

Testimony before the Select Committee on the Modernization of Congress
United States House of Representatives
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“Congressional Reforms of the Past and Their Effect on Today’s Congress”
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Thank you for your invitation to appear today at this hearing, my first from this side of the dais.

I want to offer four observations that, along with the advice from these distinguished congressional scholars, may help guide the work of this Select Committee.

- Despite the cynicism of many critics inside and outside the House, Congress has demonstrated its ability to reform its organization and operation to improve efficiency, expand participation by members, provide greater transparency and offer voters greater accountability for its decisions. Such historic actions as the bipartisan revolt in 1910, the Legislative Reorganization Acts of 1946 and 1970, and the majority rules changes of 1889, 1974 and 1994, demonstrate the capacity for Congress to achieve these goals.
- Second, there is an inherent tension between the desire for efficient operation of the House and the ability of a large and diverse membership to fully participate in legislative deliberations. Finding the correct balance is no simple task.
- Third, all reforms carry with them unintended consequences, which is why it is best to proceed on a bipartisan and deliberative and to remain open to reassessing whatever innovations are adopted.
- And lastly, we all need to be realistic in our expectations of what modernization can achieve. Organizational reform alone cannot heal the partisan discord that frustrates the members of this House and the citizens of the country. The emergence of deep-seated partisanship over the past forty years tracks the profound changes in demography, culture, communication and campaign finance. No set of rules changes, no election of a new candidate is going to be a magic pill for reducing such ingrained division and suspicion of the other party.

My book, *The Class of '74*, documented the history of one era of House reform. Over time, such reform efforts have originated with impatient newcomers who often lack an appreciation for the rationale behind existing procedures, as well as with seasoned veterans who are frustrated by antiquated rules. Many efforts, like the Hansen, Bolling and Patterson committees of the mid-1970s and the Hamilton-Gradison committee in 1992 ended largely in failure.ⁱ

A crucial first step is agreement on the objective. Is it greater efficiency? The diffusion of power? The reduction in partisan division? Greater transparency? Maintaining a disciplined focus on clearly defined goals will be crucial to your success. As your former colleague Mo Udall once observed, “We tend to overkill when we get involved in some of these reform things in the House.”

Efficiency in the operation of the House is a perennial goal of reformers, yet as we know, delay is deeply woven into the American political fabric. Thomas Cronin has written, there are “dangers in expecting efficiency from a Congress that is never going to be fast on its 1,070 feet.” Some inefficiency is desirable because it allows broader groups of legislators to invest in finding solutions. Indeed, efficiency in a large, diverse political body is often imposed by the overconcentration of power and by abrogating the rights of the minority.

Well-intended reform can go awry. After reformers in the 1970s expanded opportunities for participation, the number of floor amendments nearly quadrupled and bills took weeks to pass. Many amendments were crafted, not to genuinely improve the legislation, but as Rep. Leo Ryan said, “to stall, to delay ... to make things not happen” and to embarrass opponents by forcing them to cast controversial votes that had little chance of succeeding.ⁱⁱ As a result of this weaponization of the amendment process, Tip O’Neill declared “Congress became more difficult to control than ever.” Sen. Gary Hart put it more succinctly: the institution had become “a controlled madhouse.”

Some reforms have inadvertently contributed to today's polarized environment, such as the decision in the 1970s to permit live television coverage of the floor. Indiana's David Dennis, among others, warned that TV cameras would detract from serious debate and create "prima donnas." Tip O'Neill shared that skepticism, noting that "some of us aren't very smart and we won't look so good."ⁱⁱⁱ The use of far more accusatory and partisan rhetoric on the floor certainly has escalated in the intervening years. Thirty-five years ago, O'Neill's words were taken down when he called a speech by Newt Gingrich "the lowest thing" he had ever seen. Today, such a comment would barely merit any notice, and the change marks a significant deterioration in the comity and collegiality of the House.

One of the most significant reforms in the 1970s empowered Caucus members to vote to confirm chairmen rather than continuing to arbitrarily award chairmanships through strict adherence to a the seniority system, which itself was a reform established in 1910 to check to autocratic power of the speaker. But the seniority system came to disproportionately reward members from one-party districts who were increasingly out of step with the Congress as a whole.

Other important and far-reaching reforms of that era enhanced the power of the elected leadership, expanded staffing and budgets to subcommittee chairmen and the minority, enabled a smaller number of members to demand recorded votes, and limited the ability of senior members to dominate subcommittee chairmanships.

As we all recognize, politics is a far more partisan business today than in the 1970s, and it will be difficult to impose non-partisanship on a highly polarized institution and electorate. Reformers of every era have tried to take politics out of politics, and of course, that is a fool's errand. So long as the parties are locked in rough parity and constant battle for control with grave consequences stemming from victory or loss,^{iv} even well intended reforms may fail to achieve the goal of a more collaborative Congress.

With that cautionary background, here are some suggestions you may wish to consider.

Tougher rules governing floor speech could help refocus floor debate on substantive issues and lower the political temperature. You might consider ending one-minute and special orders so as to reserve the House floor for substantive legislative debate. If members want to engage in partisan fulminations, technology has afforded them the opportunity to do so on Twitter or You-Tube and on their own time.

There is no substitute for regular order, beginning with substantive and uninterrupted committee meetings. As Woodrow Wilson famously noted, "Congress in its committee rooms is Congress at work." But committees cannot work when they are infrequently scheduled and often delayed for votes. With the reduced regularity of committee meetings has come a loss of the collegiality crucial to bipartisan collaboration. I would suggest you consider minimizing the time that committee meetings and floor activity overlap, perhaps by allocating specific functions to days of the week.

A final suggestion: legislation that enjoys widespread and bipartisan public support needs to be able to find a clear path to the floor within a reasonable amount of time. An already cynical public cannot help but become even more disenchanted with the Congress when legislation that enjoys the support of 70% or 80% of voters cannot even be debated, let alone passed. While I certainly recognize the value of letting the leadership set the floor schedule, and the strategic decisions doing so entails, the House might consider allowing members to sign a discharge petition privately, with a certification from non-partisan designees like the Parliamentarian or the Comptroller General, to compel the consideration of broadly supported proposals if those measure are otherwise being kept from deliberation.

It is true that public esteem for the Congress is dismally low, although in fairness, it must be noted that it is never particularly high. And rules changes alone cannot reverse decades of social and political evolution that has produced our deep partisan divide.

But this situation is not hopeless.

Recall that only a decade ago, this highly partisan institution – during a period of divided government and just weeks before a bitterly contested election – produced a complex, controversial and bipartisan response to the crumbling of the financial markets that averted a national economic calamity.^v Crisis drove that successful effort: we need to find a way to reward those who are willing to make difficult political decisions instead of turning them in targets, and to do so without waiting for the next crisis to appear.

The work of this committee gives us hope that, armed with lessons from past reform efforts, we can fashion a Congress that is efficient in operation and which recaptures the respect of the American people.

ⁱ Scott Adler, *Why Congressional Reforms Fail*

ⁱⁱ John Lawrence, *The Class of '74*, 239.

ⁱⁱⁱ *Class of '74*, 267.

^{iv} Frances Lee, *Insecure Majorities*

^v John Lawrence, "When American Stared Into the Abyss" *The Atlantic*
<https://www.theatlantic.com/ideas/archive/2019/01/john-lawrence-inside-2008-financial-crash/576574/>

John A. Lawrence

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Upon leaving Capitol Hill in February 2013, Speakers John A. Boehner and Pelosi conferred on him the John W. McCormack Award for Excellence for dedication to the House and bipartisanship.

He is the author of *THE CLASS OF '74: Congress After Watergate and the Roots of Partisanship* (2018), which Kirkus Review called "an essential work of congressional history," and congressional scholar Norman Ornstein describes as "a landmark volume on congressional history." His articles have appeared in the *New York Times*, the *Los Angeles Times*, *The Atlantic*, *Politico Magazine*, among others, and he is a regular contributor on the XM Sirius program "POTUS." He blogs on Congress and politics at **DOMEocracy** (johnlawrence.wordpress.com).

He served as Democratic Staff Director of both the Committee on Education and the Workforce (2001-2005), and the Committee on Natural Resources (1993-2001), and Chief of Staff and Legislative Director to Congressman George Miller (D-CA) (1975-1993). He played a major role developing legislation on foster care and adoption, occupational disease compensation, education policy, reforming water and energy policy and national parks.

John Lawrence serves on the Advisory Committee on the Records of Congress (by appointment of Speaker Nancy Pelosi), and several other boards.

John Lawrence was born and raised in Paterson, N.J., and has a Ph.D. in American History from the University of California (Berkeley). He graduated from Oberlin College with high honors in history. He and his wife, Deborah Phillips, professor of psychology and Vice Dean at Georgetown University, have two children.

Selected Recent Publications

THE CLASS OF '74: Congress After Watergate and the Roots of Partisanship (Johns Hopkins University Press, 2018). “An essential work of congressional history” (Kirkus Review); “I’ve never read anyone who 'gets' Congress and its characters as Lawrence does.” Chris Matthews.

“Trump Should Beware the Clawback Congress” *The Hill* (February 18, 2019) <https://thehill.com/opinion/white-house/430448-trump-should-beware-the-clawback-congress>

“When American Stared Into the Abyss,” *The Atlantic* (January 7, 2019) <https://www.theatlantic.com/ideas/archive/2019/01/john-lawrence-inside-2008-financial-crash/576574/>

“Democrats Should Be Careful What They Wish For,” *The Hill* (September 24, 2018) <https://thehill.com/opinion/campaign/407920-democrats-should-be-careful-what-they-wish-for>

“From Dejection to Election: 1968, 1974 and Today,” LePage Center for History in the Public Interest (September 12, 2018) <https://medium.com/hindsight/from-dejection-to-election-1968-1974-and-today-e848b68711e4>

“Would a Democratic Majority Actually Fix Congress?,” *Washington Post: Made by History* (July 30, 2018) https://www.washingtonpost.com/news/made-by-history/wp/2018/07/30/would-a-democratic-majority-actually-fix-congress/?utm_term=.141ea250ea45

“Lessons from the Historic Post-Watergate Election,” *East Bay [California] Times* (March 22, 2018) <https://www.eastbaytimes.com/2018/03/22/opinion-2018-lessons-from-historic-post-watergate-election/>

“Managing the Modern Speakership: Pelosi and Boehner,” *Extensions: A Journal of the Carl Albert Congressional Research and Studies Center, University of Oklahoma* (Winter, 2017)

“How To Make Your Voice Heard In Washington” (with Rep. George Miller)

Los Angeles Times (February 15, 2017)

“John Boehner Fades Away,” *New York Times* (September 26, 2015)

<http://www.nytimes.com/2015/09/26/opinion/john-boehner-fades-away.html?smprod=nytcore-ipad&smid=nytcore-ipad-share>

Blog

DOMEocracy (<https://johnlawrence.wordpress.com>)