

What if Trump Won't Go?

Many people, not just in the north-eastern and west-coast states of the USA, but also across countries that are natural US allies, are hoping that November's US election will mean the end of Donald Trump's presidency. But delusional autocrats don't usually just ride quietly off into the sunset.

The much-vaunted US Constitution has already shown itself to be frayed at the edges. It is clear, for example, from James Madison's Federalist essay number 10, that the Electoral College was devised precisely to prevent demagogues like Trump reaching the highest office. In that it failed. Most people assume that the Constitution will prevent him from staying in office if he loses the election in November. But it is possible to envisage several scenarios in which it could fail in that too.

Scenario 1 is the inverse of 2016. Trump gains a narrow majority of the popular vote but loses in the Electoral College. He immediately launches legal challenges in two or three states where the election went narrowly against him. Remember that in 2000 the election was only decided because Al Gore desisted from his legal challenge in Florida. If he had persisted, the election could have been decided in the Supreme Court. Remember also that Trump took extreme measures to ensure that the Supreme Court would have a majority of like-minded judges. It is quite conceivable that an agonizing court case will not have concluded by the time Inauguration Day rolls round in January 2021. It is even conceivable that a Trump-leaning judiciary will rule in his favour. We could be approaching the American Civil War, version 2.0.

Scenario 2 would kick in if Trump realizes that he is almost sure to lose comprehensively in November. The Covid-19 pandemic may provide sufficient cover to declare emergency rule by presidential decree, but if that isn't sufficient, he could start a war. The US has never missed a scheduled general election, even in wartime, but many countries have postponed elections in times of national emergency, and there's always a first time for everything. You can be sure that Mr Trump's legal advisors are poring over the Constitution for passages that could be construed as allowing electoral postponement in emergencies. It hardly needs saying that postponement would effectively mean cancellation. Whether Congress would have the will or ability to block such a coup d'état remains to be seen. The Senate is already in Trump's pocket. As for the House of Representatives, it depends on how serious Trump's war is. Would war against Iran be enough to suspend normal constitutional checks? Well, if not, how about North Korea? And then there is China... Surely, you think, not even Trump is insane enough to start World War III just to stay in power! Are you really sure?

Scenario 3 involves jailing the opposing presidential candidate, likely to be Joe

Biden. Trump's team have been hard at work, almost since his inauguration, on black operations regarding likely opponents. Given a compliant Supreme Court, along with the best fake news operators that money can buy, it may well be possible, between the election and inauguration, to make a politicized Supreme Court convict the winning candidate of high crimes. If the election winner is serving time for a felony, Congress might have no alternative to accepting an extension to the incumbent's term.

Scenario 0, of course, is that Trump actually wins the election in November. Perhaps his base of loyal supporters will still be numerous enough. Even if not there are other options. He has been relentlessly broadcasting warnings about potential election fraud for many months. Given his special interest in the subject, it is prudent to assume that his people have acquired considerable expertise in that particular dark art. The idea that he'd balk at using the underhand methods that he accuses his opponents of planning hardly seems plausible.

So there you have it. These are just four of the ways that Mr Trump might contrive to stay in office until 2025. By that time, he may have found a way to arrange a sufficiently favourable Congress to repeal the 22nd Amendment, which forbids presidents from serving a third or fourth term.

Be prepared for unpleasant surprises.

[Richard Forsyth, May 2020.]