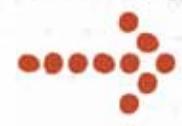


FIXING CONGRESS

**U.S. REP.
JIM COOPER**

WITH RESPONSES FROM

- KENNETH A. SHEPSLE 00
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- U.S. REP. DAVID E. PRICE,
& ANDREW GELMAN 00
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FORMER SENATOR HOWARD BAKER ONCE SAID, “THERE ARE THREE THINGS I SIMPLY CANNOT UNDERSTAND: THE HOLY GHOST, THE MIDDLE EAST, AND THE HOUSE OF REPRESENTATIVES.” BAKER IS NOT ALONE; MOST PEOPLE ARE MYSTIFIED BY CONGRESS. BUT THEY DO BELIEVE THAT IT IS BADLY BROKEN.

I’ve been a congressman, off and on, for almost 30 years. I’ve witnessed the decline of Congress firsthand, but the decline is not what really worries me. Congress has been broken and fixed before; it’s always been the butt of jokes. What worries me is that the United States, as the world’s only superpower, cannot afford a congressional breakdown *now*. Worse, as an aging superpower, we may be losing our capacity for selfrenewal. Until now, we’ve always been able to recover just in time; our greatest strength has been resilience. As Winston Churchill reportedly said, “Americans can always be counted on to do the right thing—after they have exhausted all other possibilities.”

What follows is a fundamental critique of a Congress that Churchill would barely recognize. I focus on the House much more than the Senate because I know the House better, though the need for filibuster reform and other changes in the “upper body” is urgent. And because of my sense of urgency, I am going to offer my critique in topic sentences. This is a tough diagnosis, but it’s better for the patient to hear the news early rather than late. There is still enough time to cure Congress: not much, but enough.

I see a Congress that is willfully blind to our nation’s worst problems. For example, the true national debt is many times higher than most published figures suggest, much closer to \$50 trillion than \$15 trillion. Because Congress has exempted itself and the federal government from normal accounting rules, few people notice our unfunded obligations. Harvard Law Professor Howell Jackson is a rare leader; his research and writing have repeatedly shown the inadequacy of government accounting. But not even *The Wall Street Journal* reports the real “accrual” numbers—the numbers that reveal all the obligations that have been undertaken, not just the actual transfers of money. Few interest groups pressure the federal government to implement accrual accounting, so Congress sleeps. President Obama’s Fiscal Commission was unable to wake us.

Tax expenditures—including deductions for home-mortgage interest and exclusions for employer contributions to health insurance—are another huge but overlooked set of policies. Tax breaks now exceed all appropriations, but Congress rarely holds hearings on this annual \$1.3 trillion drain on the nation’s revenues. We need tax reform now.

We also need to reform the core business of federal gov-

ernment: insurance. The giant entitlement programs, including Social Security, Medicare, Medicaid, and VA health care, as well as government-subsidized private insurance, are so expensive that, collectively, they dwarf even national defense and homeland security. Far more is spent on insurance than on interstate highways, national parks, scientific research, agriculture, etc. Yet, despite the dominance of insurance, Congress has no committee on insurance, no focused expertise on dealing with insurance issues.

These vital entitlement programs are not, as politicians claim, sacred commitments, vested benefits, or even government promises: they are simply scheduled benefits that we do not know how to fund. Until we fix this disconnect between politics and reality, these programs are in jeopardy. The sooner we act to stabilize them, the more likely we are to save them. It will be painful, but we should be thankful we still have a little time.

Faced with daunting problems such as these, Congress often refuses to use the right tools. In fact, most members barely know what our toolbox contains. Year-round campaigning distracts us from learning how to craft legislation that works well. We learn instead how to craft ideas that sound good. Tax credits are a classic example. These sound golden on the stump, but are usually a waste of money, as MIT economist Jonathan Gruber has shown with regard to health-care tax credits.

Finally, Congress has grown spoiled because, these days, the president hardly ever vetoes legislation. For most of his administration, George W. Bush vetoed fewer bills than any president since Thomas Jefferson. Every president since Nixon has had power to rescind spending programs approved by Congress, and each exercised that power hundreds of times. Our last two, however, have been reluctant. Bush didn’t rescind a single spending item in his eight years in office. In his first speech to Congress in 2009, President Obama called, in essence, for an end to earmarks. The next day his Democratic Congress gave him 8,500 earmarks, yet he did nothing about them. I am thankful he threatened to veto any new earmarks in his 2011 State of the Union speech, but Congress won’t believe him until he fights back.

So how did Congress get this bad? And why didn’t we notice?

THE 1980S

WHEN TIP O'NEILL WAS SPEAKER IN THE 1980S, CONGRESS was very different—imperfect but functional. O'Neill believed that he was speaker of the House—the whole House—not simply leader of the Democrats. His aim was not to see Democrats win every vote but to enable the House “to work its will.” He criticized President Reagan during the day and drank beer with him at night. He was proud of his powerful committee chairmen, such as Dan Rostenkowski of Ways and Means.

On major policy issues, members were expected to vote their conscience and their district: O'Neill's was a House intent on making policy, not partisan mischief. It was the job of the eloquent majority leader, Jim Wright, to put together partisan majorities, and the job of the gentlemanly minority leader, Bob Michel, to defeat them. Members disagreed without being disagreeable. You were considered a party loyalist if you supported your party's position 70 or 80 percent of the time. Members knew exactly what they were voting on because an elite group of staffers called the Democratic Study Group wrote authoritative pro-and-con memos before every important vote. Dozens of Republican members subscribed to the Democratic Study Group because they trusted its work.

In the O'Neill era, members worked four or five days a week in Washington, D.C., where their families usually lived. Members knew each other fairly well and spent time with each other's spouses and children. A few members did belong to what O'Neill called the “Tuesday–Thursday Club,” preferring a shorter workweek that allowed shirking of legislative duties. In their defense, these members could do constituent casework—an important congressional responsibility—as well or better back home in their districts.

On the House floor, “king-of-the-hill” rules of debate were common. Under such rules, members were allowed to choose among competing solutions to national problems. The solution with the most votes won, sometimes even if another proposal had already received a majority. King-of-the-hill rules allowed members some freedom of choice, thereby making it harder to predict how they would vote.

The '80s were also different in terms of the fundraising expectations placed upon members and parties. Back then you never contributed to your colleagues' election campaigns except in emergencies. Campaigns could cost as much as several hundred thousand dollars, but only if they were hotly contested. Giving a colleague money was a kind of insult, as if you were handing them an unwanted tip that acknowledged their struggle for reelection. Likewise political parties did not dare charge members dues; on the contrary, their job was to help the members. The chair of the Democratic Congressional Campaign Committee, an arm of the House Democrats, worked in a modest room several blocks from the Capitol, near the

page dormitory. Chairing a campaign committee was a chore, not a position of prestige.

THE 1990S CONGRESS

CONGRESS HAS DETERIORATED SINCE THE O'NEILL ERA. AN important turning point arrived in 1995, when Newt Gingrich became speaker. Gingrich centralized power in the speaker's office and politicized its function. He effectively merged the speaker's office with the majority leader's and whip's. Committee chairs were emasculated, their authority redirected to the speaker. Gingrich waged total war against President Clinton, even shutting down the government temporarily in an effort to get what he wanted. Whereas O'Neill had sought to promote the influence of the House, Gingrich's goal was to see Republicans win every vote.

Gingrich's rise to power was, of course, due to the Republican takeover of the House—the first Republican majority in 40 years. No incumbent Republican had ever governed in the majority, and no incumbent Democrat had ever served in the minority, so neither party knew how to behave. Majorities naturally tend to be arrogant and minorities irresponsible. The bitter debates surrounding the impeachment of President Clinton and the thousand subpoenas of the White House issued by Indiana Republican Dan Burton hardened the attitudes of many House Democrats. Compromise became a dirty word.

Gingrich ordered freshman Republicans *not* to move their families to Washington because he thought they needed to campaign full-time at home. Soon everyone belonged to the Tuesday–Thursday Club. Members became strangers, the easier for them to fight.

The next speaker, Dennis Hastert, continued Gingrich's approach when he admitted that he listened only to Republicans, “the majority of the majority,” as he put it. Congress became even more starkly polarized; party-unity scores,

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which measure how much the members of a party vote together, rose above 90 percent. Objective information sources such as the Democratic Study Group were banned. Leadership told members how to vote on most issues and force-fed talking points so that everyone could stay “on message.” King-of-the-hill voting was ended. All major floor votes became partisan steamrollers with one big “yes” or “no” vote at the end of debate. No coherent alternatives were allowed to be considered, only approval of party doctrine. Instead of limited legislative freedom, a member's only choice was between being a teammate or a traitor.

The cost of campaigns escalated into the millions. Some members began spending day and night on “call time”—dialing for campaign dollars from telephone banks near the Capitol. Parties started dunning their members to pay a minimum of \$100,000 in biennial dues, but some were charged many times more in order to remain “in good standing.” Colleagues began demanding contributions from each other, sometimes just to pay their dues. Instead of legislating and doing casework, members of Congress morphed into telemarketers. The heads of party campaign committees suddenly had their pick of offices in the Capitol itself because they were being groomed for leadership.

RETURN OF DEMOCRATIC CONTROL

WHEN DEMOCRATS FINALLY TOOK BACK CONTROL OF THE House in 2007, Democratic leaders did not even try to return to the policies of Tip O’Neill. Rather, they quietly adopted most of the bad habits of Gingrich and Hastert, even of the notorious Republican leader Tom DeLay. Few Democrats remained who could remember the O’Neill era. We abandoned the idyll of *Brigadoon* and settled instead for *Lord of the Flies*. Some said it was impossible to go back because times had changed. Fox and MSNBC had certainly inflamed partisanship. Social media had popularized non-fact-based reality.

The truth is that the Gingrich-Hastert-DeLay model works . . . if you are only interested in partisan control of Congress. No speaker wants to yield to stubborn committee chairs or opinionated rank-and-file members. It’s better to keep them in the dark because doing so quells dissent. It’s also easier for back-benchers to follow the party line instead of thinking for themselves. This quasi-parliamentary system is certainly efficient. What’s lost are the hallmarks of Congress as a policymaking body: open debate, independent decision-making, and the priority of national over partisan interests.

CONGRESS HAS GROWN SPOILED. THESE DAYS, THE PRESIDENT HARDLY EVER VETOES LEGISLATION.

TODAY’S CONGRESS

MEMBERS OF THE 112TH CONGRESS TOOK THE OATH OF OFFICE earlier this year. Two members missed the swearing in because they were attending a fundraiser. The first action on the floor was reading the Constitution aloud. The first weekend after the oath, a beloved colleague, Arizona Representative Gabrielle Giffords, was nearly murdered in Tucson. Since then, both parties have tried to behave more civilly; they even sat together during the State of the Union. The big vote that everyone is dreading is the debt-ceiling increase: whether Republicans will risk ruining the country’s

credit rating, and whether Democrats will join this appalling game of chicken.

But Congress isn’t ready to do the people’s work just yet. Instead, members are mostly concerned with redistricting and raising cash.

REDISTRICTING

MANY MEMBERS ARE PANICKED ABOUT THEIR DISTRICTS DISAPPEARING in the next few months. They love their districts. Tommy Burnett, an old Tennessee legislator, used to say, “There are two things you don’t mess with: my wife and my district . . . and not necessarily in that order.” However, the Constitution requires that each member of the House represent the same number of people, currently about 700,000. Every ten years, the lines are redrawn to meet that requirement. Some states are losing congressional seats, others are gaining, and most will rearrange their existing allotment.

Let’s be frank: Democrats and Republicans both love gerrymandering. I represent one of only 91 districts (out of 435 total) described by the authoritative Cook Political Report as “politically balanced,” meaning that a strong candidate from either major party could win there. But both political parties think that 91 is too many. Each party is working hard to create fewer competitive districts. Advanced digital mapping and statistical analysis help them etch tiny lines on large and detailed maps, enabling them to split neighborhoods and blocks—because politicians know a great deal about your voting habits. The secret ballot is almost gone.

Today, both Democrats and Republicans are trying to hide the fact that regular voters have no voice in redistricting. It’s a reverse election: voters like you don’t get to vote, only politicians. You don’t choose them; they choose you. In most states, the public is excluded from participating in their state legislatures’ deliberations on redistricting. This secret election can determine the outcome of most congressional elections for the next ten years, possibly for generations.

Gerrymandering fosters extremism on the left and right because extremists are more popular in either highly Democratic or highly Republican districts, where candidates do not have to appeal to centrist voters. In such districts, primary elections determine the outcomes of general elections.

Because relatively few centrist or independent voters participate in primaries, newly elected extremists are vulnerable only to someone more extreme. States with party-registration laws further protect extremists by outlawing independent as well as opposition voters. With a firm grip on their districts and no worries about alienating voters in the other party, gerrymandered extremists are often the loudest voices in Congress.

Recently I filed H.R. 419, the Redistricting Transparency Act of 2011, a bill with nineteen cosponsors that could reduce the incidence of gerrymandering by requiring disclosure of redistricting maps before new boundaries are en-

forced. This would give the public a chance to intervene and stop the abuse.

MONEY

REPRESENTATIVE BARNEY FRANK OF MASSACHUSETTS warned that today's campaign-finance law assumes that members of Congress always demonstrate "perfect ingratitude." In other words, current law allows Congress to be flooded with money but demands that members stay dry. Good luck with that theory. You might as well allow professional athletes to take money from gamblers, so long as they promise not to throw any games.

Last year, the average member of Congress raised about \$1.6 million for a job that pays a tenth of that. The ten most expensive House campaigns cost more than \$8.5 million each and the top-ten Senate races more than \$27 million each. A new member's lapel pin is probably the most expensive piece of jewelry in the world.

Some campaigns raised all that money; others were rescued—or attacked—with outside, "independent" television advertisements in the final weeks of the campaign. The Supreme Court's decision in *Citizens United v. Federal Election Commission* mobilized those commercial cavalries last year when it allowed corporations to campaign for the first time. Already these new troops have boosted election spending by \$300 million, but the sky is the limit now that such mercenaries are legal.

I have several objections to *Citizens United*. First, allowing corporations, which are "artificial persons" under the law, free speech rights puts regular citizens—ordinary human beings—at a disadvantage in our democracy. A better name for *Citizens United* is *Corporations Supreme*. The Court should stop emancipating these artificial persons, these business robots. This year the Court is considering giving corporations privacy and due process rights. What's next? Voting rights for corporations and unions?

Second, *Citizens United* has the potential to increase dramatically the money involved in American politics. No matter how expensive today's campaigns are, they look cheap to major corporations. Businesses routinely spend far more advertising toothpaste, diapers, or potato chips—often with less return on their investments. In contrast, a million dollars cleverly spent on politics can easily turn into a billion in tax breaks or government subsidy. From what I can tell, that seems to be the going rate these days.

Third, *Citizens United* allows attacks by unknown groups with hidden sponsors. You may never know which *Citizens United* cavalry saved or ruined your election because these mercenaries do not wear uniforms. The Federal Election Commission is unlikely to force timely disclosure because it is notoriously flat-footed, timid, and lenient. Already half of *Citizens United* spending is anonymous, a percentage that will grow.

Finally, *Citizens United* could reduce the role of Washington lobbyists. Why use a middleman if you can buy direct? This may seem like a good thing, but, despite all the criticism of K Street, it could be worse. Today's lobbyists are relatively identifiable (many are former members of Congress), and play with a relatively small amount of money (thousands not millions). To be sure, these lobbyists are not paid to advocate good government, but they usually support pretty-good government. In a *Citizens United* world, stateless advertising agencies could shape public opinion by satellite, cable, or radio without ever talking to a voter or

CURRENT LAW ALLOWS CONGRESS TO BE FLOODED WITH MONEY BUT DEMANDS THAT MEMBERS STAY DRY.

elected official. By comparison, lobbyists look pretty good.

Ironically, the cure for *Citizens United* may be corporations themselves. This would be a welcome reprieve because, otherwise, we must amend the Constitution or change justices, both very difficult tasks. I doubt that most large corporations wanted the new freedom that the Court gave them, but will they resist the temptation to use it? For a few years, most companies will be unfamiliar and uncomfortable with their new electioneering powers, and may worry that they could lose market share if they offend customers. Meanwhile, a few corporate fanatics could damage the image of *Citizens United* spending, causing a backlash against the Court's decision. Which will come first: corporations mastering the art of campaigning, or consumer retribution against highly political firms? We can only hope for the latter.

NEXT STEPS

LIMITING GERRYMANDERING AND CORPORATE POLITICAL spending would help improve Congress, but deeper reforms are needed. In politics as in life, you get what you pay for. In politics today, taxpayers are hiring mediocre talent, candidates who think their job is to duck the big policy issues in order to get elected and reelected. Fixed salaries do more to perpetuate this terrible status quo than most people realize.

Today, it is almost unthinkable to suggest paying Congress for results. Many other professionals, however, such as teachers, physicians, CEOs and athletes, are increasingly paid for performance. Why not members of Congress? (Note: I am not advocating an overall congressional pay raise.) The first objections will come from members themselves because they hate the thought of taking full responsibility, looking bad, or making less money than a colleague. It is precisely that fear, however, that promotes better behavior. Why *not* pay members of Congress for performance? Surely there's a way to measure and reward high-quality legislative work.

Here's a thought experiment: what if members were

paid on commission to cut spending or to repeal obsolete laws? My bet is that you'd start to get some real action on budget deficits and redundant statutes. Of course, Congress should already be doing these things, but carrots make both donkeys and elephants move faster.

Salary reform alone won't get the job done, so here's another thought experiment: what if members could only raise money from people who live in their districts, not outside interests? That would put a premium on residency and raise the stakes of redistricting. It would also give local taxpayers more influence.

GERRYMANDERING CAN DETERMINE THE OUTCOME OF MOST CONGRESSIONAL ELECTIONS FOR THE NEXT TEN YEARS.

Incentives matter, and today's incentives are simply not working. We need better people to run for office. We need them to focus on the most important issues. We need fewer, better laws, not more loopholes. We need more attention to policy, less to partisan politics. Empowering citizens to craft incentives is a way to ensure that we get the right kinds of candidates.

The real surprise in discussing merit pay for members of Congress is the realization that special interests have been paying members on that basis for decades. Political action committees give more money to members who are effective in advancing their interests. Then they hire them as lobbyists after they leave office. Political action committees write much bigger checks than individual taxpayers do—their contribution limit is twice as high for individual candidates, and there is no limit to how much they can give to a party. Now *Citizens United* has put special interests on steroids. It turns out that taxpayers are the only ones who are *not* paying members for performance. Maybe it's time

for taxpayers to benefit from the same level of performance that special interests have been receiving.

The average tenure of a House member is about ten years, just long enough to get a government pension and start looking for better-paying work lobbying Congress. Congress used to be an honored destination, but now it is a steppingstone to special-interest wealth. Because of this revolving door, Congress has long been a farm team for K Street; after *Citizens United*, it could become a wholly owned subsidiary.

We should expect more from Congress, but let us not expect too much: that is a recipe for disillusionment. Cynics, they say, are disappointed romantics. Congress will always be a sausage factory, but it can be a *better* sausage factory if we get the incentives right and if top-quality people volunteer or at least help those who do. Teach for

America could channel its participants into campaigns or government if they decide not to stay in education; law and business schools could start "Lawyers for America" or "Business for America" to help us reform Congress.

Despite the flaws of Congress, we should never lose faith in our country, our ability to bounce back from adversity. The very fact that we know Congress is broken should give us hope: it is a sign that help is on the way. Once diagnosed, the body politic automatically starts to heal, and the worse we feel now, the prouder we will be of our recovery.

As Mark Shields said of the Tucson shooting, quoting a historian friend of his: "We saw a white, Catholic, Republican federal judge murdered on his way to greet a Democratic, woman, member of Congress, who was his friend and was Jewish. Her life was saved initially by a twenty-year-old Mexican American college student . . . and eventually by a Korean American combat surgeon. . . . And then it was all eulogized and explained by our African American president."

Only in America.

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BOSTON REVIEW



KENNETH A. SHEPSLE

George D. Markham Professor of Government at Harvard University



REPRESENTATIVE JIM Cooper has written an elegant *cri de coeur* elaborating his views of a dysfunctional Congress. I want to pick up on one of his themes, namely the difficulties of properly organizing a legislative chamber.

I am especially struck by the timing of Representative Cooper's essay. If he had written this piece exactly a hundred years ago, in 1911, he might have said many of the same things. This was the end of the period of "Boss Rule" in the House, symbolized by the overbearing speaker, Illinois Republican Joseph Gurney ("Boss") Cannon. Cannon was the last of a two-decade run of speakers who had a considerable grip, if not a stranglehold, on parliamentary ebbs and flows. For example, although most speakers in this era delegated committee assignments of minority-party members to the minority leader, they tenaciously held onto majority-party appointment power. It should be noted that during this period a nominal property right to committee positions as well as a seniority norm were emerging, and, accordingly, returning members were usually assured reappointment to the committees on which they served in the previous Congress, with the most senior majority-party com-

mittee member assuming the chair's position. But "usually" did not mean "always," the difference between the two determined by the preferences (whims?) of the speaker.

Although there is some dispute among political historians, it is generally believed that Cannon, more than most speakers, made a number of exceptions to these emerging practices, mainly to punish his enemies (progressive Republicans). But he went too far, several of his rulings were reversed, and, ultimately, he lost committee-assignment authority. After the Democrats captured the House in the 1910 elections, their leader, Missouri's Champ Clark, occupied a much-weakened speakership.

The recent speakerships of Georgia Republican Newt Gingrich and California Democrat Nancy Pelosi were not as excessive as those of the Boss Rule era. But the look and feel of the House a century ago and the House during these more recent periods was that of a legislature tightly organized by the majority party and its leaders. Representative Cooper's complaints about parliamentarianism are spot-on for this latter time, as they would have been in the early twentieth century.

If, on the other hand, Representative Cooper had written on this subject 50 years ago, in 1961, he would have reached very different conclusions. In January of that year, as the 87th Congress was organized with Texas Democrat Sam Rayburn as speaker and a new Democratic president about to be inaugurated, the House was no parliamentary regime. To the contrary, Speaker Rayburn was structurally quite weak and accomplished as much as he did by dint of personality and political wisdom, not formal authority.

Indeed, power had been radically decentralized in the 50 years since Boss Rule. Committee barons, their positions guaranteed by a strict application of the seniority norm, were in a commanding position. Speaker

Rayburn, together with liberals in the party caucus, felt the major obstacle to legislative success for the new president was the House Rules Committee, in charge of regulating plenary time. Two of the twelve-member committee's eight Democrats (including the Chair) and all four Republicans together formed a blocking coalition. Rayburn felt he had to move against the committee. In a historic 217–212

CONGRESS HAS ENJOYED PERIODS OF REDUCED PARTISANSHIP, BUT THEY NEVER LAST.

vote, Rayburn and the liberals prevailed in passing a resolution increasing committee membership to fifteen, allowing for the addition of two liberals from the Democratic side, while the Republicans added another conservative from their ranks. This was Rayburn's last gift to the new administration (he died shortly thereafter): a relatively reliable working majority on the committee that was the legislative traffic cop.

If the revolt against Boss Rule at the beginning of the twentieth century led to more decentralized control, the move initiated by Rayburn had the opposite effect. Though not apparent at the time, speakers following Rayburn would grow increasingly powerful. Speakers O'Neill and Wright, among Representative Cooper's heroes, accumulated growing power over the flow of legislation—multiple and sequential referral of bills and the imposition of time limits for committee consideration of bills, for instance—and appointment of committee members. Gingrich's Republican revolution following the 1994 elections completed the resurrection of the speakership to its full powers. Speaker Pelosi did not look this gift horse in the mouth. The jury is still out on Speaker Boehner.

Placing Representative Cooper's essay in this historical context, it seems there are two powerful equilibrium

modes of legislative organization that need to be considered. The first is a majority-party arrangement tightly organized from the top—Boss Cannon, Gingrich, and Pelosi are the exemplars. The second is also a majority-party arrangement, but one more decentralized and less controlled by party leadership. The golden era of powerful committee chairs, roughly 1940–1974, illustrates this latter equilibrium.

Political scientists have argued that which equilibrium arises depends upon the level of cohesion within the majority party. A highly cohesive majority party is permissive in delegating authority to its leaders. A more internally divided majority party is less trusting of concentrated power. Republicans under Gingrich and Democrats under Pelosi exemplify the concentrated-power model of organization, while a highly diverse Democratic party in the mid-twentieth century (northern liberals, southern conservatives, suburban moderates) and perhaps Boehner's Republicans today provide the circumstances in which the rank-and-file members of the majority are more nervous about empowering party leaders.

Representative Cooper's wish is for something in between. A strong partisan model, whether with concentrated or dispersed power within the majority party, is not his cup of tea; it smacks of parliamentary, not congressional, democracy. Yet a more deliberative and reflective, and only mildly partisan, legislative politics is difficult to sustain.

History does not mysteriously alternate between one extreme—an empowered speaker—and the other—decentralized control by committee chairs. Instead, there are understandable conditions under which the one or the other is likely to prevail. And though we have experienced a kinder and gentler legislative politics from time to time, such times appear, alas, to be but temporary resting places between the extremes of centralized and decentralized majority power.



NORMAN J. ORNSTEIN

Resident Scholar at the American Enterprise Institute



I HAVE been in Washington, D.C. since 1969, longer than even Representative Cooper, and I have never seen it more dysfunctional. The problems, as Cooper notes, start with partisan divisions. The *National Journal* vote ratings for the 111th Congress showed that the parties have virtually no ideological overlap: the most conservative Democratic senator was to the left of the most liberal Republican; only nine House Democrats were to the right of the most liberal House Republican. In both the Senate and House, the center of gravity is nowhere near the center of the political spectrum.

The change from previous decades is dramatic. In the '70s and '80s, there was a huge center, with a substantial share of both parties hewing closely to it. Conservative Democrats, mostly Southern (we called them Boll Weevils before they became Blue Dogs), made up around 40 percent of the party in Congress, while liberal and moderate Republicans (called Gypsy Moths,) mainly from New England and the West Coast, made up a quarter or so of their party.

A regional realignment that began in the late 1960s triggered the polar-

ization that eventually became in the standard in the '90s. The South gradually became the core of the Republican Party, while New England and the West Coast became reliably blue. Over time the Democrats became more homogeneous and moved left; Republicans became more homogeneous and moved right. Democrats still have a smattering of ideological heterogeneity via the Blue Dogs (including Jim Cooper), while Republicans have barely a trace element of moderates, and no liberals, left in Congress. The movement left and right has also been affected, as Cooper notes, by redistricting over the past two cycles, which has created many more safe and homogeneous districts and echo chambers to reinforce lawmakers' views.

The ideological shifts inside Congress have been exacerbated by another broad phenomenon—the increasing dominance of the permanent campaign. When I arrived in Washington, D.C. there were two distinct seasons—a campaign one, and a governing one. Campaigns understandably used the metaphors of war. Govern-

CONGRESS IS AT A LOW POINT, BUT TARGETED REFORMS CAN IMPROVE THE QUALITY OF CANDIDATES AND POLICY.

ing, on the other hand, is an additive process, often requiring broad coalitions to craft significant public policy and to sell it to a public worried about short-term change. Norms reinforced this mindset: lawmakers would never campaign directly against their colleagues from other districts or states, especially not on those colleagues' turf. Campaign consultants and pollsters used to disappear after elections, but now they stick around as consultants, aids, and lobbyists, ever-present.

Throw in one more factor: the increasing competitiveness of both chambers. In the House, Democrats

had a stranglehold for 40 consecutive years during which Republicans never held more than 192 seats. Since 1994 control of the House has been intensely competitive. Every election now provides a plausible scenario for a power shift, and sharp ideological differences between the parties make the stakes immeasurably higher.

Two outcomes follow. First, lawmakers from the other side of the aisle become almost radioactive. To work with them may give their side protection against attack on a wedge issue, which in turn could mean a gain in seats. Second, all members face mounting pressure to raise money as part of the team effort. Members spend all their spare time raising money. Any chance for serious debate or deliberation is brushed aside by the crushing imperative to raise funds.

Newt Gingrich's formula, as Cooper rightly notes, ensures that lawmakers do not get to know each other, making demonization much easier. The friction that comes with constant partisan warfare and ideological division has alienated voters, who increasingly support any candidate who claims not to be "like those politicians." The result is more ideologues and charlatans and fewer institutionalists who know the value of compromise and the importance of order in the legislative process.

What to do? Cooper is right that changing the campaign-finance system and reforming redistricting would help immensely. But both will be difficult, and we are years away from any real movement in these areas.

Unfortunately, Cooper's proposals for merit-based pay and fundraising constrained to the legislator's district or state are unworkable. Congress-

sional performance can only be measured collectively, and the result would be collective punishment. Merit pay would also be one more disincentive for non-millionaires considering a run for office. Geographical fundraising limits would handicap non-wealthy candidates from poorer districts or sparsely populated states, especially in the post-*Citizens United* world.

I offer a few other suggestions. Change the congressional schedule to three weeks on, one week off. Each month Congress would be in session for three weeks, from 9 a.m. Monday through 5 p.m. Friday. This would create opportunity for debate and deliberation, and provide a powerful incentive for members to move their families to Washington, D.C. Couple the schedule change with a generous housing allowance, and build two large apartment buildings near the Capitol. Rent the apartments (including several with three or four bedrooms) at cost to lawmakers, and include both childcare facilities and a common eating space to make them family friendly and to encourage socializing. Ban fundraising in Washington, D.C. when Congress is in session.

Externally, adopt on a wider basis the California system of open primaries to provide opportunities for a wider range of moderate candidates to win nominations and elections. Even better, adopt a version of the Australian system of mandatory attendance at the polls. In Australia, failure to show up (and at least cast a ballot for "none of the above") results in a fine of \$15–20. With this modest nudge, turnout hovers around 97 percent. If American parties knew that their bases would turn out in equal force, then current priorities—spending hundreds of millions to excite or frighten voters with harsh rhetoric and wedge issues—would evaporate. Candidates would focus on voters in the middle, and the issues that concern them—such as debt and deficits.

I have few illusions about the likelihood of such reforms. Even if enacted,

the larger, combative culture—reinforced by cable news, talk radio, and blogs—would obstruct their potential effectiveness. I can only hope that the lawmakers like Jim Cooper stay in Congress, at least providing role models for their colleagues, and showing voters that reasonable, thoughtful, deliberative legislators actually do exist.



JOHN SAMPLES

Director of the Center for Representative Government at the Cato Institute



REPRESENTATIVE JIM Cooper outlines a golden age of Congress during the speakership of Tip O'Neill. In those days, as Cooper would have it, members were cordial and debated the public good. Partisanship, though present, was bounded. Newt Gingrich, that omnipotent demon, brought the golden age to an end.

But the past was not really so golden, and reform of Congress should be about the problems of the future, not about a longing to restore mythical bygone years.

Cooper complains about special interest politics. As former Representative and Office of Management and Budget Director David Stockman witnessed, Tip O'Neill and Jim Wright "put the nation's entire revenue system on the auction block" to stop President Reagan's fiscal proposals in 1981.



At the time, Wright said of the Democrats' alternative to Reagan's budget, "Frankly, we'll put anything in the bill if it will buy votes." The bill failed anyway.

Cooper also complains about centralization of power by Gingrich. But political scientists believe the trend toward centralization in service of partisanship began in 1977, when O'Neill shoved through President Carter's

WE NEED RENEWED FEDERALISM, SO THAT GOVERNMENT REFLECTS THE DIVERSITY OF AMERICANS.

energy legislation. The strength and power of the congressional leadership grew thereafter. Gingrich continued O'Neill's innovation.

The pre-Gingrich era had other shortcomings, too. In 1989 a House investigation revealed Speaker Wright had violated ethics rules 116 times during the 1980s. Wright became the first speaker to resign his office and was followed by the third-ranking Democrat, Tony Coelho, whose financial dealings were deemed ethically compromised. *Congressional Quarterly* reported during this period:

Two senators were indicted on criminal charges, . . . two of the House's former officers pleaded guilty to crimes stemming from their service; and three former House members were convicted and sentenced to prison.

Congressional elections became less and less competitive during Cooper's golden age. Fewer and fewer House incumbents lost elections; the electoral advantage of incumbency rose. The lower campaign spending praised by Cooper was both a cause and result of incumbency advantage. The higher campaign spending he now laments fosters more electoral competition and more informed voters.

Finally, Cooper complains about unfunded liabilities. But who created those liabilities and hid them? The O'Neill-era Congress owns a fair measure of responsibility. Congress did raise taxes and cut benefits for Social Security in 1983, but those changes hardly count as fundamental reforms, and, in any case, the changes originated with a commission, not with Congress.

This fuller picture of Cooper's golden age does not imply that Newt Gingrich was a good speaker or that congressional Republicans have a superior record in power. But it does mean that the past is not a model for reform.

I see three current and future problems besetting our republic that might be mitigated by reforms of Congress.

First, the problem of consent. The colonies that would become the United States did not fight for independence from England under the banner, "No spending without representation!" A lack of consent to taxation forced the break.

Today most Americans are unwilling to pay more taxes. Since spending equals taxes sooner or later, Americans are refusing to consent to more spending. Yet the same voters (and their elected officials) continue the spending by borrowing, which implies taxes on future Americans.

The gap between spending and taxes is especially wide in entitlements. For example, the Trustees of Social Security indicate that past and current recipients of Social Security have received and will receive \$17.4 trillion more in benefits than they have paid to the system. This enormous sum does not appear in Congress' official budget, but the liability is real. Current and future Americans will have to make up the difference through higher taxes or lower benefits.

The Americans who will pay those debts did not consent to those taxes. We might say that future Americans

are virtually represented by the current Congress and the voters who elect it. The British Parliament said the same thing to American colonists after 1763. The Americans laughed and yet were not amused.

What should be done? Current government accounting obscures the costs and benefits of public spending. We need honest budgeting that reveals, rather than hides, taxes and public spending. At a minimum, the current generation would know what was being done to those who have no say in today's policies. Accurate accounting might foster some restraint in taking advantage of the unborn. We will also need reformed programs. Privatization of entitlements, though beyond the topic of congressional reform, would also prevent current voters from taking advantage of future taxpayers.

Second, the problem of war. Article I of the Constitution grants Congress the power to declare war. As legal scholar Michael Ramsey has shown, the original meaning of "declare war" included initiating war, as in Libya now. The president, in turn, retained a power to repel attacks on the nation. Congress should limit by law the president's power to make war without congressional authorization or public debate. At the very least, the War Powers Act should be amended to force a public debate about the use of force by the president.

Third, the problem of centralization. The United States has become more diverse, politically, culturally, and otherwise in recent years. The future is likely to bring less *unum* and more *pluribus*. A greater decentralization of governance would help the nation adapt to its growing diversity: people with differences could live under governments that reflect their diversity. A changing nation could use a renewed federalism marked by more distinctive states.

American government is now largely consolidated. A renewed federalism would require constitutional

amendments. Article V offers two paths to propose a constitutional amendment: through Congress directly or through a convention called by Congress. In practice, as law professor Michael Rappaport has argued, Article V gives Congress a veto over amendments. Consequently only amendments that enhance congressional or federal power have been proposed and ratified. The Constitution could be amended to allow a supermajority of states to write, propose and ratify constitutional amendments. The result might be a more balanced and useful government for the nation.



KATHRYN PEARSON

Assistant Professor of Political Science at the University of Minnesota



REPRESENTATIVE JIM Cooper's thoughtful critique of the contemporary U.S. Congress highlights important shortcomings in policy, procedure, and politics. And it underscores significant changes in Congress over the past four decades: increasing partisan polarization and the concomitant increase in the power of party leaders in the House. Party leaders in today's House wield more power over the legislative agenda and over the careers of rank-and-file members than they have in more than a hundred years.

Cooper pins much blame on former Speaker Newt Gingrich, but the

roots of partisan polarization extend far deeper.

Under the Gingrich's leadership, Republicans adopted reforms that centralized party control at the expense of committee power. Gingrich personally selected committee chairs, bypassing the most senior GOP committee members on some key committees. Republicans set six-year term limits for committee and subcommittee chairs, sending a clear signal that party leaders, not committees, were in charge. Gingrich even required incoming Appropriations Committee members to sign a pledge of support

for the Contract with America. When committees drafted legislation that did not satisfy party leaders, Gingrich circumvented them by appointing special party task forces to craft legislation instead. These changes further reduced the power of Congress's most effective tool to solve policy problems: subject expertise developed through a strong committee system.

Gingrich's consolidation of power succeeded for several reasons: Democrats had already adopted reforms that empowered party leaders at the expense of committee chairs; rank-and-file Republicans were grateful to Gingrich for their unexpected majority status; narrow margins between the parties signaled ongoing battles for electoral and policy majorities; and, perhaps most important, Republicans largely agreed with one another on policy issues and disagreed with most Democrats, reflecting their increasingly polarized constituencies.

Party leaders acquired their most significant tools under the Democratic reforms of the early 1970s, when Democrats took power away from committees and empowered party leaders and the Democratic Caucus. From the late 1930s to the late 1960s, Democrats had held the majority almost continuously, but the party's leaders were relatively weak. Strong committee chairs who maintained

power through a strict seniority system controlled the legislative agenda, and a "conservative coalition" of southern Democrats and Republicans often stymied the Democrats' policy agenda. By the early 1970s, frustrated liberals and an influx of new Democratic members successfully pressed for reforms, giving the speaker much more control over the legislative agenda and members' careers. Democrats re-

EVERY SPEAKER SINCE GINGRICH HAS SOUGHT TO MAXIMIZE THE INFLUENCE OF PARTY LEADERS.

formed the seniority system, instituting an automatic, secret vote on all committee chairs by the Democratic Caucus. In 1975 Democrats ousted three committee chairs, and party loyalty increased among those who kept their posts. Democrats empowered the leadership-controlled Steering and Policy Committee to make committee assignments. The speaker was authorized to select chair and Democratic members of the House Rules Committee, rendering the Committee a tool of the leadership. With a 9-4 supermajority of handpicked, loyal Democrats, the Rules Committee could no longer thwart the leadership's agenda. The Speaker was also given the power to refer legislation to more than one committee, to set time limits on committee consideration, and to expedite the consideration of legislation in committee and on the House floor.

Despite these tools made available to him, Speaker Tip O'Neill worked across party lines and did not abuse his prerogatives, as Cooper details. However, when Jim Wright succeeded O'Neill as speaker in 1987, the context was ripe for a powerful speaker to challenge President Reagan. Wright articulated a partisan legislative agenda, expanded leaders' powers, and used procedural maneuvers to block Republican-supported amendments. The rise of Democratic leaders' power

led to a decline in Republican influence. Wright's use—or, in the view of Republicans, abuse—of partisan tactics fueled Republicans' frustration and pursuit of ethics charges against Wright, eventually leading to his resignation. Wright's Democratic successor, Speaker Tom Foley, did not push the limits as Wright had, but partisan policy battles continued under his leadership.

Every speaker since Gingrich has continued to innovate to maximize the influence of party leaders at the expense of the committee system and members' autonomy. During the speakership of Dennis Hastert, the party-led Steering Committee prioritized loyalty demonstrated by members' votes and fundraising efforts as criteria in filling vacant committee chairs, sometimes passing over less loyal members with greater committee seniority. And, as Cooper notes, when Speaker Nancy Pelosi took the gavel after twelve years of GOP control, she benefited from Republicans' expansion of leadership power. Even with an influx of Democrats from swing districts in 2006 and 2008, Democrats were more unified under Pelosi's leadership than ever before, not only voting together at record levels, but raising more money for the party and for one another, too.

Parties have become very important to members' careers. My research has shown that party leaders use their expanding arsenal of tools to exert discipline in pursuit of policy control and to reward rank-and-file members for their loyalty by preferentially determining whose legislation is considered on the House floor, allocating campaign resources, and making committee appointments. In this process of assessing loyalty and assigning rewards, party leaders may forgo opportunities to help their most electorally vulnerable members, those who represent districts where the party's policies are least popular and therefore are most difficult for those members to support. Thus, a member's ability to

represent her constituents is affected by leadership's goals.

Narrow margins and fierce partisan competition are likely to persist well into the future, suggesting that leaders of both parties will continue to reward loyalty in both voting and fundraising. Partisan polarization in the House will continue unless more members who value their constituents and the reputation of Congress above the reputation of their party stand up to protest.



JOHN G. GEER

Distinguished Professor of Political Science at Vanderbilt University



LET ME note at the start that Jim Cooper not only represents my home state of Tennessee, but I count him as a friend. He is without a doubt a thoughtful student of Congress. While I do not agree with everything in his article, I find much of it on target and all of it worthwhile. But I want to add a new and slightly unorthodox perspective on the polarization of the parties in Congress and in the country. It seems clear to me that many of the concerns Cooper raises can be tied to the real ideological differences between the parties on issues and that these differences have been growing over the last few decades. Most observers see problems with these developments; I see some ad-

vantages.

Representative Cooper spends a good deal of time applauding the Congress under Speaker O'Neal's leadership. While not perfect, the Congress of the 1970s and 1980s sought, according to Representative Cooper, to pursue good public policy and did so in a reasonably civil fashion. As Cooper notes, "members disagreed without being disagreeable." The House sought to make "policy, not partisan mischief." This appealing state of affairs, as Cooper sees it, started to change in the 1990s with the rise of Newt Gingrich. Partisanship became the driver of Congress, and good public policy took a back seat to politics. (It's worth noting that this new pattern in Congress is not a Republican thing. The Democrats followed suit when they took control back in 2007.)

Cooper's argument reflects the conventional wisdom that polarization has detrimental effects on the political system. A highly polarized Congress features more disagreements on policy, and those disagreements often become fierce. This should come as no surprise: with larger differences between the parties, the stakes are higher. When one side wins, it can push policy in ways that are antithetical to the other side's views. Part of the reason the Tea Party has complained so loudly is that from its position on the ideological spectrum, President Obama and the Democrats are pursuing unfathomable policies. This "policy gap," so to speak, is the fuel for these complaints, protests, and,

POLARIZATION HAS SOME REAL UPSIDES.

frankly, nastiness.

Surely this polarization comes with costs. It is, for example, unfortunate that politicians on both sides of the aisle so often rely on overheated rhetoric. But we should not overstate these problems, nor should we be overly romantic about the past. There were many critics of Speaker O'Neil and

Representative Michel. Neither stuck to his principles; both, according to critics, engaged in compromise rather than leadership. This very complaint bolstered Newt Gingrich. Each era confronts tough problems, and our political system must find a way to solve them, or at least ease them.

Despite all the worry, polarization has some real upsides—not enough, perhaps, to make it a desirable state of affairs, but enough to give us pause before we start clamoring for a return to the 1980s. The most important advantage of polarization may be that the parties now offer the public clear choices. Remember when George Wallace contended there was “not a dime’s worth of difference” between the parties? In the 1960s and ’70s, the parties were ideologically much more similar than they are now. At the time, we had liberal Republicans and conservative Democrats. Politics, as a result, was less interesting and engaging to the public. Just consider that turnout in American elections has been on the *increase* over the last two decades. In addition, the public has been more interested in the last two presidential campaigns than any campaign since 1952. These campaigns were tough, competitive, and very negative. Yet the public responded, as it has to today’s highly differentiated parties in noticeable and important ways.

The position that polarization will benefit the public is not new. It is a long-standing intellectual tradition in American political science, albeit one that used to employ different terminology. Rather than speaking of the benefits of “polarization,” scholars in the 1950s such as E.E. Schnattschneider advocated “party responsibility,” which, by its nature, requires polarization: polarized parties make it possible for the public to hold each party accountable for its actions. When the parties are ideologically similar, the public has trouble identifying who was responsible for failing to solve problems or who should get the credit for success. This situation undermines

accountability and, therefore, democratic rule.

I am not arguing that we now have a responsible party system, and that, therefore, the cause of democracy is being advanced by polarization. My goal is far more modest. I simply want to encourage readers not to jump too quickly on the anti-polarization bandwagon. Parties that have strong differences offer the country some real and tangible benefits. It may be that these benefits do not outweigh the costs Cooper describes, but we need to think through all angles of this problem before reaching a firm conclusion.

We desperately need sober assessments of politics by keen observers such as the esteemed representative from the Volunteer state. Even though I disagree with some of his ideas, I’ve tried—as I hope others will—to do that “without being disagreeable.” Democracy is often about disagreement and working toward solutions based on competing ideas. Congressman Cooper understands that central point of democracy, and I hope others will join him in this important conversation.



DAVID W. BRADY
Deputy Director of the Hoover Institution



IN GENERAL, I agree with Representative Cooper’s analysis of the

problems facing the United States. Our real national debt, including unfunded liabilities, is much higher than \$15 trillion. Representative Cooper rightly suggests that the major entitlement programs cannot be sacrosanct if we are to address our pressing financial challenges and that the employer health-care deduction and the home-mortgage deduction, if rescinded, would raise a good deal of money. However, when he turns to the analyses of what went wrong and how to get Congress to work productively, I am less convinced.

Representative Cooper argues that Congress refuses to use the right tools, focusing instead on crafting policy that sounds good rather than policy that works well. Explaining this failure, Cooper describes an earlier era when Congress worked better. In the 1980s, members were supposed to “vote their conscience and their district,” and Tip O’Neill’s House was intent on making policy. The staff of the Democratic Study Group (DSG) wrote authoritative papers on policy, read and trusted by both parties. Members worked in Washington, D.C. four to five days a week and got along across party lines. Thus, members knew and respected each other. They used “king of the hill” rules to allow choice over policies.

In Cooper’s telling, the arrival of the Republican Congress in 1994 changed things. Newt Gingrich centralized power, waged total war on President Clinton, and, rather than promote the House, sought Republican wins on every issue. In short, “compromise became a dirty word.” In addition, Gingrich ordered Republicans not to move their families to Washington, D.C., thus making the Tuesday–Thursday Club dominant and ensuring that members would not know each other. King-of-the-hill voting was ended, and the majority of the majority party were victorious—thus polarization. Finally, campaign expenditures increased dramatically, making members more dependent on special

interests. Republican Speaker Hastert continued these practices, as could be expected.

When the Democrats returned, few could remember the O'Neill era. Thus, they did not follow to its model. Apparently, this was also due in part to the fact that "FOX and MSNBC had certainly inflamed partisanship [and] social media had popularized non-fact-based reality."

LEADERS NEED TO BUILD MAJORITIES SUPPORTING THEIR VIEWS, NOT TINKER WITH RULES.

Given this reading of history, Representative Cooper's solution is three-fold, and designed to keep members true to their constituents and purpose: first, to pass H.R.419, the Redistricting Transparency Act of 2011, which would reduce gerrymandering; second, to reverse through new legislation the Supreme Court's *Citizens United* decision; and third, to institute differential pay for members of Congress based on an unspecified measure of performance.

I shall pursue two arguments against these proposed solutions, one factual and one practical. First, Cooper's description of the O'Neill House is somewhat idyllic. The beginning of polarization can be dated to the O'Neill era, and the king-of-the-hill voting procedures were structured so that the speaker's bill was voted on last, making it policy. Likewise, the Tuesday-Thursday Club and campaign spending were on the rise well before 1994. There was no sudden shift. Nevertheless, the House is at present a Tuesday-Thursday Club, and mem-

bers do spend more and more time campaigning and fundraising.

The real question, then: suppose we could go back to the O'Neill House, obviating the need to redo redistricting and/or pay members of Congress according to productivity. (It is clear that H.R.419 won't pass, nor ever will merit pay.) Would there be a policy solution to the kinds of problems we now face? The answer is yes, but not because members knew each other and the DSG did good policy analysis, but because the Democrats had a large majority and the Republicans were a nearly permanent minority, controlling the presidency and the Congress at the same time for only two of the previous 64 years. The hypothetical O'Neill Congress would support tax increases over spending cuts, and, if it made cuts, would focus on defense rather than social security. That, however, is not the Congress we now have, nor would the American public elect such a Congress.

Today's electorate, on the very issues raised by Representative Cooper, is of two minds: conservatives cite polls showing the majorities favoring cuts, and liberals cite polls showing that Americans do not want to cut entitlement programs. The American public wants both. It is the job of political leadership to build majorities for their policy preferences. Such leadership entails converting contradictory sentiments into winning campaigns and policy solutions. The abolitionist movement, on its own, could never have become a majority party; Lincoln and his fellow leaders over time forged free soil, free labor, free men, into a new majority with policy solutions.

Solving the problems so clearly set out by Representative Cooper will not be achieved by tinkering with House and Senate rules and norms. Rather, the solution is for leaders to build majorities for their views, which in this case entails constraining expenditures in a way that the public sees as essen-

tially fair. Building that majority and electing it will generate the conditions necessary for real change.



NICK NYHART

President and CEO of Public Campaign



REPRESENTATIVE JIM Cooper catalogs the many dysfunctions of our current Congress and correctly emphasizes the decades of political history that have led us to this point. There is no single politician or party that has created the problem, which suggests that the solutions are systemic as well.

Cooper rightly notes that Congress is "willfully blind to our nation's worst problems." While he focuses on the national debt, the same could be said of health-care costs, energy, a declining education system, and the economic security of most Americans. This hasn't always been true. Over the years Congress has been able to legislate grand-scale programs that have moved our country forward. From Social Security to the G.I. Bill, from building our nation's highway system to passing the Civil Rights Act, the federal legislative process has been influential, contributing significantly to economic growth and shared prosperity.

Cooper is also correct that in today's Washington, politics comes before policy and, as he observes, we



“may be losing our capacity for self-renewal.” The election system now includes procedures through which politicians in almost all states pick their voters, rather than the reverse. A politicized redistricting process is just one part of this problem. We are also witnessing a national assault on voting rights by conservatives in nearly 30 state legislatures, which would reduce the number of low-income

IN MARCH, AMID JOBLESSNESS, A NEW WAR, AND A BUDGET CRISIS, MEMBERS OF CONGRESS HOSTED MORE THAN 300 D.C. FUNDRAISERS.

people, students, seniors, and ethnic minorities likely to vote. Inside Congress, leadership positions now accrue to those who are focused on winning elections. Fundraising skill is more prized in Congress than the ability to build diverse legislative coalitions and generate successful public policy.

The increasing politicization of the entire process means cold hard cash has become more important across the board, as successful campaigning requires more money than ever before. Last year, the Republican State Leadership Committee and Democratic Legislative Campaign Committee spent nearly \$41 million on state-legislative elections, up from less than \$18 million six years earlier. The money was more important than usual as political control of the current state legislatures leads to greater authority over the drawing of new district lines for Congress in 2012 as well as for state offices. The leading funder of these Committees' efforts in each of the past four elections cycles has been the U.S. Chamber Commerce, which contributed a total of \$11 million. The formal fundraising arms of the House Democratic and Republican caucuses have also grown tremendously. When Cooper first served in

Congress, in 1983–84, the Democratic Congressional Campaign Committee raised \$10.4 million. That figure for 2010 was \$163.9 million, a better than fifteen-fold increase. The average cost of winning an individual House seat has gone from \$263,000 to more than \$1.4 million in that time.

The demand for campaign cash increases our elected officials' dependence on a relative handful of sources for big checks, siphons time away from careful legislating and leaves out the most important people of all, ostensibly, in a democracy: the voters. The top donors of federal political money are drawn from the financial sector and other leading business interests

(labor-union contributions, while important, are overshadowed by business interests by a factor of fourteen to one). Four of every five dollars come from outside a member's district. Cooper observes that two of his colleagues missed their swearing-in because they were attending a fundraiser. In March, with a government shutdown looming, a new war underway, and 15 million people still unemployed, members of Congress, according to the Sunlight Foundation's PoliticalPartyTime.org, hosted more than 300 Washington, D.C. fundraisers—with the election still nineteen months away. Every hour spent fundraising is an hour not spent getting to know fellow members, studying up on the issues, and meeting with constituents.

A first step toward undoing Congressional dysfunction is to attack directly the political money problem, striking first at each member's dependence on special interests. Cooper has it right when he suggests that we might be better off if lawmakers took money only from people back home. He is a cosponsor of legislation that would do just that, the recently introduced Fair Elections Now Act (H.R.1404). The measure would offer candidates the option of running

entirely on small donations supplemented by public funds, enough to win a typical House race. Candidates would qualify for the funds by raising a large number of contributions of a hundred dollars or less from their home states. Candidates who want to spend more money on their campaigns could raise additional small donations which would then be matched by further public money at a four- or five-to-one ratio. This program would allow a publically funded candidate to compete against a privately funded opponent or against the increased independent expenditures encouraged by the Supreme Court's *Citizens United* decision.

This wouldn't cure Congress of all the ills Cooper identifies, but making the voters back home more important in the political process and eliminating the direct reliance of lawmakers on wealthy vested interests would establish a sound foundation for additional reforms.



DAVID E. PRICE

U.S. Representative from North Carolina's Fourth District



FEW MEMBERS of Congress are as well equipped as Jim Cooper, intellectually and temperamentally, to reflect objectively on the institution's strengths and weaknesses. Rather than commenting on each of his prop-

ositions, I will take a few steps back, identifying three fundamental areas of congressional performance. Each is closely related to the strength and effectiveness of the institution, and each is rendered more challenging when Congress and the country are sharply polarized. Like Cooper, I will concentrate mainly but not exclusively on the House.

First, in order to legislate coher-

OPPOSITION TO EARMARKS SUBORDINATES CONGRESSIONAL POWER TO PARTISAN ADVANTAGE.

ently, knowledgeably, and with legitimacy, House leadership must strike critical balances between centralization and decentralization and between partisan discipline and the accommodation of competing forces. Cooper is less critical than he might be of the era when committees were more autonomous and powerful. Some committees were indeed great sources of initiative and expertise, harnessing the energies and talents of disparate members effectively. However, coming to the House a few years after Cooper, I remember committees too often reporting bills that divided the Democratic Caucus and had to be amended on the fly as the whip counts came in. Even with an assertive Speaker such as Jim Wright, committees, at a minimum, represented competing power centers and often fell short when a unifying agenda or message was needed. A corrective was required. It is telling that when Democrats returned to power after the years of Republican control (1995–2006), few if any members called for a return to the previous degree of decentralization.

That is not to say that the Gingrich-Hastert era offers a model worthy of emulation. The ascent of Newt Gingrich to Republican leadership in the early 1990s contributed more to the increasing polarization of the House than any other event of the past thirty

years. In 1994 Gingrich rode a fierce anti-institutional critique to victory and proceeded to concentrate power in the speaker's office to a degree not seen in almost a century. Upon succeeding Gingrich in 1999, Dennis Hastert professed his desire to return to the "regular order." But committees remained under tight constraints, and with the advent of unified Republican control of government under President George W. Bush, House leadership assumed an even harder edge through tactics designed to eliminate dependence on—or even participation by—Democrats, while keeping the narrow Republican majority in line.

When Democrats returned to power in 2007, they avoided the worst abuses, such as the three-hour roll-call vote on Medicare prescription drugs in 2003—which gave Republican leaders time to sway votes on the bill—or evicting opposition members from committee rooms. The new Democratic leadership also gave wider berth to committee operations. But floor proceedings were still highly regimented, and conference committees remained a shadow of their former selves. The challenge continues now, as the Republicans resume leadership. The new majority touted the four days of debate (February 15–18) on the continuing resolution to fund government operations for the balance of 2011 as a sign of new openness and inclusion. But the procedure avoided committee consideration completely, and the rules governing the debate forbade any amendments that would have seriously altered the spending priorities in the leadership's bill.

Centralized control under both parties has reflected the political reality of heightened partisanship—a polarized, closely divided House, with each side inclined to take full advantage of any opening provided by the other. But there is still room to adjust partisan practice, and good reason to question the assumptions that have often



informed it. It is fallacious, for example, to regard leadership strength and committee vitality in zero-sum terms. Effective party and committee leadership can be mutually reinforcing, producing a better legislative product and a smoother route to passage. A case in point is the comprehensive financial services–regulatory reform bill brought to the floor by the Democratic leadership in 2009 under permissive rules of debate. The bill, reported by the Financial Services Committee under Barney Frank's leadership, was the result of months of hearings and markups that had involved most committee members. While that was not sufficient to attract Republican votes in the sharply divided House, it produced a better designed and more legitimate product in the end.

Second, Congress must safeguard its constitutional prerogatives and its institutional role in relation to the executive. One of the most important arenas in which institutional powers are played out, and the one with which I am most familiar, is appropriations. The appropriations committees embody the constitutional "power of the purse" and represent an essential instrument for holding the executive branch accountable and for exercising full partnership in the setting of national priorities. This institutional role is, or should be, distinct from jockeying for partisan advantage *within* Congress. It also helps explain the restrained partisanship that has historically characterized committee operations: appropriations members have a common responsibility to hold the executive branch accountable, regardless of which party is in control in the White House or Congress.

The partisan divisions and tactics

of the full House are seeping into appropriations. On most appropriations subcommittees, the initial formulation of bills continues to be relatively cooperative across party lines. This may change in the 112th Congress, with an unprecedented disparity between the parties in their spending priorities and budget strategies. Until now, however, partisan divisions have mainly emerged in full committee markups and, especially, on the floor.

This hit me with full force as I managed the Homeland Security appropriations bill on the House floor in 2007, my first year as subcommittee chairman. A band of some three dozen members—mostly younger, mostly from the right-leaning Republican Study Committee—took full advantage (and then some) of the open rule under which appropriations bills are traditionally debated, offering trivial and pro forma amendments in succession, each providing the opportunity for a repetitive string of five-minute speeches. The most prominent theme of the protests, to the extent there was one, was earmarks, but the main intent seemed to be merely to throw the House into disarray. We finally brought the debate to a conclusion after 27 hours (compared to nine the year before). Many of the subsequent appropriations bills were subjected to similar tactics; it took 169 hours to debate them, compared to 101 hours the year before.

Another kind of partisan disruption greeted my bill in 2009, as amendments to prohibit the transfer of Guantánamo Bay detainees to U.S. soil were offered in full committee and on the floor. The provisions were not germane to the bill but were being pushed by Republican leaders at every

opportunity to embarrass the Obama administration and put vulnerable Democrats on the spot. With some difficulty, we contained Democratic defections. Then the storm clouds lifted and congratulations were exchanged across the aisle for what in reality had been a bipartisan bill all along. But the experience laid bare the unsteady equilibrium between the norms buttressing the institutional role of appropriations and the struggle for partisan advantage, and there could be little doubt in which direction the balance was tipping.

Such tactics can render appropriations markups and floor debates indistinguishable from the partisan fights characteristic of more typically controversial legislation. Getting appropriations bills through the process in a timely fashion and gaining bipartisan support has become more difficult. In the election years of 2008 and 2010, the Democratic leadership's response to the increasingly contentious appropriations battles was to pull the bills back from full committee and floor consideration, sparing vulnerable Democrats "gotcha" votes destined for campaign ads. The leadership reckoned that even if the bills made it through the House, they would likely face Senate filibusters or, in 2008, a presidential veto. Democrats then attempted to pass omnibus bills after the elections, which, given the election outcomes, succeeded in 2008 and failed in 2010. I was critical of such risk-aversion, especially in 2010. It revealed an increasing tendency in both parties to subordinate the appropriations process to partisan politics.

The Republican attempt to stigmatize congressionally directed appropriations, or earmarks, is part of this larger pattern of subordination. With scattered abuses widely publicized and the budgetary impact absurdly exaggerated, the House Republican Conference has prohibited the identifying of discrete projects—or even the

upward adjustment of the administration's proposed funding levels for public works and military construction projects—in spending bills. It should come as no surprise that Democratic and Republican presidents alike favor measures such as the line-item veto or earmark bans that reduce congressional funding discretion. But for members of Congress to acquiesce is to value short-term rhetorical advantage

STRONG LEADERSHIP AND COMMITTEES CAN BE MUTUALLY REINFORCING, PRODUCING BETTER BILLS AND AN EASIER ROUTE TO PASSAGE.

over Congress' constitutional prerogatives and the responsible assertion of legislative powers.

Finally, Congress must recover and maintain a bipartisan as well as a partisan capacity. The organizational strength and solidarity that congressional parties have developed since the 1970s, particularly in the House, have enhanced performance in many ways by overcoming fragmentation and enabling the majority to rule. I take considerable pride in periods of extraordinary partisan achievement such as 1993–94 and 2009–10. But I am also a veteran of the budget battles of the 1990s, which leads me to react with alarm to two aspects of our current budget situation. First, our fiscal challenges, including the future of our entitlement programs and the need to raise revenues commensurate with necessary expenditures, are even more difficult than those Congress faced in the '90s. And second, we have mostly lost our capacity to take these challenges on in the bipartisan fashion that history teaches us is almost always necessary. Reaching agreement was extraordinarily difficult in the '90s, and it seems almost inconceivable now.

Bipartisan accommodation has its



pitfalls; it can render legislation muddled or ineffective, particularly when the gaps being bridged are deep and wide. But bipartisan capacity can also be a source of strength, as it has been for committees such as Transportation and Infrastructure, Armed Services, Agriculture, and Appropriations. But even on these, and certainly on most other, committees, partisan divisions have deepened in recent years. In some instances, more coherent legislation has resulted, more consistent with a given political ideology. But the route to final passage has become more difficult, as the languishing of numerous congressional reauthorizations year after year suggests.

These effects are greatly exacerbated in the case of fiscal policies, which require political leaders to face unpleasant realities and take on adversity. The bipartisan budget agreement of 1990 and the comprehensive budget bill of 1993, which was enacted with Democratic heavy lifting alone, helped create the roaring economy of the 1990s and a federal budget that was not only balanced but generated sizable surpluses. The George W. Bush administration then abandoned pay-as-you-go and other budget constraints, and by the time the great recession of 2007 came around, the country found itself in a position of dangerous fiscal weakness.

We must now find our way back by bringing the economy to full strength (the best cure for deficits and much else) with the help of targeted countercyclical investments, while charting a steady long-term course to fiscal balance. Fixation on partisan talking points—no tax increases, cuts limited to domestic discretionary spending, no entitlement changes—is deceptive and counterproductive. The National Commission on Fiscal Responsibility and Reform, chaired by Erskine Bowles and Alan Simpson, correctly highlighted the need for a comprehensive approach and an all-hands-on-deck mentality, whatever one might think of its specific proposals. Positive

action on these matters of grave national import may well require extra-congressional mechanisms, as it has in the past, but it will also require Congress to recover and repair its capacity to transcend partisan divisions.



ANDREW GELMAN

Professor of Statistics and Political Science at Columbia University



THE STORY of Congress's demise, as Representative Cooper tells it, has an economic and a political component. The economic component describes a government that has promised more than it can spend; the political one blames partisanship and an inordinate focus on fund-raising at the expense of problem solving.

On the economic side, I agree with Cooper that Congress must act more intelligently regarding insurance, tax credits, and the rest. Cooper's call for reform, however, goes against a larger set of societal expectations that encourage us to ignore debt, thereby making it less likely that we will heed his warnings.

As pensions and health plans—presented as unbreakable guarantees—began to bust budgets, a parallel breakdown of promises occurred in the financial sector. Until about three years ago, we were assured by our economic authority figures, from

Alan Greenspan and Larry Summers to Warren Buffett and Charles Schwab, that the stock market was a safe and smart place to put our money. Media commentators offered middle-class Americans “common-sense” advice: saving and investing would yield a comfortable retirement. So, at least for Americans with money to invest, the message that Social Security was going bankrupt was not very scary. (Cooper is careful not to describe Social Security as bankrupt; rather he says that the totality of government commitments—including ever-rising medical costs—is unaffordable.)

Assurances of the soundness of the market did not stop even after the 2008 market crash. In 2010 two Yale professors published a book recommending that young adults from affluent families go into debt to buy stocks and then hold them for many years to prepare for retirement. James Glassman and Kevin Hassett's 1999 book, *Dow 36,000*, has been discredited since the early 2000s, but that hasn't stopped Glassman, who is currently hosting a regular show on PBS, or Hassett, a columnist for *Bloomberg News*. Americans have been getting false messages of security from all directions, and the senders of these messages remain active participants in our public discourse. Retirement riches

THANKS TO FALSE MESSAGES OF FINANCIAL SECURITY, WE'VE GROWN COMFORTABLE WITH DEBT.

from compound interest are as much of an unfunded obligation as any government program.

We've also been told for years that consumption is our patriotic duty, and that the best investment is buying a large house in an expensive neighborhood (or, if you have a bit less money, a small house in a not-so-great neighborhood), which will appreciate and allow you to take the next step on the ladder.

Another unfunded obligation.

Ever since we were children we were taught the magic of compound interest, but our expectations have compounded ever faster in a culture in which “millionaire” has been replaced by “billionaire.” In one generation prices have increased by a factor of five, and median incomes have increased by about the same amount, while the standard for riches has increased a thousand-fold. In this broader context, the challenges to getting Congress to act more responsibly on economic issues are far greater than Cooper suggests.

On the political side, Cooper’s distaste for extreme partisanship and the state of electoral politics is understandable. Given that the Republican Congress of the George W. Bush period could not cut the budget or reform the unfunded obligations, making progress now with a divided government is hard to imagine.

Cooper’s solution is a return to the supposed pragmatism of the Tip O’Neill Congress of the 1980s. But I question his assessment of those years. Did Congress’s decisions in the 1980s to cut taxes and raise spending make today’s \$50 trillion worth of unfunded obligations inevitable? And why didn’t the issue of unfunded obligations arise during the discussion of the budget surplus at the end of the 1990s? Can shortfalls today all be explained by the unexpected rise in health-care costs, the Bush tax cuts, and the recession? Partisanship is not the only problem.

Another factor may be the tight relationship between presidential elections and short-term changes in the economy. Years of effective research have shown political scientists that

the success of presidential candidates is largely determined by the economic conditions of the moment. When there is robust improvement from year three to year four of a president’s term, his party generally wins reelection; otherwise it is in bad shape. This electoral pattern creates all sorts of perverse incentives: the president’s party is motivated to push the economy down in the middle of the term so that it will spring back in time for reelection; the other party does best by doing nothing. These incentives are even stronger if they align with the party’s economic views: in Obama’s third year, the Democrats favor further stimulus while the Republicans favor lower spending and tax cuts. But even if we stick to the problem of partisanship, Cooper’s proposals alone are unlikely to work. He recommends open disclosure of redistricting plans and open primaries as ways of reducing partisanship. Evidence, however, suggests that neither closed primaries nor gerrymandering are major factors in polarization: elections tend to be more competitive after any redistricting year. I support Cooper’s proposed reforms—I like the message they send about political priorities, and they seem like a step in the right direction—but I don’t see them having much effect on their own.

Finally, Cooper discusses campaign financing and proposes paying Congress for results. Some political scientists are skeptical about claims of the strong influence of campaign contributions, but I am inclined to agree with Cooper that it cannot be a good thing for members of Congress to be spending so much of their time and effort raising money, nor can it be good to have millions of anonymous dollars dumped into campaigns. On merit pay, Cooper asks, “What if Congress were paid on commission to cut spending, or to repeal obsolete laws?” The challenge is that spending cuts typically are attractive only to the extent that they’re directed at someone else. Cutting perennial targets such as

foreign aid, public broadcasting, and the National Endowment for the Arts would be relatively easy, but won’t get us far. It’s hard to imagine a popular push to compensate members based on their successes in cutting Social Security, Medicare, or veterans’ benefits.



STEPHEN ANSOLABEHERE

Professor of Government at Harvard University



THE DIAGNOSIS Representative Cooper provides for the current state of dysfunction in Washington, D.C. is an interesting one. And he proposes a provocative cure.

The symptom: declining political responsiveness and increased partisan strife, especially in Congress.

The cause: poor political mechanics.

The malady: deficits.

The cure: merit pay for representatives.

Parties and partisanship are ascendant in Washington. They assert themselves in ways that generate hard feelings among politicians and deep divisions among voters. Today approval ratings of both Congress as a whole and of individual members are low and continue to slide.

Cooper has put his finger on an essential dynamic driving the political rancor in American politics. As parties grow stronger, there is less opportu-



nity for members to legislate according to the nuances of their districts. Members feel compelled to vote much more strictly with their party than at any time since the 1940s. In this context it becomes easier for voters to cast a party vote, but more difficult to find a legislator or idea that does not fit squarely in the ideological mold set by the parties.

Why has this state of affairs

AMERICANS ONCE YEARNED FOR STRONG, DISCIPLINED PARTIES. BUT THE RESULTS ARE NOT WHAT WE EXPECTED.

emerged over the past four decades?

Cooper focuses on two features of the mechanics of politics: money and redistricting. Both are certainly the bane of every politician. Raising money is not why legislators ran for office, and redistricting shuffles the political deck every decade in a way that raises the prospect of a premature departure from the House.

However, neither is, on its face, a compelling explanation for the present problems. Redistricting only affects the House of Representatives; it does not apply to the Senate or to the presidency. Yet Cooper's argument reflects ills of the whole political system—it applies to the Senate and to presidents from Reagan to Obama.

Money is a more complicated issue, but judging by the rhetoric of old, the problem hasn't really changed in 50 years. Cooper's critique echoes Lyndon Johnson's 1968 call for passage of what later became the Federal Election Campaign Act. And independent spending

was the bogeyman of the 1970s and '80s, when groups such as the National Conservative Political Action Committee and the National Rifle Association used independent spending to target liberal politicians. Incumbents have huge funding advantages now, but not much greater than the advantages enjoyed by incumbents in the 1970s and '80s.

One might have also rounded up some of the other usual suspects: primaries, unions, corporations, lobbyists, voter ignorance, globalization, divided government, political polling, etc. These are the kids who hang out on the corner waiting for trouble. But they are hard to convict. They have always been there, though the problems have ebbed and flowed.

The differences now lie in the parties. And this conclusion leads to a deeper question: is this Congress's problem? I suspect it isn't, and the recent history of the parties and party reform reveals why.

The late David Broder famously lamented in his 1972 book *The Party's Over* that the parties were too weak to exert any control on a Congress that put special and local interests before national interests. Americans loved their members of Congress but disliked Congress itself. Political scientist Morris Fiorina called this the curse of "individual responsiveness." Legislators were exceptionally good at solving constituents' problems and producing pork-barrel projects for their districts, but those actions came at the expense of the collective interests of the country. As a result Congress repeatedly created inefficient and broken legislation and a seemingly unstoppable deficit.

Strong political parties were seen as the solution to Congress's apparent lack of interest in the collective good. Reformers called for greater discipline in Congress and vigorous party organizations, from the national level down

to the precincts.

The reformers got their way thanks to the Federal Election Commission's soft-money rules (instituted in 1979) and the rise of the Democratic Congressional Campaign Committee, the National Republican Campaign Committee, and other party funding outfits capable of leveraging campaign cash to bring about party discipline in Congress. Congressional reforms in 1974 weakened the authority of the speaker, but quickly gave rise to the call for a return to greater centralization of power. And it was the Democrats, especially Speaker Jim Wright, who led the way. Redistricting marginalized liberal Republicans in the North and conservative Democrats in the South, and the "big sort" into programmatically liberal Democrats and programmatically conservative Republicans was underway.

What gives me most pause about the recent history of Congress is that disciplined parties could not keep at bay the deeper problem Cooper identifies—deficits. The Clinton White House and the Republican-controlled Congress in the 1990s—which typified Cooper's polarized Washington—managed to erase the deficit for the first time since the 1960s. But unified control of Congress and the presidency in the 2000s, first under the Republicans and then under the Democrats, has produced debt beyond anything experienced since World War II.

In the 2000s the United States finally achieved the strong, disciplined parties yearned for by an earlier generation. But the results were not as desired. Under the thumb of strong party leadership and discipline, Congress has produced deficits as large in real terms as the deficits produced in the era of individual responsiveness. Enacting collectively responsible public policy—that is, without deficits—only seemed possible with the gridlock and partisan sparring of the Gingrich-Clinton era.

Why couldn't unified-party control

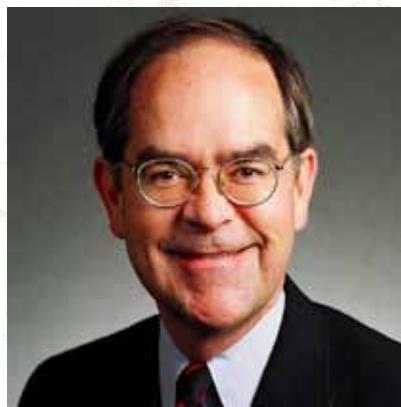


ensure fiscal discipline? The reason, I conjecture, is the broken ideologies of the two parties. A policy that offers greater entitlements without generating new revenue or that drastically cuts taxes without cutting expenditures is undoubtedly irresponsible. Yet that is the comic-book version of the parties' fiscal policies. Each ideology works poorly when dominant. But they work well in tension with one another, as in the 1990s—they are the yin and yang of policy.



JIM COOPER REPLIES

U.S. Representative from Tennessee's Fifth District



IT'S AN honor to play intellectual tennis with so many top professionals. Each return of service made me scramble. I only wish for extended volleys so that we could determine, once and for all, who has the best ideas for fixing Congress.

Almost all the commentators agree that Congress is broken, but Contrarian John Geer does make a valiant defense of polarization—or “party responsibility”—in Congress, believing it leads to increased voter interest and participation. Geer likes debunking conventional wisdom, as he did in his important 2006 book on attack ads, *In Defense of Negativity*. I worry, however, that he gives political parties too much credit for taking principled

stands. I see political parties that raise money from the same corporations, shift with the same political winds, love their incumbents more than their country, and misbehave in the same way on the House floor. There are some differences between the parties, but the parties exaggerate them just as Coke and Pepsi do, spending fortunes advertising nearly identical products.

Norm Ornstein helps us measure polarization when he shows that, for the first time, the parties in Congress have almost no ideological overlap. This despite the fact that most voters are centrists. Ornstein, the dean of congressional observers, also decries perpetual campaigning, whether to remain in Congress or to rise within it. He wins my prize for proposing the boldest measures for changing congressional culture. Getting citizens to show up at the polls (as in Australia) and getting members of congress to live near each other (in Washington, D.C.) would do wonders to improve moderation and civility.

Nick Nyhart shares with Ornstein and me the belief that perpetual campaigning and fundraising have damaged policymaking. To his credit, he describes the only specific legislation for fundamental reform, the Fair Elections Now Act, which would enable candidates to fund campaigns with small local contributions, subsidizing grassroots fundraising with public financing. It is disappointing that there are so few other pending proposals for campaign-finance reform.

Kenneth Shepsle and Kathryn Pearson provide valuable historical explanations for the current structure of the House of Representatives. Shepsle's broader analysis draws lessons from earlier speakerships—Joe Cannon's autocracy and Sam Rayburn's collegiality. Pearson gives a more detailed and recent look at how internal groups such as the Steering & Policy and Rules Committees can alter the way the House performs. Shepsle and Pearson implicitly give us up hope that our ever-changing Congress can still

morph back into a better institution.

Stephen Ansolabehere takes us from the low point of the parties in the 1970s to their dominance today. Unfortunately, achieving this dream of political scientists has not produced a better Congress, so Ansolabehere posits that both parties have “broken ideologies.” He's right, reminding me of G.K. Chesterton's aphorism: “The business of Progressives is to go on making mistakes. The business of the Conservatives is to prevent the mistakes from being corrected.”

Both John Samples and David Brady believe that I idealize the speakership of Tip O'Neill, although I cite that “imperfect but functional” era as proof that today's Congress can improve simply by following once-familiar customs. They are entirely correct that the “good old days” were never that good. But the fact that Republicans were the minority party during the 1980s is a coincidence, not a necessary precondition for return to civility or informed policymaking. Samples suggests that my approach is backward-looking, though my proposals for reforming redistricting, combating the effects of *Citizens United*, and altering congressional pay seem so novel as to be potentially impractical. I am intrigued by Samples's conceptual framework: problems of taxpayer consent, declarations of war, and government centralization—all fundamental constitutional issues that Congress routinely ignores.

Andrew Gelman pushes me back on my heels in order to look at Congress from a societal perspective. The messages that citizens receive from official and unofficial authorities create massive confusion both outside and inside Congress. The rollercoaster economy and incomprehensible budget numbers have spread fear and loathing throughout the populace and made Congress's job much more difficult.

In many ways the most challenging response is from my friend and colleague, David Price. There is no one

in Congress I respect more, yet his diagnosis of congressional ills differs markedly from mine. I chafe at strong speakers but not at strong presidents; Price is the reverse. I oppose earmarks; he defends them as an institutional prerogative. Fortunately, we agree that the Simpson-Bowles commission offers hope of saner federal budgets.

Performance Through Accountability
Is it unsportsmanlike to point out that few commentators respond to my interest in exploring merit pay for Congress? I am not claiming that I served an ace; it probably looks out-of-bounds, a shot that need not be taken seriously. I agree that merit pay is either “unworkable” or impossible to pass, just like almost every other major reform. But let me take another swing.

Early in the movement to pay teachers or doctors for performance, it was deemed impossible to measure what a child learned in class or how healthy a patient should be. To reward or punish teachers or doctors on that basis seemed ridiculous, and these are indeed difficult tasks. Similarly taxpayers and academics today have lost hope of incentivizing better congressional behavior, although, as I point out, special interests have been doing this for decades. I think it is obvious who gets more for their money. Must we continue to ignore the advantage that special interests possess?

The prevailing academic view seems to be that Congress will always be subjectively, not objectively, analyzed, without any real accountability for individual members or for the institution as a whole. Congress will always misbehave, and liberal analysts will respond with liberal critiques and conservative analysts conservative cri-

tiques. There is no rule book, and there are no referees.

Perversely, the worse Congress acts, the more interesting it is to study. Criticism of congressional misbehavior is almost a sign of naïveté; informed observers cannot be too cynical . . . or permissive. Another Gilded Age would make great thesis material. The unspoken assumption appears to be that the country will survive almost any Congress. I hope this is true, but I am doubtful.

Isn't it disturbing that no one can objectively answer simple questions such as, “who is a conscientious or a civil member?” or “which party really supports deficit reduction?” or “who opposes the conflict in Libya?” For more than half a century Congress has abandoned declarations of war, and has done so with impunity. Members dread the rare exceptions—the up-or-down vote on a clearly stated national issue—because all the public really knows is who gets re-elected, and which party has a majority. The rest is spin. Pundits and TV analysts trade anecdotes in order to project their own views onto the news. Congress has become a Rorschach test that reveals much more about the observer than the institution. Even the recent shift to parliamentary behavior has escaped public attention. It makes you wonder if gang activity in Congress would be noticed or condemned. Supporters of the winning gang are sure to condone the behavior.

The most useful part of pay-for-performance is deciding what to measure. This would finally open the black box of Congress. Voting is the only true voice of Congress, but congressional voting is so muddled and indecipherable that it is difficult to prove where members or parties stand. This is no accident. Why not curb logrolling and require clear standalone votes on major issues? President Reagan called for an end to omnibus legislation. Congress finally spotlighted and,

for two years, has temporarily banned earmarks. Why not identify and limit other abuses? Yet tolerance for congressional subterfuge seems unlimited as long as your favorite political party remains in power.

If the Supreme Court operated like Congress, rulings would be unsigned dicta, with nothing to anchor the opinion. Such rulings would make it impossible to hold the justices or the

ISN'T IT DISTURBING THAT NO ONE CAN SAY FOR SURE WHERE MEMBERS OF CONGRESS STAND ON KEY POLICIES?

Court accountable, or for lower courts or agencies to implement their decisions. How convenient for judicial reputations! How chaotic!

My critique of Congress is essentially “liberal”—too many special interests, too much money and polarization—and my solutions essentially “conservative”—disclosure of gerrymandering, corporate self-restraint, and merit pay. This centrist approach does not fit neatly into ideological boxes. Today's polarized Congress makes it difficult to think across party lines or to understand and respect an adversary's point of view, whether in Congress or the academy.

Perhaps if we had more objective guidelines for proper behavior, more acceptance of responsibility, Congress could start repairing itself. After all, Congress has managed to fix itself, with mixed success, for more than two centuries, and it has always needed prompting. Today we seem to lack urgency for reform, objective role models, or criteria for improvement. And we can't hear ourselves think for all the partisan noise.

We can, and must, make better sausage in the factory of Congress. To do that, we must learn how the legislative machines work and who is operating them well. **BR**





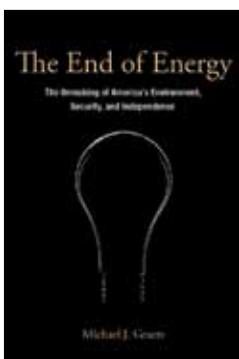
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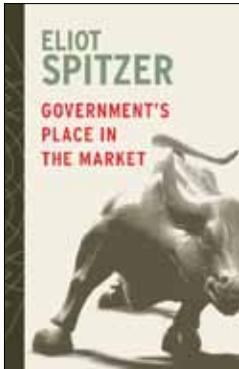
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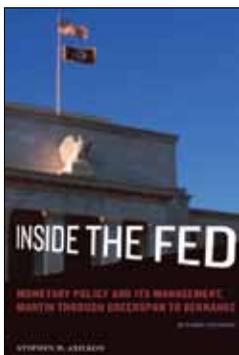


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