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UNMAKING THE PRESIDENCY

A BOOK DISCUSSION WITH
SUSAN HENNESSEY AND BENJAMIN WITTES

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P R O C E E D I N G S

MR. WITTES: So welcome to the Brookings Institution. My name is Benjamin Wittes. I'm a senior fellow here in Governance Studies and I am actually not moderating this event. (Laughter) But I wanted to take a couple of moments and introduce Fred Hiatt to you. Not typical that we have non-Brookings people on the stage interviewing Brookings people, so I just thought I'd start by introducing Fred, who --- it's a very moving thing to me that he's here today. Fred is the editorial page editor of The Washington Post and he and I worked together for nine or ten years there, most of which time he was my boss when I was an editorial writer there, and had a huge influence on me just as a writer, as a way of talking in public about issues that are dense and complicated and that the merits of which are not always clear. And so it's a matter of just a lot of -- personally moving to me that he's here hosting this event and giving his thoughts on this book that Susan and I wrote.

And so thank you, Fred, for being here, and I'll just with that turn it over to you.

MR. HIATT: Thank you, Ben. Thank you all for coming out on a cold morning and thank you for inviting me to Brookings. We've missed Ben on the editorial board every day since he left, but I have watched with admiration and not a little bit of awe what he and Susan have built at Lawfare. It's really an incredible thing to have created and sustain. And it's such an important contributor to our national conversation now.

So we'll have a conversation for a while; we will eventually get to questions. Were you supposed to say something about what's on their seats or?

MR. WITTES: Oh, yes, thank you. (Laughter) And I was also supposed to welcome the online webcast audience. So welcome to the webcast audience. On your seats there are evaluation forms for this event, so please when you leave hand them to folks up front who will collect them. And also Susan and I will be signing books out there after we are done in here.

MR. HIATT: So let me start by saying I have read the book (laughter) and

it's really good -- I'd say amazingly good. You know there have been quite a few books about the Trump presidency already, including one just over the last couple of days by two of my colleagues, which is also a remarkable contribution. But I don't think there's anything like this which is looking at this president's effect on the presidency, what he has taught us about the Constitution, what we are unlearning that we thought we knew about the Constitution, and what it will mean for the future of our government even after this President.

So there's a lot to talk about. We certainly want to talk about what is starting in the Senate today because it's very relevant to this project and about the future, but I thought we should start a little bit by talking about what's in the book. And maybe, Susan, you could begin with explaining to us how and why this book came to be.

MS. HENNESSEY: Yes, I'd say the origins of this book were a few months before the 2016 presidential election and a lot of people were asking us about how a hypothetical President Trump would abuse the National Security Agency and the CIA and Guantanamo and detention policy, and sort of these areas that are the periphery of executive power that, you know, we've grappled with through the Bush administration, the Obama administration, and are sort of core to what we do at Lawfare and what we do here at Brookings. And Ben had an unusual and surprising response at the time, which is, oh, it's none of those things, it's DOJ. You don't need to worry about NSA, you don't need to worry about CIA. If someone was going to abuse something, it would be the Department of Justice.

And so that's sort of an idea that kind of kicked off a conversation that endured and sort of evolved as Trump was actually elected. I mean we started to, you know, sort of put flesh on the bones to this sort of idea of well, we have all these anxieties, we have all of these traditional anxieties about the presidency. Those don't appear to be sort of manifesting, some of the things that people were really, really worried about during the election, right after the election, you know, torture and sort of these various campaign rhetoric. That wasn't happening. Something else was happening that was really alarming

and difficult to wrap our minds around, and that's that we're used to having a conversation about the edges of executive power and where the boundaries should be and where they sort of, you know, push up against the powers of the Judiciary or the powers of Congress.

But Trump's approach to the presidency is about using the core powers of the presidency in a way that really no other president has. And so, you know, I think this book really is in part the project of us trying to wrap our minds around what this period of history means, what we are actually seeing happen, and what it's teaching us about, you know, some of our prior assumptions about what people care about, about how structural checks and balances might have function. A lot of those haven't worked. And at the same time, a different set of sort of constraints and interesting interactions are happening.

And so that really, you know, this really is the product of I think thinking that has evolved and deepened a lot over the past two and three years.

MR. HIATT: So, Ben, take that phrase "core powers" and explain what that means. What have we discovered that he can do that people hadn't been worried about?

MR. WITTES: Right. So if you take our debate about executive power, as Susan says, the debate almost all takes place at the margins. So we know the President can do X, we know he can't do Y, so can he do the things right between X and Y? We know he can take the country into a military confrontation in the face of an imminent threat without an act of Congress. So what does imminent mean, right? How imminent does something have to be before he can do that?

But there are these things the president can do that nobody questions that the president can do, they are the core powers of the presidency. For example, hiring and firing people. You know, the president actually gets to fire the FBI director, the president actually can fire the attorney general. Nobody doubts this. And the president can pardon people. And, most important for Donald Trump, the president can speak. (Laughter) Because the essence of the Trump presidency is about speech, right, it's about shooting from the hip, saying things impulsively, speaking abusively. Nobody doubts that the

president can do these things.

And if you take the list of powers that Trump has regularly abused, the power to fire people embeds the power to order them around. So it's actually a profoundly important power that's much more important simply than the dismissals that you see. It's all the dismissals that are feared, it's all the dismissals that are threatened. It's an implement of control. And if you take those core powers, those are the abuses of the Trump administration, the Trump presidency, the foundational abuses. And that's why while there's a lot of litigation, there's a lot of legal challenges, none of them get to the fundamental abuse of the Trump presidency. The fundamental abuse is swearing an oath of office in a totally insincere fashion and using the core powers of the presidency for reasons other than a vision of the public good.

And so part of the project was to think hard about what is the vision of the presidency that Donald Trump is putting on the table. And we don't often think of him as putting ideas on the table because he's so scattered in his verbal communications. But when you behave in a certain way over a long period of time, when you've turned the term "norm violation" into a cliché, it's because you're actually proposing something. And you may not be aware of the theoretical implications of what you're proposing, you may not have theorized it at all, but you are proposing an idea of what the presidency looks like. And our basic hypothesis is that you can see that vision in the use of these core powers of the office and that that vision is for a vision of a presidency that is radically different from the traditional presidency.

MR. HIATT: So let me go back to one of the core powers you said, which is talking -- because you said that's what he does. And I guess my question is going to be well, so what? He talks. I mean we, you know, in our editorial board meetings, as you can imagine, every day it's kind of a question of what are we not going to write about today (laughter) because we can't do it all. And we often have debates over should we respond to this latest outrageous comment.

You may remember early on he said oh, I'm going to take the license away from NBC, or threatening, you know. And some of my colleagues said, well, this is an outrageous assault on freedom of speech and press and we have to speak up. Others said, well, NBC doesn't have a license. (Laughter) Local stations have licenses, but it's not really in his authority to take them away necessarily. And so, you know, do you dignify it by writing an editorial, do you, you know, accept one more shattered norm if you don't write an editorial?

So if he says these things and he doesn't have the power, yeah, it's a power of the presidency but what difference does it make?

MS. HENNESSEY: So we thought a lot about sort of this question of presidential speech and the rhetorical presidency and what Trump means. And one thing we tried to take really seriously in this book is the idea that the presidency is a changeable institution and that it's changed dramatically over American history. And so to suggest that it was this one sort of pure thing and now there's this new person coming in doing things differently, that's absurd that this is part of -- there are ways that in which Donald Trump is sort of a completion of particular trends.

And so whenever we think about speech, this is one of the areas in which the American presidency has most radically change. You know, early presidents didn't speak to the public. And that was sort of considered a form of demagoguery and really sort of unacceptable as a political matter that the president would directly address and try and sort of incite the passions of the public. And then over time we have, you know, Woodrow Wilson and people who come in with very, very different ideas, right, sort of -- Teddy Roosevelt first with this idea of the bully pulpit and then Wilson really making that intentional step of no, I'm going to talk directly to the public because this is the way that I'm going to persuade people. And then he's reelected, right. And sort of this breach of norm, which seems so shocking at the time, actually becomes ratified and it becomes part of the presidency.

MR. HIATT: I think you said it, one of the counts of impeachment in the first impeachment was that he was talking to the public.

MS. HENNESSEY: And with Andrew Johnson's impeachment, you know, the bitter menaces I think was the term they used.

MR. WITTES: The 10th article of impeachment against Andrew Johnson is a great read. And they basically impeached him for sounding like Donald Trump. (Laughter)

MS. HENNESSEY: And in one moment the norm is preserved and then at a later moment in history we choose not to preserve the norm. And there's also sort of a coarsening, right, a sort of -- dumbing down is probably not a fair way to describe it, but a more sort of direct and colloquial sort of presidential speech. And we see these trends happening over time. And so in some ways Donald Trump's sort of misspelled tweets is just the completion of that trend, of really speaking directly to the public, now without the intermediary of sort of a press apparatus or a press secretary apparatus, but directly to the public.

MR. HIATT: Or anybody proofreading his statements. (Laughter)

MS. HENNESSEY: Exactly. And it's certainly sort of a completion of the trend of anti-elitism in presidential speech.

And so to one extent, he's not really that different. It's not something new. On the other hand, he's doing something radically different with presidential speech, something that no other president has done before, and that's that he doesn't use speech to persuade. Ordinarily whenever presidents are speaking to the public or tweeting about people or giving speeches, they're trying to persuade, they're trying to build legislative coalitions and policy coalitions and win constituencies. They have sort of a purpose. And the way Donald Trump uses speech is completely different, right. He uses it to vent his own personal frustrations, he uses it to describe the world as he wishes it was rather than sort of the reality -- in some cases because he doesn't know what the reality is, in some cases because he's lying about what it is. But he's not using speech the way a president usually

does. And that's something really, really different and it's core to his sort of vision of the presidency, which is that the purpose of the presidency is not to do stuff, it's not to implement policy, it's to express the personal will of the president and the personal opinion of the president.

And so it's one area in which this really radical disruption of something we didn't even really think of as a presidential power, right. Of course he can speak. That it causes, you know, really interesting sort of structural outcomes.

MR. WITTES: Just to add to that. So there are a couple of other really I think important distinctive features of his speech. One relates to Susan's point that the purpose of it is different. And the fundamental purpose of Donald Trump's speech is to keep a narrow minority political coalition in line. And that is a distinctive feature in presidential speech. There's no attempt to use it to unify, there's no attempt to broaden the coalition. The ambition is to use it to enforce an orthodoxy in a minority coalition that is arguably -- well, was in 2016 adequate to keep him in power. The second distinctive feature -- which I don't know of a prior example of this in presidential history -- is the sustained use of presidential speech for personal attack. And, you know, he has used it on a regular basis to leverage the power of the presidency against individuals. And some individuals who are, you know, prominent political opponents, some individuals who are, you know, public servants who he doesn't like for some reason. And that is a truly unusual thing, that sort of sustained naming of individuals and kind of the use of presidential power to loose mobs against people.

And that is connected to a vision that he has of law enforcement and its function and its function on his own behalf. And so I think all of those connect back to this idea of the presidency as fundamentally an expressive office rather than a management office with a service dimension.

MR. HIATT: So we'll come back to law enforcement. And I just -- if you'll allow me a plug -- you know, the reference to how presidential speech has changed over

time, this book turns out to be a really excellent and unusual way to learn history I found. In each of these areas, you know, what do the Founding Fathers think about presidential ethics and how has the enforcement of ethics changed over time in response to what scandals. You know, federal law enforcement, which didn't really exist at the beginning, how has that evolved. And so in a very painless way, they teach a lot of history in this book and another reason I recommend it.

So I want to come back to this idea of the expressive presidency. And you both kind of alluded to the idea that well he's not trying to get things done or he's not trying to get things done in the traditional way. So I have two questions about that. One will be well, a president who did want to get things done, which of these techniques would he adopt and which might he discard?

But before we get to that, I mean are we sure that that's true? Is this Administration -- I mean here there's a domestic policy council that has done a lot of work and, you know, changed a lot of regulations in many areas. Of course, the Judiciary is the most famous example. But is it possible that some of this stuff is functioning as a distraction for us in the press who would be paying much more attention to these changes in regulations if the show wasn't going on and he really does want to get things done or the people around him want to get -- talk about that effectiveness versus expressive.

MR. WITTES: Okay, so, first of all, I do not want to suggest that the Trump Administration has not been consequential from a policy point of view. Because as you point out, they've actually done a lot. And in some glib way that probably does reflect what Donald Trump wants to do. When we say that he's not about doing things what we mean is a little bit more specific than that, which is that he is not in any kind of day to day sense managing or supervising these things that are getting done. He is drawing a lot of attention to himself and allowing a group of people around him to function within their zones with a surprising degree of autonomy, subject always to his own sort of temper tantrum type vetoes.

But, you know, whether that reflects a coherent policy vision on his part or whether it's a -- you know, a sort of mood that he sets that people execute, I actually don't think is all that important. The point is he's much less effective than he could be if he were a little bit more disciplined and he creates, I think, a -- he is less effective than he could be because he privileges the parts of the presidency that are about displaying himself, you know, tantruming in public, putting on a show, over the parts that are about management.

That said, one of the weird effects of that is that people below him have a strange degree of autonomy, which in some cases means like, for example, in the EPA, they can do all kinds of things, right. And it's so that it doesn't lead to policy, it's that I think if you had sat down with Donald Trump and talked, you know, a year before the election and said what are the things you want to get done in all of these agencies, he wouldn't have been able to list the list of things that they're doing.

MR. HIATT: Right.

MS. HENNESSEY: I would offer sort of two examples, both from the first week of Trump's presidency that I think sort of get to this point.

So the first one is the infamous crowd size controversy. The president was very upset at the idea that more people had attended Obama's inauguration than his inauguration when a National Park Service twitter account re-tweeted an image that showed a side by side crowd comparison that just made clear that his crowds were in fact smaller than Obama's. And so what the president did -- and we now know that he did this personally from later reporting -- is sort of in his first 24 hours as president of the United States, he's screaming at the newly appointed interior secretary, telling him to get this picture down and to find other pictures that show that his crowd was bigger. And so this order goes out from the White House, no more tweeting across the National Park Service and the Interior Department. The president is the head of the executive branch, he's in charge, and their boss is telling them no more tweeting.

Now, the National Park Service actually uses Twitter for emergency

communication when, you know, a flood happens or a mudslide or an emergency route or a park closure. They use it to communicate with the public. And so you see individuals who work just ordinary jobs, civil servants in the executive branch, saying, what, really, you don't want us to tweet about emergencies because you care about this sort of crowd size picture? And the answer is yes. There's nothing that stops the president from caring about something dumb and silly and petty. And the entire sort of government is -- executive branch is structured to serve that interest.

And so when the president cares enough to articulate it and give an order, the massive apparatus of the federal government turns itself to executing that policy.

Now, the same week the president issued his travel ban, sort of the original, you know, keeping of his campaign pledge. Now, this is one thing that he pledged during the campaign. He said total and complete shutdown of all Muslims entering the country. And a lot of people, including myself, said well he can't do that, you know. It's sort of like the NBC license, right. Well, you can't do that, there are laws and, you know, DOJ is not going to help you do that and OLC is not going to sign off on that. And so, you know, be my guest. And Trump's response was okay, because guess what, I don't have to ask DOJ, I don't have to ask the Department of Defense, I don't have to ask the State Department, I can just do things. And so he issued this order. And in some ways it's stunning, it shows how immensely powerful he is. He's stripping off sort of these normative process constraints and saying, no, it's just me, it's just what I want the presidency to be.

What ends up happening is the order gets struck down and it gets struck down again. And so eventually the travel ban that goes in to effect and is upheld by the Supreme Court is much more modest than the first one, it looks much more like what would have happened had the interagency process occurred. But for Trump --

MR. HIATT: And those still harmful to many innocent people.

MS. HENNESSEY: Still harmful, but for Trump what mattered was the expressive dimension. It didn't matter what actually went into effect, it mattered that he felt

like he could say he was doing something and the actual connection to the ground just -- it is apparently far less important to him.

MR. HIATT: So let's take that as a jumping off point to ask, okay, well to what extent has the system held? And, you know, he said he was going to ban Muslims. He couldn't, so we should feel good about things. (Laughter)

MR. WITTES: All right. The system has held in some ways much better than we could reasonably have expected it to, and in some ways much less well. And so this, just speaking personally, the sense in which it has held better is the number of people who have slow walked orders, just forgotten about things that were supposed to happen, all of these notes removed from the president's desk, or letters to withdraw from treaties, right, people who were going to be fired who aren't, and all of that mitigate -- is the system -- you know, the body rejecting the transplanted organ, right. And is the system saying if the executive branch absolutely forces us to do this we will do it, but unless, you know, you do it in exactly the right way we will find a way for it not to happen or to happen in a way that's less damaging than what you're describing.

And all of that would be an unqualified good if it weren't for this small matter of, you know, democratic government and elections, right, which is that, you know, none of the people who are resisting the president here are elected officials. He actually is an elected official. And the habits of resistance to elected government are very bad and poisonous habits in a democracy. And you can say the immediate effects are almost all for the good, but the long-term consequences are quite dangerous.

So that's the sense in which the system has worked better. And by the way, you know, I don't mean to criticize the officials who've done this. There are a lot of heroes in the State Department, in the FBI, in the Justice Department. Most of them we'll never hear about.

The sense in which it has held up worse, if you had told me three years ago that the senior leadership of the Justice Department would be as bad as it has been, and I

was the person who wrote the piece that Susan's describing that touched this off, which said, hey, the vulnerable spot is the Justice Department, I was the person who warned about that -- I never anticipated that it would be as bad as it has been. And I think --

MR. HIATT: Give one example of --

MR. WITTES: Well, the most florid example is the attorney general announcing a conspiracy theory. This is Bill Barr announcing a conspiracy theory that comports with the president's political preferences, says he has evidence of spying on the Trump campaign, will not produce any of it, will not discuss any of it, launches an investigation of it, apparently without an obvious predicate, and the publicly contradicts the inspector general who concludes the opposite. That should be an unthinkable sequence of events. And it's not and it's not remotely as big a scandal as it ought to be.

And so, you know, if you said -- you know, as the person who warned about the Justice Department being the weak spot, it has been at the senior leadership levels weaker than I expected it to be.

MS. HENNESSEY: So whenever you're writing a book like this that is sort of happening in real time, there's always this tension of kind of trying to keep the book open to the end. And so we kept going back and rereading things that we'd written to make very small sort of updates and the updates get smaller and smaller.

And one of the last -- I think for me sort of the most terrifying edits that we made in the book was at the end of this chapter on sort of the Justice Department and law enforcement independence. We had said, you know, look in important ways it's held, right; we haven't seen X, Y, and Z happen. And we had a line that said something to the effect of, you know, we haven't seen a Justice Department. We've seen the president tell his attorney general to investigate Hillary Clinton, right. Hideous abuse, you know, sort of unacceptable, unimaginable that a president would do this. But Jeff Sessions kind of ignores him, he doesn't do it. And then we wrote, you know, we haven't seen the Justice Department actually prosecute the president's political opponents. And we had to edit that sentence

because the Justice Department appears to have attempted to secure prosecution against the former deputy director of the FBI in circumstances in which certainly the public facts wouldn't have supported that. And it appears as though a grand jury actually declined to indict, although we don't actually know what happened.

MR. HIATT: Andrew McCabe.

MS. HENNESSEY: Andrew McCabe. And so we had to add in like a little caveat of mostly or, you know, by and large hasn't. The idea that a statement like that, something that should just be a sort of gospel truth in a democratic society, that the Justice Department is not going after the president's political opponents for political purposes, that we had to start to caveat that, you know, I do think is sort of a dramatic illustration of how even people who are really skeptical of this president sort of didn't imagine the extent to which we would get into what feels like really perilous waters.

MR. HIATT: I wonder if almost equal collapse, to what you're talking, is not the leadership of the Republican Party and what impact that has.

MR. WITTES: Yeah, so I mean the focus of the book of course is on the President and the presidency, but you're quite right that one of the things that conditions the behavior of the presidency is ultimately the fear of impeachment. And that's the thing that actually backstops a lot of the what we call norms, which are actually our baseline expectations of presidential behavior. And if you take that fear away because the leadership of your own political party can guarantee an unsuccessful impeachment and gives up its institutional role on behalf of its partisan role, you actually destroy the entire deterrent of fact with respect to behavior that the separation of powers is supposed to engender, and that is what's happened here. We are not, you know, political scientists who have like endeavored to sort of study the like way the party system has overtaken the separation of power system, but I do think that is a significant part of the story.

MS. HENNESSEY: Yeah, like one thing we identify is, you know, this is an ingenious magnificent system of government sort of two centuries of almost a miracle that

sort of the Constitution constructs. There are a few areas in which the founders just got it wrong. The assumptions they made whenever they were writing this document were just incorrect. And that's that they don't foresee the rise of factions in political parties overtaking the structural separation. And, two, they believe the electoral college is going to keep a demagogue out of the White House. They understand the risks that are inherent in this astonishingly empowered executive that they are creating. They talk about it. There's a whole anti-federalist movement that's telling them, you people are crazy, do you know what a bad person could do with these powers? What if he lied, what if he didn't care about his oath of office? You know, you're going to have an elective king. This was sort of core to the founding. But they decide that this is a risk worth taking because they want an energetic executive, an executive that can do things, that's nimble and responsible and democratically accountable. And the place in which that breaks down is when the electoral college actually ends up producing the contrary result. They were concerned about the general population electing, you know, a populist demagogue, and then they thought the electoral college would fix it. But what happened here is the general population got it right, the general population, including many Republicans, rejected this vision of the presidency, rejected this person. And it was the electoral college that came in and actually puts him in office.

And so, you know, those are two things that I think you have to grapple with if you're trying to look at this presidency through sort of the lens of, you know, is what's happening here in keeping with what occurs at the founding.

I would add one note of optimism, and that's that we have a long chapter on investigating the president. We talk about Congress sort of outsourcing its job to the executive branch for a long time. The Ukraine scandal, what we're seeing now is doing what it's supposed to do, not waiting for Ken Starr or Bob Mueller or whoever else to give them the facts about the president, who's ultimately the boss, but calling their own witnesses, undertaking their own investigation. And so there is sort of I think a thread of optimism left that maybe this is the shock to the system that actually gets it to start functioning in the way

it's supposed to.

MR. HIATT: So this Ukraine investigation was just getting started when you had to write your last words here. But I mean you got a pretty prescient postscript in. But, okay, we have impeachment and then by prediction, acquittal, although we don't know for sure. If it comes out that way, do we have the deterrents you talked about or do we have the -- what's the effect?

MR. WITTES: Guess. (Laughter)

MR. HIATT: Susan?

MR. WITTES: No, go ahead.

MS. HENNESSEY: I think it's two part. One, the history of impeachment in this country is the history of failed impeachments. And so this notion that you impeach the president and then he gets acquitted and then therefore, you know, you shouldn't have done it in the first place. No, impeachment plays a really important role of setting boundaries and telling this president and future presidents, this is impeachable conduct and so you engage in this at your own risk and your own peril. And so I think it's -- I'm surprised that we found ourselves here, I'm heartened that we find ourselves here. And I think this is a healthy and important sort of structural response and a congressional response to really grave, grave breaches of public trust and of abuse of office, regardless of whether the acquittal comes.

That said, we have the entire Mueller investigation, we have the Mueller report, which also shows shocking, stunning, you know, historic abuses of office. Bob Mueller testifies, it's not good enough television ratings or, you know, it's -- people say well, that's the end of sort of the hopes of impeachment. And the next day the president picks up the phone to have this phone conversation with President Zelensky. And so this president's instinct to always up the ante does appear to be almost pathological to his nature, sort of a part of his being.

And so I do think that we have to think about sort of the post acquittal -- what happens when the president has called your bluff and has said, you know, well I don't

think you're going to impeach me again, certainly not before November. What does that mean and what do the constraints and sort of checks look like at that point? Even more to the point, if he's reelected, that really is sort of the moment of ratification. He's put this vision on the table, he's shown you can get away with a lot of stuff that a lot of people would have predicted was completely impossible. But he hasn't proven that you can be politically successful. He hasn't proven that you can do that and be reelected. And I think if he does that prove that proposition, then we're going to see not just a second term of Trump, but more Trumps and different Trumps and smarter Trumps and left-wing Trumps and further right Trumps. And that's the moment at which you actually do change the office. And it's sort of the choice of is this just a weird anomaly – and we've had weird anomalies in the presidency and sort of recovered and returned to the mean – or is this a transformative moment, you know, in the way some prior presidencies have been transformative moments.

MR. HIATT: I mean just on that, as I read in the book, well, will the American public say this is the kind of presidency they want, this is -- I mean is it not possible, maybe just as depressing, but that the American public would be saying we just don't care as much as you guys do about his transgressions and we're happy that the economy is good and, you know, things seem -- nothing -- all these terrible things that you said were going to happen, like war and torture haven't happened and, you know, he's a president in a fairly peaceful prosperous time and he gets reelected?

MR. WITTES: Those are the same thing. So active approbation almost never happens because a vote for president is a -- it's like -- other than climate, it's like the ultimate multivariate equation, right. You get all these inputs through policy preference, which guy do you like more, you know, your party instincts, your sense of the ambient environment of the country, and you have to distill that into a this person or this person kind of binary choice. And so what the role of active approbation of the president's transgressive behaviors with respect to the office is in any individual's vote can be very hard to identify, but then aggregate that over 300 million people and it's really impossible.

The question is when you have a person who is using the office in a fashion different from the predecessors -- and the first extreme example of this is Andrew Jackson, whose vision of the presidency is quite different from his predecessors. Ironically of course, the word used was populist. Although, something of a different sense of it than with respect to Trump. When you reelect that person, you are ratifying that vision, whether you know you are doing it or not. And when Franklin Roosevelt ran for a third term in office and people voted for him, they were ratifying the proposition that the third term in office -- the two-term tradition should go in the face of World War II. We ultimately revisit that decision. And after Roosevelt's death a constitutional amendment returns the two-term tradition and constitutionalizes it. When you vote to reelect somebody, you are voting to ratify at some level, even if you don't mean to be, you are voting for the proposition that all things being equal this person with all his eccentricities with respect to the office, is less objectionable than the alternative.

MS. HENNESSEY: I mean look, I -- this is borrowing a line from Ben, but in a democracy eventually you get the presidency the people want. And the core I think thesis of this book is that we have this traditional expectation of the presidency and it's up to the American public to decide if they care about it. And if the answer is well, you've identified all these norms and we don't really care about it. They aren't worth defending and they aren't worth sort of protecting, then they'll go away and we'll get something different. And they've gone away in lots of sort of small and large ways.

What's on the table right now is a radical and dramatic revision. And so I think the point really is to not fool yourself into thinking that this isn't a ratification of all of these things and really wanting as we go into this election year people to think not just about whether or not they should accept or reject Donald Trump -- although, you know, we certainly have a view on that that we're candid with in the book -- but also who the next president should be and what they should stand for and what should we expect from them. Because ultimately it's going to be up -- even if Donald Trump is, you know, defeated and

doesn't get a second term -- it's going to be up to the next president to decide whether or not they want to reinstate certain norms.

So if a Democrat wins and they come in and they say well, you know, FBI director Chris Rice seems like a nice guy, but he's not my guy, you know, and now I can see that I can fire the FBI director -- and yeah, yeah, there's this 10 year term, but now we know that that doesn't really mean anything -- and I want my own person, because I want someone who's going to protect me and prioritize the things I care about. Who would stop them? Who in Congress could really, you know, express shock and outrage? But if they don't do that, then this notion of a 10-year term for the FBI director, something really important to independent law enforcement goes away. And so we have to identify the constraints because ultimately it's going to be on the next occupant of the office to decide if they are going to self-constrain even when it might not be convenient or advantageous. And I think there are 100 examples of similar choices.

MR. HIATT: I want to come back to the next occupant, but first let's dwell on the other unhappy possibility, which by the way I would say would be a ratification not only here, but for the world.

MR. WITTES: Sure.

MR. HIATT: Where a lot of other leaders right now aren't sure is this is an aberration or not, but reelection would tell them that, okay, that's who the United States is now.

And I recently had a conversation with somebody saying, okay, if he's impeached, acquitted, and reelected, and then he's in office not worrying about reelection, maybe not worrying about impeachment, he's really unbound, and the person I was talking to said, well, so what. If he doesn't really believe in anything particularly, what would he do with that, or how would it be more dangerous than a first term. You know --

MR. WITTES: So Trump is a liar and he lies a lot. (Laughter) But then we have a whole chapter about the lies. But there is a subject about which he is actually

incapable of dishonestly. Even when he tries to lie about it, the reality just comes through because he's actually incapable of being dishonest about his own emotional state. He's completely emotionally transparent, which is why when he's upset because there's an impeachment trial going on, when he tweets I'm not upset about an impeachment trial because it's ridiculous, it's a witch hunt, everybody knows what that means, right, because he's actually quite emotionally transparent.

One thing he is always honest about is his vision of law enforcement. And he has, you know, said very clearly that he believes that law enforcement is there to go after his political enemies and to protect him and his friends. And he will say that very candidly. We quote in the book a remarkable interview that he gave to a radio station about how upset he is that the Justice Department isn't doing more to go after Hillary Clinton and isn't protecting him and how much he admires attorneys general who have protected their presidents.

I think you can imagine if he were reelected that the core thing that would be unrestrained is that idea of what the coercive powers of the government are for. And right now there are certain limitations. And the big ones have just been people's refusal to do what he asks or what he says. But another one has been this kind of sense of caution, right, that there's some inhibition about allowing this vision to overtake us. And I think once you ratify that vision and you say there is no difference between Donald Trump and Barack Obama or George W. Bush or Bill Clinton or George H.W. Bush, and that there's no difference and it is acceptable for a president to loose the coercive powers on behalf of his own vindictive self-interests through impeachment, you know, whether it's foreign law enforcement in the form of the Ukraine stuff or domestic law enforcement in terms of the John Durham investigation or what he wants to do locally. I don't see why that would not be much worse in a second term.

MR. HIATT: I mean is the Justice Department and U.S. Attorney offices around the country -- I mean are they not staffed with professionals who would continue to

resist, or would the professionals give up? How would that --

MR. WITTES: All of the above. They are staffed with professionals who would continue to -- would insist on predication for investigations and you wear those people down over time and you recruit people, you hire people who are a little bit less likely to behave that way. You're not going to destroy a proud serious professional institutional culture overnight, but guess what, it isn't overnight, it's been three years already, and it's been three years of a certain degree of demonstration project in that regard. And now you're talking about a ratification of that and another four years of it. And eventually institutional cultures are fragile. Do I know how many days, of how energetic assault on it it takes before it in fact collapses and behaves badly? No, I don't know. Do I think the second term is a very dangerous proposition in that regard? Yeah.

MS. HENNESSEY: And look, you know, the sort of famous Jackson quote, of the most dangerous power is the prosecutor's ability to choose, you know, not the crimes that need to be prosecuted, but the person that needs to be prosecuted. And we have expansive federal criminal law and the standards of predication are very, very low. And so what I worry is that for career civil servants who aren't bad people and are trying to sort of uphold their individual oaths, when you take the individual view and you have something before you and you tell yourself, well, there's a predicate I guess, right, in a technical sense and you're following all of the formal rules and it's going through a structure and a system that looks just like the system before, it's the same people in the same offices and the same sign off procedure, but it doesn't feel all that different. And so you don't realize that what's happening is sort of a process of rot, of institutional rot, of constitutional rot in which the institutional frame remains and it looks the same, but the core purpose is no longer a legitimate one. And, you know, I think that's a scary path to go down. I'm surprised frankly that we haven't seen more resistance within DOJ. Not sort of within the, you know, hashtag resistance sense of the word, but in principled resignations. You know, there's been a lot of resignations, you know, but they mostly take the form of quiet departures to the private

sector, you know, of people avoiding eye contact in hallways.

And so I think that is sort of a question of people thinking well we can just wait it out. I think the message to those types of people are you can't wait it out. And so either you're prepared to go along with the program here or sort of find something else to do. And so I worry that what we'll see is just sort of a hastening of a process that appears to be already under way.

MR. HIATT: Well, I feel good now. (Laughter)

Go back to the 10-year FBI thing for a second. If and when we do get a different president, are there things that you came away feeling could be fixed, not just by having a president of good will, but along the lines of a constitutional amendment to limit the president to two terms. Has this experience of the last three and a half years exposed things which have a legal remedy or?

MS. HENNESSEY: Yeah, I think it's multi part. So the necessary but not sufficient condition is for Trump not to win a second term. Once you have a second -- once you have a new president in office, you have to have a president who cares about the institution of a presidency and wants to restore some of these norms, even when it's inconvenient. And if that means keeping an FBI director that maybe isn't the person they would have chosen, but they want to respect this norm. If it means, hey, if I was counseling a president, many, those press briefings sure are a pain. And it turns out you can get away with just not doing them, why wouldn't the next president come in and say I'll do it once a week and it will be a gift to you people that I give once a week. And I'll basically tell the truth, I'll tell 90 percent of the truth. And everybody will say oh, this is wonderful, look at this sort of return, right.

You would have to have somebody come in and say, no, I'm going to take this seriously, I'm going to go back to do the thing that I think is democratically healthy and institutionally important, even if it's not politically convenient.

So we need a lot of self-constraint within the executive. We need the

judicial branch to rethink the concept of executive deference. So Justice Ginsberg sort of wrote this line in a dissent, saying we've taken executive deference past its breaking point. We now have a situation in which the president is plainly lying to the judiciary. We know he's lying because he says he's lying. DOJ says well, you know, this is really about -- you know, this is not a Muslim ban, it has nothing to do with religion, and then the Supreme Court upholds it and a week later the president tweets, we all know what that means, a wink -- or that's what he says at the signing ceremony, right. So he relishes this notion of saying, oh no, you know, all these people who twisted themselves in knots to sort of, you know, help white wash and formalize and give him, you know, institutionally acceptable sort of presentation of my view, oh, no, no, no that's what I mean the whole time.

And so we have judiciary that is really struggling to respond to that. And so we need a healthier more skeptical judicial branch. And that's going to have costs. That is going to have a -- it's going to result to some degree to a weakened executive, that will itself have costs that we have to bear in this country. But I think we have to rethink the risk analysis.

And then we're going to have to have laws passed. So a lot of people have asked, you know, whether or not emoluments should be in the articles of impeachment. You know, this brazen violations of the emoluments, he didn't divest, he's doing all these things. My view is it shouldn't be in the articles of impeachment because Congress hasn't even bothered to have an oversight hearing, they haven't bothered to put it into law. Congress could pass a law requiring the president to divest from his businesses or provide increased financial transparency. They haven't bothered to do --

MR. HIATT: Or show his tax returns.

MS. HENNESSEY: Exactly. They haven't bothered to do any of that. And so we also are going to need to see some legislative work being done, you know, to help create the laws and sort of the framework and the basis that, you know, areas in which Trump has now proven that respecting the norm is not required, that you can ignore it

without paying an immediate political cost. And ultimately, the only way to reinforce that is to pass legislation.

MR. HIATT: But I just wanted to say, our columnist, Karen Tumulty, called each presidential campaign on the Democratic sign and asked whether they would commit to daily press briefings. I believe they all said yes. So, of course, doesn't mean they (laughter) --

MS. HENNESSEY: Comforting.

MR. HIATT: But comforting, yeah.

MR. WITTES: So I would just add -- I agree with all of that. I would just to it that there is no solution to -- there is no legal solution to the problem of a presidency that does not take the oath adequately seriously. The oath of office is the only place in the Constitution that uses quotation marks. The founders took the oath seriously enough that they actually wrote a script for it into the document. And that is unique. And there is a reason for it. The reason for it is that you actually can't force the president to behave with good faith. You can't force the president to be a decent person. You can't -- and there have been a lot of presidents who were not decent people -- you can't force the president to be a kind of a good commander in chief or make wise judgments, right. The only surrogate for that that you can get to is to have the person stand up and publicly swear to try to do those things. And if you have somebody for whom that moment is not especially solemn and doesn't carry a lot of meaning and -- you know, you watch him swear the oath office and you're kind of like well, I don't think he even understands what he's saying. (Laughter) The fact that you have a lot of laws on the books that will require things of him, it's not that it will be of no use, but it will not be of adequate use. And that requirement that we kind of at the end of the day return to taking that sort of demand for civic virtue seriously is something that you cannot fix legally.

MR. HIATT: I have a lot more questions, but my guess is people in the room also do, so let me ask if people have questions. If you do please identify yourself and

then ask a question, don't give a speech. And try and keep it brief so we can get as many as possible.

Sir?

MS. HENNESSEY: And someone from Brookings will bring a microphone as well.

MR. HIATT: Somebody from Brookings is bringing a microphone.

MR. MITCHELL: Thanks very much, I think. I'm Garrett Mitchell. I write the Mitchell Report and I'm a frequent flyer on Lawfare, for which I thank you.

I'm interested in this notion of -- I was thinking about the quote of Jack Goldsmith, which you have in your book -- which I won't bother to read, but if someone there wants to read it, that's fine -- in which he points to prior presidents from Jackson to the present day and how each of those was a low. I'm curious to know whether you -- as you wrote this book, "Unmaking the Presidency", whether it occurred to you that this is possibly a volume one of a series, the volume two of which would be unmaking the democracy, which is another way of asking whether this is a transformational presidency or something beyond that.

MR. WITTES: I think we don't know the answer to that. I mean other than to say that we have no plans for a sequel, unmaking the Congress, unmaking the judiciary, or unmaking the democracy. (Laughter) Like, you know, we have had highly abberational presidents before. The most extreme example of that is probably Andrew Johnson, but there are others. And often they are not transformational, they are abberational and we find ways to get rid of them or to move on after them. And the republic retains a memory of them in a kind of sotto voce -- you know, there was that awful period with, you know, president so and so.

And I think it is possible that that will be what the Trump presidency is. It won't be sotto voce because he's so loud that he makes everybody else loud too, but I do think that's a possibility. And you could imagine the premise of the Joe Biden campaign is

return to normalcy. He doesn't use that particular phraseology, but that's the whole premise, right. I'm the regular order. And, you know, you could imagine that being the outcome.

On the other hand, I think you could imagine quite the opposite, that the lesson that people take away from this, particularly after a reelection, is that this stuff works and that Trump uses a little bit too much of it. He undermines himself in a lot of ways, but at the end of the day the expressive presidency is a reflection of the fact that people want to be entertained and they want the president to entertain them. And I can do that. And I think that that is a distinct possibility, and that is transformational.

And so I think the verdict is yet out on it. And it comes back to this question of ratification, it comes back to the question of, you know, is it okay with us that the presidency function the way it has functioned the last three years.

MS. HENNESSEY: The first thing is we have a really interesting real time experiment going on, and that's that our founders made very deliberate choices in crafting our executive, choices that seemed completely nuts to other countries. You want your president to be in charge of your Justice Department? Do you not see the issue, right? Other countries don't do that. We are seeing the British system undergoing profound pressure and stress and a parliamentary system -- we're seeing how these types of stresses play out in that context, we're seeing the Israeli system go through a president attempting to, you know, get immunity for himself, we're seeing a different set of electoral responses there. And we're seeing how the American system holds up. And so, you know, I think that one lesson that we'll be able to take when we get beyond whatever this period of history is, is a little bit more of proof of concept in we've had sort of these dueling ideas and we've talked a lot about the attractiveness and then the obvious rightness of the American model. And this precise sort of manifestation of this type of person in office in this particular moment in history, it certainly highlights all the perils that people warned about.

And so I do think that we are going to have an interesting sort of body of evidence at the end of this about what is the best way to structure a democracy to go

through really, really turbulent periods.

QUESTIONER: Thank you. Rick LaRue.

A question about if he is reelected, and that prospect, his speaking presidency, as you characterize it, will then sort of conflict with or confront the permanent campaign and that attention shifting fairly quickly to the 2024 election, after he's reelected.

How do you see that exacerbating the risks of his second term, confronting them, or some other variation?

QUESTIONER: What's a lame duck Trump look like?

MS. HENNESSEY: I don't know. I mean nobody knows. I think the answer is that a lame duck Trump is worse because for other presidents the lame duck period is difficult because they can't really gather sort of the political coalitions they need and the legislative attention, and so it's really hard for them to get the big giant things that they want to do done because it requires moving all of these levers and getting this bureaucracy to work in a particular way. But for Trump, if it's really just about expressing himself and doing the things that he can do unilaterally and he doesn't need other people to do, and doing it in a context in which he doesn't fear impeachment, he doesn't fear not getting reelected, and the other people around him that might be in a position to restrain him, including members of Congress, have gotten the message that, you know, this has been -- he has a mandate, right. The public has reelected him. Or they're going to be less inclined to even do the kind of minimal furrowed brow constraining that we see them doing now.

And so I do think that's a time in which -- there are real -- the risks are heightened. And so I think you and think of sort of the final hours in office in which lots and lots of presidents have done things like abuse the pardon power, but they wait until the very end because they're ashamed and they're ashamed and they want to do it on their way out the door. Trump doesn't experience that sort of form of shame (laughter) and so that bad behavior that we all sort of know that a lot of presidents do at the very, very end, imagine that being stretched over a period of multiple years in which the president does stuff and he

can do it, it's within the executive power and no one can stop him. He's not -- he doesn't have the sort of the concern about his legacy or wanting to appear a particular way. And you could imagine pardons and self-enrichment and -- there are a thousand different manifestations of that. And I don't know that you point to any one as the death of the republic and this is the thing, but the cumulative effect is profoundly corrosive.

MR. HIATT: Do you think we should take seriously this idea that he will take the idea of a family business and extend it to his successor? Or try to?

MS. HENNESSEY: In the sense of wanting his children to be --

MR. WITTES: I mean I think you have to take that seriously. Not because it's a certainty that he would want to do that, but because it's a possibility and it's not like it's something that's wholly without precedent given the Bushes and the Clintons. You know, we have a dynastic tradition for an anti-dynastic society. We actually do have a modern dynastic tradition. And the cult following that he has built up around the name Trump, as well as his involvement of Ivanka Trump in the -- and the role that Donald Trump, Jr. has played as a kind of political enforcer in conservative circles, I think does raise the question of whether there would be an attempt in that regard and how it would affect particularly the Republican politics.

MR. HIATT: Okay. There's three in this row. Let's start with the gentleman on the end and work toward the center.

MR. PEACE: Thank you. Leon Peace and I'm a lobbyist here in town.

Following on the last question -- oh, Leon Peace, a lobbyist here in town. Following on the last question in essence, since the founders operated in what amounted to pretty much an informational vacuum in terms of the time it would take for information to travel from Washington out to the other states, and this president has in essence reformed the presidency into celebrity status, going forward isn't it possible that in order to be considered a serious candidate one would have to have a celebrity imprimatur before even considering running?

MR. WITTES: Yeah, so I think this is a very profound question. And as the question reflects, one of the real limits on executive power at the founding, and I think one of the reasons the American presidency scared Alexander Hamilton less than it scares people who watch Donald Trump is not simply that Hamilton couldn't imagine Donald Trump, he actually did. He imagines -- he's terrified of demagoguery.

One of the reasons is that communications was bad. And so, you know, if you want to be -- to sit in Washington or Philadelphia or New York and run a giant country, it takes days for information to get from place to place, days for it to get back. You know, the direct lines of communication through which you manage the executive branch, the geography simply required a certain dispersal of the authority to the point that, you know, when the president would send off treaty negotiators to Ghent, for example, to end the War of 1812, it was completely hostage to whatever they came up with. You know, you couldn't just get on the phone and tell them what to do. They would come back with the treaty that they'd negotiated, right.

So this information environment is a two-way street. On the one hand, there is the public communications. There is also this ability to reach down into agencies and be exactly as abusive as you want to be. And all of that can happen in real time. And that's been true for a while. And, you know, it was a feature of Watergate too, the degree to which the president sort of got involved in, you know, in stuff well down in the bureaucracy.

But I do think celebrity plays a role in it. Trump wants to be seen. He's not actually that interested in management, but he wants to be seen managing things. And so he manages things in Twitter, right. He issues orders while walking to a helicopter so that it's kind of on film. And I do think the question of whether we imbibe that kind of vision of the exercise of power, right, is a real question about how we -- what our expectations of the presidency come to be.

MS. HENNESSEY: And, look, there's another side of that as well, which is the press also has these means of communication, they also have sort of access. And sort

of the celebrity feature also brings with it a relentlessness of coverage in all aspects of life. And so we've seen all the features that Ben describes and we've also seen Fred's colleagues on the news-gathering side sort of I think very much rise to meet the moment. Whether or not that ends up becoming more and more empowering or more and more constraining, we'll see that play out over time. But there are certainly two dimensions to it.

MR. ULLMAN: I'm Harlan Ullman and I describe myself as a radical centrist, and you'll understand why in a moment.

I think your arguments about Donald Trump are unarguable. I would just say you're understating the problems. But having said that a lot of what you're saying is not new. Nixon had his enemies list, Clinton's pardons, many of which were disreputable, Bill Sessions, as I recall was fired early or forced to resign as FBI director.

It seems to me that there's another villain in the piece, it's called the Democratic Party. The Democrats have got to find somebody who's electable. They may have come up with George McGovern and Mike Dukakis in the past. I don't think that Hillary Clinton was able obviously to win. And I take a look at the current list of contenders on the Democratic side and I would argue right now Donald Trump is likely to be the winner if a vote were taken today.

Now, there's a long time off between now and November. So how do you rate the Democratic Party in not coming up with a successful alternative? Because if Trump can run against virtually nobody who's going to win, you know who is going to be president. And his view of having 40 or 42 percent of the population is enough for him to win the Electoral College.

So what do the Democrats do about this?

MR. WITTES: So like I think you're assuming the answer to your own question, which is that if you define nobody as capable of defeating him, then you can ask yourself all day about the failure to produce somebody who is capable of defeating him. I would just remind you that four years ago it was unthinkable that he could win.

And so our sense of what is electable is a pretty flawed vehicle and I don't purport to know actually whether any of the current Democrats are likely to beat him. I'm not a political analyst.

Your other point, though, I want to address directly, which is that there have been prior abuses and Donald Trump is not the first president to have enemies lists or have a corrupt vision of law enforcement. We actually go through the history of that in some detail in the book. I will say none of those other presidents did it in public. And there is a profound difference between having a secretly corrupt vision of the use of power and paying homage to the in fact shared vision of law enforcement as a discipline independent of the protection of people in power. And having a vision in which you publicly state that my ambitions for law enforcement is that they protect my friends and harm my enemies.

You know, in book 1 of Plato's “Republic,” the very first dialogue that Socrates has is about the question of what is justice. And the very first vision of justice that he confronts is rewarding friends and punishing enemies and that is the first one that he attacks. And this is what Donald Trump says in public is the vision. And that is unique in the history of the presidency. There is simply -- there is no analogue for this in Richard Nixon, there's no analogue for it in either Kennedy or Johnson -- by the way both of whose abuses were extreme. And I do not know of another president who has been willing to articulate that in that way. And I just think that that is actually one of the most corrosive things a president can do.

MS. HENNESSEY: The other sort of fundamental difference is those other presidents weren't doing it all at once. They weren't doing it continuously. So, yes, Bill Clinton fires Sessions, although the circumstances were a little bit more complicated. He then appoints Louis Freeh, who he hates, who comes to the White House and draws the president's blood from his body, and he doesn't fire him. We see Lyndon Johnson secretly doesn't divest through his business and he's actually making money. But he's just doing that, he's not also engaging in abuses of foreign policy power, he's not also hiring his family

members to also play these dual roles. It's not all happening along every front at exactly the same time.

And our system is actually pretty well designed to contain and respond to specific abuses. What our system -- both media and also sort of as a governance matter -- appears really ill equipped to respond to is this sort of overload of trying to fight it on every single front at all times. And I really think that's the area in which Trump is really quite different than really any president we've seen before.

MR. HIATT: Yes? Were you still asking? Did you still have your hand up? Okay, you're next, okay? Go ahead.

QUESTIONER: Have any of you contemplated that it doesn't matter who the Democratic nominee is going into the election because there will be other things going on, subversive and otherwise, that will throw the election to Trump no matter who the Democratic nominee is?

MS. HENNESSEY: So I'm not a sort of political scientist or someone who works on campaigns and so for sort of the pure political questions of it, that's just sort outside my field.

The question of integrity of elections is an important one. It's one of the reasons why we're having impeachment proceedings right now. That's something that people should be focused on and care about and be vigilant about. And one, you know, thing that continues to astonish me about where we are sort of with the current impeachment and sort of these efforts to get Ukraine to become opposition researchers is how close they came to getting away with it. So close to getting away with it. But for one person being willing to go through the system and not leak to the press, but be a whistleblower in the true and legal sense of the term, we would all be sitting around right now debating Hunter Biden's board memberships and we would never have been able to untangle what came first and what the motivation was, and wait that wasn't legitimate.

And so I do think people need to step back and really think about the

consequences of this moment and of where we are and why it is really important that even if the president ends up being acquitted at the end of all of this, the constraint of impeachment, the message to future presidents, the message to this President, that we are watching every single move because the integrity of this system and this process and our ability to fairly select the person who's going to be president next is something that isn't going to get lost in the media churn in the way 100 other scandals have.

MR. WITTES: Yeah, just to amplify that point, you know, before the whistleblower story came out the Washington Post -- and, Fred, you'll correct me if I get the details of this wrong -- ran a remarkable editorial that basically flagged to this problem and said, you know, there's reason to worry that the president leveraged this aid on behalf of this specific interest. This did not generate -- this was a Washington Post editorial and it reads really well in retrospect -- and it did not generate the scandal that has happened. You know, you look back at it and you say, wow, that's a heck of an editorial.

So how fragile our ability to learn the truth is. If you don't subsequently have this sequence of events that happens, where Adam Schiff writes this letter to the inspector general, you end up -- I don't think the Financial Times and the Washington Post editorial together produced the scandal that has been produced as a result of the way things happened.

So my point is, you know, we don't really know the scope of the problem partly because we are in a flood of scandalous material that is extreme enough that, I'll be honest with you, when Fred ran that editorial, I didn't notice. I noticed it in retrospect. And so what am I missing now that's super salient, that's -- you know, when we look back in November and we say there was an election integrity problem we're going to focus on, and actually the ambient information to evaluate is already kind of out there, but it's lost in a flood of other stuff. And I'm very worried about that. We don't know what's important all the time.

MR. HIATT: I would say the obvious lesson is read these Washington Post editorials very carefully. (Laughter)

MS. HENNESSEY: Take them seriously.

MR. HIATT: I mean a little more seriously, our lead editorial today is about something called the DETER Act, which is a proposal in Congress -- Senator Van Hollen -- and it has in theory bipartisan support, and it just says the best way to deter interference in the next election is by making as certain as possible that there will be serious consequences if you interfere. And, so far, the Republican leadership has not allowed it to come to a vote, presumably because the White House doesn't want it, but.. .

Yes, long-suffering lady.

QUESTIONER: I'll pass because my question is a variation on the question that was just asked.

MR. HIATT: Okay, okay. Okay. Looking for a little gender diversity here, but.

MR. CHECCO: Thank you very much. Larry Checco, blogger and concerned citizen.

I think to Ben's point, last week it was illuminated on Jeopardy what a lot of the problem is. They had a question about Adam Schiff; they had a photo of him. Three Jeopardy contestants could not identify Adam Schiff. Margaret Sullivan wrote about it in her column yesterday. When it happened, instantaneously I said to my wife, here lies the problem, people -- here we are -- how many are we -- 100, 200 people in this room -- outside of Washington you wouldn't get 5 people at an event like this.

So at any rate, it's not a question, it was a comment. I'm sorry for that. But it kind of illuminated for me what the real problem is.

MR. WITTES: Well, I just want to say, outside of Washington, people should read this book. (Laughter)

DR. FINE: Okay, I suggest that we --

MR. HIATT: Wait for the microphone, sir.

DR. FINE: I'm Dr. Edward Fine. I'm associate professor of neurology at the

University at Buffalo, the School of Medicine.

One of the things that would prevent another president from succeeding, as this scoundrel, would be to change the oath of office. Honestly, at the end of the oath it says to the best of my ability. He has no ability, so he might be unimpeachable according to the oath of office. So I would suggest -- and then what do you think about this -- that the oath would include these points: avoidance of emoluments to ensure transparency, including all financial dealings prior to the office, maintenance of the traditions of the office, being prudent with the allowances of managing the costs of the presidency. That would be one. Too simple.

Remember, Barack took 12 trips in 8 years. The cost to go down to Mar-a-Lago is about between $3.8 and $4.1 million. And that's it.

MR. HIATT: Okay. Thank you.

DR. FINE: Let's talk about that.

MS. HENNESSEY: Yeah, so, look, I don't think any of those are bad ideas, I don't think any of them need to be in the oath of office. Those are all points which we could pass legislation on precisely those issues. And Enoch Lewis who said any person who needed an oath in order to do their job well isn't going to be bound by an oath anyway, so your whole premise here is completely flawed.

You know, at the end of the day the oath is a substitute for electing someone who has civic virtue and who believes that the purpose of the presidency is to serve the American people and to serve the national interest and can separate himself from the office and his personal politics. And that ultimately is up to sort of electing a person who has that kind of integrity and satisfies that vision.

DR. FINE: The reason why I put it --

MR. HIATT: No, I'm sorry, unfortunately we're at 11:30.

DR. FINE: Okay. We can talk about this.

MR. HIATT: They will be signing books. For our web audience, it is called

"Unmaking the Presidency" and you should read it.

Thank you very much.

MR. WITTES: Thank you.

(Applause)

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