

Election 2012: What Happens If It's a Tie?

With just five days before the election, polls show the race is a dead heat. CBN News' Jennifer Wishon spoke with election expert Brian Darling, with the Heritage Foundation, about some of the unusual possibilities for this year's race:

Could we have a candidate who wins the popular vote in the election, but does not end up being president of the United States?

Darling: Yes, and it's happened in the past. Because our system is set up, we live in a federalist country. We live in a country where the states have powers and the states do have a vote.

The Electoral College is set up where every state cast their votes—they cast them all together. It's a winner-take-all with the exception of two states: Maine and Nebraska. So, it is possible and it's happened where you've had candidates lose the popular vote but win the election.

Are we in a situation where we could see a tie on election night or a tie within the Electoral College?

Darling: Yes, and it hasn't happened since the 1800s. It would happen if we had 269 electoral votes for President Obama, 269 votes for Gov. Romney. Then it would be kicked to Congress and the House of Representatives. State by state would vote on the president of the United States.

And as constituted now, Republicans have a very big upper hand in the House of Representatives so Mitt Romney would win if the House were to determine who the president of the United States were to be.

If you look at the system for vice president, that's a role of the Senate. The vice president is actually the president of the Senate so it's appropriate that the Senate is making this decision.

The Senate would vote and it would look like Joe Biden would have a good chance of winning that Senate election for vice president. So, there is a scenario where you have President Mitt Romney and Vice President Joe Biden.

What are your top three states that you're going to be watching on election night?

Darling: Well, obviously Florida and Ohio are the states that everybody is going to be focusing on to see who wins those big states because it may come down to those two states.

But I'm going to be watching New Hampshire because the returns come in very early in New Hampshire, and if New Hampshire goes very early for **Mitt Romney** it could be a long night for President Obama.

Also Pennsylvania, it will be fascinating to watch if Pennsylvania is close, if Romney somehow squeaks out a victory, or if it's called very early in the evening for **President Obama** because that would be a warning sign for the Romney campaign that they may be in trouble.