

Moderation and Coherence in American Democracy

Michael W. McConnell*

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INTRODUCTION

If Professor Pildes is correct, American democracy is in long-term, serious trouble. Our political system “over the last generation has had one defining attribute: the rise of extreme partisan polarization.”¹ This “hyperpartisanship”² is not just caused by “divisive political elites and leaders,”³ but is a reflection of the “poisonous party polarization”⁴ of the electorate itself, the American people. Moreover, if Professor Pildes is correct, not much can be done to ameliorate the situation. His most hopeful suggestion is to move toward more open primaries—a move opposed by the leadership of both the Republican and

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* Richard & Frances Mallery Professor of Law and Director of the Constitutional Law Center, Stanford Law School; Senior Fellow, Hoover Institution; formerly Circuit Judge, U.S. Court of Appeals for the Tenth Circuit.

1. Richard H. Pildes, *Why the Center Does Not Hold: The Causes of Hyperpolarized Democracy in America*, 99 CALIF. L. REV. 273, 275 (2011).

2. *Id.* at 286.

3. *Id.* at 281.

4. *Id.* at 282.

Democratic Parties.⁵ But the empirical data supporting even this, he admits, “is actually more mixed and equivocal” than most voters and candidates believe.⁶ Other commonly suggested reforms, such as controlling gerrymandering or reducing the power of the party leadership in Congress, is either nearly impossible or unlikely to be of much help. So, what do we have to look forward to? Either political paralysis and stalemate⁷ or greater domination of government by the executive branch, with a breakdown of checks and balances.⁸

I am not so alarmed by our democratic situation. I do not think the American people are as partisan as Professor Pildes claims, and I wonder whether all that he decries as “polarization” is even such a bad thing.

Professor Pildes’s argument can be broken down into three propositions:

1. American political parties have become far more ideologically polarized than they were in the past.⁹
2. Members of Congress are less willing to compromise and work together across party lines than they were in the past.¹⁰
3. These changes reflect an electorate that is more partisan than it used to be; politically engaged Americans are divided into two hostile camps, without much of a center.¹¹

There is some truth in each of these propositions, but I suggest that Professor Pildes overstates each of these problems, either normatively or descriptively. Of course, excessive partisanship is a curse of democratic government; that has long been understood. But our recent travails are attributable more to poor governance by both parties than to a deep-seated ungovernability of the American people. In contrast to Professor Pildes’s picture of a hyperpartisan American electorate, I think the voters, in recent years, have demonstrated a *lack of attachment* to political parties. Over the last few election cycles, American voters have manifested a healthy skepticism toward the political leadership of both parties and impatience with politicians (of either party) who increase their own power while making the lives of ordinary people less prosperous, less secure, and less free.

5. See Jack Dolan, *Democratic, Republican Leaders Warily Watch Prop. 14 Election*, L.A. TIMES, May 24, 2010, at A1.

6. Pildes, *supra* note 1, at 300.

7. *Id.* at 326.

8. See *id.* at 327.

9. *Id.* at 275.

10. *Id.* at 284.

11. *Id.* at 277–78.

I.

THE DEVELOPMENT OF IDEOLOGICALLY COHERENT PARTIES

I agree with Professor Pildes that the two great political parties of the United States have undergone a dramatic transformation during the past generation.¹² But, unlike Professor Pildes, I believe that this transformation has only efficiently reorganized partisan voices—not made them more partisan.

Since 1960, the two parties have evolved from miscellaneous coalitions of regional interests spanning the ideological spectrum into two unified and ideologically coherent political parties, on the European model. For much of the twentieth century, as Professor Pildes explains, the Democratic Party comprised two distinct and ideologically incompatible elements: a white, conservative, largely racist Southern Democratic Party, and a mixed-race, more progressive Northern Democratic Party.¹³ Republicans were also divided, although less so, into conservative and liberal wings. Legislation during this period was typically enacted by coalitions that cut across the two great political parties.¹⁴ Opposition, too, was often bipartisan. However, spurred by enactment of the Voting Rights Act, among other causes, the parties began to realign themselves in the 1960s, a process largely completed by the 1980s. As Professor Pildes explains, “[v]oters have sorted themselves out so that their party affiliation and their ideology are far more aligned now than thirty years ago.”¹⁵ This process produced two “unified and coherent”¹⁶ political parties, in which “the most conservative Democrat is now more liberal than the most liberal Republican.”¹⁷

The increasing ideological coherence of the political parties accounts for a great deal of the polarization that Professor Pildes identifies. It helps to explain why significant legislation in recent years is typically adopted on nearly a party-line vote. The health care reform legislation signed into law by President Obama in March 2010 is just one recent example. Strict party-line voting is not just bloody-minded polarization; it often represents genuine disagreement about the merits of legislation. Ideological coherence within each party also helps to explain the decline in split-ticket voting. This was more common when some

12. *Id.* at 297.

13. *Id.* at 289–90.

14. The Civil Rights Act of 1964 was enacted with the support of 80 percent of Republican and 61 percent of Democratic members of the House, and of 82 percent of Republican Senators and 69 percent of Democratic Senators. CongressLink, *Major Features of the Civil Rights Act of 1964*, THE DIRKSEN CONGRESSIONAL CENTER, http://www.congresslink.org/print_basics_histmats_civilrights64text.htm (last visited Feb. 7, 2011). The Gulf of Tonkin Resolution, which authorized the Vietnam War, prevailed by a vote of 33–0 among Republican Senators and 55–2 among Democratic Senators. 110 CONG. REC. 18470–71 (daily ed., Aug. 7, 1964). The Elementary and Secondary Education Act of 1965 won 18–14 among Republican Senators and 55–4 among Democratic Senators. 111 CONG. REC. 7718 (daily ed. Apr. 9, 1965).

15. Pildes, *supra* note 1, at 278.

16. *Id.* at 277.

17. *Id.*

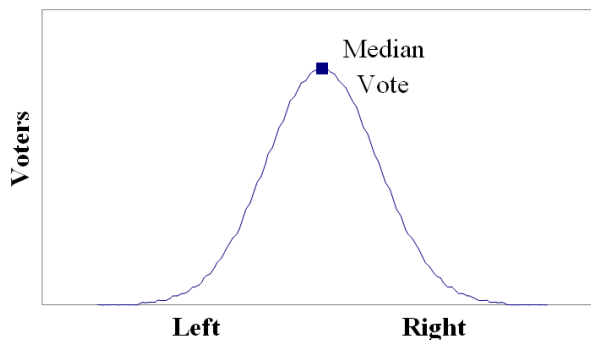
candidates of a party were ideologically closer to the other; for example when conservative Southerners voted for Democratic candidates for local office and Republican candidates for national office. This coherence helps to explain why there is a widening gap in the approval ratings of Presidents between members of their own party and members of the opposing party. Unlike the old days, when conservative Southern Democrats found much to like in leaders of the other party, and liberal Northeastern Rockefeller Republicans felt the same about many Democratic leaders, party affiliation today is more closely correlated to ideology and hence to approval or disapproval of the President.

II.

WHY IDEOLOGICALLY COHERENT PARTIES MODERATE POLITICS

The reshuffling of political parties that occurred in the past generation tells us nothing about whether the American electorate has become less “moderate,”¹⁸ more “polarized,”¹⁹ or more divided. Ideologically coherent political parties do not necessarily lead to more extreme politics; indeed, political parties can be a moderating influence. Consider the following hypothetical distributions of the electorate along a one-dimensional ideological spectrum.²⁰

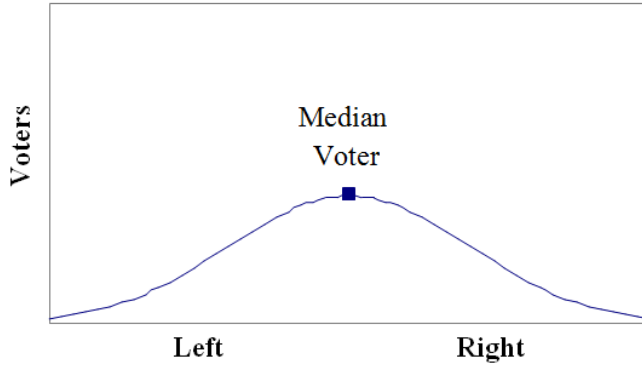
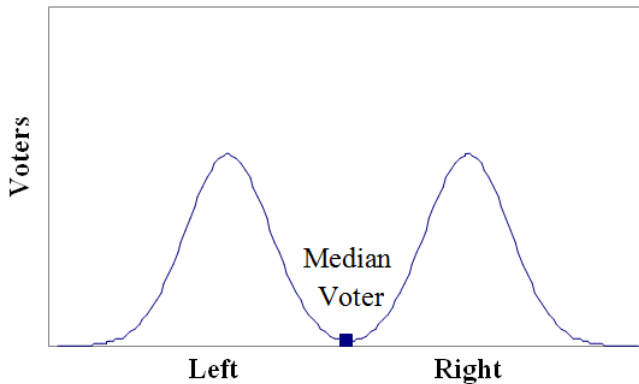
Figure 1: Normal Distribution



18. *Id.* at 300.

19. *Id.* at 279.

20. In reality, ideology is not one-dimensional. For example, consistent libertarians will agree with conservatives on some issues and liberals on others. Catholic social thought similarly cuts across the usual left-right ideological division. But in a two-party system, these complications tend to be obscured.

Figure 2: Flattened Distribution**Figure 3: Polarized Distribution**

In Figure 1 we see an electorate with a normal distribution: moderates are the most numerous, with strong liberals and conservatives approaching the tails of the distribution. Figure 2 also hypothesizes a normal distribution, but much flatter, with moderates less numerous and voters more evenly spread across the spectrum. Figure 3 shows an electorate that is more polarized, in line with Professor Pildes’s view of the current electorate in the United States.²¹ In each figure, I have marked the median voter. My point here is that partisan sorting into ideologically coherent parties is consistent with all these possible distributions, and it is not evident that the population is becoming “hyperpolarized” or extreme.

Whatever the shapes of these curves, political parties have a natural incentive to put forth candidates closer to the median voter than the members of

21. See Pildes, *supra* note 1, at 276–81.

the party might otherwise wish. This is because the best strategy for electoral victory is some combination of maximizing turnout of the party base (which may entail taking more extreme positions) and appealing to the middle (which entails moderation). The latter strategy, moving to the middle in the general election to attract moderate voters, is sometimes called the “Hotelling” effect, after the scholar who first propounded the theory some ninety years ago.²²

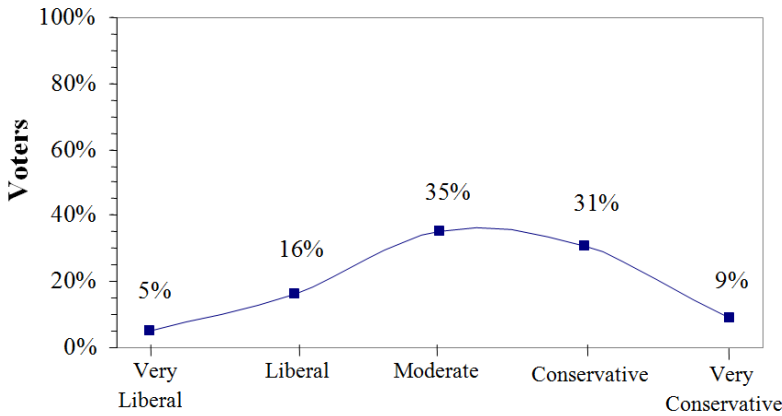
However, there are some limitations on a party’s ability to appeal to the middle. Most importantly, party primaries have a counter tendency: to select candidates closer to the median voter within the party rather than to the median voter in the electorate as a whole. And even apart from primaries, the degree of the moderating effect will depend on the ideological composition of the party compared with that of the electorate. If the electorate has many voters in the middle, as in Figure 1, the effect will be strong. If the distribution is flat, as in Figure 2, the effect will be much weaker. If the distribution is two-humped, as in Figure 3, the Hotelling effect is likely to be overborne by a strategy of energizing the base. But whatever the degree of the effect, to the extent that voters are loyal to the political party rather than to their ideology or interest group, politics is likely to be more moderate than otherwise. Party loyalists will prioritize attracting moderate voters over electing the most ideologically pure candidate. It is the MoveOn and tea parties that insist on ideological purity, not the Democratic or Republican Party organizations.

The important thing to realize, however, is that the actual ideological composition of the American electorate is not at all skewed to the extremes. Essentially, the United States is a center-right country, with a decided lack of extremes. As shown in Figure 4, the American electorate clumps toward the middle, with more conservatives than progressives, but with moderate conservatives predominating.²³

A great deal of the unpopularity of government in recent years is likely a result not of “hyperpartisanship” but of the discordance between a left-liberal political elite and a center-right nation.

22. See generally Harold Hotelling, *Stability in Competition*, 39 *ECON. J.* 41 (1929) (describing in economic terms how competing interests often strive for a common market); ANTHONY DOWNS, *AN ECONOMIC THEORY OF DEMOCRACY* (1957) (applying the Hotelling analysis to elections).

23. Lydia Saad, “*Conservatives*” Are Single-Largest Ideological Group, GALLUP, (June 15, 2009), <http://www.gallup.com/poll/120857/conservatives-single-largest-ideological-group.aspx>.

Figure 4: Actual Distribution

III.

THE BENEFITS OF IDEOLOGICALLY COHERENT PARTIES

While Professor Pildes labels the two modern parties as examples of “hyperpolarization,” their internal unity has a largely positive effect on voters. Ideologically coherent political parties improve the representativeness of electoral politics by helping voters to predict how candidates for office will vote if elected. To be sure, ideological labels are crude and one-dimensional, but they provide more accurate signals for the rationally ignorant voter than the old party labels, under which a “Democrat” might be far more conservative than his “Republican” opponent, and support for the local party might translate into support for a national party that is ideologically dissimilar. Ideologically coherent party identification can be seen as a form of “truth in labeling”: the voter knows what he or she is getting. Voters then have a clearer choice between directions for the country, which enables them to force a shift in policy.

Ideologically coherent political parties also strengthen the expressive function of democratic politics. Regardless of their outcome, democratic elections tend to foster social harmony because citizens feel that their ideas have been given consideration, even if they do not prevail. Political systems in which the two choices are interchangeable or indistinguishable tend to produce alienation and apathy. Remember George Wallace’s angry comment that “there is not a dime’s worth of difference” between the Republicans and the Democrats.²⁴

24. Richard Pearson, *Former Alabama Governor George C. Wallace Dies*, WASH. POST, Sept. 14, 1998, at A1.

IV.

IS THE DECLINE IN CROSS-PARTY COOPERATION IN CONGRESS A BOON?

Professor Pildes is also correct that there is less bipartisan cooperation in Congress than in earlier eras, and I agree this is mostly lamentable. It seems probable that, on most matters, legislation would be improved by deliberation and compromise; certainly the American people would be more likely to regard such legislation as public-spirited rather than as the product of partisan muscle. The recent decision to ram through a massive restructuring of the health care system on a party-line vote, without opportunity for amendment, surely contributed both to the incoherence of the legislation and to the unpopularity of the result. That would not have happened if one party did not so dominate the Congress.

But Professor Pildes may overvalue this bipartisan cooperation as such. Within a reasonable range of policy (and America's two parties generally remain comfortably within that range), coherence and consistency may be more valuable than cooperation—and may be easier to achieve when the party holding a majority is able to govern without needing much support from the other side. Compromise and splitting the difference do not necessarily lead to better policy. It is often better for one party or the other to govern and to be responsible for the consequences. If the people are unhappy with the policy, they can change it by electing new leaders.

On its face, bipartisan collaboration seems like an intrinsically valuable legislative process. For example, the Civil Rights Act of 1964 was probably the most important transformative legislation in our lifetimes, and it was the product of genuine collaboration between such figures as Republican Minority Leader Everett Dirksen and Democratic Majority Whip Hubert Humphrey. A majority of both parties voted in favor, over a determined resistance, which also was bipartisan.²⁵ Today, a bill is called “bipartisan” if it attracts even a few votes from the other side.²⁶ Much recent legislation, including the health care legislation and the stimulus package, has been enacted on an essentially party-line vote.

Oftentimes, when there are clear but divergent choices of policy, the middle ground is a recipe for bad policy or for special interest deals. Consider two recent examples of compromise that arguably led to bad policy: health care and Afghanistan. There is a serious intellectual argument (even if I do not agree with it) for a single-payer health care system, and there is a serious intellectual argument for health care reforms based on individual choice and market forces.

25. See sources cited *supra* note 14.

26. The so-called “Bipartisan Campaign Reform Act,” for example, was overwhelmingly supported by one party (236–14) and overwhelmingly opposed by the other (214–53). Kathy Gill, *McCain-Feingold Campaign Finance Reform*, ABOUT.COM, http://uspolitics.about.com/od/finance/a/mccain_feingold.htm (last visited Feb. 6, 2011).

But the policy recently enacted—increasing coverage for thirty million Americans through the mandatory purchase of insurance from private insurance companies subject to new costly mandates with no market discipline—had the virtues of neither, and is a recipe for increased costs and spending. Similarly, there is a serious argument for doing what is necessary to win the war against the Taliban in Afghanistan, and there is a serious argument for cutting our losses and getting out. But what was the rationale for intensifying the conflict, with fewer troops than the commanders said they needed and a preannounced deadline for withdrawal? Again, this compromise fails either to bring our troops home quickly or to secure victory, and the middle ground increases the risks of a costly failure.

Moreover, all too often, bipartisan legislative cooperation takes the form of quasi-corrupt mutual support for special deals. “I’ll support your earmark if you support mine.” “I’ll vote for the bill if you throw in an unjustified special preference for interest groups in my state.” “I’ll support reform if you carve out the industry that contributes to my political campaign.” This kind of deal-making rarely advances the public interest.

It is important to distinguish between two types of partisanship. One type is manifested in an obstinate opposition to measures proposed by the other side, simply because they are proposed by the other side. In the extreme, partisans sometimes exult in the bad consequences for the nation, provided they will be blamed on the other side. (Think of the perverse joy some anti-Bush Democrats seemed to take in setbacks in the war in Iraq, or the delight some Republicans took in the unfolding national embarrassment of the Lewinsky affair.) A second type of partisanship is a good faith disagreement over what measures will promote the public good. That is what parties are for in a democracy. There was no reason to expect liberals to support George Bush’s tax policy, which they regarded as unfair and counterproductive, and there is no reason to expect conservatives to acquiesce in Barack Obama’s expansion of federal spending. No dishonor is found in opposing measures a representative and his constituents believe will harm the country. I would be more concerned about rising levels of partisanship in Congress if I thought much of it were of the first type, but I see no evidence of that.

That being said, it is too soon to say that bipartisan cooperation is over. President Clinton’s most important legislative accomplishments—passage of welfare reform, ratification of the NAFTA, and balancing the budget through control of spending increases—all received more support from the opposing party than from his own.²⁷ President Bush’s early signature domestic

27. See *House Vote on Conference Report: H.R. 3734 [104th]*, GOVTRACK, <http://www.govtrack.us/congress/vote.xpd?vote=h1996-383> (last visited Mar. 22, 2011) (welfare reform); *Senate Vote on Conference Report: H.R. 3734 [104th]*, GOVTRACK, <http://www.govtrack.us/congress/vote.xpd?vote=s1996-262> (last visited Mar. 22, 2011) (welfare reform); *U.S. Congress Roll Call Votes 103rd Congress – 1st Session on Passage of the Bill H.R.*

achievement, No Child Left Behind, was a genuinely bipartisan effort,²⁸ his tax cuts received some Democratic support,²⁹ and the Authorization for Use of Military Force won the votes of most of the Democratic leadership.³⁰ It is hard to identify significant legislation that lost because of partisan opposition. (I do not count President Bush's ill-fated effort to reform Social Security, which lost—I think—because the idea was too complicated and half-baked rather than because of Democratic opposition.) There has been almost no bipartisan cooperation under President Obama, but surely that is because his party commanded a huge majority in the House and an almost filibuster-proof majority in the Senate, making it unnecessary for the majority to seek support on the other side of the aisle. It will be interesting to see what happens in the current Congress, when bipartisanship will be required for legislation.

V.

ARE AMERICAN VOTERS BECOMING MORE RIGIDLY PARTISAN?

Professor Pildes blames the “poisonous, unproductive divisions”³¹ that plague American political life not on politicians but on the political polarization of the American electorate, and particularly of those who vote, contribute, and work on campaigns. Pildes remarks that “[v]oters now have come to have relatively consistent, fixed ideological preferences . . . and they now choose between political parties (and their candidates) who have relatively clear, distinct, and sharply differentiated policy orientations.”³² He contends that voters have “become more loyal. They are more consistently supportive of their party’s candidates in elections—in other words, less split-ticket voting; more likely to express the same position as their party on issues; and more likely to evaluate their party and candidates highly. . . .”³³ The net result, according to

3450, UNITED STATES SENATE, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=103&session=1&vote=00395 (last visited Mar. 22, 2011) (NAFTA).

28. See *House Vote on Passage: H.R. 1 [107th]*, GOVTRACK, <http://www.govtrack.us/congress/vote.xpd?vote=h2001-145> (last visited Mar. 22, 2011) (No Child Left Behind); *U.S. Senate Roll Call Votes 107th Congress – 1st Session on Passage of Bill H.R. 1*, UNITED STATES SENATE, http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=1&vote=00192 (last visited Mar. 22, 2011) (No Child Left Behind).

29. See *H.R. 1836: Economic Growth and Tax Relief Reconciliation Act*, GOVTRACK, <http://www.govtrack.us/congress/bill.xpd?bill=h107-1836> (last visited Mar. 22, 2011) (initial Bush tax cuts); *Senate Vote on Passage: H.R. 1836 [107th]*, GOVTRACK, <http://www.govtrack.us/congress/vote.xpd?vote=s2001-165> (last visited Mar. 22, 2011) (initial Bush tax cuts).

30. See *House Vote on Passage: H.J. Res. 114 [107th]*, GOVTRACK, <http://www.govtrack.us/congress/vote.xpd?vote=h2002-455> (last visited Mar. 22, 2011) (Authorization for Use of Military Force Against Iraq Resolution of 2002); *Senate Vote on Passage: H.J. Res. 114 [107th]*, GOVTRACK, <http://www.govtrack.us/congress/vote.xpd?vote=s2002-237> (last visited Mar. 22, 2011) (Authorization for Use of Military Force Against Iraq Resolution of 2002).

31. Pildes, *supra* note 1, at 281.

32. *Id.* at 287.

33. *Id.* at 293.

Pildes, is that the “center” has disappeared, at least among politically engaged Americans.³⁴ There are “few swing or independent voters genuinely not committed to either party.”³⁵ As a result, even centrist-minded politicians like George W. Bush and Barack Obama (as Pildes sees them) are forced to follow a strategy of appealing to their base rather than trying to attract the (increasingly nonexistent) middle. There are “too few persuadable voters out there.”³⁶

I do not think the voting trends of Americans in the last thirty years support Professor Pildes’s thesis. On the contrary, the rising number of independent voters, the recent disloyalty of center-right voters toward the Republican Party, and the impending dissent from progressive voters facing the Democratic Party show that American voters are as mercurial as ever.

A. A Tidal Wave of Independents

Contrary to Professor Pildes’s nightmare of two radically partisan camps, one of the most significant facts about the current American political landscape is the large number of voters who are unaffiliated with either political party: 40 percent of likely voters, according to some polls.³⁷ According to Rasmussen Reports, since 2003, unaffiliated voters have accounted for a quarter to a third of the electorate.³⁸ That is not a small number. Nor are these “unaffiliated” voters really Republicans or Democrats in disguise. Rather, they shift allegiance rapidly. They voted for Bush in 2004 and for Obama in 2008. As one journalist describes the independents of today: “They are highly disdainful of both parties. They kind of hate everybody in positions of power, including government and big corporations.”³⁹

Independents are an especially volatile element in American politics, but they are not always, or merely, malcontents. Independent voters tend to support newly elected presidents and then revise their views in response to performance. For example, independents became disillusioned with both Reagan and Clinton early in their terms, but came back—such that by the end of their terms, independents approved of both Presidents even more highly than at the beginning.⁴⁰ By contrast, Presidents Carter and George W. Bush (after his post-9/11 spike) steadily lost ground among independents, ending with

34. *Id.* at 274.

35. *Id.* at 283.

36. *Id.*

37. Howard Fineman, *Obama’s Indie Crash: Male Independents Could Doom the Dems*, NEWSWEEK, July 26, 2010, available at <http://www.newsweek.com/2010/07/16/obama-s-indie-crash.html>.

38. *Mood of America*, RASMUSSEN REPORTS, http://www.rasmussenreports.com/public_content/politics/mood_of_america (last visited Feb. 6, 2011).

39. Fineman, *supra* note 37.

40. *Presidential Job Approval Center*, GALLUP, <http://www.gallup.com/poll/124922/presidential-approval-center.aspx> (last visited Feb. 6, 2011).

approval ratings in the low 20s.⁴¹ At the beginning of his term, 62 percent of independents approved of President Obama.⁴² As I write this essay two years into his presidency, that has gone down to 39 percent⁴³ or even lower.⁴⁴

B. Center-Right Voters' Recent Move Away from the Republican Party

Moreover, and again contrary to Professor Pildes's account, Republican voters are not very happy with Republican officeholders. A Rasmussen Reports poll taken shortly after the midterm election found that only 19 percent of likely Republican primary voters believe Republicans in Congress have done a good job of representing their views.⁴⁵ By the end of George W. Bush's term, he barely had the approval of a majority of his own party. Establishment Republicans receive as much scorn as Democrats at Tea Party rallies, maybe more. There is little party loyalty on the right side of the political spectrum. When given the option, Republican-leaning voters tell pollsters they are "undecided," "none of the above," or "Tea Party."⁴⁶

This disloyalty suggests that center-right voters focus on issues, not on party. For many center-right voters, the period of Republican political dominance, when the party controlled the White House and both Houses of Congress, was deeply disillusioning. They thought that Republicans would bring spending under control, but instead they saw it rise. They thought the Republicans would reform Washington, but instead they saw their representatives cozying up to lobbyists and special interests. Many center-right voters now think that Republicans are just as much a part of the Washington insider problem as Democrats.

The center-right portion of the electorate, then, does not meet Professor Pildes's description as "consistently supportive of their party's candidates"⁴⁷ and "likely to evaluate their party and candidates highly."⁴⁸ They are only loosely attached to the Republican Party. Many were willing to be courted by Democrats, such as Barack Obama, or independents, such as Ross Perot, who appeared to offer hope for reform. They are equally quick to disapprove when the promised change turns in the wrong direction.

41. *Id.*

42. *Id.*

43. *Id.*

44. Fineman, *supra* note 37, at 2 (putting the rating at 35 percent).

45. *Most GOP Voters Critical of Republicans in Congress, Like Tea Party*, RASMUSSEN REPORTS, http://www.rasmussenreports.com/public_content/politics/general_politics/november_2010/most_gop_voters_critical_of_republicans_in_congress_like_tea_party (last visited Mar. 22, 2011).

46. *Id.*

47. Pildes, *supra* note 1, at 293.

48. *Id.*

C. Progressive Voters: Only Temporarily Loyal?

At first glance, the progressive side of the political spectrum still seems to meet Professor Pildes's description of loyal partisans, happy with their officeholders, at least for now. But closer inspection reveals that progressive voters are not pleased. Although President Obama's approval remains a sky-high 81 percent among Democrats, a fall of only 10 percent from its peak, there are increasing grumblings from far left: Afghanistan, national security, the abandonment of a public option in the health care bill, banker bailouts, insufficiently radical Supreme Court nominees, perpetuation of Bush-era tax rates, too much talk about the deficit, and the bad economy. It is not impossible that President Obama will do to Democratic Party loyalty what George W. Bush did to Republican Party loyalty. In times of perceived crisis, Americans tend to turn to candidates, such as Presidents Obama and Reagan, who both promised a sharp departure from past policies and presented bold, non-centrist, programs for change. In between, however, American voters invariably revert to a centrist normalcy.

Prior to President Obama, the most recent American President elected to office on a bold mandate for change was Ronald Reagan. Reagan took office at a time of economic crisis and foreign policy weakness. In 1980, the inflation rate was 13.5 percent,⁴⁹ the unemployment rate was 7.1 percent,⁵⁰ and the GDP was shrinking.⁵¹ Iran was holding Americans hostage, seemingly with impunity, and the Soviet Union was on the march. Reagan campaigned on a non-centrist platform of tax cuts and regulatory reform for economic recovery, tight monetary policy to control inflation, fiscal discipline, and an assertive military and foreign policy.⁵² Many mainstream pundits called him extreme.⁵³

By May of 1988, inflation was below 3.9 percent,⁵⁴ unemployment was down to 5.5 percent,⁵⁵ and GDP growth was up to 4.1 percent.⁵⁶ Iran had

49. *Historical Inflation Rates: 1914–2010, Annual and Monthly Table*, U.S. INFLATION CALCULATOR, <http://www.usinflationcalculator.com/inflation/historical-inflation-rates/> (last visited Feb. 6, 2011).

50. U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey, BUREAU OF LABOR STATISTICS, http://www.bls.gov/cps/prev_ysr.htm (last modified Feb. 3, 2011).

51. *GDP-Real (Adjusted) United States*, DATA 360, http://www.data360.org/dataset.aspx?Data_Set_Id=354 (last visited Feb. 6, 2011).

52. Jeffery Lord, *The Original Mr. Anti-Establishment: Ronald Reagan*, AM. SPECTATOR (June 15, 2010, 6:08 AM), <http://spectator.org/archives/2010/06/15/the-original-mr-anti-establishment/>; Presidential Campaigns – Ronald Reagan, PROFILES OF U.S. PRESIDENTS, <http://www.presidentprofiles.com/Kennedy-Bush/Ronald-Reagan-Presidential-campaigns.html> (last visited Feb. 6, 2011); Ronald Reagan for President 1980 Campaign Brochure, 4PRESIDENT.ORG, <http://www.4president.org/brochures/reagan1980brochure2.htm> (last visited Feb. 6, 2011); Ronald Reagan . . . The Primaries, *The 1980 Primaries*, <http://www.ronaldreagan.com/primaries.html>.

53. *Id.*

54. *Historical Inflation Rates*, *supra* note 49.

55. U.S. Bureau of Labor Statistics, *supra* note 50.

released the hostages, and the Soviet Union was on the verge of collapse, something few observers other than Reagan himself had even dared to hope. At the end of his term, President Reagan had an approval rate of 63 percent among all adults and 58 percent among independents.⁵⁷ For the first and only time since World War II, the President was succeeded by an elected President of his own party.

With the economy back on track and the principal foreign policy conflict resolved, Americans turned to a series of more centrist, less ambitious presidents. President George H.W. Bush fought a successful war to an unsatisfying and inconclusive resolution; he also raised taxes without much benefit to the deficit, sparking a mild recession. At the end of four years, the Democrats nominated as his opponent a moderate governor from a southern state. After the tumultuous Reagan years, both parties had evidently returned to the middle.

Like Bush, President Bill Clinton's legacy was one of centrist policies. During his first two years in office, Clinton raised taxes and spending and strove unsuccessfully for a complicated comprehensive health care proposal, which was defeated in Congress. This made him look like a conventional liberal. The Democrats then took a drubbing in the first mid-term elections, and for the first time since Grover Cleveland, a Democratic President faced a Congress controlled by the other party. Clinton responded by tacking to the middle, declaring in a famous speech that "the era of big government is over."⁵⁸ His principal legislative accomplishments were achieved with bipartisan support: ratification of the NAFTA, passage of welfare reform, and restraint of spending growth, resulting in the first period of sustained budget surpluses in almost half a century.⁵⁹ The Democratic Party adopted a strategy of wooing support from big business and wealthy donors. During most of the Clinton presidency, the economy flourished and the stock market soared.

President Clinton was reelected against a Republican candidate who was both a centrist and an insider: Senate Majority Leader Robert Dole. Clinton's second term was marred by scandal, to which the Republicans responded by a unipartisan attempted impeachment. The Clinton presidency thus was substantively moderate, legislatively bipartisan, and politically divisive. Despite the acrimony (and maybe because of it, which voters blamed on the Republicans), and despite the bursting of the dot-com bubble, which sent the

56. Jonathan Langsdorf, *GDP Fluctuations During the Reagan Years*, MONEY (Nov. 30, 2010), http://www.ehow.com/about_7579731_gdp-fluctuations-during-reagan-years.html.

57. *Presidential Job Approval Center*, *supra* note 40. This was the highest approval rating for a departing president since Franklin Delano Roosevelt. THE NEW YORK TIMES ALMANAC 2002, at 98 (John W. Wright, ed., 2001).

58. President William J. Clinton, State of the Union Address (Jan. 23, 1996).

59. *A History of Surpluses and Deficits in the United States*, DAVEMANUEL.COM, <http://www.davemanuel.com/history-of-deficits-and-surpluses-in-the-united-states.php> (last visited Mar. 27, 2011).

economy into a recession at the conclusion of his second term, Clinton ended his presidency with an approval rating rivaling Reagan's.⁶⁰ He came within a hair of being succeeded, like Reagan, by a president of his own party.

As Professor Pildes reminds us, President George W. Bush ran as a centrist (a "compassionate conservative"),⁶¹ and tried at first to govern on a bipartisan basis. Yet, during Bush's presidency, partisan polarization was at perhaps an all-time peak, largely because of the unfortunate circumstances of his election in 2000, which cast a pall of illegitimacy on his election. Bush's initially anemic approval rating soared after the attacks of 9/11, and his attention turned primarily to war and national security.

It is probably too soon to evaluate Bush's presidency objectively. Suffice it to say that after winning reelection in 2004 with an increased Republican majority in both Houses in Congress, Bush's popularity declined precipitously. His approval among Democrats dropped to 6 percent, which is extraordinarily low.⁶² Even more striking was the declining support received from his own party. A month before the 2008 election, only slightly more than half of Republicans approved of his performance in office.⁶³ The Republican Party nominated Bush's rival and frequent critic, Senator John McCain, for President, and the American people overwhelmingly elected a young senator from Illinois, Barack Obama, whose campaign was short on specifics but clear on one point: he would bring hope and change from the policies of President Bush.

Now, two years into Obama's presidency, we may begin to draw some comparisons. As in 1980, the nation was facing economic crisis and severe challenges to national security. During his candidacy, Obama campaigned as a post-racial, post-partisan, calm, eloquent, intelligent figure, with considerable appeal even to voters who pulled the lever for his opponent. He began his presidency with an extraordinary reservoir of national good will: after a week in office, his overall approval rating was 68 percent. Independents approved at a level of 62 percent; even Republicans approved at a level of 38 percent.⁶⁴ With a 235-seat majority in the House and a filibuster-proof sixty seats in the Senate,⁶⁵ he had no need of support from congressional Republicans, and on key legislation they were not consulted.⁶⁶ With virtually no Republican support,

60. *Presidential Job Approval Center*, *supra* note 40.

61. See Alison Mitchell, *Bush Draws Campaign Theme From More Than 'the Heart'*, N.Y. TIMES, June 11, 2000, <http://www.nytimes.com/2000/06/12/us/bush-draws-campaign-theme-from-more-than-the-heart.html>.

62. Reuters/Zogby Index: Mood of Americans Turns Dour, ZOGBY INTERNATIONAL (May 21, 2008), <http://www.zogby.com/news/ReadNews.cfm?ID=1510>.

63. Frank Newport, *Bush Job Approval at 25%, His Lowest Yet*, GALLUP (Oct. 6, 2008), <http://www.gallup.com/poll/110980/bush-job-approval-25-lowest-yet.aspx>.

64. *Presidential Job Approval Center*, *supra* note 40.

65. The Democrats' sixty-seat majority lasted only between the seating of Minnesota Senator Al Franken and the election in January 2010 of Republican Scott Brown to the seat previously held by Democratic Senator Ted Kennedy in Massachusetts.

66. Republicans complained that they were not consulted on the stimulus package in 2009.

the Democratic majority passed major spending bills, a dramatic transformation of the health care financing system, and a major increase in regulatory authority over the financial sector. However, despite these legislative achievements, President Obama's approval rating declined to 47 percent,⁶⁷ and lower in some polls.⁶⁸

CONCLUSION

I do not think this history bears out Professor Pildes's warnings of partisan rigidity, or of a disappearing center in American politics. The American electorate is largely centrist, or center-right. Most presidential candidates run on a moderate platform. Roughly every eight years, the American people put a different political party into power. At the beginning, at least, these presidents enjoy broad support from their own party and from independents, and often at least grudging support from the opposing party. If their policies are seen as improving the lives of the people, they gain support. If not, the independent voters are quick to shift to the other side, perhaps even to a divided government. At times of crisis, the people turn to candidates, like Reagan or Obama, who promise more dramatic change, and they tend to give these presidents the congressional support necessary to enable them to govern. Then, they judge them by results. This seems to me not evidence of hyperpartisanship, but of democracy working as it ought. All is not perfect; partisanship is sometimes extreme or destructive, but I do not think we are in the long-term, serious trouble that Professor Pildes suggests.

Patrick O'Connor & Jonathan Martin, *Boehner to GOP: Vote Against Stimulus*, POLITICO (Jan. 27, 2009, 10:08 AM), <http://www.politico.com/news/stories/0109/18024.html>.

67. *Presidential Job Approval Center*, *supra* note 40.

68. Andrew Malcolm, *Lowest ever: Obama Job Approval Sinks to 39%, As Even Democrats' Support Melts Away*, L.A. TIMES (Nov. 23, 2010, 3:22 AM), <http://latimesblogs.latimes.com/washington/2010/11/obama-romney-palin.html> (last visited Mar. 27, 2011).