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Denuclearized Senate Augurs Return to Better Days

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By Ira Shapiro

The Senate narrowly avoided catastrophe this week, reaching an agreement at the eleventh hour, and reminding those of us who remember it of how the upper house worked in its better days.

The Senate's compromise on the "nuclear option" -- Majority Leader Harry Reid's proposal to change the institution's rules mid-session on handling the nomination of executive-branch appointees -- deserves praise. Almost every senator, including Reid, knows that changing the Senate rules in the way he proposed could cause incalculable harm. Likewise, almost every senator, including Minority Leader Mitch McConnell, knows that executive-branch nominations should be confirmed by a simple majority vote, not the 60 votes required to overcome a filibuster by an intransigent minority party. Credit goes to Reid for forcing the issue after facing months of unprecedented obstructionism. But credit is also due to Senate Republicans, who did one of the rarest things in politics: admitted they were wrong and changed course.

Compromise is what the Senate achieves when it is working properly. Because of its tradition of unlimited debate, requiring unanimous consent to conduct business, the Senate seems always to walk a line between paralysis and chaos. Gary Hart, who served in the Senate in the 1970s and '80s, once described it as "a kind of controlled madhouse." In the '70s, when the upper house still functioned effectively, almost every major legislative battle -- including President Jimmy Carter's energy program, the bailout of Chrysler Corp. and the extended protection of Alaska's wilderness -- came to a point where the opposition seemed insurmountable and common ground looked to be unreachable. In each case, the Senate achieved a compromise and the legislation passed.

FILIBUSTER DEBATES

The Senate, however, has always had bitter fights regarding the rules of the filibuster. In 1978, Majority Leader Robert Byrd enraged many of his fellow senators by circumventing the rules to crush a post-cloture filibuster -- a procedure used to indefinitely delay a bill even after a vote to bring debate to an end -- by Howard Metzenbaum and James Abourezk who were trying to stop the deregulation of natural gas. The next year, Byrd raised the threat of the nuclear option while negotiating successfully with Minority Leader Howard Baker to eliminate the use of the post-cloture filibuster. In 2005, Majority Leader Bill Frist invoked the nuclear option after the minority Democrats opposed several of President George W. Bush's judicial nominations. The crisis was defused when the so-called Gang of 14 engineered a compromise that judicial nominees would be filibustered only in "extraordinary circumstances" -- a term that unfortunately went undefined.

The Senate will inevitably return to considering its rules and the proper scope of the filibuster. For now, though, its goal should be to regain the once-respected place it held in our political system, serving as what Walter Mondale called the "nation's mediator." In its best years, the Senate was a politically demilitarized zone, a governing body that included conservative Southern Democrats and liberal Northern and Midwestern Republicans striving together and keeping their partisan interests in check.

When I worked in the Senate 35 years ago, the "spirit of compromise," as described by political researchers Amy Gutmann and Dennis Thompson, was ever-present. The senators believed in the Senate as an institution and set out to pursue its collective agenda. Filibusters were real yet rare, acts of deep conviction. Holds on legislation and executive nominations were courteously extended for only a short time. Straight party votes were infrequent because during debates, senators weighed the arguments presented and were even known to change their minds. Legislation often passed with less than 60 votes, something that would be unheard of in the Senate today.

The Senate's decline has been long and the downward spiral has accelerated in recent years. In particular, the Senate I knew bore little resemblance to the dysfunctional group that served in the 112th Congress from 2011 until January of this year.

NEW HOPE

Fortunately, this year has been different, and better. By the end of 2012, frustration within the upper chamber over its polarized and paralyzed state had hardened into disgust which then turned into a determination to change. With the battle over nominations at least temporarily behind us, we can see signs of the Senate beginning to make a comeback.

The passage of the immigration bill was reminiscent of how the Senate used to work. Crafting important legislation in the past almost always required the formation of bipartisan coalitions, such as the Gang of 8, which worked to write and pass the immigration bill. It has been heartening to watch the Senate function once again as a place where competing interests are heard, hard bargaining occurs and compromises are reached.

The Senate's agreements this year go beyond the immigration bill. Although it was rejected soundly in the House of Representatives, the Senate passed a farm bill last month, as well as its first budget in four years. It also had a serious debate over gun control, even if the outcome was disappointing. In May, Democrat Frank Lautenberg, who died last month, and Republican David Vitter reached a surprising breakthrough compromise in the regulation of toxic chemicals, and Republican John McCain and Democrat Elizabeth Warren have come together to introduce a bill reviving several parts of the Banking Act of 1933 -- usually referred to as Glass-Steagall.

As Alan Simpson, the former Republican senator from Wyoming, once said: "If you're in politics and you don't believe in compromise, you should find another line of work." This week's compromise over the executive-branch nominations was a legislative triumph and it raises expectations for future agreements on much tougher issues. Let's hope that the Senate of the 113th Congress continues to judge unacceptable the failure to find compromise.

(Ira Shapiro is the author of "The Last Great Senate: Courage and Statesmanship in Times of Crisis.")

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