

THE HERITAGE LECTURES

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**Why
Congress
Doesn't Work**

*By Representative
Christopher Cox*



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Why Congress Doesn't Work

By Representative Christopher Cox

It is certainly a privilege to be addressing people here at Heritage as a member of Congress; in fact, it is a privilege to be addressing anybody as a member of Congress. We don't get a warm welcome in too many places these days. And that is because, frankly, the reputation of Congress as an institution has suffered greatly in recent years. Congress has always been the butt of jokes. Mark Twain said that America has no native criminal class, except for Congress. So the twentieth century isn't distinguished from the nineteenth in that respect. But what we do know is that since we began measuring public opinion in America, Congress has never fared more poorly than at this moment in 1992. It is at an all-time low in the esteem of the American people, so much so that a total of 1 percent, far below the sample in a recent poll published in the *Wall Street Journal*, said that they trusted Congress to do the right thing most of the time. That is very sad.

Why is it that Congress has slipped so much in the estimation of the American people? I think it is because Congress has failed in its signal responsibility to the taxpayers to control the purse strings in our constitutional system. If it is not in the act of declaring war, the greatest responsibility of the Congress, as the appropriating branch of the government, is to control the purse strings. We can measure whether Congress is doing a good job or not in that respect. In the current year, it is estimated that we will have a \$400 billion shortfall—adding to the national debt of around \$4 trillion. That stunningly large amount is more than the entire budget of the United States of just a few years ago, and the interest carried on that large amount is now so great that it has become the number one entitlement program in government spending. Last year, a year when America was at war, interest on the national debt surpassed even the defense budget as the number one category of spending.

Congress's inability to get spending under control is very directly related to the way Congress runs itself. The scandals that we have witnessed with the House Bank and the House Post Office revolve around money—mishandling of money and abuse of the privilege that comes with being a fiduciary with control over other people's money. The President has gotten some mileage out of saying that Congress can't even manage a tiny bank. That is funny, but it is true. Congress, likewise, has shown an inability to manage an over one-and-a-half trillion dollar budget of the United States government.

Staff Explosion. A long time ago, thirty years ago, Congress didn't have nearly the staff that it has now. I have spoken with some of my predecessors in office who have reminded me of the days that they started out serving when they had just a few staffers to help answer the mail. It wouldn't occur to them to finance all of the mail. And of course, on the other side of the Atlantic, in Parliament they use pre-printed post cards that say, "Receipt of your correspondence is acknowledged." They don't try to answer every single letter that regularly comes from a half million people. That correspondence consumes an enormous amount of time, and that is to what our personal staff now devotes its attention—answering mail and handling casework for our constituents. That is a new function; and frankly, as an individual member of Congress, I cannot ignore

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that function. I would do so at my peril, because all of my colleagues, both Republican and Democrat, are performing those services, and constituents have come to expect them.

The personal staff is the tip of the iceberg. It is the same for every member, Republican and Democrat. We don't have more staff in John Dingell's personal office than in Chris Cox's. But there is something else called committee staff. That is where we begin to find that the bodies are buried. Committee staff is under the exclusive control of Committee Chairs. Committee Chairs are able to stack those committees, sometimes greater than ten to one in favor of their party. I serve as the Ranking Republican on Government Activities and Transportation. As the Ranking Republican, I get one staff member; the Democrat Chair, Barbara Boxer, gets five. That is the staff ratio on that Committee. I am sure that if it were a larger committee it would be even worse. We have some examples of fifteen to one. So, committee staff is the first area that we could look to cut. Our Republican leader, Bob Michel, has said that when he becomes Speaker, as one of his first acts he will cut staff by about 50 percent on day one.

Shadow Executive Branch. Beyond committee staff, there has been erected a shadow executive branch under the direct control of the Congress—entire departments and agencies, which mimic what the executive branch is doing. These departments and agencies share one distinction, however. They are not under our separation of powers system within the purview of presidential control. They answer to legislators. As a matter of first principle, legislators are supposed to pass laws; they are not supposed to be so jealous of the powers of another branch of government that they erect Cabinet departments, if you will, put administrators in charge of them and have them execute the law or investigate. Some even have a criminal division, as the General Accounting Office does, pretending to be the criminal division of the Department of Justice. Likewise, they should not, as legislators, try to mimic what the courts do—sit as judge and jury and decide people's fates and their reputations and even impose penalties. But the legislature, the Congress has so jealously looked after its own prerogatives, that it has expanded into the other two fields.

Jefferson said our system of checks and balances will not work unless each of the branches jealousy guards its own powers. I submit that the Congress has done a stellar job, that the judiciary has performed second best, and that in recent years the executive has fared least well of all. That poses very serious problems for our government. I mentioned the General Accounting Office, which is one of the Cabinet departments erected by the Congress. It has over 5,000 employees, compared to the Office of Management and Budget, which has 600; or compared even to the Organisation for Economic Cooperation and Development (OECD), the international organization of economics and planning for 27 of the world's industrial countries, which has a staff of 1,800. GAO is so large that the amount we spend on it, roughly a half billion dollars a year, exceeds by over one hundred million dollars all costs of the management and financial audits of Price Waterhouse. So if we were to displace all of Price Waterhouse's commercial clients across America, and instead have one client—the government—and ask them to do independent audits and reports and so on, as we ask GAO, we could operate for a lot less and have impartiality. We have the Office of Technology Assessment. We have the Congressional Research Service. We have the Congressional Budget Office. All of these things are set up to rival what the executive branch is doing, so that the legislature cannot only pass the laws, but also execute them, interpret them, enforce them, and punish offenders.

Congress is not able, of course, to do this with 535 men and women. Congress has to have staff for this purpose. And so the staff explosion in Congress parallels precisely the abuse of power and the dissipation of responsibility in Congress. How bad is it? It is so bad, that as an individual member of Congress, seeking to do nothing more than legislate, I have often been prohibited from reading the bills on which I am asked to vote, because that is the prerogative of the staff, and a member hasn't any business doing this. I am not making this up; this is true.

Voting Without Reading. When I first came to Congress in early 1989 my very first experience with this was the Savings and Loan (S&L) bailout bill—then a \$150 billion 776-page monstrosity. It was carried into the chamber at the very last minute. Not a single member of the House or Senate had read it. It was voted upon and then not even printed until three days afterwards. Let me read you what one of my colleagues, who was from the very first days involved in trying to root out the S&L scandal, said about this process. Congressman Stan Parris—many of you may remember him—then served on the House Banking Committee. In my view, he took a back seat to no one when it came to knowledge of the S&L crisis. He was the member of Congress who originally sought the General Accounting Office investigation that gave us the first look at the real extent of the S&L crisis. Hours before the final vote on the bill, he expressed grave concerns about the process by which this all was happening. “No living person,” he said, “knows just what is in this bill. I don’t know what it is in it. The Secretary of the Treasury doesn’t know what is in it. The conferees don’t know what is in it. But I can tell you that from what I’ve seen, there are a great many awful provisions in this legislation and they will come back to haunt us.” I think now in 1992, from our vantage point, we can say that Stan Parris in that prediction was exactly correct. These are the consequences of so much staff that the members of Congress are not even participating in or reading the legislation that they are voting upon.

That wasn’t the first and last time; it was an early instance for me in Congress. But later on in 1989 we had something called the Reconciliation Bill to wrap up the whole government, just one day before Thanksgiving in the wee hours of the morning. This bill ran to over 1,000 pages, covered over \$1 trillion in spending for the United States government for the ensuing year. It was carted into the House chamber in a large, oversized, corrugated box. Over a thousand pages typewritten and run off on many different printers, tied with twine, not collated, because it had come from too many different offices, the pages not consecutively numbered, and no index. There was no other copy for any member to look at or read, other than what was in this box. Now I will allow, while I was not able to read it, I was permitted to walk down into the well and gaze upon it from several angles, and even to touch it. When we voted on that bill, at about four o’clock in the morning, not a single member of the House had read it; not a single member of the Senate had read it. It was subsequently printed in the *Congressional Record*.

Of course, you know the rules of the House require that a bill be printed three days before it can be voted upon. That is just one of the rules that are routinely waived by our Rules Committee when these shenanigans go on. And we needn’t worry that a member of Congress who wants to read a bill that he is voting on doesn’t have that opportunity, because the staffer is looking after it.

Tale of the Highway Bill. My most recent experience with this was on the Public Works and Transportation Committee, perhaps the most bi-partisan committee in the entire Congress. This is an illustration of how institutional the problem is. It isn’t just Democrats who are responsible for this, it is the institution of Congress that now runs this way.

I served on the Public Works and Transportation Committee for four years, principally because in Southern California transportation is such an enormous concern for my constituents. We are in gridlock out there. We need to have some action. I thought the Public Works and Transportation Committee would be the perfect place to have action, and I wanted to be part of it.

So that is where I served, and my four years of waiting paid off, because this past year was the year that we were going totally to redesign the federal highway finance system, the now-completed interstate highway system which had been the centerpiece of federal highway policy since the Eisenhower Administration. Now we were going to figure out what to do with all of that gas tax money, and what to do with transportation in America.

You can imagine then that I was rather upset that what turned out to be a six-year re-authorization bill, a total new blueprint for the future for federal highway planning, was not even given a markup in my Surface Transportation Subcommittee. I signed a letter circulated by my Democrat colleague, Tim Valentine, addressed to the subcommittee chairman, complaining that the entire process was being bypassed and that we would not have an opportunity to have the normal markup of such a significant bill in our Surface Transportation Subcommittee, the committee that has jurisdiction. Instead, the bill went to the full committee directly.

And all during the process of drafting the bill, members of Congress were frozen out. If it were not for some lobbyist friends who shared some information with me, I would not have had a clue what was in this bill before it came to us in full committee. That day was the very first day I got a chance to look at the bill. It was plunked down in front of me, about yea-high, and we voted on it the same day, during the same hearing, within the same hour. And as if that weren't enough, the bill then went to Conference, and it was changed substantially; but there was very little information that came out of the Conference. And so it was not possible for us to find out from the conferees what was happening. Then finally, it came to the floor and let me give you—because I kept a little diary—the last hours of this transportation bill, which some of you may remember was about \$151 billion last fall.

Tuesday, November 26, 2:00 p.m.: Public Works and Transportation Committee meets to announce an agreement has been reached to resolve House and Senate versions of the bill. A two-page hand-out is distributed, but the new bill itself is not available to Committee members. There are no details on funding for the demonstration projects, which were probably the most expensive, pork barrel centerpiece of the bill.

10:00 p.m.: U.S. Department of Transportation officials, with whom I was trying to work to see if they had any information on this, state that they have “no idea about funding levels for demonstration projects.”

11:30 p.m.: Public Works Committee reports that the bill is not available and is still being worked on. According to staff, the plan is to go before the Rules Committee at 2:00 a.m., although the bill might not be completed at that time.

Wednesday, November 27, 2:00 a.m.: Rules Committee meets to discuss transportation bill. The bill itself, however, is not available during consideration.

4:00 a.m.: Debate begins on the House floor, under waiver of all the rules. The bill is still not available.

So picture this. My colleagues, at 4:00 in the morning, are out there debating this bill, but there is no bill.

4:55 a.m.: Final bill, over 1,000 typewritten pages, arrives in the House chamber in the midst of debate. No copies are available for members of Congress.

6:00 a.m.: Without a single member having read it, the House votes 372 to 47 in favor of the bill.

Of course, the debate on the bill was devoid of content. The proponents went to the floor and spoke in broad generalizations about a blueprint for the next century. And the opponents of the bill have nothing to say, because of course, they had not read it. That is, unfortunately, what Congress has become as a result of too much staff.

By the way, anybody here know how much it costs to run the Congress for 535 men and women? Any guesses? I asked this question yesterday of a group of visiting high school students from my area in Southern California, and the first kid said, "\$10 million." And I said, "No." Somebody else said, "\$100 million." "No." Somebody else said, "\$700 million." "No." And one of them said, "But there are only 535 people." And I said, "Guess again." So somebody guessed a billion. The answer, of course, is \$2.3 billion. We just passed this legislative appropriations bill in the Congress yesterday. It is \$2.3 billion, which compares, by the way, to less than \$200 million for the Presidency.

Not only will it save money to cut down on staff, but it will give us, more importantly, better legislation, better policy, more information to relay to the American people upon which democracy depends, and more responsibilities for individual members. Think of how the process that I have just described feeds back into the democratic process and the electoral process. When I go home, if I have to defend my vote for or against a bill that is over a 1,000 pages long and contains everything but the kitchen sink, I would have to be a pretty poor specimen not to be able to defend a vote either way. Because surely in over 1,000 pages, I can find something you cannot do without, and something else that you can. And that is how members of Congress have been able to go out and sell soap to the American people in such a way that they all get returned to office regardless of how much Congress has achieved. Reformed congressional staff is absolutely essential for good government.

Veto Strategy. Yesterday's vote in the House of Representatives, passing the \$2.3 billion Legislative Appropriations Bill, had 143 votes against it. Veto strength, a solid one-third of the House, is 145. Among the votes for the bill yesterday were our Republican leader and our Republican Conference chairman. I haven't any doubt that if the President of the United States was to veto this bill and ask for his Republican leader in the House and his Republican Conference chairman to support him, they would do so. There were some thirty other Republicans who voted for that bill who I think would go along with the President as well. So there is easy veto strength. We already have 143 votes against the bill up on the board. And that is why I have been circulating a letter in recent days among my colleagues urging the President to do what no President in modern times has done: veto the Legislative Appropriations Bill to show Congress that this year, with a \$400 billion deficit, it will no longer be "business as usual."

Yesterday I had lunch at the White House with the Chief of Staff and the Counsel to the President, and I think that we are generating some support for this idea. We will see in the days ahead whether or not it is going to come to pass. But whether or not it happens at this time, whether or not this Congress seizes the reins of leadership, whether or not this President is going to go toe to toe with the Congress, the American people are ready. They have had it. Ross Perot did not materialize out of nowhere. Ross Perot has as his centerpiece issue one thing: get that federal deficit under control, stop this hemorrhaging interest, and deliver the American people from this bondage. Reform of the Congress itself is where that effort has to begin.

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