

September 24, 2020

BidenBrief #8: Will He Go?

Hello Everyone,

When I started writing these Briefs, I pledged to avoid talking about the incumbent. But, now I can't avoid it.

Will he go if he loses? Once again, he has threatened as recently as today to ignore a norm that is central to our democracy – peaceful presidential transitions. Fortunately, some Republican leaders have started to push back – finally.

Lawrence Douglas, a professor of Law, Jurisprudence, and Social Thought at Amherst College has recently written a book on the subject, which is perfectly titled *Will He Go?* I have known Lawrence for a long time as an alumnus and a trustee.

Prof. Douglas cautions that our institutional arrangements and the Constitution are not designed to deal with a defeated, but recalcitrant, president. He argues that the most effective antidote is a **clearly decisive popular and electoral college vote to elect Joe Biden**. Otherwise, chaos could reign.

This book is both a stern warning and a strong call to action.

Here are some excerpts [emphases added in bold]:

What if the election produced an unclear result, one that could be contested? Or what if Trump lost—but refused to acknowledge or accept his defeat?...

If Trump is **thoroughly trounced** in November 2020, he will be limited in his maneuvers, master in democratic negation though he may be. But in case of a slender victory by his Democratic challenger or an uncertain result, chaos beckons. Trump will not go quietly. He might not go at all...

The next morning [after November 3rd], the nation awakes to a presidential Twitterstorm. Donald J. Trump @realDonaldTrump Biggest SCANDAL in AMERICAN history! Rotten Dems tried to steal presidency with FAILED Mueller WITCH HUNT. They tried to steal presidency with FAILED impeachment WITCH HUNT. Now SLEEPY JOE and the CORRUPT Dems are trying to STEAL this election from the American people. I will... Donald J. Trump @realDonaldTrump ... fight the RIGGED result and will punish TREASONOUS CNN and failing NY Times and the Pelosi GANG responsible for worst election HOAX ever!! The TREASONOUS HATERS won't get away with the GREATEST FRAUD in HISTORY!! [Prof. Douglas has perfectly captured his voice] ...

Why have American incumbents historically accepted electoral defeat? The answer is both simple and profound: Our political leaders have accepted—and internalized—the **norms** of the democratic process. To appreciate what this means, we need to note the difference between **conceding** and **submitting** to defeat. Conceding defeat is a normative act. [Submitting to defeat is succumbing to the inevitable.] ...

The contested presidential election of 2000 provides an important and even stirring example of the power of our norms...

Thirty-five days after the nation had gone to the polls, the count—and with it the national election—remained unresolved. Then, with Bush clinging to a 537-vote lead out of six million cast statewide, the Supreme Court suddenly stopped the Florida recount [by deciding a lawsuit], effectively handing Bush victory...

It was a dramatic action, and a controversial one. Yet we would be wrong to credit the Supreme Court with bringing needed closure to the 2000 election. That credit goes to Vice President Al Gore. On December 13, the day after the Court issued its ruling, Gore **conceded** [saying] ...

“Other disputes dragged on for weeks before reaching resolution, and each time both victor and vanquished have accepted the result peacefully and in a spirit of reconciliation. So be it with us.” ...

No law compelled him to accept the Court’s result; nothing in the Constitution demanded his concession...

Gore chose to accept the legitimacy of a Court decision that was widely attacked as dreadfully reasoned and transparently partisan. In doing so, he placed the good of the country over his own personal interest in winning...

Gore’s action reminds us of an essential truth: **Our Constitution does not secure the peaceful transition of power, but rather presupposes it...**

Now we turn to President Trump. What restraining force do norms play in his political calculations? The short, dispiriting, and irrefutable answer is—none...

norms define the limits of appropriate behavior; when someone violates them, we expect the violator to pay a price. Not so in Trump’s case...

Donald Trump does not care about political power conventionally conceived...

Trump...seeks power simply to keep himself in the public eye; or to put it differently, **the only power Trump really craves is the power to command attention.** [See my comments in October 2015 identifying Trump’s narcissism in Obamagram #100 <http://www.obamagrams.com/group-7/100-will-the-narcissist-help-to-restore-sanity/>] ...

Trump’s connection to chaos and mayhem goes well beyond management style. He draws energy and sustenance from chaos. His power to spread chaos keeps him at the center of attention—and remaining there is his principal political aim...

We have made the disturbing but confident prediction that anything short of a clear and emphatic defeat in 2020 will embolden Trump to either reject an electoral loss outright or, in the case of an uncertain result, refuse to accept any outcome other than victory...

The impressive stability that our system of presidential succession has demonstrated for over two centuries might suggest we are very well prepared. Alas, we are not...

[We] will be voting not directly for this or that candidate, but for a slate of electors pledged to him, who will go on to cast their votes **six weeks later**...

(A federal law from 1948 has declared “the first Monday after the second Wednesday in December” as the date when the Electoral College casts its votes.)...

The certified results from every state and D.C. will then be quaintly sent by registered mail to the president of the Senate—that is, Vice President Pence. By the terms of the Twelfth Amendment, Congress will convene in a joint session to count the votes and declare a winner. This is set by law for January 6 following the election—in 2021 [**more than two months after the election**] ...

[Mail-in ballots could take days or weeks to count after Nov. 3. Unless the results are crystal clear on election night, these ballots could prove decisive to a Biden win.] The phenomenon—in which absentee and provisional ballots typically break Democratic—has been dubbed “blue shift”...

[The combined electoral college and mail-in ballot delays could be fertile grounds for chaos this time.]

Just as I was drafting this Brief, *The Atlantic* published the attached article (*The Election That Could Break America*) on this very same subject. Prof. Douglas is cited in it.

Here is one poignant section:

Trump’s invincible commitment to this stance [never conceding] will be the most important fact about the coming Interregnum [November 3 to January 6.] It will deform the proceedings from beginning to end. We have not experienced anything like it before.

Maybe you hesitate. Is it a *fact* that if Trump loses, he will reject defeat, come what may? Do we *know* that? Technically, you feel obliged to point out, the proposition is framed in the future conditional, and prophecy is no man’s gift, and

so forth. With all due respect, that is pettifoggery [I love that word.] We know this man. We cannot afford to pretend.

Trump's behavior and declared intent leave no room to suppose that he will accept the public's verdict if the vote is going against him. He lies prodigiously—to manipulate events, to secure advantage, to dodge accountability, and to ward off injury to his pride. An election produces the perfect distillate of all those motives.

Pathology may exert the strongest influence on Trump's choices during the Interregnum. Well-supported arguments, some of them in this magazine, have made the case that Trump fits the diagnostic criteria for psychopathy and narcissism. Either disorder, by its medical definition, would render him all but incapable of accepting defeat.

I think you get the picture. It is now much clearer to me. **Unless Joe Biden wins decisively and early, we may have another historic crisis on our hands.** One that may be even bigger than the pandemic, the recession, or this moment of racial reckoning.

Please, as always, pass it along.

Chuck