Partisan, Polarized, Yet Not Dysfunctional?

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In April 2013, the Washington Post hosted a fascinating, albeit pugilistic, op-ed debate about partisan gridlock featuring economist Larry Summers, on the one hand, and political scientists Tom Mann and Norm Ornstein, on the other. Summers made the case for “when gridlock is good.” Mann and Ornstein countered, arguing “gridlock is no way to govern.” Both sides raised good arguments. Both sides also got personal. Mann and Ornstein recommended Summers “stick to economics.” Summers advised Mann and Ornstein to “spend some time outside Washington.” Even academics, it seems, have gotten caught up in the partisan polarization in Washington these days. These competing op-eds were poles apart.

Summers criticized “gridlock theorists” who “yearn for a return to an imagined era when centrists in both parties negotiated bipartisan compromises that moved the country forward” and who “suppose that progress comes from legislation, and that more legislation consistently represents more progress.” Defending gridlock, Summers argued that partisanship and incremental change have been “the norm rather than the exception” in American history. Indeed, “fears about the functioning of the federal government have been a recurring feature of our political landscape since Patrick Henry’s assertion in 1788 that the spirit of the revolution had been lost.” Summers insisted, “structural obstacles” in our constitutional system do not explain our purported inability to mount all challenges facing America, and he defended “checks and balances” for serving to preclude potentially harmful legislation, left and right. Besides, Summers argued, “the system over the last four years has been quite productive in producing significant legislation,” with “two whirlwind years” (111th Congress) followed by “two gridlocked years” (112th Congress). Compared to other nations, Summers insisted, the United States is doing well even if distrust of government has grown, since “[d]eclines in trust have been observed around the industrial world and with respect to almost all institutions.” Apparently, things are better than they look, according to Summers.

Mann and Ornstein are not so sure. As the editors and authors of three books titled The Permanent Campaign, The Broken Branch: How Congress is Failing America and How to Get It Back On Track, and most recently, It’s Even Worse Than It Looks: How the American Constitutional System Collided With the New Politics of Extremism, their pessimism about our prospects seems to be growing. In their April op-ed, Mann and Ornstein accuse Summers of painting a “rosy scenario.” They contrast the partisan polarization and ideological “tribalism” of Washington today with the “strong political
center” and “responsible bipartisan leadership” of previous decades when “major advances were achieved with some level of cooperation or restraint, if not consensus, between the parties.” Mann and Ornstein blame House and Senate Republicans for their “obduracy and promiscuous use of the filibuster.” But they also lament “the shortcomings of our political system” which they observe is “designed not to act with dispatch.”

In the above op-ed exchange, we find definitions of dysfunction, cited causes of dysfunction, and questions as to whether or not our politics is in fact dysfunctional. As commonly understood, it seems, dysfunction consists of increasingly contentious partisan polarization, limited legislative productivity, and gridlock. More frequent use of the Senate filibuster is a key factor contributing to deadlock. Partisan polarization and gridlock produce an all-politics-all-the-time “permanent campaign” in which politics trumps policymaking. Finger pointing abounds, raising questions about who to blame and who to hold accountable. The Mann, Ornstein and Summers debate also raises the question of whether or not today’s dysfunction or alleged dysfunction originates in shortcomings in the design of our constitutional system. Should we blame James Madison? Summers usefully notes that criticisms of our Constitution date to the founding ratification debate between the Federalists and Anti-Federalists.

Red vs. Blue

We can concede the obvious, namely that our politics is more partisan and polarized, without necessarily resolving important debates within political science, for example, whether polarization is an elite or popular phenomenon, or both; whether polarization is really sorting; or whether we are either closely-divided or deeply-divided.2 We also need not blame any one of our key mediating institutions, parties, interest groups, or the media for the messiness of our politics. There is plenty of blame to go around.3 For example, Barbara Sinclair usefully concludes in Party Wars, her classic study of partisanship: “Partisan polarization cannot be blamed for many of the features of contemporary politics that we do not like, such as ugly politics.”4 In short, our politics is messy, ugly, cantankerous and contentious – but is it dysfunctional? Or is the cacophony politics as usual?

Is the seeming dysfunction in our politics new or the historical norm? In our haste to criticize the present, we must be careful not to malign history. Partisan polarization may not be new. Instead, it may be the historical norm according to Han and Brady in their carefully researched study titled “A Delayed Return to Historic Norms: Congressional Party Polarization after the Second World War.”5 They observe “the recent period of polarization mirrors patterns of polarization that have prevailed throughout most of congressional history. In fact, the truly unusual historical period is the bipartisan era immediately following the Second World War.”6 The confluence of events following the
Great Depression and World War II, coupled with a largely dominant New Deal Coalition, may, in part, explain the quiescent 1950s. Samuel Lubell metaphorically described the 1950s as a time when the Republican moon was the pale reflection of the dominant Democratic sun. The reoccurrence of partisanship in subsequent decades, Han and Brady conclude, is a return to historical norms. The 1950s baseline oft-popular with critics of partisan polarization today may give us an inaccurate sense of what is normal in our politics. The good old days of Ozzie and Harriet (and Joe McCarthy?) may not be the appropriate standard for judging our politics today. It may be that American politics is, as Samuel Huntington once put it, “the promise of disharmony.” Partisan confrontation and bipartisan compromise may both be as American as apple pie.

Today we appropriately lament the ugliness of Congressman Joe Wilson shouting “You lie!” at President Obama in 2009. Yet we forget the precedent of Speaker Jim Wright using the word “lie” eight times in a 1984 floor speech disputing President Reagan’s description of private deficit reduction talks. Similarly, we may be seeing memory polishing history today with allusions to the amicable relationship between President Reagan and Speaker Tip O’Neill in the 1980s, forgetting that Speaker O’Neill said in a press conference at the time, “The evil is in the White House at the present time. And that evil is a man who has no care and no concern for the working class of America and the future generations of America… He’s cold. He’s mean. He’s got ice water for blood.”

Of course, Presidents Obama and Reagan are in good company. Abraham Lincoln was likened to an ape; about our greatest president one of the leading newspapers of the time said: “The age of the statesman is gone… God save the Republic… from the buffoon and gawk… we have for President.” With evident good humor, Lincoln was similarly critical of Congress in a separate context, “I have been told I was on the road to hell, but I had no idea it was just down the road with a dome on it.”

Animosity up and down Pennsylvania Avenue is not new – and it travels in both directions. Long time Hill maven Don Wolfensberger recently described Congress bashing as a national pastime, citing Rep. Nicholas Longworth in his 1925 acceptance speech as Speaker saying, “I have been a member of the House of Representatives… twenty years. 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.” Even world famous authors have flayed Congress. Charles Dickens, no stranger to the best of times and worst of times, complained about American politics in the 1840s: “Look at the exhausted Treasury; the paralyzed government; the unworthy representatives of a free people; the desperate contests between the North and South; the iron curb and brazen muzzle fastened upon every man who speaks his mind, even in [Congress] that Republican Hall, to which
Republican men are sent by a Republican people to speak Republican Truths – the stabbings, and shootings, and coarse and brutal threatenings exchanged between Senators under the very Senate’s roof – the intrusion of the most pitiful, mean, malicious, creeping, crawling, sneaking party spirit into all transactions of life.”

Sounds like today! Or at least the references to our exhausted Treasury, paralyzed government, and party spirit sound like today. But it also sounds like James Madison in *Federalist # 10* acknowledging that our constitutional system “involves the spirit of party and faction in the necessary and ordinary operations of government.” While the above anecdotes alone do not make for a complete argument, the Founders’ practice of their own principles during the 1790s, the first decade of the new American Republic, cast further doubt on the ready assumption that our politics is supposed to consist of comity, civility and bipartisan bonhomie. According to historian Joseph Ellis, the 1790s was a “decade-long shouting match” unparalleled in American history. Gordon Wood observed “party spirit … ruled all.” Is polarized partisanship new, or is it the norm and a natural part of American politics? Does bitter partisan polarization mean our politics is dysfunctional?

**How Would We Know?**

By what standard might we judge whether our polarized, partisan politics is dysfunctional? As witness the above debate between Mann, Ornstein and Summers, two measures of dysfunction come readily to mind. First, what did the Founders intend or expect? Second, is gridlock precluding the necessary legislative productivity?

**First: What Would Jemmy Do?**

We have already begun to investigate the first question – what did the Founders intend or expect? – but it is worth examining more completely. Mann and Ornstein raise this Founders’ intent question in *The Broken Branch*. Summers, too, raises this question when he notes above that “fears about the functioning” of the federal government have been with us since Patrick Henry criticized the new Constitution. Summers cites, too, albeit favorably, the “checks and balances” and “structural obstacles” in our constitutional system. Mann or Ornstein, in their dueling op-ed, reference “shortcomings in our political system,” a system, which, they say, is “designed not to act with dispatch.” Presumably they mean the system designed by James Madison.

Madison may be called the Father of our Constitution, though he insisted, rightly, that the Constitution was the work of many hands, including but not limited to those at the Constitutional Convention in the summer of 1787. Joseph Ellis, speaking about the ratification debate, concludes, “taking sides in this debate is like choosing between the words and the music of the American Revolution.” The Constitution, he suggests,
“made argument itself the answer by creating a framework” which would promote “an argument without end.”

Similarly, Herbert Storing posits that American politics can best be understood as an ongoing and ever deepening debate between the Federalists and the Anti-Federalists. The Federalists may have won the ratification debate – it was their Constitution which was ratified – but not before the Anti-Federalists left their mark on the Constitution, as seen, for example, with the Bill of Rights or the principle of federalism built into Senate representation. The Federalists may have won the debate, Storing argues, but the Anti-Federalists correctly identified the defects of our Constitution, thus giving rise to an unending debate – a series of echoes of the Federalist/Anti-Federalist debate – throughout American history. To understand the effective functioning of our constitutional system, therefore, we must take seriously both the Constitution and its critics; therein resides a standard for judging dysfunction.

To begin, one might legitimately ask “who cares what the Founders think?” It may be that Madison understood his design better than we do today; certainly he understood more than the Anti-Federalists, especially about the virtues of the new system. Asking “What did the Founders intend or expect?” in this context is another way of asking what sort of politics does our constitutional system elicit? Is sharp partisanship a normal and natural part of our politics? Perhaps our politics invites argument and contentiousness.

Who today echoes the Federalists and who echoes the Anti-Federalists? Again, the Anti-Federalists correctly identify the defects of our constitutional system, as seen, for example, when the Anti-Federalist Centinel (Samuel Bryan’s pen name) decried a politics based on “an opposition of interests.” Centinel asked, “how is the welfare and happiness of the community to be the result of such jarring and adverse interests?” How do the separation of powers and checks and balances, coupled with “the spirit of party and faction,” produce the common good? Good question. Do parties and special interest groups corrupt our politics? Critics of our constitutional system today, including Mann and Ornstein, echo this Anti-Federalist critique. Madison recognizes the defect they identify.

In *Federalist # 10* Madison readily acknowledges the “mischiefs of faction” and even the “violence of faction” which he labels a “dangerous vice.” He does not mince words. Madison recognizes the “instability, injustice, and confusion introduced into the public councils” by the factious spirit. And yet he unleashes the “mischiefs of faction,” both majority and minority factions, into our politics; all in the name of liberty. Even though Madison acknowledges this defect, the Federalists still won the debate. Why?

The Anti-Federalists lost the ratification debate for two reasons, one theoretical, the other practical. First, the theoretical reason: The Anti-Federalists lost the argument in
principle because they had the weaker argument. They could not provide a better cure than Madison to the mischiefs of faction inherent in a liberal regime, short of curbing liberty in the name of protecting liberty – “a cure worse than the disease” according to *Federalist # 10*. Second, the practical reason: The Anti-Federalist fallback position, as a practical matter, was the obviously dysfunctional Articles of Confederation. You can’t beat something with nothing. They did not like the promised cacophony of Madisonian pluralism, yet they lacked a serious alternative. Moreover, the new Constitution was *more effective*, not less effective, than the failing Articles of Confederation. The Anti-Federalists recognized the defects of the Constitution, but they failed to appreciate its virtues. The critics of our constitutional system today may be in a similar position; while recognizing the defects of our constitutional system, they may not fully appreciate its virtues.

Today’s critics of our constitutional system, like the Anti-Federalists, may not appreciate the fact that the Federalists designed their Constitution to limit the abuse of power and yet also provide for the effective use of power. Limited, yet effective government. Free and effective government. With the new Constitution, the Federalists sought more effective and energetic government. They sought to empower government, rather than weaken government as has so often been presumed by critics of the Constitution. As Madison scholar Marvin Meyers notes, Madison “never forgot that it was a twofold process: arresting the abuse of power and promoting the use of power for the public interest; cancellation and summation.”¹⁹ The separation of powers is not reducible to the checks and balances; rather, the Constitution provides for a separation of functions system, with three powerful and independent branches, each potent within its own sphere exercising its proper function. As Madison noted, the Federalist Constitution provides for “stability and energy.”²⁰ The Constitution provides for *more effective* government, as we shall see when we turn later to discuss legislative productivity.

Furthermore, like the Anti-Federalists, the critics of our constitutional system today recognize that the “spirit of party and faction” corrupts our politics; but do they appreciate, as Madison does, that the spirit of party and faction also constitutes our politics?

From the perspective of James Madison, the author of the two key *Federalist Papers # 10 and # 51*, politics today may not in fact be dysfunctional. Madison did not think we could take the politics out of politics. In *Federalist # 10* Madison notes that the “principal task of modern legislation” – meaning constitution-making – is the regulation of “various and interfering interests,” which again “involves the spirit of party and faction in the necessary and ordinary operations of government.” Madison’s Constitution intentionally incorporates both the “mischiefs of faction” and the “spirit of party.” American politics encompasses both intense minorities and aspiring majorities, both special interest groups and majority-seeking parties, arguably both “pluralism” and (conditional) “party
government.” The Constitution checks and balances special interests and political parties, yet the Constitution also embraces and empowers special interests and political parties. Madison understood that minority and majority factions were mischievous and yet he unleashed them on our politics, again, in the name of providing the greatest amount of liberty.

In *Federalist 10*, Madison observes,

> Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be less folly to abolish liberty, which is essential to political life, because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.\(^{21}\)

Madison understood that in a free society, politics, including the “spirit of party,” is ubiquitous. Since the “latent causes of faction” and “the spirit of party” are natural to man, Madison sought to *control the effects* of factions, rather than *remove their causes*. Madison did not think it possible to take factionalism or partisanship out of politics; therefore, he sought instead to multiply factions in the extended republic and to *control their effects* by means of republican institutions governed by constitutional structure. “In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government."\(^{22}\) Factionalism is a disease, yet Madison liberates it onto our political landscape. He governs the “spirit of party and faction” by means of his constitutional structure, most importantly, the separation of powers, checks and balances, federalism, bicameralism, and the representative principle. This constitutional structure actively invites and promotes competition between parties and factions, as witness our contentious politics today especially under conditions of divided government.

In the *New Yorker*, journalist Nicholas Lemann argues that the struggle among contending interest groups both constitutes and corrupts our politics.\(^ {23}\) Similarly, partisan confrontation between political parties both constitutes and corrupts our politics. There is an element of truth to the perspectives of both Madison and his critics – as Madison fully appreciated.

In a democratic republic like the United States, Madison argues, majorities can control minority factions; thus, the real danger resides in majority factions. Madison’s constitutional system controls the mischiefs of majority faction, including partisanship, for example, by promoting active competition not only between parties, but also within parties. The separation of powers, bicameralism and federalism mitigate the dangers of partisan factionalism, often pitting *intra-party* factions against one another as much as *inter-party* factions. Internal party factionalism serves even today to break the violence of majority faction and promote compromise.

This is one reason we perhaps can be sanguine about partisan polarization today, just as the Founders survived the bitterness of politics in the 1790s. As much as red vs. blue polarization defines our politics today, so, too, does internal party factionalism, as
witness the tea party faction among House Republicans limiting Speaker John Boehner during the fall of 2013. Similarly, in the summer and fall of 2013 the liberal wing of the Democratic Party limited President Obama’s options on Syria, his choice of nominees for the Fed (poor Larry Summers!!?), and his ability to negotiate with Republicans on deficits and the debt limit extension. The Washington Post’s Karen Tumulty reported during the October 2013 showdown shutdown that congressional Democrats preferred President Obama spend more time playing golf, rather than risk having him negotiate with Republicans, lest he compromise on party principles.

Even in polarized times like today’s red vs. blue America, intra-party factionalism curbs the excesses of inter-party factionalism. Further examples include the following: Even though Democrats resorted to budget reconciliation as a means to circumvent their loss of a filibuster-proof majority to pass the Affordable Care Act in March 2010, internal factions among Congressional Democrats (think: Tim Penny) limited the full policy aspirations of liberal Democrats who failed to get all they wished for in the Affordable Care Act. Similarly, intra-party factionalism among Congressional Republicans during the fall of 2013 limited the options of both Speaker Boehner and the tea party wing of the GOP whose “defund Obamacare” strategy failed, sans endgame, in spite of Senator Ted Cruz’s faux filibuster. Ultimately, Congressional Republicans had to retreat to more moderate ground in order to end the debt limit showdown and government shutdown.

Yet internal party factionalism, like inter-party factionalism, can also promote entrepreneurial policy ambitions by enabling policy ferment within the two parties. Both intra- and inter-party factionalism can empower competitive policy ambitions to play a role in our politics, thus potentially increasing, rather than decreasing policy innovation. Nelson Polsby recognized the role of “innovation and stalemate” built into our constitutional routines. Polsby observed, “it is possible to discern an alternative and somewhat overlapping pattern of activity and retrenchment, of focus and stalemate in congressional affairs.” He concluded: “Neither one mode or the other is exclusively ‘natural’ to Congress … both roles are historically characteristic of Congress, and both fully express the powers of Congress as contemplated by the overall constitutional design.” Madison sought both energy and stability with his Constitution.

In a thoughtful recent study in The Forum, Eileen Burgin and Jacqueline Bereznyak underscore the important role of intra-party compromise even during times of sharp inter-party polarization:

In overlooking intra-party compromises, we contend that the negative implications of partisanship and the permanent campaign have been overemphasized, and the merits of bipartisanship inflated. Despite the undeniable ills of Congress, the status quo can be challenged and major legislation can be enacted through quality intra-party compromise.

They conclude: “With non-stop campaigning, sharp partisanship, and an uncompromising inter-party mindset, the dynamics of intra-party compromise among fellow partisans who span the ideological spectrum assume a central role.”
Factionalism within our parties may explain why “conditional party government” is the closest approximation to “party government” we ever attain in our separation of powers system. Perhaps, too, the bitter partisan polarization today does not necessarily mean we have lost the capacity to govern ourselves.

The Founders – at least the Federalists – intended and expected the spirit of party and faction to play a central role in our politics. They experienced this partisanship themselves in virulent form with the practice of their principles during the tumultuous 1790s. Some today insist that the Founders were anti-party. They commonly premise this observation on two famous utterances. In his Farewell Address, George Washington, warns the nation about the dangers of partisanship. Thomas Jefferson, likewise, famously observed that if he could not go to heaven but with a party, he would rather go to hell. It is worth remembering, however, that Washington’s Cabinet was the fetus of our two party system, since it included both Alexander Hamilton and Thomas Jefferson. The latter’s anti-party words are belied, of course, by his actions in founding the first great enduring party in America, the Jeffersonian Democratic Republicans, the foundation of today’s Democratic Party.

The Anti-Federalists correctly identified the corrupting tendencies of partisanship and faction both then and today. Yet Madison, as theorist and as an active and effective party leader, lived and thrived in the constitutional context of a bitterly polarized and increasingly partisan politics leading up to Thomas Jefferson’s “Second Revolution” in 1800 and beyond. In 1792 Madison penned an essay titled “A Candid State of Parties,” in which he outlines a brief history of parties in America from the Revolution to the 1790s. Like the Federalist Papers, “A Candid State of Parties,” is both a partisan tract and a perspicacious study as befits Madison as politician and scholar. He concludes the essay by observing that the division of parties following the establishment of the government under the new the Constitution is “natural to most political societies” and likely to endure. Partisanship can indeed corrupt our politics as the Anti-Federalists feared. Yet as Madison understood in both theory and practice, partisanship also inevitably constitutes our politics. From the perspective of the Anti-Federalists, our politics today is dysfunctional given its jarring partisanship, but from the perspective of Madison and the Federalists it may be politics as usual – and it may be manageable.

Party Government or Pluralism: Pick your Poison? Factional contention and combat are a constant in our politics since the Constitution unleashes the spirit of party and faction. Sometimes this takes the form of red vs. blue confrontational polarized partisanship, an approximation of party government, and sometimes it takes the form of a special interest dominated, you-scratch-my-back-I’ll-scratch-your-back compromising pluralism. When the latter prevailed in the 1950s, political scientists told us our politics was broken and the APSA called for “responsible parties.” When polarized partisanship prevails today, offering a choice and not an echo, political scientists again say our politics is broken. Congress cannot win, it seems. But why is intra-party factionalism preferable to inter-party factionalism, or vice versa? Either way, factionalism prevails in our Madisonian system, whether in the form of majority factions or minority factions.
In *Democracy in America* Alexis de Tocqueville discusses “great parties” and small parties. Tocqueville weighs and balances the virtues and defects of both, noting that America had great parties in the early Republic, but by the 1830s the nation was mired in the petty politics of small parties. "What I call great political parties," Tocqueville intones, “are those more attached to principles,” along with “ideas” and “convictions.” On the other hand, “small parties are generally without political faith” and tend to focus on selfish interests, animated by “factious zeal.” “Great parties," Tocqueville observes, “convulse society; small ones agitate it; the former rend and the latter corrupt it; the first may sometimes save it by overthrowing it, but the second always create unprofitable trouble.”30

As witness, Tocqueville’s on-the-one-hand, on-the-other critique of great and small parties, there always seems to be a readily available criticism of the practice of our politics, perhaps at least in part thanks to the design of our constitutional system. Newt Gingrich, as a back bench bomb thrower storming the barricades of the House Democrat’s “permanent majority,” prided himself on promoting a “grand partisanship” rather than a “petty partisanship,” reminiscent, perhaps, of Tocqueville’s great and small parties. Newt’s confrontational bombast was blasted by those, like Mann and Ornstein, who preferred a politics of compromise and civility; they accused him of trying to destroy Congress. Newt became Speaker. Later, Nancy Pelosi, taking a page from Gingrich’s playbook, also embraced the politics of confrontation, rather than compromise, to become Speaker following the 2006 election.31 Politicians and parties are either unwilling to compromise on principle, making them ideologues to their critics, or they are solely focused on their self-interest in gaining re-election and bringing home the bacon. Just as the spirit of party and factionalism are a constant in our politics, so, too, are these criticisms. Are we hyperpartisan today, or, like the Anti-Federalists, are we hypersensitive to partisanship? Purported hyperpartisanship is one premise of many critics of our constitutional system; lack of legislative productivity or gridlock seems to be another such premise.

Judged by the expectations and worries of Anti-Federalists, then and now, our politics is always found wanting – and it is always producing “deadlock” or “gridlock” whether in the 1950s or today. James MacGregor Burns lamented the former in the 1950s; Mann, Ornstein, and others lament the latter today. We have even been told we suffer from “demosclerosis,” the hardening of our political arteries by the glut of special interests. Our latter day Anti-Federalists, however, differ from the original critics of the Constitution, who, after all, did not really want a strong and effective government. Today’s critics want “progress” and “productivity.” Where did this come from? Arguably, it was introduced, or at least made commonplace, by Woodrow Wilson, who also introduced the favorite alternative paradigm of Progressives and neo-progressives, namely the British Parliamentary ideal. The Anti-Federalists lost the debate because all they had to offer was the failed Articles of Confederation. Contemporary critics who echo the Anti-Federalist criticism of our Madisonian constitutional system believe they have found in the British Parliamentary ideal a viable alternative, one likely to produce greater progress and productivity.
If the Federalists designed the Constitution to be more effective, why does it seem to some today to be inadequate? One answer may be that our creaky 18th century constitutional structure is incapable of responding to the exigencies of modern life. This, anyway, was Woodrow Wilson’s criticism in the 19th century when he criticized the separation of powers as the “radical defect” of our constitutional system.\(^{32}\) The gridlock critique is not new. Wilson introduced the British Parliamentary ideal as the alternative to our Madisonian system, along with the progressive presumption that we need progress. Change or “evolving” presumably must mean “improving.”\(^{33}\) From this perspective, legislative activism or productivity may be a given – which brings us to our second question above.

**Second, is gridlock precluding necessary legislative productivity?**

One common way to judge dysfunction is by examining legislative productivity, but as witness the Mann, Ornstein and Summers debate, there seems to be some disagreement as to whether, in fact, we suffer from gridlock. Some credible critics of our politics cite “stalemate.”\(^{34}\) Robert Draper, in his recent book, *Do Not Ask What Good We Do*, notes, offering useful statistics, “a woeful output of historic proportions” in the 112th Congress.\(^{35}\) The Brookings Institution’s Sarah Binder observes that both Democrats and Republicans have policy agendas they wish to advance. “Conservatives do have a policy agenda that requires a functioning Congress... I look at what have they done relative to the kinds of major policy problems they’ve talked about. I want to know what has Congress done relative to the big issues of the day.”\(^{36}\) Speaker John Boehner, on the other hand, famously argued recently, “We should not be judged by how many laws we create. We ought to be judged on how many laws that we repeal.”\(^{37}\) How would we know whether we have the optimal level of legislative productivity? What objective standard might we apply?

Some journalists and political scientists challenge the presumption that our politics is gridlocked. Jonathan Rauch recently observed,

> A funny thing happened on the way to legislative gridlock and fiscal meltdown in the past few years. In paralyzed, polarized Washington, where Democrats refuse to reduce spending without revenue increases that Republicans peremptorily reject, Democrats have accepted spending cuts, Republicans have accepted tax increases, and deficits have come down.\(^{38}\)

Going back a bit further, Brookings scholar Pietro Nivola celebrated our success as a nation in addressing the economic crisis of 2008 and 2009,

> Could it be that, for all the laments about America’s “gridlocked” and “broken” political system, it actually appears to have done a better job contending with the Great Recession and its aftermath than did many other advanced democracies? Increasingly, it looks that way. The comparatively favorable performance,
moreover, may well have much to do with the actions that our system impeded, not just the actions that it permitted.  

Nivola goes on to note,

We Americans have a tendency to wring our hands over the country’s partisan polarization and seemingly paralytic political institutions. Many of us also seem quick to forget, however, that in 2008 and 2009 those same institutions succeeded in arresting a financial free-fall unprecedented since the 1930s.  

Citing the Toxic Asset Relief Program (TARP) at the end of the Bush Administration, along with President Obama’s $900 M fiscal stimulus, Nivola credits our political system for its “respectable activity,” rather than dysfunction, relative to European nations. He concludes, “Unlike, say, the British parliamentary model – so admired for its capacity to act decisively,” we should be willing to “give our old Madisonian political order the credit it’s due.”

Perhaps the most rigorous study on this question is David Mayhew’s 2011 Partisan Balance: Why Political Parties Don’t Kill the U.S. Constitutional System. Mayhew recommends we relax a bit in our consternation about gridlock; he finds vitality and stability, change and stasis in a constitutional system that is not about to collapse due to permanent gridlock. Too often claims of gridlock overlook the amount of policymaking occurring outside the legislative process. Does the legislative productivity standard assume governmental activism is objectively good? After all, “failure to enact unpopular proposals does not supply a solid platform for blaming the system.” Sometimes “[g]overnment is divided because ‘we the people’ are divided on key issues,” as Mayhew student John J. Pitney recently noted. Or as the Washington Post’s Robert Samuelson observed,

People complain about government gridlock. But what often obstructs constructive change is public opinion. The stalemates on immigration and retirement spending are typical. We avoid messy problems; we embrace inconsistent and unrealistic ambitions. We want more health care and lower health care costs; cheap energy and less dependence on foreign energy; more government spending and lower taxes. The more unattainable our goals, the more we blame “special interests,” “lobbyists,” and other easy scapegoats.

Partisan polarization may be one of those easy scapegoats, when the problem, in fact, may be a lack of consensus among “we the people.” Certainly, we voters bear some responsibility since we embraced divided government in 2006 following our growing discontent with George W. Bush, and, again, in 2010 following the first two years of Barack Obama’s presidency. In both instances, it appears, voters chose to curb presidents.
Is this “democracy working as it should,” as Don Wolfensberger suggests in “Policy Gridlock: Is It the New Regular Order?” Wolfensberger cites political scientist Barbara Sinclair attributing the “much maligned partisan polarization” to “the strengthening and internal homogenization of the political parties [which] … has made possible the development of a strong and more activist party leadership that allows the majority to work its will.”

One wonders: do we have overly high expectations for legislative productivity? Are we hypersensitive to gridlock? The standard cannot simply be our druthers, since some want more legislative activism and others want less. But is it in fact a given that we are gridlocked? Certainly, as Draper notes, the 112th Congress witnessed a paucity of productivity, yet it followed on the heels of the 111th Congress, the first two years of the Obama presidency, which many have argued was the most productive Congress since the 1960s or perhaps since the 1930s. The 111th Congress passed the economic stimulus, the Affordable Care Act, Dodd-Frank financial regulatory reforms, and more. One may reasonably agree or disagree with these policy prescriptions, yet they certainly represent policy productivity.

Other substantial breakthroughs in legislative productivity over the past few decades have been responses to overwhelming majority sentiment; for example, bipartisan legislative activism followed closely on the heels of 9/11 in the form of the Patriot Act and Homeland Security Department. At other times, significant legislative innovations resulted from bipartisan compromises following bitter partisan conflict, such as the historic 1986 Tax Reform Act, 1996 Welfare Reform act, and the 1997 Budget Accord. According to Dan Palazzolo in Done Deal? The Politics of the 1997 Budget Agreement, the 1995 dual government showdown shutdowns were the necessary predicate for eventual agreement. Sometimes gridlock and productivity go hand in hand. Perhaps our constitutional system invites both stability and energy?

Larry Summers, in the above referenced op-eds, seems rather sanguine about our prospects, citing our success addressing daunting challenges including the 2008 financial crisis, deficits and debt, financial regulation, health care reform, education reform, and energy independence. What if gridlock is good, as Summers suggests? Gridlock may, at times, be a form of governing. Obstructing legislation can be effective governance if the status quo is preferable to legislative change. Surely each of us finds ourselves wishing for gridlock at times. The Pelosi-led Democrats fought George W. Bush’s Social Security reform to a standstill in 2005-2006. Likewise, Republicans wish they had succeeded similarly in promoting more gridlock on healthcare reform in 2010. Limited government and activist government may each be desirable at times.

In Praise of Deadlock? Lee Rawls, a longtime Hill staffer, dares to defend both partisanship and gridlock in his book In Praise of Deadlock: How Partisan Struggle
Makes Better Laws. Rawls suggests nostalgia for the good old days of bipartisan comity is ludicrous, citing the attack politics of the 1840s, 1850s, 1890s, and during the Wilson presidency. He pits the “Doom and Gloom” school of partisan paranoia against the “What, me worry?” school of thought. Where the first sees partisanship, polarization and gridlock, the second sees a competitive two-party system, party unity, principled opposition, and policy stability.

Rawls recognizes partisanship has increased in recent decades, yet he wonders about the “breathless prose” of those who see today’s polarization as unprecedented. Rawls doubts whether partisanship today is truly degrading our capacity to address critical policy challenges. Are we able to govern ourselves effectively? Is self-government necessarily synonymous with legislative productivity? Rawls sees “hard bargaining” rather than “gridlock.” Recent examples of this might include the 11th hour budget accord in spring 2011, the summer 2011 debt limit accord, or the “fiscal cliff” 2012 New Year’s resolution.

Rawls, a long time senior Republican Senate staffer, argues that much of the energy in American politics originates from party competition. John Hilley, a long time senior Democratic Senate staffer, in his book The Challenge of Legislation similarly observes that partisan competition historically has been a catalyst for progress and consensus. Rawls even defends the oft-maligned Senate filibuster, insisting the filibuster promotes both gridlock and bipartisanship since the filibuster forces negotiations, thus necessitating bipartisanship. Rawls asks: which do you want? Ending gridlock and ending partisanship are incompatible objectives. Robert Dove and Richard Arenberg, authors of Defending the Filibuster, like Rawls and Hilley, are also experienced Hill staffers; Dove served for decades as Senate Parliamentarian. They, too, defend the filibuster, saying it is “the possibility of filibusters that drives senators to reach for compromise.” Partisanship, bipartisanship, confrontation, compromise, gridlock and productivity are all part of our constitutional system.

Gridlock Blame Game In their op-ed duel with Larry Summers, Mann and Ornstein blame Congressional Republicans, along with the Senate filibuster, and “shortcomings of our political system” for the purported gridlock in our system. They do the same in It’s Even Worse Than It Looks: How the American Constitutional System Collided with the New Politics of Extremism. Mann and Ornstein may be right in blaming James Madison, though Summers is also right to credit Madison, as in effect he does, for recognizing that sometimes gridlock is governing.

Politicians and pundits enjoy pointing fingers and leveling blame at Republicans or Democrats, Congress or the President, House or Senate. Yet assigning responsibility – whether for purported partisanship, dysfunction or gridlock – is not so easy in our
complex constitutional system with its separation of powers, checks and balances, bicameralism and federalism. In fact, James Madison made political accountability impossible – or so we are told by the Anti-Federalists who opposed ratification of the Constitution, along with Progressive critics of our Constitution since Woodrow Wilson.

The Anti-Federalist “Centinel” complained about the intricacy of the proposed Constitution: “If you complicate the plan by various orders [e.g. the separation of powers], the people will be perplexed and divided in their sentiments about the sources of abuses or misconduct.” Madison concedes this point. Wilson concurred with Centinel in lamenting the Constitution’s complexity: “How is the schoolmaster, the nation, to know which boy needs the whipping?” Neo-Progressive Carter/Clinton White House Counsel Lloyd Cutler made the same argument in a famous 1978 article titled “To Form a Government.” In our separation of powers system, he protested, we never form a government. He’s right.

In the British Parliamentary system (again, the ideal for progressive constitutional reformers from Wilson to today), commonly the majority party is the government and the minority party is the loyal opposition. No such luck in our complex Madisonian system. Neither party is ever simply the “government,” or simply the “opposition.” Both parties at all times are part of the government and part of the opposition. Consequently, both parties, both branches, both chambers at all times bear some responsibility for the purported dysfunction in our politics – and, in turn, they deserve some of the credit for its successes.

The fact that our complex separation of powers precludes accountability is most evident under conditions of “divided government,” including today. President Obama, a Democrat, controls the White House. House Speaker John Boehner has a Republican majority in the majoritarian House; although, it is not always clear that Speaker Boehner is in charge. Democrats have a majority in the Senate; although it is also not always clear Majority Leader Harry Reid controls the Senate, given Senate rules empowering the minority and even individual Senators, as witness Rand Paul’s filibuster. Even under conditions of so-called “united party government,” the minority party always retains leverage, perhaps especially in the Senate.

Consequently, like squabbling siblings pointing fingers, trying to determine who to blame is a fool’s errand; even if each of us is tempted to blame one side or the other depending on our own partisan predilections.

Ultimately, what critics of our Constitution see as a defect, James Madison saw as a virtue. Madison did not want simple majority rule; rather, he sought fully popular
government representative of the whole, providing leverage for both majority and minority factions, including intense minority factions. Consequently, under our complex constitutional system neither the President nor the Congress simply governs; neither party is ever wholly the government. Simple majorities do not govern since our republican institutions temper even super majorities. The majority party, if such even exists, is not the “government” and the minority party is not merely the “opposition.” In this important sense, the Constitution governs the behavior of the President and Congress, House and Senate, Democrats and Republicans. No party, branch or chamber is the government pure and simple. All are part of the government and part of the opposition at all times. Hence, all at all times deserve credit and blame.

At bottom, the partisan blame game itself is inherently political. Both parties are naturally partisan because both parties are partial; neither ever represents the whole. The blame game often says more about those pointing fingers than about those they accuse. By leveling blame, the accusers are making clear where they stand.

Since neither party is ever simply the government or the opposition, perhaps James Madison also deserves some of the blame or credit. Perhaps, Madison, too, deserves the blame or credit for another feature of our politics critics often lament today: the permanent campaign. Since – unlike the British Parliamentary system – neither party is ever simply the government, nor simply the opposition, politics is permanent and constantly permeates policymaking. The October 2013 showdown shutdown stands as an example; arguably, both parties, both branches, both chambers were at all times playing politics and pursuing their understanding of good public policy. For Madison, playing politics is how we make policy; it never ends.

HyperPartisan and Gridlocked? Or Hypersensitive to Partisanship and Gridlock?

It is not at all clear that our politics is dysfunctional because it is partisan, polarized and purportedly gridlocked. By historical standards, we are not extraordinarily partisan today. Even though our politics may not be hyperpartisan, we seem, like the Anti-Federalists, to be hypersensitive to partisanship. Are we hypersensitive to partisanship because we fail to appreciate Madison’s perspective? Similarly, given the feats our legislative process accomplishes, as tallied by Mayhew, for example, it is not altogether clear that we are gridlocked. Yet, like the Progressives, we seem to be hypersensitive to gridlock given our inflated expectations and desire for change. The Anti-Federalists may be wrong about partisanship, and Wilson may be wrong about gridlock.

Moreover, while we can take turns blaming Republicans or Democrats, House or Senate, Congress or the President, for our seeming dysfunction, we are correct to
blame or credit Madison for partisanship and gridlock. The Anti-Federalists and Woodrow Wilson were also right to blame Madison and the Federalist Constitution for making accountability impossible and politics permanent, since neither party by itself in Madison’s constitutional system is ever simply the government or simply the opposition.

All is not well?

Still is everything really satisfactory and fully functional in our politics today? The October 2013 showdown shutdown over deficits and debt provides enough evidence, all by itself, that all may not be as it should be with the American political system. We must not merely whistle our way past the graveyard. The budget process certainly seems broken, for example. We have experienced seventeen government shutdowns since the 1974 Budget Impoundment and Control Act. Congress routinely fails to meet its own budget deadlines; sometimes it even fails to produce a budget.

If constitutional reform is not the solution to our seemingly dysfunctional politics, who besides Madison might we blame? Two questions come to mind: First, do we need to reform the reforms? Second, has the growth of government further aggravated dysfunction?

Democratic and Republican Neo-Progressive Good Government Reforms

Have Wilsonian-inspired good government reforms in the 1970s and 1990s contributed to dysfunction in our politics?55 We may want to reconsider our century-long infatuation with Wilsonian simple democratic prescriptions; a dose of Madisonian republicanism may be in order.

The Budget Process At least since Morris Fiorina’s 1977 Congress: Keystone of the Washington Establishment, political scientists have raised questions about the evolving character of the legislative process, including the budget process.56 In his op-ed exchange with Mann and Ornstein and in a follow up interview with Washington Post columnist Ezra Klein, Larry Summers points to problems with our budget process: “it is striking to note that the budget process, in which the filibuster has been taken off the table by reconciliation, is the area most often cited to prove our system’s dysfunction.”57 Dove and Arenberg cite an unintended consequence of the 1974 Budget Act:

The authors of the 1974 Budget Act, by providing expedited procedures that prohibit filibusters on budget resolutions and reconciliation bills, and guarantee an up-or-down vote, thought they were building a budget process that would foster bipartisan cooperation. It had the opposite result.58
Dove and Arenberg ask if budget reconciliation is “the monster that ate the United States Senate?” This may be a classic example of the unintended consequences of reform.

**Filibuster Reform** Summers raises another possible unintended consequence of reforms designed to move us closer to simple majority rule, namely, reducing the filibuster from 66 to 60 votes. He asks, “are we sure that the reduction in the vote threshold wasn't a contributor to the normalization of the filibuster?” In the 20th century we chipped away at the filibuster, first in the Progressive Era, setting the threshold at 66 votes, and then in the neo-progressive era of the 1970s with a further reduction to 60 votes, coupled with reconciliation providing an end run around the Senate filibuster. This evolution may have had the ironic result – or unintended consequence – of actually increasing the use and abuse of the filibuster.

Filibuster reform, of course, is also an example of how our Madisonian constitutional system makes hypocrites of us all. Depending on whether we are in the majority or the minority, we may or may not favor filibuster reform. In good Madisonian fashion, where we sit influences what we think. We are all against the filibuster or gridlock, unless it means stopping something we oppose vehemently – whether we are Democrats or Republicans.

**Earmark Reform** Progressive reform is not limited to periods with Democratic majorities such as Woodrow Wilson's first term or the early 1970s. Republicans, too, have embraced progressive reforms designed to make the legislative process more open and democratic. Speaker Gingrich in the 104th Congress advanced openness reforms which largely echoed efforts begun by Democrats in the 1970s reform era to allow the sunshine in to disinfect Congress. Speaker John Boehner took this one further step when he eliminated earmarks in the 112th Congress.

**Campaign Finance Reform** Speaker Boehner probably also wished he had the ability to leverage more leadership PAC money during the same effort to persuade the Tea Party wing of the House GOP to vote for various House Republican bills during the shutdown showdown. Thanks to campaign finance reform, political parties and their leaders have been somewhat sidelined in their ability to influence the election prospects of their colleagues. Campaign finance reform may also have had the unintended consequence of forcing Members of Congress to spend more time dialing for dollars. Thanks to contribution limits Members may spend more time with their dollar constituencies and
less time getting to know their colleagues. Collegiality in Congress may have suffered as a result.

Congressional Primaries Many have suggested that the primary-dominated nominating system has contributed to polarization. Low turnout, activist-dominated nominations may have helped turn us into red and blue America. Do we need to reform these reforms, returning the congressional nominating process to the party boss-dominated smoke-filled rooms? Even if only Speaker Boehner still smokes these days, the idea of reintroducing republican restraint into our congressional selection processes is tempting, albeit contrary to our “more open and democratic” proclivities today. It may be difficult, even impossible, to roll back such reforms since elite and popular opinion have for so long been taught the virtues of simple democracy, along with the defects of republican restraint. Yet following the Progressive Era we witnessed a retrenchment of sorts.

Sunshine Reforms Progressive reformers, whether Democratic or Republican, have been calling for more “open and democratic” government since at least the 1960s. In fact, the roots of such reform date to Woodrow Wilson and probably even to the Anti-Federalist concern for more simple, direct democracy. Recently, The Washington Post’s Ezra Klein cited as one of “the 13 reasons Washington is failing,” the idea that “too much sunshine can burn” saying “[s]ometimes, it’s easier to resolve disputes in private.”

Madison, of course, would concur. The Constitutional Convention succeeded, in part, because the fifty-five delegates met behind closed doors, under strict confidentiality rules. As witness Madison’s Notes of Debates in the Federal Convention, published only after his death in 1836, delegates were able to repeatedly speak their minds and change their minds across the long summer of 1787. Madison clearly did not think the cure to the ills of democracy is more democracy. He created republican, that is, representative, institutions designed to “refine and enlarge the public views.” Viewing the sausage-making of the legislative process, especially under the unblinking stare of the media, has probably not increased citizen trust in government. The decline in trust of government since the 1960s is coincident with transparency reforms.

Trust in Government

The decline in congressional approval ratings is also coterminous with denunciations of Congress as the “broken branch,” whether emanating from Ralph Nader, Newt Gingrich or Mann and Ornstein. Is Congress held in low repute because it is partisan, polarized, gridlocked and prone to the politics of the permanent campaign? Or is Congress held in
low repute because politicians, scholars and journalists have been escalating the arms race of media criticism premised on Wilsonian ideas? Today ninety percent of news about politics is negative. Why?

In *Congress and Its Members*, Davidson and Oleszek lament the all-too-prevalent caricature of Congress in popular culture in recent decades:

> The picture of Congress conveyed in the media is scarcely … flattering. Journalistic hit-and-run specialists… perpetuate a cartoonish stereotype: an irresponsible and somewhat sleazy gang resembling Woodrow Wilson’s caustic description of the House as “a disintegrating mass of jarring elements.”  

This depiction probably applies as much to conservative talk radio as to MSNBC. In earlier studies, political scientists Austin Ranney and Thomas Patterson traced the “anti-politics bias of the press” to the Progressive movement at the turn of the 20th century. This muckraking perspective sees Congress as a “cesspool,” lacking accountability, suffering from concentrations of power, and overrun by self-serving political parties and interest groups. Have we come full circle to the Anti-Federalist perspective? It may be that public trust has declined not only because Washington has changed, but also because our expectations about government and politics have changed. Are we all Wilsonians now? Has the Anti-Federalist critique of the politics produced by our constitutional system trumped Madison’s defense of the same?

Our expectations about government and politics today certainly seem more Wilsonian than Madisonian. We want progress predicated on governmental activism. We want more “energy” and less “stability,” hence we are impatient with gridlock and stalemate. This impatience may not be premised solely on the progressive presumption; rather, it also may be rooted in democracy, as both Madison and Tocqueville recognized.

In the 1830s Tocqueville witnessed the “tumultuous agitation” of politics in America, including “the continual feverish activity of the legislatures” and the mutability of our laws. In America, he said, there is an “endless mutability in public affairs… for democracy has a taste amounting to passion for variety. A strange mutability in their legislation is the result.” Tocqueville saw the passion for legislative productivity as rooted in democracy in America. Our disdain for purported gridlock today may reflect democracy’s passion for change. Madison, too, recognized the passion and avidity for change found in democracy. He warned “the facility and excess of lawmaking seem to be diseases to which our governments are most liable.” Madison sought to control the “excess of lawmaking” with his constitutional structure, including the separation of powers and bicameralism. Madison’s republican perspective included an appreciation
for limited government. For Madison, a certain amount of distrust of government is a virtue, not a defect.

The Growth of Government

The growth of government almost certainly exacerbates the dysfunction or seeming dysfunction in our politics today. One measure of this is the explosion of organized interests and lobbyists in Washington, reportedly contributing to “demosclerosis.” Another measure is partisan polarization. In essence, the two parties are polarized over questions about the role of government and the size of government. Both parties have contributed to the growth of government in the modern era. Simplifying for the sake of argument, Democrats have promoted the welfare state, while Republicans have advanced the warfare state. In point of fact, of course, both parties have contributed to the growth of government and the increased role of government in both spheres, as witness George W. Bush’s No Child Left Behind and Medicare Prescription Drugs reforms and Barack Obama’s extension of Bush-era national security policies involving the Patriot Act, drones, and NSA surveillance. The size and role of government has grown dramatically at the same time trust in government has declined and partisan polarization has advanced. As James Q. Wilson observed, at one time our politics was about a few things, today it is about everything. Big government gives us big politics.

Jeff Bergner, a political theorist and former longtime Hill staffer, sees Democrats and Republicans defending two fundamental competing narratives today: activist government vs. limited government, big government vs. self-government, legislative productivity vs. incrementalism, fairness vs. empowerment, equality vs. liberty. Arguably, both perspectives have their roots in the Constitution. President Obama and Congressional Democrats increased partisan polarization by advancing comprehensive healthcare reform, just as President Bush augmented partisan tensions by dramatically cutting taxes and attempting to advance Social Security reform. Nancy Pelosi and John Boehner fought, respectively, for and against these presidential initiatives. Both parties sought to obstruct policies advanced by the other party. Why? Were they obstructing for the sake of obstructing – promoting gridlock – or did they have reasons for playing the politics of confrontation? Both parties were very likely standing on principle and promoting their partisan ambitions.

Partisan polarization may yet prove constructive if it promotes serious examination of fundamental questions about the proper role of government. Critical elections throughout American history have often turned on such questions during which the two opposing parties offered voters a choice not an echo. Perhaps we are moving in due time toward such an election. Perhaps, too, the American people will finally make up
their minds and give one party or the other a long term enduring governing majority, moving us beyond persistent divided government.

In the meantime, it may make sense to maintain some perspective on our seeming dysfunction. While traveling in the United States for nine months during the 1830s, Tocqueville witnessed our vicious and contentious politics first hand, including the scurrilous attacks on President Andrew Jackson. In *Democracy in America* Tocqueville concluded:

To a foreigner almost all the Americans’ domestic quarrels seem at the first glance either incomprehensible or puerile, and one does not know whether to pity a people that take such wretched trifles seriously or to envy the luck enabling it to do so.\(^{69}\)
1 All the citations in the first three paragraphs above are from the following:

Summers’ original op-ed:

http://www.washingtonpost.com/opinions/lawrence-summers-when-gridlock-is-good/2013/04/14/8bfeab9c-a3c3-11e2-9c03-6952ff305f35_story.html

Mann and Ornstein’s response:

http://www.washingtonpost.com/opinions/gridlock-is-no-way-to-govern/2013/04/18/5f884506-a6ce-11e2-8302-3c7e0ea97057_story.html?hpid=z4

Summers’ response to Mann and Ornstein’s response to his original op-ed:


Finally, here is a follow up exchange between Washington Post columnist Ezra Klein interviewing (and clearly disagreeing with) Summers who responds, elaborating on his original argument:


6 Han and Brady, 506.

7 Congressional Record, March 13, 1984, 5196-5197.


20 *Federalist* No. 37, 224. Italic added.
21 *Federalist* No. 10, 55.
22 *Federalist* No. 10, 61.
Note that House GOP leaders Boehner and Cantor supported President Obama on Syria, whereas Democrats were largely critical.
25 Karen Tumulty: “When the White House raised the possibility of assembling congressional leaders at the White House this past week, Senate Majority Leader Harry M. Reid (D-Nev.) quickly extinguished that idea, said Democratic sources on both ends of Pennsylvania Avenue. Congressional Democrats think the best place for Obama, at least for now, may be on the golf course, where he was Saturday.” http://www.washingtonpost.com/politics/shutdown-crisis-shows-washington-breakdown/2013/09/28/e62b384e-2855-11e3-bae5-e0807a60a6aa_story.html
29 See the now famous APSA report “Toward a More Responsible Two Party System.” But, it was not only political scientists lamenting Congress as the broken branch. See, also, Congressman Richard Bolling’s 1964 book *House Out of Order* in which he criticizes a committee and special interest dominated legislative process. Activist Ralph Nader had a similar complaint about Congress as the broken branch.
30 Alexis de Tocqueville, *Democracy in America*, J.P. Mayer ed. (New York” Harper & Row, 1966), 175. All citations in this paragraph are from p. 175.
31 See Martin Frost’s comparison of Newt and Nancy in “Two Peas in a Pod.” See also, Connelly, *James Madison Rules America*, 16-18, 22-24, 50-56, 72-73.
40 Nivola, http://www.brookings.edu/research/papers/2012/05/21-economy-politics-nivola
43 Mayhew, xv.
44 Mayhew, 77, See also 41.
48 Even the current 113th Congress, as of this writing mired in the government shutdown and debt limit showdown, has produced legislative accomplishments, including the FAA sequester fix putting air traffic controllers back to work and student loan reform. They may be making further progress on postal reform, housing financing, and even immigration reform. See, Don Wolfensberger, “Congress Can’t Seem to Win for Winning,” Roll Call, May 21, 2013 and Stephen Stromberg, “Congress shows progress,” Washington Post, August 12, 2013, A13.
51 Rawls, 95-98.
53 Rawls, 11, 52, 103.
54 Robert Dove and Richard Arenberg, Defending the Filibuster: The Soul of the Senate (Bloomington, IN: Indiana University Press, 2012), 162.
55 For the continuity between early 1970s Democratic reforms and early 1990s Republican reforms, see Don Wolfensberger, “Procedural Politics: Oleszek Wrote the Book on Congress,” Roll Call, September 24, 2013.
58 Dove and Arenberg, 80.
60 John J. Pitney, Jr. “Leadership in Congress,” Christian Science Monitor, October 2013. See the Pitney article also on leadership PACs.
67 *Federalist No. 62.*