

**Durham, NC** - American politics since the 2008 elections has offered quite a ride both to practitioners and to those attempting to understand and interpret the ebb and flow. My emphasis today will be on how the Congress has functioned in this environment, which has featured intense and increasing partisan polarization.

We came out of the 2008 elections with unified Democratic control of the Presidency and Congress and passed a program that far surpassed the record of the last such period (under Bill Clinton) and was reminiscent of Lyndon Johnson's Great Society: the Recovery Act, health care reform, credit card reform, student financial aid reform, financial services regulation, and so forth. But those measures were passed with few, and often no, Republican votes, and many others fell to the Senate filibuster.

Then came the elections of 2010, fueled by economic discontents and a Republican backlash. Once again we had divided government -- GOP control of the House and a narrowed Democratic majority in the Senate --with the parties more polarized than ever and the Republican party positioned as what Tom Mann and Norm Ornstein term, in a new manuscript to be published this Spring, an "insurgent outlier: ideologically extreme, contemptuous of the inherited social and economic policy regime, scornful of compromise, unpersuaded by conventional understanding of facts, evidence, and science, and dismissive of the legitimacy of its political opposition."

Mann and Ornstein in effect call many of us political scientists to repentance -- or at least to sober reflection -- as they recall Austin Ranney's dissent to the 1950 report of the ASPA committee chaired by E.E. Schattschneider, "Toward a More Responsible Two-Party System." Ranney argued that the more ideologically coherent, internally unified, and adversarial parties the report called for would be a disaster within the American constitutional system. "Time," they say, "has proven Ranney dead right."

I don't totally accept that judgment. My own conviction is that our country has benefitted greatly from those intermittent, if infrequent, periods of unified Democratic control; certainly they have been consequential in terms of landmark policy achievements. But Mann and Ornstein are surely correct in highlighting a mismatch between the increasingly ideological and adversarial parties that have evolved in our country and a governing system that invites divided government and in any case makes it difficult for majorities to act conclusively. In other words, we've developed parliamentary-style parties without a parliamentary system.

This phenomenon, and the attendant dysfunction, has been on lavish display during the 112th Congress. We have lurched from one crisis to the other, most of them artificially created. The resolutions to these crises have produced some positive outcomes, but the outcomes have often been skewed, and the costs to our economic standing and our political legitimacy have been severe.

First there was the near-shutdown of the government in March of 2011, produced by the failure of congressional Republicans after the 2010 elections to approve an omnibus appropriations bill for 2011 or even a year-long continuing resolution (CR). The March expiration date on the CR that was passed guaranteed a crisis. Then came the near-default on the national debt in July, an exercise in brinksmanship that led to the downgrading of the nation's credit-worthiness. Recently we've had another near-death experience involving the continuation of a reduced payroll tax rate, extended unemployment compensation, and patching up the reimbursement rates for Medicare –all items that until recently had enjoyed bipartisan agreement.

Even our limited successes bear witness to our disabilities. Our passage of full-year omnibus appropriations bills for 2012 is a case in point. It's true that Speaker Boehner and the Republicans were skittish about yet another crisis last fall, given the adverse public reaction to the July fiasco. But far more determinative of the course they took was Boehner's realization, confirmed by the vote on the three-bill appropriations "minibus" in November, that he couldn't count on the votes of almost half of his members. Ironically, this meant that the Republicans had to work with us Democrats, which resulted in appropriations bills that were within reach for the House-Senate accommodation. If these appropriations bills had been formulated on the Republican side alone, we would have had far more difficulty getting final agreement. One could say – as I did on a few occasions – that we could thank the Tea Party that we got halfway decent appropriations bills and averted another threatened shutdown!

Anyone who doubts the asymmetry of the partisan hardening that Mann and Ornstein describe need only look at the resolutions to the serial crises. The hardest-hit budget category has been domestic discretionary spending, the main target of House Republicans, cut over one-half trillion dollars in the 2011 CRs and the July debt ceiling agreement. The July agreement added another half trillion in defense cuts. Entitlement savings of some half a trillion dollars had been included in the health care bill – no cuts in Medicare benefits, but reduced profits for the privatized Medicare Advantage programs and reduced reimbursement for hospitals and drug suppliers. In light of the failure of the so-called deficit reduction "Supercommittee," another 1.2 trillion in spending cuts is looming, divided roughly in half between defense and non-defense. What is missing from this picture? Any increases in taxes – a monument to Republican intransigence, and clear evidence that the parties are not equally locked in place.

While the most immediate evidence of increasing partisan polarization is this crisis-ridden congressional performance -- the working title of Mann and Ornstein's new book is "It's even Worse than you Think " -- there are longer-term implications for the way Congress functions. I will briefly mention three areas of particular interest to political scientists, three areas critical to congressional performance and to the institution's place in the constitutional system. All of them are significantly --and I would say adversely -- affected by sharp partisan polarization. Here I am concentrating mainly but not exclusively on the House.

First, consider the critical balances Congress must strike between centralization and decentralization and between partisan discipline and the accommodation of competing forces. As a political scientist and then as a member, I saw congressional committees as great sources of initiative and expertise, harnessing the energies and talents of disparate members effectively. However, I also remember committees too often reporting bills that divided the Democratic Caucus and had to be amended on the fly as the whip counts came in. At a minimum, even with an assertive Speaker such as Jim Wright, committees represented competing power centers and often fell short when a unifying agenda or message was needed. A corrective was required. It is telling that when Democrats returned to power after the years of Republican control (1995-2006), few if any members called for a return to the previous degree of decentralization.

That is not to say that the Gingrich-Hastert era offers a model for emulation. The ascent of Newt Gingrich to Republican leadership in the early 1990s contributed more to increasing polarization of the House than any other single event of the past thirty years. In 1994 Gingrich rode a fierce anti-institutional critique to victory and proceeded to concentrate power in the Speaker's office to a degree not seen in almost a century. Upon succeeding him in 1999, Dennis Hastert professed his desire to return to the "regular order." But committees remained under tight constraints, and with the advent of unified Republican control of government under President George W. Bush, House leadership assumed an even harder edge through tactics designed to eliminate dependence on -- or even participation by -- Democrats, while keeping the narrow Republican majority in line.

When Democrats returned to power in 2007, they avoided the worst abuses and gave wider berth to committee operations. But floor proceedings were still highly regimented, and conference committees remained a shadow of their former selves. The challenge continues now as the Republicans resume leadership, with sporadic displays of open floor debate but few serious indications of reduced control.

Centralized control under both parties has reflected 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. But there is still room to adjust partisan practice, and good reason to question assumptions that have often informed it. It is fallacious, for example, to regard leadership strength and committee vitality in zero-sum terms. Effective party and committee leadership can be mutually reinforcing, producing a better legislative product and a smoother route to passage. A case in point is the comprehensive financial services regulatory reform bill brought to the floor by the Democratic leadership in 2009 under permissive rules of debate. The bill, reported by the Financial Services Committee under Barney Frank's leadership, was the result of months of hearings and markups that had involved most committee members. While that was not sufficient to attract Republican votes in the sharply divided House, it produced a better designed and more legitimate product in the end.

Second, Congress must safeguard its constitutional prerogatives and its institutional role in relation to the executive. One of the most important arenas in which institutional powers are played out, and the one with which I am most familiar, is appropriations. The appropriations committees embody the constitutional "power of the purse" and represent an essential instrument for holding the executive branch accountable and for exercising full partnership in the setting of national priorities. This institutional role is, or should be, distinct from jockeying for partisan advantage within Congress. It also helps explain the restrained partisanship that has historically characterized committee operations: appropriations members have a common responsibility to hold the executive branch accountable, regardless of which party is in control in the White House or Congress.

The partisan divisions and tactics of the full House are seeping into appropriations. This hit me with full force as I managed the Homeland Security appropriations bill on the House floor in 2007, my first year as subcommittee chairman. A band of some three dozen members – mostly younger, mostly from the right-leaning Republican Study Committee – took full advantage (and then some) of the open rule under which appropriations bills were traditionally debated, offering trivial and/or pro forma amendments in succession, each providing the opportunity for a repetitive string of five-minute speeches. The most prominent theme of the protests, to the extent there was one, was earmarks, but the main intent seemed to be merely to throw the House into disarray. We finally brought the debate to a conclusion after 27 hours (compared to nine the year before). Many of the subsequent appropriations bills were subjected to similar tactics; it took 169 hours to debate them compared to 101 hours the year before.

Another kind of partisan disruption greeted my bill in 2009, as amendments to prohibit the transfer of Guantanamo Bay detainees to U.S. soil were offered in full committee and on the floor. The provisions were not germane to the bill but were being pushed by Republican leaders at every opportunity to embarrass the Obama administration and put vulnerable Democrats on

the spot. With some difficulty, we contained Democratic defections and defeated the motion to recommit the conference report. Then the storm clouds lifted and congratulations were exchanged across the aisle for what in reality had been a bipartisan bill all along. But the experience had laid bare the unsteady equilibrium between the norms buttressing the institutional role of appropriations and the struggle for partisan advantage, and there could be little doubt in which direction the balance was tipping.

Such tactics can render appropriations markups and floor debates indistinguishable from the partisan fights characteristic of more typically controversial legislation. Moreover, to the extent individual appropriations bills are rolled into omnibus bills and continuing resolutions, they are more and more under the control of leadership and subordinated to partisan objectives. Here the causal arrows run both ways: partisan divisions make the orderly sequencing of bills harder to maintain, and the divisions are in turn exacerbated as appropriations bills become the focal point of end-of-session showdowns.

Finally, Congress must recover and maintain a bipartisan as well as a partisan capacity. The organizational strength and solidarity that congressional parties have developed since the 1970s, particularly in the House, have enhanced performance in many ways by overcoming fragmentation and enabling the majority to rule. I take considerable pride in periods of extraordinary partisan achievement such as 1993-94 and 2009-10. But I am also a veteran of the budget battles of the 1990s, which 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 revenues commensurate with necessary expenditures, are even more difficult. And secondly, our capacity to take these challenges on, in the bipartisan fashion that history teaches us is almost always necessary, is far weaker. Reaching agreement was extraordinarily difficult in the nineties and it seems almost inconceivable now.

Bipartisan accommodation has its pitfalls; it can render legislation muddled or ineffective, particularly when the gaps being bridged are deep and wide. But bipartisan capacity can also be a source of strength, as it has been for committees such as Transportation and Infrastructure, Armed Services, Agriculture, and Appropriations. But even on these, and certainly on most other, committees, partisan divisions have deepened in recent years. In some instances, more coherent legislation has resulted, more consistent with a given political ideology. But the route to final passage has often been rendered more difficult, as the languishing of numerous congressional reauthorizations year after year suggests.

These effects are greatly exacerbated in the case of fiscal policies, which require political leaders to face unpleasant realities and to take on political adversity. The bipartisan budget

agreement of 1990 and the comprehensive budget bill of 1993, which was enacted with Democratic heavy lifting alone, helped create the roaring economy of the 1990s and a federal budget that was not only balanced but generated sizable surpluses. The George W. Bush administration then abandoned pay-as-you-go and other budget constraints, and by the time the great recession of 2007 came around, the country found itself in a position of dangerous fiscal weakness.

We must now find our way back: bringing the economy to full strength (the best cure for deficits and much else) with the help of targeted countercyclical investments, while charting a steady longer-term course to fiscal balance. Fixation on partisan talking points – no tax increases, cuts limited to domestic discretionary spending, no entitlement changes – is deceptive and counterproductive. The National Commission on Fiscal Responsibility and Reform, chaired by Erskine Bowles and Alan Simpson, correctly highlighted the need for a comprehensive approach and an all-hands-on-desk mentality, whatever one might think of its specific proposals. Positive action may well require extra-congressional mechanisms, as it has in the past, but it will also require Congress to recover and repair its capacity, on matters on grave national import, to transcend partisan divisions.

I'm far from starry-eyed about our ability to transcend our political environment. But, as an examination of successive speakers and committee leaders shows, we do have significant options in dealing with the incentives and constraints the environment presents.

Mann and Ornstein explore various additional possibilities for lessening party polarization and its effects – although I find their diagnosis of the problem more convincing than their proposed remedies. Some have to do with altering our electoral system: expanding the electorate beyond the highly motivated – and sharply divided – party bases; controlling partisan gerrymandering; instituting so-called "open" primaries that favor centrist candidates, as well as instant runoff voting. Other recommendations would alter Congress' institutional framework, e.g. limited the use of the filibuster and otherwise strengthening majority rule in the Senate.

I am becoming more and more convinced that campaign finance reform deserves a prominent place on this list, particularly since the *Citizens United* decision has given totally free rein to big-money donors and swashbuckling political committees with powerful incentives to go on the attack and exacerbate political divisions. Fixing this will ultimately require a reconstituted Supreme Court and/or a constitutional amendment, but in the meantime we should at least insist on disclosure, e.g. requiring the unconstrained super PACs to flash their top five donors on the screen.

In conclusion, it seems clear that increasing partisan polarization is a variable of overriding importance in explaining the twists and turns of congressional performance and also the longer-term state of the institutional functions I have identified. Political scientists can help us understand the roots of this polarization and its consequences as well. This later assessment can and should also entail evaluation, encouraging us to be clear about what we mean by congressional "strength" and what role we envision Congress playing in the constitutional system, and then to ask what difference partisan polarization makes. Congress and its capacities are changing fairly rapidly – not necessarily for the better – and it behooves political scientists as well as ordinary citizens to pay attention.