

# Center for American Progress



## **SPECIAL PRESENTATION:**

**“MENDING THE BROKEN BRANCH: STRATEGIES FOR  
RESTORING THE CONSTITUTIONAL ROLE  
OF THE U.S. CONGRESS.”**

## **MODERATOR:**

**SCOTT LILLY, SENIOR FELLOW,  
CENTER FOR AMERICAN PROGRESS**

## **SPEAKERS:**

**NORM ORNSTEIN, RESIDENT SCHOLAR, AMERICAN  
ENTERPRISE INSTITUTE; CO-AUTHOR, *BROKEN BRANCH***

**THOMAS MANN, SENIOR FELLOW IN GOVERNANCE,  
BROOKINGS INSTITUTION; CO-AUTHOR, *BROKEN BRANCH***

**THE HONORABLE DAVE OBEY (D-WI), RANKING MEMBER,  
HOUSE COMMITTEE ON APPROPRIATIONS**

**THE HONORABLE RAY LAHOOD (R-IL), VICE CHAIRMAN,  
HOUSE PERMANENT SELECT COMMITTEE ON  
INTELLIGENCE; MEMBER, HOUSE APPROPRIATIONS  
COMMITTEE**

**9:30 AM – 11:00 AM  
FRIDAY, JULY 28, 2006**

**TRANSCRIPT PROVIDED BY  
DC TRANSCRIPTION & MEDIA REPURPOSING**

MR. SCOTT LILLY: We still have a few people straggling in. We're going to go ahead and get started. Thank you all for showing up this morning. I think we've got a great panel and I hope we'll have a good discussion.

Our founding fathers were nearly all students of the Enlightenment, and perhaps their favorite philosopher was Baron de Montesquieu, who several decades before the American Revolution wrote, "constant experience shows us that every man invested with power is apt to abuse it. It is necessary from the very nature of things that power should be a check to power." I don't think there's any language that better describes the philosophy behind the U.S. Constitution.

Those who struggled in Philadelphia to create a system of checks and balances used every trick they could conjure up to ensure that the Congress represented different interests and different perspectives from the executive branch and that the Congress would have both the desire and the legal authority to be a check to executive power.

That system has worked fairly well for more than 200 years, but today as the United States gropes with the responsibilities of global power and the need for an institution to counterbalance the awesome authorities of the American presidency, the first branch of government seems to have almost vanished as a significant force in the broad-ranging decisions of American government.

Not only is the Congress no longer an independent force in the development of policy, but it has become so weakened by its only lack of commitment to the exercise of constitutional responsibilities that it no longer ensures even the level of transparency in our national policy that is fundamental to a functioning democracy.

A number of authors in recent years have written about the changing nature of the American presidency and the increasing use of unilateral power by our chief executives. Those authors appear to be almost unanimous in their agreement that this is largely the result of Congress' failure to exercise power granted under the constitution. But most of those volumes discuss long term trends and largely predate the struggles of the current Congress. To what extent the gradual erosion of legislative power over time was a problem that ordinary Americans should be concerned about is not really the question today.

Over the past decade, the institutional decline of Congress has been sudden, palpable, and profound. This decline cannot in my opinion be blamed entirely on those who represent us in Congress. I think it comes in large part from the society that takes Democratic institutions and processes for granted, an electorate that no longer remembers why the founding fathers felt it was important to have a Congress, an elite set of opinion-

leaders who have no real standard to judge the Congress or well formed expectations about Congress' performance.

The Congress itself is not likely to find its way unless the broader society regains a sense of why our founding fathers gave us a system of checks and balances and recognizes the critical role of the legislature in such a system. That's why the book that we're discussing today – and we have copies out, I recommend it to everybody whether they're here or learning about this from someplace else. That's why this book is such an important first step: it is a springboard to the kind of discussion that this nation needs to have with itself. The critique it provides of what has happened to the Congress and why it is important is harsh and whether or not you agree with it, it is the starting point for any citizen who wishes to reclaim responsibility for the kind of government he feels this nation should have and develop and renew his vision of how our nation can ensure its own democracy in a rapidly changing world.

The panelists that we have today are two of the best known Congress watchers. In fact, I think of you hear the term "Congress watcher" you almost immediately think of Mann and Ornstein. They represent slightly different sides of the Washington think-tank spectrum. Norm comes to us from the American Enterprise Institute and Tom is with the Brookings Institute, but they have collaborated for well over 30 years in trying to understand our Congress and to help the American people have a better understanding of the Congress.

One of the people that Mann and Ornstein watch carefully is seated just to their left and that's –

REP. DAVID OBEY: I wish you wouldn't put it that way. (Laughter.)

MR. LILLY: – Dave Obey, who has been not only a member of Congress for more than 35 years, but also one of its harshest critics. From the day he arrived he was part of the reform movement. He was a leader in the efforts to change the House rules in 1974 to make committee chairmen and even subcommittee chairmen more accountable. He finds himself in the unfortunate situation of being one of those who is now held more accountable as a result of the rules that he passed, but he continues his efforts at reform. And last December came to the Center to present with Congressman Frank and Pryce and Allen a 14-point plan to change the House rules and address many of the issues that are raised in the book *Broken Branch* that we're going to discuss..

We also have on the program Congressman Ray LaHood, who has been an independent voice within the Republican conference and a spokesman for reform. He was unfortunately called to the White House this morning for a briefing on Lebanon and plans to come directly here from the White House if the briefing is out in time for him to participate. So without further ado, I will turn it over to Tom and the speakers will speak as they are seated at the table.

Thank you.

MR. THOMAS MANN: Scott, thank you very much. Thank you for hosting this forum. I am delighted to be here; especially to be with Scott, who represents a generation and a tradition of professionalism on Capitol Hill. As a key member of the Appropriations Committee staff and as the former director of the Democratic Study Group, who's now gone on to a career here at the Center for American Progress in which he has helped, I think, many of us and the broader public understand the nature of the Congress. You'll find our book is filled with footnotes to Scott Lilly and it's no accident.

I'm always delighted to be with, Dave Obey, who really represents the best of Congress and is one of those members who really understands its place in the constitutional system and can't be but frustrated by what has happened in recent years.

And, Ray LaHood – I hope he makes it. Ray, for a decade to chief of staff to Bob Michel and now more than a decade as a member of the House has that same institutional appreciation.

Norm and I never expected to write a book like this that some might see as a very, very harsh critique of the Congress. As Scott has indicated, we have watched Congress separately and together for 36 years and most often have found ourselves in a position of defending and explaining an institution that's so susceptible to cheap shots and populist attacks. But in recent years we have come to add to those attacks and critiques because we think the first branch of government has lost its way.

Congress is so central to our constitutional system because it is charged with doing three critical things: to represent the people and interests of this country; to legislate, not simply to ratify as in a parliamentary system; and to check and balance the other branches of government. But look at what has happened in each of those central responsibilities. Uncompetitive elections, intense partisanship, and nonstop fund-raising have really weakened the links between members of Congress and their constituents broadly defined. In the legislative arena, the demise of what we call regular order; that is, the set of rules, precedents, and norms that allow the Congress to operate in an orderly and fair-minded fashion has precipitated a sharp decline in the quantity and quality of deliberation in Congress, in committee, on the floor, and in conference.

It is breathtaking to see the extent to which Congress' comparative advantage basically to decentralize, to sit together, to talk to one another across the aisle, to scrub legislation has largely disappeared. I thought the Democrats in the last years of their 40-year reign in the House had come up with some pretty good tactics to minimize the minority and prevent meddlesome amendments from busting apart their coalitions and to avoiding uncertainty, but they were pikers. They didn't know the possibilities that the Republican majority has fought up. It really is quite disgraceful – the nature of the rules that are routinely approved, the extent to which votes are held open, the sort of shocking abuses of the conference process – all designed to ensure that everything plays out according to script.

There is no room anymore for members to learn – in the process to change their minds because it has to be scripted in advance or adjusted after the process is seemingly complete in order to ensure that their majority is available on the floor to pass the final product. This is offensive on its own terms, but we argue in the book has contributed to bad policy as well.

Then we come to the third essential function of Congress – to check and balance the executive – and we see a Congress that has been both supine and inattentive in response to the most aggressive assertion of executive authority we have experienced in our lifetimes. You can criticize President Bush and Vice President Cheney for interpretations of the unitary executive, for their beliefs about the inherent powers of the presidency, but they're really quite open about their beliefs and quite principled in pushing their beliefs about executive authority. What is appalling is the extent to which the Congress hasn't done what the framers anticipated they would do, which is to fight back.

The first unified Republican government in a half century has led the Congress under its majority leadership to defer that assertion of executive authority, to avoid oversight of matters that might produce political embarrassments for their president and their party. Of course there's always more aggressive oversight when you have divided party control of government, but we have plenty of experience of – during the Democratic unified government of Congress raising hell with their own presidents and embarrassing them. It has been sad and I think harmful to policymaking to see Congress abdicate its responsibility.

Now, the question of this before this forum is what to do about it – how to mend the broken Congress. Some would argue that the cavalry has arrived; that change is already underway. All it took was a collapse in the president's political standing to bring resolve to his Republican colleagues on Capitol Hill to begin to resist. And, yes, we've seen some signs of renewed interest in oversight. We've seen some unwillingness to simply accept that the majority of the majority in the House will dictate the terms of debate. So there are some signs, but I would argue they are limited to a relatively small number of members and there is no signs that they will be in any way enduring.

The election provides an opportunity for Congress – the House and the Senate, the Republican and Democratic parties to rethink their role, the way in which they operate. And my hope is that over the next several months there will be a full discussion and debate about just that: about what our expectations are; that is, we the people, about how Congress will operate internally and vis-à-vis the other branches – the executive in particular – that will set a standard for the party that comes to organize the House and the Senate after the election.

And my own view is that there is a pretty good chance that in one or both houses there will be a change in party control, but even if there isn't, say, in the Senate the retirement of Bill Frist means there will be leadership changes, elections, opportunities to

rethink what has happened in recent years. And now is our chance to begin to add to that debate.

Now, a final couple of comments, we are fully aware that – and Scott underscored this – that the levers for change in Congress are found mainly outside the institution because the roots of the problem in Congress are planted in the broader body politic and have been developing for decades. The polarization of the parties and their near parity at virtually every level of office certainly contribute to the problems that exist now.

It's also the case that it's not just a matter of changing rules and procedures. I suppose if we could call for anything, it would be to get the leaders to adhere to existing rules – both the letter and spirit of those rules. But of course then you go to the incentives that leaders face, the kind of demands made on them by their rank and file members and it becomes a much more complicated story. But it's worth remembering that in this case individuals can make a difference, be they leaders who decide they're going to run the House and the Senate differently than their predecessors, or rank and file members, small groups of whom can frustrate the efforts of any congressional leaders by refusing to vote for a particular rule in the House, by for example the efforts of a gang of 14 to either agree to join in a filibuster or to withhold from it, effectively denying the ability of the majority leader there to change the longstanding Senate rules and traditions by majority fiat.

So it's possible that members themselves can take action, but I want to suggest – and I'll just lay them out, others will discuss them – there things that are critical. One, scheduling. We've got to get members of Congress to spend some time in Washington. It's just not happening anymore. They're here briefly Tuesday evening through midday Thursday usually and the time they spend doesn't involve any deliberation to speak of. And somehow we've got to get them back here for more extended periods of time.

Secondly, we have to deal with the problem of money – campaign finance. It's a huge problem because so much of the currency of power relations within Congress and the time spent by everyone around Congress is fund-raising, and we have to deal with that.

Thirdly, I believe that the direction outlined by Dave Obey and his colleagues back in January of building in some rules changes, even though they can be suspended by majorities determined to do so, would build a presumption of regular order, of transparency, of reasonable processes that would in effect put the burden of responsibility and indeed shame on those leaders who would routinely violate those processes.

Thank you.

MR. NORMAN ORNSTEIN: Thanks, Scott. It's a delight to be here. The last time we were up on this podium together with Scott and Dave Obey was when Dave, Barney Frank, Dave Price, and Tom Allen had joined together to propose this extraordinarily constructive and insightful set of reforms aimed to make Congress work

and to work better. They're all still out there. Some of them involve changes in the rules; others, including much of the earmark work, focused on ethics which may be the best way to go about it. And I hope before long that we will have people with enough common sense to accept them.

I also want to express my appreciation to Scott. There was a time when Scott and Jim Dyer, the two top figures across party lines – staff people on the Appropriations Committee – made the system work in a fashion that we wanted it to work. It was at the same time that Dave Obey as chairman – ranking member worked with a succession of Republicans in the same fashion. Every time Bob Novak would write a column ripping Jim Dyer, anybody who knew anything about Congress would laugh because it was actually working well. Those days are past us.

I am basically at this point consumed with three emotions I suppose I would say. First and foremost, I'm mad as hell and I'm getting more incensed by the day. Just over the last couple of days we've had a story by Paul Kane in *Roll Call* which follows on the extraordinary work done by Jerry Kammer and others with the *San Diego Union Tribune* about the web of people surrounding Appropriations Committee Chair Jerry Lewis. This latest story was about the manipulation of salaries for a top assistant to make sure that she could drop enough to get \$80 below the threshold level that would have prevented her from lobbying Congress and the committee for a year. This was not an inadvertent thing, it was made clear, because she immediately jumped into the process to make sure she could get the waiver and started with an enormous range of clients and went from making just over \$100,000 to making \$670,000 in the first year. This is probably not illegal, but it is certainly unethical and it's a reflection of an attitude that this is our own private candy store and we can take all of these benefits and perks and make sure that all of our friends and relatives can do exceedingly well and they can help us, too.

At the same time, of course, we've seen in another story about the not unsurprising collapse of lobbying and ethics reform after a guarantee by the speaker and other top leaders when these scandals involving Jack Abramoff and others first began to emerge, that they would take care of it. Majority leader candidate John Boehner went virtually overnight from being the reformer candidate – the original member of the gang of seven – to saying, well, we really shouldn't do very much here.

Now they're going to try and get away with it with what will probably be a sham earmark reform. I will remain to be convinced that we will actually even get real identification of all individual earmarks in this process while abandoning virtually everything else, except they're now going to try and take the leadership PAC phenomenon – one of the great cancers in Congress – and make it worse by allowing unlimited transfers of funds to party committees.

Along with being mad as hell, I'm dismayed because I believe the country is at a crossroads when it comes to extraordinarily important decisions we have to make in domestic policy and international affairs. Whether it's getting a handle on entitlements

that will otherwise come close to careening out of control over the next 20 years or coming up with some at least broad consensus on what role America plays in the world, this is the worst possible time to have dysfunctional political institutions and Congress is thoroughly dysfunctional.

And I'm uneasy because I fear that the coming election could leave us with an enormous crisis. We could end up with a House that is hanging by a thread. One, two, or three seats making the majority with three, four, or five seats decided by a couple of hundred votes or less at a time when the election system is dysfunctional. And in some of those cases we may not be able to have recounts because of the nature of the machines used. There may be widespread disputes over who has actually won. I can imagine some of them coming to the House, and we remember the last time with the Indiana eighth district – what that did to a House that wasn't closely divided. And I can also imagine a House hanging by one or two seats with a significant number of members putting themselves up for bid and a majority shifting once or twice. This is not going to be a very good time for all of this to happen.

Now, the problems that we have, as Tom has suggested, are deep and some of them reflect larger forces, but really what we've got here is a combination of things that has made Congress the broken branch. It's a collapse of the regular order as he said. The web of rules and norms that every institution has that set the guidelines of behavior and provide some sense of confidence in the actions taken and the decisions made, or don't.

It's the sharp decline of the deliberative process, a process that the framers built in both to take time before enacting policy that would affect the wide range of people in the country and allow time for debate, discussion, for give and take, for amending ideas that seem good on the surface but then as you delve further have problems attached to them, that can bring in some history of what's worked or hasn't worked in the past.

And now there is virtually no deliberative process. We get 1,000 or 2,000-page bills brought up with no notice, nobody having read them, often in the dead of night with closed rules – no debate allowed. And basically in some ways it reminds of the way the American automakers in their heyday used to put cars together and throw them out there for the consumer without doing much quality control knowing that there would 30 or 40 or 50 defects and then letting the hapless consumers who bought the cars report back. And eventually they'd correct the matter, but who cared because they were a captive audience anyhow.

Now, we get legislation thrown out there with deep flaws and nobody much cares first because a lot of the people who were involved in writing the legislation are going to make out like bandits along the way, and second because it's not going to matter very much: we're insulated from any kind of public disapproval.

The decline and virtual disappearance of oversight, as Tom has suggested, which in turn has resulted in disasters along the way, and the collapse of the ethics process, which I believe is a key to an awful lot of what has happened. When you do not have any

ethics process and everybody knows there is no ethics process and there will be no enforcement of what people do that is wrongheaded, illegal or not, then you're going to get a lot of the problems that we have seen emerge.

I'm trying to think of an appropriate analogy. Just imagine that in the District of Columbia everybody knew that the police were no longer going to enforce traffic laws, stop people who ran red lights, or give tickets for those who sped. Most people would probably still stop at the red lights and try and stay somewhere within the speed limit – at least within a range. A handful would run every red light and go 120 miles an hour up Massachusetts Avenue changing lanes at will, and a whole lot of others might drive up Massachusetts Avenue at 45 in a 25 zone and not bother to look at their speedometer saying, oh, there may be a cop here, because who would care anymore? And a lot of mayhem would result, and that's what we've seen happen.

There have been a few Tom DeLays who do the equivalent of driving 120 miles an hour knowing that it doesn't matter because nobody is going to stop them, but a whole lot of others who haven't cared much about the abuse of the process that we've seen happen with earmarks, with raising money, with the trade of services for official favors, with real estate transactions, and I believe we have barely scratched the surface with the manipulation of real estate transactions in return for either official favors or official acts that have been deliberately been designed so as to increase the value of property of members who have participated in those real estate transactions. It is an ethical climate that I think is abysmal and I don't see it at this point getting much better.

Now, what to do? Well, we could start with the Obey, Frank, Price, Allen reforms as a good beginning, but, as Tom said, in many ways at least the return of the regular order means a return to simply enforcing the rules and the spirit of the rules. One good example, House Republicans now in charge for almost 12 years have probably talked about how they have opened up the process because on every bill they allow a motion to recommit with instructions so that the minority can offer an alternative. Except that every time a motion to recommit with instructions has been brought up, the House Republican leadership has said this is a procedural vote and we're going to demand party unity because it has nothing to do with substance. And they have regularly voted them down without any consideration. This has not been an open debate or an open alternative of an amendment.

And in the meantime, we've seen the number of closed rules go up sharply and any challenges to abuse of this process through points of order waived through often the manipulative process of a so called self-executing rule, also done in a party line way. That's no way to run a process in an open and fair fashion, but what it takes as much as anything is a leadership that insists in operating on the square at least as much as possible and in some cases it may be useful to focus on making these matters a violation of ethics rather than try and set rules that under any circumstances can be manipulated if somebody is intent on doing so.

On the deliberative process the schedule is a key. It is unbelievable that at a time when the nation faces these enormous challenges, the House will be in session for the shortest number of days in our lifetimes. And the Senate, which was headed in that direction not quite as bad, after taking a couple of weeks out of its precious schedule so it could debate the critically important and immediate elements of a constitutional amendment on same-sex marriage and a constitutional amendment on flag burning, announced that they were going to cut their schedule short yet another week because members have to get back to campaign.

The small number of days in session is a reflection of the attitude, I think, about the legislative process generally. But the fact that we have a day or a day and a half in a week when Congress is around, and even during those days abbreviated schedules because people troop out to go to places just off the Capitol official campus grounds so that they can make fund raising calls raises the other issue, and it is critically important that we move further in the money area.

Leadership PACs are a cancer on the system, they ought to be abolished. Anybody who has been around this town has now seen the pressure on members, the fact that you've got to raise more money if you're going to reach a leadership position. And for an awful lot of members who come from safe districts (who?) had fundraising that they could do before with some of the people with whom they have interacted in Washington and people back home suddenly have to raise \$600,000, \$700,000, \$800,000 or more, don't know how to do it, and about the only way they can is by a series of transactions. Not just access in return for money, but something more. It's outrageous and awful and it also leads to a decline in the deliberative process because people can't stay on the Hill for a day at a time. They're off raising money. It's no way to operate a process.

Oversight, we've learned over many, many years that doing real oversight, the tough and difficult grinding work that appropriations used to do more than just about anybody is not something you can legislate. You can't legislate in a great political incentive to do so. One way is simply to have some strong sense of institutional integrity and identity and a belief that your function is to make sure that the laws are faithfully executed, not to have an attitude coming in that anything you do with oversight could embarrass the team and so we're not going to do it. That's why we didn't get any oversight of the Department of Homeland Security, and look at the disasters that we've seen: not just the catastrophe of Katrina, the embarrassment of the Border Patrol, but of course now we've learned a misuse of funds, a carelessness with funds in the aftermath of Katrina. That is no way to run a government.

And finally, we have got to put some backbone in to the ethics process, our judgment for a long time that it is simply impossible to do internally. You have got to have some outside force join with the members of Congress fulfilling their constitutional responsibility to create integrity in the process.

Let me add just a couple of other points that we didn't deal with in the book and we're not going to go in to all of the details here. I gave a little presentation on this book last week to a group of people, one of the major lobbying firms in town. And one of the people there who had read the book, who had spent a number of years on the Hill and had just gone out to work in this firm said, "you propose moving from a one-year ban for staff leading the Hill to lobby, which we now know can be controverted, to a two-year ban. Is that really going to make the difference?" And I struggled with the answer because it's not clear that there's a great difference between one year and two years, and then he said something that surprised me, he said, "what about a lifetime ban?" When I came to work on the Hill, I would have been happy to sign on for something like that because I didn't anticipate that I was going to have a career path where I would come out and work for a few years and then exploit it to make a lot of money. It made me think a little bit and I thought little bit more as I read the story yesterday about the Partnership for Public Service, a wonderful organization, Tom, that had Barack Obama speak to young people about the joys of public service and had this huge crowd came, many of them talking a little bit about the difficulty when you come out saddled with an enormous burden of students loans, going to work for what is actually not a very high salary in the staff on Capitol Hill.

And I am not at all convinced that we would suffer a great brain drain or lose the opportunity to get the best and brightest coming to Capitol Hill if we put together some combination of forgiveness of student loans for people who worked on the Hill for a few years in return for a much longer agreement that they wouldn't lobby. Maybe break this link now where people are starting to see service in Congress as a way to exploit the process or currying in favor with those coming in saying that you can make a bundle if you just help us out a little bit here.

The head of this lobbying firm said that 20 years ago somebody coming off of Capitol Hill would make maybe \$40,000. Now for staff people in prime positions – staff people – they're starting at \$750,000. Well, that is not going to be a very healthy process when the trade of access for a great more becomes not just access, but something more becomes all too tempting.

And finally let me say that just thinking broadly and looking outside, we've becomes convinced that maybe one way to move away from this process where everything in our political arena focuses on exciting the base, the 10 percent or 20 percent on either side who turn up to vote in low-turnout elections – that process that not only had the House, the Senate distort its schedule a few weeks ago to take up those constitutional amendment, but which has the House taking its few precious days to deal with yet more narrow areas to fit a social agenda.

Maybe it's time to consider mandatory voting. A process which we've seen work very well in places like Australia where the focus is not on the extremes, but on that broad middle. When everybody is going to vote, you then look towards a center. We've got to start thinking in big terms. This is not going to be something that will be dealt with easily and in the short run but it is a crisis for the country because the bottom line is a bad

process in a dysfunctional Congress leads to bad policy, bad government. Every American and lots of people around the world are suffering as a consequence.

(Applause.)

REP. OBEY: Well, let me start by saying that Scott mentioned that the founding fathers had paid a lot of attention to philosophers – political philosophers. I do, too. As some people know my favorite philosopher is Archy the Cockroach and Archy was a character invented by a writer by the name of Don Marquis back in the '20s – even earlier. And he was supposedly a poet who had died and come back to life in the body of a cockroach and he lived in a newspaperman's office and each night he would climb out of the woodwork, climb onto the typewriter, dive on to the keys, and leave these little messages which would appear in the paper the next day. And one of the things he wrote was very simple: he said, did you ever notice that when a politician does get an idea he gets it all wrong? I think that we've gotten a lot wrong the last few years in Congress and I hope to God we can do something about it.

I think this book is terrific. I was telling Norm earlier that when I read a book I can't read it without having a pencil in my hand and I go through and I mark up and make notes on every page and then I index my comments on the back. As you can see, I (scrubbed?) this book rather well.

And I do some of that to learn – to remember things that I've learned; I do others in order to simply find additional arguments to fit in my original biases. (Laughter.) But I did thoroughly appreciate the book. It is a superb summary of the history of the reform efforts in the House over the past three decades or more. It certainly is a good description of the cultural changes that have occurred in Congress during that time. And I think one of the most important contributions that it makes is to remind us of the importance in a legislative body of the right balance between leadership direction and modification of leadership wishes by people on committees who through the years have gathered substantive expertise. If you can get the right balance between the two, then you have a legislative product rather than simply a party dictation and you have something that perhaps can stand its first confrontation with reality.

I think they've also made some important comments with respect to civility and I very much agree that one of the problems is scheduling because when you come in Tuesday at 6:30 for votes then members go off for dinner, they're in session Wednesday telling their staff to do everything they have to do on Wednesday so they can be prepared to leave Thursday early afternoon. It doesn't leave a whole lot of time for rank and file members to do anything but salute whatever agenda the leadership has put on the floor that day.

And I think some of it is also rooted in the fact that the leadership, frankly, thinks that the fewer hours that members have in town, the less time they have to challenge the directions or assumptions of the House leadership and that is so different than when I came to Congress. It certainly is different than what I experienced when I chaired the

Appropriations Committee. Tom Foley was the speaker at the time and I can never recall and instance when Tom told me what we had to do in any appropriation bill. He was certainly interested in a lot of things and wanted to see a lot of things accomplished, but what he would do was simply pick up the phone and call me and say, “Dave, we’ve got this problem. We’d like to do something like X, Y and Z. What do you think?” And if I thought that there was a responsible way you could accommodate it, I would tell him that, and if I thought that it was a nonstarter, I would tell him that. And if we differed we would discuss it, but he never gave me an order to override my own judgment on something. He might try to move the needle on that judgment, but he respected the fact that sometimes you can keep leadership out of trouble by resisting their first preferences on issues. That’s totally gone today.

We have a pitiful level of oversight in the Congress, as this book cites, and I would simply point out that Congress has only three powers. It has the power to declare war, which it has largely given away to the executive branch. It was the power of the purse, which it continues to sometimes use, although not as aggressively as I think it should. And then it has the power of oversight, and that has atrophied incredibly over the last decade. In fact, I can’t get into the specifics but there are two instances – and I’m talking about classified activities, but there were two instances when we felt that our intelligence community or the DOD intelligence community was engaging in actions that were inappropriate and for which we had not agreed to appropriate funds. And on the Appropriations Committee we have what’s known as the surveys and investigation staff, and that staff is not supposed to be used to investigate matters unless you have the agreement of the chairman and the ranking – I mean, the chairman and the ranking member of the full committee and the chairman and the ranking member the affected subcommittee.

And on both of those occasions when I tried to activate the surveys and investigation staff in order to get to the bottom of the controversy, we were simply blocked by the majority. And that to me indicates that the culture has now become one in which the Congress is an institution composed of two parties rather than having the government being composed of two independent and equal branches of government, the executive and the legislative, with the courts serving as a safety valve.

I also think that the abuse of conference reports is overwhelming and that’s why our recommendations produced by the four of us focus so much on conference reports. For years political scientists wrote that many of the key decisions on Congress were made in conference. This was where the expertise supposedly was found on these issues and we were told that that’s where the decisions were made. It’s not the way it often works these days. The conference will meet, we will touch gloves, we will have a public discussion for an hour or so, and then the conferees will retreat to a closed room and then a few people will decide what’s going to be in the package. The conferees may or may not meet again; often they do not. They simply then circulate the result for signatures so you never have an opportunity to debate the full content of those conference reports. And indeed on several occasions we’ve had people including the Senate majority leader decide after the conference is wrapped up that they were going to add extraneous material

without a vote of the conference, without any ability to raise questions about it, and then they bring it to the House and you have approximately 30 minutes on each side of the bill to discuss the content of the conference report.

That means the final act in the production of legislation that our country is supposed to live with – the final act is in my view fundamentally corrupted with those kinds of shenanigans. And I would use another example to point to the destruction of the deliberative processes in the House. This week we dealt with the issue of the new U.S.-India agreement on nuclear nonproliferation. I don't want to get in the substance of that, but I do want to say that that legislation has tremendous consequences. That is recognized by people on both sides of the argument.

And yet that legislation was handled in such a way that there were six amendments allowed to the bill, the main amendment that (Markey?) wanted to offer was not allowed, so you had a number of window dressing amendments that were offered. Ten minutes debate, five minutes aside on those items, and after that the House voted. No opportunity to explore or ask questions on an incredibly serious issue that has incredible ramifications in terms of the signals that that sends Iran, the potential arms race that it can stimulate between India, China, and Pakistan. And that should've been discussed for a lot longer time, but it was simply brought to the floor by likeminded people and it was virtually no opportunity to raise any real concerns.

The reason that the four of us produced the reform packet that we did is because all of us love the House. We love what it's supposed to be. And I've had enough experience – I've participated in virtually any reform effort that the House has engaged in since the middle 1970s and I've learned a lot about the House in the process. And most importantly, I've learned an awful lot about human nature.

And that's why we suggested, for instance, that disclosure is not enough if you are dealing with the issue of lobbyist-paid travel. There simply should not be travel which is paid for by lobbyists or trips on which the lobbyists or the people they represent on those trips. Members may be perfectly innocent but the fact is that that bring into question in the minds of the public whether or not you're constantly giving insiders an edge and we simply shouldn't be doing that.

We focus on the concentration of power in the hands of the leadership. We insist that they have no more of this business of leaving the roll call machine open for two or three hours until you get the results that you want. And we certainly require that conference at committees vote on the final package when every single item is contained so that you have some opportunity to flag what is in these conference reports. And then we certainly insist that you have a significant layover time so that members just for the hell of it know what they're doing when they vote on these bills.

But in the end no matter what we do with the rules it comes down to the kind of people we elect to public office and the kind of people we elect to party leadership. And so in addition to the rules changes that we've talked about there are some other things I

would do. I would, for instance – when I came here it was extremely rare for a member of Congress to (unintelligible) talking about civility. It was extremely rare for a member of Congress to go into another member's district and campaign against them. It's very hard to work with somebody on a touchy public issue if you know that two weeks from now that fellow is going to be trying to take away your job in your own territory. That's why in most cases it simply wasn't done. I never did it until Dick Arme came into my district and I thought, well, if you're going to do that I will respond in kind. And to me I think one of the best things you can do to restore civility is to end the practice of members going in to another member's district to campaign against them. If you want to campaign for somebody in your party or if you want to campaign for your party's candidate in an open seat, fine, but other than that I would like to see that discouraged.

Secondly, I would like to see to it that members could not contribute to each other. When I came here that was again very, very rare. Today it's commonplace. That means that 30 years ago you may have had one-third of the members who were on the treadmill trying to raise money for their campaigns, but by expanding in the situation so that members are asked to contribute to each other, it means that you put every single member on the money trail and it means that you have many other points of access for special interests in the legislative process because of that. So I would love to see that stopped.

If you look at – all you have to do to see what's happening in the House is to read *The Hill* or read *Roll Call* over the past two or three weeks and I have only one of those stories here today but virtually weekly *The Hill* or *Roll Call* will carry a story about how the vacancy in a committee chairmanship has all of the potential candidates of that chairmanship promising to raise \$100,000, \$300,000, \$400,000. It's a bidding process. On the Democratic side, we largely use seniority and we have some safety valves and there are dues which members are asked to pay, but we have not yet experienced any great degree of the auction syndrome because we haven't been in power since this has become the norm.

I think that it's important to stop this, which is why I would like to see us eliminate the ability of members to contribute to the party campaign committees and I'd like to eliminate the ability of members to contribute to each other. I think that would be a significant step forward in terms of preventing the norms of civility from being shredded and I think it would help take members off the money trail.

Money used to come from parties and from that portion of society that agreed with the positions that the two parties took, but today a huge percentage of the money that goes into marginal districts is contributed by other members and while both sides contribute to those marginal members these days because this is another arms race, I would like to see that go by the board.

And most importantly, I believe that it's essential to have campaign finance reform. I think the institution that is most responsible for what has happened in the Congress is the Supreme Court of the United States because they have refused to

recognize that by refusing to allow reasonable limits on spending, they are in fact turning the whole system over to the money changers.

And that's why I've introduced public financing legislation of my own and it is not the usual campaign finance legislation that sets out matching funds and all the rest. I would simply in general elections outlaw all private money and I would set up a good government account and I would require the Federal Elections Commission to run a heavy TV buy from January through April 15 telling citizens that there exists a grassroots democracy fund into which they can contribute if they want to take back their government. And then we distribute that money to each district on the basis of the cost of living in that district because it costs more to campaign in Manhattan than it does in Minot. And then we would distribute money to each of the candidates in that district on the basis of how their party fared in the previous two or three or four elections, whatever base you want to use. People will say, oh my God, Obey, you can't do that because that will mean that incumbents will get more money in each district than non-incumbents.

That is true under the proposal, but the fact is, nonetheless, under what I propose in 90 percent of the districts you would have a much smaller gap between the funding for incumbents and the funding for challengers than you have right now. And people will say, well, you can't do that because it's unconstitutional. Well, I would also provide for a test case and if the court declares it unconstitutional, I would then provide for expedited procedures for the Congress to consider a constitutional amendment. I detest the thought – and I know I'm in an extremely minority position on that, but I do not believe that you can fix this problem short of a radical reform on campaign finance. And that may be a futile gesture on my part; in all probability it is, but as (unintelligible) used to say about the country, about the candidates campaigning in the rural area in Arizona, he said at the end of the speech a candidate would say, "Well, them's my views folks, and if you don't like them, well then I'll change them." I'm not going to change them; them's my views and I just wish that we could get some serious focus on campaign finance.

I respect what Feingold and McCain have done, but thanks to the court that is simply nibbling around the edges and you have to go far beyond that in order to fix the problem.

MR. LILLY: Okay we're going to have any questions that the panelists want to ask each other for a few minutes and then we're going to have questions from the audience. Any comments back and forth, anything? Okay, we'll go directly to a question shall we?

Q: My name is Shelly Fizzler (ph). I worked on the Hill for 20 happy years and you guys are all fabulous. But I have a couple of comments I wanted to make. First of all, I think there is a bias here on the appropriations side. Those of us who worked for authorizing committees actually once thought we were relevant and you ought to talk a little bit about the kind of knowledge base, what happens at hearings, what happens during real debates when you talk about the Congress.

The other thing is I didn't hear a word about the press. I for one hold the press very responsible for what has happened to Congress because they're so caught up in reporting the news, such as the debate over same-sex marriage or the very relevant things, instead of talking about the kinds of things that you guys write about in the newspapers, I must say, and in your book and say – holding people to higher standards, raising expectations about what government is, teaching Americans about how important this branch of government is. And so I wanted to – I was hoping you'd talk a little bit about the press and somebody would say something nice about the authorizers.

MR. ORNSTEIN: I'll start. First, you're absolutely right. The collapse of the authorization process is another element of this and another part of the decline of deliberation and the demise of oversight in a lot of ways. We have seen very few reauthorizations of major programs, agencies or bills. It's just not done very much anymore. When it was done, it was a real opportunity for looking at whether agencies operated, laws were working. That was the whole intent here, and that's gone. What's supposed to be a process that has authorization appropriation oversight just doesn't work anymore.

And of course now the frenzy of earmarks that Scott more than anybody has pointed out and dissected that morphed from authorization to appropriations has further bastardized that process.

On the press, I think we may be seeing a slight change now. Although sometimes the news judgment I find kind of an oddity, the *Post* this morning had a front page story that had two full pages inside about Tom Davis' wife and a consulting firm and it didn't seem to me that that was worth two full pages. While in the meantime I'm waiting for the front page story on some of these bogus real estate transactions, including involving the speaker of the House of Representatives. I'd like to take some of these editors and have them start to read some of the stuff that's done in the regional press a little bit more.

The fact is we knew about Jack Abramoff – a lot of the horrific abuses – ten years ago. For everybody who look at the Seattle paper when he was associated with Preston Gates and doing all kinds of manipulation on behalf of the Northern Marianas Islands; or read the *Miami Herald* about the Sun Cruz transactions before they moved elsewhere. But oftentimes those stories are just not picked up.

Now I think we're seeing at least a signal of a change, but it's not enough and until we get it there is no reason for change. If you talk to Republicans and some Democrats who don't want ethics or lobbying reform, they've been gleeful for the last three or four months because what they saw is nobody's paying any attention to this. We can get away with it because there's no outrage out there. You'll get sometimes strong editorials, the *Post* has been very good on that score, but they're intermittent, it's not done in a sustained way, and frankly the only thing that's going to change it is a string of indictments that will suddenly move this to the front pages. If there isn't a constant focus on wrongdoing – stuff that's unethical even if it's not illegal or that pushes the limits of legality and you don't have an ethics process, then people are going to view this as I said

earlier as their own private candy store and they're going to get away with anything short of murder.

MR. OBEY: On the authorization process I would simply say one of the reasons that the authorization process has collapsed is because of the budget process. The budget process is layered in a whole new process and there is no extra time. We haven't added months to the calendar year, and if you're going to have a schedule as truncated as it is each week outside of putting tax cut bills on the floor – and of course we have to save time for post office dedications; outside of that there is virtually no time left. And when you start the budget process with numbers that are so highly unrealistic that it takes forever to get even the majority of a caucus to agree to what ought to be in those resolutions, then it screws up the appropriations process and it devours the authorization process.

MR. : In fact we ought to give some serious thought to retaining CBO, but chucking the whole rest of that process. Look to see what's happened to the reconciliation part of that game, which originally was designed to be a minor part, then eventually became part of a deficit reduction effort, and now is a means of achieving tax cuts that aren't paid for, and I think the time has come to give its some serious thought to that radical change in the process.

But it really goes back to what Dave said earlier, any – Congress is always sort of wrestling with how to get the mix right. There are individual members and offices, the committees and their parties. And a well functioning legislature will figure out a way to get the mix right. And the mix is wrong right now. It's too centralized and committees have been marginalized and opportunities to do real work on authorization committees have been eliminated. They're there to ratify decisions made elsewhere and not to engage in genuine work.

On the press, I'd just add sort of one thing: there really is a disjuncture between the editorial pages and the news pages. The editorial writers have actually been much more diligent about pursuing some matters that go beyond the scandals and go to the heart of the matter. I mean, the real scandal are things that are not illegal or sometimes not even unethical, but are corruptions of the process that have enormous consequences for the country. And what I find is those stories don't make it as news stories where the focus tends to be on well, on the one hand on the other disagreements about policy ideological or partisan conflict or scandal, and therefore we don't get the kind of public education that you're talking about. And one of the ways to change that is to get the leaders to talk about those matters because if they talk about them a lot you'll begin to get more coverage.

MR. OBEY: I'd like to just to add one thing to that and that goes back to what I said in the opening remarks I gave. I think there has been a profound deterioration in the understanding of the press and the editors. I find reporters are very frustrated in that they don't get the opportunity to write about Congress as much as they'd like to. And there are many reporters who would like to cover Capitol Hill, but have decided as a career

choice not to because they know that they will be allocated so little space. And I think that it really gets back to a lot of editors who simply don't understand that they can't be the check in the system. There are a lot of editors I think that really do think that: they think that the press are the smart guys, they're the ones that can find out when an administration's out of line and they can run the story. It's sort of an exaggeration of the Watergate mentality that has happened.

But ultimately this society will not be transparent unless the Congress demands that the executive branch – and it doesn't matter which party, it doesn't matter which president – the executive branch will not be transparent unless there's somebody that has the kind of legal, constitutional authority that the Congress has. And if you don't cover the Congress and you don't guard that, then the ability of the press to get to the bottom of what the problem is going to disappear and I think that they are now seeing that.

MR. LILLY: Right back here in the corner.

Q: (Off mike.) I've got two questions. One is given how screwed up Congress is and I think everyone who followed it thinks if anything you're not exaggerating; it may be even worse than you're saying. How does Congress institutionally enact any of the reforms that need to be enacted because they can't even pass a post office bill sometimes. I guess they can pass that, but not much.

And secondly, is there a danger in the next year if the Democrats do regain the House with a small majority, which is certainly one of the possible results not only as Norm said will we have fights over the election returns, but isn't there a danger that the Democrats will go too far in oversight and there will be fights over every investigation, over funding for every committee, and that the whole thing could devolve into a real mess unless there is some leadership from the party on deciding what to do and what not to do?

MR. OBEY(?): Well, I guess all I would say is that there is always a danger of everything, but as practical matter – I'm very superstitious, I don't even like to talk about the possibility of the Democrats taking the House because I think the minute you put that in your pocket, God takes it away from you. (Laughter.) But nonetheless I would say that I think what the Democrats need to do is just the opposite: I think they need to reach out to Republicans and try to put together a body that works. Example: the one and only time that we had a bipartisan 302 B allocation process which divides after the budget resolution is passed, the Appropriations Committee is allotted a certain amount of money and then under what's known as the 302 B process that money is allocated to all of the subcommittees so that you know how much it's going to be for interior, how much for transportation.

And when I was chairman, I simply walked across the aisle, I talked to Joe McDade. I said, "Joe, if you'd like I'd like to work on a bipartisan allocation. We may not agree on what the details of these bills would be but at least we would agree on how much money went in to each of the bills." And we did it. And that's the reason that we

finished every single appropriation bill before the end of the fiscal year. It wasn't because we'd done anything brilliant legislatively; it was because we worked together, did some role-playing so that we can define our differences, but then find away to resolve them. So that's what I think the Democratic Party needs to do.

I also think that they have an obligation to conduct a certain amount of oversight. But again the only way that they're going to be effective is if they pick out which are the most urgent issues and which issues they have the greatest capability to review. If they start trying to throw a dozen things at the wall hoping that something sticks, nothing's going to stick. I think the number one thing that the Democrats will have to convey if they do take over is discipline.

MR. LILLY(?): Just to add one thing to that the most intensive oversight that I've seen in the last ten years was Mr. Kolbe from Arizona, who is normally a fairly nonpartisan fellow but I think he was trying to develop some stripes within his (unintelligible) by using the Treasury Post Office appropriation bill to dig into the Clinton White House and it got down to what portion of the White House laundry could be attributable to fundraising in the Lincoln bedroom.

I think that's not a very helpful kind of oversight and I think that if the Democrats are smart they will try to use oversight for a much broader public purpose. For one thing, I think that you'll get a lot more support for that and you'll get further with it. But you also will find that that I think is the most effective thing from a partisan standpoint because the Democrats need to show that somebody in this town is interested in something other than their own future.

Ruth?

Q: Ruth Marcus from the *Washington Post* and thank you for the plug for editorial writers. I had a question about –

MR. LILLY: That was editors, not editorial writers. (Laughter.)

MR. : I said the good things about editorials.

Q: I take both actually. I'll take the compliments. To what extent is the broken branch really a broken House, or, conversely, to what extent is the Senate also broken because so much of the discussion that we've heard here this morning has been about particular problems with processes in the House?

MR. : I think the answer is they're both broken. The House is broken more, the Senate in part because a hundred people don't know each other and it's a little bit more difficult to abuse people you know, in part because it operates by unanimous consent and so you've got to develop in many cases at least some sense of if not consensus a greater breadth in an agreement is and because, of course, there's no redistricting it's not broken as badly.

But it's a dysfunctional body now as well. The failure to do oversight is as great in the Senate as in the House. To watch Arlen Specter, who has tried to do some oversight in a couple of places, talk plaintively basically about how the executive branch gives them the equivalent of the middle finger on a repeated basis. And he goes to his leadership in effect for some backing on this stuff and the leadership is nowhere to be found. To watch the hearing a couple of weeks ago with Attorney General Gonzales really flipping off the committee – not giving them an opening statement, refusing to answer any of the questions, kind of smiling enigmatically, but really displaying contempt for the legislative process.

And of couple of Republicans were very unhappy about that along with Specter. There's nobody there that's going to say, "You're going to pay for this. You're going to pay through the appropriations process. You're going to pay through some really searching hearings. We're going to issue some subpoenas. We're going to get to the bottom of some of this stuff." That's a sign of dysfunctionality to me.

The eagerness to go for the nuclear option by a lot of members without thinking through in any way the long-term consequences for the fundamental integrity of the Senate and the nature of a deliberative body is a sign to me of a body that has gone astray. And we're being to see the same kind of polarization, although not quite as sharply, in the Senate as we have in the House, so this is a bicameral problem even if it's not quite as grave.

MR. : Ruth, let me just underscore that. If you look at the experience of the Senate Intelligence Committee in particular in recent years, you will see how dysfunctional that body has been. If you can just imagine given the history of the Senate that the current majority leader there was elected to that office at the behest of the White House, it was a man who had self limited himself to two terms in the Senate, whose interests lie beyond the Senate. That right there is an indication of the absence of institutional identity, patriotism, what have you.

If you look at the abuse of the conference process, you will see that the Senate has been fully complicit in that. And if you look at, say, bills like the Bankruptcy Bill, look to see what happened there. The Senate basically agreed to accept what the House had done and not offer or make an order amendments to it because they said, well, the House won't reconsider. I mean, it just sort of abandoned its position as a coequal chamber. They use to think of themselves as the upper house, inaccurately. Now they aren't even an equal chamber I would argue.

MR. OBEY: I would just make – I do think that there are occasional and welcome outliers – example, Lindsey Graham. I think he has done some very decent work in trying to maintain the self respect of the Senate as an independent legislative body, and to me that's what it comes down to is self respect. If you have enough self respect, then you are going to defend the prerogatives of the institution to maintain their independence. Otherwise you're just going to turn it over to your party leadership.

What I find especially troubling, and this is something Tom touched on, is that the abuse of the process extends to the very top of the power structure in the Senate as well. I would point out for instance that when the majority leader decided to go to South Dakota to campaign against the minority leader, that was breach of etiquette which is not just a nicety: that etiquette was essential to the ability of that body to function in a non-snarling way.

And the second problem is that the most egregious abuse of the conference process was by the majority leader himself when he insisted on adding 40 pages of un-reviewed legislation that largely indemnified the entire pharmaceutical industry, which he attached to the conference on defense after the conference has adjourned.

MR. LILLY: Okay. Right here.

Q: (Off mike) political science with the University of Maryland. I wonder if you'd address the issue of presidential signing statements and how that fits into this whole problem between the branches. And also comment on how it is that it took about five and a half years in to this regime for this issue to surface. Why weren't the Democrats talking about it? Was this another case of the Republicans just ceding power to the executive branch? And where has the press been on it?

MR. MANN: There's – good, Ruth has left, so it won't go to her head but the *Post* had an editorial on presidential signing statements that reminded us of a couple of important points. They've been with us since George Washington. Presidents have long disputed interpretations of legislation put forward by members of Congress, have occasionally decided to not enforce or weakly enforce provisions that question their constitutionality. And there's something useful about a public airing of these disagreements because the very transparency makes possible follow up and engagement between and among the branches of government.

But what has happened is that they coincide in this administration with the most aggressive assertion of executive authority that we have seen, as I indicated earlier, in our lifetime, so the substance of them is much more aggressive and it was the visibility of several of them – mainly the torture provision, when the Senate voted 91 to nine under the leadership of John McCain and Lindsey Graham to prohibit torture, the explicitness of the signing statement on that and the constant references to the inherent authority of the president on national security matters and as commander-in-chief have raised it really to another level in which this administration actually believes that once elected they have the full authority to govern and Congress is sort of a nuisance that ought to get out of the way.

So why didn't Congress act earlier? You had individual members of the opposition parties speaking out in articles, but it got no attention until actually the press picked up one it. We had the first full story in the *Boston Globe* and then you began getting others outside, including groups like the Constitution Project that began to do

some research and discover what elements of continuity there are and what of discontinuity. And certainly the provisional findings are that we've had extraordinary departures in the way in which these signing statements have been used and it's consistent with the broader view of this administration about the primacy of the second branch of government.

MR. : Let me add a couple of things. The first is we discovered one of the reasons why President Bush went five and a half without vetoing a bill: because he's basically decided vetoes are not necessary, he can sign bills and then basically veto them through his signing statements. It's a very different approach than other presidents have used before and it's disturbing. I find it particularly disturbing because one of the progenitors of this approach it appears was now Supreme Court Justice Alito during the time when he was in the Office of Legal Counsel as a way of asserting presidential power in a fashion that I think the framers did not believe was accurate. That's not what George Washington did. And now we have a real test case as to what kind of backbone Congress has.

Arlen Specter has put together a bill that at least would presumably give Congress standing to challenge signing statements. Barack Obama and others are working on similar things. How much will Congress try to assert itself in this fashion to circumvent a process where a president takes a bill that passes 93 to seven and then basically says, "I may abide by it; I may not. I'll decide because it's up to me." That's just wrong.

MR. OBEY: What this illustrates is the old story about when Eisenhower was president a long time ago and Ray Bliss was the chairman of the Republican National Committee and he supposedly said to the Republican caucus – one time he said, "Look, fellows, you don't have to vote against this stuff: we can just administer it to death." And this is largely what they're showing.

MR. LILLY: One more question right here.

Q: Thanks. Gary Mitchell from the Mitchell Report. I want to ask the authors of the book in particular whether in identifying the key issues – and I'm thinking of three in particular: institutional allegiance, deliberation, and regular order – you wrestled with the questing of whether Congress is merely reflecting a similar kind of breakdown, if you will – you deal with a little bit in the book, but I'm curious if you could expand on it a little bit. We know that institutional allegiance is in trouble almost everywhere, I think. Deliberation is hard to find almost everywhere, as is regular order. So it's a sort of – the question is sort of a chicken and an egg or something of that sort, but I'm interested in your observations about the extent to which you think the phenomena that we're seeing in Congress reflects what's going on out in the land or whether the Congress is peculiar and leading on those issues.

MR. : The short answer is of course yes. Many of the problems, including the three that you indicated specifically are reflected in broader societal developments. It's the case that some are sort of sociological, as you pointed out; some are deeply political.

It is the changing allegiances and organization of allegiances within the broader public that sets the conditions under which Congress operates, so the answer there is yes, there a lot of forces pushing in this direction, but that all inevitably leads to a kind of plebiscitary democracy that has enormous shortcomings to a society and a country facing serious problems.

So the point is you have to resist them and we've seen – frankly, it's possible to strengthen other organizations. Congress has weakened at the same time as parties have strengthened. Similarly, sort of ideological movements and issue groups have strengthened in some ways. So it isn't that everything is just decentralizing: there are different forms of organization and the real challenge is to get ourselves to understand how smart the framers were, how prescient they were, how wise they were in understanding that you need to figure out a way to organize institutionally so you can channel the self interest of able people in ways that serve the broader public.

This has gotten out of synch now, but it's been pretty durable. We've survived a long time, we've gone through periods like this; most recently, the late 19<sup>th</sup> century – the last great partisan era. I'm not pessimistic about the long term. I think we'll figure out a way to make these adjustments but, yes, it's broader than inside baseball and Congress.

MR. : Let me add a couple of things. I was thinking about this just the other day, Gary, when Barry Bonds came to town. The notion of the ends justify the means has really permeated a lot of institutions in this society, in the corporate sector, corporate governance, companies that set up boards of directors so that everybody basically chaired everybody else's compensation committee and all of a sudden you had to pay full market value which was \$50 million plus \$100 million in stock options even if a company's performance was going down the toilet because they were setting their own pay levels.

It sounds a little bit familiar now as we look at earmarks and the appropriations process. With Barry Bonds and with athletes, with Floyd Landis I suppose as well and with corporate governance, maybe we're seeing a little bit of a societal backlash now. Just as we have, in a sense, with the moral deterioration – the sense that anything goes out in to culture as a whole. Maybe we'll finally see it against Ann Coulter (laughter, inaudible)

MR. : Hope springs eternal.

MR. : But I think it's something that I've seen coming in a different way in Congress for a long time. When we first got here, Dave, who's an extraordinary man, was not so extraordinary then in the sense that he came in as a Congress guy, he was House guy. He cared about the institution. And the vast majority of members, or at least a very substantial share of them, did. They came in with a sense that this was the greatest experience they could ever have. We often use this anecdote that Bill Frenzel – another terrific member of Congress – for years would go and talk to the incoming freshman class and tell them, bring your families to Washington. You've gotten one of great honors that

could ever come to anybody; a tiny share of Americans who've ever lived have served in this body. It's special and let them share in that special quality.

It's not special anymore. Newt Gingrich the other day at a seminar we had in fact was talking about Frenzel and saying if you come out of the Capitol at night and you look over at the Supreme Court and the Library of Congress and you don't get a little quickening of your heartbeat, it's time to go.

I would bet a substantial amount of money that two-thirds of the members of Congress if they walk out of the Capitol at night don't see much of anything that matters to them or get any sense of a quickening of their heartbeat when they see that Capitol Dome, Dave, and that glow of white. It's a very different world. Some who do interestingly – and it's a reflection I think of the backlash against the deterioration of the culture. It's interesting to me to see people like Joel Hefley or Jeff Flake – very conservative in their political views, Republicans and loyal Republicans in many ways, but they resonate to a lot of the critique that we have given because from their perspective that's not the way a body is supposed to operate. And in some ways they've gotten screwed by their own leaders who are now far more interested in getting and maintaining power than in having any set of principles or advancing their institutions.

That's true in the House and the Senate. I'm not sure how much of this larger public backlash that had Barry Bonds booed every time he came up, or that has Floyd Landis now perhaps joining the next six finishers from last year's race who were jettisoned before the whole thing began, whether that will finally get a group of people who understand that it matters even more to have a Congress that has its own sense of institutional integrity, but maybe there is a little hope.

MR. LILLY: Thank you. I want to say how much we appreciate you all coming to the events. If you don't already know, this website has a listing of upcoming events. You can keep in touch, keep track of what we're doing here, and we hope you'll come back.

Thank you.

(Applause.)

(END)