



The Big Casino

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“Indeed, it has been said Democracy is the worst form of government except for all those other forms that have been tried from time to time.”

--Winston Churchill

“No man’s life, liberty or property are safe while the legislature is in session.”

--Gideon Tucker

We all often like to think we are living in historic times, witnessing unique events, when in fact this is usually not the case. It’s an old phenomenon: Shakespeare noted in “The Tempest”, “what’s past is prologue.” But when it comes to our politics, recent events certainly allow for the argument that we just might be going through some quite different and possibly unique times after all. The Speaker of the House was recently ousted mid-term for the first time in history. In another first, a former president and likely presidential nominee is in the dock facing four trials in coming months. The sitting president faces the ignominy not just of his son facing indictment on gun and drug charges, but the increasingly sharp criticism, including from many in his own party, of not being up to the job of chief executive.

Throw on top of that the worst weekend in the Middle East since 1973...and it’s only Tuesday.

But staying close to home, here is our latest thinking about events on Capitol Hill as well as some notes on the legislative and overall political environment.

Political Overview

Typically, we start with a “big picture” look at presidential politics then zoom in on Congress. But because of the importance of electing the next Speaker of the House, we will start with the Hill.

Electing a New Speaker – The original schedule had the House voting as early as Wednesday to elect a new speaker. This seems overly ambitious to us because of

several factors. Most important is neither candidate, Rep. Scalise or Rep. Jordan, is close to locking down the majority vote necessary to earn the Republican nomination. Layer over that a strong sentiment to change the rules governing the motion to vacate, although there is no emerging consensus yet as exactly how to do so. Finally, both Scalise and Jordan want the nominee to come to the floor with at least 218 votes to avoid another prolonged spectacle like Rep. McCarthy endured. The lingering uncertainties surrounding these factors lead us to conclude a floor vote will not occur until Thursday at the earliest as Republicans meet in conference to hash out a universal approach to these issues.

One final note: while Congress is only a secondary player when it comes to unfolding events in the Middle East, the crisis could lend a sense of urgency and accelerate decision making in the House. But based on reports from the House GOP Conference discussion last night, Republicans still need more catharsis and an airing of grievances before moving forward.

This is Not Going to be an Episode of "The West Wing" – Let's get a couple of things clear. Trump is not going to be elected Speaker of the House, there is not going to be any sort of coalition government in the House, and the House is not going to restore Rep. McCarthy to the speakership. These are all intriguing things to ponder in Poli Sci 101 in college but are not realistic possibilities in the highly charged current political environment. As the coming weeks unfold, there will be a lot of pie-in-the-sky, quasi-academic conjecture that will be tempting to indulge in: just don't.

The Right and the Left – Both Jordan and Scalise enjoy better relations with the right wing of the GOP than Rep. McCarthy and are unlikely to face the same sort of open conflict as the last Speaker of the House did. At the same time, both Jordan and Scalise need to work to ease the concerns of the more moderate GOP Members, especially the 18 Republicans who represent districts President Biden carried in 2020. Historically, the moderates have not played the same sort of public brinkmanship as the conservatives. But given the tenor of the times and the high stakes involved in electing a new speaker, we would not be surprised to see these Republicans act more forcefully.

The Presidential Campaign – Both parties appear headed toward fielding general election candidates who are unpopular and face questionable futures (Trump's legal problems, Biden's health/age). The presidential contest is of course important, but it is even more so in a cycle when control of the White House, House and Senate will all be up for grabs and in era when federal ticket splitting is increasingly rare. Remember that in recent elections only one senator (Sen. Collins in 2020) won their state when a candidate of the opposite party won the state's presidential contest.

To date, the Trump campaign apparatus has been a steamroller. Putting aside the candidate's individual actions, his political team has consistently outmaneuvered their opponents when it comes to the nuts and bolts of running a presidential race and represents a significant upgrade from the former president's organizations in 2016 and 2020. As for the Biden effort, recent survey data has been troubling, ranging from showing a tied race to having the president down by close to 10 points. While it is of course more than a year to the general election and difficult to put stock in snapshot surveys, it is safe to assume this is not where the president's team wants to be at this stage of the campaign.

More broadly, it has become increasingly difficult to assess campaigns and the state of play in an election cycle. The traditional guideposts in measuring a candidate's standing (presidential approval, voters' opinion on the economy, etc.) used to be strongly predictive, but now seem less reliable as accurate barometers. Further, complicating the challenge of analyzing the presidential race will be the ubiquity of both candidates. Usually, the burden is on the incumbent to win a referendum, but for the first time a former president is challenging the incumbent. So, is the race now a Biden referendum, a Trump referendum, a choice between the two, or a contest that follows some other paradigm?

Legislative Agenda

In a word, the legislative agenda is "sparse". Work of course continues in both Houses at the subcommittee and full committee level. But when it comes to the usual listing of bills that can run the gauntlet to the president's desk before the First Session of the 118th Congress adjourns at the end of the year, it is hard to see anything moving beyond

a spending measure(s) and the annual defense authorization bill. For the record, so far in 2023 only 16 measures have passed Congress and been sent to the president for signature.

Frankly, many in the House GOP struggle to reconcile their legislative ambitions with the fact they only barely control one-half of one branch of the federal government. This is not a new dynamic for a boisterous, fractious majority, but it is one that has real world consequences. Does the House GOP have some leverage over the legislative process? Yes. Is it as much as

many would want? Definitely not. At the same time, in the Senate the Democratic Leader seems largely disinterested in legislating on the floor, focusing more on winning the tactical, day-to-day messaging battle and protecting embattled incumbents and the White House from having to react to tough votes. It is hard to read the months the Senate has spent focused on nominations any other way. One can also argue that Democrats have an

advantage when it comes to working on large, omnibus packages, especially in the current Capitol Hill environment, and Sen. Schumer's tactics make sense. As with the House Republican's ambitions, this dynamic is neither new nor without tangible effect on legislation.

Because of recent events in the Middle East, there could be another military-centered legislative vehicle that Congress considers in the coming days, but to move quickly through the House and Senate it would almost certainly have to be focused completely on assistance for Israel and not touch other foreign policy matters (e.g., Ukraine).

Still, no matter how events transpire on the Hill in coming days, the November 17th deadline for government funding remains. If we are right in that Congress is likely to act only on spending and the defense bill, the competition to try to attach other pressing items on the few moving legislative vehicles will be intense. It is difficult to square this dynamic with the opposition of a number of House conservatives to catch-all bills or even legislation that covers multiple topics. In the end, this position is difficult to implement but it is a real, tangible factor to consider in legislative tactics for the foreseeable future.

Worth a Read

Admit it: we all get frustrated with technology sometimes.

One thing we can all agree on: we need more rollerball in politics.

The Chair and Ranking Member of the Senate Foreign Relations Committee have more influence than most recognize.

Calendar

- Oct. 24 NBA season begins.
- Oct. 28 World Largest Outdoor Cocktail Party.
- Nov. 5 Daylight Savings Time ends.
- Nov. 11 Veterans Day.
- Nov. 17 Continuing Resolution expires.
- Dec. 8 Hanukkah begins.
- Jan. 8 College football national championship.
- Jan. 26 West Virginia filing deadline.

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