

# Teaching America in the Shadow of the Trump Presidency\*

Haruo IGUCHI\*\*

トランプ政権時代の米国を歴史的な観点から教える方法

井口 治夫

## Abstract :

In the aftermath of the 2000 Presidential election, filmmaker Michael Moore in his 2004 documentary movie, *Fahrenheit 9/11*, looked back at Albert Gore's defeat in the electoral college to George W. Bush despite winning the popular vote and remarked, "Was it all just a dream? . . . Did the last four years not really happen?" If Moore were to produce a documentary on the Trump presidency in 2020, he would probably make a similar comment the Presidency of George W. Bush continued for two terms and revived the neoconservatives and American unilateralism. This was followed by the Presidency of Barack Hussein Obama, who distanced himself from neoconservatism and pursued multilateralism. In this tug-of-war between two competing view of the world in the twenty-first century, will the Trump Presidency be referred to as "His Accidency"? "His Accidency" had been used to mock a long-forgotten antebellum President, John Tyler, who became president one month into the presidency of William Henry Harrison. Tyler became the *de facto* third-party president after alienating his Whig Party. In case of Trump, he had entered the White House in the aftermath of alienating the majority of the Republican establishment and mainstream Republicans. Unlike Tyler, who had an irreconcilable fallout with his party's leader in the Senate, Henry Clay of Kentucky, Trump has thus far managed to maintain political rapport with the Republican Majority in the Senate, Mitch McConnell of Kentucky. However, the Trump presidency, like the Tyler presidency, has been plagued by cabinet resignations. Is it possible that Trump might be elevated in American history to the stature of Theodore Roosevelt, who ended up launching a new movement within the Republican Party and later formed a third party? A beneficiary of the precedent set by Tyler in elevating the vice president to the president when a sitting president dies, Roosevelt had rated Tyler as one of the worst presidents in U.S. history and judged him as a man of "monumental littleness." Are Trump's embracing of white nationalism and state rights twenty-first century versions of those doing Tyler's and Andrew Jackson's antebellum America? The American media have pointed to Trump's election as reminding Americans of a 1957 Elia Kazan movie, *A Face in the Crowd*. Trump is the first president relying on the social media, Twitter, to convey his populist agendas and Trump White House policies ; his reliance on the social media is similar to recent corporate trend in using social media for corporate communications and marketing. Trump's confrontations

---

\*A major portion of this paper was presented as an invited speaker in a panel organized by the Japan Association for American Studies for its annual meeting in June 2019. This paper is a work in progress and it aims to explore ways in which the Trump Presidency can be taught from a historical perspective.

\*\*Professor, School of International Studies, Kwansei Gakuin University

with mainstream media and dismissing many of their reports as about him and his policies as “fake news” are similar to Spiro Agnew’s approach to and relations with the American media during his corrupt governorship and vice presidency. Is Trump’s stance on immigrants a historical replay of mass deportation of Mexicans and Mexican Americans during the presidency of Herbert Hoover in midst of the Great Depression? Is Trump creating a new form of what historian Arthur Schlesinger had described as “the Imperial Presidency,” a trend that can be traced back to the years of Tyler and his successor, James Polk? The last question should be analyzed in tandem with the twenty-first century version of the America First movement. Of course, the contemporary America First movement should be understood in the context of social disruptions and anxieties brought by 9/11, the Great Recession, the change in the racial composition of America, and the advent of technologies concerning Artificial Intelligence. Lastly, while Tyler had signed the first trade treaty with China, will Trump’s hard ball approach to China end with agreements that usher in a new era of national security-centered approach to trade, an approach that had been pursued by Nazi Germany and militarist Japan in the 1930s in their pursuit of hegemony? The last question, of course, should be analyzed in the context of the Sino-American rivalry for global leadership in the twenty-first century.

要旨：本論文の多くの部分は、筆者により、2019年6月法政大学で開催された日本アメリカ学会年次大会における韓国アメリカ学会との合同パネルで発表されている。このパネルは、日本アメリカ学会が企画したものであり、筆者は、大会を企画した委員会からトランプ政権をアメリカ史の文脈でどう教えることができるかについて発表する依頼を受けた。このパネルの運用言語は英語であった。ここに掲載された論文は、この学会で発表したことに加えて、2019年7月から10月ごろまでのトランプ政権を巡る米国政治とトランプ政権の米国外交・安全保障について考察を行っている。これらの考察は、米国における報道と最近の学術研究に依拠している。

本論文は、次のテーマ・問題を取り上げている。

- 1、2016年の大統領選と2000年の大統領選
- 2、トランプ候補とクリントン候補を巡る政治スキャンダル
- 3、トランプ大統領に対する歴史的評価は、ジョン・タイラー大統領の類になるのかセオドア・ローズヴェルトの類になるのか
- 4、トランプ政権に対する支持率を他の歴代政権の支持率と比較検証
- 5、トランプのポピュリズムを1948年と1968年の第三政党候補者のポピュリズムと比較検証
- 6、非白人化する米国社会とトランプ支持者との関係
- 7、フーヴァー政権時代とトランプ政権時代のヒスパニック系米国人に対する対応の類似性
- 8、AIが米国にもたらした社会的・経済的影響とラスト・ベルトの民主党支持者の反乱
- 9、トランプ政権の対中政策とピーターナヴァロー
- 10、トランプ政権の関税政策とフーヴァー政権時代の関税政策の類似性
- 11、新旧アメリカ・ファースト運動
- 12、アーサー・M・シュレジンジャー教授が考察した帝政大統領をトランプ大統領に適

用して考察

- 13、トランプ大統領に対する弾劾裁判の可能性——ミューラー報告書、ウクライナ問題
- 14、米国政治史における大統領の弾劾裁判
- 15、米国議会と行政府の力関係を巡る法廷闘争の歴史

**Key words** : Donald Trump, John Tyler, Herbert Hoover, Theodore Roosevelt, America First, China, tariff, trade, populism, race, impeachment

## Donald J. Trump and His America First Movement

In the aftermath of the 2000 Presidential election, filmmaker Michael Moore in his 2004 documentary movie, *Fahrenheit 9/11*, looked back at Albert Gore's defeat in the Electoral College to George W. Bush despite winning the popular vote and remarked, "Was it all just a dream? . . . Did the last four years not really happen?" If Moore were to produce a documentary on the Trump Presidency in 2020, he would probably make a similar comment. Trump won the Electoral College by a wider margin than did G. W. Bush, but lost the popular vote by a greater margin than did Bush. The 2016 Presidential election was a bitterly contested one as were the Presidential elections of 1824 1876 and 2000.

Even though leading public opinion polls immediately before the November 2016 election indicated Hilary Clinton was likely to win the presidency and even though the American public learned about many scandals surrounding Trump regarding his business and personal life, Clinton's past political scandals cast doubts about her integrity. In July of that year *Washington Post* reported the following :

Nearly 20 years before FBI Director James B. Comey declared that "no reasonable prosecutor" would bring a criminal case against Clinton over her use of a private email server while secretary of state, Clinton narrowly escaped a similar legal peril amid the Whitewater investigation that engulfed much of her husband's time as president.

While history remembers the 1990s probe led by independent counsel Kenneth W. Starr for its pursuit of President Bill Clinton over the possibility he had lied under oath about his relationship with intern Monica Lewinsky, internal documents from the inquiry show how close prosecutors came to filing charges at that time against Hillary Clinton. They even drew up a draft indictment for Clinton, which has never been made public.<sup>1)</sup>

The Presidency of George W. Bush continued for two terms and revived the neoconservatives and American unilateralism. This was followed by the Presidency of Barack Hussein Obama, who distanced himself from neoconservatism and pursued multilateralism. In this tug-of-war between two

---

1) Rosaline S. Helderman, "In email probe, echoes of another time prosecutors weighed charging Hillary Clinton with a crime," *Washington Post*, July 9, 2016.  
[https://www.washingtonpost.com/politics/in-email-probe-echoes-of-another-time-prosecutors-weighed-charging-hillary-clinton-with-a-crime/2016/07/09/5bbeb7c8-4498-11e6-88d0-6adee48be8bc\\_story.html](https://www.washingtonpost.com/politics/in-email-probe-echoes-of-another-time-prosecutors-weighed-charging-hillary-clinton-with-a-crime/2016/07/09/5bbeb7c8-4498-11e6-88d0-6adee48be8bc_story.html) (accessed Nov. 24, 2019).

competing view of the world in the twenty-first century, Donald Trump and his America First movement, a political movement whose supporters campaigned with the slogan “Make America Great Again,” entered the White House. Trump has become the first President to use Twitter as a means of bullying or confronting his perceived enemies and sending his messages and major policies to the outside world on daily basis and has used it to mobilize his limited support base. With his extensive experience as a major TV personality in the hit series *The Apprentice*, he has struck a close alliance with conservative media, including *Fox News* whose political commentators at times seemingly acted as a mouthpiece of the Trump Presidency and whose former executives worked for the Trump White House. Trump came into the White House with a checkered business experience, destroying the USFL(United States Football League) in the mid-1980s and bankrupting his casino business in Atlantic City in the 1990s.<sup>2)</sup>

Since taking office President Donald Trump has suffered from consistent low approval rate and in the aftermath of the worst December U.S. stock market performance since the Great Depression and in midst of a partial government shutdown (December 22, 2018-January 25, 2019) resulting from President Trump’s decision to declare an national emergency on the Mexican-American border to deal with caravans of refugees coming north from Central America, Trump’s job approval rate compared with his predecessors since Reagan stood as follows :

|            |       |
|------------|-------|
| Trump      | 37(%) |
| Obama      | 50    |
| G. W. Bush | 58    |
| Clinton    | 47    |
| Reagan     | 37    |

Remarkably in spite of this low job approval rate, a Gallup poll analysis showed in December 2018 that Trump’s job approval rate was stable compared with his predecessors since Eisenhower.

One way to describe President Trump’s job approval ratings thus far is “unprecedented.” Never before has a president had such low ratings early on in his presidency, and his ratings are by several measures the most stable a president has had during his first two years in office, a time when presidents’ ratings usually show a larger degree of variation. Much of those ratings are a function of the polarized views of Trump, with Democrats giving him low ratings from day one while Republicans’ ratings have remained high throughout his time in office. The 2016 campaign presaged these ratings with his low favorable ratings which included little positivity from Democrats, or independents. But many of these patterns under Trump were in place before he took office. Polarization in presidential approval ratings began to expand under Reagan and has

---

2) “The day Donald Trump’s narcissism killed the USFL,” September 11, 2018, *The Guardian*  
<https://www.theguardian.com/sport/2018/sep/11/the-day-donald-trumps-narcissism-killed-the-usfl>. (accessed Nov. 24, 2019).  
 Jeff Pearlman, “When Trump Made the USFL Great Again,” *New York Times*, October 2, 2018,  
<https://www.nytimes.com/2018/10/09/opinion/when-trump-made-the-usfl-great-again.html>. (accessed Nov. 24, 2019).  
 “A Mar-a-Lago Weekend and an Act of God : Trump’s History With Deutsche Bank” March 18, 2019  
<https://www.nytimes.com/2019/03/18/business/trump-deutsche-bank.html>, (accessed Nov. 24, 2019).

accelerated with each president since Clinton. And while Obama had a strong honeymoon, his support generally held in the 40s after that until his last year in office. Obama's approval rating did not increase significantly in response to a number of events between 2010 and 2015 that arguably could have produced rallies. With these recent trends in presidential approval only becoming more entrenched in Trump's term, his approval ratings may be stuck in the high 30s or low 40s for the foreseeable future.<sup>3)</sup>

Furthermore, a recent analysis by Gallup on May 3 showed that in the aftermath of the release of the Mueller report and in spite of controversies surrounding Attorney General William Barr's interpretation of the report, perhaps in part due to strong first quarter GDP figure in 2019 and the strong U.S. stock market performance during the latter half of April.

Approval of President Donald Trump's job performance remains relatively high for him following the release of special counsel Robert Mueller's report in late March, and amid a flurry of positive economic news. After jumping from 39% in early March to 45% in the first half of April, Trump's approval rating held at 46% in a new Gallup poll conducted April 17-30.

The latest rating extends the upper limits of President Donald Trump's narrow approval rating range by one percentage point, from his previous range of 35% to 45%. In addition to the initial interpretation of the Mueller report, which Trump claimed vindicated him from charges that he had colluded with Russia, the economy has offered several reasons for Americans to look more favorably on Trump. These include a strong jobs report on April 5, news that U.S. gross domestic product increased by 3.2% in the first quarter, and U.S. stocks reaching new highs.

More negative news for Trump about the Mueller investigation has appeared since Gallup's latest field period ended, including revelations that Mueller had disputed Attorney General William Barr's synopsis of the report, claiming that he had misled the public. This revelation has led to questions over Barr's honesty in recent days as well as demands from some Democrats that Barr resign -- but any public reaction to that would not be reflected in the latest approval rating.<sup>4)</sup>

The epicenter of Trump's America First movement like its predecessor in 1940-1941, is the Midwest. However, while the America Firsters supported limited defense spending focusing on the defense of the Western Hemisphere, opposed big government and increased power of the executive branch and opposed military interventions overseas, the contemporary America First movement should be understood in the context of the continuation of the military-industry complex thriving under Reaganism, social disruptions and anxieties and xenophobia brought by 9/11, the Great Reces-

---

3) Jeffrey M. Jones, "Trump Approval More Stable than Prior Presidents," *Polling Matters*, Gallup, December 21, 2018, <https://news.gallup.com/opinion/polling-matters/245567/trump-approval-stable-approval-prior-presidents.aspx> (accessed Nov. 24, 2019).

4) Justin McCarthy, "Trump Approval Remains High for Him, at 46%," *Politics Gallup*, May 3, 2019, <https://news.gallup.com/poll/249344/trump-approval-remains-high.aspx> (accessed Nov. 24, 2019).

sion, the change in the racial composition of America, and the advent of technologies concerning Artificial Intelligence.

The Reagan Democrats in the upper Midwest — Michigan Wisconsin and Pennsylvania, played a crucial role in achieving his victor in the 2016 election and embraced Trump’s America First movement. Yet, they have flipped back to voting for Democratic candidates in the 2018 midterm election.<sup>5)</sup>

### “His Accidency”?

Will the Trump presidency be referred to as “His Accidency”? “His Accidency” had been used to mock a long-forgotten antebellum President John Tyler, who became president one month into the presidency of William Henry Harrison. Tyler became the *de facto* third-party president after alienating his Whig Party. In case of Trump, he had entered the White House in the aftermath of alienating the majority of the Republican establishment and mainstream Republicans.

Unlike Tyler, who had an irreconcilable fallout with his party’s leader in the Senate, Henry Clay of Kentucky, Trump has thus far managed to maintain political rapport with the Republican Majority in the Senate, Mitch McConnell of Kentucky, whose wife is Trump’s Secretary of Transportation. However, the Trump presidency, like the Tyler presidency, has been plagued by cabinet resignations and ; as Chris Christie recalled in his memoir, though he, as the head of the Trump transition team, had a detailed list of people to start the Trump White House, Trump’s son-in-law, Jared Kushner, who resented Christie for having sent his father to jail while Christie was New Jersey’s Attorney General, succeeded in removing Christie and gutting the implementation of Christie’s personnel list. Trump, ignoring the anti-nepotism law created after John F. Kennedy’s appointment of his brother, Robert F. Kennedy, as his Attorney General, hired his daughter, Ivanka Trump, and her husband, Kushner, as senior staff in the White House staff without salary and, overturning White House personnel recommendation to not grant top security clearance to them, provided such clearances to them and many others who are close to Trump.

Nevertheless, is it possible that Trump might be elevated in American history to the stature of Theodore Roosevelt, who ended up launching a new movement within the Republican Party and later formed a third party? A beneficiary of the precedent set by Tyler in elevating the vice president to the president when a sitting president dies, Roosevelt had rated Tyler as one of the worst presidents in U.S. history and judged him as a man of “monumental littleness.”<sup>6)</sup>

5) Gerald F. Seib, “How Democrats’ Rust Belt Success Alters 2020 Picture Counties that voted for Trump in 2016 flipped back in midterms, raising questions about power of president’s trade policies,” *The Wall Street Journal*, Nov.19, 2018, <https://www.wsj.com/articles/how-democrats-rust-belt-success-alters-2020-picture-1542646086> (accessed Nov. 24, 2019).

“Presidential Approval Ratings : Historical Trends and Statistics,”

<https://news.gallup.com/poll/116677/presidential-approval-ratings-gallup-historical-statistics-trends.aspx> (accessed Nov. 24, 2019).

Oliver Wasman, “President Trump’s Approval Rating Is at a Near-Record Low” *Time*, January 24, 2019,

<http://time.com/5511118/presidential-approval-ratings-history/> (accessed Nov. 24, 2019).

Nick Bryant, “How Will History Judge President Trump?” *BBC News New York*, Jan. 19, 2019, BBC article on Trump at the end of his second year

<https://www.bbc.com/news/world-us-canada-46895634> (accessed Nov. 24, 2019).

6) Edward P. Crapol, *John Tyler, the Accidental President* (Chapel Hill : University of North Carolina Press, 2002). ↗

## Race in America

Are Trump's embracing of white nationalism and state rights twenty-first century versions of those during Tyler's and Andrew Jackson's antebellum America? An article in *Time* pointed to the fact that Trump

rode race, the third rail of American politics, straight to the White House. He challenged Obama's citizenship, called Mexicans rapists and criminals, proposed to ban all Muslims from entering the country, insisted on the need for "law and order," argued that immigration was changing the "character" of the United States and openly courted white supremacists. He dog-whistled in a way that let no one feign deafness. Trump promised to dismantle Obamacare and provide a "beautiful" alternative, to make Mexico pay for "the wall" and to restore America's manufacturing greatness — jobs and tax relief included. His pledges spoke directly to the forgotten American's sense of victimhood: that he had been left behind during the Obama years and that his way of life was under threat.

Trump may not be nefarious as Strom Thurmond, a third party candidate in the Presidential election of 1948 or Henry Wallace, a third party candidate in the Presidential election of 1968, but

Trump exists in a sweet spot between the soft bigotry of self-contradictory American liberals and the loud racism of those who shout "nigger" and demand that Latino people go back to Mexico, all stuck in an economic system that cannot reconcile the startling gap between the top 1% and those busting their behinds to make ends meet. Trump sits right there, amid the mess and false promises, with a smirk on his face.

In analyzing the rise of racism and anti-immigrants in America, *Time* pointed to the uneasiness of changing racial composition in America among whites in America who voted for Trump.

In 2016, the degree to which a person deeply identified as white "strongly related to Republicans' support for Donald Trump," political scientists John Sides, Michael Tesler and Lynn Vavreck write in their forthcoming book, *Identity Crisis: The 2016 Presidential Campaign and the Battle for the Meaning of America*. For instance, among white millennials who voted for Trump, a sense of white vulnerability — "the perception that whites, through no fault of their own, are losing ground to others" — and racial resentment were more important factors than economic anxiety, found researchers Matthew Fowler, Vladimir Medenica and Cathy Cohen of the GenForward Survey at the University of Chicago. In fact, Tesler says — and this insight goes beyond those millennials — "economic anxiety isn't driving racial resentment; rather, racial resentment is driving economic anxiety."<sup>7)</sup>

---

↘ On Roosevelt's judgement about Tyler see *ibid.*, 172. With regard to the in-fighting in the Trump transition team, see Chris Christie, *Let Me Finish: Trump, the Kushners, Bannon, New Jersey, and the Power of In-Your-Face Politics* (New York: Hachette Books, 2019).

7) Eddie S. Glaude, Jr. "Don't Let the Loud Bigots Distract You. America's Real Problem With Race Cuts Far Deeper," *Time*, September 6, 2018, ↗

In 2044 the U.S. Census Bureau projects that white Americans excluding Hispanics will be low 50 % of racial composition in America.<sup>8)</sup> This issue of white anxiety about becoming minorities was one of major issues discussed in a special issue of *National Geographic* in April 2018. In the guide to teachers and parents who were considering using the April 2018 edition of the magazine, the guide discussed one of the feature articles in the following way.

In the article “The Rising Anxiety of White America,” white residents of Hazleton, Pennsylvania, react to the fact that they now live in a city where over half the population is Latino. It went from a majority white town to a majority Latino town in 16 years. In 2000 Hazleton’s 23,399 residents were 95 percent non-Hispanic white and less than 5 percent Latino. By 2016 Latinos became the majority, composing 52 percent of the population, while the white share plunged to 44 percent. Four states in the United States (California, Hawaii, New Mexico, and Texas) already have majority populations consisting of people from racial or ethnic minority groups ; so does the District of Columbia. The Census Bureau estimated that in 2015, 50.2% of babies born were from racial or ethnic minorities. While whites dominate at the present time in economic and political power, shifting demographics could eventually close the gap.

*What does it mean when whites say they feel outnumbered when they go to the bank or the doctor’s office or to the Hazleton Funfest?*

*Is this term “outnumbered” much more complex than meets the eye?*

*Which cultural identifiers influence the term “outnumbered”?*

*Is it possible for whites to understand that they are safe even if outnumbered, and that their fear has caused them to disparage people they don’t even know?*

*Why does being in the minority have such a negative connotation?<sup>9)</sup>*

It remains to be seen whether or not Trump’s stance on immigrants would lead to a historical replay of mass deportation of Mexicans and Mexican Americans during the presidency of Herbert Hoover in midst of the Great Depression.<sup>10)</sup>

## **The Fourth Industrial Revolution and a New Open Door Policy toward China and the Outside World?**

The advancements in artificial intelligence and information technology during the last two decades has ushered in the age of the fourth industrial revolution. A *Gallup* survey in January 2018

---

↘ <http://time.com/5388356/our-racist-soul/> (accessed Nov. 24, 2019).

Michael Tesler and Lynn Vavreck write in their forthcoming book, *Identity Crisis: The 2016 Presidential Campaign and the Battle for the Meaning of America* (New Jersey: Princeton University Press, 2018). (accessed Nov. 24, 2019).

8) Sabrina Tavernise, “Why the Announcement of a Looming White Minority Makes Demographers Nervous” *New York Times*, November 22, 2018, <https://www.nytimes.com/2018/11/22/us/white-americans-minority-population.html> (accessed Nov. 24, 2019).

9) *National Geographic*, April 2018, <https://www.nationalgeographic.com/magazine/2018/04/> (accessed Nov. 24, 2019).

10) “Citizens Facing Deportation Isn’t New. Here’s What Happened When the U.S. Removed Mexican-Americans in the 1930s”, *Time*, August 2, 2019, <https://time.com/5638586/us-citizens-deportation-raids/> (accessed Nov. 24, 2019).



showed that

76% of Americans say AI will change the way people work and live  
77% of these U.S. adults say those changes will be positive  
However, 73% say AI adoption will result in net job loss<sup>11)</sup>

A *Forbes* magazine article in August 2018 echoed this anxiety by arguing that job creation by AI would not offset job losses by AI.<sup>12)</sup>

### *China*

While President Tyler's administration had signed the first trade treaty with China (The Treaty of Wanghia in 1844), will Trump's hard ball approach to China end with agreements that usher in a new era of national security-centered approach to trade, an approach that had been pursued by Nazi Germany and militarist Japan in the 1930s in their pursuit of hegemony? The last question, of course, should be analyzed in the context of the Sino-American rivalry for global leadership and technological dominance in the twenty-first century.

The Trump administration in 2018 invoked on national security grounds Section 232 of the Trade Expansion Act of 1962 to impose import tariffs on foreign steel and aluminum products. The Trump administration also put pressures on Mexico, Canada, EU, South Korea and Japan to agree on a new trade agreement or risk American imposition of import tariffs on their automobiles and car components exported to the U.S. Trump retained tariffs on steel and aluminum products that the U. S. imported from Canada and Mexico even after America's NAFTA partners agreed, after tumultuous negotiations among the three North America countries, to sign a revised version of the 1994 NAFTA agreement on May 17 the Trump administration announced its decision to remove, in exchange for Mexican and Canadian levying of taxes on U.S. pork dairy products and meat, tariffs it had imposed on Canadian and Mexican steel and aluminum products and to defer for six months import tariffs on automobiles and car parts exported by Canada, Mexico, EU, South Korea and Japan to the U.S.

In the meantime, the Trump administration continued to not only retain tariffs and Chinese exports of these products to the U.S. but have also expanded the items of Chinese goods to be slapped with American import tariffs ; furthermore, the Trump administration decided to increase the import tariffs from China that it had set t 10 % last spring to 25 % after the Sino-American trade negotiations stalled on May 10. China runs a massive trade surplus with the U.S. retaliated in kind but it relies on exporting to American market far more than the U.S. exporting to China.<sup>13)</sup>

---

11) R. J. Reinhart, "Americans Upbeat on Artificial Intelligence, but Still Wary," *Economy, Gallup*, January 2018.  
<https://news.gallup.com/poll/226502/americans-upbeat-artificial-intelligence-wary.aspx> (accessed Nov. 24, 2019).

12) Kiran Garimella, "Job Loss from AI? There's More to Fear," *Forbes*, August 7, 2018,  
<https://www.forbes.com/sites/cognitiveworld/2018/08/07/job-loss-from-ai-theres-more-to-fear/#6bd2fd923eba> (accessed Nov. 24, 2019).

13) William Mauldin and Siobhan Hughes, "Trump Identifies His Trade Weapon of Choice to the Dismay of Congress," *Wall Street Journal* May 24, 2018,  
<https://www.wsj.com/articles/trumps-gop-allies-worry-over-possible-new-u-s-auto-tariffs-1527179893> (accessed Nov. 24, 2019).

Ana Swanson, "Trump Lifts Metal Tariffs and Delays Auto Levies, Limiting Global Trade Fight" *New York Times*, ↗

On May 15 China encountered further pressure from the U.S. As he had had in dealing with the refugee crisis in the American southern border with Mexico, Trump issued an executive order declaring national emergency to tackle an issue he saw problematic. On May 15, he issued an “Executive Order on Securing the Information and Communications Technology and Services Supply Chain.”

I, DONALD J. TRUMP, President of the United States of America, find that foreign adversaries are increasingly creating and exploiting vulnerabilities in information and communications technology and services, which store and communicate vast amounts of sensitive information, facilitate the digital economy, and support critical infrastructure and vital emergency services, in order to commit malicious cyber-enabled actions, including economic and industrial espionage against the United States and its people. I further find that the unrestricted acquisition or use in the United States of information and communications technology or services designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries augments the ability of foreign adversaries to create and exploit vulnerabilities in information and communications technology or services, with potentially catastrophic effects, and thereby constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. This threat exists both in the case of individual acquisitions or uses of such technology or services, and when acquisitions or uses of such technologies are considered as a class. Although maintaining an open investment climate in information and communications technology, and in the United States economy more generally, is important for the overall growth and prosperity of the United States, such openness must be balanced by the need to protect our country against critical national security threats.<sup>14)</sup>

Although the executive order did not name a specific country or company, the U.S government effectively banned American companies from importing Chinese telecommunications equipment's such as world's leading 5 G telecommunications equipment manufacturer, Huawei. The executive order required American companies to seek licensing authorizations from the Department to do so ; this announcement indicated that the Trump administration was going to ban the usage of Chinese telecommunications equipments in the U.S. on national security grounds. On May 21 the Commerce Department issued a ninety-day reprieve to avoid a sudden impact of the executive order on American companies such as QUALCOMM and Google that had significant business dealings with Huawei.

Trump's executive order on dealing with Chinese telecommunications and information technology companies occurred in midst of a growing bipartisan support. On January 17, Reuters reported that

---

↘ May 17, 2019,  
<https://www.nytimes.com/2019/05/17/us/politics/china-auto-tariffs-donald-trump.html> (accessed Nov. 24, 2019).

14) May 15, 2019 White House website,  
<https://www.whitehouse.gov/presidential-actions/executive-order-securing-information-communications-technology-services-supply-chain/> (accessed Nov. 24, 2019).

Senator Tom Cotton and Representative Mike Gallagher, both Republicans, along with Senator Chris Van Hollen and Representative Ruben Gallego, both Democrats, introduced the measures, which would require the president to ban the export of U.S. components to any Chinese telecommunications company that violates U.S. sanctions or export control laws.

The bills specifically cite ZTE and Huawei, both of which are viewed with suspicion in the United States because of fears that their switches and other gear could be used to spy on Americans. Both have also been accused of failing to respect U.S. sanctions on Iran.<sup>15)</sup>

Reflecting this growing bipartisan support for Trump's economic policy toward China, an early morning CNBC discussion on May 15 between New York Times columnist, Thomas Friedman, a liberal and a globalist, and populist/white nationalist Steve Bannon, President Trump's former White House Chief Strategist and former executive chairman of the right-wing Breitbart News, agreeing that now was the time to pressure China into accepting transparent rules on trade, equal commercial opportunities in China, and the implementations of rules and regulations that prohibit theft of intellectual property and forced transfer of technology by foreign companies operating in China to their Chinese counterparts.

Friedman, while critical of Trump on many issues, wrote about a year ago that the economic fight with China is "worth having," adding the president's "instinct is basically right" to hold the line "before China gets too big." The country is so polarized politically that the mere mention of Bannon and Friedman being on the same page on anything becomes a watershed event.

"I really agree with so much of what Steve said," said Friedman, who was guest-hosting CNBC's "Squawk Box" during the Bannon interview Wednesday morning. "The stakes of this moment, I think, people don't fully appreciate," referring to the economic clash of the world's two biggest superpowers.<sup>16)</sup>

The Trump administration seems to be using tariffs to implement a new Open Door policy announced and articulated by then Secretary of State John Hay in 1899; however, the Trump administration is not only calling for equal commercial opportunities in China but also in other countries. Furthermore, this new Open Door policy has been influenced by the thoughts of White House Director of Trade and Manufacturing Policy Peter K. Navarro who has been advocating the need to force China to change its trading practices, the military, environmental and cyber-related threat posed by China to the U.S. and the world in its rise as an economic superpower, and a neo-Hamiltonian trade policy to revive American manufacturing inside the U.S.<sup>17)</sup>

---

15) "U.S. Lawmakers Introduce Bipartisan Bills Targeting China's Huawei and ZTE," *Reuters*, Jan. 16, 2019, <https://www.reuters.com/article/usa-china-huawei-tech/u-s-lawmakers-introduce-bipartisan-bills-targeting-chinas-huawei-and-zte-idUSL1N1ZG19J> (accessed Nov. 24, 2019).

16) "Opposites attract: Even Steve Bannon and Tom Friedman agree Trump is right to attack on China trade," <https://www.cnbc.com/2019/05/15/steve-bannon-and-thomas-friedman-agree-on-china-and-twitter-goes-nuts.html> (accessed Nov. 24, 2019).

17) Peter K. Navarro, *Death by China: Confronting the Dragon — A Global Call to Action* (London: Pearson, 2011), 3, 7, 57, 60, 62, 66, 137, 164, 250. Based on this book, Navarro produced a documentary series *Death by China* on Netflix and this ten-part series now can be viewed on YouTube. See also see his more recent book *Crouching Tiger: What China's Militarism Means for the World* (New York: Prometheus Books, 2015).

The Trump administration is addressing the questions James Mann raised in his 2007 book ; Mann argued that China's integration into an American-led liberal free trade order would not transform it into a liberal, democratic society.

What if China manages to continue on its current economic path, yet its political system does not change in any fundamental way? What if, twenty-five or thirty years from now, a wealthier, more powerful China continues to be run by a one-party regime that still represses organized political dissent much as it does today, while at the same time China is also open to the outside world and, indeed, is deeply intertwined with the rest of the world through trade, investment and other economic ties? Everyone assumes that the Chinese political system is going to open up — but what if it doesn't? What if, in other words, China becomes fully integrated into the world's economy, yet it remains also entirely undemocratic?

As Mann pointed out in his February 2007 *L.A. Times* article, the Chinese Communist Party will continue to avoid democratization of its political system as expected by the U.S. national security establishment since the Nixon-Kissinger years for the fear of causing instability and chaos in its society. Mann saw the rise of China as potentially threatening the worldwide spread of democratic value.<sup>18)</sup> Secretary of State Mike Pompeo, in his interview with CNBC on May 23 commented about Sino-American technology war in a way that fused Navarro's and Mann's thinking.

BECKY QUICK : Do you think we eventually wind up with two internets, one based around China and its closest partners and one that is the western world?

MIKE POMPEO : I hope that's not the case. We need a single place where information can be exchanged. But it has to be a system that has Western values embedded in it, with rule of law, property right protections, transparency, openness. It can't be a system that is based on the principles of authoritarian communist regime.

ANDREW ROSS SORKIN : How do you think of Huawei as a chess piece, if you will, in this larger trade discussion and does it ultimately help us or hurt us? Meaning, does China look at this and say, 'Okay they got us and therefore we're going to now work with them in a better way' or do you think they say to themselves, 'You know what, they got us and we're really not going to work with their companies now'?

MIKE POMPEO : So, remember there's two pieces to this. There's the national security component. And then there is what President Trump has been driving at to create a fair reciprocal balanced trade relationship between the two countries. I hope that we can keep those issues in their own place. We have an imperative to protect American national security. We have a need to make sure we get these trade rules right. I mean, you all know this. I come from Kansas. American workers in Kansas creating intellectual property, trying to grow their business, trying to take care of their families and the Chinese steal that information. That's not right. We're trying to fix that. They force companies that invest in China to create JVs with the sole intention

---

18) James Mann, *The China Fantasy : Why Capitalism Will Not Bring Democracy to China* (New York : Penguin Books, 2007), 28. See Mann's *L. A. Times* article, February 25, 2007, "The Three Futures of China." <https://www.latimes.com/archives/la-xpm-2007-feb-25-op-mann-25-story.html> (accessed Nov. 24, 2019).

of making sure the government has access to the information that comes across there. Those are the kinds of things that President Trump with Secretary Mnuchin and Ambassador Lighthizer are working on. And I hope they can come to an arrangement. If they do, it would be a good thing for China and the United States.<sup>19)</sup>

While Secretary of State Pompeo showed an ideological aspect of Trump trade policy, Thomas Friedman published an opinion column in the *New York Times* on May 21 called for China to play a fair international economic competition.

China under Xi announced a “Made in China 2025” modernization plan, promising subsidies to make China’s private and state-owned companies the world leaders in supercomputing, A.I., new materials, 3-D printing, facial-recognition software, robotics, electric cars, autonomous vehicles, 5 G wireless and advanced microchips.

This was a natural move for a China aiming to leap out of the middle-income ranks and to reduce its dependency on the West for high-tech. But all these new industries compete directly with America’s best companies.

Where he is wrong is that trade is not like war. Unlike war, it can be a win-win proposition. Alibaba, UnionPay, Baidu and Tencent and Google, Amazon, Facebook and Visa can all win at the same time — and they have been. I’m not sure Trump understands that.

But I’m not sure Xi does, either. We have to let China win fair and square where its companies are better, but it has to be ready to lose fair and square, too. Who can say how much more prosperous Google and Amazon would be today if they had been able to operate as freely in China as Alibaba and Tencent can operate in America?

And how much money did China save — to subsidize its own companies — when its military stole the plans for Lockheed Martin’s F-35 stealth fighter and then made its own carbon copy, avoiding all the R & D costs?<sup>20)</sup>

## Trump and Herbert Hoover on Tariffs

President Trump’s usage of tariffs as means of winning concessions from his trading counterparts and Hamiltonian approach to industrialization, reminds us of President Herbert Hoover’s decision to sign the Smoot-Hawley Tariff Act in 1930. Although blamed for exacerbating the Great Depression and worsening protectionism worldwide, Smoot-Hawley tariff rate looks moderate in comparison with preceding tariffs and the 25 % tariff the Trump administration is scheduled to slap on Chinese imports, Hoover, the first businessman to be an American President before Trump, had signed the Smoot-Hawley Tariff Act because it expanded on the provisions of the 1922 tariff act that permitted the President and the Tariff Commission to impose tariffs flexibly without approval from Congress. Hoover believed the tariffs could be used to protect and nurture domestic industries

---

19) See the CNBC transcript at <https://www.cnbc.com/2019/05/23/cnbc-transcript-united-states-secretary-of-state-mike-pompeo-speaks-with-cnbc-squawk-box-today.html> (accessed Nov. 24, 2019).

20) Thomas Friedman, “China Deserves Trump,” *New York Times*, May 21, 2019, <https://www.nytimes.com/2019/05/21/opinion/china-trump-trade.html> (accessed Nov. 24, 2019).

in midst of a national security crisis (the Great Depression) and means to negotiate with trading partners who were forming their respective block economies. According to Hoover, the proposed tariff was reasonably low in comparison to past tariffs and protected farmers.

As Hoover pointed out “Statistical estimate of the bill by the Tariff Commission shows that the average duties collected under the 1922 law were about 13.8 percent of the value of all imports, both free and dutiable, while if the new law had been applied it would have increased this percentage to about 16.0 percent.” Hoover saw the importance of the Tariff Commission and its ability to implement flexible tariffs.

This tariff law is like all other tariff legislation, whether framed primarily upon a protective or a revenue basis. It contains many compromises between sectional interests and between different industries. No tariff bill has ever been enacted or ever will be enacted under the present system that will be perfect. A large portion of the items are always adjusted with good judgment, but it is bound to contain some inequalities and inequitable compromises. There are items upon which duties will prove too high and others upon which duties will prove to be too low.

Certainly no President, with his other duties, can pretend to make that exhaustive determination of the complex facts which surround each of those 3,300 items, and which has required the attention of hundreds of men in Congress for nearly a year and a third. That responsibility must rest upon the Congress in a legislative rate revision.

On the administrative side I have insisted, however, that there should be created a new basis for the flexible tariff and it has been incorporated in this law. Thereby the means are established for objective and judicial review of these rates upon principles laid down by the Congress, free from pressures inherent in legislative action. Thus, the outstanding step of this tariff legislation has been the reorganization of the largely inoperative flexible provision of 1922 into a form which should render it possible to secure prompt and scientific adjustment of serious inequities and inequalities which may prove to have been incorporated in the bill.

This new provision has even a larger importance. If a perfect tariff bill were enacted today, the increased rapidity of economic change and the constant shifting of our relations to industries abroad will create a continuous stream of items which would work hardship upon some segment of the American people except for the provision of this relief. Without a workable flexible provision we would require even more frequent congressional tariff revision than during the past. With it the country should be freed from further general revision for many years to come. Congressional revisions are not only disturbing to business but with all their necessary collateral surroundings in lobbies, log rolling, and the activities of group interests, are disturbing to public confidence.

Under the old flexible provisions, the task of adjustment was imposed directly upon the President, and the limitations in the law which circumscribed it were such that action was long delayed and it was largely inoperative, although important benefits were brought to the dairying, flax, glass, and other industries through it.

The new flexible provision established the responsibility for revisions upon a reorganized Tariff Commission, composed of members equal of both parties as a definite rate making body

acting through semi-judicial methods of open hearings and investigation by which items can be taken up one by one upon direction or upon application of aggrieved parties. Recommendations are to be made to the President, he being given authority to promulgate or veto the conclusions of the Commission. Such revision can be accomplished without disturbance to business, as they concern but one item at a time, and the principles laid down assure a protective basis.

The principle of a protective tariff for the benefit of labor, industry, and the farmer is established in the bill by the requirement that the Commission shall adjust the rates so as to cover the differences in cost of production at home and abroad, and it is authorized to increase or decrease the duties by 50 percent to effect this end. The means and methods of ascertaining such differences by the Commission are provided in such fashion as should expedite prompt and effective action if grievances develop.

When the flexible principle was first written into law in 1922, by tradition and force of habit the old conception of legislative revision was so firmly fixed that the innovation was bound to be used with caution and in a restricted field, even had it not been largely inoperative for other reasons. Now, however, and particularly after the record of the last 15 months, there is a growing and widespread realization that in this highly complicated and intricately organized and rapidly shifting modern economic world, the time has come when a more scientific and businesslike method of tariff revision must be devised. Toward this the new flexible provision takes a long step.

These provisions meet the repeated demands of statesmen and industrial and agricultural leaders over the past 25 years. It complies in full degree with the proposals made 20 years ago by President Roosevelt. It now covers proposals which I urged in 1922.

If, however, by any chance the flexible provisions now made should prove insufficient for effective action, I shall ask for further authority for the Commission, for I believe that public opinion will give wholehearted support to the carrying out of such a program on a generous scale to the end that we may develop a protective system free from the vices which have characterized every tariff revision in the past.<sup>21)</sup>

---

21) June 16, 1930 : Message regarding the Smoot-Hawley Tariff Act,  
<https://millercenter.org/the-presidency/presidential-speeches/june-16-1930-message-regarding-smoot-hawley-tariff-act>  
(accessed Nov. 24, 2019).

As Hoover pointed out the average 16 percent tariff rate under Smoot-Hawley compares with the average level of the tariff under :

The McKinley law of 23.0%

The Wilson law of 20.9%

The Dingley law of 25.8%

The Payne-Aldrich law of 19.3%

The Fordney-McCumber law of 13.83%

Under the Underwood law of 1913 the amounts were disturbed by war conditions varying 6 percent to 14.8 percent.

The proportion of imports which will be free of duty under the new law is estimated at from 61 to 63 percent. This compares with averages under :

The McKinley law of 52.4%

The Wilson law of 49.4%

The Dingley law of 45.2%

The Payne-Aldrich law of 52.5%

The Fordney-McCumber law of 63.8%

Under the Underwood law of 1913 disturbed conditions varied the free list from 60 percent to 73 percent averaging ↗

As a *New York Times* article reminded readers concerning President Trump's decision to slap 10 % tariffs on aluminum and steel products from China, Mexico and Canada in spring 2018, the average U.S. tariff remained low in international society and Smoot-Hawley tariff was lower than most of its preceding tariffs.

I asked Chad Bown, a trade policy expert at the Peterson Institute for International Economics, a Washington think tank where I also serve as a nonresident senior fellow, for a back-of-the-envelope calculation of how consequential these changes would be.

He found that Mr. Trump's actions would increase America's annual tariff revenue by about \$42 billion. That sounds like a big number and it has garnered major headlines. But if you consider the scale of international trade, the figure starts to seem more modest: Last year, Americans spent roughly \$2.3 trillion on imports.

These numbers suggest the average tariff rate in 2018 will rise by about 1.8 percentage points, to about 3.2 percent. This means that Mr. Trump has already rolled tariffs back to roughly their level at the beginning of President Bill Clinton's administration. Even so, average tariffs remain lower — by quite a large margin — than they have been through most of United States history.

It's worth putting this in a global context. Even after these recent tariff increases, the United States will charge lower tariffs on average than most countries, although it has become notably more protectionist than major trading partners like Canada and the European Union.

Some historical perspective is useful here, too. The Smoot-Hawley tariffs of the 1930s — as the actor and writer Ben Stein memorably reminded us in the 1986 movie "Ferris Bueller's Day Off" — led the average tariff rate to rise as high as — anyone, anyone? — 20 percent. Even that was an improvement compared with the early 1900s, when the tariff rate nearly hit 30 percent.

This broader perspective suggests that the United States remains, at least in broad brush strokes, a low-tariff country.<sup>22)</sup>

In sum, the Trump administration's tariff policy has historical precedents going back to the 1789 Tariff, a tariff policy spearheaded by Treasury Secretary Alexander Hamilton who pushed for creat-

---

66.3 percent.

The increases in tariff are largely directed to the interest of the farmer. Of the increases, it is stated by the Tariff Commission that 93.73 percent are upon products of agricultural origin measured in value, as distinguished from 6.25 percent upon commodities of strictly nonagricultural origin. The average rate upon agricultural raw materials shows an increase from 38.10 percent to 48.92 percent in contrast to dutiable articles of strictly other than agricultural origin which show an average increase of from 31.02 percent to 34.31 percent. Compensatory duties have necessarily been given on products manufactured from agricultural raw materials and protective rates added to these in some instances.

The extent of rate revision as indicated by the Tariff Commission is that in value of the total imports the duties upon approximately 22.5 percent have been increased, and 77.5 percent were untouched or decreased. By number of the dutiable items mentioned in the bill, out of the total of about 3,300, there were about 890 increased, 235 decreased, and 2,170 untouched. The number of items increased was, therefore, 27 percent of all dutiable items, and compares with 83 percent of the number of items which were increased in the 1922 revision.

22) Justin Wolfers, "Trump's Tariffs Haven't Really Transformed Trade. Yet," *New York Times*, November 21, 2018, <https://www.nytimes.com/2018/11/21/business/trumps-tariffs-havent-transformed-trade-yet.html> (accessed Nov. 24, 2019).



ing the U.S. with a strong manufacturing sector by protecting domestic infant industries with tariff barriers towards their international competitors. The Trump administration is also using import bans as means of economic warfare and this has a precedent set by Hamilton's critic regarding the 1789 tariff, then Secretary of State Thomas Jefferson, who later began to see import tariffs as necessary to secure government revenues and sought to keep them while doing away with internal revenues. In December 1807, President Jefferson signed the Embargo Act to conduct economic warfare against the U.K. and France who were at war with each other and violated on numerous occasions American neutrality. The 1807 Embargo Act could not effectively curtail British and French violations of American neutrality, devastated the American economy and divided Americans over ways to deal with belligerent European powers.

### **Populism, Imperial Presidency, Executive Privilege and Impeachment**

The American media have pointed to Trump's election as reminding Americans of a 1957 Elia Kazan movie, *A Face in the Crowd*. Trump is the first president extensively relying on the social media, Twitter, to convey his populist agendas and Trump White House policies ; his reliance on the social media is similar to recent corporate trend in using social media for corporate communications and marketing.

Trump's confrontations with mainstream media and dismissing many of their reports as about him and his policies as "fake news" are similar to Spiro Agnew's approach to and relations with the American media during his corrupt populist governorship and vice presidency.<sup>23)</sup>

Is Trump creating a new form of what historian Arthur Schlesinger had described as "the Imperial Presidency," a trend that can be traced back to the years of Tyler and his successor, James Polk? Schlesinger argued in his book that American Presidents dating back to Tyler's presidency have exerted executive powers in diplomacy and use of the military in taking away Congressional authority over going to war. And, Congress and White House, on occasions since Tyler, have clashed over Presidential executive privileges on information sought by Congress from the White House ; in Tyler's case he seemed to have not argued absolute executive privilege on his policy-related activities toward the Republic of Texas, activities that were pursued without consulting with Congress.<sup>24)</sup>

### ***Early Phase of Constitutional Confrontation***

Trump's confidants, Paul Manafort, Roger Stone and Michael Koen — men known for lying

---

23) Jo An Skousen, "A Face in the Crowd Boards the Trump Express," *Liberty*, December 11, 2015, <http://libertyunbound.com/node/1492> (accessed Nov. 24, 2019).

On Spiro Agnew's style of populism and dealing with mainstream media as a precursor to Donald Trump's style of populism, NPR aired a program on January 9, 2019 ; see "'Bad Behavior By People In High Office' : Rachel Maddow On The Lessons Of Spiro Agnew," <https://www.npr.org/2019/01/09/683414660/rachel-maddow-draws-lessons-from-spiro-agnew-on-bad-behavior-by-people-in-office> (accessed Nov. 24, 2019).

Topics covered by this NPR program would be discussed in the forthcoming book by Charles J. Holden, Zack Mess and Jerald Podair's forthcoming book, *Republican Populist : Spiro Agnew and the Origins of Donald Trump's America* (Charlottesville : University of Virginia Press, October 2019).

24) Arthur M. Schlesinger, Jr., *The Imperial Presidency*, (Boston : Houghton Mifflin Harcourt ; Reissue, 1989), 39-41, 46, 47, 142.

and pursuing character assassinations — have been prosecuted as part of the Mueller investigation. In the final paragraph of volume two of the Mueller Report that focused on issues concerning obstruction of justice by the executive branch, Mueller emphasized that not even the President of the United States is above the law and left the matter to be decided by Congress.

In sum, contrary to the position taken by the President’s counsel, we concluded that, in light of the Supreme Court precedent governing separation-of-powers issues, we had a valid basis for investigating the conduct at issue in this report. In our view, the application of the obstruction statutes would not impermissibly burden the President’s performance of his Article II function to supervise prosecutorial conduct or to remove inferior law-enforcement officers. And the protection of the criminal justice system from corrupt acts by any person—including the President—accords with the fundamental principle of our government that “[n]o [person] in this country is so high that he is above the law.” *United States v. Lee*, 106 U.S. 196, 220 (1882); see also *Clinton v. Jones*, 520 U.S. at 697; the *United States v. Nixon*, *supra*.<sup>25)</sup>

The Mueller report showed that President Trump on several occasions attempted to fire Mueller; White House special counselor Donald McGahn’s interviews in the report show that McGahn and other subordinates did not follow Trump’s orders to do so and in effect, saved themselves and Trump from obstruction of justice.

With regards to Presidential firing of those in charge of investigating scandals in his administration, no one had questioned President Ulysses Grant’s authority in his firing of those he hired to investigate the infamous Whisky Ring scandal in 1875. But, in the aftermath of President Nixon’s Saturday Night Massacre (October 20, 1973) that prompted that resignations of Attorney General Elliot Richardson and his deputy after they refused follow Nixon’s order to fire special independent prosecutor for the Watergate investigation, Archibald Cox, Congress passed the Ethics in Government Act in 1978 that could create an independent special prosecutor to investigate wrongdoings in the federal government; the Attorney General would decide whether or not to proceed with the creation of the independent special prosecutor and the person to be appointed would be decided by the judiciary branch. The independent special prosecutor had all the powers except those specified for the Attorney General of the United States and could only be removed through conviction in a Congressional impeachment or by the Attorney General who had much more limited scope in criteria for removing the independent special prosecutor than before the 1978 Ethics Act. However, he independent special prosecutor, under the 1978 Ethics law had to respond to congressional inquiries.

After the 1978 Ethics Act expired in 1998, the special counsel, as in the pre-1978 Ethics Act years, is now completely part of the executive branch and the President has the ultimate say regarding firing of the special counsel. But because of this legal characteristic, Mueller had the complete cover of the Department of Justice and was able to maintain silence until finishing the investigative report.

Underlying Selesinger’s discussion of “the Imperial Presidency” is the fact that the U.S. Consti-

---

25) Amanda Shendruk, David Yanofsky & Youyou Zhou, “We summarized every single section of the Mueller report so you don’t have to,” April 14, 2019, <https://qz.com/1599481/all-488-pages-of-the-mueller-report-visualized/> (accessed Nov. 24, 2019).

tution produced a unitary executive branch that was equal with Congress. The co-equal executive branch and legislative branch would at time fight over authority and the judiciary branch would decide whose authority prevails.

President Trump believes the President can block Congress access to people (currently and formerly working) and documents in the executive branch by invoking executive privilege. On Wednesday, May 8 *CNN* reported that :

President Donald Trump invoked blanket executive privilege over Robert Mueller’s full report Wednesday in retribution for a pending vote by House Democrats to hold Attorney General William Barr in contempt of Congress. The move significantly escalated a constitutional confrontation between the House Democratic majority and the President over the aftermath of the special counsel’s Russia investigation. It will trigger a bitter and potentially long battle in the courts to adjudicate whether the executive branch or the legislative branch of the government will prevail.<sup>26)</sup>

The House Judiciary Committee voted 26 (all Democrats) against 16 (all Republicans) to hold Attorney General Barr in contempt of Congress that day. Although the proposed resolution was forwarded for a vote by the House, *Politico* reported on Wednesday, May 15 that House Majority Leader Steny Hoyer announced it would not be considered for a vote at least until June.

Hoyer’s comments made official what has already been clear inside the House Democratic Caucus — Hoyer, Speaker Nancy Pelosi and other party leaders are still wrestling with how to respond to President Donald Trump’s broad refusal to cooperate with subpoenas for documents and testimony related to special counsel Robert Mueller’s investigation, as well as his own personal finances.

Pelosi and her top lieutenants have shown no interest in impeaching Trump despite repeated calls to do so from some rank-and-file lawmakers, as there is no GOP support for such a move and it could backfire politically against Democrats. The Justice Department won’t act on any criminal contempt resolution approved by House Democrats, leaving them with the choice of suing Trump in court as part of a civil contempt finding, a time-consuming process. And senior Democrats privately scoff at the idea of using “inherent contempt” authority — having Congress detain or fine witnesses who won’t cooperate with subpoenas — although a number of junior Democrats want to try it, despite the fact it hasn’t been attempted by the House in more than 80 years.<sup>27)</sup>

---

26) Stephen Collinson, Laura Jarrett and Veronica Stracqualursi, “Trump Invokes Executive Privilege over Mueller Report,” *CNN*, May 8, 2019, <https://edition.cnn.com/2019/05/08/politics/trump-mueller-report-executive-privilege/index.html> (accessed Nov. 24, 2019).

27) Johan Bresnahan and, Heather Caygle, “House Democrats won’t hold contempt floor vote anytime soon,” *Politico*, May 15, 2019, <https://www.politico.com/story/2019/05/15/house-democrats-contempt-vote-1325278> (accessed Nov. 24, 2019).

The Democratic leadership in Congress are well aware of the time it took for Congress to hold Attorney General Eric Holder in contempt of Congress during the “Fast and Furious” investigation.

From the Democrats in Congress, Trump’s move to exert executive privilege in a broad manner goes against the principle laid out in a 1982 Reagan-era White House document, “Memorandum for the Heads of Executive Departments and Agencies, *Re: Procedures Governing Responses to Congressional Requests for Information* at 2 (Nov. 4, 1982.”<sup>28)</sup> The White House could have exerted executive privilege in having Donald McGahn cooperate for over thirty hours interviews in the Mueller investigation

On May 20 *The Los Angeles Times* reported that

President Trump directed his former White House counsel, Donald McGahn, not to appear at a House Judiciary Committee hearing on Tuesday despite receiving a subpoena from the panel’s Democratic chairman, the latest salvo in a battle between two warring branches of government.

But as the legal and political turmoil grew, a federal judge in Washington upheld a separate Democratic subpoena for Trump’s personal and business financial records, a signal that the staunch White House resistance to congressional probes may serve to delay the investigations but not avoid them altogether.

The ruling is the first by a federal judge considering Trump’s legal efforts to avoid congressional subpoenas and could set a legal precedent for other judges to consider.

Trump has refused to cooperate with multiple House-led inquiries into his business practices, his taxes, security clearances at the White House and other matters. His administration has defied several House subpoenas and directed current and former officials not to testify at hearings certain to draw public scrutiny back to the investigation led by special counsel Robert S. Mueller III.

In his ruling Monday, U.S. District Court Judge Amit Mehta dismissed Trump’s claim that a subpoena last month from the House Oversight and Reform Committee, which is led by Democrats, was politically motivated and amounted to an abuse of power.

Mehta ruled that the accounting firm Mazars USA must comply with the panel’s demand for eight years of Trump’s financial records as it investigates whether he committed financial

---

28) For the last eighteen years at least, presidential documents have explicitly embodied an executive branch doctrine of executive privilege. On March 24, 1969, President Nixon issued a general memorandum to the heads of executive departments and agencies concerning congressional demands for information.<sup>74</sup> The Ford and Carter Administrations left this policy intact, and a 1982 redraft by President Reagan<sup>75</sup> left untouched the core principle of that memorandum. That principle is that the executive branch “has an obligation to protect the confidentiality of some communications,” but will invoke executive privilege against Congress only with “specific Presidential authorization,” in the “most compelling circumstances,” and “only after careful review demonstrates that assertion of the privilege is necessary.”<sup>76</sup> [underlined by the author]

*Note 75* See Memorandum from President Ronald Reagan for the Heads of Executive Departments and Agencies, on Procedures Governing Responses to Congressional Requests for Information (Nov. 4, 1982) [hereinafter Reagan Memorandum], reprinted in REPORT OF THE COMMITTEE ON THE JUDICIARY OF THE HOUSE OF REPRESENTATIVES ON INVESTIGATION OF THE ROLE OF THE DEPARTMENT OF JUSTICE IN THE WITHHOLDING OF ENVIRONMENTAL PROTECTION AGENCY DOCUMENTS FROM CONGRESS IN 1982-83, H.R. REP. No.435, 99th Cong., 1st Sess. 1106 (1985) [hereinafter DEP’T OF JUSTICE INVESTIGATION].

*Note 76* *Id.*

crimes as a New York real estate developer and businessman before he entered the White House.<sup>29)</sup>

While Trump's lawyers in charge of the above case appealed to a federal appeals court, on October 7

A federal judge . . . rejected President Trump's effort to shield his tax returns from Manhattan state prosecutors, calling the president's argument that he was immune from criminal investigation "repugnant to the nation's governmental structure and constitutional values.

The decision from Judge Victor Marrero of Federal District Court in Manhattan was the first significant ruling in a case that could require Mr. Trump to hand over his tax returns and ultimately test the limits of presidential power.

The judge dismissed a lawsuit that had been filed by Mr. Trump, who was seeking to block a subpoena for eight years of his personal and corporate tax returns. The Manhattan district attorney demanded the records in late August as part of an investigation into hush-money payments made in the run-up to the 2016 presidential election.<sup>30)</sup>

Then, on October 11, the U.S. Court of Appeals for the D.C. Circuit "[i]n a 2-to-1 ruling . . . upheld Congress's broad investigative powers and rejected the president's bid to block lawmakers from subpoenaing the documents." *The New York Times* reported this ruling "is a significant victory for the Democratic-led House, but it will not result in the House obtaining Trump's tax returns — at least, not immediately." This article pointed to the fact that "The House agreed to hold off on enforcing the subpoenas while Trump's appeal is pending. Trump could keep it pending for weeks or months by appealing the case to the full D.C. Circuit."

Looking back at the October 11 ruling, this *New York Times* noted that this case is one of several clashes between the House and the Republican president over Trump's data that are expected to reach the Supreme Court. In this case, the judges ruled that Trump's arguments — that the subpoenas were invalid because Congress lacked a "legitimate legislative purpose" for them — were incorrect.<sup>31)</sup>

In observing these recent court cases, one should keep in mind the Supreme Court decisions resulting from the Teapot Dome scandal during the Warren Harding administration upheld Congressional power to investigate the executive branch.

---

29) Eli Stokols, "Trump blocks former White House Counsel Donald McGahn from testifying before Congress," *Los Angeles Times*, May 20, 2019,

<https://www.latimes.com/politics/la-na-pol-trump-mcgahn-testimony-house-justice-department-20190520-story.html> (accessed Nov. 24, 2019).

30) "Trump Taxes : President Ordered to Turn Over Returns to Manhattan D.A.," *New York Times*, October 7, 2019,

<https://www.nytimes.com/2019/10/07/nyregion/trump-taxes-lawsuit-vance.html> (accessed Nov. 24, 2019).

31) "Appeals court rules against Trump in fight with Congress over president's accounting firm records," *New York Times*, October 11, 2019,

[https://www.washingtonpost.com/local/legal-issues/appeals-court-rules-against-trump-in-fight-with-congress-over-presidents-accounting-firm-records/2019/10/11/42933894-b9ea-11e9-b3b4-2bb69e8c4e39\\_story.html](https://www.washingtonpost.com/local/legal-issues/appeals-court-rules-against-trump-in-fight-with-congress-over-presidents-accounting-firm-records/2019/10/11/42933894-b9ea-11e9-b3b4-2bb69e8c4e39_story.html)

In *Sinclair v. United States* (1929), the Supreme Court ruled that Congress had a right to investigate anything related to its legislative and oversight duties, including Harry Sinclair's personal dealings with the Secretary of the Interior. In an earlier Teapot Dome case, *McGrain v. Daugherty* (1927), it ruled that congressional committees could compel private citizens to testify.<sup>32)</sup>

## Tentative Conclusion

Even if the President is not above the law, could a sitting President be indicted for an unlawful act? Spiro Agnew was indicted as a sitting Vice President. The White House Office of the Legal Counsel (OLC) has filled in a void because the Constitution does not address this issue. OLC maintains the view that the indictment or criminal prosecution of a sitting President would unconstitutionally undermine the capacity of the executive branch to perform its constitutionally assigned functions.<sup>33)</sup> Finally, given the statute of limitations is usually five years, the time involved in process leading to an indictment of a sitting President might run out of time.

On May 30, Mueller, who had indicated he wish to avoid testifying in Congress, made a statement in front of the media to announce that he was retiring from the committee of which he was in charge ; in his announcement, he reiterated that the committee had followed the Department of Justice policy based on the aforementioned OLC memo ; even though the committee could not investigate for the possibility of it prosecuting the President, Mueller stated that the committee pursued the investigation to “preserve evidence while memories are fresh and documents are preserved.” Mueller left the door open for further investigations by Congress, which could lead to impeachment and future prosecution of the President or those around him. In those instances the Mueller report would be invaluable in terms of providing evidence.

During investigations by an independent special counsel, Presidents and their supporters have attempted to influence the public perception of the credibility of the investigation. President Trump has used social media to do so but his attempts to discredit special counsel Mueller is not different from President Clinton or President Nixon to paint the probes by a special counsel as a witch hunt.

Whether or not Congress decides to impeach a President might be determined by the President's job approval rate ; in the case of Nixon, his approval rate in midst of a downbeat economy was low (in the 20s) at the time of his impeachment whereas President Clinton's job approval rate in midst of an upbeat economy was high. Congress did not consider impeaching Ronald Reagan during the Iran-Contra hearing in part due to his stumbling but not necessarily low job approval rate in midst of an upbeat economy.<sup>34)</sup>

32) <https://www.visitthecapitol.gov/exhibitions/artifact/sinclair-v-united-states-supreme-court-united-states-no-555-october-term-1928> (accessed Nov. 24, 2019).

33) Office of Legal Counsel website, <https://www.justice.gov/olc/opinion/sitting-president%E2%80%99s-amenability-indictment-and-criminal-prosecution> (accessed Nov. 24, 2019).

34) Frank Newport, “Presidential Job Approval : Bill Clinton's High Ratings in the Midst of Crisis, 1998,” *Gallup*, June 4, 1999, <https://news.gallup.com/poll/4609/presidential-job-approval-bill-clintons-high-ratings-midst.aspx> (accessed Nov. 24, 2019).

In case of Reagan, see the following section in Frank Newport, Jeffrey M. Jones, and Lydia Saad, “Ronald Reagan From the People's Perspective : A Gallup Poll Review,” *Gallup*, June 7, 2004, ↗

On July 24, Robert Mueller testified in Congress and reiterated what he, as special counsel to investigate the Russian interference in the 2016 presidential election, had published as a report on this issue and what he had stated in May after submitting it to the Attorney General. Muller warned Congress that the U.S. needs to be vigilante of Russian attempts to influence future U.S. elections and “sought to drive home to lawmakers and the public the grave implications of his report, which laid bare that Mr. Trump was elected with Russia’s help and cataloged the president’s frantic efforts to undermine the investigation into Moscow’s election interference.”<sup>35)</sup>

As a *Washington Post* article has pointed out, “The idea of impeaching President Donald Trump and removing him from office has been around for almost as long as Trump’s presidency. A small number of his hardest-core critics in the opposition Democratic Party saw impeachment-worthy offenses in Trump’s handling of race relations, press freedom and his family’s businesses interactions with the government. More joined in over Russia’s interference in the 2016 election and allegations that Trump tried to obstruct the investigation led by Special Counsel Robert Mueller.” However, the revelation of the following phone call that Trump had made the day after Mueller’s Congressional testimony triggered the commencement of a Congressional impeachment inquiry on September 24.

In a July 25 telephone call, Trump asked Ukrainian President Volodymyr Zelenskiy to “look into” allegations of wrongdoing by former Vice President Joe Biden, a potential 2020 competitor. “There’s a lot of talk about Biden’s son,” Trump said as he steered the conversation toward the topic, according to an approximate transcript of the call that Trump subsequently ordered released. The call’s existence may not have been widely known but for the actions of a U.S. intelligence official who filed a whistle-blower complaint alleging that Trump, in that call and through other actions, was “using the power of his office to solicit interference from a foreign country in the 2020 U.S. election.” The whistle-blower’s identity has not been made public. . . .

Trump appears to believe Hunter Biden, with the backing of his father, “raided and scammed” other countries for millions of dollars. There’s no evidence of that, though the younger Biden has been accused of trading on his family name. In the case of Ukraine, Hunter Biden was named in 2014 to the board of Burisma Holdings, one of the country’s largest private natural gas companies. He held that post until earlier this year, earning an estimated \$50,000 a

---

↘ <https://news.gallup.com/poll/11887/ronald-reagan-from-peoples-perspective-gallup-poll-review.aspx> (accessed Nov. 24, 2019).

Then, in November 1986, the Iran-Contra affair broke into the news. That same month, Reagan was on television denying that there had been any trading of arms for hostages, but the damage was done. His ratings plummeted from 63% in late October to 47% in early December, and stayed relatively low throughout 1987. Reagan’s ratings underwent a slight rebound in the late summer and early fall of 1988 as his vice president, George H. W. Bush, campaigned for the presidency against Michael Dukakis.

On Nixon, see also the following.

David Coleman, “Nixon’s Presidential Approval Rating,” undated,

<https://historyinpieces.com/research/nixon-approval-ratings> (accessed Nov. 24, 2019).

35) “*Highlights of Robert Mueller’s Testimony to Congress* : A reluctant Mueller reiterated that President Trump “was not exculpated.” *New York Times*, July 24, 2019,

<https://www.nytimes.com/2019/07/24/us/politics/mueller-testimony.html> (accessed Nov. 24, 2019).

month. (He now says that in hindsight, serving on Burisma’s board may have been “poor judgment.”) In 2016, Joe Biden, as the Obama administration’s point person on Ukraine, pressed successfully for the ouster of Viktor Shokin as Ukraine’s prosecutor general. At the heart of the allegation by Trump and his attorney, former New York City Mayor Rudy Giuliani, is that Biden did so to derail an investigation into Burisma. . . . [However,] [a]ll available evidence suggests that the problem with Shokin, in the eyes of U.S. leaders, their Western allies, the International Monetary Fund and many Ukrainians was that Shokin was being too lax, not too aggressive, about corruption. Burisma said in 2017 that “all legal proceedings and pending criminal allegations” against it were closed, and there’s no known evidence that any investigation ever involved Hunter Biden.

Congressional impeachment inquiry and media reports related to it have thus far uncovered the following perspectives.

A U.S. Army officer who works for the White House National Security Council, Alexander Vindman, said he listened in on the Trump-Zelenskiy call and was so disturbed by the content that he reported his concerns to the NSC’s legal counsel. William Taylor, the acting U.S. ambassador to Ukraine, told impeachment investigators that he had been “very concerned” to learn that Trump was withholding U.S. security aid to Ukraine unless Zelenskiy publicly committed to opening the investigations Trump was seeking. “I think it’s crazy to withhold security assistance for help with a political campaign,” Taylor wrote in a text message to colleagues on Sept. 9. Mick Mulvaney, the acting White House chief of staff, seemed to acknowledge a quid pro quo by declaring in a televised briefing that Trump had withheld aid to press Ukraine to investigate a theory (also widely debunked but apparently held by Trump) that Ukraine rather than Russia hacked Democratic Party emails in 2016. “I have news for everybody : Get over it. There’s going to be political influence in foreign policy,” Mulvaney said. He later tried to walk back those comments.

Much of Trump’s dealings with Ukraine were handled not through the U.S. State Department but through a back channel run by Giuliani as Trump’s personal attorney. That unusual approach to foreign policy troubled some members of the administration. Fiona Hill, formerly a Russia expert on Trump’s National Security Council, testified that former National Security Adviser John Bolton, alarmed by Giuliani’s efforts to push Ukraine for political help, labeled Giuliani a “hand grenade” who would blow everything up, according to *the New York Times*. Marie Yovanovitch, who was stripped of her post as U.S. ambassador to Ukraine, blamed her ouster on a “concerted campaign” by Trump and Giuliani, and she warned that the State Department is being “attacked and hollowed out from within.” Michael McKinley, a former top aide to Secretary of State Michael Pompeo, told investigators he resigned out of frustration with how the Trump administration wrestled Ukraine policy away from career diplomats.<sup>36)</sup>

---

36) “What You Need to Know About Trump, Ukraine and Impeachment,” *Washington Post*, October 30, 2019, [https://www.washingtonpost.com/business/what-you-need-to-know-about-trump-ukraine-and-impeachment/2019/10/30/022ebee-facc-11e9-9e02-1d45cb3dfa8f\\_story.html](https://www.washingtonpost.com/business/what-you-need-to-know-about-trump-ukraine-and-impeachment/2019/10/30/022ebee-facc-11e9-9e02-1d45cb3dfa8f_story.html) (accessed Nov. 24, 2019).



On October 31, the U.S. House of Representatives passed a resolution (232 to 196, with two Democrats joining all Republicans in voting against passage), which “lays out the framework for public hearings and eventual proceedings in the Judiciary Committee, which would craft any potential articles of impeachment.”<sup>37)</sup>

If Trump can maintain a relatively low but steady job approval rate as presented earlier in this article and if the U.S. economy remains relatively strong, political fortune might favor him.

In this regard, the ongoing slowdown in the global economy is in part brought by Trump’s usage of tariffs to negotiate with EU, Mexico, Canada, and China. There is an ongoing trade dispute with EU and Canada and the U.S. have not yet ratified the trade pact signed by them and Mexico that revised NAFTA. The U.S. and Japan signed a trade deal in September.<sup>38)</sup> As *the Wall Street Journal* reported concerning Sino-American trade war, Trump on October 11(Friday)

announced a trade deal with China that he called “tremendous” or “tremendously” positive 15 times. The details look far more modest to us, but this truce in the trade war beats the alternative of escalating tariffs that have already caused a significant global economic slowdown.

Mr. Trump said China will make some \$40 billion to \$50 billion more in agricultural purchases over two years and has promised to better protect intellectual property and welcome more foreign financial services. In return the U.S. won’t increase tariffs to 30% from 25% on \$250 billion of Chinese goods next week as Mr. Trump had planned.

The two countries also agreed to keep talking toward what Mr. Trump called a “phase two” agreement that would include the tougher issues such as Chinese technology theft and predatory regulation against American companies. There will also be a new consultation process to address disputes and monitor enforcement. The implication is that if progress continues, Mr. Trump will cancel the tariffs planned for December on more Chinese goods.

In essence both sides sued for a temporary peace to forestall further economic damage. China avoids a tariff escalation that has been hurting its exports and induced Beijing to impose capital controls to avoid capital flight and a run on the Chinese yuan.

Mr. Trump gets election-year farm purchases that will alleviate the harm his tariff war has done to American farmers. Equity markets should be relieved, and higher stock prices would buoy fading consumer confidence.

The truce, if it sticks, will also reduce the uncertainty that has undermined business investment and contributed to a global manufacturing recession. Mr. Trump often claims his tariffs are all benefit and no cost, but his economic advisers have been warning him for months about slowing growth. Job openings in August fell to the lowest level since March 2018, especially in the Midwest states that are crucial to the President’s re-election.

None of this amounts to the kind of grand deal that would fundamentally shift China’s relationship to the world trading system. President Xi Jinping will still be able to avoid the hard

---

37) “House approves impeachment rules, ushering in new phase of inquiry — live updates,” *CBS News*, October 31, 2019, <https://www.cbsnews.com/live-news/trump-impeachment-house-resolution-vote-latest-today-2019-10-31-live-updates/> (accessed Nov. 24, 2019).

38) Sayuri Shirai, “Trump aims to use trade deal to win election,” *Japan Times*, September 25, 2019, <https://www.japantimes.co.jp/opinion/2019/10/06/commentary/japan-commentary/trump-aims-use-trade-deal-win-election/#.XbtbOMJ7mHh> (accessed Nov. 24, 2019).

decisions that would require him to reform state-owned industries or rein in the thieves at the ministry of security.<sup>39)</sup>

Trump might still be able to avoid being remembered like a John Tyler but like a Theodore Roosevelt. As the most recent Gallup poll indicate

President Donald Trump's approval ratings averaged 40.7% during his 11<sup>th</sup> quarter in office, which began on July 20 and ends Oct. 19. His average is down two percentage points from his prior quarter ; however, he has had lower averages in five other quarters.<sup>40)</sup>

However, history probably will not be kind to the Trump Presidency. This perception is perhaps reinforced by Trump's lack of interest in maintaining U.S. and his credibility and leadership on issues concerning democracy, global warming and human rights and his rash decision in October to withdraw American military presence in northern Syria. As *Gallup* noted on October 16 :

Public opinion on whether Trump should be impeached remains mixed, but Americans now lean slightly more in favor of impeachment and removal from office compared with where they stood in June.

Currently, 52% say Trump should be impeached and removed from office, while 46% say he should not be. This is roughly the opposite of what Gallup found in June when asked in the context of special counselor Robert Mueller's investigation.<sup>41)</sup>

On November 22 the House Intelligence Committee concluded its public hearing on impeachment inquiry into whether or not President Trump pressured the government of Ukraine to conduct investigation on his political rival and one of current Democratic presidential candidate Biden and his son Hunter, an issue the Democrats perceive as the President abusing his executive power to seek his own political gain against his potential opponent in his bid to be re-elected in 2020, in exchange for the Ukrainian president to have a meeting with Trump at the time of the former's visit to the U.S. and lifting of military aid to Ukraine that had been put on hold. The testimonies by subpoenaed U.S. government officials involved in U.S.-Ukrainian relations did provide Democrats with evidence that there was a strong link between President Trump seeking the aforementioned political favor from Ukraine that would have the effect of Ukraine, if it had investigated the Bidens, meddling in the U.S. presidential election, and Trump's meeting with the Ukrainian president ; this link was demonstrated by Ambassador to the EU Gordon Sondland's testimony on November 21 when ambassador Sondland stated that he was working with Trump's private lawyer Rudy Giuliani under direct orders from Trump on trying to pressure Ukraine to open the debunked allegation of Joseph

---

39) "The China Trade Truce ; Both sides agree to a temporary peace to avoid more economic harm.," *Wall Street Journal*, October 13, 2019,

<https://www.wsj.com/articles/the-china-trade-truce-11571003495> (accessed Nov. 24, 2019).

40) Jeffrey M. Jones, "Trump's Job Approval Slumps in 11<sup>th</sup> Quarter," *Gallup*, October 18, 2019, <https://news.gallup.com/poll/267536/trump-job-approval-slumps-11th-quarter.aspx> (accessed Nov. 24, 2019).

41) Justin McCarthy, "Congress Approval, Support for Impeaching Trump Both Up," *Gallup*, October 16, 2019, <https://news.gallup.com/poll/267491/congress-approval-support-impeaching-trump.aspx> (accessed Nov. 24, 2019).

Biden's involvement in Ukraine to protect his son Hunter. Sondland also stated that top Trump administration officials including the vice president, the secretary of state and acting chief of staff were informed of this unofficial diplomacy towards Ukraine. The reaction by the American public so far shows that the majority of Americans think what the President had done was wrong but whether or not Trump should be impeached remains at plurality, indicating that Americans might prefer Trump's fate to be decided in the 2020 election. A federal court is scheduled to decide during the week of November 25 whether or not a person subpoenaed by Congress cannot refuse to testify ; this court ruling concerns former White House lawyer, Don McGahn, subpoenaed by Congress on the Mueller investigation but has implications for former Trump officials like National Security advisor Bolton and former Energy Secretary Perry who have refused to testify in spite of being subpoenaed by Congress.

Meanwhile, as U.S. and China continue to negotiate the phase one of the Sino-American trade deal, a veto-proof Congressional bill supporting the rights of Hong Kong protestors is headed for the White House ; President Trump has hinted that he might veto the bill because of his concern for hammering out a Sino-American trade deal which, if not agreed upon,, might trigger the Trump administration to go ahead with the scheduled increase in tariffs on imports from China in mid-December.

On December 10, the House Judiciary Committee approved two articles of impeachment against President Trump, one concerning his abuse of power and the other concerning his obstruction of Congress. Americans still remain deeply divided on impeaching the President, 49 % favoring impeachment of the President and removing him from office and 46 % opposing impeachment. On that same day, the Trump administration and the Democrats agreed to approve the revised NAFTA. On December 13, in spite of the fact that China had protested President Trump signing the Congressional bill supporting the pro-democracy demonstrations in Hong Kong, the two countries agreed on phase one of the trade talks thus avoiding new tariff hikes.<sup>42)</sup>

---

42) "Full Analysis of Gordon Sondland's Testimony in Impeachment Hearings," *New York Times*, November 21, 2019, <https://www.nytimes.com/interactive/2019/11/20/us/politics/trump-impeachment-hearings.html> (accessed Nov. 24, 2019) ; on public opinion concerning impeachment, see in addition to previous discussion in this article, <https://projects.fivethirtyeight.com/impeachment-polls/> (accessed Nov. 24, 2019) ; Darren Samuelsohn, "Judge will rule by Nov. 25 in Don McGahn subpoena fight," *Politico*, November 12, 2019, the court ruled on November 25, 2019 that McGahn must testify but the government appealed its case to a higher court. <https://www.politico.com/news/2019/11/19/impeachment-mcgahn-subpoena-071653> (accessed Nov. 24, 2019) ; David J. Lynch, "Trump says he might veto legislation that aims to protect human rights in Hong Kong because bill could affect China trade talks," *Washington Post*, November 22, 2019, on latest public opinion on impeachment, see the December 17, 2019 finding by *ABC* at <https://abcnews.go.com/Politics/expect-fair-trial-trump-10-aides-testify-poll/story?id=67761813> (accessed December 17, 2019). <https://www.washingtonpost.com/business/2019/11/22/trump-says-he-might-veto-legislation-that-aims-protect-human-rights-hong-kong-because-bill-would-impact-china-trade-talks/> (accessed Nov. 24, 2019).