

TESTIMONY ON DEBATE AND DELIBERATION IN CONGRESS  
HOUSE SELECT COMMITTEE ON THE MODERNIZATION OF CONGRESS

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Mr. Chairman, members of the committee, I want to offer some ideas for improving the way the House debates and deliberates, based on my five decades of observing Congress from the inside and outside, working on reforms with many of your colleagues past and present and writing about the institution and its functions. My first recommendation is one I have pushed for three decades at least, going back to the 1980s; one example is in the Yale and Policy Review in 1993:

<https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1249&context=yjpr>

The idea is to have regular prime-time Oxford-style debates on the House floor. Ideally, what I would like to see is a weekly debate on a significant issue facing the nation on which Congress has to, or should, grapple. There should be two or three members on each side to offer contrasting views and ideas for policy, with rebuttals, in a classic debate format. And the issues, chosen perhaps by a bipartisan leadership panel, should not all break down on party lines—there will be many important issues where one can imagine both Democrats and Republicans on either side of the debate.

What is the value of such debates? First, they will show the public that Congress is grappling with the important challenges facing the country. Second, they can showcase members who have thought about and have views and deep knowledge on these challenges and what to do about them. Third, they can show a common understanding of problems and challenges that we face, with our differences over how to surmount them. Fourth, they can show that not all divisions in the country are Democrats vs Republicans. Fifth, they can become a springboard for a broader debate in our media and around the country about our problems, needs and challenges, as media outlets like the NewsHour or cable news shows might take video excerpts of a debate and use it to flesh out their own discussions and analyses, perhaps bringing in the debaters from the House. Sixth, while C-SPAN will air the debates, and perhaps not be joined live by other networks, the debates will live on via YouTube and other outlets, and will very likely be used in classrooms around the country, and as evidence in debate programs and tournaments at the high school and college level.

My second recommendation has to do with deliberations in committees. I have watched over decades as committees and subcommittees have clung stubbornly to the tried-and-true format: Members arrayed around the dais, witnesses at the table below, opening statements by chair and ranking member, sometimes by all the members of the panel, witness testimony, and five minute rounds of questions alternating between majority and minority.

There are certainly hearings where this format works reasonably well. But as a forum for hearing expert testimony, doing serious oversight, examining how a law is being treated or administered, examining a major national or regional problem, it has become an anachronism. Hearings far too often are disjointed, with lines of questioning intermittent, interrupted, combative and confusing. Members

doing their five minute rounds are islands unto themselves. Witnesses facing tough questions know they can filibuster for three or four of the five minutes, and then often get a five minute breather as a more sympathetic questioner does a monologue or throws softballs. There are better ways to do the public's business.

I would like to see committees and subcommittees alter their rules to allow the use of multiple formats. In many serious investigations, or deep dives into an important area of policy, I prefer the format of starting, after opening statements by the chair and ranking member, with a thirty minute or longer round done by a committee counsel or other staff member steeped in the issue, followed by a similar round done by the minority. And that would be followed by thirty minute rounds on each side. Those rounds could be conducted by one member or by as many as six—with an incentive for a group to convene in advance, settle on a theme for questions, and pursue that theme, including relevant follow-ups. Hearings with this type of format would elicit deeper dives into key areas, and a better outcome in terms of uncovering or examining important information or data. Viewers watching on C-SPAN or elsewhere would see deeper and more thoughtful discourse, and be less likely to dismiss what they see as a partisan circus or simply a shouting match.

That is only one format; many others could be applied if the panel rules allowed some creativity and flexibility. And I would add another option. I would like to see many more roundtables. Change the configuration of hearing rooms, to have members and one or more experts sitting together around a table, and have structured or semi-structured conversations—but with the emphasis on the conversations. Not every hearing needs to be a formal form of inquisition. The more committees and subcommittees can draw on outside witnesses who can add to their understanding of trends and policy implementation, of challenges ahead, of how other countries deal with comparable policies and threats, the better their ability to write good legislation and to conduct effective oversight. And, of course, these formats do not always have to be here on Capitol Hill; doing some around the country makes lots of sense. So does having committee or subcommittee retreats, away from the Hill, where members, staff and invited guests, for a day or even a weekend, can do internal seminars to bond and to hash over important issues.

I would like to see Congress show the American people that it takes their concerns and needs seriously, so that voters can have more faith that Congress is focused on those concerns in a constructive way. And I believe that if you can find mechanisms to improve the state of debate and deliberation, it might, if only in a small way, reduce the toxic atmosphere that pervades our political system and tamp down the tribal acrimony that is too often in the forefront.