Focus on:
Restoring Faith in Government

Restoring Faith in Congress

Kimberly Coursen, Thomas E. Mann, Norman J. Ornstein, Todd Quinn†

The title of this volume suggests that Americans have lost faith in government—an assumption that is hard to challenge. Enthusiastic support for politics, politicians, and political institutions in America has always been hard to come by,[1] but there are signs that the 1990s are different. Both the levels of distaste for politics and government, and the willingness and ability of citizens and activists to mobilize to express their distaste and press for change, reveal more unhappiness, with greater potential consequences, than we have seen in a long time.

Partly as a result, the climate for far-reaching political reform is ripe. Indeed, current efforts under the auspices of the Joint Committee on the Organization of Congress indicate that institutional reform is very much on the legislative agenda. The Joint Committee was established to study the organization and operation of both houses of Congress and make recommendations for improving the institution's effectiveness, simplifying its operation, and improving its relationships with other branches of government. The Committee began its deliberations in January 1993. Though it was planning to report its findings in a joint report in the Fall of 1993, partisan bickering led House and Senate leaders to segregate and issue two separate packages of recommendations. The packages, which must still be marked up in committees, are expected to reach the floor in March of 1994.

It is difficult to tell what the substance of these packages will be, for political reform can be a daunting task. Public perceptions of the problems faced by political institutions are frequently inaccurate, and the most popular "reforms" may actually end up damaging the political system or changing it into something which our constitutional framers never intended.[2] Furthermore, the underlying problems that often give rise to public disaffection, such as a stagnant economy or social unrest, may lie well beyond the control of institutional reformers.

---

† Kimberly Coursen, former Research Assistant at the American Enterprise Institute, is a Ph. D. candidate in American Government at Georgetown University. Thomas E. Mann and Todd Quinn are, respectively, Director of Governmental Studies Program and a former Research Assistant at the Brookings Institution. Norman J. Ornstein is a Resident Scholar at the American Enterprise Institute.

1. Despite ebbs and flows, support for Congress has been quite limited since the 1970s. *See* Samuel C. Patterson & Gregory A. Caldeira, *Standing Up for Congress: Variations in Public Esteem Since the 1960s*, 15 LEGIS. STUD. Q. 25, 25-30 (1990).

2. *See* THOMAS E. MANN & NORMAN J. ORNSTEIN, RENEWING CONGRESS: A SECOND REPORT 2-4 (1993).

Congress has traditionally been the most beleaguered of the three branches of government; today is no exception.[3] In recent years, public regard for Congress has sunk to an all-time low.[4] This is a source of grave concern for members of Congress and many congressional scholars. Sustained negative feelings toward Congress pose a real threat to the institution. Public disapproval translates readily into support for measures, such as congressional term limitations and the line-item veto, which would weaken Congress *vis-à-vis* the other branches of government, and even into support for national referenda or initiatives to bypass the institution entirely. This climate can also provide, however, an opportunity to enact constructive changes that would otherwise never receive congressional approval.

I. PUBLIC PERCEPTION OF THE CONGRESS IN HISTORICAL PERSPECTIVE

Public opinion toward Congress, and indeed toward government generally, has always been both ambiguous and skeptical. Public opinion polls reinforce this premise. Americans not only want but expect certain social programs and government services, and feel they are vital components of the American dream; yet at the same time they feel that too much government interference in people's lives threatens that dream.[5] Solid majorities of Americans think the federal government controls too much and that its actions are generally inefficient and wasteful. Equally strong majorities, however, maintain a hearty appetite for government services and assistance.[6]

The same applies at the congressional level. While the public beats up on Congress and criticizes its members, citizens still expect a great deal from the institution. They expect members of Congress and their staffs to answer letters and calls promptly, and handle case work requests expeditiously, all while addressing the pressing public policy issues of the day.

Much of this ambivalence can be explained by the American tendency to approach questions of the government's role and performance on an ad hoc and highly personal basis.[7] There is no guiding principle in our evaluations of the role of government, nor any basis for consistent judgments regarding its value or worth. This understanding of Americans' attitudes toward their institutions of government serves as a back-drop for our examination of how

3. *See, e.g,* Glenn R. Parker & Roger H. Davidson, *Why Do Americans Love Their Congressmen So Much More Than Their Congress?,* 4 LEGIS. STUD. Q. 53 (1979).

4. *See* Kelly D. Patterson & David B. Magleby, *Public Support for Congress,* 56 PUB. OPINION Q. 539, 541 (1992).

5. Karlyn H. Keene & Everett C. Ladd, *Attitudes Toward Government: What the Public Says,* 20 GOV'T EXECUTIVE 11 *passim* (1988).

6. *Id.* at 14-15.

7. *Id.* at 15.

Americans feel about their legislative branch. The issue is complex. While public opinion polls are helpful and offer useful insights, their findings cannot be taken at face value.

A. *The Evolution of Public Opinion*

Congress has never been held in particularly high esteem by the American public. In recent decades, however, public disfavor and mistrust have reached new heights.[8] Although it is difficult to discern clear patterns from polling data taken over a long period of time, primarily because the wording of questions and survey methodology have evolved, we can make some generalizations.

Looking at surveys taken during the 1930s, 1940s, 1950s, and 1960s, Everett C. Ladd, an expert in public opinion, concluded that public ratings of Congress were generally quite positive.[9] Even as late as 1970, Americans viewed Congress in a relatively favorable light.[10] A poll taken in 1958 asked respondents whether Congress was doing a "good job" or a "poor job." Given only those two choices, a mere 12% said they thought Congress was doing a poor job.[11] A 1964 study asked respondents how much attention they thought most members pay to the people who elect them when those members decide what to do in Congress. More than 40% said members of Congress pay a "good deal of attention," compared with only 12% who gave this response in 1990.[12] And in 1970, a poll asking respondents to rate several institutions on a scale from -5 to +5 found that only 10% gave Congress a negative score of any sort.[13]

One of the most telling statistics illustrating the contrast in public opinion toward Congress in the early- to mid-twentieth century versus today comes from a question asked by the Roper Organization. A 1937 poll asked respondents which statement best expressed their attitude toward Congress as a whole: (1) "The present Congress is about as good a representative body as it is possible for a large nation to have"; or (2) "Congressmen spend more time thinking of their own political futures than they do in passing wise legislation." Nearly half, 44%, chose the former while 16% chose the latter. When the same question was asked in 1990, only 17% chose the first statement

8. Herb Asher & Michael Barr, Popular Support for Congress and Its Members 4-5 (May 13, 1993) (unpublished manuscript, on file with authors).

9. Everett C. Ladd, *Public Opinion and the "Congress Problem,"* 100 PUB. INTEREST 57, 64 (1990) (citing surveys by the Gallup Organization to support this assertion).

10. *Id.* at 64.

11. *Id.* (citing Gallup poll of Aug. 20-25, 1958).

12. *A Public Hearing on Congress,* AMER. ENTERPRISE, Nov.-Dec. 1992, at 82, 83 (citing surveys by University of Michigan Survey Research Center (1964) and CBS/N.Y. TIMES (Oct. 8-10, 1990)).

13. Ladd, *supra* note 9, at 64 (citing Gallup poll of June 1970).

and 41% opted for the second.[14]

While opinion toward Congress was more favorable from the New Deal era through the 1960s, most studies show the public was both less interested and less informed about the work of Congress during that time.[15] Karlyn Bowman and Everett Ladd discuss this phenomenon in a study they conducted for the Renewing Congress project.[16] Bowman and Ladd focused on two time periods during which Congress was undertaking major reform efforts similar in scope to those now taking place under the auspices of the Joint Committee on the Organization of Congress.

During the first Joint Committee reform effort in the mid-1940s, polls indicated that Americans were paying very little attention to Congress. In a survey conducted in 1944, a plurality of Americans (forty-four percent) said that they had not paid *any* attention to how well their representative in Congress was doing the job. Of those who had an opinion, two times more respondents said that their member was doing a "good" job than said she was doing a "poor" one.[17] Polls taken during the next major reform effort in the 1970s yielded similar results.[18] In a 1965 poll, forty-seven percent of respondents could not grade their current representative in Congress on an A/B/C/D/F scale. One-third of those with a college education fell into this category, indicating that lack of interest, not just lack of education, played an important role in generating this response. Of those who could make an evaluation, over twice as many gave their member an "A" or "B" grade as gave a "C" or "D."[19] By comparison, in a 1991 poll asking a nearly identical question only one percent of those surveyed had no opinion. Of those who did express a view, only twenty-three percent gave their representative an "A" or "B." A full sixty-eight percent gave their member a "C" or "D."[20]

B. *Watergate: A Turning Point*

Clearly there has been a sea change in opinion toward Congress over time. When did that change occur? Most scholars place the turning point around the time of the Watergate scandal, when Americans became more cynical about

14. *A Public Hearing on Congress, supra* note 12, at 82 (citing Roper Organization surveys, Roper Reports 91-1 (through Dec. 1-8, 1990) (on file with authors)).

15. Karlyn Bowman & Everett Ladd, Public Opinion Toward Congress: An Historical Look 1-2 (1993) (unpublished manuscript, on file with authors).

16. The Renewing Congress project is a joint effort of the American Enterprise Institute and the Brookings Institution, designed to provide an independent assessment of Congress and to offer recommendations for reform.

17. Roper Organization survey (Apr. 7-15, 1944) (on file with authors).

18. Roper Organization surveys (May 10-17, 1975) (Apr. 30-May 7, 1977) (Apr. 28-May 5, 1979) (on file with authors).

19. Gallup Organization survey (Oct. 8-13, 1965) (on file with authors).

20. L.A. TIMES survey (Jan. 8-12, 1991) (on file with authors).

government in general and the press assumed a much more aggressive—some would even say belligerent—role.[21] The Watergate scandal caused Americans to view their political institutions with a much more critical eye. While Congress was not directly implicated in the Watergate scandal, it was not long before the new breed of "watchdog" journalists set their sights on members of Congress and their institution.[22]

The post-Watergate spotlight turned on Congress in 1976. Rep. Wayne Hays (D-OH) was forced to resign after a House employee accused him of keeping her on the House Administration Committee payroll in order to curry sexual favors. The Hays case marked a turning point in the level of scrutiny given to the personal lives of members of Congress.[23] Ben Bradlee, the *Washington Post*'s executive editor, likened the Hays affair to Watergate—it brought public and press attention to congressional abuses and excesses, just as Watergate had done for the executive branch.[24]

Because of the groundswell of attention and publicity the Hays story gained, similar charges of sexual scandals involving other members of Congress and top government officials soon surfaced. These were played out on the front pages of newspapers and on the evening news shows across the country. Sexual misdeeds and financial improprieties were uncovered and salaciously reported.[25] Numerous scandals erupted in 1976 alone. The House reprimanded Rep. Robert Sikes (D-FL) after he was found guilty of financial misconduct.[26] Dozens of members were implicated in the Gulf Oil scandal. Most of the public attention focused on Senate Minority Leader Hugh Scott, who was alleged to have accepted up to $100,000 in illegal campaign contributions from a Gulf Oil lobbyist.[27] Seventeen members admitted to having accepted free hunting trips from major defense contractors, in violation of a House rule against acceptance of any gift of "substantial value" from a company "with an interest in legislation."[28] And Rep. Allan Howe (D-UT) was found guilty of soliciting sex for hire from undercover policewomen in Salt Lake City.[29] A variety of other scandals during 1976 and throughout the next few years received what many perceived to be a disproportionate amount of attention in the news media.[30]

---

21. *See* SUZANNE GARMENT, SCANDAL: THE CULTURE OF MISTRUST IN AMERICAN POLITICS 70 (1991).
22. *Id.* at 210.
23. For an account of the Hays scandal, see MARION CLARK & RUDY MAXA, PUBLIC TRUST, PRIVATE LUST: SEX, POWER AND CORRUPTION ON CAPITOL HILL 61-62 (1977).
24. *Id.* at 157.
25. *See* CONGRESSIONAL QUARTERLY, GUIDE TO CONGRESS 845-46 (3d ed. 1982); GARMENT, *supra* note 21, at 178.
26. *See* CONGRESSIONAL QUARTERLY, CONGRESSIONAL ETHICS 21 (2d ed. 1980).
27. *Id.*
28. *Id.* at 23.
29. *Id.* at 25.
30. GARMENT, *supra* note 21, at 184-85.

This heightened level of scrutiny and increased public criticism of our political institutions has had an unmistakable and long-lasting impact on how Americans view their government. Polling data compiled from the late 1970s to the present clearly show the impact of this movement. In reviewing some thirty-five surveys taken between January of 1975 and March of 1990, which asked respondents for an overall assessment of Congress, Everett Ladd found that in only five surveys did more people feel positively about Congress than felt negatively. The average approval rating over the fifteen-year time span was thirty-six percent.[31] At no other time point in American history has the public approval rating of Congress remained so low over such an extended time period.[32]

Most analysts agree that much of the current dissatisfaction with Congress is rooted in changes which took place in the public psyche during the 1970s.[33] While Congress's approval and disapproval ratings have fluctuated somewhat, there has been a clear pattern of high disapproval ratings from the mid-1970s to the present.[34] And many polls indicate that the public has grown increasingly cynical toward members of Congress over that same period. For instance, in a 1974 poll 44% of those surveyed indicated that "[t]he country would be better off . . . if the voters swept with a clean broom and elected a lot of new people to Congress," while 37% disagreed and 19% were not sure.[35] By 1992, roughly three-quarters of Americans were telling pollsters in similarly worded questions that it was time to turn most of the rascals in Washington out of office because of the poor job they were doing.[36] In a 1978 survey, seven in ten Americans told pollsters that "[t]hose we elect to Congress in Washington lose touch with the people pretty quickly."[37] By 1992, 82% felt that way.[38]

C. *Into the Abyss: Public Opinion Today*

If the late 1970s marked one turning point for Congress, early indications are that the 1990s will mark another, more serious one. Public regard for the institution has dropped to new lows and support for radical reforms, such as congressional term limitations, has reached new heights. As of August 1993, two surveys revealed that just over twenty percent of respondents approved

31. Ladd, *supra* note 9, at 61.
32. *Id.* at 64.
33. *Id.* at 61.
34. *Id.*
35. Louis Harris and Associates survey (Jan. 7-10, 1974) (on file with authors).
36. Louis Harris and Associates survey (Mar. 18-24, 1992) (on file with authors).
37. CBS News/N.Y. TIMES poll (Sept. 25-29, 1978) (on file with authors).
38. ABC News/WASH. POST poll (Apr. 8-9, 1992) (on file with authors).

of the job Congress was doing.[39] Comparable data collected in 1978 and 1992 indicate that approval of Congress dropped eleven points overall.[40] And, perhaps more importantly, the drop *across* education groups, regions, age groups, and political parties was pronounced.[41]

The public disaffection goes beyond mere approval or disapproval. Recent polls indicate that Americans have grown resentful and suspicious of their elected representatives. A 1989 survey revealed some startling opinions which seem to support this premise. Some 57% agreed with the statement that most members of Congress make a lot of money by using public office improperly;[42] an even higher percentage, 76%, agreed that most members of Congress will tell lies if they feel the truth will hurt them politically;[43] and 71% agreed that, to win elections, most candidates for Congress make promises they have no intention of fulfilling.[44] In a 1990 survey, when asked whether most members of Congress are more interested in serving the people they represent or in serving themselves, 58% believed that self-interest was primary.[45] Finally, in a 1992 poll, 50% of respondents said they agreed with the statement: "Congress as an institution is corrupt." Only 43% disagreed.[46]

D. *Comparative Perspectives: The Most Reviled Institution*

All of this paints a pretty disturbing picture, all the more so because the public does not routinely make such statements about other elected officials and their institutions. Congress is alone in this regard. A 1992 poll asked respondents whether they had positive, neutral, or negative feelings toward Congress and the Supreme Court: 36% of those surveyed had a positive impression of the Supreme Court, compared to only 14% who viewed Congress favorably. A solid majority (60%) had a negative opinion of Congress (with 25% feeling *very* negatively), as opposed to only 34% who felt negatively toward the Court.[47]

When compared to the President, Congress has almost always lagged far behind in terms of public approval. Everett Ladd estimates that over a fifteen-

39. CBS News/N.Y. TIMES poll (Aug. 2-3, 1993) (on file with authors); Gallup Organization survey (Aug. 8-10, 1993) (on file with authors).

40. Bowman & Ladd, *supra* note 15, at 8.

41. Approval fell 12 points among those with less than a high school education and 11 points for college graduates. Approval declined 10 points among Easterners, 15 points for Southerners, 10 for Westerners, and 10 for Midwesterners. The drop among Democrats and Republicans was also fairly consistent, with Democratic support falling off only slightly less over the 14-year time period than Republican support. *Id.* (citing CBS News/N.Y. TIMES surveys (Apr. 3-7, 1978) (July 8-11, 1992)).

42. ABC News/WASH. POST survey (May 19-23, 1989) (on file with authors).

43. *Id.*

44. *Id.*

45. CBS News/N.Y. TIMES survey (Oct. 8-10, 1990) (on file with authors).

46. NBC News/WALL ST. J. survey (Apr. 11-14, 1992) (on file with authors).

47. NBC News/WALL ST. J. survey (July 5-7, 1992) (on file with authors).

year period from 1975 to 1990, Congress has remained on average about twenty percentage points behind the President in terms of public approval.[48] Recent polling data allows us to compare opinion toward President George Bush with opinions about Congress during the same period. During President Bush's four years in office, the American public consistently placed more blame on the Congress for the nation's troubles than they placed on the President.[49]

Bowman and Ladd point out that in nearly every question where Americans were asked to assign blame, far more blamed Congress than President Bush for the economic situation facing the country.[50] In December 1991, when asked who they thought was more responsible for the country's economic problems, nineteen percent of Americans blamed President Bush, while fifty-five percent held the Congress responsible.[51] As late as August 1992, when George Bush's overall approval rating had fallen off substantially, the public was still blaming Congress far more than the President for economic conditions.[52] This pattern is not unique to the Bush presidency. Surveys reveal that Congress endured a similar plight during the Carter and Reagan Administrations.[53]

Nor are individual members of Congress generally respected. The Gallup Organization regularly asks Americans to rate the "honesty and ethical standards of people" in different fields. In 1992, respondents were asked about people in twenty-five different fields. Congressmen ranked twenty-second, edging out only advertising practitioners and sellers of insurance and automobiles. Senators did slightly better, ranking twentieth. (Pharmacists were the top-rated group, followed by clergy and medical doctors.) A mere thirteen percent and eleven percent, respectively, rated senators and representatives highly in terms of their honesty and ethical standards.[54]

II. A FALSE AGENDA FOR REFORM

These overwhelmingly negative opinions are fueled in large part by what has become a popular criticism of Congress—that it is a citadel of privilege and careerism insulated from the concerns of average Americans. That criticism provides some explanation for the snowballing public support for re-

48. Ladd, *supra* note 9, at 62.
49. Bowman & Ladd, *supra* note 15, at 5.
50. *Id.*
51. Gordon S. Black Corp. survey (Dec. 9-10, 1991) (on file with authors).
52. ABC News survey (Aug. 21-23, 1992) (on file with authors); TIME/CNN survey by Yankelovich Clancy Shulman (Aug. 25-27, 1992) (on file with authors).
53. Bowman & Ladd, *supra* note 15, at 5.
54. Gallup Organization survey (June 26-30, 1992) (on file with authors).

forms—such as term limits and the line-item veto—designed to undermine the independent power of Congress.

Term limitations have long been favored by the public, but today support for the idea is stronger than ever. In 1964 nearly half of Americans supported the idea; today two-thirds do.[55] Perhaps more importantly, support for term limits has grown considerably among well-educated Americans, who turn out to vote in greater numbers than those with less formal education.[56] In the 1960s, college-educated Americans were less likely to favor term limits than were other groups.[57] Today, those with the highest levels of formal education are the most likely to favor such limits. In 1964, only thirty-nine percent of college graduates favored limiting congressional terms to twelve years; in 1992 an overwhelming seventy-three percent did.[58] Support for term limits cuts across all age groups and political parties. In 1992, nearly equal percentages of Republicans, Democrats, and Independents supported the idea (67%, 66%, and 68%, respectively).[59]

We view these currently fashionable reforms as less than constructive, perhaps even a threat to our governmental system. Congressional term limits, by design, would weaken the legislative branch of government by taking away its expertise and experience. They would, in turn, strengthen the other branches of government as well as interest groups, giving increased power to government officials not directly accountable to the voters.

For those who would prefer a weakened Congress, there are other reasons to oppose term limits. The notion that limiting congressional terms would rid the system of arrogance, ambition, and corruption is plainly false. If anything, members of Congress serving limited terms would be even more ambitious and anxious to gain public recognition than members are today. Congress would become a stepping stone to the next post rather than a place to serve. Instead of making a commitment to their institution or to long-term policy, term-limited members would begin contemplating their next career move immediately after being elected. They would be running for the Senate from the time they entered the House, or cultivating relationships with lawyers and lobbyists to prepare for the next stage of their careers.

As for policy, if a member were limited in her service, any incentive to build long-term solutions to public problems would be gone; instead, a member might find it advantageous to do something dramatic for a short-term effect, allowing successors to clean up the mess later.

---

55. *See A Public Hearing on Congress, supra* note 12, at 89 (citing Gallup Organization surveys through Apr. 20-23, 1992).

56. *See* RAYMOND WOLFINGER & STEPHEN ROSENSTONE, WHO VOTES? 106 (1980).

57. *See A Public Hearing on Congress, supra* note 12, at 92 (citing Gallup Organization surveys through Apr. 20-23, 1992).

58. *Id.*

59. *Id.*

To be sure, there are serious problems in governance and with ethical standards for politicians. There are ways to solve those problems, however: campaign finance reform, stiff enforcement of ethics rules, and good old-fashioned political leadership. Dramatic and irreversible constitutional change is not the answer.[60]

Term limits are not the only wrong-headed reform to gain popular support in recent years. The line-item veto is another. A recent poll found that fifty-nine percent of Americans favor this reform.[61] Proponents claim that it would give the President an effective tool for controlling waste and reining in the federal budget deficit.[62] These hopes are unfounded, however. A line-item veto would have little effect on the budget deficit. It would apply only to that part of the budget subject to annual appropriations. This is the portion that is growing most slowly, and can be controlled by spending caps already in place. Entitlements and other programs driven by formulas, preexisting defense contracts, and interest on the national debt would be off-limits.[63]

While the line-item veto would not likely produce many spending cuts, it *would* give the executive more power—making him a kind of super-whip. Senators and representatives would be far more attentive to a President who had the power to eliminate their pet projects if they did not vote his way. Such a shift in authority would be dangerous, however. The budget process could easily degenerate into a quid pro quo affair, with the public paying for more of what the President wanted and just as much for so-called congressional pork.[64] Indeed, the line-item veto is a classic example of how an issue used to garner publicity or stir controversy can often generate public support without any real public understanding.

In addition to these specific reform proposals which have become part of the popular critique, various other shortsighted and potentially destructive ideas have gained widespread public support. Efforts to reduce or eliminate so-called perks, to curtail use of the franking privilege, and to sharply cut back congressional staffs and support services have gained momentum and popularity in recent years.[65] While there may not be specific polling data to support this claim, support can be found in the resonance of these themes during recent congressional campaigns.

---

60. *See* Norman Ornstein, *Term Limits Would Just Make Things Worse*, WASH. POST, Oct. 20, 1991, at C7.

61. ALAN F. KAY ET AL., AMERICANS TALK ISSUES, THE FIRST ATI SURVEY ON IMPROVING DEMOCRACY IN AMERICA, SURVEY NO. 22, at 2 (Apr. 12, 1993) (reporting results of survey conducted Mar. 10-15, 1993).

62. *See* MANN & ORNSTEIN, *supra* note 2, at 38-39.

63. *Id.*

64. *See* Norman Ornstein, *A Misguided Idea, the Line-Item Veto Isn't About Deficits But About Power*, ROLL CALL, May 10, 1993, at 1.

65. *See* THOMAS E. MANN & NORMAN J. ORNSTEIN, RENEWING CONGRESS: A FIRST REPORT 9 (1992).

While public support exists for these imprudent reforms, poll data suggests that Americans lack the sophisticated understanding of their political institutions that must underlie effective proposals for change. In a 1991 poll asking respondents an open-ended question about what they would like to see change in Congress, seventeen percent suggested that congressional terms be limited, twelve percent said members should work for and care about the people they serve. No other reform was cited by more than ten percent of the respondents.[66] There is danger in this ignorance. The public's unsophisticated view of the American political process—when combined with the fully justified current zeal for reform—has formed a fulminatory brew.

A recent survey revealed that, when presented with a menu of reforms ranging from the reasonable to the outrageous, many Americans are willing to support almost anything that sounds like it might represent a change from business as usual.[67] Offered an array of proposals intended to make democracy work better and increase government responsiveness, more respondents—eighty percent—favored cutting congressional salaries over any other option.[68] Conversely, offering higher salaries for members of Congress as a way of encouraging the best people to go into government was the least favored proposal, with only sixteen percent supporting it.[69] Large majorities favored proposals to limit the terms not only of members of Congress, but also of lobbyists and bureaucrats. Three-quarters of respondents favored a proposal that would "require Congress to conduct scientific, non-partisan, large sample, surveys of public opinion on all important national issues and to promptly release the results to the media so that Congress and the public will know what most Americans want for legislation."[70] This would clearly dilute, if not undermine, the role of Congress as a great deliberative body. Under such a system, members of Congress would act merely as delegates serving the whims and fancies of their constituents. Surveys such as this one demonstrate that sustained negative opinion toward Congress threatens our nation's political institutions.

III. THE WAY FORWARD: AN AGENDA FOR CONSTRUCTIVE CHANGE

It would be imprudent for Congress to stonewall the calls for reform and assume that the public storm will pass. While much of the popular critique of Congress is off the mark,[71] some steps must indeed be taken to reform the

66. NBC News/WALL ST. J. survey (Oct. 25-29, 1991) (on file with authors).
67. *See* KAY, *supra* note 61, at 1.
68. *Id.* at i.
69. *Id.* at 5.
70. *Id.*
71. *See supra* part II.

institution. We identify below four areas in which specific changes are needed.

A. *Improving Public Understanding*

We do not mean to suggest that improving public opinion toward Congress ought to be the primary goal of an overall effort to reform the institution. There is, however, a very real connection between public *opinion* and public *understanding,* and it is at the level of understanding that we feel Congress can and should make improvements. Congress has nothing to lose and much to gain by improving the public's understanding of its members, its workload and responsibilities, and the constraints under which it operates. A better public understanding of the institution might give lawmakers greater latitude in making difficult policy decisions and choices. It might also mitigate the calls for what we believe to be wrong-headed and shortsighted approaches to reforming the institution.[72]

In presenting itself to the public, Congress must rely to a large extent on the media. The public receives its image of Congress, including the body's actions, members, and product, primarily via the media—from editorials to news stories to C-Span. Both the public and the press have grown increasingly hostile to Congress in recent years.[73]

While a too-cozy relationship between the watchdogs and the watched is not healthy, neither are corrosive and deteriorating interactions. Furthermore, while it is valuable to uncover and report scandal, the manner in which policy is made and what it means for the country are also important. There seems to be a decreasing press focus on Congress's policy function, even as the coverage of scandal increases.[74]

Recent research indicates that one of the most critical variables in the public perception of legislatures is the amount, quality, and type of coverage that they receive from the media.[75] For example, one of the reasons for the increase in positive evaluations of state legislatures is that, in most states, the activities of the legislature are more visible in the media today than in the past. This does not seem to be the case at the national level.[76]

While most of the media are beyond the control of Congress, efforts should be made to counter some of the negative coverage and sentiment surrounding the institution. Members should devise new ways to use the resources they

---

72. *Id.*

73. *See* Norman Ornstein, *Perks and Smirks: Is a Reasonable Review Possible?,* ROLL CALL, Mar. 23, 1992, at 5.

74. *Id.*

75. Karl T. Kurtz, The Public Standing of the Legislature, Remarks Before the Eagleton Institute of Politics for the Symposium on the Legislature in the Twenty-First Century (Apr. 27-29, 1990) (revised Aug. 1991).

76. *Id.*

have and find innovative ways to portray a more positive image of themselves and their institution. Enhancing Congress's ability as a collective body to set and carry out a legislative agenda is one way to improve its standing, not only with the public, but perhaps more importantly with so-called "policy elites" who have also lost faith in the institution in recent years.[77]

Congress might also improve its image and contribute to public understanding of the institution by instituting Oxford Union-style policy debates in the House and Senate. The House of Representatives could use some of the time now devoted to special orders on the floor to organize debates, with designated lead debaters on both sides, including rebuttals, followed by a broader discussion with the larger membership.[78] The Senate should consider a similar format for debates on prime-time television. Admittedly, no major television network other than C-Span would be likely to carry these debates from start to finish. But public affairs programs such as the *MacNeil/Lehrer Newshour, Nightline,* and network news programs might begin to frame programs around debates, use excerpts for their broadcasts, and feature lead congressional debaters as guests on their programs.

Debates might focus on issues such as America's role in the post-Cold War world, the national health care problem, the desirability of an industrial policy, or the federal role in education. Focusing on major issues with real debates would provide a lively, interesting, and informative way to create a positive image of Congress for a public unhappy with the institution's inability to address the real problems of the nation. The country would probably develop a different impression of Congress once it sees the serious women and men who are there dealing with real and important issues. Such debates would allow Congress both to showcase its own talent and to educate the public on important and complex policy issues.[79]

Members should also seek to educate the public about the inner workings of the institution, and about the difficult trade-offs, compromises, and sacrifices inherent in any effective lawmaking process. Real and meaningful debates would serve this purpose to some degree. In addition, the much maligned congressional frank could be used for educational purposes to a greater degree than it is now.

Whether Congress would be willing to take any of these steps to improve

---

77. The term "policy elite" can be traced back to the expression "power elite," which first appeared as the title of a book by sociologist C. Wright Mills. Mills argued that "neither professional party politicians, nor professional bureaucrats are now at the centers of decision. These centers are occupied by the political directorate at the power elite." C. WRIGHT MILLS, THE POWER ELITE 241 (1956).

78. For a detailed description of special orders, see 6 CONGRESSIONAL QUARTERLY, CONGRESS AND THE NATION, 1981-1984 799 (1985).

79. The House of Representatives has already begun to move in this direction. There is currently a House working group composed of both majority and minority leaders considering limited use of special orders on the floor and weekly Oxford Union-style debates. *See also infra* note 93 and accompanying text.

the public's understanding of its work is questionable. Part of the problem with Congress's image stems from the members' unwillingness to defend their own institution. Many members today campaign against Congress in order to get elected and continue to rail against it once in office.[80] For the sake of their own political survival, many members have become "individualists" rather than "institutionalists." What many fail to realize is that—for all the tactic's short-term charms—the strategy works against their long-term interests by contributing to the perpetuation of negative images and stereotypes of the institution and its members.

To counteract these tendencies, some have suggested that congressional leaders take a more prominent role in informing the public and shaping public opinion.[81] Leaders are better able to convey an institutional message than are rank-and-file members of the legislature. In some states, leaders hold weekly press conferences which many reporters find helpful and informative.[82] As one state leader pointed out, "[t]he most important thing I do for my caucus is to represent the actions of the legislature to the media."[83] Congressional leaders hold daily press briefings, but rarely in a setting where they speak for the institution per se.

Some experts have suggested that Congress establish an institutional communications office, which would collect and provide nonpartisan information on the operations of Congress, act as a liaison with the news media, serve as a catalyst for events that examine and explain Congress, and work to expand the reach of congressional information.[84]

Ironically, at a time when the level of public activism and interest in the political system has reached new heights, so has the level of anger and frustration with those who serve in government. Using new technologies, constituents are now able to contact their representatives in Washington almost instantaneously with complaints, criticisms, and more advice than most members can begin to digest. We need to find ways to channel this energy in a positive direction, so that the public and its representatives in Congress can work together for constructive change.

In evaluating public understanding of Congress, it is important to look toward reforms aimed at helping the institution meet its inherent goals and functions. Congress must maintain its capacity to come to independent judgment and respond to the diversity of opinions held by its members and those whom they represent. In order to be effective, Congress must both reflect and actively shape public opinion. It must be at the forefront of public debate on

80. *See* RICHARD F. FENNO, JR., HOME STYLE: HOUSE MEMBERS IN THEIR DISTRICTS 168 (1978).
81. Kurtz, *supra* note 75.
82. *Id.*
83. *Id.* at 16.
84. *See,* e.g., Stephen Hess, The Decline and Fall of Congressional News 19-20 (1993) (unpublished manuscript, on file with authors).

the important policy issues of our day, and it must take pains to present itself both positively and honestly to the public.

B. *Enhancing the Quality of Deliberation*

In *The Federalist No. 10,* James Madison commented that representation, the job of Congress, is intended "to refine and enlarge the public views."[85] Congress is supposed to deliberate—not simply to reflect public opinion, but to transform it into broader public judgment. Deliberation also means debate—discussion, analysis, and give-and-take, not only on bills and resolutions under immediate consideration, but also on broader issues, present and future. Debate should educate the legislators themselves about the problems they face and the policy alternatives available. Ideally, it should improve the legislative product through a system of testing and argumentation, in which inadequate ideas are disposed of and those that survive analysis and attack are preserved.[86]

The hurried pace and fragmented existence of the legislators in today's Congress have changed the fundamental nature of the deliberative process, shortchanging many of its vital elements.[87] Real deliberation and debate have all but vanished. The exceptions are notable: the House Judiciary Committee considering articles of impeachment against President Richard Nixon in 1973-74; the days of debate on the House and Senate floors in January 1991 over whether to give the President authorization to use military force in the Persian Gulf. Not surprisingly, these occasions coincided with the highest congressional approval ratings ever recorded.[88]

Of course, these events were not debates in the purest sense of the term. They were more a series of separate speeches laying out individual positions *seriatim* than classic debates, which include organized presentation of opposing positions with rebuttal.[89] But in both cases the public saw serious legislators, on opposite sides of important and highly charged issues, grappling with each other's views. The public liked what it saw.

Strengthening Congress's deliberative capacity would serve the twin purposes of enhancing the institution's ability to fulfill its constitutional mission and educating the public to alter its perception of the body as lazy and uninvolved. Serious debate can improve the public climate for unpopular congres-

85. THE FEDERALIST NO. 10, at 21 (James Madison) (Roy P. Fairfield ed., 1981).

86. *See* George E. Connor & Bruce I. Oppenheimer, *Deliberation: An Untimed Value in a Timed Game, in* CONGRESS RECONSIDERED 315, 317-18 (Lawrence C. Dodd & Bruce I. Oppenheimer eds., 5th ed. 1993).

87. *Id.* at 327-28.

88. Forty-eight percent in an August 1974 Gallup poll; and 49% in a January 1991 CBS News/N.Y. TIMES poll. *See* George Gallup, Jr. & Frank Newport, *Approval Ratings for Bush and Congress at New Lows,* GALLUP POLL MONTHLY, Oct. 1990, at 36; Asher & Barr, *supra* note 8, at 4.

89. *See, e.g.,* WILLIAM J. BRANDT, THE RHETORIC OF ARGUMENTATION (1970).

sional action. It can also show voters that issues have many sides and that Americans may have different views depending upon their respective vantage points. Seeing shades of gray or complexities in issues may convince many voters of the wisdom of delay or the need for compromise—or may in turn reinforce an underlying sense of urgency and desire for immediate action. In either case, the quality of American political deliberation at every level would improve, even as public approval of Congress increased.

1. *Improving Congressional Debate*

Members can begin to improve this situation by reshaping the nature of floor debate. General debate—a time devoted to discussion of the pros and cons of a pending bill, without amendments or votes—has lost much of its value and influence over the years, becoming a perfunctory recitation of a bill's merits or drawbacks by the majority and minority bill managers.[90] Few members attend.[91] This lack of interest is unfortunate, since general debate is an appropriate time for broad policy discussions focusing on an entire bill, whereas during the amending process, the focus naturally shifts to specific limited points of contention.[92]

Revitalized general debate would not necessarily require major rule changes. Party leaders and committee chairs need only recognize the value of general debate and use the time more effectively for refining public views. They might do so by structuring more give-and-take, widening the net of members involved to include a broader range of those with special interest and expertise in the issue under discussion, and using their party whip systems to ensure healthy attendance on the floor.

But something more is also needed—real debate, not just on bills, but on the major issues of our time. Oxford Union-style debates, discussed earlier as a way of improving public understanding of Congress, would also enhance the deliberative capacity of the body.[93]

2. *Combatting Institutional Fragmentation*

Improving the quality of debates will help. But Congress needs more reform. An important cause of the decline in the institution's deliberative capacity is the fragmentation of time and responsibilities faced by individual

90. Connor & Oppenheimer, *supra* note 86, at 324-25.
91. *Id.*
92. *Id.*
93. MANN & ORNSTEIN, *supra* note 65, at 48-49; *see also supra* text accompanying note 78; *supra* note 79. In a Oxford Union-style debate, primary debaters on each side make presentations and then have interchanges. It is not an open floor debate.

lawmakers.[94] This problem can be traced primarily to the multiplication of committee and subcommittee assignments, fueled by a steady expansion in the size of these panels.[95]

Reducing the number of assignments in both houses and sharply cutting the sizes of the panels would make lawmakers less captive to their daily schedules—members frequently have fifteen to twenty meetings and hearings each day[96]—and would enhance their ability to develop expertise. More generally, such a change would give members time to think and deliberate in committees and on the floor.

Reducing the number of panels would also help. Certain committees could be abolished. Others need to be created to reflect the importance of policy areas now subsumed within other issues.[97] Overall, the objective should be to move toward a system of committees of roughly equal breadth and workload.[98] Of course, committees controlling money most directly through appropriations, tax policy, and entitlements will always be perceived as the most powerful and desirable.[99] But jurisdictions stretched over several committees—in areas like trade, health, energy, transportation, and the environment—could be consolidated, increasing the attractiveness of the respective panels.

Reducing institutional fragmentation, however, should be approached carefully. One common myth about Congress is that subcommittees have proliferated in recent years.[100] This claim is inaccurate. In the House, the number of subcommittees rose from 120 in 1971-72 to 151 in 1975-76, but then went down to 132 in 1981-82, and has declined further since then to stand at 119 in the current Congress.[101] Senate subcommittees rose from a total of 123 in 1971-72 to a peak of 140 in 1975-76, but have also declined steadily since, to 94 in 1981-82, and to 86 in the current Congress.[102] Nevertheless, Congress can function effectively with fewer subcommittees. In the 102d Congress, just over half of the Democratic members of the House chaired a committee or subcommittee, as did nearly ninety percent of Democratic senators.[103] Too many subcommittees means that members have too many subcommittee assignments, disrupting scheduling, dissipating energies, and inhibiting intelligent deliberation.

---

94. MANN & ORNSTEIN, *supra* note 2, at 17-19.

95. *Id.*

96. *See, e.g., Committee Structure: Hearings Before the Joint Comm. on the Organization of Congress,* 103d Cong., 1st Sess. 33 (1993) (testimony of Sen. William Cohen).

97. For a detailed discussion of possible jurisdictional realignments, see MANN & ORNSTEIN, *supra* note 2, at 26-28.

98. *See* SELECT COMM. ON COMMITTEES, COMMITTEE STRUCTURE AND PROCEDURES OF THE HOUSE OF REPRESENTATIVES, 93d Cong., 1st Sess. 59 (Dec. 7, 1973).

99. RICHARD F. FENNO, JR., CONGRESSMEN IN COMMITTEES 2-5 (1973).

100. NORMAN J. ORNSTEIN ET AL., VITAL STATISTICS ON CONGRESS, 1991-1992 107 (1992).

101. NORMAN J. ORNSTEIN ET AL., VITAL STATISTICS ON CONGRESS, 1993-1994 114 (1994).

102. *Id.* at 115.

103. *Id.* at 114-15.

Countering fragmentation also requires attention to congressional scheduling. Currently, schedules indulge the political needs of members, allowing them to return frequently to their districts.[104] The leadership often alters the timing of votes to fit other political imperatives.[105] To be sure, the policy-making process will never be precise or regular. Bills cannot be exactly timed and scheduled far in advance. Nevertheless, leaders ought to schedule business according to the needs of the institution and make individual lawmakers accommodate their own schedules to that of the collective body. This means setting a firm schedule at the outset and adhering to it as closely as possible throughout the session. Both chambers might consider the use of computerized scheduling to minimize conflicts in conducting committee meetings and floor business.

The House should also confront the "Tuesday-Thursday Club" mentality which sets aside long weekends for district trips. The Senate's schedule—three weeks "on," with five full days a week in Washington, followed by one week "off" to go back to the home state—offers a better model.[106] A House in session for a full week at a time would help dispel the popular image of a lazy and self-indulgent Congress, and would better enable members to devote blocks of time to their legislative work.

Undoubtedly there would be frequent exceptions to the schedule and changes in the pattern. But it is far better to start with the presumption of a firm schedule, leaving room for flexibility, than to start with flexibility and try to impose firmness when necessary.

C. *Acting on an Agenda*

Restoring faith in Congress will require more than good faith efforts by the body to improve public understanding of its work. Until citizens see an improvement in the performance of government—cooperation between the branches producing policies to deal with major economic and social problems—no amount of public relations effort will lift the fog of public cynicism. Success in dealing with the budget deficit and health care reform would go a long way toward improving the public's view of their government and increasing the legitimacy of Congress.

Therefore, while debate and deliberation are key components of congressional life, the ability to set an agenda—to identify a set of legislative priorities and act on them in a reasonably timely fashion—is at the core of restoring faith in Congress. In our judgment, the first requirement for an improved agenda-setting capacity in Congress is stronger party leadership.

---

104. MANN & ORNSTEIN, *supra* note 65, at 44-45.
105. *Id.* at 46.
106. *Id.*

The desirability, indeed the necessity, of strong leadership in Congress may seem like a truism—but the drive to decentralize and democratize Congress, often at the expense of strong party leadership, has been at the heart of reform efforts for most of the past two decades.[107] While House reforms in recent years added to the Speaker's formal powers,[108] they also gave rank-and-file members more resources to go their own way and fewer incentives to follow the leadership.[109] Once members receive their committee assignments, rewards are almost automatic, and reprimands nearly nonexistent.[110] On balance, the system has tilted heavily towards decentralized power, leaving party leaders less able to pull majorities together or to set reasonable schedules for action.[111]

It is time to reverse this trend. Congress needs to coordinate action and responsibility internally to succeed in devising legislative responses to the major problems confronting the nation. The Speaker of the House and other party leaders need to work with committee chairs and the full caucus membership to set priorities. But the Speaker, with the backing of the caucus, also needs the mandate and the tools to push effectively for timely action on those priorities.

One way to strengthen leadership in the House is to strengthen the lines of accountability in the majority party. This means more direct links between the Speaker and committee chairs, at one level, and between the Speaker, the chairs, and the majority party caucus, at another. It also means more power and flexibility for the majority party leadership to bypass the regular, often rigid committee system in order to create debate and action on major national policy issues.

For example, members could give power to the Speaker, or the Democratic Steering Committee, to declare a committee chair vacant at any time during a Congress, subject ultimately to a vote by the Caucus. This removal power would rarely be exercised. But it would preclude the most egregious forms of defiance of a Speaker by a committee chair. At the very least, the possibility of its use would get the Speaker the full and undivided attention of the chairs. Congress should also consider improving the process by which the majority party caucus votes on its nominees for committee chairs, by creating more opportunities for consideration of alternative choices. This change would energize what has become a generally perfunctory process.

---

107. LEROY N. RIESELBACH, CONGRESSIONAL REFORM 109 (1986).

108. *See Operations of the Congress: Testimony of House and Senate Leaders: Hearing Before the Joint Comm. on the Organization of Congress,* 103d Cong., 1st Sess. 9 (1993) [hereinafter *Operations of the Congress*](statement of Speaker Thomas Foley).

109. Lawrence C. Dodd & Bruce I. Oppenheimer, *Maintaining Order in the House: The Struggle for Institutional Equilibrium, in* CONGRESS RECONSIDERED, *supra* note 86, at 41, 46.

110. RIESELBACH, *supra* note 107, at 140.

111. *Id.* at 110.

Increased accountability and stronger leadership are only part of the effort which must be made to strengthen the agenda-setting ability of Congress. Tools for identifying and coordinating congressional action on priority issues must be devised and implemented. Movement has already begun in this direction. During their organizing meetings for the 103d Congress in December 1992, the House Democratic Caucus created the Speaker's Working Group on Policy Development.[112] The thirty-eight-member body, comprised of members of the leadership, key committee chairs, and members of the Steering and Policy Committee, was designed to supplant Steering and Policy's now-moribund policy-setting function.

A similar entity to coordinate policy in the Senate would be useful. Changes in norms and procedures to expedite consideration of legislation on the floor would be even more valuable. Testifying before the Joint Committee on the Organization of Congress in January 1993, Senate Majority Leader George Mitchell outlined several ideas for breaking logjams on the Senate floor.[113] Two are especially noteworthy: limiting debate on the motion to proceed, and imposing a limited germaneness requirement for amendments, subject to approval by a three-fifths vote.[114] Another constructive reform would be to limit or eliminate the practice—not in the rules—of "holds," whereby an individual senator may anonymously and indefinitely block a measure from being considered by the Senate.[115] Each of these changes would facilitate focused, expedited consideration of legislation, retain the traditional role of the filibuster, and uphold the prerogatives of the minority.

The House should also strengthen the Speaker's ad hoc committee authority and underscore its availability. The Speaker has long had the authority to propose to the House the creation of temporary panels, with members drawn from a variety of standing committees and a chair designated by the Speaker, to address important policy matters comprehensively and quickly.[116] This authority allows the Speaker to avoid fragmented consideration by a host of committees for legislation that cuts across jurisdictional lines. For example, Speaker Thomas P. O'Neill used this process in 1977 to expedite the consideration and passage of a comprehensive energy bill.[117]

Ad hoc committees should be used more regularly for important national issues like comprehensive health care and welfare reform. This change would

112. PREAMBLE AND RULES OF THE DEMOCRATIC CAUCUS, RULE 43, § E, 103d Cong. 17 (Jan. 11, 1993).

113. *Operations of the Congress, supra* note 108, at 47-53 (statement of Senate Majority Leader George J. Mitchell).

114. *Id.* at 48-49.

115. CONGRESSIONAL QUARTERLY'S GUIDE TO CONGRESS 435 (4th ed. 1991).

116. *See* WALTER J. OLESZEK, CONGRESSIONAL PROCEDURES AND THE POLICY PROCESS 90 (3d ed. 1989).

117. Bob Rankin, *Carter's Energy Plan: A Test of Leadership*, 35 CONG. Q. WKLY. REP. 727, 770 (1977).

obviate some of the need for sweeping reform of committee jurisdictions. Moreover, the Speaker's ability to get the attention and ensure the responsiveness of committee chairs would be enhanced on major policy issues if the chairs knew that he was willing to propose bypassing their committees through the ad hoc route.

Implementation of some of these ideas would require changes in the rules and traditions of the House and Senate and in the personal attitudes of their members. Ultimately, it is in the interests of all members, of both houses and parties, to restore public confidence in Congress. The best way to do that is to show the American people that Congress can act, effectively and with dispatch, when it matters.

D. *Campaign Finance Reform*

Congress must change its internal dynamics and processes. In addition, one key reform is required in Congress's external environment. The efforts we propose to reform the institution and revitalize its role in national policymaking will be greatly diminished without a fundamental restructuring of the campaign finance system.

The present campaign finance system has three major deficiencies. First, the escalating cost of campaigns has led members of Congress to become obsessed with money.[118] Fearful of being surprised by a well-financed challenger and all too aware of the personal, not party, basis of their political support, even very safe incumbents engage in a never-ending money chase.[119] In the 1990 elections, House incumbents raised an average of $400,000; Senate incumbents spent more than $3.5 million.[120]

As a result of the perceived need to raise these sums, fundraising has become a way of life for members of Congress. The process adds to the frenetic quality of their schedules and diminishes opportunities for face-to-face deliberation on serious problems confronting the country. Fundraising has also encouraged members to commit to positions early, often eliminating the potential for debate and deliberation to change minds or shape outcomes.

In addition to the escalating costs, the current system forces members to rely on "interested money" in congressional campaigns, most visibly in the form of contributions from political action committees (PACs). PAC contributions, particularly in the House, have grown steadily over the past decade, to the point that Democratic House incumbents now receive on average more than

118. ORNSTEIN ET AL., *supra* note 100, at 74-78.

119. DAVID B. MAGLEBY & CANDICE J. NELSON, THE MONEY CHASE: CONGRESSIONAL CAMPAIGN FINANCE REFORM 3-4 (1990).

120. ORNSTEIN ET AL., *supra* note 100, at 74-78.

half of their election funds from PACs.[121] Indeed, some members rely almost exclusively on contributions from groups and individuals with a direct interest in the work of their committees.[122] Ross Perot and Jerry Brown are only the latest in a long line of critics expounding the populist message that politicians are routinely bought and sold by special interests.[123] Whether or not this is true—and much academic evidence suggests that contributions largely follow issue positions, not the reverse[124]—average citizens still feel they have been squeezed out by monied interests and no longer have equal access to their representatives. If we hope to restore public confidence in Congress, we must correct this perception.

The reality is, not surprisingly, much more complicated than the conventional wisdom. It is not so much that PAC money enables groups to buy votes, engage in legalized bribery, and convince members to hold positions that conflict with the interests of their constituents or their own consciences. Rather, money mobilizes members to act as agents of groups with whom the members are already inclined to agree.[125] But by helping a contributing group advance a cause that they both support, the member and her staff devote less time and energy to some other cause that does not have the benefit of an organized PAC.[126] In addition, members become much more risk-averse, trying to avoid offending interested groups.[127]

Finally, the present campaign finance system puts challengers at a distinct disadvantage and contributes to the high reelection rates of incumbents.[128] Few challengers have access to the resources needed to wage a competitive campaign. In 1990, challengers raised on average less than a third of the money raised by House incumbents. Senate challengers raised only half as much as incumbents.[129] Incumbents increasingly monopolize PAC contributions. In addition, they enjoy many built-in advantages, such as staff, free mailings, and ready access to the media in their home states and districts.[130] It is no wonder many people conclude that the deck is hopelessly stacked against challengers.

The ease with which incumbents are usually reelected undermines our nation's political order at a fundamental level. Congressional campaigns are

---

121. *Id.* at 91.

122. *See* FRANK SORAUF, CAMPAIGN FINANCE: MYTHS AND REALITIES 70-71 (1992).

123. *See, e.g., Operations of the Congress: Hearing Before the Joint Comm. on the Organization of Congress,* 103d Cong., 1st Sess. 12-13 (1993) (statement of H. Ross Perot).

124. SORAUF, *supra* note 122, at 167. *See also* FRANK SORAUF, MONEY IN AMERICAN ELECTIONS 312 (1988).

125. Richard L. Hall & Frank W. Wayman, *Buying Time: Moneyed Interests and the Mobilization of Bias in Congressional Committees,* 84 AM. POL. SCI. REV. 797, 814 (1990).

126. *Id.* at 810.

127. *Id.*

128. ORNSTEIN ET AL., *supra* note 100, at 72.

129. *Id.* at 74, 78.

130. *Id.* at 140-41.

more than contests to choose winners and losers; they are a part of the deliberative function of a democratic institution. Good campaigns serve an educative function. Their give-and-take enlarges public understanding of the problems facing the country, states, and individual districts, and elucidates alternative approaches to solving those problems. When challengers cannot raise enough money even to get a basic message across, however, campaigns lose that valuable function.

Identifying the problems with the campaign finance system is easier than fashioning an effective and acceptable solution. At the time of this writing (Fall 1993), Congress is again struggling to reform the congressional campaign finance system. Before Congress adjourned for the year, the House and Senate separately approved their own campaign finance reform bills which will go to conference in 1994.[131] Despite a strong commitment by President Clinton and the congressional leadership and widespread popular discontent with the current system, the substance of campaign finance reform remains in doubt. Philosophical differences between the parties and the chambers, opposition from incumbents determined not to weaken their advantage, and resistance to schemes that would substitute public funds for private contributions have all contributed to preventing substantial reform.[132]

Serious reform has also been thwarted by proposals that if enacted would do more harm than good. For example, eliminating contributions from PACs may seem attractive given the concern about the pervasiveness of special interest funds.[133] But much of this interested money would return to incumbent coffers as less traceable individual contributions; and candidates, especially incumbents, would spend even more time trying to raise it.

To avoid these pitfalls, Congress should follow some clear guidelines in reforming the campaign finance system.[134] First, any reform proposal should not concentrate on reducing the overall amount of money raised and spent on congressional campaigns, but focus instead on distributing it more equitably among incumbents and challengers. We do not suffer from too much communication but from one-sided communication.[135] Second, reform should alter the mix of contributions to congressional campaigns to increase the weight of small individual contributors and decrease the amount of special interest money. Third, an improved system must include public funding, whether through tax credits, free or subsidized mailings, vouchers for radio and television adver-

131. *See* Beth Donovan, *House Takes First Step in Overhauling System*, 51 CONG. Q. WKLY. REP. 3246, 3246-49 (1993).

132. *See* Beth Donovan, *Parties Stuck in Stare-Down As Debate Rambles On*, 51 CONG. Q. WKLY. REP. 1455, 1455-56 (1993).

133. *See* Beth Donovan, *Senate Passes Campaign Finance by Gutting Public Funding*, 51 CONG. Q. WKLY. REP. 1533, 1536 (1993).

134. *See* MANN & ORNSTEIN, *supra* note 65, at 62-64.

135. *Id.* at 63-64.

tisements, or matching funds for qualifying candidates. Fourth, the expense of campaigns should be constrained by requiring television and radio stations to charge the lowest commercial rates for political advertisements by qualified congressional candidates. Fifth, if spending limits are to be included in a reform package they should be set at a relatively high level (above the amount needed by a challenger to wage a viable campaign) and indexed to inflation. In any case, spending limits are acceptable only in the context of generous public subsidies to candidates. Sixth, soft money contributions from individuals, corporations, unions, and foreign nationals—contributions to political parties not regulated by federal election laws—should be limited in size and more fully disclosed. Political parties must be strengthened, but not by an almost exclusive reliance on wealthy individuals and powerful interests. Finally, timely and accurate public disclosure is essential to a healthy campaign finance system. The Federal Election Commission should be strengthened organizationally and financially, so that it can put together massive campaign income and expenditure records for candidates and promptly disseminate them to groups and scholars.

Reasonable people disagree about the ends and means of election finance, but a constructive resolution of this issue is necessary to strengthen the Congress and restore its legitimacy with the people.[136]

IV. CONCLUSION

The public remains skeptical about Congress's capacity and desire to change itself, to act when it is not under the direct and intense pressure of public anger in an election campaign or in the aftermath of a scandal. The public, including opinion leaders in the press, academia, and the business community, is watching to see how Congress responds to the clear signals of public dissatisfaction.

The need to change is not merely a reflection of public disapproval. Congress should change now because it is not able to perform its basic functions as well as it could, or should, for the benefit of the country. If members of Congress do not understand this imperative and enact appropriate changes in the operations of their institution, they will face a far less palatable option. They will be forced to change, but the reforms will be driven by demagogues and ideologues intent on weakening Congress's role in the political process.

136. *Id.* at 64.