the states have, not all of the counties have, have followed up with their, with their total tallies. But now two and a half years later, we have all of the counties have put in their final tallies and there's a still*200,000 differential between the number of votes that were cast and counted, and the number of people that the state voter registration rolls show as having cast a vote.

Tom Klingenstein:

So in other words, the state recorded a certain number of people entering polls, absentee ballots, mail-in, but yet Pennsylvania counted*200,000 more votes. And so is there a possible explanation?

John Eastman:

Well, Uh, the possible explanation there are two. One is they're just very inept at keeping their voter roll records. The second account is much more nefarious, that*200,000 ballots were dumped into the system, uh, that were never voted by any voter.

*** Correction: 220,000 was the original discrepancy, not the final discrepancy. This number was actually 121,000.**

And, uh, and we've got circumstantial evidence that things like that occurred. We've got the, the, the still open is issue about the truck driver, uh, subcontractor for the post office who swore under oath that he was brought in a truckload of 200,000 or so ballots from Long Island into Philadelphia. And they never know what happened to them,

Tom Klingenstein:

But I thought the truck truck driver retracted and there's an affidavit to that effect.

John Eastman:

Well, the, the Inspector General of the post office grilled him for eight hours and claimed that he retracted. The truck driver posted on his own Twitter account the next morning, "I did no such thing" and that's where the investigation ended.

Tom Klingenstein:

But is there an affidavit to that effect?

John Eastman:

The Inspector General just made a statement. I don't believe he made a sworn affidavit, but the truck driver made a sworn affidavit, a sworn declaration that this had happened.

Tom Klingenstein:

So where did 200,000, uh, ballots come from? Presumably, unless he printed them, they're missing somewhere.

John Eastman:

Well,

Tom Klingenstein:

Can't we find out where they came from?

John Eastman:

Well, see, this is the most extraordinary thing. One of the things I recommended. To Vice President Biden in December, not personally, but in a public statement, was he, as much as anybody, ought to invite serious investigation of all these allegations because there will be a cloud over his administration if these things remain unsettled and lingering. Uh, but at every turn, efforts were made to thwart any serious investigation.

Tom Klingenstein:

And I assume in this case there was no press investigation?

John Eastman:

No. Everything, everything was done to, to either stop an investigation. In some states, attorney general's threatened prosecution uh, if, if people did investigation, as I mentioned earlier, the Arizona audit had a, had a threat of prosecution. So, so down in Georgia, uh, you know, we

have this infamous video that captured what appears to be a, a fraud. After pollwatchers are sent home for the night and told that they're ending the voting counting for the night and to come back at 8:30 the next morning. Um, and then after they all leave and the news crews leave, um, the, the vote bins that had been under a table are pulled out and they start counting again.

Tom Klingenstein:

And those are the things we saw on television.

John Eastman:

Those are the things we saw on the video that, uh, the security video. So I don't think they knew that the video, they were being recorded on that. Um, and what it appears, uh, from the video is that they ran multiple ballots through the machines multiple times.

Um, and then they say, no, that was just the machine jammed. And so we had to run it again. So this is, this is the factual dispute.

Tom Klingenstein:

Um, you know, there's another sort of line of attack of skeptics. People say, look, there was C O V I D. There was Trump's strident personality. There were four years of unmitigated abuse against Trump. So should we really be surprised he lost by a few votes.

John Eastman:

So, you know, that certainly aligned. And, and of course that narrative started being stressed in the summer before the election, that Trump was becoming unpopular among suburban women.

Um, uh, that narrative started in the summer so that if in fact they were, uh, cheating in suburban counties around Philadelphia or around Detroit, people have in the back of their head, oh, it's just because suburban women didn't like his mean tweets. And I ask you, uh, two things. Were his tweets any meaner in the four years he was in the White House than they were leading up to the 2016 election?

And if the answer to that was no while of a sudden were the mean tweets, the driving force on this. The second, I think more substantial point is we saw that, uh, phenomena play out in suburban counties around large Democrat cities, um, where I think the evidence shows there was illegality and fraud. We don't see the same phenomena play out in other suburban counties where the demographics are largely the same.

Tom Klingenstein:

Now the other big, or one of the other big objections is, look, there's 65 court cases. Trump came up empty, so it must be, there's not much here.

John Eastman:

Well, in a majority of those cases, uh, uh, the courts didn't even look at the merits. Uh, they rejected it on ripeness grounds. We mentioned that earlier. They wait, they, they, you know, if you challenge a, a change in the law by an a, a election official who has no legal authority to make that change in the law ahead of time, the court said it wasn't ripe. If you bring it the day after the election, say this shouldn't have happened. They say, well, you can't wait till your guy loses and then bring it challenge. So they, they dismiss it.

Tom Klingenstein:

There were some decided on the merits.

John Eastman:

Some. Very few though. And Trump won several of those.

Tom Klingenstein:

And how, how many is few?

John Eastman:

probably, uh, a dozen.

Tom Klingenstein:

Are there any cases still pending of significance?

John Eastman:

Yeah, there's a, there's a big one still pending down in Georgia, Favorito versus Raffensberger, which is where that, that brief window of, of forensic audit of a machine was allowed, uh, that I mentioned earlier.

Tom Klingenstein:

But it's significant?

John Eastman:

It is significant because we're, you know, it's, it, it kinda lays out a lot of the, uh, you know, uh, the, the main case in Georgia was, was the one that was filed on December 4th, and that never even got a judge appointed until the end of the month. And then the initial status hearing was scheduled for two days after the joint session of Congress meeting on January 6th.

And so the case was ultimately dropped as moot. Uh, but this one on a going forward basis looks at the illegalities, the, the, the weakening of signature verification, a number of things, uh, and is still challenging those.

Tom Klingenstein:

I think many people in the audience probably have heard of Andrew McCarthy. He's a very well-known, very respected, former US attorney who is now a legal analyst. He writes a National

Review, New York Post. He said about these fraud claims that they were all Hooey, that was his word. And he then went on to say that the claims were laughable and lawyers in these cases, fell apart when asked to provide proof of election fraud. Okay. What do you say to Mr. McCarthy?

John Eastman:

Well, so I think it's very important that we distinguish some of the claims, which were, um, a little bit out there.

Tom Klingenstein:

Well, I let me interrupt and say, McCarthy didn't say some claims.

John Eastman:

I know he didn't.

Tom Klingenstein:

He said all claims were hooey .

John Eastman:

Well, so some of 'em were just out there. I, I, I don't want to discount 'em because I can't prove or disprove them, but, uh, they, they seemed a little far fetched. Um, but more importantly, Andy's not distinguishing between claims of fraud and claims of illegality.

And by the way, we do have pretty solid evidence of claims of fraud. You look at Mike Gableman's report up in Wisconsin. Mike Gableman is a former justice of the Wisconsin Supreme Court. He was retained by the Wisconsin legislature to conduct an independent review and audit. And he identified most importantly, illegalities and then fraud that flowed from those illegalities.

And then, uh, uh, vote, uh, turnout rates in nursing homes went from an historic norm of 20 to 30% to nearly a hundred percent. And a lot of the ballots are done in the exact same handwriting. So here we have an illegality and a demonstrable fraud, uh, that affected more ballots than the 20,000 vote margin in Wisconsin.

Tom Klingenstein:

Do you have any idea whether any of these decisions, including at the Supreme Court, were influenced by the pressure of potential mobs?

John Eastman:

Well, I, I don't have direct uh, evidence of that, but I do have indirect evidence of it. In mid-December, there was a news report out that, uh, Justice Alito and Justice Thomas had been urging the Court to take up these cases, claiming that it was just like Bush versus Gore, and they really needed to take these cases to try and settle things. And Justice Roberts, Chief Justice John

Roberts reportedly yelled at them saying, "This isn't Bush versus Gore. They'll burn down our cities if we take these cases."

Tom Klingenstein:

Those who were skeptical, they rely very heavily on Bill Barr, Attorney General Bill Barr, who said there is nothing to investigate.

John Eastman:

Well, no, he actually said, "We've investigated and there's no evidence of significant enough fraud who have affected the outcome of the election." Um, that claim, uh, has been questioned in rather serious ways.

So one, one of the US attorneys in Pennsylvania subsequently wrote a letter saying, "Yes, that was Bill Barr's public statement that we could investigate, but privately he ordered me not to investigate, but to turn over any allegations I received to the Democrat Attorney General of the state who was uh, uh, at least covering for, if not implicated in some of the illegality, at least as alleged."

The second is the White House liaison to the Department of Justice stated to the January 6th committee under oath that Bill Barr told her that they would not investigate any of this on Federalism grounds. And then most interestingly, there's a. Uh, uh, a FOIA - Freedom of Information Act guy with a Twitter account who filed Freedom of Information Act.

I say Bill Barr said they did investigations and they found no evidence of fraud significant enough to have affected the election. So he did a Public Records Act request asking for the, uh, the investigative files. Now, investigative files are, are exempt from Public Records Act requests. So normally what you would expect to see in response to such a request is exempt under subsection whatever of the, of the Freedom of Information Act.

But that's not the response he received from every one of the US attorney's offices in the swing states, and uh from the, uh, the main office at the Department of Justice, the response he got back was, there are no responsive records, which means there were no investigations.

Tom Klingenstein:

Okay, so I, now I want to be very clear about this right. What you're saying is that publicly Barr said he had investigated, and yet he told his investigators, I assume US attorneys not to investigate.

John Eastman:

That's, that's the evidence that we have, uh, from Bill McSwain in, uh, in Pennsylvania and, uh, uh, and from the, uh, White House liaison whose name I'm escaping.

One, one last piece of this because they did go down and investigate the, uh, the, the State Farm Arena video in Atlanta. Um, but they didn't investigate whether the ballots were legal.

They didn't investigate whether, uh, what we saw or appear to have seen, that many of the ballots were run through multiple times.

Tom Klingenstein:

And they didn't investigate the truck.

John Eastman:

They didn't investigate the truck. Uh, what, what they, what they, this is part of the deposition of, of the, uh, investigator, uh, in the Georgia case. They went down to determine whether, whether the thing that was pulled out from under the table was a suitcase or a bin.

That's what they investigated. And they said, well, it wasn't a suitcase. So everybody that called it a suitcase, end of investigation. It wasn't a suitcase, it was a bin. I mean, it, it, it's almost laughable that that constitutes an investigation of the allegation of fraud.

Tom Klingenstein:

But if your account is right, what was motivating him, do you think?

John Eastman:

Well, he's an inside the Beltway Washington establishment guy. And the inside the Beltway Washington establishment, including National Review, and the rest of those folks are pretty much all in thinking that Trump is destroying the Republican party.

Tom Klingenstein:

Now, as you know, and I'm sure most of the audience knows Dinesh DeSouza, excuse me, uh, produced a movie called 2000 Mules. Is it credible?

John Eastman:

It's more than credible. I think it's very accurate, and, uh, of course, you know, you can only accomplish so much in a movie. Uh, Dinesh has also written a book, uh, that explains in detail all of the allegations or claims they make in the movie, but then has a whole chapter responding to all of the so-called debunking critics. And, you know, my favorite example of this is the Washington Post story that debunked it before the movie was even out.

Tom Klingenstein:

Now was any of Dinesh's, uh, revelations investigated?

John Eastman:

Yes. Uh, there's an ongoing investigation in Georgia. There was a pending investigation in Pima County, Arizona that had been sitting there for a year, and when Dinesh's movie trailer came out, they actually kind of kicked into high gear and there have been criminal convictions obtained in, in Pima County for a couple of people that were involved in what Dinesh has identified as a rather massive ballot, illegal ballot harvesting.

Tom Klingenstein:

Your detractors are fond of saying you're crazy and conspiratorial.

John Eastman:

Well, you know, uh, what's the old line? Uh, uh. Just, just because you're paranoid doesn't mean the things that they're accusing you of aren't true. Right. Um, uh, look, uh, uh, I've been, I've tried to be very careful on saying things that I could confirm or had fairly strong circumstantial evidence to support this.

Tom Klingenstein:

Now what Trump seems to say. And as far as I know, the only thing he says is, well, "I went to bed ahead and I woke up behind."

John Eastman:

Yeah, well, yeah. So he said that, uh, and of course in a tweet you can't get much detail. Um, but, but it's, it's much more sophisticated than that. I went to bed so far ahead that the outstanding absentee ballots would have to break so overwhelmingly for Biden, for in order for him to win.

Tom Klingenstein:

You've mentioned a book to me a few times that you think is a rather fair, balanced view of, of the election.

John Eastman:

Yeah. The book is, uh, by a retired, uh, CPA and financial auditor. Um, I, I, I put the emphasis on retired there because in this era of cancel culture, it's very important that he be retired, so he's not at risk of losing his career and his livelihood. Uh, and he published a book called Debunked Question Mark, a Professional Auditor Assessment of the 2020 election.

And it is by far, in my view, the most dispassionate and reasoned assessment of the type of evidence we've been talking about. And he concludes that in every one of the swing states, the votes should not have been certified.

Tom Klingenstein:

What's it like to work for Trump?

John Eastman:

Well, I, I found Trump, uh, uh, both very congenial, but also, um, very thoughtful and, uh, quickly absorbs all of the information that's presented to him. And then uncharacteristically for many politicians makes a decision and then moves forward. I mean, it, you know, it is what one would expect from a, a former CEO.

Tom Klingenstein:

Is that what other people would call impulsive?

John Eastman:

I call it decisive. I don't think he, he surrounded himself by people who were just yay yaysayers, (laughter) Uh, telling him what he wanted to hear like some presidents have done.

Tom Klingenstein:

You've been subject to a fair amount of abuse and harassment, not just you, but I think your family.

John Eastman:

Being encouraged to early retirement from my long-standing position as a law professor at Chapman University, um, being, uh, deplatformed by my visiting professorship at the University of Colorado - not just having my classes canceled the night before classes started, um, but being ordered not to use any university resources, uh, or speak in my, using my, my academic title on their, on, on my behalf. Um, but also other organizations in the country that I've been long affiliated with have wanted to distance themselves.

But more, more dangerous is, uh, people targeting our house. Um, we've had people very metal spikes in the end of our dirt driveway that have taken out several, several sets of tires, uh, on our cars. People throwing, uh, dog feces at our house.

Tom Klingenstein:

Are people there every day?

John Eastman:

Yeah, pretty much.

Tom Klingenstein:

And still there?

John Eastman:

Yeah. Yeah. We've got somebody in our neighborhood that spray paints on the street leading up to our house, Eastman's, a trader, our address and an arrow pointing to our house, which is an open invitation to vandalism. We've got, you know, nutcase protestors that have been, uh, uh, at the end of our street.

Tom Klingenstein:

You're over the target, but you're cheerful. And your wife is pretty cheerful.

John Eastman:

She is, although we have our moments. Uh, but, uh, we came to the conclusion some months ago that my whole career and my education before my career have equipped me probably better than almost anybody else in the country to be able to address the constitution, the

serious Constitutional issues that are at stake here, and to have the temerity to fight back against it.

Tom Klingenstein:

But has she ever sent you, John, maybe you ought to let go.

John Eastman:

Maybe we .. No, she's never said that. She has suggested, maybe we should have thought more about when, when that first call came in from Trump, whether you wanted to take this or not.

Tom Klingenstein:

Let's turn to censorship, which you just touched on. You have been deplatformed. I gather that you, outside of the two coasts, you receive pretty good, uh, um, reception.

John Eastman:

So, and you know, I'll go into places where people, um, uh, recognize me and give me a standing ovation. We were at a concert in Vail, the Dallas Symphony was up there in Vail when we were visiting at one point. And some, some guy, my wife was, uh, stepped behind me and she saw somebody walking toward me, you know, making a beeline for me. And the guy came up and my wife was very panicked at me, what was gonna happen? And he just said, "God bless you for the work you're doing."

Tom Klingenstein:

There's something called 65 Project. I think the 65 refers to the number of court cases. What is that about and who's behind that?

John Eastman:

Well, it's mostly, uh, longtime Democrat party activists. Many Clinton, Clinton, uh, well, Bill Clinton and Hillary Clinton activists. um, but a couple of Republicans, very violently anti-Trump Republicans like Paul Rosenswag, so they give it the patent of bipartisanship. But it's a partisan operation. The, the leader of it has described their mission is not only trying to disbar all the lawyers that worked on any of the 65 election cases brought by Trump, but to make them such pariahs in their community that right wing legal talent will never want to take on election challenges again.

Um, and you know, that's, this is a very dangerous thing cause our, our justice system depends on competent representation on both sides of the adversarial process. And they're trying to deprive one side of contested, you know, significantly disputed issues.

Tom Klingenstein:

Lawyers are fond of quoting Shakespeare who said, kill all the lawyers. Well, it wasn't that Shakespeare didn't like lawyers. It was Shakespeare understood that lawyers were the bulwark against tyranny. So why are all these big law firms caving?

John Eastman:

Well, um, part of it is economic pressure, market pressure.

Tom Klingenstein:

You mean from their clients.

John Eastman:

From their clients, my friend Cleta. And, you know, most of the major corporations in this country have become very woke in a word that you are fond of, uh, dealing with here. Um, so, uh, Cleta Mitchell, good friend of mine, she was involved in the Georgia litigation that I mentioned earlier, and also on, you know, the nefarious or in famous, uh, Trump call to Secretary of State Raffensberger down in Georgia.

Tom Klingenstein:

Which we'll get to.

John Eastman:

Somebody recognized her voice and within 15 minutes the major clients of her firm we're all contacting the managing partner - said she goes or we go and, uh, no.

Tom Klingenstein:

Is there, is there anything we can do about it? I mean, these are private parties.

John Eastman:

They're private parties. Um, But, but, uh, one of the things you can do about it is set up infrastructures that don't quite depend on that so much and can go their own way. Boutique law firms pop up all the time.

Tom Klingenstein:

But still he is quite a, quite a disadvantage competing against big firms. Lots of resources

John Eastman:

Because you don't have, yeah, I mean, you, you put four or five lawyers on no matter how good they are.

Tom Klingenstein:

Let me uh, switch to the California bar that is trying to disbar you. Uh, roughly quickly, what are the charges there?

John Eastman:

Well, the charges are that I violated my oath of office to uphold the Constitution, when in fact, everything we've talked about shows I was the one trying to uphold the Constitution against unconstitutional conduct in the election, but that I also made, uh, uh, false statements - they have, uh, 11 counts total. 10 of 'em are that I made false statements either in my briefs to the

court or on radio shows or in public speeches. Now think about, um, the, the First Amendment implications of that. Uh, and in each of the paragraphs where they accuse me falsely of making false statements, the Bar charge authors themselves make demonstrably false statements.

Tom Klingenstein:

I didn't read them all. One charge caught me. You, John, misrepresented historical sources in Law Review articles, and I wondered to myself, is there a lawyer in America that couldn't be caught by that charge?

John Eastman:

Well, particularly when the hi, historical sources are ambiguous and subject for interpretation. And to say that I took one side, which several other scholars have taken as well versus another side is, is not only a misrepresentation, but a disbarable misrepresentation is rather an extraordinary and unprecedented claim. So these, these, uh, lawyers at the Bar, um, who are not by any means constitutional scholars or constitutional attorneys, or Supreme Court constitu,

Tom Klingenstein:

These, these are the people making these claims

John Eastman:

Charges against me, are assessing my ability to make judgements about a con, a very sophisticated and nuanced Constitutional argument.

Tom Klingenstein:

Let's go to January 6th. What are they trying to pin on you?

John Eastman:

Well, you know, it's hard to say. Uh, the, the Bar, California Bar is trying to claim that my statements, my brief, um, unscripted, unplanned three minutes of statements on the Mall on January 6th, two miles away from the Capitol, uh, were false.

Tom Klingenstein:

The basic thing is they accuse you of inciting a riot.

John Eastman:

Inciting a riot. Yeah.

Tom Klingenstein:

And inciting is a term of art.

John Eastman:

Inciting is a term of art. And the Supreme Court has been very clear - in order for a statement not to be protected by the First Amendment, you have to incite people to illegal action, and it has to be imminent. And neither of those elements were, are, are contained anywhere within my speech.

Tom Klingenstein:

Now, on January 6th, you were on the Elipse with, uh, or at least before President Trump, some would say you were pumping up the crowd. You've come under a fair amount of criticism for that because you looked like a politician, not like a lawyer.

John Eastman:

Well, you know, Trump didn't ask me to do that, so I wasn't there, uh, as his lawyer. Uh, Uh,

Tom Klingenstein:

But your argument, you were a private citizen.

John Eastman:

Yeah, I was a private citizen.

Tom Klingenstein:

Now, isn't that something of a stretch?

John Eastman:

Well,

Tom Klingenstein:

I mean, Trump can't appear there and say, well, I'm here as a private citizen.

John Eastman:

Except he appeared as a candidate, which means he was there as a private citizen. He wasn't there as the President of the United States giving an official Presidential speech. And I thought as a citizen that we needed to speak out. You know, there's an old adage in First Amendment law that people often misstate, but it goes like this. Uh, the First Amendment doesn't protect you in shouting fire in a crowded theater. Well, that's from an old Oliver Holmes, uh, Oliver Wendell Holmes' opinion.

And the actual statement is it doesn't protect you in falsely shouting fire in a crowded theater. Now, if I shout fire and there is a fire, the risk of people getting trampled in the panic that flows from it is gonna be the same. Um, but, but the danger of not letting people know that there's a fire is huge.

And that's what I was confronted with. The danger of not highlighting the illegality in the conduct of the election for the future prospects of our Republican form of government, and the

notion of consent to the government **(MIC NOISE)** is huge, and I thought it was important to talk about it.

Tom Klingenstein:

You've been called before a grand jury in Georgia, and does this have to do with the famous telephone call where Trump asked who? Asked

John Eastman:

Asked Raffensberger

Tom Klingenstein:

Raffensberger to find 12,000 votes for which Trump was, of course roundly criticized?

John Eastman:

Yeah. Well, of course, uh, the call is mischaracterized. They ignore the first sentence of that statement. It says, our experts and lawyers have identified 150,000 illegal votes. All you have to do is find 12,000 of them, and I win this election, which was a rather different take than the major media would like to put on it, that Trump was pressuring Raffensberger to go make up, make up 12,000 votes so that he would win.

Tom Klingenstein:

So why don't we end it there.

John Eastman:

Ok

Tom Klingenstein:

Thanks John.

John Eastman

Very good. Thank you.

END OF SECTION ONE TRANSCRIPT

Tom Klingenstein / John Eastman Interview

May 5th – Women's Republican Club, NYC