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Escaping the Partisan Death Spiral

BY LEE DRUTMAN

As we lurch toward another national election, steel yourself for the familiar ride: incendiary threat rhetoric about the end of America as we know it; cramped debates where nobody proposes anything new and nobody changes his or her mind; and the seemingly pointless marshaling of billions of dollars to generate an endless stream of substanceless attack ads to blanket the handful of "swing" states and districts, where perhaps just a few thousand late-deciding low-information voters could determine the fate of the country. Even as we watch what feels like a high-stakes contest, in the end our political future will probably be more endless partisan fighting, endangering basic constitutional norms, and now, thanks to COVID-19, our economy and our health as well. A genuine contest of ideas and visions, it will not be.

To work well, self-governance must be a contest of ideas where competition can drive innovation and change. But because of America's unusual two-party system, which is largely a product of our antiquated usage of "first-past-the-post" elections, voters will head to the polls this November with only two realistic choices, unless you don't mind "wasting" your vote on a candidate who can't win. For almost all voters, though, there will really be only one choice—both because most voters are reliable partisans, and because most voters live in lopsided districts and states where either a Republican or a Democrat has no real shot of ever winning. The marketplace of political competition is decidedly broken.

But it gets even worse. It's not just that the political marketplace is broken—it's that the broken political marketplace is now breaking the fundamental foundations of modern liberal democracy: the rule of law and adherence to constitutional norms. In the constant jockeying for narrow elusive majorities, partisans are putting short-term gains ahead of long-term stability and disregarding long-standing norms in order to win the next election and humiliate the other side. When "winning" becomes everything, and winning means dehumanizing the other side for short-term gain, it legitimates increasingly extreme behavior on both sides.

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Milton Friedman, seen here sporting a baseball cap at Cato's 25th anniversary celebration, is just one of many Nobel laureates who have been associated with the Cato Institute and contributed to its vision and policy work. See "Nobel Laureates at Cato" on page 4.

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I call this problem the "two-party doom loop." The idea is similar to an arms race, or any self-reinforcing feedback loop of escalation. More aggressive actions on one side justify more aggressive actions on the other side. Consider the fights over Supreme Court justices. In response to what Democrats believe was a stolen Supreme Court seat, many on the left are now arguing that if Democrats return to power, they should expand the court. Or consider the escalating fights around voting and redistricting. Each of these fundamental institutions of democracy is becoming increasingly contested, to the point that whichever side loses, the result is inevitably seen as illegitimate. All of this creates tremendous instability and inevitably ratchets up toward the breakdown of liberal democracy, the rise of authoritarianism and extremism, and an existential threat to the free society.

To understand the threat and what to do about it, we need a bit of history on how we got here.

IT ALL GOES BACK TO 1787

Like all good histories of American political institutions, we must start at the beginning: with the Constitutional Convention of 1787. Throughout the hot summer, the Framers wrestled with the fundamental challenge of self-governance: how to set up a system where the people could rule, but still have enough leadership and authority to forge the difficult compromises necessary to build a thriving economy based on the rule of law.

James Madison, the preeminent theorist among the Framers, recognized the core challenge. Any society will have to wrestle with the problem of faction—the diversity of mankind and the variety of opinions, values, and economic interests inherent in any free society. That inevitably involves tradeoffs and shifting coalitions to solve public problems.

Madison's first great cause had been religious liberty. He would often recite Voltaire's observation: "If there were only one religion in England, there would be great danger of despotism. If there were two religions, they would cut each other's throats. But there are thirty religions, and they live together in peace and happiness."

> "Madison applied Voltaire's insight to politics."

Madison applied Voltaire's insight to politics. The key to preventing political tyranny was the same: enough diversity so no group could think itself anywhere close to a majority capable of dominating everyone else. As a result, no one group would need fear domination from any other group. One faction could oppress; two factions would fight for the power of who got to oppress whom. But in a big nation, every faction would be a minority. None would have any illusions of domination. Tyranny averted.

This was why the Framers feared political parties. Their reading of history led them to the conclusion that when political parties formed, there would naturally be just two of them. They would compete for majority status, and this competition would be fundamentally destabilizing. The prize of majority rule would lead the party in power to abuse the rules to rig themselves into permanent majorities. The party out of power would declare the government illegitimate and threaten violence. As they fought, self-governance would collapse into anarchy and tyranny.

George Washington's Farewell Address is often remembered for its warning against hyperpartisanship: "The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism." Washington's successor, John Adams, similarly worried that "a division of the republic into two great parties . . . is to be dreaded as the greatest political evil."

By decentralizing power, the Framers thought they had come up with an institutional solution to the danger of political parties: the separation of powers and federalism. Such decentralized governance would both limit federal authority and prevent parties from forming in ways that would turn America into that dreaded divided republic.

THE EARLY PARTY SYSTEMS

The early years of American democracy tested this premise mightily. At the elite level, at least, two parties formed quickly, culminating in the contentious and contested election of 1800 between Jefferson's Democratic-Republican Party and Adams's Federalist Party—an election that was ultimately decided in the House of Representatives. In the early days of the republic, states would regularly change how they allocated Electoral College votes and voted in congressional elections to suit short-term partisan gains; and judicial jockeying (including court packing and court shrinking) put today's hardball politics to shame.

But the destabilizing partisan fighting was short-lived, largely because by Jefferson's second term, the Democratic-Republican Party came to dominate American politics; so much so that America became a one-party system by the early 1820s. But a one-party state is actually a no-party system, and modern mass democracy needs political parties to organize and channel conflict. So by the 1830s, America developed the world's first great mass party system. And by the 1860s, that party system settled into the regular competition between the same two parties we have today: Democrats and Republicans.

Although America has long had two great parties, the parties themselves were largely incoherent for most of American political history. Both were broad national coalitions

of state and local parties that were little more than loose-fitting brands that came together every four years to fight over their candidate for president and agree on some general platform language to loosely define their principles until necessity or chance changed them into something else.

From the end of the Civil War to the beginning of the New Deal, America's national parties retained their incoherence because most of the important political power was at the state and local level; the federal government had limited power. Some states and cities were better governed than others, and there was plenty of cronyism and corruption throughout the country, but the stakes of national elections were lower than today.

The New Deal and World War II set in motion the first great set of changes by bringing more power to Washington. Given the moderate, consensus-oriented politics of the 1950s, the centralization of power didn't threaten any basic foundations of American democracy. But it did set the stage for the second great change: the civil rights revolution of the 1960s, which truly nationalized American politics for the first time and set in motion a slow and steady realignment that brought us to our current impasse.

SHIFTING PARTY ALIGNMENTS

The Civil Rights Act of 1964 and the Voting Rights Act of 1965 were two of the most significant pieces of legislation in American political history. They ended almost a century of systematic discrimination against African Americans, fundamentally transforming American democracy. Both were passed with overwhelming bipartisan support and with a higher percentage of Republicans than Democrats. And by elevating social issues to the national level, they also set in motion a long, slow realignment of American party politics.

In the 1960s, the Democratic Party was an uneasy coalition of northern liberals and southern conservatives. The Republican Party was also an uneasy mix of northeastern liberals and western conservatives. During the tumultuous American politics of the 1960s and 1970s, these coalitions became even more untenable as new issues around the civil rights revolution, the Vietnam War, and the new culture wars entered national politics.

> "Party leaders took over near-total power in Congress."

By the 1980s, new battle lines were being drawn, and the increased focus on culture war issues continued to nationalize politics. That situation put ever more focus on Washington as the ultimate arbiter of high-stakes battles around issues like abortion and religious freedom. As the parties drew sharper distinctions and party organizations nationalized into rival fundraising and advertising cabals, voters followed the cues. Local issues became less important. Voters focused more on party labels, less on individual character—what mattered now was control of power in Washington.

The great leap forward came in 1994, when Newt Gingrich engineered a strategic shift among Republicans by running, for the first time, a coordinated national congressional campaign in which candidates focused on a consistent party pledge. He spent relentless energy attacking Democrats and drawing sharp partisan distinctions rather than emphasizing their personal records. As Speaker, Gingrich consolidated and centralized power, slashing both budgets and power for congressional committees.

From 1954 to 1994, Democrats had enjoyed what seemed like a permanent House majority, and from 1968 to 1992, Washington appeared to be in a permanent state of divided government, with Democrats running the House of Representatives and Republicans in the White House. It was this prolonged stalemate that fostered compromise and bargaining-oriented politics, with neither party thinking it was on the verge of total control.

But when Democrats won the White House in 1992 and Republicans took the House in 1994, the dynamics shifted. Now the balance of power was up for grabs every election in Washington. With that much power at stake, it made less and less sense for the two parties to cooperate in the short term (especially for the party out of power, which saw its best shot back to power as showing the alleged incompetence of the governing party).

Party leaders took over near-total power in Congress, and long stretches of divided-government gridlock interspersed by occasional lurches of policymaking under unified partisan control came to define Washington. The long-decentralized policy-focused congressional committee structure that had previously worked out many productive compromises—such as the deregulation of airlines in the 1970s or the 1986 Tax Reform Act—gave way to the command-and-control style, messaging-first, top-down approach to running Congress.

For the first time in American political history, we got two great parties in more than just name. For most of our political history, our parties had been loose, confusing, and overlapping. But now America had two distinct parties without overlap—two competing coalitions vying for narrow power, rallying their voters with two competing visions of American identity, neither of which had room for the other.

The result was not only a dysfunctional Congress but also a burgeoning presidency. With Congress mostly unable to solve problems or just being blindly obstructionist, that left presidents to focus more energies on acting by executive fiat and daring Congress to do anything to stop it.

And in the rare moments of unified control, a partisan Congress has punted on its executive oversight role. After all, with elections increas-

ingly nationalized, the fates of members of Congress are increasingly linked to the popularity of the president. This factor pushes fellow partisans to boost executive power when their party is in power and then complain about executive power when the other party is in power, a blatant hypocrisy.

But the more power Congress leaves to the president, the more zero-sum the winner-take-all stakes of one election to decide one national leader becomes, thus further exacerbating polarization. This is why the 2020 election feels so existential, yet again. The doom loop is escalating once more and undermining our ability to respond to the COVID-19 pandemic. It is preventing us from breaking out of the false choice between revitalizing the economy and maintaining public health. It also threatens the legitimacy of an election that is likely to be conducted largely by mail.

BREAKING OUT OF HYPERPARTISANSHIP

The future of American democracy depends on breaking this hyperpartisan doom loop. In a politics in which winning the next election becomes everything, we all lose. A relentless focus on winning loses sight of what it is that anybody actually wins. And as the stakes escalate, extremism continues to gain, and the relentless pursuit of short-term victory challenges long-standing constitutional norms.

In the search for solutions, many readers will no doubt see a clear and present solution: federalism. If the federal government ceded more power to the states, and we collectively embraced principles of localism and limited federal government, much of the doom-loop partisanship destroying American democracy would evaporate. The stakes are so high because so much power is up for grabs. It was once the great diversity of local political subcultures that kept the national parties capacious enough that they could contain the multitudes necessary for national-level compromise.

For federalism to work, both parties need to commit to it. But this is the problem with

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our toxic two-party politics: federalism is the weapon for parties out of power in Washington; federal preemption is the weapon for parties in power. The doom loop of toxic politics undermines federalism.

More federalism may well improve American democracy by placing less pressure on Washington to resolve divisive questions and by putting citizens closer to decisionmaking. But without a change to the underlying electoral system, federalism by itself can't be the solution. Shifting power to the states under the existing two-party system changes the venue but not the underlying fight.

For federalism to work (that is, for states to support distinct political subcultures and experiments), voters need to vote in state and local elections based on state and local issues. Otherwise no basis exists for political responsiveness, and state and local politics are only an extension of national politics, instead of the other way around. This change is unlikely when voters have only national party brands as cues.

Instead, the key to breaking the two-party doom loop is to break the electoral system that perpetuates it and limits competition to just two parties, both of which primarily compete only in safe districts and states. That system is the 15th-century innovation of first-past-the-post plurality elections, with one winner and third parties cast off as spoilers. Most of the advanced world has left behind this antiquated system and embraced versions of proportional representation. One leading version of proportional representation is ranked-choice voting, with multimember districts—a voting system used successfully for a century in both Ireland and Australia.

This change or other electoral reforms like it would give us more parties. With no majority in sight, parties would have to build governing coalitions as they do in every other multiparty democracy. This institutionalizes the kind of compromise and bargaining, the norms of nondomination, that is necessary for effective governance. This is what our Framers understood so well in designing our institutions. Had they accepted the necessity of political parties and if proportional representation had been invented at the time, they almost certainly would have adopted it to support a multiparty system. But with the wisdom of experience, we can improve on the institutional design while keeping to the underlying philosophy.

It's true, we can't expect Washington to solve this problem when it's so broken. But here lies the true potential of federalism in breaking the toxic politics doom loop: states can be the innovators and incubators of electoral reform. Already, Maine has taken the lead, becoming the first state in the nation to adopt ranked-choice voting, a system where voters are allowed to rank their preferences instead of only voting for a single candidate. The winner is tabulated through an automatic series of instant runoffs until one candidate secures a majority, avoiding fears of wasted votes and plurality winners. Berkeley, Oakland, and San Francisco have already used it in mayoral elections, as well. Grassroots efforts in Alaska, Massachusetts, and North Dakota are gaining momentum this year.

Historically, political reform in America has often begun at the state level. As reforms have gained traction and popularity across the 50 states, national politicians have been more willing to embrace them as proven solutions.

The devastating effects of the two-party doom loop are out of control and a clear and present danger. Time is short. American democracy is declining. We are on increasingly precarious ground. The urgency for a more competitive and innovative politics has never been greater. ■