

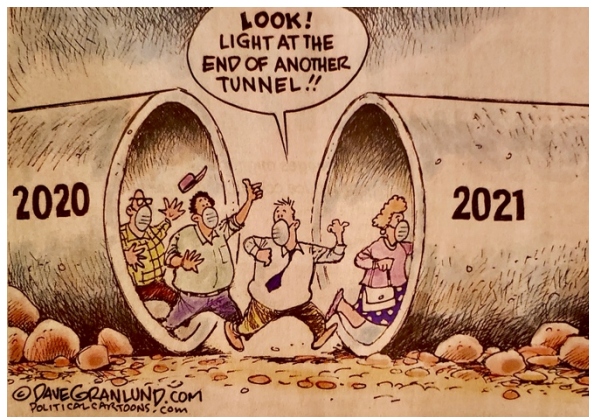
U.S. Political Update, #28. January 5, 2021. By Charles E. Morrison

While Americans were glad to see the end of 2020 (right), outlook for the new year is sobering (below). The daunting challenges include containing and ending the pandemic, restoring the economy, and resuming a leading and responsible role in global affairs. President-elect Joe Biden has promised professionalism and inclusiveness, and he also expresses optimism about being able to reach beyond his own party and independents to build a consensus around issues step-by-step.



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This, in fact, is the only way ahead, but like tangoes, cooperation bipartisan cooperation requires two willing parties, and this remains a big question ahead. It has been complicated by President Donald Trump's obsessive efforts to overturn the Biden victory. One last gasp by the Trump forces is expected tomorrow, January 6, when Congress meets to tally the Electoral College votes and Vice President Michael Pence is supposed to declare the winner. The Trump efforts are also fueling divisions within the Republican party which, in part, reflect ambitious senators positioning themselves for assuming the mantle of being his successor. While Biden and Trump remain, for the moment, the party leaders, both in a sense are already transition



figures. The Democrats have a potential successor in Vice President-elect Kamala Harris and are busy organizing their government, but Trump's increasingly erratic and arguably undemocratic behavior, more visible to Republican elites than the party's base voters, has pushed Republicans toward open intraparty conflict.

The Biden Virus Priority. Biden, however, has downplayed the Trump election threat and has focused on the issues, including some continuing problems with transition processes. With still a few holes, Biden has announced most of his Cabinet and senior White House appointees, and he did so in a way that accommodated intra-party pressures described in Update #27. In the last two weeks of 2020, the President-elect had also increasingly begun to quietly fill in the governance vacuum that has accompanied the current President's fixation on overturning the past election. This is particularly the case for the highest priority – covid-19. Far from going away, the virus remains an ever-present threat, and the likely more contagious mutations discovered in the UK (and now in the US) and in South Africa only underscored the need to get the disease under control.

Biden had earlier announced a general framework for dealing with the virus, and he now is targeting speeding the vaccination effort. The Trump administration's goal of administering 20

million doses before the end of the year was far from successful, falling short of the production goals by about 8 million doses, and with only a little more than 3 million Americans actually having received their first shot. Biden criticized the Trump administration's performance and vowed to do better. He was clearly aware that a weak start would jeopardize his announced goal of a 100 million vaccinations in 100 days, and he also wanted to establish a record of Trump administration under-performance to counter probable future attacks on his later performance based on Trump over-promises. Dr. Antony Fauci, the U.S. top infectious disease expert and now a Biden adviser, reinforced Biden's assessment, saying the rollout was "not where we wanted it to be."

Biden also had a strong interest in a stimulus package to protect millions of unemployed at risk of losing benefits and households from eviction, and to avoid starting on January 20th in a much deeper economic hole. He worked with the Democratic Congressional leadership to accept a \$900 million plan, far below earlier Democratic requests, simply to get relief into the pipeline, and argued that further efforts, especially for state and local governments, could wait until later. The package also had an almost veto-proof vehicle in that it was attached to an omnibus spending bill to keep the government in business and finalize fiscal year 2021 appropriations.

The connection of the stimulus with the omnibus budget bill turned out to be very fortunate. Despite playing no personal role in the negotiations, which he had left to Treasury Secretary Steven Mnuchin, President Trump shocked everyone, including Mnuchin, by threatening to veto the bill, insisting that American taxpayers should get \$2000 checks (rather than \$600 in the bill) and that some of the spending (mostly foreign aid programs) in the omnibus were unjustified. Although Trump in the end caved into Republican pleadings to sign, the House Democrats leapt on the opportunity to pass another bill for the higher checks, thus closer to the package they had envisioned earlier. This gambit was bottled up in the Senate by McConnell, reflecting the concerns of some Republican fiscal conservatives. After three years of excessive spending by the Trump administration plus the massive stimulus needed in 2020, these Republicans are anticipating a tea-party type spending reaction next year, and they insisted on containing the covid-19 package below \$1 trillion, a level inconsistent with Trump's proposed enhanced payments.

Strife Within the Republican Party. In general, the Republican Party has maintained a relatively high degree of unity, which allowed them to thwart last year's impeachment effort, push through a Supreme Court nomination just before the election, and maintain a pretty solid front in not recognizing the Biden victory until after the Electoral College vote on December 14. The President's ebbing power and his erratic behavior, however, is fracturing the party between those who want accept the election results and move on and those who hope to become national figures by inheriting the Trump mantle or who remain afraid of his vengeance. As is often the case with defeat, the President and his supporters have increasingly targeted as their enemies less the other party than the fellow Republicans whom they regard as disloyal or believe they can bully into submission. This began after the election with Republican governors of Arizona and Georgia where majorities voted for Biden but the governors defended their state processes against Trump's unfounded complaints and law suits, and moved to the

Congress once senior party figures, including Majority Leader Mitch McConnell and House Minority Leader Kevin McCarthy, had congratulated Biden for his victory following the Electoral College vote.

Since the election, the President has been inattentive to general policy issues and obsessed with overturning the results of the election. In a bad mood, he impulsively vetoed the National Defense Authorization Act (NDAA). Here too, the President had been missing in action during the negotiations and tried to intervene only with significant changes only after the bill had passed the Congress by bipartisan veto-proof margins. The outgoing Congress, which ended December 31, decisively over-rode the veto on the NDAA, the first veto over-ridden during the Trump presidency. The bill included pay raises for American service personnel, and there was an anti-corruption provision outlawing anonymous shell corporations, a vehicle Trump and his family have used to hide ownership.

The degree of the President's obsession was on full display on January 3 when he spent an hour on the phone with the Republican Georgia Secretary of State, Brad Raffensperger, who was in charge of overseeing the Georgia elections. The latter's office recorded the call, and it was leaked to Atlanta and Washington newspapers. Several features stood out:

- The President was still vigorously seeking to overturn the election results or at the very least, reduce his margin of defeat.
- He was out of touch with reality – he insisted that he had won Georgia by 400,000 to 500,000 votes, based on his rally turnouts and vote totals in nearby states when in fact he had lost Georgia by almost 12,000. He also maintained that other states would soon “flip” to his side. There is no sign of that.
- Trump sought to dominate the conversation, interrupting his own people and alternatively trying to threaten or cajole Raffensperger and his counsel.
- He ignored or failed to appreciate the possible political or legal consequences of the call.

These political and legal consequences were soon in evidence. The call did not offend Trump supporters, but there was an immediate backlash within the elite, where business leaders, military leaders, and others called for a rapid Congressional certification of the Biden victory to spare further political theater. Some Democrats in Congress called for an FBI investigation of possible criminal election tampering, as did some Georgia officials. Some Republicans also spoke forthrightly about the need to defend the Constitutional processes. Raffensperger insisted the President was “plain wrong,” and angry Georgia election implementation manager Gabriel Sterling insisted that all the President's fraud allegations had been “thoroughly debunked,” and that the call was “not normal” and “out of place.”

A Last Trump Gasp on January 6?

That there was such a call at all came because of the belief by the President and those around him that the January 6th Congressional counting of the Electoral College votes and declaration

of the winner represented a last chance to overturn the Biden victory. A state's electors can be challenged if at least one member of each chamber does so, triggering at least a debate, but it will have no effect unless a majority of both chambers vote to throw out the count. The Vice President presides over this ritual, and ironically 4 years ago, it was then Vice President Biden who presided and quickly dismissed a challenge to Trump's victory brought by several Democratic House members but unsupported by a senator. In that case, Trump's opponent, Hillary Clinton, had conceded the election despite having 3 million more popular votes and very narrow losing margins in three critical states.

It seemed this scenario might be repeated in 2021, when a House member announced he would challenge, but Senate Republican majority leader, Mitch McConnell, discouraged any senator from joining. But the Trump pressures were relentless. First, the Senate's youngest member, Josh Hawley of Missouri, a staunch and ambitious Trump supporter, announced that he would challenge the Pennsylvania tally. To be not outdone, a group of eleven (now twelve) led by Senator Ted Cruz of Texas also announced their intention to challenge some tallies unless there was agreement on a ten-day commission to examine allegations of fraud. They claimed that they were representing the many voters who did not believe the results, but they were actually amplifying and seeking to legitimate mostly manufactured or vastly exaggerated charges. The challenges will slow the Congress' procedures, but it will ultimately have no effect on the outcome because it will not be supported by majorities in either chamber.

The proposed commission is a gimmick. There is no need for a commission to look into information that 60 judges have seen and rejected as well as the FBI and Attorney-general. Moreover, to be created, any commission would have to be composed of an equal number of Republican and Democratic members; it would have a split verdict along these lines and wouldn't convince anyone or change any minds. Finally, it arrogates to Congress what is clearly a state matter, something of great concern to true conservatives. This last point was used by another ambitious young Republican, Arkansas Senator Tom Cotton, to argue against supporting the Hawley-Cruz efforts despite his agreeing with Trump's charges. For his pains, he earned a rebuke from Trump. In contrast, Republican Senator Ben Sasse of Nebraska, who has never been a Trump supporter, carefully laid out his reasons for accepting the election results in a Facebook message, and several other Republicans also slammed the move as anti-democratic or a dangerous path that could ultimately hurt Republicans more than Democrats.¹

McConnell had hoped to avoid forcing Republican senators to vote on whether to support Trump's unfounded charges or not, but the announced challenges make it almost certain that they will have to. With a quarter or more of the Republican Senate caucus supporting the challenge against McConnell's advice, his own leadership and standing may be in some jeopardy. Trump's maneuverings, which have included encouraging massive protests in Washington by the "law and order" president as well as pushing as many members of Congress

¹ One argument is that it could lead to public pressures to eliminate the Electoral College, which over-represents less populous states, currently giving an advantage to Republicans. However, this would require a Constitutional amendment which these states themselves could block.

as possible to join the challenge have unrattled many in the nation's capital who see it as an unprecedented assault on the accepted institutions of American democracy. Those who expect only inconvenience and no serious political threat believe that the move is attractive to malleable Republican members of Congress as a way of showing loyalty precisely because the challenge cannot go anywhere and thus no one bears responsibility. Pence, obviously is also an aspirant to be Trump's heir, is in a critical position. Although his only and inescapable role is to declare the results, Trump and his supporters expect him "to do the right thing." Pence has said he supports the challenges, but to go beyond this puts him in very murky legal waters. Nonetheless, Washington will breathe more easily once the January 6th ceremony is over.

The Georgia Runoffs. The longer-term impact of the actions of the President and his supporters is hard to determine at this time, but the most immediate effect may be on today's two Georgia runoff races that will determine the leadership of the Senate during the two-year new Congress. The Republicans need to win just one to keep the leadership. Both parties have poured money into the races making them among the most expensive in history, and both party leaders have visited Georgia twice during the runoff period. Such polls as exist show the races as statistical ties. The outcome depends on turn-out

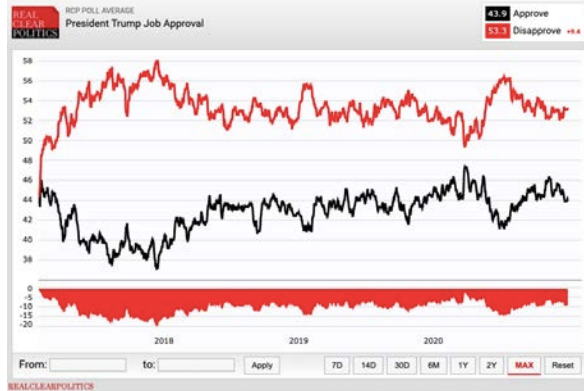
Republicans are buoyed by the recent history of Republican successes in statewide races (except the presidency this year), the advantage that both their candidates are incumbents, and that one of them, David Perdue, led his challenger, Jon Ossoff, by 88,000 votes in the November 3 race, even though Perdue fell just shy of 50% because of a marginal third candidate. The Democrats are cheered by the fact that more than 3 million voters chose to vote early, with especially heavy voting in Democratic districts.

President Trump's actions, which have included his criticism of the Republican governor and secretary of state, a tweet declaring the runoff elections "illegal and invalid," and his association with conservatives who once urged Republicans to protest by not voting, may end up hurting the Republican candidates, despite his willingness to campaign for them.

Like the November 3 Georgia presidential outcome, the results may not be known for days. The mostly Democratic early votes are counted later, and the less populous Republican counties report their votes before heavily Democratic Atlanta or its increasingly Democratic suburbs. The result may again give the appearance of Republican wins at the beginning of the count that disappear when all votes are counted, generating yet more allegations of fraud. Also potentially causing delay, Georgia allows losers the right to demand a recount if the loss is by less than a 0.5% margin.

The Legitimacy of the Biden Presidency

For now, Trump's attention has been more on simply overturning the election results than in delegitimizing the Biden presidency over the longer term. This will not be successful, as Trump sometimes seems to acknowledge, but the fact remains that his charges of voting fraud, despite the lack of evidence and their foundation in conspiracy theories, are widely believed by



Republican partisans if not by the political elite, whatever they may say in public. It is also true that despite Trump's almost complete absence from governing in the past several weeks, his job approval ratings have hardly changed, suggesting that his populist base of support remains stable. Some believe there will be long-lasting damage to Biden's position. However, the Biden legitimacy question in the end may be more a consequence of Biden's performance in office than any Trump effort now or later. While Biden

faces daunting challenges, there are some factors that may favor him, although these are not necessarily in his control.

First, the course of the pandemic, the vaccination program, and the economy are all uncertain. But if there is a steep learning curve in modes of getting vaccine into people's arms, as seems likely, it should reduce the spread of the disease and aid the economic recovery. It is not certain that Biden can push through another stimulus program as he would like and as widely believed needed, but McConnell's move at the end of the previous Congress to block consideration of the popular \$2000 per individual payment, the figure that Trump pushed, provides a powerful incentive for Republicans as well as Democrats to get behind a new package. There is also some pent-up demand by members of Congress to have some real legislative achievements. These were few and far between in the Trump years because of the high partisanship and the lack of concrete initiatives on the part of the administration (for example, on infrastructure), but also because McConnell's over-riding interest was in judicial appointments. Since the almost even split in both chambers of Congress will prevent the success of any highly partisan proposals, the only way to move successful legislation is through compromise. To the extent that Biden can craft realistic and serious proposals and engage in a continuous process of give-and-take, he may have accomplishments both for his administration and for the Congress. He has about one year before the 2022 mid-terms begin to dominate politics again.