The De-Institutionalization of Congress

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THE FRAMERS OF THE U.S. CONSTITUTION designed the Congress as the most powerful branch of the new government. The institution was granted wide authority over crucial governmental functions such as taxing, spending, and war making. The Framers did not design the institution to be efficient, however. The two chambers were given differing electoral rules, and they diverge starkly in how seats are allocated to the several states.[1] To make use of its great powers, Congress must find concurrent agreement across the two chambers and gain the assent of a president who is chosen independently of the legislature. This makes lawmaking an inherently adversarial process. As a result, Congress has been beset by conflict and periods of gridlock throughout its history. One consequence of this is that Congress has consistently been the least popular branch of the U.S. government.[2] Citizens are turned off by much of what Congress does, including passing laws, failing to pass laws, and the conflictual

[1]Frances Lee and Bruce Oppenheimer, *Sizing Up the Senate: The Unequal Consequences of Equal Representation* (Chicago: University of Chicago Press, 1999).
[2]James A. Stimson, *Tides of Consent: How Public Opinion Shapes American Politics* (New York: Cambridge University Press, 2004).

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POLITICAL SCIENCE QUARTERLY | Volume 133 Number 3 2018 | www.psqonline.org
 DOI: 10.1002/polq.12800

process that is a natural consequence of investing power in a large body responsible for representing diverse interests.[3]

Conflict and gridlock have been present since the early days of the republic, but recent developments in the two chambers have led many scholars and pundits to question the ability of Congress to govern effectively. Partisan polarization in roll call voting has reached an all-time high,[4] the chambers struggle to enact annual spending measures on time, and Congress increasingly fails to resolve pressing problems.[5] When Congress does act, it tends to do so through temporary Band-Aids such as continuing resolutions of short duration. Rather than leading to longer-term solutions, these short-term fixes inevitably create new "crises" that are "solved" by again kicking the proverbial can a short distance down the road. Thomas Mann and Norman Ornstein, both well-respected political scientists and astute observers of Congress, penned an acerbic critique of the institution not so subtly titled *The Broken Branch* in 2006.[6] Their encore was published six years later with the even more pessimistic title, *It's Even Worse Than It Looks*.[7] Meanwhile, the Associated Press described the 113th Congress (2013–2014) as "two years of modest and infrequent legislating that was overshadowed by partisan clashes, gridlock, and investigations," with Senator Joe Manchin (D-WV) adding, "Thank God it's over."[8]

The public has also seemingly realized that something may be amiss in Congress. Though the institution has never enjoyed high levels of approval, Congress has hit a new low in recent years. Congress averaged 35.1 percent approval in Gallup surveys conducted during the 1990s, with the average inching up slightly to 37.8 percent for polls conducted during the first decade of the 2000s. For the 2011–2015 period, however, average approval of Congress plummeted to 15.2 percent, with some polls showing single-digit approval.[9] Adding insult to injury, Public

[3]John R. Hibbing and Elizabeth Theiss-Morse, *Congress as Public Enemy: Public Attitudes toward American Political Institutions* (New York: Cambridge University Press, 1995).
[4]Christopher Hare and Keith T. Poole, "The Polarization of Contemporary American Politics," *Polity* 46 (July 2014): 411–429.
[5]Sarah Binder, "The Dysfunctional Congress," *Annual Review of Political Science* 18 (2015): 85–101.
[6]Thomas E. Mann and Norman J. Ornstein, *The Broken Branch: How Congress Is Failing America and How to Get It Back on Track* (New York: Oxford University Press, 2006).
[7]Thomas E. Mann and Norman J. Ornstein, *It's Even Worse Than It Looks: How the American Constitutional System Collided with the New Politics of Extremism* (New York: Basic Books, 2012).
[8]Alan Fram, "113th Congress Ends with More Fights than Feats," *Washington Times,* 17 December 2014, accessed at http://www.washingtontimes.com/news/2014/dec/17/113th-congress-ends-with-more-fights-than-feats/, 30 May 2018.
[9]"Congress and the Public," Gallup, accessed at http://www.gallup.com/poll/1600/congress-public.aspx, 30 May 2018.

Policy Polling conducted a poll in early 2013 that revealed Congress was less popular than unpleasant medical procedures such as root canals and colonoscopies, infestations of head lice and cockroaches, and used-car salesmen.[10] Senator John McCain (R-AZ) repeatedly quipped that the only people who approve of Congress are "blood relatives and paid staffers."[11] In fact, even some members of Congress are choosing to flee the institution. In recent years, for example, two House members have given up their seats in order to run for county office, which is not the typical path for those with progressive political ambition.[12] In 2014, Gloria Negrete McLeod (D-CA) decided after less than two years in the House to run (unsuccessfully) for the San Bernardino County Board of Supervisors.[13] Early in 2015, Janice Hahn (D-CA) announced that she would not seek reelection and would instead run for the Los Angeles County Board of Supervisors.[14]

One of the few areas in which scholars, pundits, and politicians in both parties find agreement is that the performance of Congress has been subpar in the past few years. There is less agreement, however, as to whether the recent period reflects a short-term hiccup in an otherwise well-functioning system or whether the poor congressional performance of this period signals a structural breakdown in the ability of Congress to govern.

Some scholars have argued that Congress is fundamentally broken and in need of major reforms,[15] while others take a broader view of the current struggles and suggest that the system is likely to self-correct as it has in the past.[16] However, our contention in this article is that declining congressional performance and public approval are at least indirectly related to the effects of what we call the de-institutionalization of Congress. As we will

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[10]Tom Jensen, "Congress Less Popular than Cockroaches, Traffic Jams," 8 January 2013, accessed at https://www.publicpolicypolling.com/wp-content/uploads/2017/09/PPP_Release_Natl_010813_.pdf, 30 May 2018.

[11]Dan Amira, "Time for John McCain to Retire ... This Joke," *New York Magazine,* 26 October 2011, accessed at http://nymag.com/daily/intelligencer/2011/10/mccain_paid_staffers_blood_relatives.html, 30 May 2018.

[12]David W. Rohde, "Risk-Bearing and Progressive Ambition: The Case of Members of the United States House of Representatives," *American Journal of Political Science* 23 (February 1979): 1–26.

[13]Aaron Blake, "Rep. Gloria Negrete McLeod (D-Calif.) Won't Seek Reelection," *Washington Post,* 18 February 2014, accessed at https://www.washingtonpost.com/news/post-politics/wp/2014/02/18/rep-gloria-negrete-mcleod-d-calif-wont-seek-reelection/, 30 May 2018.

[14]Kyle Cheney and Adam B. Lerner, "Hahn Retiring, Will Run for L.A. County Supervisor," 18 February 2015, accessed at http://www.politico.com/story/2015/02/janice-hahn-retiring-congress-california-115283, 30 May 2018.

[15]Mann and Ornstein, *It's Even Worse Than It Looks.*

[16]David R. Mayhew, *Partisan Balance: Why Political Parties Don't Kill the U.S. Constitutional System* (Princeton, NJ: Princeton University Press, 2011).

detail more fully, a combination of institutional changes within the two chambers and resource allocation decisions by the chambers and individual members have combined to reduce the institutional capacity of Congress to govern. This reduction in capacity corresponds with a decrease in most measures of congressional action. These changes are not necessarily permanent, as endogenous institutions are, by definition, changeable. Yet institutional arrangements are notoriously "sticky." Consequently, the forces of self-correction, even if they arise, are likely to be tempered by the current institutional malaise.

THE INSTITUTIONALIZATION OF CONGRESS

Nelson Polsby's 1968 article "The Institutionalization of the U.S. House of Representatives" is a classic piece of congressional scholarship.[17] Writing at the height of the "textbook" era of Congress, Polsby described a legislature that had developed the characteristics of an institutionalized organization over time. He used three characteristics to measure institutionalization: the institution was difficult to achieve membership in (well-bounded); it possessed a division of labor and predictable patterns of how roles would be filled (relatively complex); and the institution relied on merit, rules, and precedents to regulate behavior (universalistic criteria).[18]

Polsby presented a number of long-running data series in support of his argument. For example, with regard to well-boundedness, Polsby noted that the average career length for members had increased and that the proportion of members serving in their first terms had decreased markedly over the course of the twentieth century. The amount of time members served in the chamber before becoming the Speaker of the House had also shown a drastic increase in the twentieth century. Unlike in the nineteenth century, the Speakership had become a job that was not surrendered voluntarily. Polsby reported that a majority of people who had held the Speakership in the twentieth century left the office feet first. Polsby argued that these trends served to "differentiate" the House from its environment and helped establish a stable, predictable manner of conducting business.

With respect to relative complexity, Polsby pointed to three trends: growth in the power and influence of standing committees, growth in

[17]Nelson Polsby, "The Institutionalization of the U.S. House of Representatives," *American Political Science Review* 62 (March 1968): 144–168.

[18]See also Jeffrey A. Jenkins and Charles Stewart III, "The Deinstitutionalization? of Congress: Reflections on Nelson Polsby's 'Institutionalization of the House of Representatives' at Fifty" (paper presented at the Annual Meeting of the Southern Political Science Association, New Orleans, LA, 12–14 January 2017).

"specialized agencies" of party leadership, and growth in resources for members. He discussed the evolution of standing committees in the House from nonexistent in the early nineteenth century to independent power sources in the mid-twentieth century. Polsby's data also showed an increase in expenditures by the House on itself to provide offices, member staff, and committee staff.

In addition, Polsby made a case for growth in the use of universalistic criteria for decision-making. He pointed to the seniority system as an exemplar of an "automatic" decision rule. Seniority violations in the selection of committee chairs had plummeted from more than 50 percent in the late nineteenth century to be almost nonexistent in the mid-twentieth century. Similarly, the number of contested election cases exhibited a sharp decline, and the cases were increasingly decided on the merits of the case rather than on the basis of sheer partisanship.

Polsby made no claim that this was the most efficient institutional arrangement, nor that this particular set of institutional arrangements was either necessary or sufficient to ensure that the House could always address matters of national import in a timely manner. He did, however, argue that these institutional arrangements had succeeded in representing "diverse constituencies" while also "legitimatizing, expressing, and containing opposition."[19] In addition, he argued that the arrangements incentivized members to seek a career in the chamber and to develop expertise in certain policy areas. Polsby contended that these fonts of narrow policy expertise were a "formidable asset" for the House as it sought to gain and retain influence in the political system.[20]

Though Polsby focused only on the House, the Senate experienced a similar transformation during the time period he examined. Following the adoption of the Seventeenth Amendment, many senators served long careers in the Senate. Party and chamber leadership positions developed in the early twentieth century.[21] The Senate developed a set of standing committees that in many ways paralleled those employed in the House, and it used a similar system of seniority to determine appointments, transfers, and leadership positions. Though the combination of permissive debate rules and a lack of germaneness rule prevented strict adherence to jurisdictional boundaries, most senators developed and maintained policy expertise in particular areas. The Senate developed and institutionalized

[19]Polsby, "The Institutionalization of the U.S. House of Representatives," 144.
[20]Polsby, "The Institutionalization of the U.S. House of Representatives," 166.
[21]Gerald Gamm and Steven S. Smith, "Steering the Senate: The Consolidation of Senate Party Leadership, 1879–1913" (unpublished manuscript, 2003).

complex unanimous consent agreements to manage bill consideration.[22] At the same time, strong behavioral norms combined with Rule XXII to allow, yet predictably manage, extended debate.[23]

Polsby wrote during what could be considered the golden age of congressional productivity. The decade of the 1960s saw Congress pass a nuclear test ban treaty, the Civil Rights Act of 1964, the Voting Rights Act of 1965, Medicare, federal aid for all levels of education, the Age Discrimination Act, and the Housing and Urban Development Act. The 89th Congress (1965–1966) is widely perceived as one of the most productive and consequential in American history.[24] Those with a conservative governing philosophy might quibble with the content of what Congress enacted during this era, but few would question that the institution possessed the capacity to address the nation's policy problems.

REFORM AND ITS CONSEQUENCES

In the decades since Polsby's article was published, Congress has undergone several periods of institutional reform. In general, these reforms have had the effect of shifting power from congressional committees to the party leadership teams. In some ways, these reforms have enhanced the capacity of Congress to act, but on balance, we contend, the reforms have eroded the institutional capacity of Congress. In this section, we briefly describe some of the major reform efforts and present data trends that point toward a gradual de-institutionalization of Congress.

In the 1970s, House Democrats enacted a series of caucus reforms that strengthened the House party leadership at the expense of committee chairs. These reforms included secret ballot retention elections for committee chairs, allowing the Speaker to appoint the party's membership of the powerful Committee on Rules, the formation of the Steering Committee to recommend Democratic committee assignments, and the enhancement of congressional subcommittee power. These reforms aimed to advance the policy objectives of the majority party while also ensuring that the rank and file members remained invested in the policymaking

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[22]Jason M. Roberts and Steven S. Smith, "The Evolution of Agenda-Setting Institutions in Congress," in David W. Brady and Mathew D. McCubbins, eds., *Party, Process, and Political Change: Further New Perspectives on the History of Congress* (Stanford, CA: Stanford University Press, 2007), 182–204.

[23]Sarah A. Binder and Steven S. Smith, *Politics or Principle? Filibustering in the United States Senate* (Washington, DC: Brookings Institution Press, 1997); Gregory Koger, *Filibustering: A Political History of Obstruction in the House and Senate* (Chicago: University of Chicago Press, 2010); and Donald R. Matthews, *U.S. Senators and Their World* (Chapel Hill: University of North Carolina Press, 1960).

[24]Sarah A. Binder, "The Dynamics of Legislative Gridlock, 1947–1996," *American Political Science Review* 93 (September 1999): 519–533.

process. Committee chairs who were not on board with the party's policy agenda were replaced, while subcommittees gained the ability to hire their own staff members. The reforms set the stage for party leaders to assert a greater role in the policymaking process.[25] Having caucus votes on committee chairs increased the likelihood that chairs would be more supportive of the party's agenda, while greater leadership control over the agenda-setting institutions made it easier for leaders to push party priorities onto the floor.[26]

A second set of reforms was enacted after the Republican party gained control of both chambers following the 1994 elections. The Republican caucus made a number of rule changes prior to 1994 that strengthened the power of the party leadership.[27] Incoming Speaker Newt Gingrich used these new powers to assert himself in setting the agenda for the 104th Congress (1995–1996). Under Gingrich's leadership, the number of standing committees was reduced, committee staff was drastically cut, and term limits were enacted for committee chairs and party leadership positions. Gingrich himself played an outsized role in selecting committee chairs. Seniority was violated in the selection of four chairs, with the positions awarded to members known to be loyal to Gingrich. In the 24 Congresses prior to the 104th, seniority had been violated only six times in selecting new committee chairs. Universalistic criteria had given way to the judgment of party leaders for the selection of committee chairs. When seeking to enact the party's agenda presented in the "Contract with America," Gingrich proved uncompromising. Committees were given time limits for considering legislation, and the committee process was simply bypassed if committees proved unwilling to accede to the demands of the leadership.[28]

These changes in decision-making and staffing remain crucial features of Congress. The seniority system has largely collapsed as party loyalty and fundraising prowess have replaced seniority as primary factors driving committee assignment decisions.[29] With regard to staffing, Figure 1 demonstrates that the total count of employees in the both chambers declined

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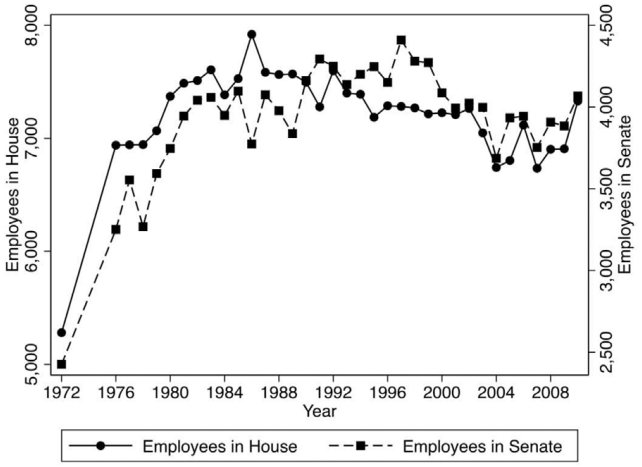
[25]David W. Rohde, *Parties and Leaders in the Postreform House* (Chicago: University of Chicago Press, 1991).
[26]Rohde, *Parties and Leaders in the Postreform House.*
[27]Barbara Sinclair, *Party Wars: Polarization and the Politics of National Policy Making* (Norman: University of Oklahoma Press, 2006).
[28]Sinclair, *Party Wars.*
[29]Damon Cann, *Sharing the Wealth: Member Contributions and the Exchange Theory of Party Influence in the U.S. House of Representatives* (New York: State University of New York Press, 2009); and Christopher Deering and Paul Wahlbeck, "U.S. House Committee Chair Selection: Republicans Play Musical Chairs in the 107th Congress," *American Politics Research* 34 (March 2006): 223–242.

FIGURE 1
Total Congressional Staff

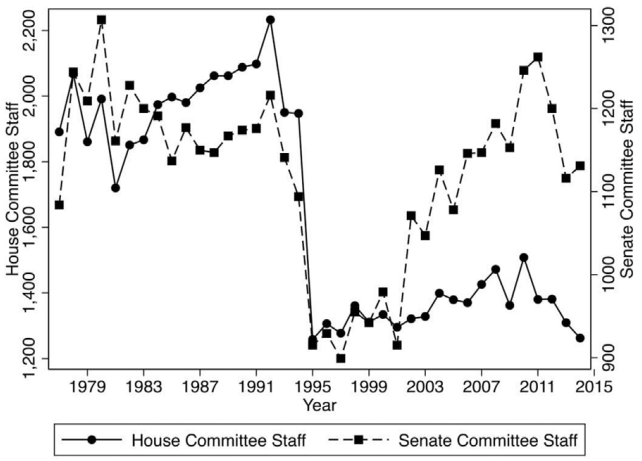


Source: "Vital Statistics on Congress—A Joint Effort from Brookings and the American Enterprise Institute," accessed at https://www.brookings.edu/research/vital-statistics-on-congressdata-on-the-u-s-congress-a-joint-effort-from-brookings-and-the-american-enterprise-institute/.

throughout the first decade of the 2000s before seeing a small increase in recent years.

One of the biggest changes in congressional staffing is the amount of staff allocated to committees. Between 1979 and 2014, the number of House committee staff has sharply decreased. As Figure 2 reveals, House committees employed more than 2,000 staff members in 1992, but that number plunged by more than one-third, to 1,258, in 1995. Senate committee staff levels also declined in the 1990s but have recovered in recent years.

FIGURE 2
Number of Committee Staff Members

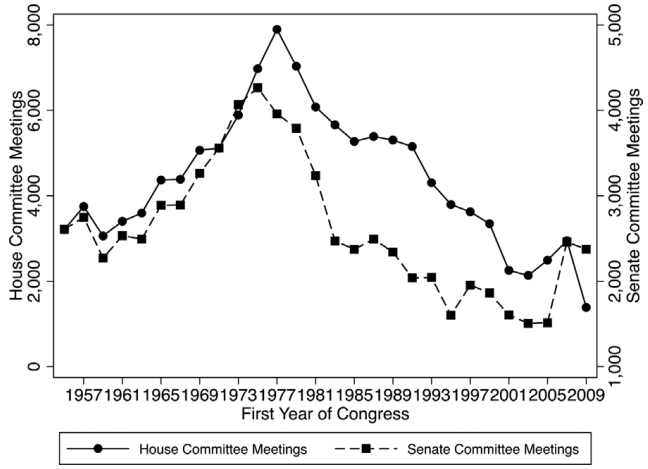


Source: "Vital Statistics on Congress—A Joint Effort from Brookings and the American Enterprise Institute."

These changes in staff allocations have coincided with a sharp reduction in committee activity. Figure 3 shows reductions in the number of House and Senate committee and subcommittee meetings in the aftermath of the staff reductions. From the 84th through the 111th Congress, House committees and subcommittees averaged 4,389 meetings per Congress. The number of meetings stayed below this average in all Congresses from the 103rd through the 111th Congress. Since peaking during the 95th Congress, committee and subcommittee meetings have declined by an average of 407 in each Congress relative to the previous Congress. The Senate, meanwhile, averaged 2,614 committee and subcommittee meetings from the 84th through the 111th Congress. The actual count of meetings stayed below this average in all Congresses from the 98th through the 111th Congress. Since peaking in the 94th Congress, the count of committee and subcommittee meetings held in the Senate has declined by an average of 111 in each Congress relative to the previous Congress.

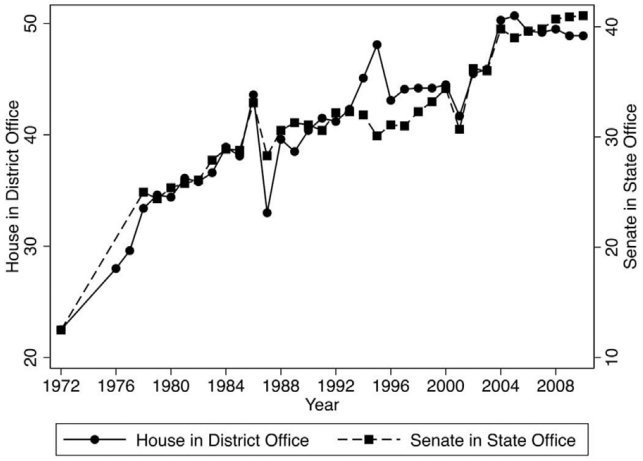
Members have also contributed to the reduction of staff based in Washington, DC, through increasingly concentrating their personal staff in their state/district offices, as displayed in Figure 4. Members of the House assigned an average of 29.92 percent of their staff members to district offices during the 1970s, compared with 37.46 percent during the 1980s, 43.42 percent during the 1990s, and 47.67 percent from 2000 through 2010. Similar trends occurred in the Senate, with members devoting 12.5 percent of their employees to state offices in 1972 and 41.0 percent of their employees to state offices in 2010. While it is certainly possible that staff in the district/state can be of assistance to members

FIGURE 3
House and Senate Committee Meetings



Source: "Vital Statistics on Congress—A Joint Effort from Brookings and the American Enterprise Institute."

FIGURE 4
Percentage of Member Staff Based in State or District



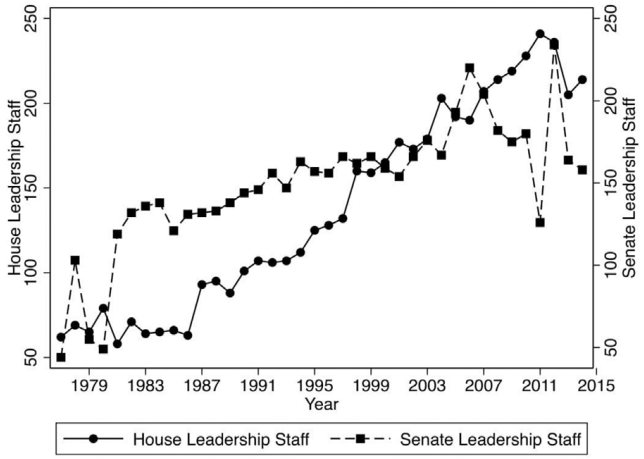
Source: "Vital Statistics on Congress—A Joint Effort from Brookings and the American Enterprise Institute."

when they are considering legislative action in Washington, it is more likely that these district-/state-based staff are working to facilitate the member's work in the district with less emphasis on work in Congress itself.

The one area in which we have observed an increase in staff numbers is at the party leadership level. As Figure 5 reveals, leadership staffing levels have grown exponentially over the past three decades. House leadership staff has quadrupled since the late 1970s, while Senate leadership staff has tripled in the same time period. Wolfensberger contends that the decline in committee staff has combined with a rise in the number of leadership staff to produce an "exodus of expertise" from Congress, making it increasingly difficult for Congress to legislate effectively.[30] He argues that the reduction in committee staff along with the term-limiting of committee and subcommittee chair persons have created an information vacuum on Capitol Hill. Wolfensberger reports regularly hearing complaints from lobbyists and others about congressional employees and members who lack sufficient expertise to legislate in their areas of jurisdiction. He points out that as decision-making authority has moved from the standing committees to the party leadership, committee members and their remaining staff have fewer incentives to develop and maintain legislative expertise. Further, Wolfensberger argues that the ever-growing leadership staff is ill

[30]Don Wolfensberger, "The New Congressional Staff: Politics at the Expense of Policy," Brookings Institution, 21 March 2014, accessed at https://www.brookings.edu/2014/03/21/the-new-congressional-staff-politics-at-the-expense-of-policy/, 30 May 2018.

FIGURE 5
Number of Leadership Staff Members



Source: "Vital Statistics on Congress—A Joint Effort from Brookings and the American Enterprise Institute."

equipped to fill the vacuum as they are overworked and their skills sets are often more related to messaging than policy expertise. He concludes that "this transition in personnel is not the singular cause of a breakdown in the legislative process, but it should come as no surprise that Congress now struggles to address America's policy problems in effective ways."[31]

Former member Spencer Bachus (R-AL) echoed Wolfensberger's critique when discussing his decision to retire. Bachus lamented the decline of committee staff, noting,

> The committees had the expertise and the knowledge. Those staffers that we have on Financial Services, they know more about financial services, the market, than the leadership staff. Now, that's not a slam on the leadership staff. They are a very good staff. But they are a jack of all trades. They're sort of like the general practitioner. You don't go to a general practitioner for brain surgery. When you start talking about credit default swaps, trust-preferred security, 90 percent of the Congress doesn't know what that means.[32]

Curry makes a similar argument in his work on the role of information in the legislative process.[33] His extensive interviews reveal rank-and-file members who regularly struggle to gain access to the kind of information

[31]Wolfensberger, "The New Congressional Staff."
[32]Susan B. Glasser, "Goodbye to All That," Politico, 16 January 2014, accessed at http://www.politico.com/magazine/story/2014/01/congressmen-bachus-gerlach-griffin-retiring-102296, 30 May 2018.
[33]James M. Curry, *Legislating in the Dark: Information and Power in the House of Representatives* (Chicago: University of Chicago Press, 2015).

they need to make key decisions about whether to support or oppose legislative measures. As power and information have become more concentrated inside the House leadership, members are often forced to rely on information provided by the party leadership. This presents a number of problems for members. First, Curry finds that many rank-and-file members do not trust the information provided by the leadership because they have learned that this information is often biased to make it more difficult for members to oppose the leadership position. Second, the leadership uses its procedural and scheduling powers to strategically limit the ability of rank-and-file members to read or analyze bills in detail. Curry does find that members seek out and then trust information coming from committee members or staffers.[34] In today's Congress, however, committees are not the foci of power and information that they were during the textbook Congress era because of the reduction in staffing and the now routine process of bypassing committees in the legislative process.[35]

We note that these trends that we label as "de-institutionalization" are hardly the sole cause of the problems facing Congress today. The increasing policy differences between the two parties and the intense battles for majority control of the two chambers undoubtedly serve to drive both the centralization of power in the party leadership and the inability of Congress to legislate.[36] However, we think the evidence suggests that Polsby was correct when he wrote,

> [I]t is at least possible that some moves to restore discretion to the Speaker, or to centralized party agencies outside Congress, would reduce the effectiveness of Congress far below the level anticipated, because the House would come to be less valued in and of itself, its division of labor would provide less of a power base for subject matter specialists, and the incentives to stay within the organization would sharply decline.[37]

CONSEQUENCES OF DE-INSTITUTIONALIZATION

It is clear that the mode of decision-making in Congress has changed from a largely decentralized committee-driven process to a centralized party-centered process. We also observe widespread agreement that recent congressional performance has been subpar, given that Congress has

[34]Curry, *Legislating in the Dark.*
[35]William Bendix, "Bypassing Congressional Committees: Parties, Panel Rosters, and Deliberative Processes," *Legislative Studies Quarterly* 41 (August 2016): 687–714.
[36]Frances Lee, *Beyond Ideology: Politics, Principles, and Partisanship in the U.S. Senate* (Chicago: University of Chicago Press, 2009).
[37]Polsby, "The Institutionalization of the U.S. House of Representatives," 166.

staggered from one self-created governing "crisis" to another. The key question is whether this lackluster performance represents a temporary blip due to a devastating economic collapse and major policy differences between the two parties or whether the recent congressional performance is more indicative of an institution that is suffering from a chronic reduction in effectiveness due at least in part to the de-institutionalization process that Polsby predicted and we describe. Next, we evaluate recent works on this question and present evidence that we think points toward chronic, systemic problems in the institution.

Perhaps the most optimistic scholarly response to the recent lack of activity in Congress is advanced by David Mayhew. Mayhew's 2011 book *Partisan Balance* presents an accounting of several decades of lawmaking the United States.[38] He sees no chronic problems in the system and concludes that policymaking in the United States largely tracks the preferences of the median voter. Although he notes that recent changes in the use of the Senate filibuster may warrant reform, Mayhew is optimistic that such reform will occur if the changed practices appear to benefit one party at the expense of the other for an extended period of time.

Mann and Ornstein take comfort in Mayhew's analysis of the past, but they are quite pessimistic overall, arguing that something has fundamentally changed and that the recent period in congressional politics does not in any way resemble how Mayhew describes long-run trends.[39] To Mann and Ornstein, the 2011 debt limit "crisis" exemplifies the problems they perceive with the system. Debt ceiling votes have never been easy for members, and both parties have attempted to use such votes for political gain, but Mann and Ornstein argue that the 2011 ordeal was different from past debt ceiling votes in the sense that some congressional Republicans were willing to purposefully undermine the U.S. economy for partisan political gain. We agree that the debt ceiling debate was fundamentally different from past debates, but, as Mayhew would predict, the public backlash against congressional Republicans after the episode seems to have tempered their willingness to pursue such a strategy in the future. As an aide to former House Majority Leader Eric Cantor (R-VA) told us, "this was our 'touch the stove moment' for many members."[40] By learning that the debt ceiling stove was hot, this leadership aide hoped, certain members would be less willing to touch it in the future.

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[38]Mayhew, *Partisan Balance.*
[39]Mann and Ornstein, *It's Even Worse Than It Looks.*
[40]Personal interview.

Binder takes a middle ground in this debate.[41] She finds that levels of gridlock in the past several Congresses are not fundamentally different from what she found in her earlier work.[42] However, recent events do temper her optimism. As the use of obstructive tactics in the Senate has significantly changed in ways that induce more gridlock,[43] Congress has struggled to complete its basic tasks on time or at all, and the quality of the "solutions" that Congress devises to solve problems has declined.

Although there is no way to answer this question definitively in the present, we offer evidence that we think points toward a more pessimistic view of the short- and medium-term future of the institution.

Legislating

Scholars lack a perfect way to measure the health of a complex institution like the U.S. Congress, leading us to rely on a variety of imperfect measures and inspect these measures for the presence or absence of trends. First we consider the main output of legislatures: laws. Figure 6 shows a marked decrease in the number of laws passed by Congress. Of course, this is far from a perfect measure. Simply counting laws does not account for the differing import of laws, nor does this method account for the fact many members actually prefer a less activist federal government. For these members, a small number of laws passed would be considered a sign of success. As former Speaker John Boehner once remarked, "We should not be judged on how many new laws we create. We should be judged on how many laws we repeal."[44] By either standard, though, recent Congresses have performed poorly.

A different measure that tells a similar story is the number of appropriations bills that Congress passes on time each year. The Budget Act spells out a process by which Congress should pass 12 appropriations bills by the start of each fiscal year. To be sure, Congress has always had an uneven track record when it comes to passing these bills. Democrats and Republicans have fundamental differences over how much the government should spend and how the spending should be distributed. These differences make it difficult for agreement to occur. The government shutdowns

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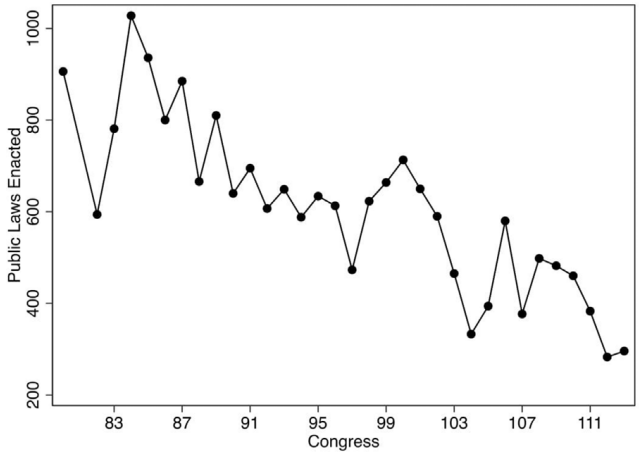
[41]Binder, "The Dysfunctional Congress."
[42]Sarah A. Binder, *Stalemate: Causes and Consequences of Legislative Gridlock* (Washington, DC: Brookings Institution Press, 2003).
[43]Steven S. Smith, *The Senate Syndrome: The Evolution of Parliamentary Warfare in the Modern U.S. Senate* (Norman: University of Oklahoma Press, 2014).
[44]Elise Viebeck, "Speaker Boehner: Judge Lawmakers by 'How Many Laws We Repeal,'" The Hill, 21 July 2013, accessed at http://thehill.com/blogs/blog-briefing-room/news/312441-boehner-judge-us-by-how-many-laws-we-repeal, 30 May 2018.

FIGURE 6
Public Laws Enacted



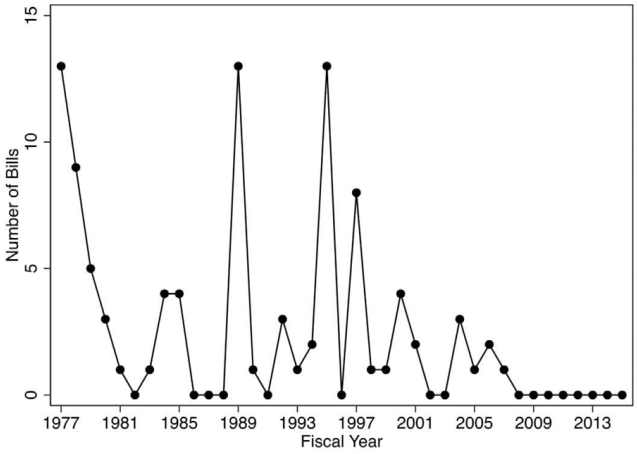
Source: "Vital Statistics on Congress—A Joint Effort from Brookings and the American Enterprise Institute."

during the 104th Congress (1995–1996) were a product of these disagreements. However, in recent years, the record of enacting appropriations is an abject failure. As Figure 7 reveals, Congress has not passed a single appropriations bill on time since 2007. Instead, Congress has increasingly relied on omnibus appropriations bills and continuing resolutions to fund the government.[45] These bills tend to be large, assembled at the last minute, and not heavily scrutinized by members of the appropriations committees or rank-and-file members.[46]

As Binder notes, her measure of congressional gridlock has also increased in recent years.[47] Figure 8 reveals that the proportion of issues on the national agenda that Congress is able to address in a given two-year period has decreased markedly. Some of this increase in gridlock can be attributed to a larger policy agenda as a result of the litany of foreign policy and economic crises that the government has faced in the past decade or so. Another portion of the growth in gridlock results from issues "piling up" because of inaction or incomplete action by Congress. Binder also admits that the true portrait may be even worse than what is seen in the data as some of the resolutions that she credits Congress for may not have counted as resolutions in previous eras.[48] In sum, all three of these measures point

[45]Peter Hanson, *Too Weak to Govern: Majority Party Power and Appropriations in the U.S. Senate* (New York: Cambridge University Press, 2014).
[46]Curry, *Legislating in the Dark;* Hanson, *Too Weak To Govern.*
[47]Binder, "The Dysfunctional Congress."
[48]Binder, "The Dysfunctional Congress."

FIGURE 7
Appropriations Bills Passed on Time



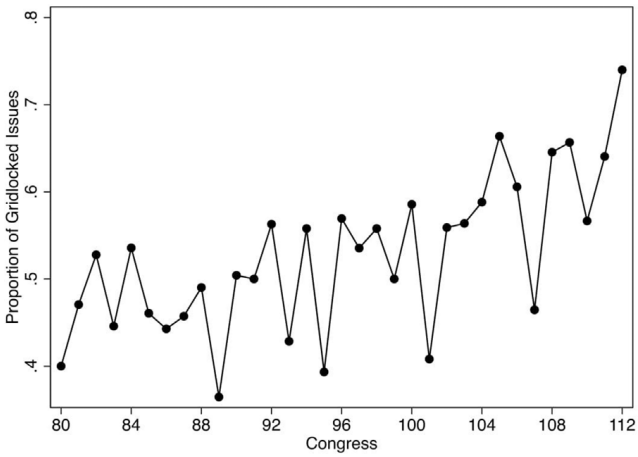
Source: "Vital Statistics on Congress—A Joint Effort from Brookings and the American Enterprise Institute."

to decline in the ability of Congress to do its job—even if we grade the institution on a curve.

Quality of Life

Polsby argued that one of the benefits of institutionalization is that members will be engaged in the lawmaking process and thus will wish to stay in the institution. He presented data that showed a large decrease in the amount of turnover in the House. As we noted earlier, one of his concerns was that a more centralized decision-making process would make

FIGURE 8
Gridlocked Issues as Proportion of Issues on Agenda



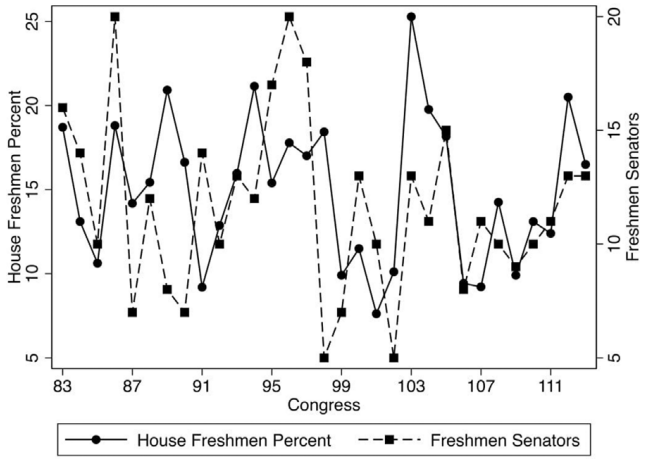
Source: Sarah Binder, "The Dysfunctional Congress," *Annual Review of Political Science* 18 (2015): 85–101.

Congress a less desirable profession for rank-and-file members. If Congress were to become a less desirable career option, we could see increased turnover as members opt to serve fewer terms. This could be particularly harmful to legislative capacity if the turnover were concentrated among the set of members who place a particularly high priority on crafting legislation and leveraging policy expertise. Swapping out legislative "workhorses" for "show horses" could erode legislative capacity. The average number of terms served by members exhibits no meaningful trend in recent years, and as Figure 9 reveals the level of first-term members in Congress is not nearing a maximum, though we do note that the recent trend is upward.

Moreover, in contrast to the trends described by Polsby, and in spite of their increased power, no Speaker in the postreform era has died while in office, and all former Speakers who served following the reform era continued their political and professional pursuits after leaving the House. For instance, Tip O'Neill starred in commercials for Miller Lite and Quality Hotels, Jim Wright became a professor at Texas Christian University, Tom Foley served as ambassador to Japan, and Newt Gingrich was a prolific author and television personality (and, of course, sought the Republican nomination for the presidency in 2012).

In addition, some of the statements made by retiring members in recent years do make us question whether people who prioritize legislating are experiencing a high quality of life in the Congress. In the past few decades, members have typically retired from Congress because they feared losing, which was typically described as "wanting to spend more time with family"; they wished to pursue higher office; or they

FIGURE 9
Freshman Members of Congress



Source: "Vital Statistics on Congress—A Joint Effort from Brookings and the American Enterprise Institute."

were too old or infirm to continue serving. In the past few years, however, we have seen members citing the institution itself as a reason for retirement. For example, although John Dingell (D-MI) was 87 years old when he announced his retirement, he noted that "I find serving in the House to be obnoxious. It's become very hard because of the acrimony and bitterness."[49] Though he did not address the temporal nature of his frustrations, we find it hard to believe that Dingell had always felt this way given that he served in the chamber for more than five decades.

Former Maine senator Olympia Snowe directly cited congressional dysfunction and party polarization in the *Washington Post* article she wrote to announce her retirement:

> The greatest deliberative body in history is not living up to its billing. The Senate of today routinely jettisons regular order, as evidenced by the body's failure to pass a budget for more than 1,000 days; serially legislates by political brinkmanship, as demonstrated by the debt-ceiling debacle of August that should have been addressed the previous January; and habitually eschews full debate and an open amendment process in favor of competing, up-or-down, take-it-or-leave-it proposals.[50]

Similar sentiments were expressed by Representative Janice Hahn (D-CA) in announcing that she would seek election to the Los Angeles County Board of Supervisors rather than seek almost certain reelection to the U.S. House:

> The problem is, Washington is broken, it's increasingly mired in political gridlock, and there's virtually zero cooperation between the two parties. That's not the kind of government I grew up with, and it's precisely why I know I can do more for the Los Angeles region on the Board of Supervisors.[51]

The 113th Congress seems to have been particularly tough on members. In a wide-ranging interview with Politico, several retiring members of the House pointed directly to congressional dysfunction as one of the reasons for their retirement. For example, Representative Jim Gerlach (R-PA) explained,

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[49]Ben Jacobs, "A Century of Dingell?," The Daily Beast, 25 February 2014, accessed at http://www.thedailybeast.com/articles/2014/02/25/a-century-of-dingell.html, 30 May 2018.
[50]Olympia J. Snowe, "Why I'm Leaving the Senate," *Washington Post,* 1 March 2012, accessed at https://www.washingtonpost.com/opinions/olympia-snowe-why-im-leaving-the-senate/2012/03/01/gIQApGYZlR_story.html?utm_term=.0ac0b54d064f, 30 May 2018.
[51]Cheney and Lerner, "Hahn Retiring."

> Not getting things done: that's one of the factors that I thought about in terms of announcing my retirement. And I juxtaposed that against looking ahead the next couple of years, running for another term, hopefully being successful in the election. But do things really change legislatively for another couple of years after that? And then juxtapose that against the lifestyle—being down here so many nights a week without your wife and family. And do you want to continue living that kind of existence if you're not seeing big things move through the process and to enactment? So that was the two factors that entered into my decision: the lifestyle, which is a tough lifestyle for most members, and, at least for me, thinking ahead that things aren't going to change much in the next couple of years. Do I want to continue with that kind of situation?[52]

Obviously, for Gerlach the answer was no, and he was not alone. In lamenting the decline of the committee system, Representative Tim Griffin (R-AR) remarked,

> The committee process, by definition, is deliberative; it takes time, it's thoughtful. And that makes for a better product, generally — to be able to test different things. . . . if you look at why we are unable to take that time and that deliberation, it's because we have lurched from disagreement/crisis to disagreement/crisis to the next one and the next one. . . . you could spend all this time deliberating, but at the end of the day, if the government's gonna shut down, you just want a couple of people to get in a room and figure it out. And, the problem is, you are less likely to get that 218 if you're not going through regular order, because people have not been able to participate and have input the way they would if you had regular order. And they're not able to engage in a conversation so that people fully understand what it is the legislation is going to do. And so, you have an increased need for party unity to get that deal done, but you have a diminished ability to get unity because no one was involved in the process.[53]

These quotes hardly prove the case that Congress is broken or that it needs major structural reforms, but the cited remarks do suggest that at least for some members, the changes in Congress that we described earlier are making positions as members of Congress less desirable than in earlier eras. To be sure, we still see more than 90 percent of members seeking reelection when their terms end, which suggests that most members still find the job desirable. What that number does not tell us, and what requires further investigation, is whether the distribution of members retiring versus those seeking reelection is balanced

[52]Glasser, "Goodbye to All That."
[53]Glasser, "Goodbye to All That."

among those who prioritize legislating versus those who prioritize other objectives.

DISCUSSION

By any available measure, the U.S. Congress is not currently functioning at a high level. The number of laws being passed is near an all-time low, while the number of major issues that the institution is gridlocked on stands at an all-time high. Basic functions of government such as passing a budget are not completed in a timely manner, frequently leading to threats of, or actual, government shutdowns. The institution struggles to pass the legislation needed to borrow the money that it has voted to spend. Resources and activities that could promote policy expertise have eroded, some members retire to run for local office or pen editorials in major newspapers upon their retirement to criticize the institution, and public approval and trust in Congress are at historic depths.

These facts are not in dispute, but they do raise important questions. For instance, what has caused this state of affairs? Are the problems temporary? Are reforms needed? Will we look back on this era as a temporary spell of poor performance? We do not claim to have definitive answers to any of these questions. The goal of this analysis was to look beyond the partisan fights that characterize voting and debate in Congress today to see whether the institution has changed in fundamental ways.

In doing so, we compared aspects of the modern Congress to the "institutionalized" House chamber described by Polsby in the mid-1960s and found numerous changes. None of these changes appear to be positive. Members leave for ostensibly lower office while expressing their unhappiness with the institution. Leaders leave the institution voluntarily as power has shifted from committees and their chairs to parties and their staff members. Fundraising prowess and party loyalty have replaced expertise and experience as primary determinants of internal advancement in the institution. Professional staffers are less plentiful, and those who remain are focused on local needs more than legislative needs. Almost all of these changes can be linked either directly or indirectly to reforms that were, ironically, designed to enhance the ability of the majority parties in Congress to govern effectively.

By most accounts, the reforms did enhance the power of parties. At least in the House, party control over the agenda is absolute. Party discipline in congressional voting has reached new highs, and party leaders have been able to supplant seniority as determinants of key institutional positions. This more centralized system seemed to work well for many years. Looking back to the 1980s and 1990s, we see a

mostly divided government managing to function at a high level most of the time. There were exceptions to this, such as two government shutdowns during the 104th Congress and the spectacle of the impeachment of President Bill Clinton, but these same Congresses managed to produce major policy reforms while generating a budget surplus. Leaders were able to negotiate compromises and deliver votes for these compromises on the floor. While all this was happening, however, Congress was changing in fundamental ways. Expertise was eroding and the role of rank-and-file members in the legislative process was declining. Rank-and-file members are now less invested in policy outcomes, and in recent Congresses, they have shown a reduced willingness to follow their leaders. It is difficult, if not impossible, to draw a direct causal link between these changes and the dysfunction we currently see in the institution, but the relationship exists, and it is not difficult to see how the structural changes could be leading to dysfunction.

As students of Congress, we hope that Mayhew's self-correction prediction comes to pass. Still, we are pessimistic. Institutional arrangements are not easily altered. Expertise and experience take time to develop even for policy-motivated individuals. Incentives for members to specialize have declined, leading many policy-motivated individuals to leave the Congress or decide against seeking a position in the first place, while those in office are pressured to spend more and more time raising funds for themselves and their copartisans. This does look like an institution that is in the process of self-correcting. If anything, we would argue that these problems are being intensified through the process of de-institutionalization and the resulting organizational arrangements in Congress.[*]

[*]A previous version of this manuscript was presented at the 2015 Annual Meeting of the Midwest Political Science Association. We thank Jamie Carson, Gerald Gamm, David Rohde, Sarah Treul, Don Wolfensberger, and seminar participants at the University of North Carolina for helpful comments.