

OUR NATIONAL FULCRUM IS OUT OF BALANCE: REFLECTIONS ON THE UNPOPULARITY OF CONGRESS

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[With national polls showing the popularity of Congress at an all-time low, here are my reflections on a branch of government that deserves our respect, even if it hasn't earned it recently. This is a modified, updated version of a talk presented to the Fort Worth Club, in Fort Worth, Texas, on April 8, 2008. Ray Smock]

Your lecture series is called “Food for Thought” and that is exactly what I want to give you today. I plan to step back from daily workings and confusing details about Congress. This will not be a talk about “How a Bill becomes Law.” I will focus on some of the larger things we should be thinking about when we think about this branch of government. What is the essence of Congress? How do we find its heart and its soul? Unless we reflect on what Congress is and what it is supposed to be, we will not be able to fix what is broken.

Congress is the most misunderstood and the most unpopular branch of the United States government. This has been true for a long time. I am among those who profess a great love and respect for Congress even though this is a decidedly minority view. Public opinion about Congress is dismal in all respects. Opinion polls in 2012 rank Congress at the lowest levels of public support ever. I try to put this in perspective by recalling the words of Republican Speaker Nicholas Longworth, the debonair son-in-law of former President Theodore Roosevelt, who, in 1923, said:

I have been a member of the House of Representatives ten terms...During the whole of that time we have been attacked, denounced, despised, hunted, harried, blamed, looked down upon, excoriated, and flayed. I refuse to take it personally. I have looked into history. I find that we did not start being unpopular when I became a Congressman. We were unpopular before that time. We were unpopular even when Lincoln was a Congressman. We were unpopular even when John Quincy Adams was a Congressman. We were unpopular even when Henry Clay was a Congressman. We have always been unpopular.

Yet, despite its legendary unpopularity and public misunderstanding, Congress has functioned through much of American history the way the Framers of the Constitution intended it to work. Despite its many flaws, it has been, and still is, the crown jewel of our Constitution—the branch of government that the Framers expected to be the most essential—and the most powerful—in setting the national agenda. As James Madison put it, “the legislative authority predominates.” Congress, with its many personalities from many regions, and its divided power between House and Senate, would, the Framers thought, be a constant check on executive power if the president overreached.

All of us have lived our entire lives during a time when the federal government has been dominated by the Executive branch. We take for granted that the national agenda is set at 1600 Pennsylvania Avenue and not on Capitol Hill. But for most of American history this was not the case.

George Washington discovered that Congress had a mind of its own. He walked into the Senate one day with an Indian treaty. He wanted the Senate to approve it. The Constitution says the Senate is supposed to approve treaties before a president ratifies them. Washington wanted this one to be approved while he waited. The Senate decided to do its Constitutional duty and deliberate the matter. Washington left in a huff and never returned in person to seek approval of a treaty.

Henry Clay as Speaker of the House in the early decades of the 19th Century virtually set the national agenda by himself. His American plan of internal improvements was an aggressive program to connect the western states such as his own Kentucky to the commerce of the East. He pushed for war with Great Britain and led the War Hawks in Congress and when things were going bad in that war, he successfully blamed President James Madison for it.

Later in Clay's career, when he was serving in the Senate, he was largely responsible for keeping the nation from serious crisis and perhaps war in 1820 and again in 1850 in carefully crafted compromises that kept the balance between slave and free states. After the compromise of 1820 he became known as "The Great Compromiser" who held the Union together. There were some things, however, that Clay would not compromise on, most notably his opposition to the annexation of Texas. He feared it would start a war with Mexico. He lost a close presidential election on this issue in 1844 to the only former House Speaker ever elected President, James K. Polk. Texas was annexed, we did fight a war with Mexico, and Clay eventually went back to the Senate—a win, win for the nation.

Throughout the 19th century Congress was the central engine of government. News of Congress and lengthy columns from debates in the House and Senate filled the newspapers of the nation. People flocked to the galleries of the House and Senate to see the high drama of debates. It was politics and it was the best theater in town.

Since 1789 there have been only 44 persons who have served as president of the United States. There have been only 17 Chief Justices and only 112 members of the Supreme Court. But there have been more than 1,900 Senators and almost 10,000 House members. This disparity in size has worked to the disadvantage of Congress when it comes to studying and understanding this institution. It is so much easier to research and write a book about a president, a chief justice, or a particular court, than it is to fathom Congress with all its committees and leaders. Today we have a growing network of presidential libraries and museums that tell the story of the Presidency. There are no comparable institutions for Congress. Its records remain largely untapped treasures in the National Archives in Washington.

Walk into any good book store and you will find rows of books on the presidency, a fair selection on the Supreme Court, and much less on Congress. Political scientists do study Congress. But most of their books do not reach general readers.

When you do find books on Congress that are written for a general audience they fall into a few predictable categories: 1) Biographies of members of Congress, some of which are good while others are merely campaign fluff; 2) Exposes and scandals mostly written by journalists; and finally, 3) books where the theme is: What's Wrong with Congress and How to Fix It. This is literally the title of a current book by Norman Ornstein and Thomas Mann, two top Congress watchers. I highly recommend it. It is called [*The Broken Branch: How Congress in Failing America and How to Get It Back on Track.*](#)

[Since this talk was given four years ago, Ornstein and Mann have a new book on the same subject: [*It's Even Worse Than It Looks: How the American Constitutional System Collided With the New Politics of Extremism.*](#)]

In American history textbooks we have always measured our history by presidential administrations. We name whole eras after presidents: The Age of Jackson, The Age of Roosevelt, The Eisenhower Years, and The Reagan Revolution. We are wired to think of the Presidency first and Congress second. We wouldn't think of calling a chapter of American history The Age of Henry Clay or John C. Calhoun, or Joe Cannon's America, or the Rayburn Years, even though these Senate and House leaders have had a great impact on their times, as much or more so than the presidents they served with.

I was appointed by the Speaker of the House in 1983 to begin the planning of the national celebration of the bicentennial of the U. S. Constitution and the bicentennial of Congress. It was my job, working with my counterpart in the Senate Historical Office, to tell the story of Congress, its origins and its history, to a new generation of Americans and to remind the older generations of this remarkable story of representative government.

As I searched about for some grand themes on which to base our celebration I ran across a history of the House written by Time Magazine correspondent Neil MacNeil. It had a great title. It was called THE FORGE OF DEMOCRACY. I wondered if he had taken his title from a quotation by one of the Founding Fathers or some other distinguished source.

The Forge of Democracy—it is a strong title. I thought this might be a good candidate for the theme I was looking for to describe the essence of Congress. I liked saying it: THE FORGE OF DEMOCRACY.

So I called MacNeil on the phone and asked him where the inspiration for his title came from. The brusque veteran reporter practically shouted into the phone, "That wasn't my title. I hate that damned title. My publisher dreamed it up."

So much for the Forge of Democracy! I had to keep looking for that special phrase, that seminal idea, which would capture the essence of what Congress means. You can, of course, see what the Founders expected Congress to be by reading the Constitution itself

and their writings about it, especially the great Federalist essays that were written mainly by Alexander Hamilton and James Madison.

You can also find insights from foreign visitors who came to America to see this thing called Representative Democracy. The great Alexis de Tocqueville, the French aristocrat who toured the United States in the 1830s described the difference between the House and the Senate. Being an aristocrat, it is not surprising that he preferred the Senate over the House. His classic study of this country [*Democracy in America*](#) is still well worth reading. He wrote:

On entering the House of Representatives in Washington, one is struck by the vulgar demeanor of that great assembly. Often there is not a distinguished man in the whole number. Its members are almost all obscure individuals, whose names bring no association to mind. They are mostly village lawyers, men of trade, or even persons belonging to the lower classes of society. In a country in which education is very general, it is said that the representatives of the people do not always know how to write correctly.

Then Tocqueville described the Senate.

At a few yard's distance is the door of the Senate, which contains with a small space a large proportion of the celebrated men of America....The Senate is composed of eloquent advocates, distinguished generals, wise magistrates, and statesmen of note.

My dear friend Richard Baker, who served as Senate Historian for more than three decades and is now the Senate Historian Emeritus, loved to needle me with this passage to remind me that I served as the historian of a body of illiterate riff raff while he studied statesmen. Tocqueville thought the reason for this disparity between the House and Senate was that the House was elected directly by the people while Senators were elected by state legislatures. Tocqueville, the aristocrat, clearly preferred that democracy be filtered by elites.

In my defense of the House as an equal partner and as equally distinguished body as the Senate, I used an argument made by Senator Thomas Hart Benton of Missouri, who was in the Senate when Tocqueville visited America. Benton said Tocqueville missed the point in describing the House the way he did because he failed to look into history. During the first 30 years of Congress, it was the House that was the most powerful branch of government. It was the center of political action—a place where many of the most distinguished Americans served. In the early Congresses many of the Framers of the Constitution itself served in the House, led by James Madison. Power was shifting to the Senate by the time Tocqueville visited. What he really saw in the Senate were many members who had first served in the House.

A half century after Tocqueville another distinguished scholar, James Bryce of Great Britain, came to study Congress. He too saw a remarkable contrast between the House

and Senate and described the House as a sea of rambunctious confusion compared to the stately deliberations of the Senate. But Bryce did not stop with appearances. He sensed the power of Congress as the expression of American Democracy. He had praise and criticism for both the House and the Senate. The House was open to view while the Senate seemed to work best behind closed doors.

Bryce sensed incredible greatness and power. He said of the House:

This huge gray hall, filled with perpetual clamour, this multitude of keen and eager faces, this ceaseless coming and going of many feet, this irreverent public, watching from the galleries and forcing its way onto the floor, all speak to the beholder's mind of the mighty democracy, destined in another century to form on half of civilized mankind, whose affairs are here debated. If the men are not great, the interests are vast and fateful. . . .

In our own time it is almost impossible to find observers, foreign or home grown, who can speak in such lofty tones about an institution that is so central to our government and our political life. The promise of greatness that so many observers saw in the past seems lost today in fog of particular grievances and complaints about what is wrong with Congress. We cannot seem to see beyond the perpetual clamor and the irreverent public that have always been part of representative democracy. Today we have a whole class of pundits who make a good living speaking ill of Congress. In recent years the reporting of political news has become more about entertainment than enlightenment. So every foible of every member of Congress becomes national news used to fill the 24 hour news cycle.

As we planned for the bicentennial of Congress, I continued to search for those observers who could see through our troubles and remind us of our better angels. When I finally found what I was looking for it came not from a historian, not from a political scientist, not from a great statesmen or a Founding Father—it came from a poet.

This may be the only talk you ever attend on the subject of the United States Congress that will recite poetry to explain what Congress means to our national life. But before the recitation—here is the background story.

One of the most exciting assignments I had as the House Historian was to plan a joint meeting of Congress for its 200th anniversary in 1989. Speaker Jim Wright followed every bit of that planning, set a strict schedule for us to keep the speeches from getting too long winded. The Speaker presided over the ceremony along with Senator Robert C. Byrd, the president pro tempore of the Senate. We transformed the House Chamber from its usual activities of law making and partisan debate into a place of harmonious and patriotic celebration and a reflection on the meaning of representative democracy. Star-spangled bunting decked the House chamber and the sounds of the United States Army Band playing “Stars and Stripes Forever” reverberated through the hall.

As we were in the final stages of planning this event I thought it be nice to have a poem written about Congress. The last time a poet addressed a joint meeting of Congress was

when Carl Sandburg spoke on the occasion of the 150th anniversary of Abraham Lincoln's birth. That was in 1959.

So literally weeks before the ceremony, I found myself on the phone with the Pulitzer Prize winning Poet Laureate of the United States, [Howard Nemerov](#), a professor at Washington University in St. Louis, and one of our truly great contemporary poets. My proposition was simple. Could he, in six weeks, write a poem about the 200th anniversary of Congress and come to Washington and deliver it before Congress and to a national television audience. Professor Nemerov hesitated. He said he needed a few days to think it over. Later his wife told me that he was excited about the prospect and wanted to say yes immediately, but he needed an idea around which to build his poem before he committed to it.

Our plan for the ceremony was worked out to the minute as the Speaker expected it to be. We had control over all aspects of the program and knew exactly what all the speeches given that day would be like and how long they would take to deliver.

But I had no idea what the Poet Laureate would say. He was the great unknown. I didn't know if he was a Republican or a Democrat. I didn't know if he was happy about America or was bitter about politics. I didn't know if he would chastise Congress for being filled with ugly partisanship or use the occasion to preach about a pet peeve. All I knew was that he was a distinguished American, a fighter pilot in World War II with a 100 missions to his credit, and that he was our Poet Laureate. I felt he would say something appropriate.

I was filled with apprehension as I awaited the delivery of the poem. As Nemerov took the podium I was standing on the floor of the House Chamber to his right looking out into the faces of the members. He began with a brief preface and then delivered his poem. This is what he said that day:

To the Congress of the United States Entering Its Third Century, With Preface

Because reverence has never been America's thing, this verse in your honor will not begin "O thou." But the great respect our country has to give may you all continue to deserve and have.

Here at the fulcrum of us all,
The feather of truth against the soul
Is weighed, and had better be found to balance
Lest our enterprise collapse in silence.

For here the million varying wills
Get melted down, and hammered out
Until the movie's reduced to stills
That tell us what the law's about.

Conflict's endemic in the mind:
 Your job's to hear it in the wind
 And compass it in opposites,
 And bring the antagonists by your wits

To being one, and that the law
 Thenceforth, until you change your minds
 Against and with the shifting winds
 That this is and that way blow the straw.

So it's a republic, as Franklin said,
 If you can keep it; and we did
 Thus far, and hope to keep our quarrel
 Funny and just, though with this moral:---

Praise without end for the go-ahead zeal
 Of whoever it was invented the wheel;
 But never a word for the poor soul's sake
 That thought ahead, and invented the brake.

I waited for what seemed to be an eternity as the House chamber remained silent—it took a moment for the poem to sink in. Then the members started to applaud and laugh and they all seemed very pleased.

I was stunned. I still get emotional when I think back to that special moment in the House Chamber. Here was the idea that I had been looking for. Howard Nemerov got it right. He understood the Constitution. He understood the Founders. He understood that the Constitution created a national government in which Congress would be the centerpiece.

Howard Nemerov said Congress was “The Fulcrum of us All.”

This is the phrase I had been looking for since taking the job of House Historian—“Here at the Fulcrum of us All.” Congress is our fulcrum. It is our political balancing point.

But the poet had an even stronger idea in mind than just our national balancing point. The word Fulcrum has another meaning. A fulcrum is an agent through which vital powers are exercised. Congress is the branch of government designed by the Founders to exercise vital powers.

If Congress gets too far out of balance, if it fails to be the place where vital powers are exercised then our whole enterprise, the United States itself, could *collapse in silence*.

The Framers of our Constitution knew how delicate that balance of power would be. They knew that while Government seems strong and permanent, it is really quite fragile.

It needs constant tending. When Benjamin Franklin was asked what kind of government he and his colleagues had created, he answered “A Republic if you can Keep It.” Franklin knew that the great experiment in government our Constitution established would be an ongoing challenge. He had his doubts it would work.

Congress, the Poet Laureate said, is the place where “the million varying wills get hammered out.” Today the United States is a much larger and more diverse nation that it was 200 years ago. The million varying wills—the voices of this diverse population, are seldom, if ever, in sync.

Congress has to make sense of our disagreements—if it can. Our political life and our history is the movie the Poet Laureate mentions. We are all in that movie. Our laws are the stills from that movie. Congress confronts a rapidly changing world and tries to make laws to fit the moment. Until, as the Poet Laureate says, the political winds blow in a different direction and the laws change.

Conflict is a given. Politics is about conflict. Conflict is what Congress will always deal with. Congress is the place we send our representatives to quarrel over our desires. It is also a place where they quarrel over power and try to keep power in balance.

The question is how *effectively* we deal with conflict. Notice I did not say how *efficiently* we deal with conflict. Speaker Tip O’Neill used to say “If you want efficient government get yourself a dictatorship.”

What doesn’t get into our civics books is the fact that Congress was designed to be inefficient. This is especially true of the Senate. The House can sometimes look brutally efficient because it can run by the numbers. A majority can pass its agenda in the House any time it wants to. But the question remains will the Senate go along. Speaker Thomas Brackett Reed of Maine said more than a century ago that the purpose of the minority in the House was to draw their paycheck and make a quorum so the majority could push its program through.

While the House can run by majority rule, the Senate runs mostly by consensus. Individual senators in the majority or the minority can hold up legislation. While debate in the House is controlled down to the second; the Senate has unlimited debate and can use the filibuster to delay matters even further. The Senate is designed for deliberation. As the Senate Parliamentarian Alan Frumin liked to say, “In the Senate, very little happens by compulsion.”

Congress can carry out its will and play its role as National Fulcrum only if it had sufficient majorities in both houses. Even then it cannot dictate policy because of its own built in separations of power, not to mention the President and the Supreme Court. Even with veto-proof majorities, Congress is still about compromise. And those who cannot compromise will never master the art of politics. Dealing effectively with conflict is called justice. And the Poet Laureate reminded members of the House and Senate that we must keep our arguments just.

Howard Nemerov's poem ends with a profound idea framed as a whimsical moral.

Praise without end for the go-ahead zeal
 Of whoever it was invented the wheel;
 But never a word for the poor soul's sake
 That thought ahead, and invented the brake.

What good is a wheel without a brake? The very idea of a wheel and a brake suggests compromise. We have had periods of our history when the wheel turned with great enthusiasm and public support. Sometimes it is necessary to promote change. Other times it is necessary to stop it. Knowing when to roll the wheel or when to apply the brake is the key to an effective Congress.

At the beginning of the 20th century the House of Representatives was run by an amiable but stubborn dictator named Joe Cannon. Everyone called him Uncle Joe. People liked him even when they disagreed with him. He was in Congress for 40 years. He constantly smoked or chewed on a cigar and called himself a simple hayseed from Illinois. He was often called the Brakeman of the House. Uncle Joe did not let the wheel turn at all. He almost single-handedly blocked the Progressive Era legislation that even his own Republican Party supported. He said America was a hell of a success and didn't need any legislation.

The New Deal of Franklin Roosevelt was a time when the wheel of government rolled fast in an effort to solve the Great Depression. The Executive and Legislative branches of government took an activist role in the lives of Americans and the American economy as never before.

Legislation that changed America came out of this era, perhaps the most significant being Social Security. But the President sometimes went too far in his zeal. He tried to pack the Supreme Court with justices who would support his programs. The Supreme Court was trying to apply the brakes on the New Deal by declaring some initiatives to be unconstitutional. Congress too had to step in and apply the brakes. The President had not bothered to consult Congress about his proposed changes in the Supreme Court and Congress resented it. Court packing was the hottest political issue of 1937 and Congress and the Supreme Court applied the brakes to stop a president on this particular issue.

If Congress is our national fulcrum, what can we do to make it successful in fulfilling its Constitutional role? If Congress is a broken branch as so many observers think it is, what do we do to fix it?

No single noon-time lecture, no series of seminars can by themselves address or begin to solve these big questions that impact the future of this nation. But there are steps we can take.

In Thomas Mann and Norman Ornstein's book *The Broken Branch*, they write about real problems that affect Congress's ability to function as it is supposed to. To mention a few they cite: excessive partisanship, the failure of regular order for bills, the cost of running for office, the need for ethics reform, and the erosion of Congressional power in relation to the President, and the failure to properly exercise the oversight function.

Both political parties seem to have lost their centers. No one is in the middle anymore, where compromise is possible. Both parties operate from what we have come to call their "base," which is composed of hardliners not inclined to compromise with the other side. The "base" is composed of people who determine the outcomes of primaries, where a small number of hardliners can have great impact on who gets on the ballot.

As a nation we have been divided into Red and Blue states as a symbol of our division into two seemingly irreconcilable forces. This kind of extreme partisanship does not work well in a system that depends on practical problem solving, careful deliberation, and political compromise. Congress seems to have lost a trait long associated with American culture and politics: *pragmatism*, the ability to be practical and reasonable in searching for solutions to vexing national problems without resorting to ideology and extremism.

We have a serious problem on our hands that comes from the nature of political parties themselves. The Framers of the Constitution did not envision a nation divided into two large political parties. Most of them didn't like parties. They called them factions. They recognized that factions were a part of human nature and would rise and fall with the issues of the day, but they never imagined them being so organized and powerful that they would permanently divide the nation. And the Framers never imagined political machines financed with unbelievably large sums of money. Elections were expected to be locally run, in states and districts, except for the president who was nationally elected. But in 2012 national and international money flows into local elections from undisclosed sources. If money is free speech, as recent court decisions have said, a congressman in a district in Utah might be getting the most free speech from a tycoon in Alaska, or one in China.

We can only go so far in seeking solutions from the wisdom of the Founders. They had their own problems. In the twenty-first century those who we elect to office must find their own solutions, informed, perhaps, by the Founding Era leaders, but not dictated by them. The leaders of the Founding Era never could imagine a nuclear weapon, men walking on the moon, the instantaneous world-wide communications that often cause us to leap to conclusions before we think them through, and many other aspects of politics, and economics today that need solutions from the current generation of leaders.

Here is the main problem with political parties. They act counter to the Constitution in one key respect. The Constitution of the United States was constructed to divide power among a number of entities in three separate branches of government. Political parties do just the opposite. Parties concentrate power. Political power exercised through a party structure can weaken the Constitution if *winning* becomes more important than *governing* on behalf of the American people.

The American political system is not the same as a parliamentary system in which the legislative and executive are one. In recent years the highly partisan House expects the Speaker to ignore the President and act like a prime minister. Newt Gingrich began this trend, which is one of his worst ideas ever. He even tried, and failed, to have parliamentary-style debates in the House. It would certainly be healthy to have a better balance of power between Congress and the Executive branch, as the Constitution describes it. But to unilaterally pretend to be following the Constitution while acting like the British Parliament undermines the Constitution.

I do not believe our system of government will begin to right itself until “We the People” step up to the plate. While it is common practice to blame Congress for everything that is wrong, or blame the president, each of us is also part of the problem. We are the ones who elect members of Congress and presidents of the United States. The stalemate in Congress is a function of the stalemate of Americans to come together. If Congress is polarized, it is because “We the People” are polarized. If Congress is driven by ideology it is because enough voters across the nation are driven by the same thing.

We usually get the Congress we ask for. If we send angry men and women to Congress who campaign on the fact that they hate everything inside the Beltway, it is because too many of us feel the same way. All of us hold the power to make change. Expecting Congress to reform itself is wishful thinking unless there is considerable pressure from independent-thinking voters from both major parties. Expecting parties to change is wishful thinking unless we, acting as members of either major party, expect governance for the nation to be more important than merely winning an election. Angry people, ideologues, demagogues, charlatans, and fools can be elected to high offices. But can they govern once elected? This is the test. Governance requires compromise even though elections can be won by those claiming they will never compromise.

We are in the midst of our national elections. The primary season is almost over. This fall we will elect a president. All 435 seats in the House will be up for re-election, as they are every two years. One third of the Senate will be elected this year, as it is every two years. The Constitution has given us the tools we need to fix what is broken—if only we have the *will to do it*. Congress is not composed of strange people from Inside the Beltway, that mythical land where nothing seems normal or right. Congress is composed of the people we send there. Congress is us.

Perhaps we can look back on the election of 2012 and say it marked the beginning of a new level of participation and activism on the part of new generations of Americans. If this turns out to be the case, then I think we would be moving in the right direction for Congress again, in the not too distant future, to play its Constitutional and historical role as our National Fulcrum.

The big unknown in 2012 will be the role of vast amounts of money that will try to shape the outcome of the elections. Money has always been a part of campaigning but it was not that long ago that House and Senate elections could be financed with tens of

thousands of dollars, not tens of millions. The [*Citizens United v. the Federal Election Commission*](#) decision could mean that democracy can be bought and sold to the highest bidder. If this happens in the 2012 congressional and presidential elections, then our National Fulcrum will be totally out of balance and our elections will be controlled even more than ever by oligarchies of wealthy persons, some representing themselves, while others represent business, industries, or other special interests, including unions, capable of raising vast sums of money that ordinary citizens donating to either party could not match, unless “We the People” decide to demonstrate a willingness to defy the moneyed interests and act as citizens with the power of the franchise. Congress, the “Fulcrum of Us All” according to the poet, should not be something that is for sale to the highest bidder.