

TESTIMONY ON “TAP DANCING ON THE RAZOR’S EDGE:
RESTORING STABILITY TO GOVERNMENT OPERATIONS”

SENATE COMMITTEE ON THE BUDGET

APRIL 20, 2016

NORMAN J. ORNSTEIN

Mr. Chairman and members of the Committee, it is both an honor and a privilege to testify before you today on the need to get our budget and appropriations processes, indeed the broader way we deal with fiscal policy, in order. I am particularly honored to appear alongside two scholars I admire deeply, Philip Joyce and Kevin Hassett.

I come to you as a scholar who has also worked inside the Senate on reform issues, and worked over many decades with senators of both parties on these issues. Indeed, forty years ago, I was the staff director for a committee that reorganized the Senate’s committees, one whose formal name still makes me cringe: The Senate Select Committee to Study the Senate Committee System. Among those I worked with closely were Adlai Stevenson, Gaylord Nelson, Barry Goldwater, Bill Brock and Pete Domenici.

In that effort, we succeeded in eliminating some committees and subcommittees, streamlining jurisdictions, reducing assignments and modernizing information systems. But, as is pretty evident looking around the Senate today, those changes, worthwhile though they were, did not transform the Senate into a focused and efficient body. That experience, along with other reform efforts in the years since, have left me with a healthy skepticism about the limits of structural reform in a body that is inherently political, and with a deeper realization that in many if not most cases, the norms of the body and its members—their willingness to follow the regular order, even while gritting their teeth, to put, at least occasionally, the long term needs of the polity ahead of short term political gains or points scored—trumps structural change.

Of course, there is no doubt that our processes are now profoundly dysfunctional. When it comes to manipulation of the debt ceiling, we are not just playing with fire—we are playing with nuclear weapons. The typical and costly uncertainty attached to spending bills has been replaced with deeply destructive swings that often make it impossible for federal executives to plan for the next day or week, much less for a single year or to develop reasonable five or ten year plans. The periodic threats of shutdown mean that almost every year, managers have to stop managing or planning the implementation of their programs to plan instead for a stoppage. No organization, public or private, would opt to function without some reasonable level of certainty and predictability in budgeting, much less with the regular threats of turning out the lights. But for years, now, agencies have had to cope not just with these uncertainties but with mindless across-the-board budget cuts that hurt most the efficient, lean and mean

programs and that hamper national security, homeland security and economic security, among other essential things. And frankly, if we add to those challenges the attacks on the integrity of federal workers, including the pay freezes and bans on attending conferences or doing continuing education, the threat to effective governance is multiplied.

I am less concerned with the erratic pattern of passing budget resolutions, which are often far more symbolic than real, and which have turned into hyper-partisan exercises that become even more embarrassing when the majority party can't even find a majority among their own members. I am aware that budget resolution deadline day was five days ago, with no resolutions in sight. But to get to a point now where a broad, bipartisan budget deal like the one recently enacted is held hostage in the House by a small ideologically driven faction is simply cringeworthy for one who wants to see a functioning legislative process making rational decisions about policy and priorities.

It is understandable that the Budget Committee wants to find ways to change things, to move from dysfunction to functionality, to enable a process where whatever one's views about the appropriate size of government and size of the federal budget, the government that we have functions well and serves the collective interests of the American people. But the members of the committee need to be aware about the limits of reform and the underlying nature of the problem even as you work towards change.

The limits of structural change on fiscal policy are made evident by a point Professor Joyce makes in his paper, "The Costs of Budget Uncertainty," a point I make regularly when talking about reform. Before the 1974 Budget and Impoundment Control Act, the fiscal year began July 1, leaving less than six months to enact spending bills for the coming year. The Budget Act added three months, moving the date to October 1, with reformers assuming that the extra time would make it much easier for Congress to complete the 13 appropriations bills on time. The opposite happened. Why? Because spending bills are at base core priority decisions, which are driven as much or more by politics and ideology as they are by objective or technical criteria. That means that strategic endgames often take precedence over artificial timetables. I should note here that this reality should make us a bit cautious about the impact of a very popular reform, moving to two-year appropriations. I would be perfectly happy to have many spending decisions taken off the roller coaster with longer-term appropriations, but also believe that it could and probably would lead to manipulation of assumptions and probably higher stakes end-game negotiations and brinksmanship.

In some ways, the starker reality of the limits of structural remedies emerges with the advent of the sequester. The process that framed the most significant budget negotiations in many years was designed specifically to force broad bipartisan agreement on long-term fiscal policy—by creating an automatic alternative if negotiations failed so stupid and destructive that it would simply be unacceptable to all parties. Those mindless, across-the-board cuts in defense that would over time absolutely cripple national security would push Republicans to compromise;

the mindless, across-the-board cuts in agencies like NIH and CDC would push Democrats to an agreement as well.

It was a powerful theory. But the failure to find that common ground—driven especially by the unwillingness to consider significant revenue increases as part of a package of budget cutbacks in both discretionary and entitlement programs-- showed that the theory was hijacked by the ideological and partisan reality of our time. Thus, I have to conclude that any reforms designed to make the outcome disastrous if Congress does not belly up to the bar and do the right thing—including eliminating continuing resolutions—would in the current dynamic lead to more disastrous outcomes.

So, what to do? There are, in fact, some reforms that would be highly beneficial to enact. The most important is on the debt ceiling. We all know that both parties have played politics with the debt ceiling for decades, with roles switching depending on the party of the president. But it is also clear that for most of the period since the debt ceiling was created in 1917, the games were basically fixed. All the party leaders, and most of the rank-and-file members of Congress knew that when push came to shove the votes would be there to insure that the full faith and credit of the United States was preserved and the debt ceiling would be lifted; I had many party leaders tell me that they had the votes in reserve from those who had scored political points back home by declaring their fiscal discipline and vowing not to increase the debt via an increase in the ceiling in case they actually needed them.

But in the Obama years, the game changed. I found it particularly disturbing when, in 2011, Senator McConnell said, “I think some of our members may have thought the default issue was a hostage you might take a chance at shooting,” he said. “Most of us didn’t think that. What we did learn is this — it’s a hostage that’s worth ransoming.” I was even more disturbed when CNN reported that Representative Jason Chaffetz, running to be Speaker of the House, noted in an interview that “Republicans should be prepared to see a debt default and a government shutdown in order to pursue their party's agenda.”

I understand political games. But this is potentially catastrophic for the country and indeed for the global economy. So I would urge you to institutionalize the so-called McConnell Rule, one the Majority Leader to his credit instituted in both 2011 and 2013 when he decided it was more beneficial to punt on the issue, to enable the president to increase the debt ceiling, with Congress having the power to pass a resolution blocking the action and the president able to veto the resolution. Our national debt is shaped by the actions taken by Congress on spending and taxing; those actions raise the debt, and an artificial ceiling, a practice shunned in almost all other mature economies, is deeply unwise and subject to very bad consequences.

On other reforms, including those proposed by Professor Joyce, I particularly commend the idea of ensuring that CRs include inflation adjustments; the failure to do so not only punishes programs the way sequesters do, but provide incentives for members who are less concerned

with the regular order and more concerned with slashing spending, no matter how mindlessly, to block appropriations and go for CRs.

I want to conclude with a broader plea. The big problem we have in our politics right now is not polarization. As the longstanding example of the odd couple partnership between Ted Kennedy and Orrin Hatch proved, you can make good public policy with partnerships from the poles. It is the breakdown in norms and in what we mavens of the legislative process call the regular order. The changes in the use of the filibuster over the past decade occurred while a version of Rule XXII that had been in effect since 1975, and worked well for more than 30 years, began to be distorted for purposes for which the rule had not been intended. The breakdown in the budget process, including budget resolutions, enhanced brinksmanship, government shutdowns, failures to meet deadlines, the decline of broadly bipartisan appropriations bills, and the use of the debt ceiling as a hostage, was more because longstanding norms of behavior deteriorated than because the process was faulty.

Indeed, you now have a near perfect chance to show how a change in norms to focus on the regular order will dramatically improve things. We have a two-year budget deal set with broad bipartisan approval, one that creates workable caps around which to build a dozen appropriations bills, with the time to complete them before October 1. There are no structural impediments in either the House or Senate. Of course, we know the House is a bigger challenge, but the votes are there for majorities for the spending bills—although they cannot likely be done with one party alone. The Senate, however, should be able to pass these bills by broad majorities with ample time for conferences, to show the House an example of how Congress can make the process work when the will is there.

So feel free to consider and make salutary structural changes. But please, at the same time, look inward and change behavior.