Congress in Limbo: A Brief Survey of the History of the U.S. Congress

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Congress is in limbo. It is no longer the bipartisan, collaborative, participatory institution it was during previous eras, and neither is it the top-down, "czar"-driven institution that it was when political parties were at the height of their power. The public's frustration with Congress during the Cannon years created the opening for the Revolt of 1910 that gave power over to the committees. Subsequently, the public's frustration with that system led to the reforms of the 1970s that both decentralized power to subcommittees and centralized power in party leaders. Where we go from here will depend on how well we understand and implement the lessons of history, which makes the examination of Congress's evolution indispensable.

The United States Congress, often referred to as the "first branch" of our government, is the institution for which our political system is most distinguished. The establishment of a government based on consent, expressed through frequent elections for legislative representatives, is one of America's great contributions to political science and practice.

In spite of its original lofty status, however, Congress in the 21st century is in shambles. Its power and reputation have waned relative to that of the executive and judicial branches of our national government. Members of Congress are less satisfied with their work than in decades past, and they more frequently choose not to run for reelection.[1] Many spend their time in Congress pursuing office in the executive branch, using Congress as a stepping stone to a better position.

The American people hold Congress in less esteem than in previous periods. Gallup polls on congressional approval, which have been conducted since 1974, show a marked decline in Congress's public image. Its approval rating has not surpassed 40 percent since 2005; and during most of the 2010s, its approval hovered in the teens. In 2013, Public Policy Polling reported that Congress was less popular than cockroaches, traffic jams, and Genghis Khan.[2]

For those who care about preserving and protecting our constitutional system, these negative signs of public opinion are an alarming trend. Our republican form of government is the means by which we govern ourselves, resolve conflicts, and preserve liberty from potentially arbitrary and unaccountable government. That republic, however, requires that the lawmaking power remain in the hands of our elected legislators. The more that Americans regard Congress with contempt, the more likely they are to acquiesce to executive and judicial usurpation of power from elected legislators. In short, the decline of Congress threatens to bring about the decline of republican government and the end of self-government.

Understanding how Congress went from the first branch to the weakest branch requires a careful study of its historical evolution. Congress was not always weak and ineffective. In fact, for much of the first century of American history, Congress was the dominant branch of our political system, and by a wide margin. Congressional leaders were more powerful than presidents, and they made most of the important decisions that determined the fate of the nation. For those who wish to restore that balance of power between Congress and the other branches, a look back through history is indispensable.

This essay provides a brief survey and overview of that history. It divides the history of Congress into four main periods:

1. **1789 to 1860s.** The first era, spanning roughly from 1789 through the 1860s, was a decentralized and participatory system with little party leadership or committee system.

2. **1860s to 1910.** In Congress's second era, running approximately from the 1860s to 1910, committees and party leadership developed alongside each other in a process of "institutionalization," eventually leading to strong party control and partisan division in Congress.[3] Progressive reformers took aim at that structure and successfully stripped party leadership of power in 1909–1910, leading to Congress's third era.

3. **1910 to 1970s.** The third era, which lasted until the middle of the 1970s, was a period dominated by committees and their chairs. Members were largely independent of their parties and won reelection by delegating power to administrative agencies and providing service to their local constituent interests. This was the period in which most of the administrative state was built. Congress gave it power but governed alongside it through a series of "iron triangles."

4. **1970s to the present.** Congress's fourth era began to emerge in the middle of the 1970s, when liberal reformers took aim at the committee system and ousted conservative Democratic committee chairs, leading to a much more partisan and centralized Congress with fewer opportunities for rank-and-file Members to participate in debate and amendment of legislation on the floor.

Members of Congress from both parties, and many in the public, are frustrated by this centralized system and seek to weaken the power of party leaders. The public's low estimation of Congress and of political parties may be setting the stage for another dramatic shift in how Congress functions. We may be on the cusp of a fifth era in Congress's history. Understanding Congress's historical evolution and the consequences of previous reforms is essential for thinking clearly about how Congress should function in the 21st century.

Congress's First Era: "Babeltown"

Boardinghouses in the Backwater. When the national government was first established, the capital was located in Philadelphia, but the Constitution gave the national government the power to create a new federal district out of territory ceded by one or more states, thus anticipating that the capital would eventually move to a new location. That location, thanks to a famous bargain between Alexander Hamilton, Thomas Jefferson, and James Madison, is what we now call Washington, DC, made up of territory granted by Maryland and Virginia.

When Washington, DC, first became the capital in 1800, it was not an appealing place to live. As one account of life in the early capital explains, there were "only 109 'permanent' structures (brick or stone)" in the entire city when the government arrived. One Member of Congress called the city "both melancholy and ludicrous… a city in ruins" upon seeing it.[4] A new city built from scratch, in the middle of previously uninhabited swamp, offered

little appeal to Members of Congress, and "the governmental presence failed throughout the Jeffersonian era [of 1800–1828], and failed utterly, to attract the commerce, the wealth, and the population that were needed to make the capital prosper."[5]

Members of Congress were isolated from their homes and families while they worked in Washington, DC, and few remained in Congress more than a few years. Almost none purchased permanent homes there. Instead, Members lived in boardinghouses that defined the culture of Congress during its early decades. These boardinghouses served as quasi-fraternities in which Members lived and dined together. They "were the basic social units of the Capitol Hill community."[6] They were organized "on the basis of sectional affiliation" rather than party identity.[7] Given the vast cultural differences between Members from different parts of the country, Members preferred to live in close quarters with people whose habits and manners were most like their own. In these houses, relationships were formed, deals were made, coalitions were built. Parties were in their infancy at this point, and they had far less influence over Members than the people with whom they lived.

The effect of this fraternity-like system was to divide Congress into many different sub-communities that tended to vote together, rather than a two-party system voting monolithically like the kind of Congress with which we are familiar today. Boardinghouses often voted unanimously, suggesting that each house formed something like its own party.[8] In short, the culture of the new capital dispersed power and fragmented it into many small parties composed of sectional alliances among Members living together in the same house and influenced by the bonds of shared living conditions. Congress was not organized on two-party lines, and voting patterns were not driven by central leaders wielding significant power over rank-and-file Members.

The Chaotic Scenes of "Babeltown." In addition to this boardinghouse culture, Congress was defined in its first few decades by a highly informal process that allowed for maximum participation by all Members but failed to provide leadership, expertise, or efficiency. Filibustering was common in both the House and the Senate. Putting an end to debate by cutting off speeches was not built into the rules of either chamber. The Speaker of the House was a largely ceremonial officer, similar to the clerk or the parliamentarian today. Speakers typically refrained from speaking in favor of or against measures under consideration and were seen as outside and above partisan conflict.

Although the Speaker was in charge of appointing committees, there was no significant standing committee system until the 19th century. Typically,

the House would debate collectively on measures and after reaching agreement would refer an issue to a select committee. (A select committee is an *ad hoc* committee temporarily formed for a specific purpose, while a standing committee is permanent and has a settled jurisdiction.) The select committee would essentially write up the results of the House's deliberations, at which point the measure would be sent back to the House for a formal vote. In short, committees rubber-stamped the deliberations of the entire House. As one study notes, "over 350 select committees were formed during the Third Congress" (1793–1795) alone.[9]

Unlimited debate was even more entrenched in the Senate. The Constitution set a membership of 65 for the first House, to be increased based on population after the decennial census, but the Senate had only 26 Members for the 13 original states.[10] The Senate originally met in closed session, but in 1795 it opened its doors to the public.[11] Like the House, there was no formal leadership in the Senate. John Adams, the first Vice President, "perceived his role as simply that of presiding officer and made little effort to guide Senate action."[12]

As the late historian James Sterling Young summarizes, "contentiousness was encouraged by Senate and House rules which gave higher precedence to raising questions than to deciding them and which guaranteed almost total freedom from restraint to the idiosyncratic protagonist."[13] Barent Gardenier, Federalist from New York, was an exemplar of Young's idiosyncratic protagonist, unsurpassed in his commitment to filibustering Jeffersonian Republicans' measures on the House floor. Another famous Representative, John Randolph, frequently subjected his colleagues to three- and four-hour speeches, including a lengthy speech filibustering the Missouri Compromise in 1820. The rules of Congress during the early 19th century allowed not only for filibustering, but also for the constant introduction of amendments and other tactics that delayed business and distracted Members.

The result was, in one famous description,

a scene of confusion daily on the floor of the House and Senate that bore no resemblance to the deliberative processes of either the town meeting or the parliamentary assemblies of the Old World.... Comings and goings were continual—to the rostrum to see the clerk, to the anterooms to meet friends, to the Speaker's chair in a sudden urge to hear the results of a vote, to the firesides for hasty caucuses and strategy-planning sessions. Some gave audience to the speaker of the moment; some sat at their desks reading or catching up on correspondence; some stood chatting with lady friends, invited on the floor; others dozed, feet propped high.... Desk drawers banged, feet shuffled in a sea

of documents strewn on the floor. Bird dogs fresh from the hunt bounded in with their masters, yapping accompaniment to contenders for attention, contenders for power. Some government! "Babeltown," a legislator called it.[14]

The "babeltown" model of Congress offered several advantages. It was participatory and deliberative. Members were treated as equals. They all had equal power to introduce amendments, to make speeches and convince their colleagues, and to contribute to the lawmaking process. They shared power.

However, there were critical trade-offs. Most obviously, the open and participatory process was chaotic and inefficient. One or a few persons could grind activity to a halt. The strategic introduction of amendments, not designed to improve but to "poison" legislation, could undo the careful work of many Members.

More subtly, the lack of an agenda-setter within Congress meant that Congress took direction from people who were outside Congress. In this period, the executive branch dictated measures to Congress. Alexander Hamilton, from his post as Secretary of the Treasury, introduced and guided most of the important fiscal policies adopted by Congress in the 1790s. After he was elected President, Thomas Jefferson, who had opposed executive usurpation of legislative power, actually wrote bills for Congress to adopt.[15] Without internal leadership, Congress was much more susceptible to outside leadership driving its agenda. In addition to this, the individualistic nature of the early Congress tied Members to regional and therefore to special interests much more than to the broader, national interest.

Some Members acknowledged the problems created by such an informal, open, and participatory process, and sought to impose order and majority rule. When Gardenier and others filibustered an embargo act against Great Britain in 1811, his colleagues had finally had enough. They used a mechanism called the "previous question" to shut down debate: By moving for the previous question, a majority of the House Members could vote to move to voting on the issue at hand rather than continuing the debate. One Member supported the use of the previous question "for the purpose of coming to a decision on the bill, and putting an end to a scene which was, to say the least, disreputable to the House."[16] The motion carried, and the filibuster was put down— though the open rules and open process remained largely in place for a few decades longer. The Senate, meanwhile, abolished its "previous question" motion in 1806 (at the behest of Vice President Aaron Burr), opening up the possibility of filibustering in that chamber.

Congress's Second Era: The Emergence of the "Czars"

Committees and the First Great Speaker: Henry Clay. The first great Speaker of the House, and the first great advocate of majority rule procedures in Congress, was Henry Clay. Though he is often remembered as a Senator and as one of the "Great Triumvirate" (with Daniel Webster and John Calhoun), Clay first achieved notoriety in the House. Clay was elected Speaker in his first term as a Representative—likely because the Speaker's role was not powerful in 1811 when he was chosen for the job.

Nevertheless, Clay saw the potential in the speakership. The Speaker traditionally had the power to choose the Members of congressional committees. This power did not amount to much in the first few decades of American history because Congress did not use permanent "standing" committees to do much of its work. But Congress was changing in the 1810s. Population was growing, and the House was growing along with it. By 1820 there were 186 Members of the House, compared to 65 Members in 1789. The federal government's responsibilities were also growing and becoming more complex, making it even more difficult to run the House in the older participatory fashion.

These changes in the size of Congress and the complexity of its work led to the establishment of the standing committee system during the 1810s and 1820s.[17] By 1825, there were 25 standing committees in the House, and they were given the right to originate and report legislation directly to the floor in 1822.[18] The Senate had 12 standing committees by 1816, including powerful committees such as Finance and Foreign Relations.

Controlling the appointments to these committees, now given authority over tariffs, canals and internal improvements, and taxes and spending, was now an important power. In the House, Clay foresaw this and attempted, with some success, to build a stronger Speakership by doling out committee assignments and leading floor debates.[19]

Clay, however, was the exception prior to the Civil War. Most speakers were chosen by fragile majority coalitions and were allowed to exert little control over the legislative process. Members valued their independence from leadership and their ability to serve their local and sectional interests. Committees and individual Members were more powerful than party leaders up to, and even for some time after, the Civil War. In part this reflected the impossibility of legislating collectively on the floor, given the dramatic increase in the number of Representatives in both the House and the Senate throughout the 1800s. Even before the Civil War, rules changes were implemented to limit debate in the House of Representatives. In

1841, the House established the "one-hour rule" preventing any Member from speaking for more than one hour on a question under debate. In the same year, the Senate considered a proposal by Henry Clay, who by that time had become a Senator, to restrict debate over re-establishing the National Bank. Although Clay lost that contest, even the Senate began to use limits on debate to act efficiently; in 1846, it used a unanimous consent agreement to end a filibuster against the Oregon Bill, which settled a boundary dispute with Great Britain and opened a path for Oregon's admission as a free state.

These restrictions on floor debate and procedures gave even more leverage to committees to do the heavy lifting of legislating. In *Congressional Government*, published in 1885, Woodrow Wilson offered perhaps the most famous line written by any scholar about Congress: "Congress in session is Congress on public exhibition, whilst Congress in its committee rooms is Congress at work."[20] Wilson denounced this system in which committees made all of the decisions and the Congress as a whole merely ratified them. It prevented accountability, according to Wilson, since "there are in Congress no authoritative leaders who are the recognized spokesmen of their parties.... It is divided up, as it were, into forty-seven seigniories, in each of which a Standing Committee is the court-baron and its chairman lord-proprietor."[21] For Wilson, committee government was problematic because it prevented political parties and their leaders from standing for principles upon which all of the Members were united, and representing those principles in public debates on the floor of Congress in spirited debate. Wilson's vision for the future of Congress was for it to become more of a parliament and less of a committee-based system in which power and legislation would be divided up.

The Emergence of the "Czar" Speakers: Thomas B. Reed and Joseph Cannon. Wilson's description of the irresponsible committee-dominated Congress was already inaccurate when *Congressional Government* was published in 1885. By the end of the century, Wilson conceded that party leaders had become much more powerful in Congress, and the committees were no longer the dominant power centers. In a preface to the 15th edition of *Congressional Government*, published in 1901, Wilson admitted that his "description of the government of the United States is not as accurate now as I believe it to have been at the time I wrote it."[22] "The power of the Speaker has of late years taken on new phases," Wilson explained. This was a significant reversal of Wilson's famous description of Congress as dominated by its committees. Wilson even granted in 1901 that recent changes in Congress "may put this whole volume hopelessly out of date."[23]

Wilson was right that Congress had been changed decisively by the emergence of party leaders. The person most responsible for this is perhaps the most powerful Speaker to have ever served: Thomas Brackett Reed. Though Reed and many other great speakers today are little known, they were perhaps the most powerful people in the entire government at the end of the 19th century and the beginning of the 20th.[24]

The "Reed Rules" that he established have been called "the central watershed in House procedural history" as well as "one of the most significant events in the institutional development of the Congress" as a whole.[25] The road to the Reed Rules began dramatically in January of 1890. Reed had repeatedly expressed frustration with the rules of the House, which enabled the minority party to obstruct by employing "dilatory tactics," the term used to describe motions and other antics designed to stall and delay House majorities.[26]

Chief among these tactics was the disappearing quorum. The U.S. Constitution stipulates that "a majority of each [House of Congress] shall constitute a quorum to do business."[27] Both houses presume that they are in compliance with this requirement unless someone objects that a quorum is not present. When someone so objects, the roll is called to determine if a quorum is present. The disappearing quorum relied on a House rule stating that a Member who does not respond to the roll call is not present for purposes of making a quorum. Democratic Members of the House who were present would cause a quorum to "disappear" by refusing to reply to the roll call.

"This peculiar art of metaphysics which admits of corporeal presence and parliamentary absence," as Reed called the disappearing quorum, was a common tactic in the 1870s and 1880s.[28] Reed was determined that it would not frustrate his party's work in 1890. When the House voted in a contested election case in January, Democrats used the disappearing quorum to prevent Republicans from awarding the seat to their party's candidate.

Surprisingly, Reed ordered the Clerk of the House to mark Democrats who were not responding as present. In response to this move, the House broke into pandemonium. Shouts of "tyranny" came from the Democratic side. A Member from Kentucky shouted, "I deny the right of the Speaker to count me as present." Reed replied wittily, "The Chair is making a statement of fact that the gentleman from Kentucky is present. Does he deny it?"[29]

For several days, the House debated Reed's ruling abolishing the disappearing quorum. An appeal was made from Reed's decision to the whole House, and the Republican majority sustained his ruling. Several attempts were made after this pivotal moment to reintroduce the disappearing

quorum, but Reed stood firm. On one of these occasions, Representative Buck Kilgore, a Democrat from Texas, kicked open the door to escape the chamber while shouting "make way for liberty," injuring a Republican, Nelson Dingley from Maine, standing on the other side.[30]

The showdown over the disappearing quorum set the stage for the passage of the rest of the Reed Rules. Those rules ensured that the House would follow the principle of majority rule. Reed defended the party-based, majoritarian House on republican principles. As he famously quipped, "The best system is to have one party govern and the other party watch; and on general principles I think it would be better for us to govern and for the Democrats to watch."[31] When the Democrats in the House opposed his decision to count them as present for purposes of establishing a quorum, Reed argued that

> The object of a parliamentary body is action, and not stoppage of action. Hence, if any member or set of members undertakes to oppose the orderly progress of business…it is the right of the majority to refuse to have those motions entertained, and to cause the public business to proceed.[32]

While Reed accepted the need for debate and deliberation, when Members abused these procedures simply to obstruct the will of the majority of the House, the rules should enable the majority, acting through its Speaker, to proceed. The theory of republican government is rule by the sense of the majority, acting through its elected representatives, and although delay for the sake of deliberation can be useful in promoting a reasonable majority, delay for the sake of obstruction is a threat to republican government itself.

The Reed Rules were the logical outgrowth of Reed's theory of majority rule. They consisted of the following pillars:

1. The Speaker could refuse to entertain motions that were offered for purposes of delay;

2. Non-voting Members would still be considered present for purposes of establishing a quorum;

3. The quorum for action in the Committee of the Whole, which serves to debate and amend measures, was reduced to 100 Members; and

4. The Speaker could refer measures to committees and use the Rules Committee to bring bills to the floor for consideration.[33]

These rules dramatically expanded both the power of the majority party and its leader, the Speaker of the House. Through three key powers, the Speaker became the dominant figure in the House. Those three key powers were:

1. The right of recognition, which gave the Speaker the power to determine who could speak on the floor and offer motions or amendments;

2. The power to appoint all committees and their chairs, which enabled the Speaker to influence the committees' work as well as give out rewards and punishments to Members who valued assignment to committees that oversaw their districts' interests; and

3. The chairmanship and control over the Rules Committee.[34]

Understanding this final power requires understanding the role of the Rules Committee in the House. After the Civil War, the Rules Committee developed into a "legislative traffic cop," a role that it still plays today. With a dramatic increase in the rise of introduced bills, some mechanism had to be devised to decide which bill to consider next. The House could take up each bill in the order in which it was introduced, but this would be logistically disastrous. To solve this problem, the House began to use "special rules" from the Rules Committee to send measures directly to the floor. Thus, the Committee became the gatekeeper for all legislation in the House. The Speaker's control over that committee, combined with his power of recognition and committee assignment, ensured his control over the House. In short, if any Member of the House wanted a plum committee assignment, or a bill enacted into law, he had to be sure not to cross the Speaker. Reed and other "czar" Speakers used these powers to implement the will of the majority and to crush the opposition of the minority.

Though these speakers were often referred to as "czars," that designation is a misnomer. Strong Speakers in the late 19th century were servants of their parties, not authoritarian commanders. Reed did not use his authority to impose his own preferred policies against the will of his party. He was elected by his party to advance the party's collective policies and interests. Reed justified his majoritarian rules package as a means of empowering Congress and all of the Members of its majority, not just the Speaker. Reed and his so-called czar successors understood that their obligation was to advance the interests of the rank-and-file Members who elected them, and that Speaker elections were mechanisms to ensure Speakers' fidelity to their party as a whole.

True to their word, Democrats who resisted the imposition of majority rule reversed the Reed Rules when they retook the House majority in the 1890 elections. Reed continued to advocate for the Reed Rules, though he was now in the minority. He and his Republican colleagues exploited the return to the older rules, refusing to vote when needed to establish a quorum and offering dilatory motions requiring lengthy roll call votes. As future "czar" Speaker Joseph Cannon recalled in his memoirs, Democrats "readopted the old rules and we were such hardened sinners that we filibustered without shame, Reed leading us."[35] Eventually, Democrats gave in and re-established the rule against the disappearing quorum, and Reed and his Republican colleagues voted with the Democrats to restore the rule. Cannon said that the Democrats "made a wry face and swallowed the Reed rules, and I suppose no man in our political history ever had a greater triumph."[36] Reed's actions, ultimately, were principled: Even as a Member of the minority party, he understood the need for majorities to govern in the House.

The late 19th-century Senate mirrored the House's centralization of power in party leaders, with slight differences. By the end of the 1800s, "a new breed of senator entered the chamber."[37] These new Senators were party bosses, people who served long careers in the Senate by controlling patronage through "senatorial courtesy"[38] and maintaining good relationships with their state party leaders.

By 1900, a small group often referred to as the "Senate Four" came to dominate the chamber due to their tenure and their power over certain committees: Nelson Aldrich (R–RI), William Allison (R–IA), Orville Platt (R–CT), and John Spooner (R–WI). Aldrich was especially powerful, as head of the Finance Committee and chair of the Republican Caucus, whose decisions on legislation were informally binding on all Republican Senators. Allison controlled the Appropriations Committee, which was in charge of spending money; the Committee on Committees, which assigned Members to committees; and the Steering Committee, which scheduled legislation on the floor. Spooner headed the Rules Committee and served as the *de facto* floor leader for the Senate Republicans. Though the Senate was still more decentralized than the House, and filibusters "became a virtual epidemic in the 1880s and 1890s," even the Senate was increasingly dominated by party leaders.

In his 1908 *Constitutional Government in the United States*, which substantially retreated from many of the arguments of *Congressional Government*, Wilson claimed that the Speaker had "come to be regarded as the greatest figure in our complex system, next to the president himself."[39] By

implication, presidents of this period were forced to restrain themselves and to bargain with congressional leaders rather than dictate terms to Congress. This dynamic of internal party leadership in Congress, which led to weaker presidents, was critical in limiting Theodore Roosevelt's progressive ambitions. Roosevelt, a Progressive Republican, was forced to negotiate with congressional leaders, especially Speaker Cannon.

Congress's Third Era: Rule of the Committee "Barons"

Progressives Attack Party Leadership: The Revolt of 1910. Congress's party-driven rules and structure frustrated the progressive reformers of the early 20th century for both principled and practical reasons. As a matter of principle, progressives insisted upon the destruction of party machines as undemocratic buffers between the people and their government, including elected officials.[40]

In addition to these principled objections to party control of the Congress, progressives had practical reasons for wanting to weaken party leadership. For most of the Progressive Era, the Republican Party was the party in control of Congress. However, while the Republican Party was most friendly to progressivism at the beginning of the 20th century, it was not controlled by progressives. Progressives were a minority within the majority. Their votes were necessary to give Republicans a congressional majority but were not enough to control the party's decisions.

Progressives at this time were unwilling to align with the Democratic Party because it was still the party of the South and the party opposed to a stronger national government. Thus, their only option was to use their leverage within the Republican Party to move it in a progressive direction. The rules of the House and Senate, however, consolidated power in the hands of the leaders, who could stifle internal opposition within the party.

One of these Progressive Republicans, Representative George Norris of Nebraska, had long aimed at weakening the Speaker. His attempts to introduce railroad regulation, tariff reform, and other measures were consistently rebuffed by Cannon, and in his memoirs, Norris wrote that he had carried a resolution to change the rules of the House for so long that the paper on which it was written "had become so tattered it scarcely hung together. That was the best evidence of long waiting for the minute that had come, and the frequency with which I had studied it in my office."[41] Norris's resolution would strip the Speaker's membership on the Rules Committee and his ability to appoint its Members. It would, in essence, eliminate the Speaker's control over scheduling bills for passage.

Progressives had already weakened the Speaker to some degree during the previous year. They were able to pass rules enabling lawmaking outside the Rules Committee process, including a "Calendar Wednesday" rule that mandated a roll call of committees, during which any committee could put pending measures on the floor for a vote.[42] But Norris's resolution, introduced on St. Patrick's Day in 1910, proved to be the pivotal moment. After extensive debate over several days, Progressive Republicans combined with the minority party Democrats to pass Norris's resolution.

Following this chastisement, Cannon had one remaining card to play. After the vote, he proclaimed that "the Democratic minority, supplemented by the efforts of the so-called insurgents...is now the majority, and that the Speaker of the House is not in harmony with the actual majority of the House, as evidenced by the vote just taken. The real truth," he continued to thunderous applause from most of his fellow Republicans, "is that there is no coherent Republican majority in the House of Representatives." Therefore, Cannon declared that he would entertain a motion "to vacate the office of the Speakership and choose a new Speaker...so that power and responsibility may rest with the Democratic and insurgent members who, by the last vote, evidently constitute a majority of this House."[43] Though Norris sought to adjourn, Cannon recognized a Democratic Member who introduced the motion to vacate, and the only motion to vacate the Speakership in American history moved forward. Cannon had put the question directly to the Progressive Republicans, almost all of whom voted to keep Cannon in the Speaker's role, and Cannon survived the motion to vacate.

"Barons" Replace the "Czars." The Norris Resolution marked the beginning of the decline of the Speakership and, by extension, of party leadership in the House. The House stripped the Speaker of the power to appoint Members to committees the following year. These changes weakened party control over individual Members. As professor Eric Schickler writes, "Norris himself wrote two years later that the revolt had helped create 'a new atmosphere in the House of Representatives. There is more independence than there ever has been'" from party leaders.[44]

The new rules established that committees would be elected by the Congress as a whole, which led to the seniority system. The seniority principle mandated that the longest-serving Member of the majority party on a committee would be installed as chair. With the ability to act independently of party, the chairs became the most powerful Members of Congress after 1910–1911. They determined the scheduling and agendas of committee meetings, chose committee staff, and controlled all subcommittees and the referral of bills to subcommittees. The powerful Speakers of the late 19th

and early 20th centuries were called "czars." In the third era of Congress, from 1910 to 1970, committee chairs were the "barons."

The two chief "barons" of the middle of the 20th century were southern Democrats: "Judge" Howard Smith (D–VA) and Wilbur Mills (D–AR). This was a natural outgrowth of the seniority principle. In the South, prior to the 1960s, the Republican Party was essentially non-existent, associated as it was with the northern cause during the Civil War. Democrats also held the majority in the House of Representatives for most of this period. Consequently, the committee chairs were Democratic Members from the safest districts, all in the South, where they could easily acquire seniority. The two most important committees, the Rules Committee and the Ways and Means Committee (which now made committee assignments and legislated on most financial matters), were chaired by Smith and Mills, respectively.

Southern Democrats, however, were conservative on issues of federal power and state sovereignty before the 1960s. Smith and Mills were no exception. Smith consistently bottlenecked civil rights legislation in the Rules Committee, in spite of the fact that a majority of Democrats supported it. Famous Speaker Samuel Rayburn was reduced to cajoling committee chairs to send legislation to the floor. Smith once abruptly cancelled a committee hearing on civil rights legislation because his barn had burned down at his home in Virginia. Rayburn quipped: "I always knew Howard Smith would do most anything to block a civil rights bill, but I never knew he would resort to arson."[45]

Thus, progressives who worked to deprive the Speaker of power in 1910–1911 won a Pyrrhic victory. In place of party control of Congress, their reforms led to committee government, with dispersed and decentralized power scattered across various autonomous committees. The committee chairs, who held veto power over legislation in this system, however, were opposed to progressive reforms. The very thing progressives worked to destroy—party control of individual Members—was needed to achieve progressive policy goals.

The Speakers of the mid-20th century were much weaker than the "czars" of earlier generations, and they acknowledged it. Samuel Rayburn noted, "The old day of pounding on the desk and giving people hell is gone. A man's got to lead by persuasion and kindness…. [T]hat's the only way he can lead people." The same was true of the Senate. Mike Mansfield, the longest-serving Senate Majority Leader in history (1961 to 1977) was even more direct: "I'm not their leader, really. They don't do what I tell them. I do what they tell me."

The advantages of committee government were clear: Instead of taking orders from powerful party leaders, Members could act independently of their party. They could follow their constituents rather than their party. This enabled Members of Congress to mirror their constituents and be repeatedly reelected as a reward for doing so. But the downsides were considerable: Congress once again became a collection of various interests, acting independently of each other, with few inducements to deliberate or act collectively. Parties and their platforms mattered little; Members who controlled important checkpoints mattered most.

Committee Government, Collective Inaction, and Delegation to the Bureaucracy. Committee government weakened the mechanisms that enabled Congress to remain the most powerful branch throughout the 19th century. Congress is designed to be cumbersome, fragmented, and gridlocked. Strong parties empowered legislative leaders who helped Congress overcome this gridlock and set a legislative agenda that ensured its accountability to the people. Parties could set platforms and make promises to the electorate, who could choose between the parties as a means of choosing which policies they wanted to see enacted. They could appoint leaders in Congress who could maintain the party's coalition and ensure it implemented the platform it ran on during the election.

Once parties and their leaders were weakened in the early 20th century, however, the impediments to Congress's collective action reemerged. Political scientist Lindsay Rodgers predicted in the 1920s that "[t]he President will find it difficult to lead the House if there is no authoritative agent with whom he may deal.... Speaker Cannon could promise Roosevelt that the House would do certain things and the things would be done. There is no one in the House now to make such promises." In other words, leaders in Congress who can set the agenda and coordinate activity are necessary for Congress to remain the central policymaker in the government. Absent leadership, there is no way to hold Congress as a whole accountable.

Because the incentives for collective action in Congress were diminished during the 20th century, government itself might have ground to a halt if Congress had to pass legislation to address every major policy issue that arose. New conditions would require new policies, and the rapidity of change would require an active Congress to keep up with the need for new measures. Congress found a way around this problem: delegation.

The third era of Congress is the era in which most of the major regulatory programs and agencies were established. The key feature of the laws establishing these programs is the delegation of lawmaking discretion to administrative agencies. Congress, in other words, overcame its collective

action problems by delegating its powers to agencies that could act more quickly and efficiently.

Why would Members of Congress give up power? It runs counter to a fundamental supposition of the Founders that people in power would be ambitious and would cling to (and seek to expand) their power. As James Madison famously put it in *Federalist* No. 48, "power is of an encroaching," not an abdicating, nature.

The answer to this paradox is that Members of Congress delegated the responsibility for making the law but not their power to influence the policies that agencies would make once they received the power from Congress. By reorganizing into committees, with Members who were now largely independent of their parties, Congress could oversee the administrative state behind the scenes. Agencies still needed program authority and money in the form of appropriations. Power and money, of course, could be granted or withheld by Congress, acting through committees with authority over appropriations and authorizations for the agencies within their jurisdiction.

The most concise and compelling explanation of this phenomenon in Congress is Stanford professor Morris Fiorina's *Congress: Keystone of the Washington Establishment*.[46] As Fiorina explained, Members of Congress insulated themselves from accountability for the laws made by the administrative state while maintaining the ability to influence its decisions through oversight and appropriation of funding. They could take credit for passing laws with abstract and uncontroversial goals (clean air, safe workplaces, equal opportunity, and the like), while passing the accountability to the agencies responsible for implementing those goals.

To top it all off, Members could take credit for saving constituents from the agencies' rules—saving citizens from the problems they indirectly created. During Congress's third era (and still today), Members of Congress and their staffs increasingly focused on *casework*—acting as constituent service ombudsmen for constituents aggrieved by the administrative state's rulings. Regardless of a Member's party or ideology, if a citizen is saved from the bureaucracy by his Member of Congress, he will tend to look favorably on that Member and be likelier to vote for that person in the next election. Casework, in other words, is a way for Members to guarantee job security by acting as customer service representatives for constituents in the face of the federal bureaucracy that they created and empowered.

Not surprisingly, then, the third era was also the era in which Members of Congress were independent of their parties. Members of the Democratic Party could be conservative or liberal, free to act against the views of their fellow Democrats. The same was true of Republicans during the mid-20th

century. They transcended partisanship by acting for their constituents' interests rather than for national ideological goals—contrary to the behavior of Members in the second era.

Voters responded to this new behavior by splitting their tickets, choosing Republican Presidents and voting for Democratic Members of Congress. Richard Nixon, for instance, won 49 states in 1972, but Democrats retained control of the House and the Senate. Ticket-splitting and divided government were the symptoms of a Congress that had delegated the governance decisions to the administrative agencies. Voters trusted Republicans to deal with the truly national questions relating to foreign policy and balanced budgets, consistently giving the presidency to that party. They trusted Democrats to oversee and intervene in the administrative state, consistently voting for Democratic congressional majorities. The result was a sort of gridlock in which the administrative state operated, protected, and was overseen by various committees and the interests they served, with the national interest represented by a president who could not break through Congress's "iron triangles."

Congress's Fourth Era: Partisanship Contra Parties

The revolt against Cannonism that began in 1910 was a reaction to the centralization of power in Congress in party leaders. The result was a concentration of power in independent committee chairs. But the excesses of committee government eventually produced a reaction similar to the reaction against Cannonism. The fourth (and current) era of Congress began in 1974 after a wave of more liberal Democrats entered Congress. They were motivated by two goals that were in tension: dispersing more power to more Members of Congress and centralizing power in party leaders so that Congress could still get things done. Congress today is a contradictory combination of the centralized second era of Congress and the decentralized third era.

Changes in the external political environment opened the way for progressive Democrats to pass a series of internal reforms fundamentally reshaping the institution. Externally, many Democratic Members' constituencies were becoming more liberal, particularly in the South, where the Voting Rights Act of 1965 created more liberal congressional districts by protecting the right to vote for blacks. The Watergate Scandal and the resignation of President Richard Nixon brought forth pleas for restoring Congress's supremacy in the era of "imperial" presidents.[47] Finally, progressives' frustration over their inability to control the legislative process,

given the power of southern conservative Democratic committee chairs, contributed to calls for reform.

During the 1974 congressional elections, so-called Watergate babies won dozens of seats in the House of Representatives, reshaping the Democratic Party as a more homogeneously liberal party, which inevitably pressured conservative Democratic committee chairs to relinquish power. Over several years, the new Democrats took down the barons. Most significantly, they weakened the seniority principle, instead requiring that all committee chairs be selected by a secret ballot of the party caucus. Democrats subjected every committee chair to a secret ballot vote in 1975, ousting three chairs and signaling to the rest that they could no longer act independently of the party. In addition, they established rules preventing chairs from refusing to hold hearings and requiring open hearings so that the public could watch and track the activities of the committees. The percentage of "closed" committee hearings went from 44 percent in 1972 to 3 percent in 1975.[48]

Finally, Democrats passed the "Subcommittee Bill of Rights," a package of rules designed to make subcommittees more powerful and independent of committee chairs. Subcommittees were empowered to hold hearings and hire staff, and their chairs were selected by the full committee rather than unilaterally by the chair. All measures had to be submitted to subcommittees by the committee chairs within two weeks of referral. Committee chairs could no longer "pocket veto" measures by refusing to act on them.

The obvious effect of these reforms was to further decentralize and democratize power in Congress. Now, instead of a single party leader holding power, or even a small number of powerful committee chairs, power was dispersed broadly throughout the subcommittee structure. The number of subcommittees exploded to 140 in the House and 130 in the Senate. This decentralization, however, raised a clear problem: How can Congress act collectively without any method of prioritizing among the activities of the various subcommittees? Where can leadership authority be vested to create order out of this chaotic structure?

The Democratic reformers of the 1970s recognized this challenge. Consequently, they returned some powers to the Speaker to coordinate the activities of the newly empowered subcommittees. Most importantly, the Speaker was given control over the Rules Committee through the power to appoint all of its Members. While the Speaker is still not permitted to be a Member of that committee, the authority to appoint the Members ensures that it is responsive to the demands of House leadership. Power in Congress in the 1970s, therefore, was both decentralized into subcommittees and centralized in the hands of the Speaker.

The consequence of these reforms in the middle of the 1970s was to "renationalize" Congress. During its second era, in the late 19th century, national parties mattered more than individual candidates in congressional elections. People voted on the basis of party rather than individual candidates because the candidates were more beholden to parties and the parties were more homogeneous. Because party leaders were undermined during the third era, from 1910 to the 1970s, individual candidates could run as their own particular brand of Republican or Democrat. Southern Democrats could run as conservatives, hewing to their districts rather than to their national party identity. Northeastern Republicans could run as liberals, unlike their conservative Midwestern and Western counterparts.

The return of some powers to party leaders in Congress signaled a partial return to the partisanship of the second era. Parties began to sort themselves as homogeneously liberal and conservative, a trend which has accelerated in the 21st century.[49] This naturally affected Congress. It led to an increasingly partisan Congress, especially as committee hearings became more open and transparent. Members were encouraged to play to their base even while in the Capitol, giving speeches not to their peers but to their constituents back home, whether in committee hearings or on the floor. The Speakership of Democrat Jim Wright from 1987 to 1989 was especially vitriolic, and Wright consolidated considerable power in the Speaker's office.[50] However, just as progressives in 1910 inadvertently created committee barons who would frustrate future progressive reforms, the liberal Democrats who empowered party leaders in the 1970s created institutions that would be used against them. A new breed of conservative Republicans from the South was emerging that would build upon the reforms of the 1970s, using the power of the Speakership for conservative ends when they captured it.

The notion that Republicans could win a majority in the House of Representatives was considered preposterous, but Newt Gingrich believed it was possible. Nationalizing the 1994 congressional elections under the "Contract with America," Gingrich led the Republican Party to the House majority for the first time since 1952. Once the new Congress convened, Gingrich pressed for rules reforms that, once enacted, further strengthened the Speaker's hand. He slashed committee staff to reduce their independence from leadership and, more importantly, obtained increased authority over committee assignments. The Speaker was given five votes on the Steering Committee, which makes the initial committee assignments (subject to a vote by the full party).[51]

The Gingrich reforms helped bring about the contemporary period of stronger Speakers. While they are not the "czars" that dominated the House of Representatives in the late 19th and early 20th centuries, Speakers have considerably more power now than they did during the middle of the 20th century, when Speakers like Sam Rayburn had to beg and bargain with committee chairs.

An examination of the past forty years of Congress's history—as the reforms of the mid-1970s began to recentralize power in party leaders' hands—makes it clear that today's Congress is dominated by parties and their leaders. Newt Gingrich is usually cast as the villain in this story, as someone who brought about the dysfunctional, partisan era in Congress.[52] This view rests on a narrow and distorted historical lens. Today's Speakers are hardly the czars of a little over a century ago. They are still elected by their parties and therefore beholden to them. Members of Congress still prize their independence from party leaders, particularly in an era in which that independence enables them to run against their party's leadership to avoid being "primaried" out of office. The reforms of the 1970s were hardly sufficient to create powerful Speakers. Carl Albert, Democratic Speaker from 1971 to 1977, was essentially ousted by the left wing of his party, which had contempt for the compromises that party leaders must make to build and maintain majority coalitions. Albert later lamented, "I tried to be the leader of this group [the class of 1974] that refused to be led."[53]

In spite of the recent centralization of power in the Speakership, today's Speakers are still relatively weak. John Boehner and Paul Ryan were both weakened by the narrowness of congressional majorities, a feature of contemporary politics that renders party leaders vulnerable to insurgencies from small factions within the party. This contemporary period of narrow majorities and frequent changes in majority control of the House and Senate means that congressional majorities avoid taking tough stances and tough votes to protect their majority. Votes have become more about messaging and campaigning than governing, further exacerbating the problem of delegation to the administrative state.

The narrowness of congressional majorities also makes today's speakers relatively weaker than those of the late 19th century. There were indications that even Nancy Pelosi, renowned for managing her caucus, struggled to manage the various factions within her party while she was Speaker. Using a phrase reminiscent of Carl Albert a generation before, John Boehner explained to Jay Leno in 2014 that his weakness is what prevented him from averting a government shutdown: "When I looked up, I saw my colleagues going this way. And you learn that a leader without followers is simply a man

taking a walk." This dynamic will almost certainly define current Speaker Kevin McCarthy's time in the role—indeed, it already has.

Today's era of Congress, in sum, is a combination of the centralized leadership of the second era with the decentralized and independent power structure of the third era. Party leaders have regained some of the powers they lost in 1910–1911, but they are still the agents of the Members of the party, who are free to resist and even to oust them. Today's Congress is best described as "partisanship without parties." Members are increasingly partisan, but this is not due to their attachment to their party as an organization. Party leaders play a secondary role to the control that constituents have over their Members.

Congress's Future

Compared to the very weak speakers and parties that characterized Congress's third era between 1910 and 1974, today's party leaders appear to be very powerful. In the House, the Speaker has been given more control over committee assignments and the Rules Committee. The Senate's Majority Leader has also gained considerable power compared to the more decentralized Senate of the mid-1900s.

Seen through a broader lens, however, it is clear that Congress has not fully returned to the power of the old "czars" that ran the House and Senate. In part, this is because the party leaders are no longer backed by the machines, patronage, and smoke-filled rooms that gave them control over who could be nominated and elected under the party banner. The decline of parties outside Congress means that even if party leaders have been given back some of their older powers, they can no longer use them in a domineering manner. When they close the process, it is usually to prevent fractures in their coalition, especially through strategic action by the minority party designed to embarrass the majority. In a word, party leaders have the power but not the confidence of their caucuses.

This dynamic defines the present-day Congress. It is no longer the bipartisan, collaborative, participatory institution it was during previous eras. But neither is it the top-down, "czar"-driven institution that it was when political parties were at their height of power. Congress is in limbo.

As discontent with the present state of Congress builds, it is likely that there will be a major shift in how Congress functions in the near future. The public's frustration with Congress during the Cannon years created the opening for the Revolt of 1910 that gave power over to the committees. The public's frustration with that system led to the reforms of the 1970s

that both decentralized power to subcommittees and centralized power in party leaders. Where we go from here will depend on how well we understand and implement the lessons of history, which makes the examination of Congress's evolution indispensable.

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Endnotes

1. See Molly Reynolds, "Why Members of Congress Choose Not to Run for Re-election," *Brookings Institution*, May 12, 2022, https://www.brookings.edu/wp-content/uploads/2019/03/2-7-Full.pdf (accessed March 31, 2023).

2. Public Policy Polling, "Congress Less Popular than Cockroaches, Traffic Jams," January 8, 2013, https://www.publicpolicypolling.com/polls/congress-less-popular-than-cockroaches-traffic-jams/ (accessed January 20, 2023).

3. Nelson Polsby, "The Institutionalization of the U.S. House of Representatives," *American Political Science Review*, Vol. 62 (1968), pp. 144–168.

4. James Sterling Young, *The Washington Community, 1800–1828* (New York: Columbia University Press, 1966), p. 22.

5. Ibid., p. 23.

6. Ibid., p. 98.

7. Ibid.

8. Ibid., pp. 102–104.

9. Congressional Quarterly Staff, *Origins and Development of Congress*, 2d ed. (Washington, DC: Congressional Quarterly Press, 1982), p. 99.

10. North Carolina and Rhode Island did not ratify the Constitution until after the new government was formed, so the actual number of Representatives and Senators was lower for most of the first Congress.

11. Congressional Quarterly Staff, *Origins and Development*, p. 201.

12. Ibid., p. 206.

13. Young, *Washington Community*, p. 94.

14. Ibid., pp. 96–97.

15. James Sundquist, *Decline and Resurgence of Congress*, p. 22.

16. Annals of Congress, House of Representatives, 11th Congress, 3rd session, p. 1094.

17. Although some standing committees existed before this period, the committee system was not truly implemented until this period.

18. Congressional Quarterly Staff, *Origins and Development*, 106.

19. See Randall Strahan, *Leading Representatives*, pp. 44–78, for an extensive discussion of how Clay used his powers as Speaker to lead the House and influence policy outcomes on the tariff, internal improvements, and foreign affairs.

20. Woodrow Wilson, *Congressional Government*, 15th ed. (Boston: Houghton Mifflin, 1901) [orig. pub. 1885], p. 79.

21. Wilson, *Congressional Government*, 92.

22. Wilson, "Preface" to *Congressional Government*, 15th ed., p. v.

23. Ibid., p. xiii.

24. Though there are several excellent treatments of Reed's Speakership and his impact on the development of Congress, perhaps the best account is Randall Strahan, *Leading Representatives: The Agency of Leaders in the Politics of the U.S. House* (Baltimore, MD: Johns Hopkins University Press, 2007), pp. 79–126. Contrary to most political science accounts of Reed and other Speakers, Strahan argues that Reed was not simply an agent of his party but was a leader who shaped the goals and choices of the party he led.

25. Gary Cox and Mathew McCubbins, *Setting the Agenda: Responsible Party Government in the U.S. House of Representatives* (New York: Cambridge University Press, 2005), p. 222, and Eric Schickler, *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress* (Princeton, NJ: Princeton University Press, 2001), p. 32.

26. See Thomas Reed, "Rules of the House of Representatives," *The Century Magazine*, March 1889; Thomas Reed, "Obstructions in the National House," *North American Review*, Vol. 149, October 1889; and Thomas Reed, "A Deliberative Body," *North American Review*, Vol. 152, February 1891.

27. U.S. Constitution, Article I, section 5, clause 1.

28. Quoted in H. W. Brands, *The Reckless Decade: America in the 1890s* (Chicago: University of Chicago Press, 2002), p. 263.

29. Thomas Reed, *Congressional Record*, January 29, 1890, p. 949.

30. L. White Busbey, *Uncle Joe Cannon: The Story of a Pioneer American* (New York: Henry Holt & Co., 1927), p. 183.

31. Thomas Reed, *Congressional Record*, April 22, 1880, p. 2661.

32. Thomas Reed, *Congressional Record*, January 31, 1890, p. 999.

33. Strahan, *Leading Representatives*, p. 103.

34. Congressional Quarterly Press, *Origins and Development of Congress*, p. 122.

35. Busbey, *Uncle Joe Cannon*, p. 183.

36. Ibid., p. 184.

37. Congressional Quarterly Press, *Origins and Development of Congress*, p. 224.

38. A somewhat outdated practice in which Senators can influence or determine who is appointed for positions in their home states. Because the Senate has the power to confirm appointees, Presidents historically deferred to Senators in making certain selections. This courtesy enabled Senators to build up political capital by controlling plum jobs that leading constituents wanted.

39. Woodrow Wilson, *Constitutional Government in the United States* (New York: Columbia University Press, 1908), p. 98.

40. See Joseph Postell, "The Rise and Fall of Political Parties in America," Heritage Foundation *First Principles Essay* No. 70, September 30, 2018, pp. 10–14, https://www.heritage.org/political-process/report/the-rise-and-fall-political-parties-america.

41. George Norris, *Fighting Liberal: The Autobiography of George W. Norris* (New York: Macmillan Co., 1945), p. 113.

42. Eric Schickler, *Disjointed Pluralism*, p. 72.

43. Joseph Cannon, *Congressional Record*, 61st Congress, 2nd session, March 19, 1910, Vol. 45, pp. 3436–3437.

44. Shickler, *Disjointed Pluralism*, p. 81, quoting James Holt, *Congressional Insurgents and the Party System* (Cambridge: Harvard University Press, 1967), p. 19.

45. Alfred Steinberg, *Sam Rayburn: A Biography* (New York: Hawthorn Books, 1975), p. 313.

46. Morris P. Fiorina, *Congress: Keystone of the Washington Establishment*, 2nd ed. (New Haven: Yale University Press, 1989).

47. The famous reference to the "imperial" presidency is from Arthur Schlesinger, *The Imperial Presidency* (Boston: Houghton Mifflin, 1973).

48. Some committees that had authority over national security were exempted from the rules changes, accounting for the 3 percent of closed hearings in 1975.

49. The literature on this point is vast, but see Morris P. Fiorina, *Unstable Majorities: Polarization, Party Sorting, and Political Stalemate*, ch. 7, "The (Re) Nationalization of Congressional Elections" (Stanford, CA: Hoover Institution Press, 2017). It is important to note that, according to Fiorina, this is due to party sorting, not polarization of the electorate.

50. See J. Brooks Flippen, *Speaker Jim Wright: Power, Scandal, and the Birth of Modern Politics* (Austin: University of Texas Press, 2018).

51. That number has now been reduced to four due to demands against Paul Ryan when he ran for Speaker. This only applies to Republicans; House Democrats have a different system.

52. For a recent example, see McKay Coppins, "Newt Gingrich Says You're Welcome," *Atlantic*, November 2018.

53. Carl Albert, *Little Giant: The Life and Times of Speaker Carl Albert* (Norman, OK: University of Oklahoma Press, 1990), p. 368.