Two Pathways for Congressional Reform

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In the 1940s, two different committees of political scientists worked under the auspices of the American Political Science Association (APSA) to grapple with pressing issues then facing democracy in the United States. The crises of the Great Depression and World War II, and the ways in which American political institutions struggled to respond to them, had raised important questions about the viability of our system of government. In a nutshell—to borrow the title of an influential book published in 1945—informed observers were asking, "Can representative government do the job?"[1]

We are now asking ourselves this question once again. The role of Congress—ostensibly the first branch of government—has greatly diminished relative to those of the other branches. The institution is riven by polarized parties. Opinion polls routinely find that only one in ten Americans approves of Congress.

As contemporary reformers consider how we might respond these challenges, we would do well to revisit the legacies of the two APSA committees. One must admit that this is not a straightforward case to make. Both committees acknowledged that they had not marshalled the analytical rigor and empirical research that have come to be the hallmarks of modern political science. Their respective reports, like most documents written by committees, glossed over some apparent conflicts and inconsistencies. Hence our tendency to regard them as the youthful indiscretions of a discipline that has since matured.

Yet if we actually take the time to read and understand the final reports of these two committees, we can appreciate that they presented clear and compelling alternatives—one focused on congressional capacity, the other on responsible partisanship—for how to improve representative democracy in the United States. Moreover, both committees reshaped Congress in ways still observable today. We need to understand how they did so.

We begin with the work of the APSA Committee on Congress, then turn to its further development in the Legislative Reorganization Act of 1946. Next, we take up the work of the APSA Committee on Political Parties and how liberal reformers in Congress used it as a bearing point in their long march toward more responsible partisanship from 1950 to 1975. We continue tracing the arcs of these two reform impulses in recent decades, marked as they have been by increased polarization and decreased institutional capacity in Congress. We conclude by considering how, in the face of these outcomes, those of us concerned about the health of representative democracy in the United States might proceed.

[1] Thomas K. Finletter, *Can Representative Government Do the Job?* (New York: Reynal and Hitchcock, 1945).

I.   The APSA Committee on Congress

The Committee on Congress originated in discussions among political scientists working in universities, nonprofits, and government agencies in Washington, D.C. during the late New Deal era. They wanted to assess the health and functioning of the legislature in a period of expanding executive and administrative powers. In January 1941, APSA President Frederic A. Ogg appointed George Galloway, an industrial planner who had previously worked for the National Recovery Administration, to lead the five-member Committee.[2]

In the preface to its final report, issued in 1945, the Committee noted that,

"We have proceeded on two assumptions: first, that the present tripartite pattern of the federal government will continue; and second, that Congress should be equipped effectively to discharge its constitutional functions as one of the three coordinate grand divisions of our national government."[3]

The Committee's two assumptions reaffirmed our Constitution's separation of powers, but with a twist. In *The Federalist* #48, James Madison had warned that, because of its proximity to the people—the wellspring of popular government—"the legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex." However, as Representative Madison came to realize in the 1790s, when the executive branch was led by an energetic executive and determined administrators, it too could be a vortex. This was even more the case after the transformation of presidential power and influence brought about by Franklin Roosevelt and the expansion of the administrative state.

The Committee concluded that, "Congress must modernize its machinery and methods to fit modern conditions if it is to keep pace with a greatly enlarged and active Executive branch." The goal was not that of "reducing and hamstringing the Executive"—far from it. Rather, "a strong and more representative legislature, in closer touch with and better informed about the Administration, is the antidote to bureaucracy."[4]

In helping to develop this antidote, the Committee acknowledged that it sought to serve as a "catalytic agency"—today we might call it an advocacy group—"seeking to stimulate congressional interest in self-improvement and public interest in legislative reform."[5] The Committee's work led to a flurry of meetings, speeches, panels, reports, and newspaper stories on congressional reforms. The Committee joined forces and met frequently with a bipartisan, bicameral group of "procedural entrepreneurs"—legislators who were likewise concerned about the institutional health and independent role of the legislative branch vis-à-vis the executive. Galloway and his colleagues also spent plenty of time on Capitol Hill engaging with these legislators.[6]

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[2] Donald R. Matthews, "American Political Science and Congressional Reform," *Social Science History*, Vol. 5, No. 1, (Winter 1981), pp. 92-94.

[3] *The Reorganization of Congress: A Report of the Committee on Congress of the American Political Science Association* (Washington, D.C.: Public Affairs Press, 1945), pp. 3-4.

[4] "*Reorganization of Congress*," pp. 80-81.

[5] *Ibid*., p. 4.

[6] *Ibid*., pp. 86-87; Roger H. Davidson, "The Advent of the Modern Congress," *Legislative Studies Quarterly*, Vol. 15, No. 3, (August 1990), pp. 60-63; Matthews, "American Political Science and Congressional Reform," pp. 95-98.

"The Reorganization of Congress," the Committee's final report, offered multiple recommendations. Beyond discrete calls to eliminate private bills and local legislation, register lobbyists, and increase salaries and retirement benefits for legislators, the core recommendations fell into three categories. These included (1) increasing the expertise and staff capacity of Congress; (2) rationalizing and revitalizing the committee system; and (3) better positioning Congress to oversee and set the agenda for its "external relations" with the executive branch.[7]

The Committee's call for Congress to augment its staff reflected a frustration among legislators that their institution was more and more reliant on executive branch officials for its information and was thereby losing its initiative. The recommendations for more staff resources took three forms: first, that "the committees of Congress be adequately equipped with independent, qualified experts to aid them in making laws," second, that the "the Legislative Reference Service and the Office of Legislative Counsel be substantially increased," and third, that "each member's annual allowance for clerical hire be substantially increased."[8]

The report also proposed that elected officials and citizens recognize committees as "the center of legislative activity where criticism of administration and decision upon proposed legislation is largely made." Rather than lament the central importance of committees for deliberation, as Woodrow Wilson had famously done in his *Congressional Government*, "The Reorganization of Congress" celebrated this reality. Indeed, it advocated that "most of the days and most of each day of a congressional session should be legally and specifically devoted to committee hearings" and that these hearings were the way for "constituents and sightseers to see Congress at work."[9]

But the members of the Committee on Congress also recognized that the committee system would have to be modernized. A core thrust of this was rationalizing and streamlining the number of committees, which had grown "like Topsy since the early days of the Republic," to the point where there were 48 standing committees in the House and 33 in the Senate. The plethora of committees left too many members with more committee assignments than they could master. Hence the report's recommendations for "(a) eliminating the inactive committees; (b) consolidating those with overlapping jurisdictions; (c) creating twin committees organized functionally in both houses; and (d) correlating them with major areas of public policy and administration."[10]

The Committee on Congress also considered whether to take on an emerging problem arising from the norm of selecting committee chairmen on the basis of seniority. The report acknowledged that the norm "settles harmoniously the problem of priority without dispute or controversy." But it noted that the seniority system meant some committees were chaired by legislative deadwood or by those who treated their committees as fiefdoms. On balance, the Committee on Congress felt that the seniority norm needed to change, though it recognized the political challenge of doing so—and the corresponding need for a "compromise solution." One option was putting an age limit of 65 or 70 on chairmen. Another was imposing term limits of 6 years in the chair. Both had "the great merit of the

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[7] APSA Committee on Congress, "Reorganization of Congress," pp. 79-80.

[8] *Ibid*., pp. 27-27, 79-80

[9] *Ibid*., p. 70; Woodrow Wilson, *Congressional Government* (New York: Houghton Mifflin, 1885), pp. 60-79.

[10] "Reorganization of Congress," pp. 29-31, 79.

automatic feature." A third option that clearly did not have this "automatic feature" was to have chairmen selected by leaders of the majority party in each house.[11]

However committee chairs were to be selected, the final report also recommended that they be obliged to hold committee meetings when a majority of members called for one, report bills passed in committee to the floor in a timely way, and keep a public record of all non-executive committee sessions. These disciplines would also serve to counteract problems arising from the seniority system.[12]

The third thrust of the report was to enable Congress to interact more effectively with the President and the burgeoning executive branch. Franklin Roosevelt and then Harry Truman had been inviting the "Big Four"—the Vice President, Senate Majority Leader, Speaker of the House, and House Majority Leader—to a weekly White House meeting to plan the Administration's and the Democratic Party's legislative agenda. The Committee on Congress proposed to build on this model, but bring the initiative back to Capitol Hill, by establishing a new "Legislative Council" consisting of the "Big Four" plus the chairmen of the standing committees in both houses. The remit of the new Council would be to "plan and coordinate the legislative program of Congress and to promote more effective liaison and cooperation with the Executive."[13]

The central element of the inter-branch recommendations of the Committee on Congress was for a concerted response to "the growing concern in and out of Congress for more adequate supervision and control of an expanding bureaucracy." This was in many respects *the* issue the Committee was addressing in the report, and it arose from undeniable historical circumstances:

> "Recurring wars and depressions have caused a great expansion of the public services, with more and more intervention by the State in the control of industry and the protection of individual welfare. There is no reason to expect a reversal of this long-run trend after the war, regardless of fluctuations in party control."[14]

In response to the expanded scope of the administrative state, the Committee on Congress recommended centralizing the oversight function within the subcommittees of the House Committee on Appropriations so as to capitalize on their expertise and primary responsibility for government expenditures. Other members of Congress could submit inquiries to the relevant appropriators to pursue, and records of their proceedings would be made available to the public.[15]

Looking back over the main thrusts of the Committee on Congress's final report, we can see they all reflected the perspective that Congress was an autonomous branch of government that needed to preserve and enhance its primary constitutional function of deliberation—especially relative to the growing energy in the executive branch. Hence the imperative tone of "The Reorganization of Congress." With a few exceptions (discussed below), the recommendations of this report would assume concrete and implementable form in legislation that Congress passed the following year.

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[11] *Ibid.,* pp. 33-37, 80.
[12] *Ibid*., p. 80.
[13] *Ibid*., p. 79.
[14] *Ibid.,* pp. 56-57.
[15] *Ibid.,* p. 80.

In early 1945, as the APSA Committee on Congress was finishing its report, it passed the reform baton to a bipartisan, ten-person Joint Committee on the Organization of Congress. Its co-chairs, Senator Robert La Follette, Jr. of Wisconsin and Representative Mike Monroney of Oklahoma, had been active informants of the APSA Committee on Congress. They hired George Galloway, leader of the APSA Committee, to be the staff director of their Joint Committee. The men clearly sought to build on the assessment and plans they had already developed together.[16]

The House and Senate instructed the members of the Joint Committee to study the "organization and operation" of Congress in order to "recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, improving its relationships with other branches of the United States Government and enabling it better to meet its responsibilities under the Constitution." The Joint Committee spent most of 1945 holding hearings and receiving testimony from witnesses in Congress (45 members spoke with the Joint Committee, and 37 submitted written statements) as well as citizens at large.[17]

On March 4, 1946, the Joint Committee submitted its report. It echoed the recommendations of its APSA predecessor, albeit with a few noteworthy modifications. The Joint Committee did not touch the institutionally delicate seniority issue, relying instead on meeting and reporting requirements for committees as the way to bring the chairmen in line.[18] And rather than concentrating oversight in the House Appropriations subcommittees, the Joint Committee recommended that all the standing committees of both houses "be directed and empowered to carry on continuing review and oversight" of policies and agencies in their jurisdiction and that they be given the subpoena power to help do so.[19]

One important new recommendation was the establishment of a legislative budget process that would operate independently of the executive branch and enable Congress to set overall revenue and spending targets for itself via a concurrent resolution, with mechanisms for reconciliation should the spending plans outstrip expected revenues. Another was to establish and provide staff for majority and minority policy committees in both houses that would set their respective caucuses' agendas.[20] Both ideas reflected a desire to integrate and organize the work being done across committees in ways that would enable the institution to speak with a more coherent voice.

In March 1946, the Joint Committee submitted its report. It was promptly converted into legislation. The proposed package of reforms did not pass through Congress unscathed. The bids to formalize a legislative-executive council as well as majority and minority policy committees were knocked out by Sam Rayburn, who preferred informal arrangements to these integrative functions. But the rest of the package passed before the summer recess with large bipartisan majorities.[21]

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[16] U.S. Congress, "Organization of Congress: Report of the Joint Committee on the Organization of Congress," 79th Congress, 2nd Session, March 4, 1946, prefatory sheets.

[17] *Ibid*., p. 1.

[18] George Galloway, *Congress at the Crossroads* (New York: Thomas Y. Cromwell Company, 1946), p. 343.

[19] U.S. Congress, "Organization of Congress," p. 5.

[20] *Ibid*., pp. 12-14.

[21] Eric Schickler, *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress* (Princeton: Princeton University Press, 2001), pp. 142, 145-46; Davidson, "Advent of the Modern Congress," p. 364.

The effect was immediately apparent. When the 80th Congress convened in January 1947, the number of standing committees was reduced from 33 to 15 in the Senate and from 48 to 19 in the House. Congress had also for the first time delineated the jurisdictions of these committees. The standing committees began hiring the four professional staff members that each was now allotted. Congress increased the number of specialists providing support in the Legislative Reference Service and doubled the size of the Legislative Counsel staff. Individual members had more resources to pay for administrative and clerical support. The standing committees of both houses began a new phase of systematic oversight of the executive branch, equipped with more professional staff, the subpoena power, and the expectations written into law that they all "exercise continuous watchfulness of the execution by the administrative agencies" under their jurisdictions.[22]

For all of the immediate changes wrought by the Legislative Reform Act, some observers of Congress have downplayed its impact. The legislative budget process fell by the wayside; the appropriators in particular did not want to be limited by it. And by dramatically streamlining the number of committees, the Act consolidated the power of the committee chairs, many of whom were out of step with liberal reformers. And while the number of standing committees stabilized at the lower levels provided by the LRA, over time there was an increase in the number of subcommittees and assignments to them, which undermined the goal of focusing members' attention on fewer policy domains.[23]

Nevertheless, the main provisions of the Act proved resistant to shifting tides. Passed in the 79th Congress that had Democratic majorities in both houses, the Act would weather the transitions to and from Republican majorities in the 80th and then again in the 83rd Congress.

Consider also the echoes of the Legislative Reorganization Act of 1946 in several of the institutional reforms during the "resurgence" of Congress during the 1970s. These changes included a major expansion of professional staff and expertise working support of Congress, not only in committees, subcommittees, individual member offices, and the existing legislative support organizations, but also in new bodies like the Office of Technology Assessment and the Congressional Budget Office (CBO). With the Budget and Impoundment Control Act of 1974 that established the CBO, Congress also provided for a legislative budget process of the sort it had taken a false start on in 1946. This one would have much more staying power. The 1970s also witnessed a new era of congressional oversight that brought a rogue presidency and intelligence agency to heel and spurred an especially creative period of legislation. Finally, the Senate further streamlined its committee system and refined the jurisdictions that it had first delineated in 1946 (the House tried but largely failed to do likewise).[24]

These developments in the 1970s, like those that had been embodied in the Legislative Reform Act of 1946, all reflect a perspective that sees Congress as an autonomous and deliberative policy-making body. Congress had made progress in realizing these qualities in the three decades following the

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[22]U.S. Congress, Legislative Reorganization Act of 1946, 79th Congress, Public Law 601, quotation from p. 24; Eric Schickler, "Entrepreneurial Defense of Congressional Power," in Stephen Skowronek and Matthew Glassman, eds., *Formative Acts: American Politics in the Making* (Philadelphia: University of Pennsylvania Press, 2007), pp. 310-312.

[23] Davidson, "Advent of the Modern Congress," pp. 357, 365-72.

[24] James L. Sundquist, *The Decline and Resurgence of Congress* (Washington, D.C.: The Brookings Institution, 1981), pp. 199-237, 315-343, 402-414, 430-31. For the aborted committee reform effort in the House, see Roger H. Davidson and Walter J. Oleszek, *Congress Against Itself* (Bloomington, IN: Indiana University Press, 1977).

Legislative Reform Act of 1946. However, it ran into mounting headwinds from a countervailing set of reforms that sought to subordinate these internal features and attributes of the legislative body in order to achieve more responsible partisanship within it. We turn to them now.

III.   The APSA Committee on Political Parties

In 1946, just after the Committee on Congress had wrapped up its work, another set of political scientists was drawing inspiration from its example and approached the APSA to propose a similar committee on political parties. In early 1947, Association President Arthur MacMahon appointed a 12-member Committee on Political Parties and named Elmer Eric (E.E.) Schattschneider of Wesleyan University as its chair.

Schattschneider was a well-known and outspoken advocate of responsible party government. He and many of his colleagues were inspired by recent events in the parliaments of Europe—in Britain in particular, where the Labor Party had swept to power in July 1945 and was then proceeding to carry out its promise to nationalize the "commanding heights" of the economy. Schattschneider and his colleagues on the Committee on Parties believed the more disciplined and principled—i.e., more "responsible"—political parties in the European mold could unite what the separation of powers and federalism had put asunder in the United States.[25]

Like its predecessor, the Committee on Political Parties did not undertake an "extensive fresh study of the subject" but rather worked with each other and select informants in academia, civil society, party politics, and government. It released its report, "Towards a More Responsible Two-Party System," in the fall of 1950.

In the forward to this report, the Committee on Political Parties flagged what it regarded as the key problem the country was facing, namely, that, "either major party, when in power, is ill-equipped to organize its members in the legislative and the executive branches into a government held together and guided by the party program. Party responsibility at the polls thus tends to vanish." For much of American history these challenges may have been tolerable, but in a period in which the country was striving to provide full employment at home and successfully prosecute the Cold War abroad, this situation presented a grave danger. The report underscored two imperatives: "first, that the parties are able to bring forth programs to which they commit themselves and, second, that the parties possess sufficient internal cohesion to carry out these programs."[26]

If James Madison served as the intellectual forebear for the Committee on Congress, then Woodrow Wilson did so for the Committee on Political Parties. In *Congressional Government*, Wilson had called the Founders' separation of powers a "radical defect" in the original constitutional design, as in his view it led to irresponsible behavior among officeholders and their parties; everyone could always point the finger at someone else, and this left voters in the dark. Admiring the clarifying concentration

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[25] American Political Science Association, Committee on Political Parties, "Toward a More Responsible Two-Party System," *American Political Science Review*, Vol. 44, No. 3 (September 1950), pp. vii-ix; Paul T. David, "The APSA Committee on Political Parties: Some Reconsiderations of Its Work and Significance," *Perspectives on Politics*, Vol. 20, No. 2, (1992), pp. 70-79.
[26] "Toward a More Responsible Two-Party System," pp. v, 1.

of legislative and executive power in Westminster cabinets, Wilson argued that "*Power and strict accountability for its use* are the essential constituents of good government."[27]

Like Wilson, the Committee on Political Parties saw Congress in particular as the nut that had to be cracked open to get at responsible party government. It was in Congress that the "radical defect" was so problematically manifest, preventing the fusion of legislative and executive power, and the subordination of the former to the latter, that characterized the Westminster parliamentary model these reformers admired. The Committee devoted an entire chapter to the reform of Congress, the only branch of government it singled out for such treatment.[28]

The Committee's assessment began by noting that, so long as it was left to its own devices, Congress would remain incorrigible: "a higher degree of party responsibility in Congress cannot be provided merely by actions taken within Congress." There would need to be a forcing function brought to bear through national party programs presented to the electorate for their approval or rejection, for "above all, the basis of party operations in Congress is laid in the election process."[29]

But the Committee proposed that, while the country waited on clearing electoral winds, "Action within Congress can be of decisive significance….the materials for responsible party operations in Congress are already on hand. The key to progress lies in making full scale use of them."[30] A central thrust here was to strengthen the legislative parties by establishing party leadership committees in each house that would guide the caucus and periodically be accountable to it through "a vote of confidence;" by having party caucuses meet more frequently and make more use of a "binding caucus decision…to carry out the party's principles and programs;" and by punishing any caucus members who did not hold the party line with unfavorable committee assignments, less patronage to distribute to constituents, and public excoriation. In keeping with its push for more majoritarian government, the Report also called for majority cloture in the Senate.[31]

The Committee on Political Parties criticized what it saw as the pathologies of the committee-based system of congressional organization. Speaking of the seniority norm that served as the lynch-pin of this system, the report argued that:

> "It is not playing the game fairly for party members who oppose the commitments in their party's platform to rely on seniority to carry them into committee chairmanships. Party leaders have compelling reason to prevent such a member from becoming chairman—and they are entirely free so to exercise their influence."

The report did not specify how exactly party leaders should go about exercising this influence, and it acknowledged that "the task of party leaders when confronted with revolt on the part of committee chairmen…is not easy."[32] Still, there was no mistaking that the task had to be done.

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[27] *Congressional Government*, p. 284, Wilson's emphasis.
[28] "Toward a More Responsible Two-Party System," p. 56.
[29] *Ibid*.
[30] *Ibid*., p. 57.
[31] *Ibid*., pp. 59-61, 65.
[32] *Ibid*., pp. 61-62.

The Report also called for subordinating the committee system to the party system in a number of other ways: having slates of all committee assignments drawn up by the party leaders and presented to the party caucus for its approval; having the party caucus revisit and reaffirm those assignments on a regular basis; manipulating committee ratios so that the majority would enjoy a "comfortable margin of control;" taking the reporting, scheduling, and rule-setting for floor consideration of legislation out of the hands of the committee chairs, including the House Rules Committee, and placing it under the control of the majority party leadership in each house.[33]

The Committee on Political Parties acknowledged that this vision faced an uphill climb in the face of constitutional arrangements designed to preclude party government, such as the separation of powers. Yet they did not call for any formal amendments. Schattschneider and his colleagues asserted that "the weakness of the American two-party system can be overcome as soon as a substantial part of the electorate wants it overcome."[34]

The Committee downplayed another potentially complicating factor—whether the more responsible party system they were advocating would worsen the "mischief of faction." America's ideologically diverse and pragmatic political parties, focused more on winning offices than on using them to advance coherent programs, reflected and reinforced constitutional arrangements meant to encourage negotiation and compromise. The Committee argued that the parties could sharpen the political debate and clearly array themselves on either side of it, but nevertheless keep that debate within moderate bounds. "There is no real ideological division in the American electorate," the report claimed, "and hence programs of action presented by responsible parties for the voter's support could hardly be expected to reflect or strive toward such division."[35] We turn now to see how this gambit played out.

IV.   *Toward A More Responsible Two-Party System: 1950-1975*

"Toward a More Responsible Two-Party System" received plenty of attention, garnering a front-page story in the *New York Times* and an endorsement by the *Washington Post*. White House officials shared the document with President Truman, who liked in particular the push to strengthen the party organizations.[36]

The Committee's call for more principled and programmatic parties resonated with a nascent coalition seeking to move the Democratic Party in a more consistently liberal direction on civil rights and economic policy. In Congress, the coalition was led by Midwestern members elected in the wake of World War II, including Senators Hubert Humphrey of Minnesota and Paul Douglas of Illinois and Representatives Richard Bolling of Missouri and Eugene McCarthy of Minnesota. These legislators worked closely with liberal activist groups to develop and advocate for their common political agenda,

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[33] *Ibid*., pp. 62-65.
[34] *Ibid*., pp. v, 35-36.
[35] *Ibid*., pp. 20-21.
[36] Sam Hoffman Rosenfeld, "A Choice, Not an Echo: Polarization and the Transformation of the American Party System," Doctoral Dissertation, Harvard University, 2014, p. 51. More broadly, Rosenfeld's important new assessment traces the myriad ways in which the ideas presented in the report of APSA Committee on Parties filtered directly into the Democratic Party and congressional reform efforts in the ensuing decades.

including the newly formed Americans for Democratic Action and Eleanor Roosevelt's National Committee for an Effective Congress as well as established organizations like the NAACP, the ACLU, and the AFL-CIO.[37]

Shortly after the report's publication, Humphrey invited Schattschneider to Washington, D.C. to meet with the leaders of this coalition to discuss the report's recommendations. Now that Schattschneider was free to speak on his own, he could give more direct voice to his liberal political views. And liberals like Humphrey, who had recently put "the Senate on trial" in an article he had written, were eager to talk about how to apply responsible partisanship in Congress, which they saw as a precondition for realizing their policy agenda.[38]

Paul Butler, Chairman of the Democratic National Committee from 1954-60, also mainlined "Towards a More Responsible Two-Party System" directly into the American body politic. Butler spoke on behalf of the party's liberal faction, the "amateur democrats" in James Q. Wilson's phrase, who saw principles and ideas, not patronage and pork, as the proper currency of politics. Butler had read "Towards a More Responsible Two-Party System" just before taking the chairmanship and regularly invoked its vision of responsible partisanship in his speeches. Butler also established an institutional innovation called for in the report, the Democratic Advisory Council (DAC), whose main job was to issue policy statements, much like an opposition party's shadow government in a Westminster-style parliament. The DAC became a platform the liberal faction used to push their policy agenda. This development caused much consternation on the part of Sam Rayburn and Lyndon Johnson. But rather than deferring to the leaders of his party's divided congressional majorities, Butler pressed on. His innovative DAC experiment "achieved an outsized impact precisely by sharpening rather than papering over the party's institutional and ideological tensions."[39]

Butler's innovation was paralleled by similar developments within the party in government. In 1957, a group of 80 Democrats in the House known loosely as "McCarthy's Mavericks" signed a "liberal manifesto" outlining their policy agenda. In 1959, the members of this legislative party faction formally organized the Democratic Study Group (DSG) to advance their policy agenda and the institutional reforms they saw as preconditions for achieving it. Their primary initial target was overcoming the House Rules Committee, where Chairman Judge Howard Smith of Virginia had bottled up floor consideration of liberal and civil rights legislation. In no small part due to the DSG's pressure, in 1961 Rayburn finally expanded the Rules Committee to enable more liberal legislation to flow through it.[40]

DSG members continued to advocate procedural reforms throughout the 1960s. Richard Bolling, who had been instrumental in the expansion of the Rules Committee, was outspoken and prolific on the need for more responsible parties—most of all his own. Bolling wrote two books arguing that the

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[37] Julian Zelizer, *On Capitol Hill: The Struggle to Reform Congress and Its Consequences*, 1948-1950 (New York: Cambridge University Press, 2004), pp. 33-62.

[38] Hubert Humphrey, "Notes and Memoranda: The Senate on Trial," *American Political Science Review*, Vol. 44, No. 3 (September 1950), pp. 650-660; Rosenfeld, "A Choice, Not an Echo," p. 51.

[39] *Ibid*., pp.53-103, quotation from p. 53; James Q. Wilson, *The Amateur Democrat: Club Politics in Three Cities* (University of Chicago Press, 1962).

[40] Nelson Polsby, *How Congress Evolves: Social Bases of Institutional Change* (New York: Oxford University Press, 2004), pp. 21-35, 184.

constraints imposed on majority party rule by the committee system and the modes of policymaking it perpetuated were undemocratic and unacceptable.[41]

Democratic presidencies and growing Democratic majorities on Capitol Hill released some of the pressure behind these reform efforts. Indeed, the extraordinary achievements of Lyndon Johnson and the 89th Congress in passing the Great Society, including long awaited civil rights measures, demonstrated that the U.S. political system in general and Congress in particular could still respond to ripe moments and pressing demands for policy-making, the constraints of the separation of powers, the traditional committee system, and the filibuster notwithstanding.

Then, beginning with the election of Richard Nixon in 1968, Democratic congressional majorities once again began setting the direction for the party in government. Over the next seven years they would systematically implement a slate of party reforms that represented the core provisions of the APSA Committee on Political Parties' congressional reform agenda. This was not an accident. A new generation of liberal reformers had come into the vanguard of the DSG, including Philip Burton of California and Donald Fraser of Minnesota, a protégé of Hubert Humphrey. They regularly invoked "Towards a More Responsible Two-Party System" as a blueprint for their efforts. Fraser, who in these years led with Senator George McGovern the Democratic Party's Commission on Party Structure and Delegate Selection, was especially influential in the liberals' fight for party reform.[42]

In this period the liberal reformers in Congress gained some additional allies in the new citizen activist groups led by Ralph Nader and John Gardner, the founder of Common Cause. These groups were influential in the passage of the Legislative Reorganization Act of 1970, the key measures of which focused on greater transparency, including pushing committees in both houses to open up more hearings and meetings to the public, recording votes in House and Senate committees, recording roll call votes in the House Committee of the Whole, introducing electronic voting in the House (which would ease and thus increase the number of recorded roll call votes), and allowing television and radio coverage of hearings in the House. While not directly called for by the Committee on Political Parties, these procedural changes advanced the goal of increasing members' accountability to public opinion.[43]

Congressional reformers were just getting started. Over the next five years the DSG and its reform coalition allies implemented the core planks of their sweeping reform agenda for the House. These including meeting regularly as a caucus; voting in the caucus to approve nominations for committee chairmanships as well as committee assignments for the rank and file; establishing a Steering and Policy Committee that worked in service of the party leadership; and effectively making the House Rules Committee an arm of the party leadership.

The effort culminated in the subordination of the seniority system to the House Democratic Caucus. The DSG had carefully set the stage for this battle through a series of procedural reforms in the first part of the decade. The arrival of 75 new Democratic members of the Class of 1974, elected in the aftermath of Watergate, put them over the top. At the start of the 94th Congress, the caucus unhorsed

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[41]Richard Bolling, *House out of Order* (New York: Dutton & Company, 1964), and *Power in the House* (New York: Dutton and Company, 1968).

[42] Rosenfeld, "A Choice Not an Echo," pp. 175-225.

[43] Zelizer, *On Capitol Hill*, pp. 99-105, 126-28; Walter Kravitz, "The Advent of the Modern Congress," *Legislative Studies Quarterly*, Vol. 15, No. 3 (September 1990), p. 378.

three chairmen—Eddie Hebert of Louisiana (Armed Services), Wright Patman of Texas (Banking and Currency), and William Pogue of Texas (Agriculture)—and thereby put the rest on notice.[44]

Democrats in the Senate took a less dramatic path to reform but still empowered the Democratic Policy Committee to make recommendations to the Conference with a two-thirds vote and reaffirmed the power of the Democratic Conference relative to the committee chairs and the seniority system. In 1975, Senate Democrats began voting on the committee chairs nominated by their Steering Committee on a secret ballot. That same year they also tackled filibuster reform, lowering the threshold of votes needed for invoking cloture from two-thirds of senators voting to three-fifths of all senators.[45]

The sweeping changes in congressional structures, rules and procedures that paved the way for more responsible partisanship in Congress in the 1970s were inextricably connected with and served to reinforce changes in the broader party system. The transformation in electoral alignments and regional party footprints set in motion by the civil rights legislation of the mid-1960s was making the Democratic Party more uniformly liberal and the Republican Party more conservative. The national party organizations had come into their own and were gaining strength relative to state and local parties, especially in the areas of policy development and coalition formation. The decline of the patronage system and the advent of the primary system of nominations led to the triumph of the issue-oriented amateur activists over the local machines and political professionals in the party organizations.

On each of these dimensions, the vision of the Committee on Political Parties was being realized. But it was not clear this was leading to effective party government of the sort that Schattschneider and his colleagues had wanted. Indeed, in 1961, reflecting on what the advent of national, issue-based parties driven by amateur activists would entail, James Q. Wilson imagined that, "the need to employ issues as incentives and to distinguish one's party from the opposition along policy lines will be intensified, social cleavages will be exaggerated, party leaders will tend to be men skilled in the rhetorical arts, and the party's ability to produce agreement by trading issue-free resources will be reduced."[46] We will see below that Wilson was all too prophetic.

V.   *Polarization and Its Discontents, 1975-2015*

During the 1980s, propelled by these multifaceted changes in the party system, House Democrats came to be more and more unified around a liberal policy agenda. In keeping with the theory of conditional party government, the rank and file members in this more aligned majority delegated more power to its leadership.[47] Given Tip O'Neill's "all politics is local" orientation and appreciation for the needs of Congress as an institution, his leadership landed with a tolerable if at times grating touch for most in the Republican Party. Things began to change, however, in the latter half of the decade, after Jim Wright of Texas replaced O'Neill and brought a more partisan leadership style to the Speaker's office. His ascension pushed the doctrine of responsible party government into the territory of second order—and unintended—consequences. As Nelson Polsby observed,

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[44] Polsby, *How Congress Evolves*, pp. 59-74; Zelizer, *On Capitol Hill*, pp. 129-138, 156-171.
[45] *Ibid*., pp. 131, 172-75.
[46] Wilson, *Amateur Democrats*, p. 358.
[47] David W. Rohde, *Parties and Leaders in the Postreform House* (Chicago, University of Chicago Press, 1991).

"Unlike his predecessors in the Speakership, Wright pursued a strategy of leadership that explicitly mobilized the Democratic caucus to pursue a broad-gauged Democratic program. In the single-minded pursuit of this goal, Wright accentuated tendencies already present to do without the participation of Republicans in the conduct of legislative business. An important byproduct was to further weaken the credibility of go-along, get-along Republicans among their Republican colleagues. By drawing sharp partisan lines, Wright gave Republican moderates – moderates in style, not necessarily in policy preferences – no place to go but into the camp of the Republican Militants."[48]

The militants of course were led by Newt Gingrich of Georgia. Throughout the 1980s, as the APSA Committee on Political Parties would have recommended, he was actively working as an "opposition party leader" to perturb the party system into a more sharply defined conflict.[49] Were Gingrich to succeed in this quest, it would help him rise to a leadership position in the GOP and, he believed, help the GOP win a majority in the House. It is fair to say when he began these dual campaigns he was perhaps the only one who saw both outcomes as possible. The two efforts began to reinforce each other: the more his actions provoked a heavy-handed response from the Democratic leadership, the more the GOP rank and file growing weary of being in the minority under the "go-along, get-along" style of Minority Leader Bob Michel of Illinois rallied to Newt's banner. This support in turn gave him that much more backing for his next attack on the Democratic Party and ultimately the institution of Congress itself.[50]

Gingrich understood that, given the decades of Democratic dominance, by attacking the legitimacy of Congress as well as the vestiges of committee-based, bipartisan policy-making within it, he would shift the electoral odds in favor of his insurgent minority. It was no accident that the preamble to 1994's Contract with America was a broadside aimed squarely at the institution that the GOP wanted to conquer, to wit:

"On the first day of the 104th Congress, the new Republican majority will immediately pass the following major reforms, aimed at restoring the faith and trust of the American people in their government:

FIRST, require all laws that apply to the rest of the country also apply equally to the Congress;

SECOND, select a major, independent auditing firm to conduct a comprehensive audit of Congress for waste, fraud or abuse;

THIRD, cut the number of House committees, and cut committee staff by one-third;

FOURTH, limit the terms of all committee chairs;

FIFTH, ban the casting of proxy votes in committee;

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[48] Polsby, *How Congress Evolves,* p. 133.

[49] Steven Roberts, "One Conservative Faults Two Parties," *New York Times*, August 11, 1983.

[50] For more on factional dynamics in the House GOP in this period, see William F. Connelly, Jr. and John J. Pitney, Jr., *Congress' Permanent Minority? Republicans in the U.S. House* (Lanham, MD: Rowman and Littlefield, 1994).

SIXTH, require committee meetings to be open to the public."[51]

In earlier decades, it had been liberal reformers like Hubert Humphrey and Richard Bolling that had put Congress—and the longstanding internal arrangements it had established to foster deliberation, negotiation, and compromise—on trial. Now the House Republicans were.

In asking for a national electoral mandate on the concrete policy agenda contained in the Contract, then passing all but one of its planks through the House of Representatives during the first 100 days of the new Congress, Gingrich's Republican majority represented the apex of responsible party government in the United States. Most accounts of this period tend to emphasize the political strife it produced, but as Randall Strahan has documented, by 1998, 16 bills generated by the Contract or reflecting its recommendations had become law, including major legislation reforming welfare, reducing taxes, and supporting ballistic missile defense. After the budget brinksmanship and government shutdowns of 1995-1996, President Clinton concurred in a State of the Union address that "the era of big government is over," and Congress and the White House agreed on the Balanced Budget Act. "Whatever political problems followed from Gingrich's Contract strategy," Strahan observed, "the evidence is clear that the Contract was consequential in leading to some major changes in public policy."[52]

As Gingrich and his majority worked toward these legislative accomplishments, they discovered that their goal to establish what the Speaker had first described on the floor of the House in 1980 as "accountable party government" would be stymied by enduring features of the American constitutional order. In his 1998 book, *Lessons Learned the Hard Way*, Gingrich admitted upon reflection that, "We had not only failed to take into account the ability of the Senate to delay us and obstruct us, but we had much too cavalierly underrated the power of the President….A legislator and an executive are two very different things, and for a time we had allowed ourselves to confuse the two."[53]

While these constitutional arrangements forced Gingrich and his majority to compromise with the Senate and President, they were free to structure the operations of the House as they saw fit, and inside that body they did not hold back from the full sweep of changes advocated by the party government reformers. In doing so, Gingrich and his majority cut down institutional developments with roots that could be traced back to the Legislative Reorganization Act of 1946 and its echoes in the augmentation of expert staffing and congressional oversight in the 1970s. The committee system was already primed to be undermined by the GOP majority through the Contract provisions noted above, including the imposition of term limits for chairmen. It was even more profoundly altered when, in the wake of the election, Gingrich decided to bypass the seniority system altogether. He went down the seniority lists to identify activists whose loyalty he could count on and put them into the chairs of key committees. Gingrich also created a new Steering Committee dominated by his leadership team and allies to control the committee assignment process for rank and file members. The incoming majority, many members of which had been groomed and inspired by Gingrich over the years, including the GOP's

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[51] Representative Dick Armey, "Speech introducing the Contract with America," September 27, 1994, retrieved from https://www.udel.edu/htr/American/Texts/contract.html. Note that there were two additional Day 1 actions specified in this plank: "SEVENTH, require a three-fifths majority vote to pass a tax increase; EIGHTH, guarantee an honest accounting of our Federal Budget by implementing zero base-line budgeting."

[52] Randall Strahan, *Leading Representatives: The Agency of Leaders in the Politics of the U.S. House* (Baltimore: The Johns Hopkins University Press, 2007), pp. 165-67.

[53] (New York: Harper Collins, 1998), p. 10.

73 freshmen representatives, endorsed these rules changes in December 1994. These changes moved in the same direction but went beyond what liberal reformers bolstered by the "Watergate Babies" had done in the Democratic caucus two decades earlier.[54]

Congressional staffing and oversight were also changed during the 104th Congress. Following through on the Contract's pledge to reduce House committee staff by one-third, the GOP also eliminated the Office of Technology Assessment, with its specialized expertise meant to give Congress an independent perspective vis-à-vis the executive branch's technocrats, and lowered the budgets and staffing of the Government Accounting Office and the Congressional Research Service. These changes were connected to the GOP's push for party government, as they reduced the capacity of Congress to operate autonomously and to deliberate on policy in ways that were not simply driven by public opinion brought to bear from outside of the institution. Taken together, however, these changes greatly reduced the staff expertise available to support policy-making and oversight by legislators. Critics of this shift have likened it, harshly but not unfairly, to a self-administered "big lobotomy" from which Congress has yet to recover. Alongside these shifts, the House GOP also centralized control of the oversight agenda in the leadership offices in order to sharpen and coordinate its political confrontation with the Clinton Administration. This more intentionally political approach to oversight of the executive branch led to fewer hearings, with greater inter-branch conflict arising from those that were held.[55]

It might be tempting to see the penchant for ideological combat between the parties that characterized Gingrich and his majorities as a Republican approach to partisanship in the modern House. But as Bill Connelly has shown, a mirror image played out among House Democrats in their own fight back from minority to majority status. Nancy Pelosi argued as Gingrich had for unstinting confrontation and delineation between the parties. In the run up to the 2006 election, as she led her party's push to win control of the House, Pelosi developed the parliamentary-style "6 for '06" policy agenda, including a set of reforms that the Democratic majority enacted as promised in the first 100 hours of the new Congress.[56]

More ideological and uncompromising partisanship, and the confrontation that it engendered, also came to characterize the U.S. Senate in this period. Beginning in the mid-1970s, when the Senate lowered the cloture threshold to 60 votes, the use of the filibuster by the minority party began to increase. It grew more or less steadily over the next three decades, regardless of which party was in the minority. Meanwhile, the party confrontation in the Senate continued to sharpen given the narrower majorities and persistent electoral contest for control of the institution, which changed hands nine times between 1980 and 2015.[57]

The GOP took the use of filibusters, or the threat of them, to new heights after they lost control of the Senate in 2006. On the Democratic side, Majority Leader Harry Reid escalated use of "filling the tree" to prevent consideration of GOP amendments. Then, in late in 2013, the Democratic majority unilaterally resorted to a series of arcane parliamentary maneuvers, the so-called "nuclear option," to establish majority cloture for consideration of presidential nominations for most executive branch

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[54] Strahan, *Leading Representatives*, pp. 148-152.
[55] Paul Glastris and Haley Sweetland Edwards, "The Big Lobotomy: How Republicans Made Congress Stupid," *Washington Monthly*, Summer 2014.
[56] Connelly, *James Madison Rules America,* pp. 49-84, 225.
[57] See Frances Lee, *Beyond Ideology: Politics, Principles, and Partisanship in the U.S. Senate* (Chicago: University of Chicago Press, 2009).

positions and lower court appointments. How long the remaining uses of the filibuster will be preserved remains to be seen. What is clear is that, as in the House, more responsible partisanship in the Senate has undermined the prospects for bipartisan deliberation, negotiation, and compromise in that body.

VI.   Where do we go from here?

Despite the well-intentioned and influential recommendations of the APSA committees, we have come full circle. Trust in and appreciation for Congress are at all-time lows. Presidents of both parties have been taking increasingly assertive unilateral actions and, given the gridlock in Congress, have been free to do so without being checked and balanced. Once again we are asking fundamental questions about the future of representative democracy in the U.S.

Without a sense of the irony that would seem warranted given how the responsible party government reform tradition has helped bring us to where we are today, a new generation of commentators are once again hailing the superiority of the parliamentary model. They view the separation of powers as an outdated device that prevents the resolution of political impasses and that will, sooner or later, bring democracy in the America to ruin. Like an earlier generation of advocates for parliamentary-style reforms, these observers regard conservatives in Congress as the primary source of our current political difficulties. Unlike their predecessors, the new parliamentarians are pessimistic and do not believe that anything can really be done by way of formal or informal reform, hence their general conclusion, aptly summed up by Matt Yglesias, that "American government is doomed!"[58]

Long-time Congress watchers Tom Mann and Norm Ornstein share the deep frustration and pessimism of these commentators, and they are even more outspoken in their conviction that, well, "Let's just say it: The Republicans are the problem." Their approach to institutional reform is to pursue "changes consistent with our current constitutional framework" that would nonetheless "improve the fit between our current parliamentary-style parties and the policy-making process." The first of two institutional reforms they advocate would be making the Senate more majoritarian by "eliminating or reducing the scope of Senate actions subject to filibuster-related obstruction." The second would be to "shift decision-making power between Congress and the executive branch" through the use more unilateral executive actions and greater reliance on independent, nonpartisan, expert bodies like the Federal Reserve or the Affordable Care Act's Independent Payment Advisory Board.[59]

The preceding analysis of efforts to make American politics in general and Congress in particular operate in a more parliamentary fashion, and to try to work around rather than through the separation of powers in making policy, would suggest that these latest reform proposals would likely continue to be confounded by our constitutional checks and balances. They would serve to accelerate rather than moderate the forces of polarization, as well as the whipsawing of policy as parties with very different agendas gain and lose majorities in Congress.

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[58] *vox.com*, March 2, 2015. See also Dylan Matthews, "This Is How the American System of Government Will Die," *vox.com*, March 3, 2015; Johnathan Chait, "Obama, Republicans, and the Crisis of Legitimacy," *New York*, September 17, 2013.

[59] Mann and Ornstein, "Let's Just Say It: Republicans Are the Problem," *Washington Post*, April 22, 2012; Mann and Ornstein, *It's Even Worse than It Looks*, p. 163-166.

But we are not obliged to keep working against the grain of our longstanding constitutional arrangements. There is another reform tradition we could seek to revitalize. This alternative tradition, embodied in the Legislative Reform Act of 1946, and echoed in several of the 1970s reforms, would have us working with the grain of our system of government by developing the capacity for deliberation, negotiation, and compromise in Congress. An institution so restored would be much better positioned to serve as the first branch of government, to retain and actively exercise rather than continue to cede its power and authority to the President, administrative agencies, and the courts.

For this restoration to occur, Congress needs to take back the power of the purse and oversee the executive branch much more systematically. The frayed and tattered "regular order" needs to be re-envisioned and reestablished. The imperatives of representative democracy over the next 50 years will mean that any functional order will work much differently than it did 50 years ago. Finally, rather than starving itself of the support and expertise that it needs to represent the American people, Congress needs to amply provide for them.

It would be tempting at this stage in the argument to begin listing specific reform proposals. But this would be premature. Instead, we need to start by completing some essential spade work in three areas and beginning it in a fourth. First, we need to revitalize the reform tradition that recognizes and seeks to enable Congress to play its rightful part in our constitutional system; flags the self-imposed obstacles that keep it from doing so; and affirms that negotiation and compromise are not shortcomings but rather core constitutional values. Some clarion calls have been sounded along these lines from across the political spectrum.[60] They need to build into a sustained chorus.

Second, to avoid the sort of problematic unintended consequences that the reformers working toward more responsible partisanship fell into, we need to ground all calls for reform in the best scholarship about the problem of polarization, the dynamics of negotiations and policy-making in Congress, and the prospects and pitfalls facing different types of reform efforts. In this regard, a group of leading scholars participating in a 2013 APSA task force have shed important new light on the challenge of negotiating agreement in politics generally and in Congress in particular.[61] In addition, a group of scholars is now scrutinizing reform shibboleths about transparency, campaign finance, and direct democracy, etc. and finding them wanting.[62]

Third, we need to cultivate an outside coalition of civil society organizations who share the goal of a healthier and more robust congressional role. Some advocacy groups have developed indices and scorecards to measure how well the institution is functioning with an emphasis on deliberation, negotiation, and compromise. Others are working to improve specific congressional processes like

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[60] See for example Gregory Weiner, "Congress and Deliberation in the Age of Woodrow Wilson: An Elegy," Liberty Law Blog, May 1, 2013; Jonathan Rauch, "Rescuing Compromise," *National Affairs*, Fall 2013; Glastris and Edwards, "The Big Lobotomy;" Chris DeMuth, "A Constitutional Congress?" *The Weekly Standard*, October 27, 2014; Steven Teles and Lee Drutman, "A New Agenda for Political Reform," *Washington Monthly*, Spring 2015; Kevin Kosar, "How to Strengthen Congress*," National Affairs*, Fall 2015.
[61] Jane Mansbridge and Cathy Jo Martin, eds. "Negotiating Agreement in Politics," APSA Task Force Report, 2013.
[62] Bruce Cain, *Democracy More or Less: America's Political Reform Quandary* (New York: Cambridge University Press, 2015); and Rick Pildes, "Romanticizing Democracy, Political Fragmentation, and the Decline of American Government," *Yale Law Journal*, 2014, pp. 804-852.

oversight and budgeting. Still others are seeking to foster relationships and dialog across the aisle.[63] As we saw in both of the reform efforts described above, the support and advocacy of outside groups helped reformers within the institution develop and carry out their agendas. A great deal of philanthropy and nonprofit activity is now invested in pulling Congress to the left or the right in both politics and policy, thereby contributing to the problem of the polarization. More effort is needed to help the institution bear up and improve its ability to deal with this cross-pressuring.

Finally, and perhaps most importantly, in order to start moving down the path to productive reforms, those interested in strengthening the institution's capacity have to begin engaging with and supporting "procedural entrepreneurs" in Congress who are thinking along similar lines. If the Legislative Reorganization Act of 1946 is any indication, a successful reform effort will require a bipartisan, bicameral group of such legislators working over multiple congresses toward this end. The ongoing sharp conflict between the parties for control of Congress, already unusually long in duration and showing no sign of letting up, means that any reforms that stand a chance of getting enacted and being sustained will need to work for both parties. The odds of this occurring may seem especially daunting at present. That is all the more reason to get started right away.

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[63] See for example the work of the Bipartisan Policy Center; The Lugar Center; the National Budgeting Roundtable; the Project on Government Oversight; and the Millennial Action Project.