

Peter Friedmann's View from the Hill - January 2022

Hunting for Rats on Capitol Hill

Perhaps the most exciting thing happening in the Nation's Capitol this week is taking place on Capitol Hill—but it's not what you think. A Snowy Owl, a resident of Canada infrequently seen this far south, has taken up residence here in D.C. Birdwatchers are flocking to photograph it as it perches on Union Station, moving among monuments and neighborhoods on the Hill, and on the Capitol building itself. Why now? Ornithologists tell us this owl is drawn to our current really cold weather, and plentiful supply of a favorite prey: rats. As most cities, we have plenty of rats around here, leading to the question: why has our visitor chosen, of all places, to make itself at home on Capitol Hill?

Actually, there is more going on that bears watching this year, all of it in the shadow of the November "Midterms." Those elections will determine which party is in the Majority and controls the agenda, hearings, and nominations for the following two years. If Democrats retain their Majority in both House and Senate, they will be able to confirm the President's nominees for judgeships and advance the President's agenda (or at least continue to try). If Republicans take the Majority, then the President's agenda will come to a halt; if the Majority shifts in the Senate, no more of the President's nominees will be confirmed. On the other hand, if Democrats increase their numbers in the Senate, a sole Senator (for instance, Joe Manchin) will no longer be able to stymie their agenda. If the Republicans take the House Majority, the "January 6 Committee" will cease to function.

In recent years, following every Presidential election the opposite party gains seats in Congress. Republicans advanced under Clinton, Democrats under Bush, Republicans under Obama, Democrats under Trump. Naturally, the Biden White House is concerned. So far, 26 Democratic members of Congress have announced their retirement, while 12 Republicans have done so.

As we watch developments unfold in the run-up to the Midterms, keep in mind three things I love about Capitol Hill and politics:

- First, things change on a dime. What is obvious one day is often ridiculous the next. Eleven months (the time left until the November elections) is a lifetime in Washington.
- Second, the "common wisdom" (CW) is frequently proved wrong. In March 2016, the CW said "no way" Donald Trump would win the Republican nomination, much less be elected President ... until he was. In Spring 2020, CW said Joe Biden had no chance to win the Democratic nomination ... until he did. And CW says that Congress can't act quickly ... but that's not always true. While most major regulatory bills take years to pass, last year the House passed the complex

Ocean Shipping Reform Act of 2021 only four months after introduction.
Lightning fast!

- Third is the frequency of unintended consequences, facilitated by the shortsightedness of our elected representatives, the consequence of having to seek re-election every two, four, or six years. Today, their collective time horizon is just 11 months. In November they will learn whether the voters will let them keep their jobs.

With that as background, what are the hot legislative issues on Capitol Hill right now?

Build Back Better. Stymied by insufficient Democratic votes in the Senate to override Joe Manchin's opposition. There seems to be a subtle nervousness, among both Democrats and Republicans, about spending so much money in the face of dramatically accelerating inflation and then having to defend that to voters 11 months from now.

Voting Rights Act. Here Democrats and Republicans agree, both see this bill (H.R. 4) as key to Democrats' success at the polls in November. Democrats favor it, while Republicans oppose it and will use the tool of the filibuster to prevent a vote that the Majority Democratic party would win. Thus, the Senate's Democratic Leader proposes changing Senate Rules to eliminate the filibuster, so the bill can pass on majority vote.

Please note, the following has nothing to do with the merits of the Voting Rights Act legislation; frankly, I am not sufficiently knowledgeable about the bill's contents to have any position on it. My comments are solely about Senate procedure, the rule of unintended consequences, and the collective shortsightedness of Congress—which apply to so much that happens on Capitol Hill:

My favorite part of Washington politics—the rule of unintended consequences—comes into play here. This is an example of a Majority party seeking to eliminate the only tool available to the Minority party to prevent the Majority from enacting a particular law. But what happens if, at some future date, that Minority party becomes the new Majority party, as history has shown it surely will? The tables will be turned.

If Democrats eliminate the filibuster in order to pass the Voting Rights Act, then the filibuster will be unavailable in the future. Should Democrats seek to prevent Republicans (if and when they regain the Majority) from advancing some future Republican priority, the filibuster will be unavailable. They will be left muttering “seemed like a good idea at the time ...”

Despite these and other important issues on legislators' plates, a pressing question in D.C. remains: Will more people will be watching what goes on inside the Capitol building, or the visiting Snowy Owl on top of it?

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