



IT'S EVEN WORSE THAN IT LOOKS

*How the American Constitutional System
Collided With the New Politics of Extremism*

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General Overview:

One of the enduring hallmarks of American politics has always been a willingness on the part of politicians to focus on solving the nation's problems first and foremost rather than solely pushing and promoting their own party's agenda. In recent years, that has not been happening, primarily because both parties have become much more entrenched in ideological extremism. As a result, public trust in the government's capacity to address the serious problems which are facing America has never been lower. In an October 2011 poll, only 9 percent of the respondents expressed approval of the United States Congress – the lowest numbers in polling history.

Having two political parties which are vehemently adversarial might be workable under a parliamentary democracy but it is toxic for the American constitutional system where there is a clear-cut separation of powers between the White House, Congress and the Supreme Court. In recent times, the Republic Party in particular has become something of an “insurgent outlier” – ideologically extreme, unwilling to compromise, unpersuaded by facts, evidence or science and utterly dismissive of the legitimacy of its political opposition. When one of the parties moves this far from the center of American politics, it becomes extremely difficult for America to enact policies which will respond to the country's most pressing problems. Rather than workable political solutions, wilful obstruction and policy irresolution result.

This is the situation America faces and it needs to be resolved because it is worse than it looks.

*** Please Note:** This political book summary does *not* offer judgment or opinion on the book's contents. The ideas, viewpoints and arguments are presented just as the book's *author* had intended.

THE PROBLEM

The New Politics of Hostage Taking

On January 26, 2010, the United States Senate voted on a resolution to create an eighteen-member task force to look at what needed to be fast tracked in order to reduce the nation's deficit. The Conrad-Gregg proposal had substantial bipartisan support but when the Senate voted, several Republicans who had previously spoken in favor of the proposal and even cosponsored it voted against the proposal. Their reason? They didn't like the fact President Barack Obama was in favor and they were afraid its passage might gain him political credit. This event epitomized everything that is wrong in Washington today and that conclusion was reinforced by the debt crisis eighteen months later where the Republican party leaders played what was a reckless game of chicken with the president.

At the present time, political expedience is being put above the national interest so rigorously that America's governance and policy making has become much less stable and therefore more unpredictable and less effective than ever before. Why? There is a new generation of Republican leaders in the House who are prepared to jettison the bipartisan approach of the past in favor of public confrontations over issues like raising the debt limit in order to bring pressure to bear for radical policy changes. They have been emboldened by the sweeping Republican victory in the 2010 midterm elections and are looking to make a name for themselves. These Republican "Young Guns", led by speaker Eric Cantor and backed by the Tea Party, have made the debt limit and fighting tax increases the singular focus of their efforts and have been prepared to hold the country hostage in order to make their point.

The political brinkmanship which swirled around the raising of the United States debt limit in July 2011 was unprecedented and dangerous. The compromise deal which eventually got passed pleased no one but it did illustrate one fact – many Washington politicians now consider a permanent election campaign is underway and the demands of that campaign trumps policy.

"It is of course possible that the willingness of bomb-throwing rank-and-file lawmakers to bring the system crashing down, and the eagerness of cold-blooded congressional leaders to hold the nation's full faith and credit for ransom on a now-regular basis, will lead ultimately to positive policy outcomes, though that was nowhere evident when the dust settled in 2011. To us, the battle was a template for all that is wrong with contemporary society and politics. Balancing interests, conducting meaningful deliberation and debate, respecting adversaries and, most of all, focusing on problem solving all took a backseat to the Republicans' take-it-or-leave-it bargaining positions."

The deal which was reached in July 2011 created the aforementioned super committee which was charged with developing a ten-year plan to bring the federal debt-to-GDP ratio back to a more sustainable level but the committee was unable to reach any meaningful agreement. The Republicans point-blank refusal to consider any tax increases as part of the packages made any deals a non-starter. With the super committee unable to resolve that philosophical impasse, the automatic spending reductions which had been agreed as part of the original debt ceiling deal will come into effect instead.

"In 2010, an angry and frightened electorate had put the Republicans in the majority in the House and strengthened the GOP's hand in the Senate. What that produced was a year of hostage taking and wrangling in Congress, misdirected steps to deal with the deficit, and nothing whatsoever to remedy the public's greatest concern—chronic unemployment. Democracy's most essential power—the ability of the citizenry to "throw the bums out"—proved wholly inadequate to the task of governing effectively."

The Seeds of Dysfunction

While the debt limit and government spending have been high profile disconnects for Congress, the problems have not emerged overnight. Several factors have contributed:

- When Newt Gingrich was a freshman after the 1978 midterm elections, he brought a much more confrontational and aggressive style into Congress. With his eventual rise to Speaker sixteen years later, Gingrich openly worked to delegitimize Congress. Gingrich perfected the approach of using confrontational attacks and character assaults to create an environment where electoral goals always had precedence over policy. This, for better or for worse, became the new norms for the House and the Senate.
- The ideological schism between the Democrats and the Republicans has increased sharply over the last three decades. Today's political parties are more internally unified and distinctive than they have been in more than a century. Voters are increasingly viewing politics through distinctly partisan lenses and this is becoming even more pronounced. Democrats are drifting left and Republicans are veering sharply right.
- The center of gravity in the Republican party is also moving more to the right. Moderates are being crowded out by insurgent right-wingers who are highly skilled and voluble about getting their messages across. Pledges not to increase taxes under any circumstances have become almost compulsory for Republican Party politicians – meaning there is pressure on politicians to stick to the agenda, even if that results in deadlock and stalemate.
- New media has come to play a substantial role in the nation's political discourse. Rather than the traditional three television networks and large metro newspapers, today there are a vast number of cable TV channels, Web broadcasters and more. The 255+ million websites and video hosting sites like YouTube and Hulu have meant there has been an explosion in virtual soapboxes people can use to get their political ideas on the table. This communications revolution has brought to an end the old American tradition of getting the facts established and then debating the political options for moving forward. Instead, today's media is focused more on sensationalism and extremism as vehicles to attract an audience with the result discussion of political ideas has become much more fractured. A climate has been created where misinformation rather than facts drives political debate and deliberation.
- America's elections are now so awash in and dependent on money that politicians are required to spend an inordinate amount of time on fund-raising. Admittedly, a healthy democracy requires that candidates have enough resources to be heard but the source and size of campaign funding is a real and pressing problem. Several attempts have been made at reforming election financing but the failure of those initiatives is illustrated by the emergence of numerous super PACs to back respective candidates. The end result of this enormous inflow of money into politics has been to reinforce the partisan polarization which has already begun. Parties have moved to the center of the fund-raising universe rather than this being a fringe activity. Big money in politics always brings with it accusations and concerns over the independence, integrity and ultimate legitimacy of government. Political fund-raising activities always have the potential for well-resourced individuals with extreme ideological views to gain a stake in the process of making and then executing America's public policy decisions.

“Many parts of this story are familiar to readers who have been watching Washington and American politics. Many stories, as we have said, are variations on age-old themes or amplifications of earlier trends. We constantly have to ask ourselves whether all this is truly any different from the past, or even different from what we remember through rosy gauze from previous decades. But our conclusion is firm: the combination of old trends, new technologies, new players, and a coarsened political culture has passed a critical point, leading to something far more troubling than we have ever seen.”

The Fundamental Mismatch

“We believe a fundamental problem is the mismatch between parliamentary-style political parties—ideologically polarized, internally unified, vehemently oppositional, and politically strategic—that has emerged in recent years and a separation-of-powers system that makes it extremely difficult for majorities to work their will. Students of comparative politics have demonstrated that the American policy-making system of checks and balances and separation of powers has more structural impediments to action than any other major democracy. Now there are additional incentives for obstruction in that policy-making process.”

In parliamentary democracies, one party gets elected and has absolute power to push forward with its own agenda. Opposition parties can publicly voice their disquiet about anything that goes on but they have no effective ability to hold things up. The question of who should govern is then put to the voters again at the next election and one party takes the reins while all others stay on the periphery. This is not the case in the United States where the Constitution established several checks and balances to excessive power by spreading the responsibility for administration over a number of different institutions.

The Senate, for example, is by design a slow-moving institution which has over the years developed a complex set of procedural rules which are designed primarily to accommodate the larger-than-life egos of 100 senators. When you have a situation where the White House is controlled by one party and the Senate by another, there are all kinds of procedures the Senators can use to delay what goes on. These include:

- The famed filibuster – where any senator is entitled talk about the proposal under consideration indefinitely unless sixty senators voted to stop the debate – termed “cloture”.
- Holds – where any senator can delay consideration of any nominations to executive and judicial branch positions which require Senate approval. Holds have morphed from being mere procedural matters into indefinite or permanent vetoes which can be used to extract concessions from the executive branch. Senators can even apply holds anonymously if they so desire, significantly distorting the presidential appointment process and turning it into political theater. This tactic has become so widely used in recent years that on Memorial Day 2010, President Obama had 108 pending nominations which were still awaiting Senate approval more than 18 months after his administration had commenced.

Admittedly holds, filibusters and other delay and obstruction tactics have been around since the beginning of the Republic but in the past year or two, they have become intensely polarized. The Republicans, particularly since their electoral success in 2010, have frequently blocked nominations of individuals they acknowledge are competent in order to prevent the legitimate implementation of new laws on the books. They are effectively attempting to nullify federal laws they don’t like by bending the Senate’s procedures. As a result, the government has become hobbled just when the United States faces serious challenges and grave threats.

“The single-minded focus on scoring political points over solving problems, escalating over the last several decades, has reached a level of such intensity and bitterness that the government seems incapable of taking and sustaining public decisions responsive to the existential challenges facing the country. The public may still revere the Constitution and support the system of government that it shaped, but this is more a measure of patriotism—love of country and pride in being an American—than of satisfaction with how it is working in practice. All of the boastful talk of American exceptionalism cannot obscure the growing sense that the country is squandering its economic future and putting itself at risk because of an inability to govern effectively. This is a time of immense economic peril, with the global economy at risk, sustained unemployment that can hollow out the work force in the future, a lack of any long-term fiscal policy that can be and the need for action in areas from climate change to immigration.”

THE SOLUTION

Bromides to Avoid

Several potential solutions have been proposed to address America's presently dysfunctional politics:

- *Take a hands-off approach and let the American political system self-correct* – which is tempting given the durability and adaptability of the Constitution. The only problem is there is no guarantee this will happen and the magnitude of the challenges facing the United States genuinely are quite profound. Is doing nothing but hoping for the best really the best way for Americans to act?
- *Wait for a credible third-party to come to the rescue* – perhaps a president who has no allegiance to either the Republicans or the Democrats. Putting aside for a moment the difficulties in getting such an individual elected, would a hard-charging problem solver in the White House genuinely be able to make a difference? Wouldn't it be better to build momentum for change from within one of the two parties which have contributed to the current dysfunction?
- *Pass a Constitutional amendment to balance the budget* – which would defuse one of the flash points of political debate and impasse. The only problem is the austerity program which would result from doing this would virtually guarantee such a large amount of fiscal drag the United States' economy might never recover. More to the point, an amendment of this nature would neither end nor reduce the dysfunction. It would simply render the United States less capable of effective self-governance.
- *Introduce more rigid term limits* – for anyone serving in Congress or in state legislatures. Between 1990 and 2000, twenty-one states adopted term limits and scholars have evaluated their impact. They have shown conclusively term limits don't usher in a new era of citizen legislators who are more in touch with the real world. Rather, they encourage elected officials to use their limited time in power as a springboard to setting up their future career as a lobbyist or career bureaucrat. After all, it's the system in which politicians are operating which is causing all the dysfunction, not the suggestion those in elected positions have lost touch with the real world.
- *Provide for full public financing of all elections* – freeing politicians and political parties of any need to spend time on fund-raising. This also avoids the possibility that an elected official may become beholden to some special interest party. The problem with this proposal is restricting the flow of private money in politics has proven again and again to be extraordinarily difficult. The recent actions of the Supreme Court and the Federal Electoral Commission have resulted in a dynamic where it would take decades for changes in election funding to be enacted. Can the nation's problems wait that long to be addressed?

“The extreme and asymmetric partisan polarization that has evolved over several decades, initially reflecting increasing ideological differences but then extending well beyond issues that ordinarily divide the parties to advance strategic electoral interests, fits uneasily with a set of governing institutions that puts up substantial barriers to majority rule. To improve that fit—either by producing less polarized combatants or by making political institutions and practices more responsive to parliamentary-like parties—we as a people need to think about ambitious reforms of electoral rules and governing arrangements. But the more recent arrival of the Republican Party as an insurgent force in politics—one that has proven quite destructive to the process and substance of policy making in these troubled times—also requires our more immediate response. We need to identify ways of improving the performance of voters and politicians within the existing system, starting in the 2012 elections.”

In short, none of these highly visible responses for overcoming the current political dysfunctions will have that effect. They offer little if any promise.

Fixing the Party System

While all of the more obvious solutions to America's dysfunctional politics are problematic or ultimately ineffective, the real key to long-term improvement is to find ways and means to cool down the ideological war between the political parties. At the present time, the parties are in a never-ending campaign to control the White House and Congress. If the parties were to become less partisan and more accepting of each other's legitimacy, then genuine deliberation and bargaining on issues of fundamental importance to all become more likely to occur. Simply put America needs political parties which can collaborate constructively together because the United States governance system requires an unusual degree of consensus to function.

There are three avenues of electoral reform which have some promise of being able to cool the current war between the parties:

1. *Moderate politics by expanding the electorate* – because the higher the voter turnout, the less incentive there is for parties to work towards mobilizing only those who will vote in their favor. America should explore multiple ways to make it easier for eligible citizens to vote while at the same time guarding against voter fraud and illegal manipulation of the electoral process. This may be a mix of modernizing the voter registration system or perhaps even making voting mandatory as is now the case in thirty-one countries. Expanding the vote would allow the sentiments and orientations of the broader population to come through rather than the smaller extremes which may currently be the case.
2. *Reduce the bias against moderate voters by altering how votes in the election are converted into seats in government* – so gerrymandering of legislative districts to favor one party or the other becomes less effective for the parties. Most countries use nonpartisan boundary commissions to do this but in America this power is vested in the politicians with the obvious outcome they act in their own best reelection interests. This area needs to be reformed and a nonpartisan commission created with responsibility for this function. It would also be beneficial if political primaries were to be open rather than closed to encourage the participation of more people across society to participate. It may also be worth exploring whether winner-takes-all is more productive than some form of proportional representation but this would require major changes, potential complications and trade-offs which would not be trivial.
3. *Lower the polarization of the parties through changes in campaign fund-raising, spending rules and practices* – which admittedly has been tried several times before. The ideal would be to have campaign funding which mobilizes large numbers of small donors to contribute in parallel with a system which enforces the transparency and genuine independence of super PACs and their nonprofit affiliates. Without question, the money culture has a deeply corrosive and polarizing effect on American politics. The ideal and obvious solution would be to have a congressional rule which states lawmakers may not accept a contribution for themselves or their party from anyone lobbying Congress or participating in a federal contract. That's unlikely to happen so a viable alternative must be found.

“Discussing next-generation campaign finance reform when Citizens United and its progeny remain as the driving forces behind political campaigns may seem fruitless at best. Once unlimited money becomes the rule and the wall between independent efforts and candidates breaks down, any serious efforts to alter the fundamentals of the system, short of a constitutional amendment, are like erecting a thin line of sandbags to alter the course of a tsunami. But pursuing a new framework for campaign finance remains a key component for reducing dysfunction in the American polity. One reason is history: for ideas in this realm to reach fruition or be enacted takes years or decades. A second reason is that even a thin line of sandbags is better than none. A third is that a new framework—one based more on incentives than restrictions—has the potential to take the issue of reform out of the courts, where it is ill suited for balanced and reasonable resolution, and into the political sphere.”

Reforming U.S. Political Institutions

Making major wholesale changes to political institutions will be difficult and may lead to substantial unintended consequences. With that in mind, there are two institutional changes which could be made right now to improve the fit between the current adversarial parties and the process of governing the nation:

1. *Strengthen majority rule in the Senate* – or in other words eliminate altogether the ability of the minority party in the Senate to have an effective veto over bills put forward by the sitting president and the majority party. This could be readily achieved by:
 - Limiting filibusters to one per bill. At present, any senator can filibuster over a motion to proceed to the bill, on a substitute or on the bill itself, with each filibuster requiring days of floor time to quash. New Senate rules should be drafted which restrict filibusters to the consideration of the bill alone.
 - Change the cloture rule of the Senate to require forty-one votes to continue the debate during a filibuster rather than the current case where three-fifths of the entire Senate must vote to end the debate. This would put the burden on the minority to be actively involved rather than requiring the majority party to keep Senators available at all times while a filibuster drones on.
 - Eliminate extraneous delays by reducing the current two-day delay in a cloture motion to one day and by allowing the majority to waive its fifteen hours of debate time if it so chooses.
 - Reduce the number of Senate-confirmable executive positions and streamline the current cumbersome, time-consuming and costly confirmation process. All nominations should be guaranteed an up-or-down vote within sixty days after being reported out by the committee of jurisdiction. Individual holds on appointments should be eliminated entirely.
2. *Shift decision-making power between Congress and the executive branch* – specifically transfer more decision-making power from the Senate to the executive branch. Similar shifts between branches have occurred throughout American history, most notably when the Reagan administration was advancing its conservative agenda and when the George W. Bush administration responded to the terrorist attacks of September 11, 2001. This was done under the auspices of the theory the president, as the single head of the executive branch, is constitutionally charged to “take Care that the laws be faithfully executed.”

While this would undoubtedly be controversial, it is feasible for the president to claim executive authority and take unilateral action in the face of strong opposition in Congress or an inability or unwillingness of the parties to resolve differences. The standard response from Congress would probably be to establish independent regulatory agencies in order to limit the direct authority of the president. This has already been done in the case of the Federal Reserve, the Federal Communications Commission, The Federal Trade Commission and the Securities and Exchange Commission among others.

Another alternative form of shifting the decision-making power which is frequently cited as an effective way to achieve this was the nine-member Defense Base Closure and Realignment Commission (BRAC). This was set up when the Defense Department moved to close military bases between 1988 and 2005. BRAC set up a process whereby it presents Congress with a list of facilities to be closed and then Congress had forty-five days to approve a joint resolution of disapproval to prevent implementation. The president’s approval was then sought and if given, the proposal would go into effect. BRAC functioned quite efficiently over five rounds of closures and has been suggested as a model for dealing with budget deficits and debt. However, it is unlikely a BRAC-like mechanism would work where there are deep philosophical differences between the parties such as exists at present, particularly given that the Republicans are vehemently opposed to any tax increases.

Navigating the Current System

So what can ordinary citizens do to improve the political system's current dysfunctions?

1. *Americans should work to change the culture that shapes how this nation's political institutions perform* – by restoring public shame and reinvigorating a public square where ideas can be discussed constructively and openly. The political discourse has become too littered with outright lies and personal insults. It's time for opinion leaders to publicly denounce those who profit from their lies. We need to recreate in society public shame for those who distort, lie and otherwise coarsen this nation's culture and political discourse. America also needs to re-create a public square where people using a common set of facts can debate policy options with vigor tempered by an acceptance of the legitimacy of others' views. Perhaps the best way to do this would be to find a new source of funding for public media shows like the *PBS NewsHour*, *Charlie Rose* and *The Diane Rehm Show* which fit a better model of political discourse. Another way to change the culture might be to create a "Shadow Congress" of former lawmakers from across the political spectrum who could periodically gather and debate important issues facing the country without being restricted by party or reelection considerations.
2. *Americans should confront directly the present destructive asymmetry between the parties* – at local and state levels first before moving on to congressional and presidential level. American democracy thrives whenever there are two vibrant and constructive political parties who compete vigorously for the vote of Americans and fight hard for their views. In recent years, we have become too tolerant of political parties which have extreme ideological beliefs and which embrace destructive means to make political gains at the expense of genuine problem solving. Both parties have been guilty of hardball politics in recent years and the nation's stability has suffered as a consequence. It's time for change to come from within each party. People need to speak up about their feelings in relation to destructive politics. Citizens should even be prepared to vote against their own party if it exhibits ideological extremism – the only surefire way that exists to bring a party back into the political mainstream.

"As we write this book, the United States is approaching a pivotal election. Voters, as disgruntled with the performance of Congress and the policy dynamic in Washington as at any point in our lifetimes, are expecting and hoping that their collective voice will be heard and accountability achieved. But how? We fear that expectations in 2012 will not be reached, and that the range of potential outcomes do not easily allow for one that will either affirm the existing order or accomplish sweeping change, at least in a way that will recreate a functional and legitimate political process. To be sure there are some signs of green shoots sprouting throughout the country. One is the model set by our metropolitan areas—fifty-one of which have populations greater than one million—that are finding public-private partnerships and cross-party alliances to solve their problems in transportation, social welfare, education, and infrastructure. Another is that, even in this awful political environment, some of the best and brightest and most admirable in our society are still stepping forward to do public service and to run for political office. A third is the number of former lawmakers, especially Republicans, who are mad as hell and determined to change things in the system and in their own party. They are joined by a handful of influential conservative public intellectuals who are questioning the take-no-prisoners, no compromise position that has taken over the GOP. A fourth is in the new social movements, including both the Tea Party and Occupy Wall Street. If their goals are sometimes amorphous, their hangers-on sometimes unsettling, and their means sometimes questionable, they still reflect a broader, bottom public desire to get America back on track. It is even worse than it looks. But we are confident that if the worst has not yet hit, better times, and a return to a better political system, do indeed lie ahead."