

scholars have shown a renewed commitment to the virtues of political participation and the necessity of enhancing citizenship. These theories, with their emphasis on deliberation and the transformation of selfish interests, bring to the study of democracy and political practice a new passion and vision for citizen engagement (see Petracca, 1991b).

## Notes

1. An extensive bibliography on contemporary calls for constitutional reform can be found in Petracca, 1990.
2. Compare Bryce to Cutler (1989) or to other writings by these members of the Committee on the Constitutional System cited in Petracca (1990).
3. The symposium essays by David Menefee-Libey and Morris Fiorina make supportive arguments on this point. However, "because a problem may be old, or not gaining in urgency, does not mean it should be disregarded," said Sundquist (1990: 533). True enough, but the case has yet to be made by Sundquist or other member of the Committee on the Constitutional System that the current exigencies produced by divided government—if they exist at all—cannot be overcome the same way they have been handled throughout the last 100 years. A similar point is made more eloquently by Schlesinger (1986).
4. The primary publications of the Committee on the Constitutional System are cited in Petracca (1990: 526).
5. Some proponents of constitutional reform seem overly sensitive to a recommendation for further research and debate on the phenomenon of divided government (see especially Sundquist, 1990).
6. The point is adapted from Madison's

- warnings about the possible cures for faction contained in *Federalist* #10.
7. I refer specifically to the unfortunate umbrage taken by James Sundquist (1990) to my (1990) critique of reforms proposed by the Committee on the Constitutional System.
  8. These and other reforms are presented and discussed at length in Petracca (1988 and 1990).
  9. Presidentialism is only one way to overcome divided government. Some scholars continue to endorse a parliamentary system for America, while others have proposed a form of presidential parliamentarianism as a remedy to contemporary exigencies.
  10. The state of Washington may have also passed term limits by the time this essay appears in print.

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## About the Author

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## Divided Party Control: Does It Make a Difference?

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Since World War II, party control of the U.S. national government has been formally divided for twenty-six years and unified for eighteen. (That is the span between the elections of 1946 and 1990.) Truman, Eisenhower, Nixon, Ford, Reagan, and Bush have had to coexist—for at

least a two-year stretch in each case—with opposite-party majorities in the Senate or House or both. Truman, Eisenhower, Kennedy, Johnson, and Carter have had—again, for at least a two-year stretch—House and Senate majorities of their own party.

In other respects bearing on relations between the president and Congress, this postwar era shows a high degree of continuity or commonality stemming from events or precedents of the 1930s and 1940s. The New Deal and the war ratcheted the government to new levels of activity, and

Franklin Roosevelt permanently strengthened the presidency. The La Follette–Monroney Act of 1946 streamlined the congressional committee system. Soon after the war the government took on new commitments in defense, foreign policy, and macroeconomic management that are with us still. Truman developed the custom of presenting “the president’s program” to Congress each year. Televising of major congressional investigations began in 1948 with HUAC’s probe of Alger Hiss.

The postwar era presents, then, a checkered pattern of unified-versus-divided party control set against a background of commonalities. That makes 1946–90 a good span of experience to look into if one wants to track the consequences of unified party control against divided party control, with at least one congressional house organized by the party not holding the White House. How well any generalizations based on 1946–90 would hold for previous eras in American history is not clear, though they might well hold for the near future.

Recently, I have tried to find out how well two pieces of conventional wisdom about party control stand up against the experience of 1946–90 (Mayhew 1991). The first conventional view is: *Congressional committees, acting as oversight bodies, will give more trouble to administrations run by the opposite party than to those of their own party* (Ogul 1976: 18; Scher 1963). The second view, which comes close to being an axiom of political science, is: *Major laws will pass more frequently under unified party control than under divided control* (Sundquist 1988–89: 616–24; Key 1964: 656, 687–88; Ripley 1983: 347–56; Cutler 1988). A party that controls the House, the Senate, and the presidency, the logic goes, can put through a program. Absent such party control, legislative “deadlock” or “stalemate” will set in. In Woodrow Wilson’s words, “You cannot compound a successful government out of antagonisms” (quoted in Sundquist 1988–89: 618).

My conclusion is that both assertions are false—or at least largely or probably false. (I hedge because I see evidence that requires many individual judgments that can be disputed.)

On balance, neither the “beat up on the other party’s administration” effect nor the “divided control causes deadlock” effect makes a significant showing in the political record of 1946–90.

### High-Publicity Investigations

The evidence on oversight is for a particular variety of that activity—congressional investigations that deal with alleged executive misbehavior and draw media attention. Included are such amply reported enterprises as HUAC’s Hiss–Chambers probe of 1948, Senator McCarran’s investigation of China policy in 1951–52, Senator McCarthy’s Army and State Department hearings of 1953–54, the

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House probe of corruption in the regulatory agencies in 1958, Senator Fulbright’s hearings on the Indochina war during 1966–70, the Senate and House Watergate inquiries of 1973–74, and the Iran–Contra investigations of 1987.

“Misbehavior” here means anything from treason or usurpation through corruption to simply making mistakes. The charges could be true, partly true, or fantasy. The target could be any present or past executive official or agency. An investigation made it onto a final list if it inspired front-page stories in *The New York Times* on at least twenty days. For any day, the test for content was whether anyone connected with a congressional committee made a charge against the executive branch, or someone in the executive branch answered such a charge.

Thirty-one investigations between 1946 and 1990 made the list. First prize went to the McCarthy hearings of 1953–54, which generated front-page stories on 203 days. The Senate and House Watergate inquiries ranked second and third. The results do not sort in any remarkable way according to divided versus unified

party control. Probes of corruption split about equally between times of unified and divided control; it is a good bet that the ones conducted by Democratic Congresses against the Truman administration caused the most damage politically (Dunbar 1984). The Watergate inquiries, which occurred under divided control, may deserve a status all their own. Still, for overall significance it is hard to surpass the loyalty investigations of 1948 through 1954, and notwithstanding the 1948 Hiss probe, those occurred mostly under unified control. That was notably true of every bit of committee loyalty-probing triggered by McCarthy under Truman and Eisenhower; it was under unified party control during those years that McCarthy colonized a Democratic committee and made Owen Lattimore a household name, then ran his own committee and asked, “Who promoted Peress?”

For 1946–90, at least, there is not a convincing case that Congress increases its high-publicity probes of the executive branch during times of divided party loyalty.

### Important Laws

The evidence here is a list of 267 major statutes enacted between 1947 and 1990—ranging from the Taft–Hartley Labor–Management Relations Act and Marshall Plan of 1947–48 through the Clean Air Act and Americans with Disabilities Act of 1990. The 267 items are the product of two sweeps through the 44-year history. Sweep One picked up enactments that observers of the Washington scene judged (according to my coding) to be particularly important at the times the laws passed. Those observers were journalists who wrote “wrapup stories” at the close of each congressional session, or other witnesses whose appraisals have been relayed or embodied in secondary works. Sweep Two picked up enactments that policy specialists, writing recently in 43 policy areas, have indicated to be particularly important in discussing the postwar histories of their areas. “Important” in these contexts means both innovative and consequential—or at least expected at the time of passage to be consequential.

As expected, Johnson's Great Society Congress of 1965-66 emerges in first place (or at least in a tie for it) with 22 major laws—Medicare, the Voting Rights Act (VRA), the Elementary and Secondary Education Act (ESEA) and many others. Eisenhower's last Democratic Congress of 1959-60, which ended in classic deadlock, finishes in last place with five enactments. Taken alone, these reports ratify the triumph-of-party-government story that Sundquist (1968) wrote concerning the mid-1950s through the mid-1960s.

But precious little else during these decades follows that "party government" script. On average, about as many major laws passed per Congress under divided control as under unified control. In several policy areas where specialists' judgments come through clearly—for example, foreign aid, foreign trade, immigration, agriculture, and tax reform—sets of key enactments became law in time patterns unrelated to conditions of party control. For example, the three post-1950 "major expansions" of Social Security occurred with disability insurance in 1956 (divided control), Medicare in 1965 (unified), and a "quantum increase" in cash benefits in 1969-72 (divided) (Derthick 1979: 296). Otherwise, several notable statutes emerged from Congress and won out over presidential vetoes—for example (besides the Taft-Hartley Act), the McCarran Internal Security Act of 1950, the McCarran-Walter Immigration Act of 1952, the Water Pollution Control Act of 1972, the War Powers Act of 1973, and South Africa sanctions in 1986. The "do-nothing"-ness of Truman's Republican Congress of 1947-48 was largely Democratic propaganda; policy specialists point back, for example, to the precedent-setting Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of 1947 and the Water Pollution Control Act of 1948. Under Reagan and Bush, the last few years have featured, for example, the Tax Reform Act of 1986, Speaker Jim Wright's considerable program of 1987-88, and Bush's controversial \$500 billion budget-reduction package of 1990.

At the level of ambitious presidential programs, Johnson succeeded memorably in 1964 through 1966

with a Congress of his own party, but so did Reagan in 1981 despite having to deal with a House of the opposite party. Truman's Fair Deal and Kennedy's New Frontier largely failed as legislative enterprises, despite the availability of Congresses of the same party. Carter's years proved a washout for his party's lawmaking aspirations, despite sizable Democratic House and Senate majorities of 292-143 and 62-38 during 1977-78. On the only occasion since 1840 when a party took over the House, Senate, and presidency all at once—in 1952 when the Republicans did—that party turned out not to have much of a program to enact. As a result, virtually no laws of importance passed in the seemingly

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favorable circumstances of 1953, though Eisenhower won some victories later.

The real story of these decades is the prominent, continuous lawmaking surge that lasted from late 1963 through 1975 or 1976. That was under Johnson, Nixon, and Ford. Whether one looks at legislative workload in general (Davidson 1988) or major laws passed (Mayhew 1991: ch. 4), it was during that span of years—or roughly that span; assessments of boundaries differ a bit—that the postwar legislative mill operated at full steam. Everyone knows that happened under Johnson, but the Vietnam war, wrangling over "social issues," and Watergate have clouded our picture of legislating under Nixon and Ford. In fact, the state-enhancing thrust of the 1960s toward greater expenditure and regulation continued with great force in the 1970s. Budget growth owed to Johnson's Great Society programs, but also to post-1968 legislative initiatives in the areas of, for example, food stamps, Supplementary Security Income (SSI), CETA jobs, unemployment compensation, housing

block grants, mass transit, and water pollution, as well as Social Security benefits (Lampman 1984: 8-9; Conlan 1985: 81; Browning 1986: 79-83; Mayhew 1991: ch. 4). The "new social regulation," to use Vogel's term (1981), came to pass largely by statute under Nixon (see also Weidenbaum 1977: 5-10; Higgs 1987: 246-54). That featured, to cite some highlights, the National Environmental Policy Act (NEPA) of 1969, the Occupational Safety and Health Act (OSHA) of 1970, the Clean Air Act of 1970, the Equal Employment Opportunity Act of 1972, and the Consumer Product Safety Act of 1972. Campaign finance and private pensions came under comprehensive regulation for the first time through laws enacted in 1974. Statutory regulation of state governments reached new heights under Nixon (Conlan 1985: 84-89). The Equal Rights Amendment (ERA) cleared Congress in 1972, though the states would not buy it (Freeman 1975: ch. 6). These and many other items from the Nixon-Ford years are probably familiar to readers, but I do not think we have appreciated their volume or sifted them through our doctrines about party control and legislative action. In terms of volume and also ideological direction of lawmaking, there arguably existed an era of Johnson-Nixon (or Johnson-Nixon-Ford), and it overlapped different circumstances of party control.

Since World War II, to sum up, neither high-publicity investigations nor major laws have accumulated on a schedule that the rules of party control would predict. Why not? That is too complicated a question to tackle here. The material cited above makes it obvious that no simple arithmetic theory involving Democratic presidents and sizes of cross-party "conservative coalitions" on Capitol Hill can work very well. If that were the key factor, why all the lawmaking under Nixon? Why the slump under Carter? Evidently, speculation about causes needs to center on features of the modern U.S. regime that dominate, override, or blot out parties to a greater degree than we may have supposed. Some good candidates for that role seem to be Capitol Hill electoral incentives that foster lawmaking and investigat-

ing, presidential leadership qualities that operate more or less independently of party, the practical need for non-narrow roll-call majorities to pass laws regardless of conditions of party control, forcing public events, public opinion cleavages that crosscut parties, and “public moods” like that of 1963–76 that seem capable of overriding everything else (Mayhew 1991: chs. 5, 6).

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## Explaining Divided Government: Why Can’t the Republicans Win the House?

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Republicans have won five of the last six presidential elections without once winning more than 44 percent of the seats in the House of Representatives, making divided partisan control of the federal government the normal condition of American politics. Why, despite their dominance of the White House (and approaching parity with the Democrats in party identification), have Republicans failed to make more headway in the House?<sup>1</sup>

Republican leaders, as well as some political scientists (Ansolabehere, Brady, and Fiorina 1990), are partial to structural explanations. Democrats have kept control of the House, the argument goes, by rigging the game. Democratic majorities are protected by an incumbency advantage built on abuse of the frank and other perquisites of office, gerrymandered districts, and biased campaign finance laws.

Though initially plausible, the structural explanations do not survive

scrutiny. Neither incumbency, nor gerrymandering, nor campaign finance practices can account for the Republicans’ failure to take over the House. Incumbency cannot be the explanation because Republicans have been unable to increase their House contingent even when incumbency has not been a factor. Since 1968, Republicans have lost more open seats to Democrats (80) than they have taken from them (71). Even during the Reagan–Bush years, Republicans have made no progress through open seats; their net gain since 1980 of two established open seats is more than offset by a deficit of five seats in newly-created districts (Jacobson 1991).

Contrary to Republican folklore, gerrymandering is not to blame for their inability to win more House seats, either. Empirical analyses provide no support whatever for the claim that Republicans have suffered systematically when House districts have been redrawn (Brady and Grof-

man 1991; Jacobson 1990). Neither is the campaign finance system biased against Republican candidates. In a majority of elections since 1972 (when accurate campaign finance data first became available), Republican House candidates have been more generously financed than Democrats in equivalent circumstances. Taking the incumbent’s marginality into account, Republican challengers spent significantly more than Democratic challengers in five of the ten elections since 1972, significantly less in only two (1974 and 1986), with no significant difference appearing in the other three (Jacobson 1990).

It is not the *structure* but rather the *content* of electoral politics that lies at the root of divided government. The Democrats’ lock on the House despite a string of Republican presidential victories derives from the basic elements of politics: candidates, issues, electoral coalitions, and voters’ reactions to all three. To put it most starkly, Republicans have