

Gridlock – Not A Problem

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Gridlock – Not A Problem

One potentially very major argument is "Turn: Gridlock is Just Conservatism". The cards make a lot of sense (conservatism, by definition, is "conserving" the status quo, which is what gridlock does). Be careful, however, as some judges may not want to support a system that implicitly favors conservatives.

To counter the "gridlock isn't representative, most American's don't like it" argument, you might stress the total inaccuracy of using public opinion to gauge representation. If one group votes for candidates who vow to cut spending, and another group votes for candidates who vow to raise welfare benefits, then both groups have voted for gridlock, even if both groups also claim to favor bipartisanship. All that most people mean when they say they oppose gridlock is "I wish the other side would work with me to advance my agenda."

OVERVIEW/OPENERS

Not always bad, just the way things are

Prof. Lawrence Summers (PhD from Harvard, president of Harvard University), April 2013, Washington Post Opinions, "When gridlock is good", accessed July 15, 2013, http://www.washingtonpost.com/opinions/lawrence-summers-when-gridlock-is-good/2013/04/14/8bfeab9c-a3c3-11e2-9c03-6952ff305f35_story.html

Throughout American history, division and slow change have been the norm rather than the exception. While often frustrating, this has not always been a bad thing.

Nothing new (but we've still progressed...)

Prof. Lawrence Summers (PhD from Harvard, president of Harvard University), April 2013, Washington Post Opinions, "When gridlock is good", accessed July 15, 2013, http://www.washingtonpost.com/opinions/lawrence-summers-when-gridlock-is-good/2013/04/14/8bfeab9c-a3c3-11e2-9c03-6952ff305f35_story.html

Anyone who has worked in a political position in Washington has had ample experience with great frustration. Almost everyone in US politics feels there is much that is essential yet unfeasible in the current environment. Many yearn for a return to an imagined era when centrists in both parties negotiated bipartisan compromises that moved the country forward. Yet fears about the functioning of the US government have been a recurring feature of the political landscape since Virginian Patrick Henry's 1791 assertion that the spirit of the revolution had been lost.

More legislation ≠ more progress

Prof. Lawrence Summers (PhD from Harvard, president of Harvard University), April 2013, Washington Post Opinions, "When gridlock is good", accessed July 15, 2013, http://www.washingtonpost.com/opinions/lawrence-summers-when-gridlock-is-good/2013/04/14/8bfeab9c-a3c3-11e2-9c03-6952ff305f35_story.html

The great mistake of the gridlock theorists is to suppose that all progress comes from legislation and that more legislation consistently represents more progress.

Gridlock – Not A Problem

GENERAL PHILOSOPHY

Thesis: The status quo should be the default; change should only happen when there is good reason. Gridlock only happens when there is no clear public consensus on an issue, and Americans are divided over it. In those cases, we should stick with the status quo to be safe. That's exactly what gridlock does.

Only prevents controversial policies – lots of other laws get passed

Prof. Josh Chafetz (PhD in politics, JD from Yale, professor of law at Cornell University), June 2013, Notre Dame Law Review, "The Phenomenology of Gridlock", Vol. 88:2065-2087, accessed July 15, 2013, available on SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2200478 (page 2079)

But the second thing to note is that we do, in fact, get some things done under divided government. Sometimes, this is because legislative action, although important, is either uncontroversial or is controversial in ways that do not track party lines. This, I think, explains why the 112th Congress was able to completely overhaul the patent system, to remove the word "lunatic" from the United States Code, and to pass significant free-trade agreements with Korea, Colombia, and Panama. It may also explain why, in its first months, the 113th Congress has reauthorized the Violence Against Women Act and passed legislation designed to strengthen the government's ability to respond to public health emergencies.

A/T "PARTISANSHIP CREATES GRIDLOCK"

Turn: Reducing role of parties could make it worse – parties simplify negotiations

Prof. George Yin (JD, professor of law and taxation at the University of Virginia), January 2013, Virginia Public Law and Legal Theory Research Paper No. 2012-67, "Legislative Gridlock and Nonpartisan Staff", accessed July 15, 2013, available on SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2171358 (page 2)

Before we begin, a few cautionary notes. The role of political parties in Congress is sometimes explained as a way to make the legislative process more efficient. Members of the same party are thought to have certain preexisting relationships that can be drawn upon to help negotiate and produce legislative outcomes. Under this view, parties help to reduce the transaction costs of legislating. Diminishing the role of the parties in Congress could, therefore, make legislative solutions more costly and even harder to attain.

Gridlock – Not A Problem

No effect on passing "landmark" laws – study

Prof. Thomas Holyoke (PhD in political science, associate professor of political science at George Washington University), April 2010, Western Political Science Association 2010 Annual Meeting Paper, "Interest Group Competition and Legislative Gridlock", accessed August 11, 2013, available on SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1580602 (page 4-5)

Implicit in much of this work was a normative belief that government ought to be unified so that parties wielding an electoral mandate from the public could advance a comprehensive legislative agenda that voters could evaluate at the next election. The apparent inability of one party to exercise unified control reflected a fundamental weakness in the Madisonian system because the jockeying among parties for influence brought the system to a stand-still and made it impossible for the public to hold elected officials accountable. This, in turn, was believed to exacerbate the alienation of the electorate (Burns 1963). Given the strength of this belief in the value of unified government, it is not hard to understand the impact of David Mayhew's 1991 study of gridlock. Examining the fates of what he identified as landmark legislation, Mayhew drew the stunning conclusion that whether government was divided or united made no difference as to whether such legislation was enacted into law. His finding jump-started an active research agenda on the causes and consequences of gridlock with scholars following one of two tracks.

Alternate Cause: Conflict between interest groups

Prof. Thomas Holyoke (PhD in political science, associate professor of political science at George Washington University), April 2010, Western Political Science Association 2010 Annual Meeting Paper, "Interest Group Competition and Legislative Gridlock", accessed August 11, 2013, available on SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1580602 (page 8)

The greater the diversity of interest groups, the more directions in which policy will be pulled. Lawmakers are unwilling to alienate any constituency or source of financial support so they end up taking no action at all. Evidence from their cross-sectional study of legislative productivity relative to public demand (as reflected in legislation introduced) in the 50 states largely supports their argument that greater group diversity leads to more gridlock. Similar statelevel work by Bowling and Ferguson (2001) reaches a similar conclusion.

Gridlock – Not A Problem

Alternate Cause: Conflict between interest groups – conflict = gridlock, consensus = action

Prof. Thomas Holyoke (PhD in political science, associate professor of political science at George Washington University), April 2010, Western Political Science Association 2010 Annual Meeting Paper, "Interest Group Competition and Legislative Gridlock", accessed August 11, 2013, available on SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1580602 (page 11)

Though group competition arises from these differences in positions, it is not competition itself that should increase the probability of gridlock; rather it is the conflict that can result from competition that should make it more likely we will observe gridlock. Conflict is the decision of lobbyists working on an issue to fight one another rather than negotiate and work in coalition. So, if interest groups act as cue-givers to legislators regarding preferences of their members, often key constituencies of these legislators (see Austen-Smith and Wright 1992; Ainsworth and Sened 1993), then conflict among interest groups should signal to legislators the constraints placed on lobbyists by their own members representing fundamental disagreement among these constituencies. This, in turn, should persuade legislators to resist forming their own coalitions in Congress necessary for producing majorities and passing legislation. Similarly, group coalitions represent agreement among lobbyists and signal legislators that there is support and agreement among key constituencies, perhaps even demand, for legislation that legislators should respond to and facilitate bill passage

Alternate Cause: Preferences of the "median" legislator

Prof. Thomas Holyoke (PhD in political science, associate professor of political science at George Washington University), April 2010, Western Political Science Association 2010 Annual Meeting Paper, "Interest Group Competition and Legislative Gridlock", accessed August 11, 2013, available on SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1580602 (page 5-6)

Much of this work has its roots in Duncan Black's Median Voter Theorem (1958), which holds that the policy preference of the legislator at the median of a distribution of lawmakers determines the outcome of a majority vote. Keith Krehbiel (1991) had shown how differences between the preferences of the median legislator on a committee and the median of the parent chamber may prevent the committee from reporting legislation, a type of gridlock unconnected to party.

Alternate Cause: Differences between House & Senate (regardless of party)

Prof. Thomas Holyoke (PhD in political science, associate professor of political science at George Washington University), April 2010, Western Political Science Association 2010 Annual Meeting Paper, "Interest Group Competition and Legislative Gridlock", accessed August 11, 2013, available on SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1580602 (page 6)

On the empirical side there has, perhaps, been no work more influential than Sarah Binder's (1999), who finds that preference differences within and between chambers of Congress, unconstrained by party, though perhaps shaped by other institutional features such as tradition, may determine the fate of legislation. She also argues that lawmakers face external incentives, such as demand for legislation addressing an issue highly salient to the public, or constraint on what legislation is feasible given budget availability.

Gridlock – Not A Problem

Removing partisan gridlock may cause other gridlock

Prof. George Yin (JD, professor of law and taxation at the University of Virginia), January 2013, Virginia Public Law and Legal Theory Research Paper No. 2012-67, "Legislative Gridlock and Nonpartisan Staff", accessed July 15, 2013, available on SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2171358 (page 2)

Moreover, increased party influence in Congress (and the greater centralization of power that often accompanies it) has generally operated in the past to counter the decentralizing effect of the committee system (another laborsaving device used by Congress). Reduced importance of the parties in Congress, therefore, could result in strengthened committees and subcommittees. Yet strong committees (and the seniority system) have themselves been blamed in the past for producing legislative stalemate. Thus, even if Edwards is correct that party control over Congressional governance somehow contributes to gridlock, it is not clear that the default arrangement (if party influence is reduced) would be an improvement.

TURN: "GRIDLOCK" IS JUST CONSERVATISM

"Gridlock" is just conservatism

Prof. Amitai Etzioni (PhD, professor of sociology at Columbia University for twenty years, former president of the American Sociological Association; in 2001, one of the top 100 most-cited academics in America), 2012, The Forum, "Gridlock?", Vol. 10, Issue 3, Article 9, accessed August 11, 2013, <http://icps.gwu.edu/files/2013/01/Gridlock.pdf> (page 2)

In contrast, this article argues that the American polity is functioning properly, in the specific sense that it serves the expressed conservative preferences of the popular majority. Gridlock exists when party A wants to move East and party B seeks to move West, and hence nothing budes. However, when party A wants to move East and party B wants to stay put, and nothing moves, what seems like a gridlock is in effect a victory for party B. In this sense, the fact that the 112th Congress enacted only half as many laws as other Congresses (on average) is not an indication of gridlock, but instead one measure of conservative success. The discussion below provides evidence that between 2008 and 2012, conservatives not only blocked, weakened, and eliminated government actions and programs, but also that they enacted a fair number of laws that favored their constituencies and ideology.

Reflects conservative majority

Prof. Amitai Etzioni (PhD, professor of sociology at Columbia University for twenty years, former president of the American Sociological Association; in 2001, one of the top 100 most-cited academics in America), 2012, The Forum, "Gridlock?", Vol. 10, Issue 3, Article 9, accessed August 11, 2013, <http://icps.gwu.edu/files/2013/01/Gridlock.pdf> (page 25)

In sum, we have seen so far that in the overwhelming majority of public policy issues, including foreign policy, defense, homeland security, and economic policies-cultural issues are not examined and seem to follow a different pattern-the polity is not gridlocked, but instead often produces the policies and institutional changes sought by the conservative majority of the voters. This finding holds for all three branches of government, the regulatory agencies, and for a majority of state governments. There are liberal "moments" and policy outcomes, but they are much fewer and last for shorter periods.

Gridlock – Not A Problem

Explanation – many democrats are conservative, so easier to pass conservative laws

Prof. Amitai Etzioni (PhD, professor of sociology at Columbia University for twenty years, former president of the American Sociological Association; in 2001, one of the top 100 most-cited academics in America), 2012, The Forum, "Gridlock?", Vol. 10, Issue 3, Article 9, accessed August 11, 2013, <http://icps.gwu.edu/files/2013/01/Gridlock.pdf> (abstract)

For every American who identifies himself as a liberal, there are two conservatives. Practically all Republicans see themselves as such, but many Democrats are not liberals. The political system works quite well from one specific viewpoint: it delivers what the majority says it wants-rather conservative policies, including the period 2008-2012. Conservative Democrats in Congress help pass GOP items, but GOP representatives almost never vote for liberal items.

ADVANTAGE: PREVENTS BAD LAWS

Needed to stop bad laws – examples

Prof. Lawrence Summers (PhD from Harvard, president of Harvard University), April 2013, Washington Post Opinions, "When gridlock is good", accessed July 15, 2013, http://www.washingtonpost.com/opinions/lawrence-summers-when-gridlock-is-good/2013/04/14/8bfeab9c-a3c3-11e2-9c03-6952ff305f35_story.html

There were probably too few checks and balances as the US entered the Vietnam and Iraq wars. There should have been more checks and balances in place before the huge tax cuts of 1981, 2001 and 2003, or to avert the many unfunded entitlement expansions of the past few decades. Most experts would agree that it is a good thing that politics thwarted the effort to establish a guaranteed annual income in the late 1960s and early 1970s and the effort to put in place a "single-payer" healthcare system during the 1970s.

Improved response to the recession, by blocking bad policies

Dr. Pietro Nivola (PhD from Harvard, former associate professor of political science at the University of Vermont), May 2012, Brookings Institute, "Two Cheers for Our Peculiar Politics: America's Political Process and the Economic Crisis", accessed July 15, 2013, <http://www.brookings.edu/research/papers/2012/05/21-economy-politics-nivola>

Could it be that, for all the laments about America's "gridlocked" and "broken" political system, it actually appears to have done a better job contending with the Great Recession and its aftermath than did many other advanced democracies? Increasingly, it looks that way. The comparatively favorable performance, moreover, may well have much to do with the actions that our system impeded, not just the actions that it permitted.

Gridlock – Not A Problem

Significance: Blocking bad laws may be more important than passing good ones

Prof. Stephen Macedo (PhD in politics, professor of politics at Princeton), April 2009, Boston University Law Review, "Toward A More Democratic Congress? Our Imperfect Democratic Constitution: The Critics Examined", Vol. 89 No. 2, accessed July 15, 2013, <http://www.bu.edu/law/central/jd/organizations/journals/bulr/volume89n2/documents/MACEDO.pdf> (page 624)

That most people strongly favor their own preferred legislative and constitutional changes does not mean most people favor making it much easier for temporary majorities to legislate and amend the Constitution. Given similar probabilities, we might well rate the avoidance of bad legislation higher than the achievement of good legislation. After all, we learn to live with the status quo, make adjustments, and plan around the parameters that exist. Frequent changes to the legal framework can disrupt all settled plans. Given the risk of empowering temporarily popular but lousy ideas, most people might well prefer to maintain a system that requires concerted and prolonged efforts to enact most changes.

ADVANTAGE: GOOD LAWS

Promotes careful deliberation

Prof. Josh Chafetz (PhD in politics, JD from Yale, professor of law at Cornell University), June 2013, Notre Dame Law Review, "The Phenomenology of Gridlock", Vol. 88:2065-2087, accessed July 15, 2013, available on SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2200478 (page 2077)

Of course, there are those who argue that this constitutional structure itself is the problem, that a move to something more like a Westminster system would be preferable. I largely (but not entirely) disagree; I think that the American system broadly has the effect of promoting extensive and salutary public deliberation before significant legislative action can be taken. This Essay, however, is not the place to go into that discussion. For purposes of this piece, I take our basic constitutional structure as given-both because it is unlikely to change any time soon and, more importantly, because it has not changed any time in the recent past. If the premise of the recent Sturm und Drang about gridlock is that it represents something new in our politics, then longstanding structures cannot be responsible.

Slows spending increases

Stephen Slivinski (MA in economics, senior economist at the Goldwater Institute), August 2006, Cato Institute, "In Defense of Gridlock", accessed 08/11/2013, <http://www.cato.org/blog/defense-gridlock>

All the gridlock combinations that have persisted for longer than two years produce average (real per capita) budget growth rates that are half that of the united government average. This includes Republican presidents facing Democratic congresses - like Reagan, Nixon, and Ford - as well as a Democratic president like Clinton combined with a GOP congressional majority in both houses.

Gridlock – Not A Problem

ADVANTAGE: CHECKS POWER

Founders intended passing laws to be difficult (checks and balances)

Prof. Lee Casey (JD, former adjunct professor of law at George Mason University) and David Rivkin Jr. (JD, co-chairman of the Center for Law and Counterterrorism), February 2010, Wall Street Journal Opinion, "Why Gridlock in Washington Is Good", accessed July 15, 2013, <http://online.wsj.com/article/SB10001424052748703787304575075503388049196.html>

When they gathered in Philadelphia in 1787, the Constitution's framers had three goals: Establish a strong national government that nevertheless respected states' lawful prerogatives; impose limits on the exercise of government power so as to protect the citizenry's life, liberty and property; and create a stable and enduring political system. These men had lived through a revolution and war, and they understood the importance of regulating "by a system cautiously formed and steadily pursued," as noted by John Jay in the Federalist Papers. The Framers achieved this stability by generally requiring a high level of consensus in support of governmental action. Accordingly, the Constitution deliberately makes achieving "legislative accomplishments" difficult.

Senate designed to brake change

Prof. Lee Casey (JD, former adjunct professor of law at George Mason University) and David Rivkin Jr. (JD, co-chairman of the Center for Law and Counterterrorism), February 2010, Wall Street Journal Opinion, "Why Gridlock in Washington Is Good", accessed July 15, 2013, <http://online.wsj.com/article/SB10001424052748703787304575075503388049196.html>

In addition, the Senate was itself designed to serve as a brake on change. As explained by James Madison, also in the Federalist Papers, the Senate would be a "temperate and respectable body of citizens" able to check the citizenry when "stimulated by some irregular passion." Taking this role seriously, the Senate did the framers one better by adopting the much abused filibuster rule. Today it requires that 60 senators agree to end debate on any particular measure before a vote can even be taken.

Gridlock is the Constitution at work

Rep. Alan Nunnelee (US House Representative from Mississippi), June 2012, Mississippi College Law Review, "The Constitution At Work", Vol. 31, No. 1, accessed July 15, 2013, <http://law.mc.edu/files/6213/4219/5359/MSL101.pdf> (page 5)

Each Congress, over 10,000 bills are introduced. Of those, fewer than 500 are signed into law. As ideas are considered, debated, rejected, revised, or advanced, we often find the legislative process has ground to a halt. It appears this gridlock was exactly what Madison foresaw when he crafted two very different bodies for the legislative branch. The divided Congress may not be pretty to watch, and it is certainly frustrating to be a participant in such gridlock, but it is the Constitution at work.

Gridlock – Not A Problem

A/T "PREVENTS PROGRESS"

Huge progress in last 5 years, despite gridlock

Prof. Lawrence Summers (PhD from Harvard, president of Harvard University), April 2013, Washington Post Opinions, "When gridlock is good", accessed July 15, 2013, http://www.washingtonpost.com/opinions/lawrence-summers-when-gridlock-is-good/2013/04/14/8bfeab9c-a3c3-11e2-9c03-6952ff305f35_story.html

The great mistake of the gridlock theorists is to suppose that all progress comes from legislation and that more legislation consistently represents more progress. While these are seen as years of gridlock, consider what has happened in the past five years. Washington moved faster to contain a systemic financial crisis than any country facing such an episode has done in the past generation. Through all the fractiousness, enough change has taken place that, without further policy action, the ratio of debt to gross domestic product is expected to decline for the next five years. Beyond that, the outlook depends largely on health-care costs, but their growth has slowed to the rate of GDP growth for three years now, the first such slowdown in nearly half a century. At last, universal health care has been passed and is being implemented. Within a decade, it is likely that the United States no longer will be a net importer of fossil fuels. Financial regulation is not in a fully satisfactory place but has received its most substantial overhaul in 75 years. For the first time, most schools and teachers are being evaluated on objective metrics of performance.

A/T "HARMS REPRESENTATION"

Public pressure reduces gridlock

Prof. Josh Chafetz (PhD in politics, JD from Yale, professor of law at Cornell University), June 2013, Notre Dame Law Review, "The Phenomenology of Gridlock", Vol. 88:2065-2087, accessed July 15, 2013, Accessed: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2200478 (page 2079-2080)

Many other issues, however, do roughly track party lines. For those issues, when they are acted upon by Congress in divided government, it is because there is clear public appetite for doing so, and because both parties fear the consequences of being seen as holding up progress on the issue. Consider again the passage of the 2012 continuing appropriations resolution and the 2013 "fiscal cliff" tax deal.

[later, in the same context:]

This phenomenon is visible both in the immediate run-up to an election (as with the continuing appropriations bill) and in the aftermath of one (as with the tax deal); indeed, within hours after the 2012 election, Republican leaders were also talking about passing comprehensive immigration reform, a push that has continued into the 113th Congress. Of course, it remains to be seen how these issues will continue to play out over the course of the current Congress, but the key point is simply that the explanation for congressional action, if and when it comes, will have to do with members' engagement with the electorate.

Gridlock – Not A Problem

Legislation relies on public consensus

Prof. Josh Chafetz (PhD in politics, JD from Yale, professor of law at Cornell University), June 2013, Notre Dame Law Review, "The Phenomenology of Gridlock", Vol. 88:2065-2087, accessed July 15, 2013, Accessed: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2200478 (page 2081)

Political leaders work assiduously to convince the public - both the mass public and elite sub-groups within it - to support their positions. This constant contestation in the public sphere will sometimes result in sufficient consensus around a particular course of action, and that course will be undertaken. And sometimes, it will not, and the status quo will endure.

Founding Fathers: Speedy legislation harms public interest

Prof. Marcus Ethridge (PhD in political science, professor of political science at the University of Wisconsin-Milwaukee), January 2011, Cato Institute, Policy Analysis, "The Case for Gridlock", No. 672, accessed August 11, 2013, <http://www.cato.org/sites/cato.org/files/pubs/pdf/PA672.pdf> (page 9-10)

The Constitution's most important innovation - the separation of legislative and executive powers - was based on the Framers' understanding of how political interests behave. This understanding is sufficiently basic to term it the Constitutional Principle: The public interest is most secure when governmental institutions are inefficient decision-makers. When public policies are made with great specificity and efficiency, broad public interests are undermined and rent seeking is encouraged.

Reduces special-interest lobbying (and stops bad laws)

Prof. Marcus Ethridge (PhD in political science, professor of political science at the University of Wisconsin-Milwaukee), January 2011, Cato Institute, Policy Analysis, "The Case for Gridlock", No. 672, accessed August 11, 2013, <http://www.cato.org/sites/cato.org/files/pubs/pdf/PA672.pdf> (page 10)

It has long been argued, at least since the Federalist Papers, that the cumbersome lawmaking process prescribed in the Constitution prevents the adoption of ill-considered legislation. Erecting barriers to legislation creates more opportunities to block poorly conceived proposals. The case for gridlock amplifies this notion by showing how basic ideas drawn from interest-group theory lead to predictions regarding the political effect of a deliberative, divided decision-making process. It is not simply that the Madisonian design makes it more difficult to enact legislation. The case for gridlock shows how special interests devote fewer resources to rent seeking under such an arrangement, because it is less likely to be profitable and more expensive. Thus, gridlock-prone institutions counteract a major source of social inequality.

Only "dysfunctional" if it actually blocks a public consensus

Prof. Josh Chafetz (PhD in politics, JD from Yale, professor of law at Cornell University), June 2013, Notre Dame Law Review, "The Phenomenology of Gridlock", Vol. 88:2065-2087, accessed July 15, 2013, Accessed: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2200478 (page 2082)

We may simply declare the absence of legislative action to be "gridlock," but without some evidence that a widespread public consensus around a particular course of action has failed to result in action, we should hesitate to describe it as democratically dysfunctional.