

A False Golden Age

John Samples

This article is part of [*Fixing Congress*](#), a forum on the causes of legislative partisanship and corruption.

Representative Jim Cooper outlines a golden age of Congress during the speakership of Tip O’Neill. In those days, as Cooper would have it, members were cordial and debated the public good. Partisanship, though present, was bounded. Newt Gingrich, that omnipotent demon, brought the golden age to an end.

But the past was not really so golden, and reform of Congress should be about the problems of the future, not about a longing to restore mythical bygone years.

Cooper complains about special-interest politics. As former Representative and Office of Management and Budget Director David Stockman witnessed, Tip O’Neill and Jim Wright “put the nation’s entire revenue system on the auction block” to stop President Reagan’s fiscal proposals in 1981. At the time, Wright said of the Democrats’ alternative to Reagan’s budget, “Frankly, we’ll put anything in the bill if it will buy votes.” The bill failed anyway.

Cooper also complains about centralization of power by Gingrich. But political scientists believe the trend toward centralization in service of partisanship began in 1977, when O’Neill shoved through President Carter’s energy legislation. The strength and power of the congressional leadership grew thereafter. Gingrich continued O’Neill’s innovation.

The pre-Gingrich era had other shortcomings, too. In 1989 a House investigation revealed Speaker Wright had violated ethics rules 116 times during the 1980s. Wright became the first speaker to resign his office and was followed by the third-ranking Democrat, Tony Coelho, whose financial dealings were deemed ethically compromised. *Congressional Quarterly* reported during this period:

Two senators were indicted on criminal charges, . . . two of the House’s former officers pleaded guilty to crimes stemming from their service; and three former House members were convicted and sentenced to prison.

Congressional elections became less and less competitive during Cooper’s golden age. Fewer and fewer House incumbents lost elections; the electoral advantage of incumbency rose. The lower campaign spending praised by Cooper was both a cause and result of incumbency advantage. The higher campaign spending he now laments fosters more electoral competition and more informed voters.

Finally, Cooper complains about unfunded liabilities. But who created those liabilities and hid them? The O’Neill-era Congress owns a fair measure of responsibility. Congress did raise taxes and cut benefits for Social Security in 1983, but those changes hardly count as fundamental reforms, and, in any case, the changes originated with a commission, not with Congress.



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This fuller picture of Cooper's golden age does not imply that Newt Gingrich was a good speaker or that congressional Republicans have a superior record in power. But it does mean that the past is not a model for reform.

Allow a supermajority of states to write, propose, and ratify constitutional amendments.

I see three current and future problems besetting our republic that might be mitigated by reforms of Congress.

First, the problem of consent. The colonies that would become the United States did not fight for independence from England under the banner, "No spending without representation!" A lack of consent to taxation forced the break.

Today most Americans are unwilling to pay more taxes. Since spending equals taxes sooner or later, Americans are refusing to consent to more spending. Yet the same voters (and their elected officials) continue the spending by borrowing, which implies taxes on future Americans.

The gap between spending and taxes is especially wide in entitlements. For example, the Trustees of Social Security indicate that past and current recipients of Social Security have received and will receive \$17.4 trillion more in benefits than they have paid to the system. This enormous sum does not appear in Congress's official budget, but the liability is real. Current and future Americans will have to make up the difference through higher taxes or lower benefits.

The Americans who will pay those debts did not consent to those taxes. We might say that future Americans are virtually represented by the current Congress and the voters who elect it. The British Parliament said the same thing to American colonists after 1763. The Americans laughed and yet were not amused.

What should be done? Current government accounting obscures the costs and benefits of public spending. We need honest budgeting that reveals, rather than hides, taxes and public spending. At a minimum the current generation would know what is being done to those who have no say in today's policies. Accurate accounting might foster some restraint in taking advantage of the unborn. We will also need reformed programs. Privatization of entitlements, though beyond the topic of congressional reform, would also prevent current voters from taking advantage of future taxpayers.

Second, the problem of war. Article I of the Constitution grants Congress the power to declare war. As legal scholar Michael Ramsey has shown, the original meaning of "declare war" included initiating war, as in Libya now. The president, in turn, retained a power to repel attacks on the nation. Congress should limit by law the president's power to make war without congressional authorization or public debate. At the very least, the War Powers Act should be amended to force a public debate about the use of force by the president.

Third, the problem of centralization. The United States has become more diverse, politically, culturally, and otherwise in recent years. The future is likely to bring less *unum* and more *pluribus*. A greater decentralization of governance would help the nation adapt to its growing diversity: people with differences could live under governments that reflect their diversity. A changing nation could use a renewed federalism marked by more distinctive states.

American government is now largely consolidated. A renewed federalism would require constitutional amendments. Article V offers two paths to propose a constitutional amendment: through Congress directly or through a convention called by Congress. In practice, as law professor Michael Rappaport has argued, Article V gives Congress a veto over amendments. Consequently only

amendments that enhance congressional or federal power have been proposed and ratified. The Constitution could be amended to allow a supermajority of states to write, propose, and ratify constitutional amendments. The result might be a more balanced and useful government for the nation.

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