The United States Senate: A 50-50 Split?

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While the country remains transfixed on the Florida presidential ballot controversy, another controversy, less visible, but one likely to become just as ugly as the Florida dispute, appears on the horizon. Control of the United States Senate hangs in the balance, as the Senate awaits the outcome of the U.S. Senate election in Washington State, where absentee ballots will determine whether the upper chamber of the congress is deadlocked 50-50. The Democrats have warned of chaos, should a 50-50 division actually occur, if as minority leader Tom Daschle has said, the Democrats do not get certain demands met. Daschle insists that the Democrats be given an equal number of seats on senate committees and, perhaps, co-chairmanships of senate committees.

The one precedent in Senate history of a divided chamber proved disastrous by almost any reasonable account. After the election of 1880, the Senate opened a special session in March of 1881 that began the 46th session of Congress. The Senate was divided 37 Republicans, 37 Democrats, and 2 Independents. The new president was Republican James Garfield, and Chester A. Arthur was Vice President. The stage was set for the reorganization of the Senate, which, in due course, would involve Garfield, Arthur, and the two senate Independents. One of the Independents was Illinois Senator David A. Davis, who had served on the Supreme Court prior to his election by the Illinois legislature to the Senate in 1877. Davis agreed to vote with the Democrats, but the other Independent, William Mahone, a conservative Virginian, was lobbied fiercely by the Democrats, and held his own counsel until the Senate role call when he, in dramatic fashion, sided with the Republicans. Mahone made a deal with the Republicans to Chair the Agricultural Committee and to control its patronage.

Since no president pro tempore had been elected, Vice President Arthur had the tie-breaking vote. The Republicans could not elect a president pro tempore because of absenteeism among its senators. The Democrats refused to give up the chairmanships they had held in the previous session. The special session ended in May 1881 with the Senate largely in chaos. Between May and October, when the Senate was scheduled to return, President Garfield was assassinated and Vice President Arthur become President. Strangely, it was President Arthur, still acting as President of the Senate, who called the Senate to order for the October session. Fortunately, by October several Republicans had resigned, giving the Democrats the majority. They elected Thomas Bayard of Delaware President pro tempore. As part of another deal, David A. Davis was chosen as the presiding officer of the Senate. Davis maintained his independence. He reasoned that, since the Republicans controlled the presidency and the House of Representatives, they should continue to hold the chairmanships in the Senate, even though the Democrats still held a two-vote edge. He did, however, give Democrats control of substantial Senate patronage, along with the posts of Secretary of the Senate and Sergeant at Arms.

If matters were not complicated enough, when Grover Cleveland and Thomas Hendricks were elected president and vice president, respectively, in 1884, the Republicans managed a nine-vote majority in the Senate. Unfortunately for them, Hendricks, who presided over the special session of the Senate that ran from March 4 to April 2, 1885, remained in the Chair, refusing to allow the Republicans to elect a president pro-tempore. Hendricks died in November 1885, temporarily
leaving the nation without a vice-president and their senate without a president pro-tempore. The Senate finally resolved its leadership crisis when in the 48th Congress the Republicans were able to elect one of their own as president pro tempore, thus ending one of the more bizarre and chaotic moments in Senate history.

No one can foresee how the new Senate in the 107th Congress might resolve a 50-50 deadlock, but no resolution could be more bizarre than the Senate’s handling of its leadership and procedures in the early 1880s.

By:

Dr. G. Terry Madonna
Director, Center for Politics & Public Affairs
Chair and Professor of Government and Political Affairs
Millersville University

Dr. Michael Birkner
Chair and Professor of History
Gettysburg College