

Inquiring Minds topic – 16 January 2015

Dick Rockstroh, Moderator

Congress and the president face-off

Anyone hoping for an outbreak of good government is likely to be disappointed

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SPEAKING at the White House after a stinging mid-term defeat, Barack Obama adopted a conciliatory tone. “Both parties,” he said, “are going to have to come together and compromise to get something done here.” Mitch McConnell, the Republican leader in the Senate, agreed, adding that he hoped the president would work with Republicans on spending, energy and trade agreements. “The question,” said Senator McConnell, “is how do we meet in the middle?” That was in November 2010. There followed a government shutdown, two flirtations with a sovereign default over the raising of the legal limit on government borrowing, and the least productive Congress since anyone began counting.

The president and Mr McConnell once again made similar pronouncements about working together after another disastrous mid-term election for the Democrats on November 4th. Those who believe that this time will be different argue that divided government works better when Congress is wholly controlled by one party and the presidency by the other. When the House and the Senate are in the hands of different parties, according to this line of thinking, it is too easy for one to blame the other for intransigence and avoid governing.

Before this idea is tested by the new Congress in January, there is a lame-duck session to finish. These sessions of Congress are typically productive when compared with the healthy-duck sort. Because the budget process pushes controversial decisions towards the end of the year, a disproportionate number of important votes on spending will fall in a session where 12 senators (or 13, if Mary Landrieu loses a run-off in Louisiana on December 6th) will not have to face the voters again and can therefore smooth their passage. In 2010 the expiring Senate allowed gay people to serve openly in the military, ratified a treaty on nuclear missiles with Russia and extended some tax cuts.

Funding the government past December 11th, the deadline to avoid another shutdown, should be straightforward. The confirmation of the 35 ambassadors and 16 judicial nominees currently before the Senate will be harder. In 2008 Democrats held a series of pretend sessions to prevent George W. Bush from making appointments while the chamber was in recess. Republicans may now try a similar wheeze; the Senate cannot go into recess without the agreement of the Republican-controlled House. Such shifty manoeuvres are now all too common.

Congress may give the president fast-track authority to negotiate foreign-trade deals. And there are other areas where Mr Obama and Republican leaders agree. Both sides want to lower America's high taxes on companies, which contribute to the parking of just over \$2 trillion of profits overseas. Agreement may not lead anywhere: a sensible corporate-tax reform would lower rates and close loopholes; if done properly, it would mean a tax increase for those firms that now benefit from exemptions. Since most Republican members of the House have signed a pledge to voters never to raise taxes, this will be a hard sell.

A more straightforward, though less important, change is likely when the new Senate takes up the Hire More Heroes bill, which the House has already passed and will revive in January. This would allow companies to hire veterans whose health care is covered by the Department of Veterans Affairs, without them counting towards the overall headcount for the purposes of the Affordable Care Act. Under that law, all firms with 50 or more full-time staff must provide them with health cover.

The way this bill works with Obamacare suggests that House Republicans know the law itself is not going away. (A bill to repeal it may find its way to the president's desk, but he would veto it.) A second likely tweak will be to repeal Obamacare's 2.3% tax on medical devices, which will slightly increase the deficit but not affect the way the health law works. Republicans will also try to change the definition of full-time work, which triggers an employer's obligation to provide insurance, from 30 hours a week to something lengthier.

Mr McConnell may attach things that the president would rather avoid to proposals with broad support. Approval of the Keystone XL pipeline, which would carry crude oil from Canada's tar sands to refineries on the Gulf coast, fits this description. But no compromise seems likely over global warming. The president wants to do something about it, as his tentative deal with China this week shows (see [article](#)). Most Republicans do not; Mr McConnell campaigned partly on rescuing his state's coal mines from federal bullying.

Where are the new faces?

The new Senate will have to vet the president's appointments. The most pressing of these is a new attorney-general. The president has nominated Loretta Lynch, a federal prosecutor, to take over from Eric Holder. Ms Lynch, who has a Harvard law degree, is well qualified for the job. She also has a remarkable family story: her great-great-grandfather, a free black, fell in love with a slave and, unable to buy her freedom, became enslaved again so he could marry her. Ms Lynch's grandfather, a pastor, helped blacks escape from the organised racism of Jim Crow states. These qualifications should see her confirmed, but her nomination hearing is likely to get caught up in a fight over immigration. The president has repeated a threat to use his executive power to slow the deportation of illegal immigrants—though he has yet to reveal how exactly he will do this. Senators Ted Cruz of Texas and Mike Lee of Utah have promised to press his nominee on whether such a move would be legal.

After his party's drubbing in the mid-terms, Mr Obama might be expected to reshuffle his team. Yet he shows no sign of doing so. Several cabinet members are newish and unlikely to be turfed out yet. Since Rahm Emanuel left in 2010, no chief of staff has lasted much more than a year. The president will be in no rush to get rid of the current one, Denis McDonough. One adviser whose importance is likely to grow is John Podesta, who was Bill Clinton's chief of staff when Republicans controlled Congress in the 1990s. He helped the two sides work together productively, despite the impeachment battle.

Many in Washington were hoping that Valerie Jarrett, Mr Obama's closest confidant, might move. Her vast influence, vague job description and lack of policy expertise infuriate Democrats and Republicans alike; but she will probably stay put. The president trusts her, and the mid-terms have made his job lonelier than ever.

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From olive branch to big stick

Republicans want the president to get tougher abroad

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BARACK OBAMA, Washington greybeards used to say, differs from other American presidents: he secured a place in world history merely by being elected. The agreed wisdom was that Mr Obama might thus devote his final, lame-duck years to domestic matters—unlike predecessors who headed abroad to escape frustrations at home. However, after Republicans seized control of Congress, threatening to hobble much of the Obama agenda, it was with almost visible relief that the president flew off for back-to-back summits in China, Myanmar and Australia, swiftly agreeing with China that both countries should cut greenhouse-gas emissions (see [article](#)) and that both would back world trade talks to scrap tariffs on 200 categories of high-tech gizmos. Yet Mr Obama cannot escape questions about how much Congress will let him do.

Though presidents have wide foreign-policy powers, the Senate must ratify new treaties, and congressional control of spending gives members great sway. On some dossiers, the next Congress may be rather helpful. A Republican Congress is more likely to back free-trade pacts that America is seeking with 11 Asia-Pacific countries and (a longer shot) with the European Union. An important moment will come when members are asked to grant the president fast-track authority to negotiate pacts that Congress may then either vote up or down, but not amend.

Those allies who fret about America turning inward may cheer to see Republicans in key committees trying to restore some funds cut from the Pentagon's budget, pushing for rebels in Syria to receive more help and backing more ambitious moves against Islamic State (IS). Senator John McCain of Arizona, who is in line to chair the Senate Armed Services Committee, has demanded arms for Ukraine in its fight against Russian-backed separatists, as well as tougher sanctions against Russia. Some colleagues are more cautious. Any congressional action will not be swift.

In other areas Congress may quickly prod Mr Obama in ways that allies (notably in Europe) will dislike. Start with negotiations to curb Iran's nuclear ambitions. An interim agreement struck by America, Russia, China, France, Britain and Germany to freeze bits of Iran's nuclear programme in exchange for sanctions relief is likely to be extended after it expires on November 24th. Republicans

and some Democrats in Congress have long worried that Mr Obama might strike a weak deal with Iran, and drafted bills that sought to stiffen the president's spine by setting out sanctions that could either be added or reimposed if Iran backslides. The White House believes that the president can use his executive powers to suspend many sanctions, though only Congress can revoke sanctions that it has passed.

For months administration officials have accused Congress of risking war with Iran if talks fall apart, and Democratic control of the Senate has—until now—prevented hawkish Iran bills from coming to a vote. After January, when Republicans take charge, Mr Obama will lose that firewall, potentially forcing him to veto bills he dislikes. Advocates of a tough line on Iran call such pressure beneficial. They note that Senator Bob Corker of Tennessee, the likely new Republican chairman of the Senate Foreign Relations Committee, is a consensus-builder who says he wants to see Congress sternly scrutinise any Iran deal, but is no warmonger.

Expect a Republican Congress to state more explicitly its view of what constitutes a good Iran deal, says Michael Singh of the Washington Institute for Near East Policy, a think-tank. As for Israel, that country has long enjoyed bipartisan support in Congress, he adds. With Republicans in charge, members will show “less deference” to the president when he disagrees with the Israeli prime minister, Binyamin Netanyahu.

A debate looms about the president's legal authority to use military force and rally allies against the extremists of IS. Though Mr Obama says he can use a war-authorisation law passed after the September 2001 attacks, the president and Republican leaders agree that Congress should update the legal underpinnings of what looks like a long fight. Confrontations are possible over Cuba policy, with Republicans resisting steps to ease the embargo on that country. Mr Obama wants to close the Guantánamo Bay prison camp for terror suspects, but Republicans are opposed.

The window for constructive co-operation will close as the 2016 election nears, and debates about Mr Obama's first-term policies towards Russia, Myanmar or Libya become chances to attack Hillary Clinton, his first secretary of state and a putative presidential candidate. At that point, a lame-duck president may find his wings truly clipped.

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Climate change - Dealing with denial

America's concessions are more real than China's

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FIVE years ago next month, disagreement between America and China, the world's biggest greenhouse-gas emitters, scuppered the UN's Copenhagen climate-change conference. On November 11th Presidents Barack Obama and Xi Jinping announced a deal on carbon emissions. This is welcome, with two caveats: China has not conceded much, and Congress will do its best to prevent America from delivering what the president has promised.

Because America is responsible for a far larger share of the greenhouse gases already in the atmosphere than China, it was bound to accept sharper cuts. Even so, it has made big concessions. America had previously signed up to a cut of 17% below 2005 levels by 2020. This looks achievable because emissions are already falling. The new agreement is for a 26-28% cut by 2025, which would require a doubling in the pace of cuts after 2020.

China has agreed that its emissions will peak in 2030, and that the percentage of non-fossil fuels in its energy consumption will rise to 20% by 2030. Just getting a date out of the Chinese is an achievement, but American negotiators had been aiming for 2025. More important, the date the Chinese have agreed to may not be so different from what would have happened without a deal. Earlier this year He Jiankun of Tsinghua University reckoned that China's carbon emissions would peak by "around 2030", as economic growth is slowing and urbanisation will have mostly run its course by then.

The agreement gives both sides plenty of wriggle room, referring to the countries' "best efforts" and their intentions to reach their targets. Because it is not a treaty, it does not have to be ratified by Congress. But for America to meet its new targets, both Congress and the Supreme Court would have to leave the federal government's current efforts to cut carbon emissions, which involve issuing regulations under the Clean Air Act, well alone.

Those efforts are in the hands of the Environmental Protection Agency (EPA), which many Republicans would like to abolish altogether. The Republican majority in the House of Representatives has already made it clear that it would like to roll back greenhouse-gas regulations issued by the EPA; the new Republican Senate will probably agree.

Mitch McConnell, the Republican leader in the Senate, comes from Kentucky, a coal-producing state, and has already attacked the deal. "This unrealistic plan, that the president would dump on his successor, would ensure higher utility rates and far fewer jobs," he said. Senator Jim Inhofe, who is likely to head the Senate Environment and Public Works Committee, has called climate change "the greatest hoax ever perpetrated on the American people", and compared the EPA to the Gestapo.