



October 31, 2014

## **Letter from Washington**

The mid-term Congressional elections will take place on Tuesday, November 4<sup>th</sup>, and at this point it appears that the Republicans will gain the necessary seats to take the majority in the Senate, and probably add to their existing majority in the House. This sets the table for some interesting politics for the last two years of the Obama Presidency.

The polls all show the major contested Senate races as within the margin of error, or too close to call. However, the number of people believing the United States is "on the wrong track" and disapproving of the President's handling of his job have grown steadily over the summer, and especially through the fumbled Ebola response, so that a significant Republican victory may be taking shape.

The Republicans made a calculated decision at the beginning of the cycle that just being against President Obama would be enough to win, without having to articulate any different policies or changes. So far that gamble appears to be paying off, and events are reinforcing the impression of Obama as detached, not in charge and not up to the job.

The conservative narrative has always been that government cannot solve every problem, no matter how much money is applied. That meme has morphed over the last year to today, where government is not only viewed as incompetent, but no longer capable of accomplishing its most basic functions in providing for the common welfare. In fact, trusting in the government to do the right thing can not only be disappointing but downright dangerous (see: CDC response to first US Ebola case).

The President meanwhile continually expresses disappointment or anger or surprise at some new piece of bad news, but never accepts ownership or takes responsibility for the last six years of his administration.

The "bewildered bystander" approach to the Presidency is wearing thin, nowhere so much as in his own party. This cycle Obama is clearly persona non grata in many of the contested states, and association with his policies is dangerously toxic. Obama keeps complicating things for the Democrats up for reelection by reminding the voters that the Senators have supported his policies in the past and will vote with him in the future. The endangered Democrat Senators would normally view a Presidential visit to their state as a

lifeline that they would eagerly grab, except this year the lifeline has an anchor attached to it.

It is quite possible that control of the Senate will not be known on election night, and two states with seats in play have a run-off process unless one candidate wins an absolute majority. Those states have multiple candidates, so the potential that the winner is not clear until sometime in December is quite high.

Something large and dramatic would have to occur in the next week to change the apparent trajectory of this election. The odds are that if something major does occur it will not be to the benefit of the administration and would only make the situation seem even more out of control.

The President gets low marks from a majority of voters for his job performance, largely the result of a series of self-inflicted wounds. The administration's response to Ebola and to ISIS are inconsistent, bordering on incoherent, and give the impression that the United States is lurching from crisis to crisis with no strategy and no way to get ahead of events.

Ebola appears to be a good candidate for an unexpected pre-election event, and the appearance of the first domestic case of the disease not immediately connected to the Liberian Patient Zero in Dallas would serve to stoke the domestic hysteria already present. The President is again his own worst enemy, and the "no-drama Obama" thing is not working. As in many situations, he has made initial statements about the government's Ebola response that have had to be walked back. As in "you can keep your doctor" or chemical weapons red lines, the President's initial soothing words on Ebola were undermined by the CDC's lack of adequate response to the first case, and the Dallas hospital's incompetent efforts.

The issue of quarantining returning medical workers has not been dealt with in a clear cut way, allowing several state governors to make their own policies in the absence of federal direction. Obama has argued that medical workers should not be subject to any quarantine, but his Defense Department has imposed a 21-day isolation period for returning military personnel who have had no contact with patients. The CDC says that you can't catch Ebola from someone on a bus, but has a ban on public transportation for returning health care workers. Mixed messages abound.

The administration did appoint an "Ebola czar", who is supposed to coordinate the government response to the epidemic. The czar is a political operative with no medical background, and despite his complete lack of visibility during the quarantine discussions, his appointment makes clear that the administration views Ebola as a political problem rather than a medical one.

Ebola aside, the initial military response to ISIS appears to be losing steam and direction. After the initial targets were all struck in the first few days, the air campaign seems to have devolved into random pickup truck plinking and is suffering from the lack of eyes on the ground for target selection and coordination.

The administration strategy is not credible, and is based on several inconsistencies. The first is that the Iraqi Sunnis will fall in line and join the Baghdad government in battling ISIS in the west. The Sunnis assumed that the US would remain in Iraq to act as the buffer between themselves and the Shiite government in Baghdad. When the US left abruptly in 2011, the Shiites were free to disenfranchise the Sunnis politically and economically, and the Sunnis are not likely to fall for "just trust me" again.

The second major disconnect is that the Obama administration's announced strategy is to train a force of Syrians in defensive operations so that they can hold territory, but not in offensive tactics to displace ISIS. The administration apparently wants to do enough to be seen as doing something, while not doing anything that would really endanger the Assad government. The Russians and Iranians have much invested in Assad remaining in power, and the Obama administration seems to have decided that not rocking the boat in the Iranian nuclear talks is more important than training a credible Syrian opposition.

This is a high stakes poker game involving regional balances and millennium-old tribal feuds that American policy makers don't really understand. The old saying that if you are in a poker game and you don't know who the mark is, it's probably you, has never seemed more appropriate.

Assuming that the Republicans do win control of the Senate next week, there is a possibility that the lame duck Congress might be willing to take on some difficult issues, not having to face reelection again. The new Congress will not be seated until January, but the Continuing Resolution funding government operations will expire in mid-December. The lame duck Congress might possibly deal with raising the budget caps for defense so that the potential of another sequestration round might be eliminated. That will require a degree of cooperation and coordination that has not been seen in a long time.

More likely, there will be a temptation for the Democrats to run some things through before they lose power. High on that list will be a replacement Attorney General, the country's top law enforcement official. If the Democrats take that step and push through a candidate without bipartisan support, the Republicans will take to the barricades and any attempt at fixing the defense budget issues will be lost.

More importantly, it will set the tone for the next two years and how the Congress and the President are going to function. The President cannot initiate legislation, and only the Congress can generate the appropriations

bills necessary to fund government operations. The President has a certain amount of latitude regarding the administration and function of the executive branch, but the Congress has the checkbook and can refuse to provide funds.

The President has threatened to institute a number of executive orders to bypass the Congress, especially canceling enforcement of some facets of the immigration law that would have the effect of granting de facto amnesty to several million illegals. This will infuriate the Republicans (and probably some Democrats as well), and there will be great clamor for impeachment. The Republican leadership likely has no stomach for impeaching the first black President, so the power struggle will probably be decided by the Supreme Court, just about the time Obama's term ends in 2016.

The Republicans have probably already developed a legislative agenda for the first months that will include some key priorities, such as a revision of the tax code, starting the Keystone XL pipeline and some modifications to Obamacare. They will present these to the President for signature or veto, and the President will then have to decide how he wants to proceed. The Republican majority in the Senate will probably be unable to generate the 67 votes necessary to overturn a veto, so their option then becomes one in which they attach their priorities to must-pass legislation and dare the President to veto it. The appropriations bills are obviously candidates, and the next debt extension vote will come in early 2015. The President then either blinks and signs the bills or takes responsibility for shutting down the government.

Obama does have a pragmatic side, and he probably has no stomach for two years of trench warfare with Congressional Republicans. He has also shown on numerous occasions that his priorities are not necessarily the same as the base of the Democratic Party, so he may be willing to go along in some cases.

How the President reacts to a hostile Congress is the first key variable in determining how the government functions. The second is how the Senate Republicans act in their new role. Will they be magnanimous and gracious or will they be in the mood for settling scores?

The Democrats exercised the so-called "nuclear option" in early 2014 and changed the filibuster rules substantially, defanging the minority party. They may come to regret that deeply.