



The Big Casino

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“This place is a pressure cooker.”
--Speaker Mike Johnson

After a relatively quiet holiday recess, Washington must rev up quickly. The pace of the presidential campaign is accelerating, and Congress has reconvened only to face several imminent funding deadlines. As the narrator used to say in television commercials for sports cars, we are about to see how long it takes the capital city to go from zero to 60 miles per hour.

Political Environment

Voting kicks off in the presidential contests next week with the Iowa Republican caucuses and barring any major surprises President Biden and former President Trump could sew up their respective nominations as early as Super Tuesday on March 5. These two candidates are nearing the end of what is going to be essentially a five-year running battle. The former CNN analyst, Chris Cillizza, [likens their contest](#) to two aging, heavyweight boxers slogging through a championship prize fight, wearily leaning against each other in the middle of the ring, neither strong enough to knock out the other to notch a clear-cut win.

Polling consistently underscores both candidates' unpopularity, and most Americans do not want either to run. Additionally, surveys continue to point out that as much as [73% of the population think the country](#) is on the wrong track, some of the gloomiest numbers ever. This foreboding environment has invited third-party, and potentially spoiler, candidates to join the fray. At this still relatively early stage, these outside efforts are more sizzle than steak. Robert F. Kennedy, Jr. has only qualified for the ballot in one state (Utah), and the No Labels organization will not even pick a slate until April. But Green Party leader Jill Stein has qualified for the ballot in several critical states (Michigan, North Carolina, and Wisconsin) and in a close election such independent candidacies could help decide the outcome (see Ralph

Nader in 2000, Jill Stein in 2016). The key will be how many qualify for ballot access in the handful of swing states that will decide 2024.

At this stage of the game, the strategies for Biden and Trump seem relatively straightforward. The president will tout legislative achievements from his first two years in office along with an ongoing, aggressive regulatory agenda (e.g., opposing “junk fees”, scrutinizing any business sector that can be labeled as “big”). He will appeal to his base by continuing the excoriation of “MAGA Republicans” as a threat to democracy, and count on help in states where Democrats are able to put abortion-related referenda on the ballot. Trump will campaign on grievance and victimhood, and if the sour public mood continues ask voters to consider the Reaganesque question, “are you better off today than they were four years ago”? Likewise, the challenges for both men seem plain as well. The Biden team cannot miss the flashing warning signs of a restive base, especially among dissatisfied minorities and those who are not feeling the benefit of recent positive macroeconomic news. The Trump campaign needs to figure out how to reach non-core voters beyond the 46% ceiling he received previously.

Interestingly, the 2024 race could be shaping up to be mostly about “doom and gloom”. For most of the 20th century, the more optimistic of presidential candidates tended to win. FDR’s theme was “Happy Days Are Here Again”, JFK proclaimed the country was on the edge of a “New Frontier”, Ronald Reagan said it was “Morning Again in America”, and Barak Obama was “Hope” as well as “Yes We Can”. But in 2016, Trump prevailed with a darker message than Hillary Clinton, and doubled down in an inaugural address that spoke of “American carnage”! It could be argued the Biden campaign 2020 represented a return to a normal pattern, but the dark mood among the populace combined with other omens (e.g., more than half of American households for the first time own a gun) make it hard to predict what themes will resonate most with voters this fall.

At the congressional level, the polarized electorate combined with ever-more-precise gerrymandering has produced a relatively limited playing field of 40 or so competitive House seats. Because of the vicissitudes of the Senate cycles, only a small handful of races will be seriously contested, perhaps no more than five or six. These relatively small fields mean the contested races will be particularly intense with more money spent on targeting a shrinking number of voters. Pity the television viewers in swing states this fall.

At this point, most signs point to Republicans regaining control of the Senate. Cook Political Report’s Jessica Taylor uses a sports analogy, arguing Democrats need to pitch the equivalent of a perfect game in baseball to maintain the majority. In the House, the majority has not flipped in a presidential year since 1952, but consensus thinking among analysts is the contest is a toss-up that could follow presidential turnout and go either way. In recent months, Senate Republicans have quietly tried to capitalize on the upheaval with House

GOP, arguing to donors that supporting efforts to win the upper body amounts to an insurance policy against Democrats holding the White House and/or regaining the House.

The 2020 elections saw more voters go to the polls than ever before, and if 2024 turns out to be a high turnout event it could spell the end for even the most savvy and veteran candidates. For instance, Both Senators Tester and Brown are proven vote-getters but also are the only statewide elected Democrats in states Trump is expected to win handily. They could run perfect races and still lose. Many of the freshman House Republicans from California and New York have shown political savvy and fundraising prowess, but it just may not matter if blue waves wash over their states.

Legislative Agenda

When it comes to enacted legislation, Congress is coming off the least productive year in modern times. The first session of the 118th Congress saw 34 bills signed into law, down from 280 in 2022 and 81 in 2021. Depending on one's view of government, this was either a triumph of restraint on the federal leviathan or a colossal failure for voters.

At the outset of 2024, disposition of spending bills along with the border/foreign aid package is the fulcrum for legislative activity in Congress. While it is hard to expect much legislation to run the gauntlet of a Democratic Senate and Republican House, it is safe to say nothing of consequence will move while the Hill struggles with FY24 spending. We continue to hear from lawmakers and staff on both sides of the aisle that a long-term, perhaps full-year, continuing resolution remains the most likely outcome for FY24 spending. The newly announced topline spending deal marginally improves the chances of some appropriations bills being enacted, although there is long path to navigate from topline agreement to adoption of legislative text. In the meantime, conservatives seem increasingly comfortable with the \$50 billion sequester a long-term CR would precipitate under the Massie Amendment, or at the least comfortable with using the threat of the sequester as a negotiating tactic. Real, tangible action on other pending bills – FAA reauthorization, FISA surveillance authority, water infrastructure spending, Farm Bill – will wait on the outcome of the spending debate.

Taking a closer look at the mechanics of lawmaking, it seems relatively straightforward to understand the current environment. In the House, nearly half of the Members were elected after 2016, and many feel they were sent to Washington to oversee the federal bureaucracy rather than establishing new federal programs and authorities. Even for those with more ambitious legislative agendas, the relative lack of experience in the art of legislative compromise represents a very real challenge.

As we have discussed in past memos, every Senate majority leader runs the body differently and Sen. Schumer is no exception. In 2023, Senate Democrats seemed intent on emphasizing their “steadiness” compared to what they characterized as the chaos of House Republicans. (Interestingly, 11 House Members are running for the Senate this year, a continuation of the longer-term trend of House colleagues moving to the upper body that some have argued has led to a more combative, restive Senate.) For his part, it seems clear Schumer believes Democrats have more leverage with big omnibus bills and this makes him comfortable with restricting most floor time to the consideration of nominations. When it comes to issues he and his team think are real priorities (e.g., CHIPS, Artificial Intelligence), he is more comfortable working with an ad hoc cadre of decision makers as opposed to the regular order of the traditional committee process. Overall, this leads to an irregular and relatively unpredictable bill-writing process, but one that is largely controlled, even dominated, by the Majority Leader.

For the House, as the year unfolds the question will be can the majority pass its priorities that, while dead on arrival in the Senate, will still contribute to the framing of issues in an election year. As control of the House has shifted back and forth since the 1994 Gingrich sweep, newly-minted majorities always believe they should pass more than their majority allows. But this current majority seems exceptionally ambitious and arguably unrealistic. Looking back at the tumult surrounding the McCarthy resignation and Johnson election, it remains to be seen if voters really care about the House contretemps from last autumn. But they may care more if the new speaker is unable to quickly move down the learning curve while negotiating the slimmest of majorities.

Finally, we have to wonder if the downtick in congressional productivity will increasingly embolden state legislatures to act in policy areas normally dominated by the federal government. A number of states, for instance, are looking to act not only on artificial intelligence, the hot policy topic of the day, but also other areas such as consumer privacy which Congress has pondered for years but has yet to act on in a serious manner. Because 39 state governments are controlled by a single party, this could well lead to patchwork of contradictory laws from competing “red” and “blue” states that will eventually require judicial adjudication: it is hard to see California, Texas and Michigan acting in similar fashions on such nuanced issues. State efforts and federal court reviews could spur on future Congresses to act or signal a longer-term shift in our governance.

Worth a Read

Are things really [this bleak](#) for Russia?

Ikea is about [a lot more](#) than meatballs and oddly named furniture.

This is [so sad](#).

[Wedding bells](#) continue to ring in Sen. Grassley's office.

Is this “[China's final decade](#) as a coherent economic power”?

In hindsight, some of these [predictions](#) are just hilarious.

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