

Intensified Partisanship in Congress: Institutional Effects*

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I have especially welcomed the chance to join you for this conference for a couple of reasons. First, it offers a welcome change from, and perhaps a chance to vent about, the current iteration of “the congressional experience.” It happens that the conference is occurring during the House recess, but even if it were not, I could probably have missed a couple of days of what Gary Jacobson termed “tag team position-taking”¹ without any great loss!

Of course, the main reason I wanted to be here is the opportunity to honor David Mayhew, and in such a fitting way. David’s and my time at Yale overlapped by five years, and while I knew that The Electoral Connection was percolating, I can recall many more conversations ranging around American history and political thought. We also talked about our respective staff experiences on Capitol Hill; I was not surprised when he wrote years later that, absent his experience as an APSA Congressional Fellow, “there is not the slightest chance I would have conceived or written The Electoral Connection.”²

The range and the quality of the papers prepared for this conference bear eloquent witness to the depth and breadth and catalytic effects of David’s scholarship. And I’m sure I speak for all of us in welcoming the opportunity to tell David how much he has meant to us as a colleague, mentor, and friend.

What you don’t want or need in an after-dinner speech is another scholarly paper, nor do my present pursuits equip me to provide one. What I can perhaps do is split the difference—to

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reflect briefly on current congressional operations, focusing mainly on the House, and to do so in a way that relates to the concern that David Mayhew and all of us share both to understand the reality and to assess the quality of institutional performance.

I will take as my point of departure three interrelated aspects of the current configuration of partisan forces in the House:

- Increased polarization of the congressional parties and their electoral bases, by which I mean both homogeneity within the parties and distance between them;
- The increased competitiveness of the parties in Congress, what Frances Lee terms “the continuous prospects for change in the party control;”³ and
- The asymmetrical movement of one party toward an ideological extreme—i.e. the emergence of the Republican Party as what Tom Mann and Norm Ornstein term an “insurgent outlier.”⁴

It is an interesting question to what extent these three aspects of our current partisan reality are mutually reinforcing, and to what extent they are in tension, potentially mitigating or modifying one another. But what I want to do tonight is to take them as a cluster and suggest what some of their institutional effects might be. While some of these effects have become more pronounced since Republicans took control of the House in 2011, all have been a number of years in the making.

It is vitally important, of course, to understand the near-term policy effects of intensified partisanship - on the capacity of Congress to produce major policies, to achieve inter-branch coordination, in short, to govern the country – and to address Sarah Binder’s question: “Is this time different?”⁵ Rather than wading directly into that discussion, I want to suggest four further consequences, concentrating on the workings of the institution. These changes help explain current policy performance- - or dysfunction- - but they are also likely to have longer-term

effects on how, and how well, Congress works. Therefore, I believe they are worthy of more attention and analysis than they have received.

My first observation is that intensified partisan competition and conflict have contributed to the increased centralization of both parties in the House and of House operations in general. In America's Congress and Partisan Balance, David Mayhew focuses on Newt Gingrich as the key figure in transforming the tactics and style of Republicans as an opposition party.⁶ Upon becoming Speaker in 1995, he was equally consequential in centralizing House leadership.

There is no question a corrective was called for. I remember working with the Whip organization soon after coming to Congress, when committees too often reported bills that divided the Democratic Caucus and had to be amended on the fly as the whip counts came in. It was telling that when Democrats returned to power in 2007 after twelve years of Republican control, few if any called for a return to the previous degree of decentralization.

That is not to say, however that the Gingrich- Hastert era offers a model worthy of emulation. I and others vigorously criticized its excesses and abuses.⁷ One of the disputed practices - - requiring approval of a "majority of the majority" before a matter could be brought to the floor- - had to be set aside by Speaker Boehner earlier this year in order to pass the fiscal cliff tax measure and Hurricane Sandy aid. The issue is likely to come up again on immigration reform.

Democrats avoided the worst abuses - - such as three -hour roll calls in the middle of the night- - and loosened the reins a bit on the committees. But under both parties, House proceedings have remained highly regimented, reflecting the political reality of heightened

partisanship- - a polarized, closely divided House, with each side inclined to take full advantage of any opening provided by the other.

The question as to whether this pattern necessarily entails the decline of congressional committees is an important one. Both as a student of Congress and as a member, I have thought it was fallacious to regard leadership strength and committee vitality in zero-sum terms. I have seen effective party and committee leadership reinforce each other, producing both a better legislative product and a smoother route to passage. But in the modern House, such positive examples are increasingly hard to come by.

I came to the House in 1987 with a fresh recollection of the phenomenon of policy entrepreneurship that had attracted my attention as a political scientist, first in the Senate and increasingly in the House. For years I was able, at the beginning of each Congress, to identify several initiatives that I wanted to pursue, on my own committees and others, and often to achieve a decent rate of success. I also remember free-wheeling markups on the Banking Committee, frequently forming cross-party coalitions to pass amendments. All of that is much rarer now, and I believe there are real costs in terms of the engagement and initiative of individual members and, sometimes, the quality and legitimacy of the legislative product.

An interesting question is this: if committee operations have been curtailed by virtue of intensified partisanship and leadership control, has that partisanship reached the point that, even if the committees were opened up, members would be unlikely to engage in other than formulaic ways? That is the possibility raised by Robert Kaiser's new book, Act of Congress, an insightful account of the financial services regulatory reform legislation of 2010. The two chairmen, Barney Frank in the House and Chris Dodd in the Senate, were strongly inclined to adhere to the

“regular order” in reporting and passing their bills, more so in both cases than their party leaders wished. But it did not matter, because Republican members were so locked into a posture of opposition to whatever the President requested and to ritualized talking points, that they were not able or inclined to take advantage of whatever opportunities the Chairmen offered for open deliberation and debate.⁸

A second consequence of intensified partisanship has been discussed in many of the papers provided for this conference, so I will touch on it only briefly: the incidence and character of the activities that Mayhew found legislators engaging in to achieve their electoral goals. As David looked back on The Electoral Connection at year 25, he expressed disappointment that scholars had not made more of “position-taking”. Perhaps, he speculated, “its importance exceeds its modelability.”⁹ I’m not certain about the “modelability” part, but I assure you that “position taking” has only increased in importance.

Both its pervasiveness and its current character owe much to intensified partisanship. I just returned from a week in which the main item on the House floor was short-circuiting the review of the Keystone pipeline; the week before, we voted for the 37th time on repealing all or part of the Affordable Care Act. Neither has the slightest chance of final approval. But as Mayhew stated in 1974, “the electoral payment is for positions rather than for effects.”¹⁰ The difference is that position-taking is now more a collective partisan enterprise and that it largely dominates the House floor, at least in the weeks between artificially-induced fiscal crises. Recall that in 1974, Mayhew was already speculating that legislative mobilization was on the wane.¹¹ But in those years Congress at least routinely passed farm bills, highway bills, education reauthorization bills- - all of which are languishing at present.

What has happened to credit- claiming? It certainly hasn't gone away, despite the chest-thumping about banning earmarks. For a while, members like myself enjoyed occasionally calling out colleagues who showed up for ribbon-cuttings simultaneous with the chest – thumping. Now we're actually seeing cases where the position-taking trumps the credit claiming; some new members are giving the stiff-arm to the local officials, researchers, educators, and others who ask for their help. We will see how that goes. But the double-talk is still more common -- pledging ones undying support for cancer research, for example, while touting and voting for budgets that take the percentage of NIH proposals funded into single digits.

The third institutional effect is the erosion of Congress' constitutional prerogatives and of its institutional role in relation to the executive - - developments that particularly affect and concern me as a member of the Appropriations Committee. The portrait of Appropriations that Richard Fenno drew in the 1960s focused on its restrained partisanship, while Mayhew saw the deference members gave to Appropriations as an important component of institutional maintenance.¹² Both were tied to the Committee's responsibility, on behalf of the House, to hold the executive branch accountable, regardless of which party was in control in the White House or Congress.

Appropriations, however, is now being swamped by partisan forces in and beyond the House, and its institutional role is diminishing as a result.¹³ The experience I had last year as ranking Democrat on the Homeland Security Subcommittee provides a snapshot of the contending forces at work. Striving to maintain the "regular order" and to uphold the Committee's bipartisan tradition, the Subcommittee chairman and I strove mightily to bring a bipartisan bill to the floor. We succeeded, but then came the incoming fire in the form of

extreme anti-immigration amendments- - forbidding enforcement officers from providing translation services to immigrants not proficient in English, for example, or from prioritizing criminal aliens for removal (That would give everyone else “amnesty” they said). In past years Republicans would have given such amendments 30 to 40 votes, rolled their eyes, and moved on. But in the new House, they passed the amendments with near unanimous Republican support.¹⁴ Republican leaders knew that this spelled the end of bipartisan support for the bill, but they could not or would not control the process. It was ideological position-taking against appropriating, and appropriating didn’t have a chance.

Last week the House Appropriations Committee began the markup of FY 2014 bills. The process is unlikely to go very far. We are working under the meat-ax of “sequestration”, which hits almost all appropriations accounts but is the exact opposite of rational appropriating. It was designed to be so unthinkable that it would force action on the real drivers of the deficit, tax expenditures and mandatory spending. But it turned out that Republicans valued their anti-tax ideology more than they worried about defense cuts, and the sequestration ax fell. Now we are working with a Republican budget resolution for 2014 that not only incorporates sequestration, but also doubles down on it in the domestic bills in order to restore some of the cuts in defense. The result is allocation numbers so low that bills like Interior and Labor-HHS might not pass even if it were the Republican Conference alone voting on them.

The full committee chairman, Hal Rogers, railed against sequestration last week and urged a deal to get more workable budget numbers. But he admitted there was little he could do. Appropriations is stuck, likely to go into the next year on continuing resolutions, probably in the context of another default crisis and/or threatened shutdown. The swamping of the

appropriations process by larger partisan forces, which has been increasing for a number of years, is now almost complete.

The fourth institutional consequence of intensified partisanship in its current incarnation is a drastic decline in Congress' bipartisan capacity. Congress also depends, of course, on partisan capacity, and the strength and solidarity that the parties have developed since the 1970s have enhanced performance in many ways, by overcoming fragmentation and enabling the majority to rule. As a committed Democrat, I take considerable pride in periods of partisan achievement such as 1993-94 and 2009-10. But I am also a veteran of the budget battles of 1990s. This leads me to react with alarm to two aspects of our current budget situation. First, our fiscal challenges, including the future of our entitlement programs and the need to raise revenue commensurate with necessary expenditures, are far more difficult than those Congress faced in the 1990s. And second, our capacity to take these challenges on, in the bipartisan and comprehensive fashion that history teaches us is almost always necessary, is far weaker. Reaching agreement was extraordinarily difficult in the 1990s; it seems almost impossible now.

There are a number of areas where Congress historically has been strengthened by a bipartisan as well as a partisan capacity. The current languishing of a number of authorizations points up committees where that capacity has slipped- - Transportation and Infrastructure, for example, and Agriculture, as well as Appropriations. But the effects are greatest in fiscal policy, where leaders must face unpleasant realities and take on political adversity. This was done in the bipartisan budget agreement of 1990 and in the comprehensive budget bill of 1993. The latter was enacted with Democratic heavy lifting alone, and the electoral consequences in 1994 were disastrous, thus confirming the maxim that bipartisan cover is generally required. Some now-familiar partisan trends were evident in these earlier battles - - recall that in dissenting from the

1990 agreement Newt Gingrich staked out the anti-tax absolutism that has been with us ever since.¹⁵ But the current state of partisan polarization and conflict has clearly - - one hopes not fatally- - weakened further the capacity of Congress to deal with a range of fiscal issues critical to the country's future.

Let me again thank you for the opportunity to be part of this conference. I'm glad to get back to New Haven and visit David and to gain a sense of what many of you are working on. As someone who experiences the institution of Congress every day, I want to reinforce your sense that the new mode of partisanship is a variable of enormous significance. The question is what the full range of consequences might be. I have suggested some that have a direct bearing on how the institution works, and how well. I believe political scientists are well equipped to address these questions, and I hope that many of you will do so.

Notes

¹ [Conference Paper, p. 5]

² Mayhew, "Observations on Congress: The Electoral Connection a Quarter Century after Writing It," PS, June, 2001, p. 251.

³ [Conference paper, p. 5]

⁴ Thomas Mann and Norman Ornstein, It's Even Worse Than It Looks (New York: Basic Books, 2012), pp. xiv, 184-97.

⁵ [Conference Paper, pp. 1, 15-17]

⁶ Mayhew, America's Congress (New Haven: Yale University Press, 2000), pp. 101-02, 235-40; and Partisan Balance (Princeton: Princeton University Press, 2011), p. 176.

⁷ David E. Price, "Reflections on Congressional Government at 120 and Congress at 216," PS, April 2006, pp. 231-35; Thomas Mann and Norman Ornstein, The Broken Branch (New York: Oxford University Press, 2006).

⁸ Robert Kaiser, Act of Congress (New York: Alfred A. Knopf, 2013), chaps. 14-19.

⁹ "Observations," p. 251.

¹⁰ Mayhew, Congress: The Electoral Connection (New Haven, Yale University Press, 1974), p. 132.

¹¹ Ibid., pp. 119-21.

¹² Richard Fenno, The Power of the Purse: Appropriations Politics in Congress (Boston: Little, Brown, 1966), pp. 200-03; Mayhew, Electoral Connection, pp. 152-54.

¹³ For earlier episodes reflecting the trend, see David E. Price, "Response" in forum on "Fixing Congress," Boston Review, 38 (May-June 2011), pp. 28-29; and Price, "After the 'Housequake': Leadership and Partisanship in the Post 2006 House," The Forum 8 (2010), no. 1, art. 6.

¹⁴ See Roll Calls no. 362 and 363, June 7, 2012.

¹⁵ See David E. Price, The Congressional Experience, 3rd ed. (Boulder, CO: Westview Press, 2004), pp. 147-50.