Some Thoughts on Renewing Congress
Richard F. Fenno, Jr.
University of Rochester

These "thoughts" on renewing Congress begin with two assumptions. One is a commitment to representative democracy and to a strong, independent Congress as the institutional core of representative democracy in the United States. The other is a lack of commitment to any particular reform as a means of promoting congressional renewal in the 1990's. In combination, these premises help explain the vagueness and the discursiveness of these thoughts concerning the Brookings-AEI study.

Legitimacy

We all know that Congress is presently at or near its all-time low in public job evaluation and public confidence. We also know that, if they persist, negative attitudes such as these will undermine the legitimacy of the institution in the eyes of the citizenry. Public expectations of Congress will be lowered; public acceptance of legislative actions will weaken; public demand for executive leadership and action will grow; ambitious and talented individuals will leave Congress and/or seek public careers elsewhere. Signs of just such a downward spiral are now very much in evidence. We also know, however, that Congress is the nation's perennial public whipping boy, that its rankings are rarely very high, and that it suffers, periodically, from sizeable plunges—though at somewhat different rates—in approval and confidence.

C:\RENEWING CONGRESS-1
So the question arises: how seriously should we take the current low estate of the body? Are we confronting just one more temporary downswing in a time series that promises us a continuing flow of ups and downs? And can we take comfort in the notion that what goes down will eventually come up again? Or is there something more serious and severe than usual about the current state of play between the Congress and its public? As a guide to our thinking about congressional reform, our answer to the question will make a big difference.

This paper argues that we should take the current distemper very seriously. But for this distemper, Congress would not likely have agreed to take a comprehensive look at itself. Tom Mann recently commented (in a front page headline in the April 28th USA Today) "Congress is losing its legitimacy. It's sunk to a new low, and it's scary." I agree with that assessment. Congress does face a major problem of legitimacy. Indeed, its members seem now to possess so little confidence in their own legitimacy that they have lost the very will to protect themselves against incursions from without. One day after Mann's assessment, by vote of 284-131, a House majority surrendered all its members' records from the House "bank" to a special prosecutor appointed by the executive branch. The vote marked an historic low point in the Congress' defense of its institutional independence.

Even if one feels less strongly about the seriousness of the institution's current legitimacy problem, I would argue that it is the wisest assumption on which to base our plans, assessments and recommendations. It is the only assumption that will keep us from minimizing and trivializing the
scholarly exercise we set for ourselves.

Context

A comparative look at the context of reform in 1992 helps underline the seriousness of the situation. Congressional reform efforts typically surface in times of government-wide flux: the transition from wartime to peacetime (the 1946 Act), the legislative explosion of the mid-1960's (the 1965 Hearings), the Watergate period (the 1974 reforms). In none of those reformist periods, however, was the Congress as an institution under such a concentrated public attack as it now is. The Laffollette-Monroney bill of 1946 was very largely an inside job, part of the accepted view, in the executive branch as well as the legislative, that conversion from wartime required a modernizing of governmental machinery. In 1965, Congress basked in the heady pre-Viet Nam legislative outpourings of the Great Society. In 1974, Congress was widely hailed as the protector of the separation of powers against the imperial presidency. Today's climate of change contains no such supportive underpinnings.

To the contrary, the institution now faces the sharpest public attack in this century—from the proposal to limit the terms of its members. The proposal has gained in popularity and visibility because it gives an action-oriented focus to the varied streams of anti-Congress, anti-politician sentiment abroad in the land. Nothing like it cast so long a shadow across previous reform periods.

The ultimate appeal of the term limits proposal rests on the public opinion
that the performance of our "careerist" Congress is so bad and so irremediable that we need to turn all its members out of office and start over again. It is an attack on legislative experience, specialization and expertise and, as such, an attack on congressional independence. It is a constitutional-level approach to reform that is almost certain to weaken Congress within the separation of powers system. I say "almost" because we cannot know for sure what kind of legislators we would get or how they would behave until we tried the experiment. What we do know, however, is that the proponents of such a change are perfectly willing to put congressional power and congressional independence up for grabs. And that widespread willingness is enough to remind us of the seriousness of the current congressional battle for legitimacy.

Which raises a question for students of the Congress: as we contemplate the business of reform, should we acknowledge the presence of this threat and should we take it into account in our deliberations and/or our recommendations? The argument here is that the seriousness of the present institutional condition requires that we do take it into account. At the least, we can treat the term limits attack as a matter of context, lending urgency to the reform effort. At the most, we can make the subject a matter of our inquiry and recommendation.

Big Bite, Little Bite

If we choose the latter course, it will carry us inevitably into the matter of campaign finance reform, since an alternative approach to the problem addressed by term limits—the problem of unbeatable incumbents—is
increase legislative competition at the ballot box. And campaign finance reform has the potential for increasing such competition. All of which raises a further question for the scholarly community. With respect to our role in the larger reform effort, do we want to take a big bite out of the apple or do we want to take a little bite out of the apple? Do we want to tell Congress what we really think needs to be done, or do we want to tell Congress what we think is feasible under current circumstances? And, if we wish to recommend only that which seems feasible, whose judgment do we follow on such matters, ours or theirs?

To tackle the term limits–campaign finance question head-on would represent a "big bite" approach to our task. It would represent—since Congress seems unable to break the partisan gridlock on the question—a willingness to sidestep questions of feasibility. We would be (assuming we achieved some consensus) telling Congress what we think it needs to hear and urging a broad reform agenda upon them. A drawback to this "big bite" approach is, of course, that while it may satisfy our scholarly constituency, it may serve only to advertise—if not seal—our ineffectiveness at a point where we want to influential on other reform matters. The "little bite" approach, on the other hand, requires us to give up some scholarly autonomy in order to concentrate on the narrower agenda Congress has set for us. While we may wish to use the current situation to hold their feet to the fire, they may wish to use the situation to push for some minor—but-doable change.

This autonomy-effectiveness trade-off need not be seen as an either or proposition. We might think of the "big bite" alternative as an
opportunity to do some public eduation with respect to the larger problems, needs, strengths and weaknesses of the Congress. We could have our say and confront Congress with a larger agenda, while at the same time we could grapple with such reform matters as fall within their feasible set of alternatives. But, again, we need to weigh what we do against the seriousness of the situation in which Congress finds itself.

Media

To the extent that we exploit our opportunity to do some public education, one target audience should be the media. For if the most focussed recent attack on Congress has come from the drive for term limits, the broadest overall attack has come from the media. And this, too, is new—if only because media outlets are increasingly numerous and intrusive. Indeed, the most obvious difference between the external context of 1946, in which the first bipartisan, bicameral reform committee was created and the external context in which its 1992 counterpart has been created, is the increased importance of the media as a player.

Much of this increase, of course, has come about by express invitation of the Congress, as it has steadily opened up the various stages of the legislative process to media scrutiny. It has come about, too, at the behest of members who have seen media attention as a means to enhance their individual careers. It hasn't been an unmixed blessing. To some degree, the result has been that Congress, collectively and individually, gets what it deserves—applause, for instance, for the investigative hearings of the Senate's Watergate Committee in 1974 and brickbats for the gross
insensitivities of the Senate's Anita Hill-Clarence Thomas hearings in 1991. Some media coverage—both cheers and jeers—has been a matter of good reporting.

But to a larger degree, media coverage has exacerbated the institution's problem of legitimacy. As a matter of emphasis, media treatment has magnified private misbehavior and minimized public effort on the part of legislators; it has deplored strong partisanship while neglecting to explore divided government; it has dissected legislator-support group connections inside the beltway while ignoring the same legislator's support group connections out in the home constituency. As a general proposition, media coverage has left Congress "too little known, too much criticized."

As political scientists (and legislators) know, bashing Congress is like shooting fish in a barrel. It's the easiest game in town. As played by the media, it is rooted in the cynicism of an adversarial occupation, in the pandering which develops out of the competitive search for an audience, and in the ignorance which results from the small number of knowledgeable Capitol Hill reporters and the total absence of same at the local level. They will bring all these propensities with them to their coverage of any new reform effort.

A question arises: how active will they be? One answer to the question is: as active as the reformers want them to be. That is to say, they will be more attentive in the case of a "big bite" approach, and less so to "small bite" approach. If active, the media will set expectations at the beginning and render verdicts at the conclusion. In which case, reformers
ought to think about how to secure a fair and informed assessment. On the other hand, media attentiveness will be minimized by a "small bite" approach. In which case, the reform effort will get a quick back of the hand—nothing expected, nothing accomplished. "What could you expect, anyway, from a bunch of legislators when the heat is on except another committee and another big staff?" The point is that in a time of increased media influence, we need to think about the reception of our reform efforts in the world beyond Congress. Some positive short-term appreciation of our efforts would, of course, be welcomed.

Representation

Longer term appreciation, however, will rest on the ability and the capacity of the media to report and to comment on the enduring strengths as well as the contemporary weaknessess of the institution. And here is another place where some public education effort might be helpful. Among the strengths of Congress, the greatest is its representative character. Its' members are elected by and from a diversity of constituencies that provide some reflection of the national heterogeneity. Typically, the members stay in sufficiently close touch with enough of their constituents to know what their voters want, and to judge what their voters will stand for. A good deal of legislative activity involves the gradual working-out of commitments and positions, back and forth, between constituency and representative. These representational relationships are not perfect, but they make Congress—even at its worst—the most representative of our national institutions.
From this basic strength, Congress draws much of its legitimacy. Most constituents, we have said, love their own member of Congress; and most members are returned to Congress by their constituents. In good times and bad, this crucial electoral-representational relationship gives Congress its rock bottom legitimacy. But the two important facts about this relationship are: first, that it gives Congress its basic strength and second, that it is forged in the separate constituencies of the legislators and not in Washington. The greatest problem with media coverage of Congress is that it is focused too heavily on Washington where representation is enacted and too lightly on the rest of the country where representation is built and shaped. For whatever reason, local media do not cover these underlying local connections and national media people rarely venture beyond the beltway to have a look. Their patterns of coverage help to explain media concentration on congressional weaknesses rather than congressional strengths.

Occasionally, when great events intervene, media people are compelled to focus on the representational relationship. One occasion was the House Judiciary Committee's deliberations on the impeachment of President Nixon. Faced with a group of House members about whom they (not surprisingly) knew nothing, they dug into the careers and constituencies of the 50 members. Another case was the House and Senate vote on the use of force—a virtual declaration of war—in the Persian Gulf. Once again, reporters plumbed legislator relationships at home. In both cases, the connection between the legitimacy and the representational strength of Congress was made manifest. In both cases, the action of the legislature was widely accepted by the public—despite disagreement with the decision—because there had...
been a demonstrable degree of deliberation among people representing demonstrably diverse constituencies. In both cases, Congress was the legitimating institution—because it was the representative institution. Not surprisingly, they were among the finest moments of the contemporary Congress.

By the same token, some of Congress' poorer moments occur when members display—or appear to display—obvious flaws in their representational relationships. In such cases, the institution's legitimacy is weakened. The all-male Hill-Thomas hearings revealed in starkest fashion, for example, the imperfections of an institution in which the nation's women are not sufficiently represented by women.

The revelations concerning the House "bank" and member overdrafts cut a wide swath of public distrust, because they were perceived as indicating that House members had gotten out of touch with the ordinary concerns of the ordinary people they were supposed to represent. And so they had. Not, however, in the sense of personal rectitude so over-emphasized by the media, but in an institutional sense. For at least a quarter century, political scientists and historians have been chronicling the decline of patronage as the essential lubricant in political institutions. Yet the administrative offices of the House of Representatives were found to be a veritable warren of patronage, apparently untouched by what had been going on for so long in the political world beyond Capitol Hill.

How, we might ask, did the members of the House get trapped in such a time warp? If members have been returning to meet with their constituents more
and more, as Speaker Foley tells us, how come they got so far out of touch? Or was it only the leaders who were out of touch? There may be other instances, too, in which the behavior of legislators seems not to have kept up with the rest of the world. Personnel downsizing has become so common now in large private enterprises, for example, that it might be worth asking whether such a large legislative bureaucracy is really necessary. To the degree that there is a Capitol Hill culture which serves to isolate the institution from its public, that culture exists at some cost to the representational strength of the institution and, hence, to its legitimacy.

**Governing**

While representation may be the rock bottom source of congressional legitimacy, its other indispensable source is the capacity of the institution to govern. And for a large body of public opinion, the bottom line complaint about Congress is a complaint about governing: that it doesn't get anything done. A derivative complaint is that congressional inaction means that today's problems will be passed along, at even greater cost, to the next generation. Congress, it is said, doesn't do anything to prevent or to allay such major problems as the federal deficit, the S&L scandal, urban decay and the decline of competitiveness abroad. On these and more particular matters such as health, education, entitlements, welfare and crime, Congress is criticized—collectively for a paralysis and individually for an absence of political courage. There is a pent-up public demand for action, and for Perot-like political figures who promise, above all, action.
Remedial action will not, however, come on demand. It is not that easy. The roots of current congressional inabilities lie in a citizenry that is itself badly divided on policy, in an executive and a legislature divided by party, and in the built-in inefficiencies endemic to a representative democracy that moves either by big majorities or by consensus. That is to say, a good deal of public education yet needs to be done to explain that "compromise" and "accommodation" are not dirty words, but the very essence of "getting things done" in a representative democracy. Furthermore, it is our much maligned, career-oriented "politicians" who will have to do the job.

Nonetheless, to the degree that Congress does act decisively or is perceived as doing its best to get things done, it would go a very long way to strengthen its legitimacy. So the question arises: granted that some of the courses of government inaction lie beyond the ability of reformers to change, what can Congress do, on its own, to increase its ability to govern? And a related question is: do the reformers wish their governing-related changes to have any effect on public perceptions of the institution? And, if so, how do they expect such effects to come about?

As scholars, we might simply ask: what models of governing would we want to guide us in this inquiry? Without detailing the supportive arguments, one model might feature the following elements: 1. close electoral competition at the ballot box; 2. more or less regular alternation of the parties in controlling Congress; 3. a committee-centered, staff-supported division of labor inside each chamber; 4. strong party leadership inside...
each chamber.

The first two elements—with one exception—are not being fulfilled; and they are—unless reformers tackle the "big bite" campaign finance issue—not likely to be acted upon in a new reform effort. The one exception (to the second element) is the fact that the Senate did experience an alternation in power in the 1980's. This fact—along with the omnipresence of cloture and gerrymandering rules—has helped produce a much more muted, less desperate and altogether more responsible pattern of partisanship in the Senate than in the House. The difference stands as testimony to the beneficial aspects of occasional changes in party control.

One of the biggest obstacles to reform in the House is the total inability of House Democrats to understand what it is like to be in the minority, and the total inability of the House Republicans to understand what it is like to be in the majority. The prospect of alternation in power is a spur to partisan accommodation; and the absence of that prospect is an encouragement to partisan polarization. In the current House situation, the Republican minority searches for procedural equivalents to the alternation in power they cannot achieve at the ballot box; and the majority Democrats work hard to deny them such advantages. It is tempting to argue that there is not a lot wrong in the House that a little alternation in partisan control would not cure. But that problem lies beyond our reach, at the intersection of governing and representation.

The latter two elements of the model—the committee system and the party leadership—remain as the primary foci of a doable reform effort. As a
purely descriptive matter, political scientists have studied and written voluminously about the ever-changing committee-party relationship, and the various balances that have been struck between them at various points in time. We know that the bulk of the subject matter work of the Congress is done within its fragmented and autonomous committees; that for most members, their influence, reputation and careers are tied to their committee memberships; and that entrepreneurial members, working in a decentralized committee system, tend to produce a good deal of uncoordinated activity. We also know that without some centralizing and coordinating organization inside Congress, chamber-wide decision-making would be impossible; that the main coordinating organization inside Congress is the party leadership; and that some members apply their talents within the leadership group.

We know, therefore, that congressional governing involves the balancing of expertise, coordination and career commitment. But the problem of the proper balance in any given context remains. The current context is characterized by the wide dispersion of resources (position, staff, media) among individual legislators and the related multiplication of points of access for outsiders. Governing in the House is marked by the influence of subcommittees and their associated outside interests. Governing in the Senate is marked by unanimous consent agreements and the interests involved. This proliferation of influence and pressure points is the result of a twenty year trend. Given the low estate of the institution—and the increased willingness to leave it—that trend has hardly been a huge success. And in some areas—fiscal matters, for example, it may have been a failure.

C:\RENEWING CONGRESS-14
At this juncture, what seems to be needed is some counterbalancing effort to strengthen the centralizing, coordinating procedures and organizations within each chamber. Most obviously, that means the party leadership and the procedural mechanisms available to it. But another way to describe the group that needs strengthening is to think of them as "the institution builders." And an abstract way to approach the balancing problem in this time of weakened legitimacy is to say: do whatever can be done to strengthen the hand of the institution builders.

We have, of course, no sure fire way of identifying these people. But we might begin by assuming that they are members who have been accorded a special measure of support by their colleagues and who have the greatest career stake in the success of the institution. By these criteria, institution builders would be found among both committee leaders and party leaders. If that is so, it might be helpful to think in terms of changes that will bring together both groups of leaders, or a subset of same, in a managing party organ—one with substantial authority to influence committee makeup and agendas.

If the Congress, as an institution, is in trouble with its public, who is to speak for it? Only its leaders can. Unless its leaders can speak in terms of what must be done, will be done and has been done—to establish and control the legislative agenda—the institution will have a hard time regaining the confidence of the public. In the subject matter most closely related to the success of Congress as an institution—the power of the purse—one might imagine a managing group consisting of the chairmen of the
taxing, appropriations and budget committees together with some designated party leaders, who might take on more responsibility and more accountability for the congressional agenda and for congressional action in this most crucial of all congressional activities.

The burden of this vague suggestion is that we ought to think of ways to join committee leaders and party leaders—formally if possible, informally if necessary—in the business of institutional management and maintenance. Given their different characteristics, "formally" would probably apply more to the House and "informally" more to the Senate. The spirit of this suggestion is that we might wish—and Congress might wish—to demonstrate to a skeptical media and a sour public a willingness to experiment and to "shake things up" inside the institution. There are other ways to do this, of course. Limited terms for committee chairmen and/or rotation for committee members, for example, might be a way to combat the term limits argument directly. But it is the spirit of this idea that matters, too, not the substance. Congress will do what it wants to do. We cannot make it any more receptive to change than its members are—or will be. It may, in the end, err on the side of caution and narrowness. It may finesse public perceptions and continue with business as usual. If we err in our explorations, it ought to be on the other side.

Conclusion

Readers will no doubt conclude at this point that just when the author was getting to the heart of an actual reform agenda, he bailed out. And so he did! At the beginning of the essay, readers were warned that the author
has no particular reforms to propose. The object of the essay has been to underline the seriousness of the current relationship between Congress and its public. And to urge that political scientists think of the situation as an opportunity for us to do some public education. "Renewal," perhaps, calls for broader prescriptions and wider discussion than "reform." We are in a time—for how long no one knows—when people inside and outside Congress are willing to listen to what we have to say. Whatever it is, we should seize the moment and say it.

And we should not be overly protective of the Congress in so doing. Most of us have great respect—even affection—for the institution. Surely, that attitude will shine through in whatever we do. But we will not be doing Congress any favor if we pull our punches at this juncture. If we can get some attention inside and outside of Congress, if we can help to define some aspects of the problem, and if we can, perhaps, help develop some consensus as to what should and might be done, we will have made a contribution to the welfare of the institution. As we grapple with the actual reform agenda, we should keep in mind the wider purposes of our scholarship.