



Closing General Session: Back to Governing in the Crosswinds

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1. What is your assessment of the New Green Deal?

As I said in Dallas, the GND became a punchline before it was even a proposal, let alone a policy. The main idea is to forestall the onset of climate change by reducing reliance on fossil fuels to the point of elimination (one version would have U.S. energy production 100% renewable in the 2030s), banning gasoline-powered vehicles by 2040 and restructuring American agriculture to be far less energy intensive.

Basically, the GND is a notional or generic term for a series of ideas supported by the more radical elements of the environmental movement, including many of the younger members of the new Democratic majority in the House. One of them, Alexandria Ocasio-Cortez, has been getting mountains of media coverage.

Thus far at least it has mainly served as a rallying point and fundraising issue for Republicans in the aftermath of losing the House in 2018. While it might not “outlaw ice cream” or “ban the burger,” some of what is bandied about in the name of the GND is way beyond what any Congress would consider. Witness that when Mitch McConnell insisted on a vote on a resolution labeled a GND (there is no actual bill), there were no affirmative votes (Senate Democrats voted “present”).

The name GND is meant to connect with the positive image of “green” products and the Democrats’ nostalgia for the politics of the New Deal. The idea is that switching to renewable energy sources and reordering ag away from raising animals would produce new jobs even as it eliminated old ones. As a long term strategy or policy benchmark it may have some valid points to make. As a short term strategy it is enormously unrealistic and will appeal only to a very small minority of Americans.

2. What is the likelihood of the Electoral College going away?

It is not going away without a Constitutional amendment to eliminate it. That takes two-thirds in the House and in the Senate (no new amendment has received this support in both chambers since the 1970s). But the real obstacle isn’t Congress but the states. The Constitution requires three-fourths of the states to approve the amendment, and that is all but impossible to imagine. Yes, clear majorities will tell pollsters they think the popular vote should prevail. And we have seen the EC defy the national popular vote twice (2000 and 2016) in recent years.

But in both instances, the winner was a Republican, so the issue has become part of the Great Polarization. If George W. Bush had lost Ohio in 2004 (which was close) he would have lost the White

House, despite winning the popular vote nationwide by three million. Had that happened, or were another Republican to lose the EC while winning the popular vote, then there might be bipartisan support for a change. But even then it would be tough to get 38 states to go along. One alternative is to get enough of the states to agree to bind their electors to the national popular result (instead of tracking with the result in their own state). That might work, and 13 states (plus DC) have changed their laws to do this (so long as enough other states agree to do the same to guarantee a national popular winner wins the EC). But all those 13 are blue. If it catches on in some red states, this idea might have a chance.

3. What is your assessment of the collusion claims?

We know the Russians interfered and had an agenda. We know the Trump people said and did things that looked bad, and they didn't report things they should have reported to the FBI. Beyond that, people were thinking Mueller was going to tell them more and he hasn't done that.

I don't have any evidence Robert Mueller doesn't have. But we should note that his standard for bringing charges or proposing to bring charges would be evidence sufficient to convict "beyond a reasonable doubt." That's the proper standard, but it's different from saying "there is no evidence."

So it would be great to see the report itself, or at least a redacted version to protect privilege grand jury testimony. It would also be good to know why Mueller thought the president was not exonerated of obstruction (Mueller said his report "does not exonerate") but William Barr thought differently. At this point, I expect Barr's release of the report will be severely redacted, to the point that critics will call it a cover up. He has volunteered to take the heat, not only by taking this job but by auditioning for it with his letter last year saying the whole Mueller probe was "ill-conceived."

4. Does Donald Trump serve as President through his entire term and if so, does he win the 2020 election?

Yes, he does serve out the term, and yes he might well win another term. Impeachment without at least some bipartisan support (or substantial support among Senate Republicans) is a fool's errand and might wind up helping Trump. Barring some jarring revelation from the guts of the Mueller report or some House committee investigation – both highly unlikely – there will be no bipartisan support and thus no impeachment.

As for a second term, it will depend largely on the Democrats. *If* they unite behind a plausible candidate while still managing to motivate their younger voters and minorities, they should be able to win back the three states that cost them in 2016 (Penn., Michigan, Wisconsin) and contest a few others as well (probably not Ohio). Just winning back the three mentioned would be enough they held all the states that voted for Hillary. Trump does not seem interested in expanding his base, only in hardening and energizing it. But that could be enough in a three-way race (Howard Schultz or someone else as the third) or in a race such as 2016 when minor party candidates got more than 5% of the total.

5. What do you see the impact being/types of legal issues that will be addressed differently with the new members of the Supreme Court?

I do not see the Gorsuch and Kavanaugh appointments moving the court that much – with the possible exception of two notable issues: abortion and same sex marriage. Gorsuch will be as conservative as

Antonin Scalia, although there may matters here and there on which they would have ruled differently. The bigger question is Kavanaugh, who *is* expected to move the court to the right. But some of that expectation is based on what I think is a misread of Anthony Kennedy, who was a swing voter at times but most often a part of the conservative majority. He was more liberal than the other Republican-nominated justices on abortion (like O'Connor), Kavanaugh is thought more likely by far to vote to allow states to ban abortion, reversing *Roe v. Wade*. Kennedy also broke distinctly on same-sex marriage. He wrote all the major decisions that led to the legalization of same-sex marriage from *Lawrence v. Texas* (2003) all the way to *Obergefell v Hodges* in 2015.

6. Can you expand on the industries affected by the \$16/hour wage in 2023?

The negotiated deal, which has yet to be approved in Congress and is no slam dunk to gain that approval, 75 percent of auto content must be made in North America in order for automobiles to qualify for preferential, duty-free treatment. (NAFTA said 62.5 percent.) In addition, of that 75 percent, 40-45 percent must be made by workers that earn at least \$16 an hour. The wage requirement will be phased in over five years. The Center for Security and International Studies says: "It is essentially a U.S. or Canada content requirement as wages for Mexican autoworkers are not close to that level." By itself, this is not likely to disrupt auto wages in the U.S. and Canada, and it would seem unlikely to have much effect outside the automotive sector.

7. Does the change to SNAP mean more or less total dollars in the program?

Despite all the noise last year about this, changes to SNAP in the Farm Bill had more to do with purging bad actors from the system, whether they are recipients or administrators. While such reforms are in the works, my understanding is that the actual amount of money being appropriated for the program continues to rise, if not as fast as some would like. The Trump administration continues to seek ways to reduce the amount, in part by substituting "food box" deliveries in lieu of traditional stamps. Some of this may be accomplished by rule changes the department could make on its own.

8. Is Ruth Bader Ginsberg still alive? How likely is President Trump to replace her on the Supreme Court?

Ginsberg has had more cancer surgery and one suspects would have retired by now had Trump not won. If she is too ill to serve past this court term, she will have to retire and Trump will replace her. The Republican majority in the Senate will confirm almost anyone he appoints. And Mitch McConnell changed the rules two years ago so filibusters are no longer allowed on Supreme Court appointments.

9. Is the new discourse in DC the new normal? Will we ever get back to party moderates?

Sadly, it is the new normal. It has infected just about everything, including committee proceedings that used to be relatively bipartisan and cooperative. Obviously, it is at its worst in the media, where many do not make any attempt to disguise their partisanship or to give the other side a break (or even a fair hearing). Moderates do still exist, but they are far fewer and far less attention is paid to them. What could change that? An external threat or existential crisis such as 9/11 might. Things got better for a while in 2001, but it didn't last. There are too many rewards and incentives now for Congress and others to play the "outside game" of making claims and accusations, as opposed to the "inside game" of accommodation and compromise.