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As we have documented in earlier chapters, the problems that make this Congress sharply different from previous ones and clearly, in our view, a broken branch, are manifold. They include a loss of institutional identity, an abdication of institutional responsibility vis-à-vis the executive, the demise of regular order (in committee, on the floor, and in conference), and the consequent deterioration of the deliberative process—the signature comparative advantage of Congress as a legislative body.

Current members of Congress simply do not identify themselves strongly as members of the first branch of government. Whether they place their ideology or partisan identity first. Too many members of Congress now think little if at all about their primary role and responsibilities as members of the legislative branch. This is reflected in the Tuesday-Thursday schedule that prevents adequate time for sustained lawmaking and oversight; a tolerance of extraordinary measures, such as the nuclear option on judicial confirmation that undermine institutional health for short-term political gains; and an unwillingness to meet their constitutional responsibility to police the conduct of members of Congress with a strong and independent ethics process.

The arrival of unified Republican government in 2002 transformed the aggressive and active GOP-led Congress of the Clinton years into a deferential and supine body, one extremely reluctant to demand information, scrub presidential proposals, or oversee the executive. The uncompromising assertion of executive authority by President Bush and Vice President Cheney was met with a whimper, not principled fight, by the Republican Congress.

It is ironic that the methods used by the passive legislative branch to achieve the presidential goals were themselves super-aggressive, abrasive, and over-the-line. Regular order in a legislature—produced by an elaborate set of rules, precedents, and norms governing the conduct of business in committee, on the floor, and in conference—is designed to facilitate orderly and deliberate poli-

*Congress +  
Deliberation*

CONCLUSION

making, ensure fairness, and maintain the legitimacy of Congress and the constitutional system. Majorities are always tempted to dispense with regular order to advance their immediate policy and political objectives. Democrats were not reluctant to do so during their long rein in power, especially in the latter years. But Republicans have far exceeded Democratic abuses of power. Committees have been marginalized in myriad ways, from central party direction to ad hoc groups to omnibus bills. Floor debate and decision making is tightly controlled with restrictive rules and extended time for roll-call votes. Conferences to reconcile differences between the House and Senate are now the setting for breathtaking abuses: minority party members excluded from negotiations, entirely new provisions added in the stealth of night, and routine waivers of time for members to learn what is contained in the reports they must vote on.

These practices have produced a measurable decline in the quantity and quality of deliberation. The essence of lawmaking in Congress is deliberation. The dictionary defines deliberate as: 1. To think carefully and often slowly, as about a choice to be made. 2. To consult with another or others in a process of reaching a decision. 3. To consider (a matter) carefully and often slowly, as by weighing alternatives. Congress was designed to be deliberative, through its checks and balances, its decentralized decision making in committees and subcommittees, its large membership, its emphasis on debate and give-and-take, and its openness to individuals and organized groups in the society, all of which allow it to take time, consider alternatives, consult widely, discuss, negotiate, and compromise. Yet it is hard to look at the contemporary Congress and see deliberation as a core value in these terms.

## Consequences

We believe these developments have serious consequences for policy and governance. The absence of institutional regard