Dysfunctional Politics in the United States: Origins and Consequences*

James P. Pfiffner

American politics has become dysfunctional in the sense that the two houses of Congress and the president cannot come to agreement on many fundamental issues of public policy. This situation, which has been characterised as a 'stalemate' or 'gridlock', is caused by the polarisation of American politics in the latter half of the twentieth century. Political elites in the United States, including party activists, politicians, and members of Congress, have moved toward the respective ideological wings of their parties in order to appeal to their parties' base supporters. This polarisation has been hardened by the two parties' use of parliamentary tactics in Congress to thwart the other party, with a consequent decrease of civility in Congress. Moderate members of Congress are a disappearing species, and the wings of the two parties are increasing their power. Thus in addition to the separation of power system, which provides many veto points to stop legislation, policy clashes and partisan rancour have decreased the ability of the national government to deal with major policy issues.

The 113th Congress, elected in 2012, passed only 15 laws as of July 2013, the lowest number since the 1940s. Of course, the number of laws by itself is not necessarily an indicator of good policy-making, but because of polarised gridlock, Congress and the nation have not been addressing important public policy issues. Immigration reform is crucial to beginning to regularise a path to citizenship or at least resident status for more than 11 million immigrants presently in the country. The postal service continues to lose money, but the two parties have not agreed on how to deal with the issue. More politically divisive issues, such as gun control and abortion, might get support in the Democratic Senate or Republican House, but they would have little chance of passing both houses and becoming law. Budget sequestration, across the board cuts in domestic and defence spending, have taken place because the two parties could not agree to a package of spending cuts and tax increases. Members thought that imposing non-focused, across the board spending cuts, would force the two parties to agree to address the fiscal deficit issue; even though all members thought that the indiscriminate cuts to all programs would not be good policy, the cuts

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did not provide the impetus needed to get the two parties to come to agreement on how to make selective cuts.

In examining the causes of dysfunctional politics in the United States, this paper will first examine the causes of polarisation among American political elites. It will then examine the consequences of this polarisation for Congress and public policy-making. The conclusion will speculate about American politics over the next several years.

I. The causes of congressional polarisation

In trying to explain the vast changes that occurred in Congress in the latter half of the century—from a Democratic-dominated institution with significant overlap between the parties, to an ideological polarised battleground with virtually no middle ground—we can turn to Nelson Polsby, who argues that it all started with air conditioning. Though this claim might seem whimsical, his line of reasoning and evidence presents a plausible and often compelling explanation of change in Congress.[1] It goes like this.[2]

The development of affordable residential air conditioning in the south from the 1950s to the 1980s led to the migration of whites from the north to southern cities and suburbs. Many of these immigrants brought with them Republican voting habits. From the 1960s to the 1980s, approximately 40 to 50 per cent of southern Republicans were born outside of the south.[3]

Along with general urbanisation in the south and black migration to the north, the partisan complexion of the south began to change. The Republican Party was becoming a viable political party and beginning to attract more voters.[4] Partisan realignment in the south was further encouraged by the Civil Rights Act of 1964 and the Voting Rights Act of 1965, both of which increased the number of black voters who voted overwhelmingly Democratic.[5]

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1 Nelson W. Polsby, *How Congress Evolves: Social Bases of Institutional Change*, Oxford University Press, New York, 2004.

2 Much of this section is based on James P. Pfiffner, 'Partisan polarization, politics, and the presidency: structural sources of conflict', in James A. Thurber (ed.), *Rivals for Power: Presidential Congressional Relations*, 3rd edn, Rowman and Littlefield, Lanham, MD, 2006, pp. 33–58.

3 Polsby, op. cit., pp. 87–93.

4 ibid., pp. 80–94.

5 For analyses of the changing electoral make-up of the south and the partisan implications, see: Earl Black and Merle Black, *The Vital South: How Presidents Are Elected*, Harvard University Press, Cambridge, MA, 1992; Bruce Oppenheimer, 'The importance of elections in a strong congressional party era', in Benjamin Ginsberg and Alan Stone (eds.), *Do Elections Matter?*, M. E. Sharpe, Armonk, NY, 1996; Gary Jacobson, 'The 1994 House elections in perspective', in Philip A. Klinker (ed.), *Midterm: The Elections of 1994 in Context*, Westview, Boulder, CO, 1996; Gary C. Jacobson, 'Reversal of fortune: the transformation of U.S. House elections in the 1990s', paper delivered at the Midwest Political Science Meeting, Chicago, 10–12 April 1997; Paul Frymer, 'The 1994

Conservative whites began to identify with the Republican Party, and to send more Republican representatives to Congress. The creation of majority–minority districts concentrated more liberal blacks in districts while more conservative whites ended up in districts that voted Republican. The result of this realignment was that the Democratic Party in Congress lost its 'Dixicrat' (conservative southern Democrats) members and became more homogeneously liberal.[6] The conservative coalition, which had been thwarting Democratic presidents since Franklin D. Roosevelt, began to decline in importance; the conservative southerners were now in the Republican Party.

The increasing liberal consensus among the Democrats in Congress led the Democratic caucus in the House to become more cohesive and, through control of committee membership, assert its liberal policy views more effectively (for example, on civil rights, old-age assistance, health care, housing, and other federal programs). According to David E. Price, Democratic representative from North Carolina,

> Revitalising the House Democratic Caucus proved necessary in order to rewrite the rules, depose recalcitrant chairmen, and otherwise effect the desired transfer of power. The leadership, moreover, was the only available counterweight to conservative bastions like the House Rules and Ways and Means Committees. Therefore, two key early reforms removed the committee-assignment function from Ways and Means Democrats and placed in a leadership-dominated Steering and Policy Committee and gave the Speaker the power to nominate the chair and the Democratic members of the Rules Committee.[7]

The number of Democrats in the House began to increase in 1958, and particularly in the Democratic landslides in 1964 and 1974. In order for the Democratic caucus to gain more effective policy control, more power was delegated to its leadership in the 1970s and 1980s.[8] As the Democrats in the House became more ideologically similar, their leadership became more assertive in the use of parliamentary tactics and evoked the ire of Republicans by denying them procedural rights in ways that were perceived

electoral aftershock: Dealignment or realignment in the south', in Klinker, op. cit.; Lawrence C. Dodd and Bruce I. Oppenheimer, 'Revolution in the House: testing the limits of party government', in Dodd and Oppenheimer (eds), *Congress Reconsidered*, Congressional Quarterly Press, Washington, 1997, pp. 29–60 and 'Congress and the emerging order: Conditional party government or constructive partisanship?', pp. 371–89.

6 Polsby, op. cit., p. 94.

7 David E. Price, 'House Democrats under republican rule', *Miller Center Report*, vol. 20, no. 1, Spring/Summer 2004, p. 21.

8 Polsby, op. cit., pp. 80, 150.

as unfair.[9] Newt Gingrich led the outraged Republicans in the House to develop Republican candidates, particularly in the south, and orchestrate the development of Republican candidates, which culminated in the 1994 election landslide that put the Republicans in charge of Congress for the first time in 40 years.[10]

Thus it was that the introduction of air conditioning in the south led to Republican domination of southern congressional delegations which led to a more homogeneous, liberal Democratic Party in Congress, which led to more polarised parties and finally to the Republican takeover of Congress.[11] This polarisation was exacerbated and perpetuated by bipartisan gerrymandering that reinforced the polarising trend.

Redistricting, among other factors, has led to an increasing proportion of safe seats, with fewer congressional districts 'in play', that is, that might be won by either party. According to Gary Jacobson's analysis, the number of safe seats increased significantly between 1992 and 2002: Democrats' safe seats increased from 142 to 158, and Republicans' safe seats increased from 139 to 198.[12] Thus the total number of safe seats was 356 of 435, but the number of House races that were actually competitive were many fewer than that.[13] In the 2004 elections 83 per cent of House races were won by margins of 20 per cent or more, and 95 per cent of districts were won by more than 10 per cent. Only seven incumbents were defeated, and four of those were in recently redistricted Texas. Overall, Republicans gained five seats in Texas alone. Excluding Texas, the Democrats picked up four seats and the Republicans two.[14]

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[9] Burdett A. Loomis and Wendy J. Schiller, *The Contemporary Congress*, 4th edn, Wadsworth/Thomson Learning, Belmont, CA, 2004, pp. 150–60.

[10] For an analysis of the 1994 elections and the 104th Congress, see James P. Pfiffner, 'President Clinton, Newt Gingrich, and the 104th Congress', in Nelson W. Polsby and Raymond E. Wolfinger (eds), *On Parties: Essays Honoring Austin Ranney*, Institute of Governmental Studies Press, Berkeley, CA, 2000, pp. 135–68.

[11] Polsby puts it this way, 'air conditioning (plus other things) caused the population of the southern states to change [which] changed the political parties of the South [which] changed the composition and in due course the performance of the U.S. House of Representatives leading first to its liberalization and later to its transformation into an arena of sharp partisanship, visible among both Democrats and Republicans' (Polsby, *How Congress Evolves*, op. cit., pp. 3–4).

[12] Gary C. Jacobson, *The Politics of Congressional Elections*, 6th edn, Pearson Longman, NY, 2004, p. 252.

[13] Charlie Cook, 'Value of incumbency seems to be growing', *National Journal*, 20 March 2004, p. 906.

[14] These data do not include two seats that were subject to run-off elections. Ordinarily, states redistrict themselves following each decennial census. But Representative Tom DeLay engineered a redistricting in Texas after the 2002 elections that forced seven incumbent Democrats out of office (four in general elections, one retirement, and two losing in primaries). See Jennifer Mock, 'Texas "firewall" strategy for House pays off with five-seat GOP pickup', *CQToday*, 4 November 2004, p. 15; David S. Broder, 'No vote necessary', *Washington Post*, 11 November 2004, p. A37; Editorial, 'Scandal in the House', *Washington Post*, 4 November 2004, p. A24.

Redistricting, from the 1970s through 2004 in the south and elsewhere, led to safer districts, which along with the advantages of incumbency, led to the election of more liberal Democrats and more conservative Republicans. If congressional districts are competitive, with elections won and lost by small margins, candidates must move to the middle of the ideological spectrum to try to capture a majority of votes. But safe seats put moderate candidates of both parties at a disadvantage. Turnout for primary elections is low, and most of those who actually vote are committed partisans; that is, true believers who hold more extreme views than most voters in their parties. Thus in order to get nominated and then to remain in office, members must please their respective wings or be outflanked by more extreme candidates.

Congressman Jim Leach (R-Iowa) explains the problem this way:

> A little less than four hundred seats are totally safe, which means that there is competition between Democrats and Republicans only in about ten or fifteen percent of the seats.
>
> So the important question is who controls the safe seats. Currently, about a third of the over-all population is Democrat, a third is Republican, and a third is no party [independent]. If you ask yourself some mathematical questions, what is a half of a third?—one-sixth. That's who decides the nominee in each district. But only a fourth participates in primaries. What's a fourth of a sixth? A twenty-fourth. So it's one twenty-fourth of the population that controls the seat in each party.[15]

This gradual polarisation of Congress over several decades was caused mostly by members being replaced by less moderate candidates in their seats, but some of the changes were individual members changing their own ideological perspectives and becoming less moderate in order to head off a challenge in the primaries.[16] As Representative Leach put it, 'It's much more likely that an incumbent will lose a primary than he will a general election. So redistricting has made Congress a more partisan, more polarized place'.[17]

Once in office, the advantages of incumbency help keep the more extreme members in office for longer periods of time. But even more important than advantages for

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[15] Quoted in Jeffrey Toobin, 'The great election grab', *New Yorker*, 8 December 2003, p. 76.

[16] See Gary C. Jacobson, 'Explaining the ideological polarization of the congressional parties since the 1970s', in David Brady and Mathew McCubbins (eds), *Party, Process and Political Change in Congress*, Stanford University Press, Stanford, CA, 2007. For an argument that individual shifts in ideology contributed to the overall shift, see Sean M. Theriault, 'The case of the vanishing moderates: Party polarization in the modern Congress', Manuscript, University of Texas, Austin, 2004.

[17] Quoted in Toobin, op. cit.

individual incumbents (for example, name recognition, media coverage, travel to the district, raising money, etc.), is the advantage gained through safe partisan majorities of congressional districts ensured through skilful drawing of district boundaries (gerrymandering).[18] Thus the advantages of incumbents who sought re-election, always considerable, have become even more effective. From 1984 to 1990 House members seeking re-election were successful 97 per cent of the time and in 2002, 98 per cent were successful. Senators were a bit more vulnerable, but still quite successful, winning 86 per cent of bids for re-election from 1982 to 2003 and 95 per cent in 1996.[19] In 2004, aside from the redistricted Texas, 99 per cent of House incumbents won re-election, with only three incumbents being defeated.[20]

Some scholars have argued that the election of more extreme partisans to Congress was caused by voters who had first become more polarised.[21] But Morris Fiorina in his book *Culture War?* argues that although political elites in the United States (party activists, members of Congress, etc.) are ideologically polarised, the vast majority of citizens in the country are not.[22] Recent presidential elections have been decided by very small margins and the total vote for Congress has been evenly divided, but this does not mean that voters are *deeply* divided, only that they are *evenly* divided.

After the 2000 election the media featured coloured maps of the country that indicated states carried by George W. Bush as red and those carried by Al Gore as blue. The broad swaths of red and blue seemed to show a country deeply divided, but many of the states were won by very small margins. A comparison of the red states with blue states shows very little ideological difference among voters, 30 per cent of whom place themselves in the middle of a seven point political spectrum, and a third of the voters considered themselves independents or not affiliated with the Democrats or Republicans.[23] Fiorina concludes that 'it is not voters who have polarized, but the candidates they are asked to choose between'.[24]

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[18] Bruce Oppenheimer argues that individual incumbency advantage has been decreasing and that very high re-election rates of House incumbents is primarily due to the partisan loading of districts. See 'Deep red and blue congressional districts: The causes and consequences of declining party competitiveness', in Lawrence Dodd and Bruce I. Oppenheimer (eds), *Congress Reconsidered*, 8th edn, Congressional Quarterly Press, Washington, 2005.

[19] Loomis and Schiller, op. cit., p. 66.

[20] In Florida, if an incumbent is not opposed, his or her name does not appear on the ballot. Thus the candidate is 'automatically reinstated in Washington' without any constituent having to cast a ballot in his or her favour. Broder, op. cit.

[21] See Jacobson, *The Politics of Congressional Elections*, op. cit., pp. 236–43.

[22] Morris Fiorina, *Culture War?: The Myth of a Polarized America*, Pearson Longman, New York, 2005.

[23] Based on data from the National Election Studies at the University of Michigan. Fiorina, op. cit., pp. 23, 28, 43.

[24] ibid., p. 49.

Even on the hot button issue of abortion, public attitudes are not more polarised than they were 30 years ago, when the Supreme Court decision on *Roe v. Wade* made abortion legal in the United States. The gap between Republicans and Democrats is significant, but relatively small.[25] And although there is a gender gap on many political and policy issues, there is very little difference between men's and women's attitudes about abortion. Fiorina concludes that with respect to abortion there is 'a gender gap among high-level political activists that is not apparent among ordinary Americans, and minimal partisan disagreement about the issue at the mass level contrasted with vitriolic conflict at the elite level'.[26] Similarly, on the volatile issue of homosexuality, attitudes in the United States have been more accepting in recent years, and the differences among partisans are different but not drastically so. Fiorina concludes that, overall, Americans 'look moderate, centrist, nuanced, ambivalent—choose your term—rather than extreme, polarized, unconditional, dogmatic'.[27]

The overall argument here is that political parties and political elites more broadly are much more polarised in the early years of the twenty-first century than several decades ago. But that they have been at least since the middle of the twentieth century, but they must choose between candidates who are more extreme than they are. According to Fiorina, 'Even if they still are centrists, voters can choose only among the candidates who appear on the ballot and vote only on the basis of the issues that are debated. Elites nominate candidates and set the agenda, and voters respond'.[28] There is 'little reason to believe that elites are following voters. Rather, they are imposing their own agendas on the electorate'.[29] To oversimplify, instead of voters choosing their candidates, candidates choose their voters (through gerrymandered redistricting).

In addition to the genuine polarisation of elites (partisans and office holders), Fiorina attributes the broad perception of polarisation of the electorate in the country to an explosion of advocacy among those who are most committed to their political causes combined with more media attention to the conflict generated by extremists on both sides of volatile issues. The question of polarisation in the 2004 election will be addressed in the conclusion.

We have examined the partisan changes that began in the south and the resulting polarisation in Congress; the following section will analyse the consequences of that partisan polarisation in the behaviour of individuals and political parties in Congress.

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[25] ibid., p. 60.
[26] ibid., p. 79.
[27] ibid., pp. 92, 95.
[28] ibid., p. 114.
[29] ibid., p. 130.

II. The consequences of structural change: partisan polarisation in Congress

The consequences of partisan realignment in the south and more committed partisans in Congress have been the disappearance of moderates in Congress which has, in turn, led to policy stalemate and the decline of civility.

The next section will present evidence that Congress is indeed much more polarised than it was in the middle years of the twentieth century (though comparable to polarisation in the late nineteenth century). This polarisation will then be linked to increasing problems of policy gridlock or stalemate. The second section will note some dimensions of the decline in civility which has made Congress a less congenial place to work and has led some eminent, moderate legislators to retire rather than continue in office.

A. The waning centre

In the middle of the twentieth century the two political parties in Congress were not ideologically monolithic. That is, each party had a significant number of members who were ideologically sympathetic to the other party. The Democratic Party contained a strong conservative wing of members, the Southern 'Boll Weevils', who often voted with the conservative Republicans. The Republican Party contained a noticeable number of moderates, mostly from the northeast, the 'Rockefeller Republicans', who would often vote with the Democrats. These cross-pressured members of Congress made up between one-fifth and one-third of each house of Congress from 1950 to the mid-1980s.[30]

In the last 15 years of the twentieth century the cross-pressured members of each party all but disappeared. Jon Bond and Richard Fleisher have calculated the number of liberal Republicans and conservative Democrats in Congress from the 1950s through the 1990s and have documented their decline. The number of conservative Democrats in the House has decreased from a high of 91 in 1965–66 to a low of 11 in 1995–96. In the Senate the high of 22 in the early 1960s was reduced to zero in 1995–96. Liberal Republicans similarly fell from a high of 35 in the early 1970s to a low of one in 1993–94 in the House and a high of 14 in 1973–74 to a low of two in 1995–96 in the Senate.[31] This disappearance of the middle is a convincing demonstration of ideological polarisation in Congress.

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[30] Jon R. Bond and Richard Fleisher, 'The disappearing middle and the president's quest for votes in Congress', *PRG Report*, Fall 1999, p. 6.

[31] ibid., p. 7. The authors calculate their ideological scores from the rankings of liberal and conservative groups, Americans for Democratic Action (liberal) and American Conservative Union (conservative).

Sarah Binder has also found that the area of ideological overlap between the two parties in Congress has drastically decreased from a relatively high level of overlap in 1970 to 'virtually no ideological common ground shared by the two parties'.[32] The *National Journal* developed its own ideological scale of liberal and conservative voting and has calculated individual scores for members of Congress. Since 1981, most House Democrats would be on the liberal end of the spectrum and most Republicans on the right. There were always a number of members of each party whose voting record put them in the middle, overlapping ideological space. In 1999, however, only two Republicans and two Democrats shared the middle ground.

Up to the mid-1990s the Senate had a middle group of 10 to 17 centrists from both parties who often voted with the opposite party. But in 1999, for the first time since the *National Journal* began calculating the scores in 1981, all of the Republicans had a score to the right of the most conservative Democrat, and all of the Democrats had a score to the left of the most liberal Republican.[33] The polarisation in the Senate was exacerbated in 1996 by the retirement of 14 Senate moderates who contributed significantly to the civility of the Senate and who could reach across party lines in policy deliberations, among them Republicans Alan Simpson (WY) and Hank Brown (CO) and Democrats Sam Nunn (GA) and Bill Bradley (NJ).[34]

What the above data mean in a practical sense is that each of the political parties in Congress is more ideologically homogeneous and that there is greater ideological distance between the two parties. Thus there is less need to compromise in a moderate direction when reaching a consensus within each party. And it is correspondingly more difficult to bridge the ideological gap between the contrasting perspectives of the two parties. Finding middle ground where compromise is possible becomes much more difficult. It is more likely that votes will be set up to highlight partisan differences and used for rhetorical and electoral purposes rather than to arrive at compromise policies.[35]

Another measure of partisan conflict that reflects the polarisation in Congress is the 'party vote' in which a majority of one party opposes a majority of the other party in a roll-call vote. This measure of polarisation has been increasing in recent years, especially in the House. From 1955 to 1965 the percentage of votes in the House that

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[32] Sarah Binder, *Stalemate: Causes and Consequences of Legislative Gridlock*, Brookings, Washington, 2003, pp. 24, 66.

[33] Richard E. Cohen, 'A Congress divided', *National Journal*, 26 February 2000, p. 4. The *National Journal* calculates its own liberal-conservative scores for members of Congress.

[34] Burdett A. Loomis, 'Civility and deliberation: A linked pair', in Burdett A. Loomis (ed.), *Esteemed Colleagues: Civility and Deliberation in the U.S. Senate*, Brookings, Washington, 2000, p. 9.

[35] On the decrease of the number of moderates in Congress see also Sarah Binder, 'The dynamics of legislative gridlock, 1947–96', *American Political Science Review*, vol. 93, no. 3, September 1999, p. 526.

were party votes averaged 49 per cent; from 1967 to 1982 the percentage was 36 per cent. But after 1982 it began to climb, and in the 1990s, it reached 64 per cent for the 103rd Congress.[36] Party voting reached a record 73.2 per cent in 1995.[37] Senate scores on party voting roughly paralleled those in the House though at slightly lower levels, reaching a Senate record of 68.8 per cent in 1995.[38] Party unity scores, in which members of the two parties vote with their majorities on party-line votes, also increased to unusually high levels.[39]

Partisan differences in the Senate are often registered by the threat of members of the minority party to filibuster. The filibuster is a time-honoured convention (formalised in Rule XXII) in which any member (or members) can hold the floor as long as he or she wants in order to delay the consideration of legislation. Before the 1970s the filibuster was used occasionally when senators felt strongly about an issue and were willing to block Senate business in order to achieve their goals. In the 1950s filibusters were occasionally used to keep the majority from enacting civil rights legislation. In the early decades of the twentieth century use of the filibuster would occasionally peak at 10 per Congress, but in the 1980s and 1990s the use of the filibuster exploded to 25 or 30 per Congress.[40] The increased use of the filibuster and other dilatory tactics, such as 'holds' on nominations, has amounted to a 'parliamentary arms race' in which each side is willing to use the extreme tactic because the other side has used it against them.[41]

In addition to actual filibusters, the mere threat of a filibuster can slow the legislative process. As Barbara Sinclair has calculated, threats to filibuster major legislation have increased significantly in the past three decades. Presidential threats to veto bills also have increased sharply in the 1990s, from 15 to 25 per cent in the 1970s to 60 to 69 per cent in the late 1990s.[42] Binder found that in the 103rd and 104th Congresses

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36 Barbara Sinclair, 'Transformational leader or faithful agent?', *Legislative Studies Quarterly*, vol. 24, no. 3, August 1999, pp. 421–49; and *CQ Weekly Reports*, 27 January 1996, p. 199.

37 It was the highest since CQ began keeping the data in 1954, *CQ Weekly Reports*, 27 January 1996, p. 199. According to John Owens' calculations party voting was the highest since 1905–06. See John Owens, 'The return of party government in the U.S. House of Representatives: Central leadership—committee relations in the 104th Congress', *British Journal of Political Science*, vol. 27, 1997, p. 265.

38 See Richard Fleisher and Jon Bond, 'Congress and the president in a partisan era', in Bond and Fleisher, *Polarized Politics*, CQ Press, Washington, 2000, p. 4. Party unity voting fell off slightly from 2001 to 2004 because of consensual voting on homeland security issues in response to the terrorist attacks of 2001. Jacobson, *The Politics of Congressional Elections*, op. cit., p. 231.

39 Sinclair, op. cit.

40 Richard E. Cohen, 'Crackup of the committees', *National Journal*, 31 July 1999, p. 2212. See also Sarah A. Binder and Steven S. Smith, *Politics or Principle?*, Brookings, Washington, 1997, p. 10.

41 Binder and Smith, op. cit., p. 16.

42 Barbara Sinclair, 'Hostile partners: The president, Congress, and lawmaking in the partisan 1990s', in Bond and Fleisher, *Polarized Politics*, op. cit., p. 145.

either an actual filibuster or the threat of one affected almost 20 per cent of all items on the congressional agenda and 40 per cent of the most important issues.[43]

One consequence of the polarisation documented above is that Congress is less able to legislate in order to deal with pressing policy issues. The farther apart the two parties are ideologically (polarisation), the less likely they are to be able to find common ground to pass laws. And often, the parties would rather have an issue to debate than compromise and accept half a loaf.[44]

According to Binder's systematic comparisons of the ratio of actual laws enacted to important issues considered by the political system, two dimensions of polarisation outweighed even the effect of divided government: the ideological gap between the parties and the ideological distance between the two houses of Congress. Thus if one is concerned with the problem of 'gridlock' (which she defines as 'the share of salient issues on the nation's agenda left in limbo at the close of each Congress'), ideological polarisation in Congress is even more important than divided government (when the president's party does not control both houses of Congress).[45]

B. The decline of civility

The traditional norms of courtesy, reciprocity, and comity that marked the 1950s and 1960s in Congress began to break down in the 1970s.[46] Reflecting broader divisions in US politics over the Vietnam War and Watergate, life in Congress became more contentious. Legislative language had traditionally been marked by overly elaborate politeness in order to manage partisan and sometimes personal conflict. But instances of harsh language and incivility became more common and more partisan in the 1970s and 1980s. In the House the Republicans felt increasingly suppressed by the majority Democrats through the rules of debate and legislative scheduling and, under the leadership of Newt Gingrich, began to use obstructionist tactics to clog up the legislative process.[47] The predictable Democratic response was to tighten up the rules even more to deal with disruptive tactics. After Republicans took control of Congress in 1994, relations between the parties continued to deteriorate.

Even the usually more decorous Senate suffered from declining civility. In the early 1980s Senator Joseph Biden remarked, 'There's much less civility than when I came

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43 Binder, *Stalemate*, op. cit., p. 93.

44 ibid., p. 58.

45 Sarah A. Binder, 'Going nowhere: A gridlocked Congress?', *The Brookings Review*, Winter 2000, p. 17.

46 See Eric M. Uslaner, *The Decline of Comity in Congress*, University of Michigan Press, Ann Arbor, MI, 1993.

47 Eric M. Uslaner, 'Is the Senate more civil than the House?', in Loomis, *Esteemed Colleagues*, op. cit., pp. 32–55.

here ten years ago. There aren't as many nice people as there were before … Ten years ago you didn't have people calling each other sons of bitches and vowing to get at each other'.[48]

Scholars David Brady and Morris Fiorina summarise the political context:

> In a context in which members themselves have stronger and more distinct policy preferences, where they scarcely know each other personally because every spare moment is spend fund-raising or cultivating constituents, where interest groups monitor every word a members speaks and levy harsh attacks upon the slightest deviation from group orthodoxy, where the media provide coverage in direct proportion to the negativity and conflict contained in one's messages, where money is desperately needed and is best raised by scaring the bejesus out of people, is it any wonder that comity and courtesy are among the first casualties?[49]

Near the end of the 106th Congress, even the leadership in both houses was not able to restrain the harsh feelings that had been building up. Speaker of the House J. Dennis Hastert, who had taken over the speakership at the beginning of the 106th Congress, had a reputation (in contrast to his predecessor, Newt Gingrich) as a mild-mannered and workmanlike legislator who was more concerned with making deals and legislating than making symbolic points through hostile rhetoric. Yet one year into his speakership, the level of hostility between Hastert and Minority Leader Richard Gephardt was quite high.

The two leaders seldom talked with each other, even on necessary procedural issues, and they held each other in contempt. According to Gephardt, 'Frankly, the relationship is really no different than it was with Newt Gingrich … Their definition of bipartisanship is, "My way or the highway" '.[50] According to Hastert, Gephardt's 'sole purpose is to try to make this House fail'.[51] Hastert went so far as to campaign in Gephardt's district for his Republican challenger in the 2000 election campaign, a very unusual breach of the usual House leadership decorum.[52]

The Senate was not spared the leadership animosities that plagued the House in 2000. Senate Majority Leader Trent Lott and Minority Leader Tom Daschle became

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48 ibid., p. 39.

49 David Brady and Morris Fiorina, 'Congress in the era of the permanent campaign', in Norman Ornstein and Thomas Mann, *The Permanent Campaign and Its Future*, Brookings-AEI, Washington, 2000, p. 147.

50 Eric Pianin and Juliet Eilperin, 'No love lost for Hastert, Gephardt', *Washington Post*, 20 March 2000, p. A4.

51 Karen Foerstel, 'Hastert and the limits of persuasion', *CQ Weekly*, 30 September 2000, p. 2252.

52 ibid.

particularly bitter in the second session of the 106th Congress as the Senate struggled with passing legislation during an election year. In early June 2000 Majority Leader Lott complained, 'The last couple of weeks before we went out has been the most obstructionist I've ever seen them'.[53] According to Daschle, 'No Majority Leader in history has attempted to constrain the Senate debate as aggressively as Senator Lott has chosen to do', and it amounted to 'a Senate version of dictatorship that I think is unacceptable'.[54] Lott replied, 'I have to go on the record saying I do believe I have been maligned unfairly … to come in here and think we have to have a right to offer non-germane amendments to every appropriations bill that comes through, and then criticize us for not getting our work done—Oh, boy, that is really smart, really smart'.[55]

From the perspective of the Democrats, the Republican majority was refusing to confirm the nominees of President Clinton and was preventing them from offering amendments to legislation so they could have their priorities voted upon. From the perspective of the Republicans, the Democrats were trying to obstruct the flow of legislation with their amendments so that they could blame the Republicans for being a 'do nothing Congress' in the election campaign. The unusual personal bitterness and intemperate language reflected election-year politics in which much was at stake, but it also was a product of the polarisation of the Congress over the past several decades.

The decline in civility that marked the end of the 1990s continued into the early twenty-first century, as the polarised politics of the era continued to erode the relatively more decorous times of the mid-twentieth century. With the narrow Republican control of the Senate at stake, Majority Leader Bill Frist of Tennessee decided to go to South Dakota to campaign against Minority Leader Tom Daschle. Such personal campaigning by the Senate Majority Leader in the Minority Leader's home state was unprecedented in the twentieth century and highlighted the animosity that marked the polarisation in Congress.[56] Frist was successful when Daschle lost his bid for re-election in 2004.

On the floor of the Senate, the personal animosity resulting from the polarisation was illustrated when Vice President Cheney publicly said to Democratic senator Patrick Leahy, 'Fuck yourself'. Although such insults are common among politicians (and non-politicians), they are most often expressed in private. This particular insult was particularly egregious because it was not a comment about a third party but stated

[53] Lizette Alvarez and Eric Schmitt, 'Undignified and screaming, Senate seeks to right itself', *New York Times*, 7 June 2000, p. A26.
[54] David Baumann, 'The collapse of the Senate', *National Journal*, 3 June 2000, p. 1758.
[55] Eric Schmitt, 'When senators attack: "Why, I oughta...":' *New York Times*, 11 June 2000, p. wk7.
[56] Carl Hulse, 'A longtime courtesy loses in the closely held Senate', *New York Times*, 24 April 2004, p. A7; Sheryl Gay Stolberg, 'Daschle has race on his hands and interloper on his turf', *New York Times*, 23 May 2004, p. 18.

directly to the person insulted; it was not private, but public; it was said on the floor of Congress; and it was said publicly by the President of the Senate, the Vice President of the United States. In explaining his remark, the Vice President did not address a substantive difference between the two men, but said that it correctly expressed his feelings, 'I expressed myself rather forcefully, felt better after I had done it'.[57]

Democrats in 2004 also complained that Republicans systematically excluded them from important conference committee negotiations between the two houses and that the procedural rules were used against them in ways that exceeded the Democrats' partisan use of procedures in the later years of their domination of Congress. Republican senator John McCain commented on the partisanship of the procedural battles, 'The Republicans had better hope that the Democrats never regain the majority'.[58] House Democrats also broke an unwritten seven-year truce on ethics charges in the House when they charged Majority Leader Tom DeLay with improprieties with regard to the 2002 redistricting of Texas that gained the Republicans several seats and his tactics in winning votes on a close Medicare vote in 2003.[59]

Former Tennessee senator and Republican National Committee Chair, William Brock, attributed the incivility, with 'less dialogue, less comity, and more partisanship', to safe districts and the resulting polarised politics:

> Consistently now in general elections, well over 90 percent of congressional races are virtually uncontested … If a candidate need talk only to those who are most fervent in support of the party, he or she doesn't have to listen to, or even speak to, people at the center, much less those of the other party … We're increasingly moving to a political system that looks, and feels, like a political barbell: one where all the weight is at the ends of the spectrum, leaving those in the center with little voice or opportunity for impact.[60]

Conclusion: polarised politics and the 2012 elections

In 2000, George W. Bush and Al Gore were both in the middle of the political spectrum. Once Bush came to office, however, he pursued a consistently conservative

[57] Dana Milbank and Helen Dewar, 'Cheney defends use of four-letter word', *Washington Post*, 26 June 2004, p. A4.

[58] Charles Babington, 'Hey, they're taking slash-and-burn to extremes!', *Washington Post*, 21 December 2003, pp. B1, B4.

[59] Charles Babington, 'DeLay to be subject of ethics complaint', *Washington Post*, 15 June 2004, p. A5.

[60] William E. Brock, 'A recipe for incivility', *Washington Post*, 27 June 2004, p. B7.

policy agenda, particularly his large tax cut proposals. After the atrocities of 9/11, the country united behind him, and Congress passed legislation intended to deal with terrorism. Arguing that Saddam Hussein was poised to use chemical, biological, and nuclear weapons (WMD) against the United States, President Bush was able to convince Congress that war with Iraq was necessary. In the 2004 campaign for the presidency, John Kerry favoured reducing US involvement in Iraq, but President Bush was able to convince enough voters that he was stronger on defence than Kerry and won the election.

By 2006 disenchantment with the War in Iraq was sufficient to allow the Democrats to win control of Congress for the first time since the Republican sweep in 1994. In 2008 Barack Obama beat John McCain in a historic election as the first African American to win the presidency. The Democrats still controlled Congress, and Obama was able to get some important Democratic policies passed in Congress. Large fiscal measures were passed in order to bail out financial institutions and stimulate the economy to recover from the Great Recession. Most prominently, Obama was able to push a historic health care financing reform, the Affordable Care Act (also known as Obamacare), through Congress over virtually unanimous Republican opposition. The law set in motion a plan to provide almost all Americans with health insurance. This law became a rallying point for Republicans who have continued to try to undermine or repeal it.

In 2010, due in part to the sluggish economy, which had not recovered from the Great Recession and the Affordable Care Act, Republicans were able to rally and mobilise voters to take back the House of Representatives. They were aided by 'Tea Party' groups throughout the country (named after the Boston Tea Party, a demonstration against British taxes in 1773). Tea Party supporters represented the most conservative base of the Republican Party, though they did not necessarily support the Republican Party establishment. Mainstream Republicans were tugged to the right in order to gain the support of, or avoid denouncement by, Tea Party activists. Tea Party supporters were able to influence a number of primary elections in the Republican Party, and some of their representatives pushed out more moderate Republicans in primary elections. In several Senate elections the Tea Party Republicans were so extreme that Democratic candidates were able to win, possibly saving control of the Senate for the Democrats.

The 2012 election for the presidency was bound to be close. The economy had still not recovered, and its poor state favoured the Republicans, as it would for any party out of office. The eventual Republican nominee, Mitt Romney, was hampered by having to win enough Republican primary elections to win nomination. The Tea Party and conservative wing of the Republican Party, however, saw Romney as a

moderate—someone who would be willing to compromise with Democrats, which they considered selling out to the opposition. Thus when he ran in states in primary elections, Romney had to contend with several other would-be nominees who were far to his right. He thus presented himself to primary voters as a 'severe' conservative. His primary opponents painted him as a rich plutocrat who was not concerned with the problems of regular Americans.

President Obama did not face any serious challenges in the Democratic primaries and was able to stay in the moderate, ideological centre and not have to contend with opposition from the left wing of the Democratic Party. Romney's image suffered from his primary opponents, who had attacked him as elitist and allowed the Democrats to continue to build on this negative image. Romney's gaffs reinforced this image, when he spoke of his wife's two Cadillacs or when he characterised 47 per cent of Americans as being dependent on government help and unwilling to take responsibility for themselves.

Public opinion polls indicated that more Americans supported domestic Democratic policy priorities (with the exception of disapproval of the state of the economy) than agreed with the Republican agenda of tax cuts and cutting government programs. National security policy has always been a weak point for Democrats running for office who were often accused of being 'soft' on communism or terrorism. But Obama was able to neutralise the national security issue through his aggressive drone policies and having made the decision to kill Osama bin Laden in May 2011.

Both parties focused their election campaign on the nine states that were evenly divided and could have been won either by the Democrats or Republicans. In the November election, most of these swing states went for Obama, and he won a solid victory with 51 per cent of the vote and a 332 Electoral College majority. In congressional elections, the Democrats picked up eight seats in the House of Representatives, not nearly enough to overcome the sizable Republican majority. In the Senate, the Democrats lost several seats, but not enough to surrender control to the Republicans.

Overall, after the 2012 elections, the status quo prevailed, with Democrats controlling the presidency and the Senate, and Republicans controlling the House of Representatives. Because of the polarisation of Congress described above, compromise on major issues was difficult. Fiscal policy was a sticking point, with House Republicans adamantly opposing any increase in tax revenues and Democrats not willing to cut social programs without some tax increases. Legislation dealing with climate change had virtually no chance to pass the House. Immigration reform

was possible but would have to overcome strong opposition from the right wing of the Republican policy.

Polarised politics are now endemic in the American political system and this condition is not likely to be alleviated soon. In 2014 the Democrats will likely lose seats in the House; during 'off year' elections, the president's party has lost seats in every election but three in the past century. The president's party in the Senate also most often loses seats, so it will be a struggle for Democrats to keep control of the Senate. Thus divided government is likely through 2016. The presidential vote in 2016 is too far off for speculation, but after eight years of Democratic presidents, Republicans will be energised and have plenty of policy targets to shoot at. If a Republican candidate can be found who is acceptable to the disparate and contentious Republic coalition, Republicans will have an edge in the 2016 campaign. But even if Republicans take control of both houses of Congress and the presidency, the Democrats, using tactics pioneered in Congress by Republicans, will do their best to thwart Republican priorities.

Thus polarised politics are entrenched in American politics and government, and policy-making on important issues is likely to suffer for the foreseeable future.

Question — Over one hundred years ago a politician of Irish extraction called Plunkitt put together a tome called *Plunkitt of Tammany Hall* and one of the classic chapters was on the congressman and it started like this, 'the congressman is a hog, take a stick to him and beat him over the snout with it'. Have things improved?[61]

James Pfiffner — Plunkitt was the guy of 'honest graft', and Tammany Hall was a political machine in the State of New York that really controlled everything. They controlled the money and so forth and a lot of that was putting people of your party in power, jobs and so forth, relatively corrupt. In terms of controlling members of Congress, hitting them on the snout with a two-by-four catches their attention. The way you do that in the United States now with the safe district is somebody comes from your right. So if you are a moderate you do not have that two-by-four to smack them with so it cannot catch their attention. On the other hand, if you are on their far right or the far left, you have got that two-by-four which basically is a threat for the

[61] Editor's note: The quote 'You can't use tact with a Congressman! A Congressman is a hog! You must take a stick and hit him on the snout!' is from chapter 7 of *The Education of Henry Adams* (1919) by Henry Adams.

next primary election—if you don't elect me, I am going to be a true blue conservative or Democrat, so the people in the far wings have that two-by-four but the people that are in the middle do not.

Question — There is a trinity of woes I am going to raise. One is the Tea Party, which you did raise, the second one is the original sin of slavery, which you started your talk with, talking about the south, and you have covered the guns. So you have covered my three items and you have done them so beautifully but you have left out the question: where does the civilisation of the USA go to?

James Pfiffner — Thank you, and I think you have put your finger on very difficult fissures in American politics. The Tea Party, interestingly, are not really a political party and many of them do not want to be seen as part of a political party; they see themselves as sort of objecting. On the other hand they are in favour of conservative republican parties and the Republican Party calls on them very much to be part of their coalition. So the Republican Party, even if the leaders want to be moderate and do some compromising, are stuck with their very important faction there.

Slavery is the original sin in the United States. I think a lot of that has changed the laws over the last several decades. When I was young in the 1950s there was real segregation in the north as well as the south, it was terrible. There is a civil rights revolution in the United States, so republicans are not racist and very few people in the United States are really racist. Nevertheless, the dynamic of African Americans in US politics is a very real one. It doesn't mean racism, but it is still real.

And of course guns are one of those things that are just hopeless in the United States. When I went to Washington in the early 1970s I was walking down Sixteenth Street towards the White House and looking around, and I looked up at this big building and it looked like a bank. Huge pillars and five or six storeys tall and at the top it said NRA (National Rifle Association). All of a sudden it clicked in my head. That stuff I had been reading in textbooks, that makes sense. Those people really are powerful, so it is a very effective political weapon that can be used. As to the effect on civilisation, our politics are very contentious and polarised but I think our civilisation is still there. I do not think it is completely the end of western civilisation in the United States as difficult as our politics are.

Question — Do you think that the dynamics of the Electoral College system compound what you have said? What I have in mind is that in virtually all the states there is a winner-take-all system which means that in practice attention is directed to certain states such as Colorado and not to other states. I was wondering, if a proportional representation system were used within the Electoral College system,

wouldn't there then be a greater requirement to take into account the views of people throughout the nation?

James Pfiffner — Yes, the Electoral College system in the United States means that the president is elected not by the popular vote but by electors. Each state has a number of electors in their congregational delegation, plus two for the Senate. Each state after the 1830s has decided that it can get the most leverage of its electoral votes by putting them all in one basket. All you have to do is get the most votes in one state in order to get all of their electoral votes. Virginia has, say, 11 electoral votes and if you get 51 per cent of the vote, Democrat or Republican, you get all 11. It is not done by proportional representation. What that means is that if you can get the large states you will get a big chunk all at once and proportional representation would reduce that.

Electoral College results focus on the swing states. At the last election there were about nine swing states and the rest were basically safe one way or the other. Texas is safely Republican at this time and California and New York are safely Democratic and so the candidates for president do not go very much to those states even though they are very large and they have lots of electorate votes because it is a done deal. They know that the Republicans are going to take Texas and so Democrats do not go there to campaign much. Whereas the Democrats might get 40 per cent of the vote in Texas, all of those votes are not added up with all the rest of the Democratic votes in the country at the state level. So this causes presidential candidates not to swing throughout the country but to focus on the few states that might go one way or the other. This time is was about nine states and they spent all their time there. With proportional representation if you have 40 per cent of the votes in Texas you get 40 per cent of their electoral votes and that would make presidential candidates worry. Republicans would go to California and campaign hard to get 40 to 45 per cent of the votes because it would help them. As it is now with all of those votes in one basket, they know if they get 49 per cent it is not going to do them any good, so that, I think, is one of the problems.

I have written in favour of doing away with the Electoral College. I think the person who gets the most votes should win. In the United States it is not that way. Most of the time the person who wins the majority of the votes does win the presidency but about four times in US history it has not, and one of those four times was George Bush v. Al Gore in the 2000 election. Gore won 500,000 more votes totally in the United States than Bush did but it came down to Florida. It was very close there, down to 527 votes or something and interestingly Ralph Nader, the Green candidate, won a couple of million votes there. If you think that the Greens normally would have voted Democratic, which most of them probably would have, Gore would have been

president, but he wasn't because of the Electoral College. So that is my criticism of the system.

There was an amendment proposed in Congress to change this in the 1960s, and it got through one house but not the other house. It is just not likely to happen because the calculation is 'how is this going to affect my party—Democrat or Republican—next time?' Everybody sees that there is too much risk of change there and so it is not likely that is going to change in the United States but it is one of those anomalies. Thank you for bringing that up.

Question — I wanted to ask a little bit more about this business of primary voting which is a fairly unique feature to America. Your analysis suggests that it ought to be blindingly obvious to moderates that they ought to get off their bums and go out and vote in the primaries. Is your analysis very new and why doesn't that response happen?

James Pfiffner — It is hard to get moderates out to vote. There are plenty of moderates in both parties that do vote but they do not have a chance to win. In safe districts there are not moderate candidates to vote for, so convincing them to do that is very difficult because the system is loaded in favour of the people who actually do turn out. If the political parties were in charge you might have a situation where the professionals would say 'well we want to get somebody moderate to middle, more likely to win' and so forth. This happened in presidential politics in the early twentieth century but once you turn it loose to the voters, Democratic voters or Republican voters, it is very difficult to get everybody to turn out. Even if the moderates turned out in a safe district, they still could only vote for one candidate or the other and those would probably be polarised.

In a sense it has always been that way but it is much worse now because there are more safe districts now due to redistricting, so the consequence of that is much greater now than it was in the past. Some states have said 'let's have a non-partisan commission of former judges, draw district lines' and so forth. That might help at some point in the future but it is not a simple thing to draw districts that are evenly split. It is easy to draw them so you are pretty clear that they are loaded one way or the other. Even if you had non-partisan commissions I am not sure that it would solve that whole problem. Polarisation is built into the American political class pretty strongly now. The safe seats keep that going but it is not the only cause.

Question — Professor I wondered if you could comment on the legislative innovation or otherwise around the Farm Bill and does this redefining the scope of the issue offer a pathway forward through gridlock?

James Pfiffner — The Farm Bill in the United States basically has been a deal between big agro-business, which gets billions of dollars in support, and liberals who are in favour of food stamps. That is, a subsidy for poor people whose income is below a certain level for a family of two or three or whatever it is. So liberals favour that, a social program to help poor people. Republicans favour big business and farming. Even if you are a liberal in the mid-west or you have large wheat fields, you cannot be against the Farm Bill. This was a combination that got the Farm Bill, which is worth quite a few billion dollars, to pass every year. Recently the Republicans in the House said 'Okay, they're having difficulty, the House and the Senate, coming to an agreement on this', so the House said 'Let's take the food stamps and set them over here and just vote on the Farm Bill', which basically says you Democrats vote for our piece of this, which is support for farmers and large businesses, and the Democrats say, 'No way, because what you are trying to do is take food out of the mouths of poor hungry people' and so forth. So that is where it stands now but it is interesting and striking that log rolling and pork barrelling—'you vote for our stuff, we will vote for yours'—even something as solid as the Farm Bill is now hung up and cannot pass because of this polarisation and Republicans refusing to go along and pulling the food stamps out of it. It is a symptom of the polarisation that I have been talking about.