

Peter Friedmann's View from Washington, D.C.

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The Media Had It Wrong: It Wasn't Gridlock – What Really Happened, and what's Coming?

The media, always looking for the story, stokes the flames of partisan confrontation in Washington DC. It's possible the media might be disappointed, while the country might benefit by cooperation between the parties and between the White House and Congress. We've had "gridlock" and unfinished business over the past 6 years; there is great need for our President and Congress to finally take care of the business of governing. We'll get a sense of whether the President wants to work with Congress, and vice versa, in coming weeks.

Over the past 6 years the White House and Congress have failed in their responsibilities to budget and fund the government. Meanwhile, tax incentives have expired; tariff incentives to promote international trade have lapsed. The Transportation Bill, funding our nation's highway, bridge and transit infrastructure, for decades a regular 6 year bill, has gone unauthorized, replaced by short term extensions funded by phony accounting tricks. The Highway Trust Fund has been depleted.

Why? And what's different now? In a nutshell: Harry Reid is no longer King of Washington DC, running the Senate.

Since January 2009 when President Obama took office, and Senator Reid became the Leader of a Democratic Majority Senate, Senator Reid (D-Nevada) has been the most powerful man in Washington DC. Those of us who work in DC knew that the person who decided what initiatives lived and which died, was not Obama, but Reid. The Affordable Care Act (aka ObamaCare) only passed Congress because Senator Reid jammed it through the Senate. But that was about it for the President's agenda. When the President announced in his State of the Union address that there would be a comprehensive trade agreement for the Pacific Rim, less than 12 hours later Senator Reid declared that it wouldn't happen. The President pressed for a Transportation Bill, and two Senators, one Republican and one Democrat, proposed a vote to increase the Federal Fuel Tax which would replenish the Highway Trust Fund and allow a full 6 year transportation infrastructure bill to move forward. Senator Reid squashed it. Senate Republicans and a dozen Democrats sought a vote to authorize the Keystone XL pipeline. But because it pitted two important Democratic constituencies against each other (environmental and labor unions) posing an awkward vote for Democratic Senators facing re-election, Senator Reid did not allow it.

Why? For two election cycles, Senator Reid was a political mastermind, able to defy the odds, protect Democratic Senators in tough elections, and keep the Democratic Majority in the Senate. He did so by preventing votes that could prove controversial to Democratic Senators seeking reelection. It stopped much from getting done, but it worked - for 6 years. But not this year. On November 4, vulnerable Democratic Senators, despite Reid's protection, still lost. So come January, Harry Reid will no longer be the most powerful man in DC, the "traffic cop" of the Senate.

Already we have seen change. When Congress reconvened November 11, in the "Lame Duck" session, we finally saw a vote on one of those issues that Senator Reid had so successfully kept bottled up for 6 years -- the Keystone XL pipeline. It failed, by one vote, but at least, and at last, there was a vote. Come January, when the Republican Majority sets the agenda, there will be another vote on Keystone, and it will pass. And there will be more votes, on other bills in the queue. Will those bills pass the Senate? After all, the Republican Majority is very slim, nowhere close to the 60 votes needed to prevent a filibuster.

But here is where it gets very interesting: under Reid, Democrats were frustrated that the Republicans, even in the minority, were able to use century-old filibuster procedures to stymie legislation they opposed. So Harry Reid engineered a change in the Senate rules, to severely limit the power of the minority party to use the filibuster to block the Majority party's agenda. But "careful what you ask for" – now that the tables are turned, will the Democrats regret changing the rules? After all, now it is they who are in the minority, and are constrained by Reid's limitations of the filibuster.

But let's say bills now start passing both the Senate and the House -- will the President veto those bills? Will Congress be able to override his veto? Keystone will be an early test. It will be fascinating to watch the two Branches maneuver for the next two years.

This week we are seeing what a confrontation might look like - the President has announced his immigration reform plan. He will not take the usual route - sending it to Congress for debate, amendment and vote. Rather he will seek to implement it by Executive decree. Republicans are outraged, but it is not clear if they are more outraged by the actual content on the President's immigration plan, or by the President's effort to do an "end around". Some Republicans have said they are not necessarily opposed to the plan, some would actually expand immigration rights significantly in areas sought by high tech, farmers, builders, etc.; but all Republicans chafe at the President's "rule by edict". In fact, the House GOP sued the Administration for exactly these kinds of unilateral actions in revising and implementing the Affordable Care Act – ObamaCare.

Why is he choosing this tactic? The President presumes that Congress would not consider immigration reform. It is true that there are some vocal Republicans who would like to prevent any action. But the reality is that they do not represent all, or even most. Looking back, LBJ had a far tougher task getting a Voting Rights Act and Civil Rights Act through a Senate tightly controlled by racist 'Dixie-crats', but he famously took the battle on and got them passed. Clinton forced and cajoled his agenda of balanced budgets, welfare reform and NAFTA through a very recalcitrant and partisan Congress. Is President Obama choosing the right course to "get things done," by skirting this legislative battle? Will the Supreme Court declare this Executive Action in health care implementation, and now immigration, unconstitutional? Will this poison relations between the President and Congress for the remaining two years of his Presidency?

The next two years will be more than just "interesting". There is important work needed to be done. We need them to at least try to work together.