

A Whole New World: Trump’s Attorney General nominee, Senate recess appointments, the Department of Government Efficiency, the Federal debt and a Democratic post-mortem on the election

“A whole new world, a new fantastic point of view...

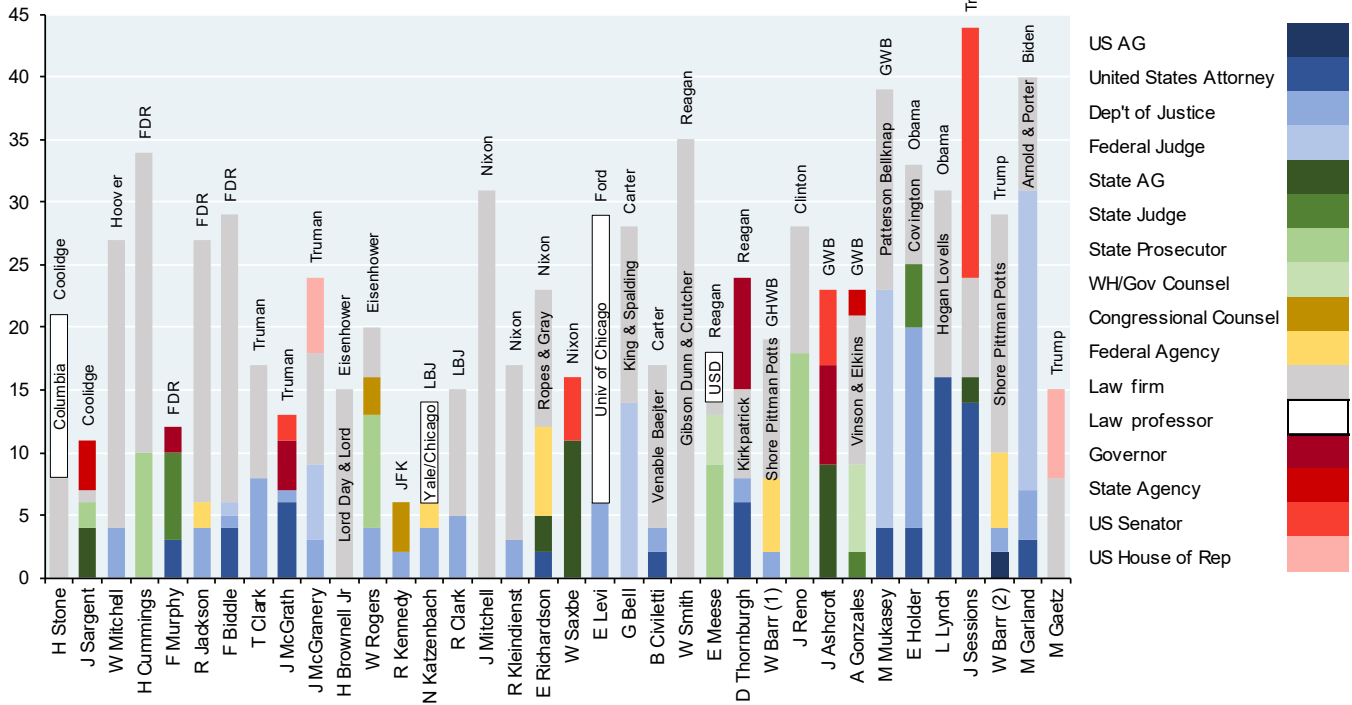
No one to tell us no, or where to go, or say we’re only dreaming”, *Aladdin*, 1992, Menken/Rice

Our 2025 Outlook will focus on the US soft landing, AI adoption trends and implications for megacap stocks, the Trump administration’s signals on deregulation vs antitrust enforcement, moribund European growth and productivity, the Bitcoin surge, commercial real estate investing, hedge fund performance, the mirage of a nuclear renaissance in the West and other topics. In the meantime, to prepare you for some highly charged **Thanksgiving** gatherings, here are a few follow-up items from the election.

A whole new world. Trump’s nominee for Attorney General is an unorthodox one. For starters, Gaetz’ years of experience are at the low end of the historical range¹. The more notable issue that can be inferred from the chart: Gaetz has not served in the Department of Justice, a US Attorney’s office or a State Attorney General’s office; he lacks prosecutorial experience at Federal and State levels; nor does he have executive experience at a major US or State Agency. His relevant experience is confined to service on the House Judiciary Committee and at a small Florida law firm, much of which overlapped with his time in the Florida State Legislature.

100 years of US Attorney General appointments: prior years of experience

Years of pre-AG experience per position, 1924-2024



Source: JPMAM, November 2024

¹ **The RFK appointment by JFK** was very controversial at the time: the NYT and New Republic described him as inexperienced and unqualified given his lack of experience in any state or federal court. President-elect John F Kennedy did not want to name his brother Robert as US Attorney General but his father **Joseph Kennedy Sr** overruled him. LBJ advisor Bobby Baker was able to persuade Senator Richard Russell Jr to allow a voice vote in the Senate to confirm RFK, without which Baker believes RFK would have been lucky to get 40 votes on a roll-call vote. Sources: historian Arthur Schlesinger, Senate historian Donald Ritchie with Bobby Baker, 2009

To be clear, years of prior experience does not always translate into effectiveness or competence as AG. Bill Barr's reputation is a shadow of what it once was despite ample experience², and Nixon-appointed John Mitchell might be the worst AG appointment on the chart despite his 30 years of prior legal experience (as a municipal bond attorney, which is arguably not relevant at all). I would rank John Mitchell³ with JFK Defense Secretary Robert McNamara⁴ as two of the worst overall cabinet appointments of the last 100 years...but that's a long story for another time.

The unorthodoxy of Gaetz's profile may explain Trump's stated interest in using Senate recess appointment procedures to appoint cabinet members without Senate confirmation. Here's why that's unlikely⁵:

- The Recess Appointment Clause was designed to deal with vacancies occurring while the Senate was in recess for several months each year given the difficulty of interstate travel during the 18th and 19th centuries
- More recently, recess appointments have been used to avoid opposition to Presidential appointees, or more frequently to accelerate appointment of non-controversial sub-cabinet-level nominees. Obama made 32 recess appointments to full-time positions (including Deputy Attorney General), George W. Bush made 99 and Clinton made 95
- The Supreme Court ruled on the constitutional limits of the recess appointment power for the first time in 200 years in 2014 after Obama made some recess appointments to the NLRB during a brief 3-day recess in January 2012. The Court held that the President may make recess appointments only during a Senate recess that's at least 10 days long. A recess appointment lasts until the end of the Senate's subsequent annual session; in other words, a recess appointment in January 2025 would last until early January 2027
- The Court also held that the Senate can prevent the President from exercising recess appointment power by authorizing and holding pro forma sessions every few days in which a single senator (!!) gavels the Senate into session with no other Senators present and then immediately declares the session concluded
- While the Senate sometimes holds a "state work period" of 10-12 days in mid-January during which the Senate does not conduct any legislative work on the chamber floor, it generally conducts pro forma sessions at that time to prevent recess appointments from occurring

Bottom line: it would be *highly* unusual for the Senate to deliberately enter into recess with the express purpose of enabling a President to accelerate appointment of controversial nominees to cabinet-level posts at the outset of a new Congressional session. While the new GOP Senate majority might resort to recess appointments at some point to deal with a backlog of nominees, I'd be shocked to see this approach applied to cabinet positions such as Attorney General, Secretary of Defense and Secretary of Health and Human Services⁶. As for Senate confirmation which now requires a simple majority instead of 60 votes (thank you Harry Reid), Senator Tuberville (R-AL) already threatened colleagues with primary challenges if they reject Trump nominees.

² "Bill Barr's Image Rehab Is Kaput", David Firestone, NYT, January 30, 2023

³ Many of **Mitchell's** misdeeds are not suitable for print in a Thanksgiving piece like this one. I will summarize as follows: perjury, obstruction of justice, kidnapping, assault, interference in electoral proceedings and some very foul language regarding former Washington Post publisher Katherine Graham

⁴ **McNamara** was a primary architect of the Vietnam War, repeatedly lied to Congress about its prospects and lied about US involvement in Gulf of Tonkin attacks. Years later McNamara expressed contrition for his role in the war. When McNamara died in 2009, a NYT editorial read as follows: "McNamara must not escape the lasting moral condemnation of his countrymen. Surely he must in every quiet and prosperous moment hear the ceaseless whispers of those poor boys in the infantry, dying in the tall grass, platoon by platoon, for no purpose. What he took from them cannot be repaid by prime-time apology and stale tears, three decades late."

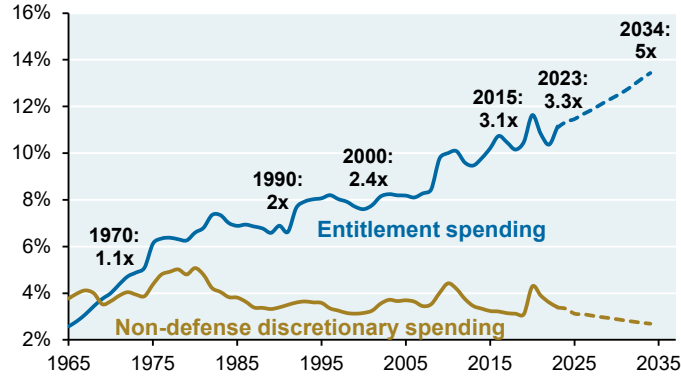
⁵ Acknowledgements: Michael Morley is the Sheila M. McDevitt Professor of Law at FSU College of Law and Faculty Director of the FSU Center for Election Law

⁶ I wrote about **RFK Jr** in the post-election EoTM last week, and included a bibliography of greatest hits regarding his potential negative impact on scientific methods. I am too tired to write about him again

As for the Department of Government Efficiency, good luck with that. I’m as interested as anyone in seeing a reduction in wasteful government spending, but let’s be clear about where they will have to look. As explained in our *“Piece That Everyone Hates”* series, there’s not much discretionary spending left to cut. As shown below, entitlements are an increasingly large share of total government spending, and previous budget agreements will already cut non-defense discretionary spending to the lowest share of GDP on record⁷.

What does the Federal government spend money on?

% of GDP, with ratio of entitlement to non-defense discretionary

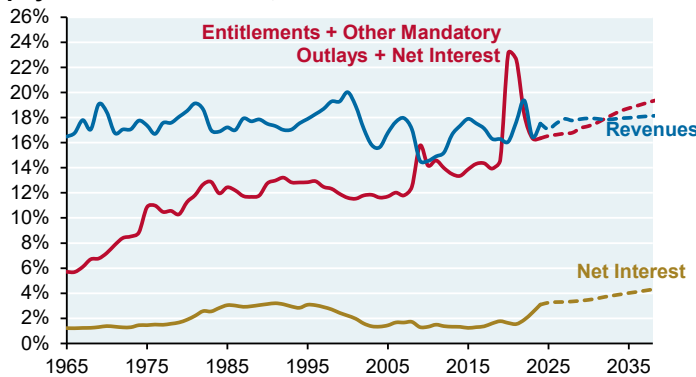


Source: CBO, JPMAM, 2024. Dots are CBO projections

Want to work at DOGE? To apply, you must be a paid X subscriber and send a DM with your resume. “We need super high-IQ small-government revolutionaries willing to work 80+ hours per week on unglamorous cost cutting”. This sounds perfectly reasonable and I cannot possibly see what might go wrong here

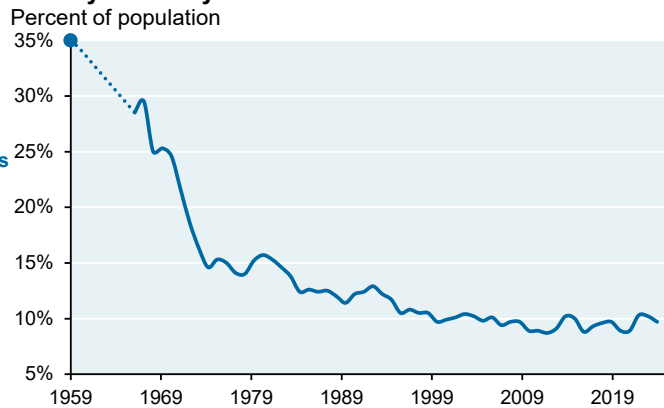
When the entitlements system was created by LBJ and the Democrats in the late 1960’s, it was badly needed; one third of people over age 65 lived in poverty. Initially, entitlements were set to be roughly the same size as discretionary spending. But there are no “breakwaters” in the system: entitlements are now 3.3x larger, and in ten years they’re projected by the CBO to be 5x larger. That’s around the same time that entitlements plus interest on the Federal debt are projected to permanently exceed Federal revenues. Like it or not, one day some major oxes will have to be gored to fix all of this⁸.

Entitlement spending, mandatory outlays and net interest payments vs revenues, % of GDP



Source: Congressional Budget Office, JPMAM, March 2024

Poverty rate: 65 years and older



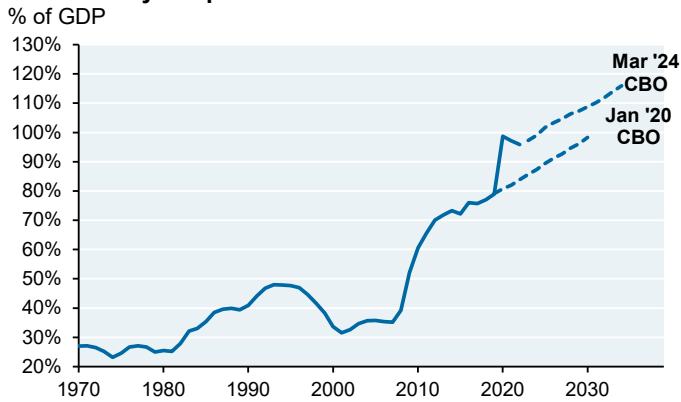
Source: US Census Bureau, JPMAM, 2024

⁷ **Examples of non-defense discretionary spending:** air, ground and water infrastructure; air traffic control and aviation safety; Army Corps of Engineers; K-12 education including subsidies for low income and disabled students, college Pell grants and Head Start pre-school programs; FBI; Border Control; IRS; Federal Courts; EPA superfund and arsenic/lead exposure programs; pollution control and abatement; renewable energy grid integration; NIH/CDC bioterrorism and disease control programs

⁸ **Entitlement changes recommended by Simpson-Bowles and other similar budget commissions:** reduce Social Security benefits for new beneficiaries; caps on Federal spending on Medicaid; reduce availability and access to certain Medicare procedures; increase Medicare part B and D premiums on wealthier taxpayers; means-testing of Social Security payments to the wealthy, and increased payments by the wealthy into the Social Security system; “donut hole” increase in income subject to Medicare taxes above a given income level, without any commensurate increase in benefits

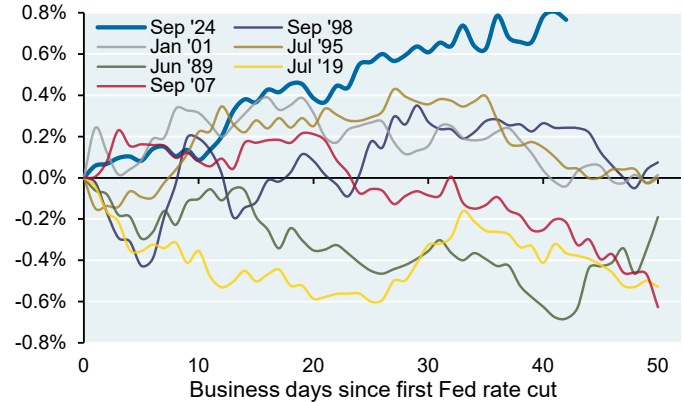
Meanwhile, the Federal debt continues its inexorable march higher while at the same time, inflation is firming and inflation expectations are rising. For the first time I can remember, the 10-year Treasury is rising at a time when the Fed is *easing*. I don't think that the Federal debt issue is going to reach a crisis over the next couple of years given a soft landing, continued global demand for US sovereign debt and the strength of the US dollar. But at some unknown point in the future, US debt sustainability will impact financial markets and the economy in a major way, at which point one can only hope that the Executive Branch that exists at the time is up to the challenge. We know from the history of poor Arthur Burns that a non-independent Federal Reserve can make matters a whole lot worse⁹. Which brings us to the following question: will Trump announce an eventual Powell replacement sometime in early in 2025 (his term ends in 2026), and are his latest cabinet appointments any indication of how he might approach it?

Debt held by the public



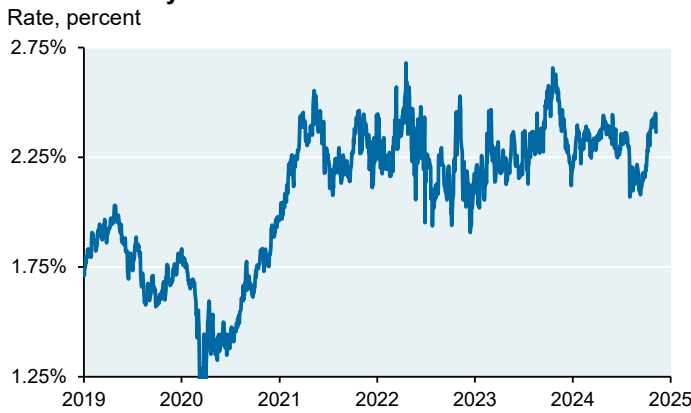
Source: CBO, JPMAM, March 2024

10 yr note yield change after the first Fed cut



Source: Bloomberg, JPMAM, November 2024

US forward 5 year breakeven inflation rate



Source: Bloomberg, JPMAM, November, 2024

⁹ In the early 1970's when **Fed Chairman Arthur Burns** resisted pressure to guarantee full employment through low policy rates, the White House planted negative stories about him in the press and attacked his competence and compensation. Nixon's people also floated stories about diluting the Fed Chairman's power by doubling the number of Federal Reserve Board members. Nixon wrote to Burns: *"There is no doubt in my mind that if the Fed continues to keep the lid on with regard to increases in money supply and if the economy does not expand, the blame will be placed squarely on the Fed."* In 1971, HR Haldeman spoke about the effectiveness of Nixon's strategy: *"We have Arthur Burns by the b*lls on the money supply"*. Burns caved in: he resisted FOMC member calls for a higher policy rate, supported wage and price controls and oversaw an 11% expansion in the money supply, the fastest at the time since WWII. The great inflation fuse was then lit.

Sources: William Greider (1987), Thomas Mayer (1999) and William Safire (2005)

Election post-mortem according to moderate and progressive media outlets¹⁰

In our post-election piece on November 6, I laid out my thesis that the Harris campaign did a poor job of selling its economic achievements to voters, however offset they might have been by the inflation surge; and that the Biden cabinet, particularly Treasury Secretary Yellen, was both invisible and ineffective during the campaign. Since then, I reviewed several moderate and progressive media outlets and compiled a list of their opinions as to why Harris lost. To be clear, these are their views, not mine.

The Democratic post-mortem is important to follow given legislative pressures that will arise following the 2030 Census. According to the Brennan Center for Justice, California is projected to lose 4-5 Congressional seats, New York 3 seats and Illinois 2 seats; Texas and Florida would gain 4 seats each. At that time, if a Democratic won the same states Harris won this year, it would equate to 12 fewer electoral college votes.

Post-COVID/inflation surge anxiety of voters in the developed world

- According to an analysis in the Financial Times, incumbent parties in developed countries all lost voter share in 2024, the first time this has happened in over 100 years; as a result, there are few lessons to be learned

Obama

- Obama dissuaded Biden from running in 2016 after making a deal with Clinton in 2008 to support her in 2016, which was a mistake since Biden would have beaten Trump in 2016 and ended his political career
- The Obamas did not endorse Harris until 5 days after Biden's withdrawal announcement

Biden/Biden White House

- Biden made the wrong VP choice in 2020 by picking someone who had dropped out of the 2020 Presidential race even before any primaries took place. Harris was seen as a drag on President Biden's reelection prospects before the 2024 campaign began
- Biden reneged on his promise to be a transitional President even after several polls showed in 2022 that 75% of Democratic voters preferred an alternative
- The Biden White House covered for his mental decline and damaged the party's reputation. The November 8 Editorial Board piece in the Washington Post eviscerates the party for covering for Biden, for describing special counsel Robert Hur's report on Biden's mental condition as "gratuitous, inaccurate and inappropriate" [a Harris quote], for damaging the party's reputation for science, facts and the truth, and for removing Dean Phillips from his House leadership position for challenging Biden in the Democratic primary
- Biden should have dropped out earlier in order to allow a normal primary process to take place
- Biden should have pushed for an open convention once he withdrew in order to demonstrate that the Party is committed to participatory democracy and committed to a process which produces the best battle-tested candidates for the general election
- Biden misread Democratic outperformance vs expectations in the 2022 midterm elections as a positive referendum on himself
- Biden rapidly and recklessly reversed Trump immigration executive orders without any plans to control the border once it became clear that policies had changed. The Democratic response in proposing a border security bill was too little, too late and only took place after Red State governors bused migrants to Blue State cities so that open border supporters would experience the fiscal consequences
- Biden's unwavering support for Israel's destruction of Gaza (e.g., the ecocide and democide confirmed by satellite reports) alienated certain voting constituencies
- The American Rescue Plan, passed in early 2021, resulted in \$2 trillion of stimulus which led to inflation rather than real GDP growth; after inflation appeared, Democrats were still looking to spend as much money as possible to satisfy interest group constituencies, while the Inflation Reduction Act is actually resulting in more inflation rather than less

¹⁰ Sources include the LA Times, VOX, New York Times, Politico, MSNBC, Atlantic and Washington Post

Harris as a candidate

- Harris did not adequately respond to voter concerns about inflation and immigration, not enough messaging on economic issues overall which should have been the primary message rather than democracy
- Harris lost all 7 swing states, but Democrats won Senate races in 4 of 5 swing states that were contested (MI, WI, NV, AZ), losing only PA. Harris was clearly the weak link
- Harris should not have campaigned with Liz Cheney who at this point has little support in the Democratic Party, the Republican Party or in her home state of Wyoming
- Presidential candidates from California do not have convincing political messages for swing state voters
- Harris is not skilled at extemporaneous unscripted debate and did not inspire voter confidence
- Prior Harris positions on fracking, immigration, bail for rioters and gender issues are too progressive for a national audience, no effective response to GOP national ads on gender and women's sports
- Harris was unable to distance herself from Biden's unpopularity and elected not to distance herself from Biden policies when given the opportunity
- Josh Shapiro would have been a better VP candidate, Walz did not help win any swing states
- Harris should not have cited Goldman Sachs in the debate with Trump; made her seem out of touch with normal Americans; instead, Harris should have appeared on the Joe Rogan show
- Harris policies were progressive enough (\$3 trn of new corporate taxes and \$1.5 trn of taxes on the wealthy to fund lower middle class tax cuts and entitlement expansion), but she was unable to sell them to the public
- Harris campaign operations in states like Pennsylvania lacked relationships with key elected officials

Democratic Party policies and messaging

- Democrats won only among people making more than \$100k or below \$30k, and have no effective message for the working class
- Not enough progressive policies: a \$15 per hour minimum wage and guaranteed paid sick leave passed in deep-red Missouri, but Biden and Harris did not prioritize such policies over the last 4 years
- Too much focus on reproductive rights which was equal in importance to immigration to women voters according to exit polling
- The main concern of Hispanic voters in exit polls were the economy/inflation, healthcare and violent crime; democracy, immigration and reproductive rights were less important factors for these voters. Over 40% of Latino and Hispanic voters support Trump's pledge to continue building a wall along the Mexico border and his deportation plans
- Democratic Party still paying a price for "defund the police" messaging
- While January 6th investigations of Trump were justified, other investigations appeared politically motivated and created the perception of "lawfare", undermining messaging on the threat to democracy
- Democratic Party suffering from poor governance at the local level, particularly with respect to inadequate housing supply and restrictive zoning in large urban areas: the biggest declines in vote shares for Harris took place in the most expensive and most populous counties

American society

- A combination of racism and sexism worked against Harris' candidacy; she ran an almost flawless and upbeat campaign as an ex-prosecutor and Senator and would have won as a white male. The counterpoint to this argument cited by others: white, college educated voters were the only demographic group whose percentage of voters for Trump did not increase in 2024 compared to 2020

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