

MODERN REPUBLICANISM AND THE AMERICAN POLITICAL SYSTEM

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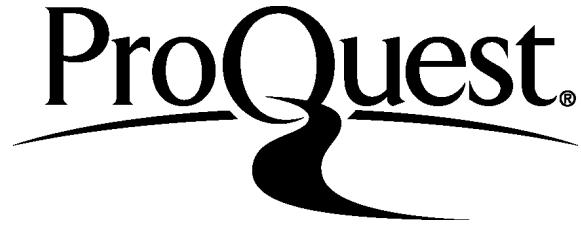
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ABSTRACT

The relationship between citizens and their government must be more than simply that of an entity that provides security from dangers. While most people would likely agree security is important, the primary reason for political or government systems must be much more. A successful political system should reflect the classical republican ideals of institutions designed to allow for the betterment of the people. Unfortunately, our American federal government does not reflect the original ideas proposed at the time of the Founding and seemingly does not reflect the ideals of our ever evolving nation. Meaningful and extended political debate has been replaced with talking points and sound bites. The statesman seems to have left the stage and we must figure out how to bring him/her back. If we can't persuade them to return to our American political system, then we must attempt to build virtue into our system.

Despite our current predicament, we should take heart in the knowledge that truly innovative political thought does not emerge during times of peace and harmony. Major political theories are born of times of crisis to meet the current problems and limit similar calamities in the future. Our young country has faced crisis before. Immediately following the American Revolution, we were constrained by the ineffective Articles of Confederation. But this period of strife provided us with the U.S. Constitution which we

still have today. In 1861, we were nearly torn apart by a bloody civil war. But from this terrible war, we finally began to truly address our nation's sin of slavery.

Our American political system could not exist without the ideas of Ancient Greece and Rome, or the classical republicans of the Enlightenment. This paper builds upon the foundations that the Framers used to design our great compromise. Using different republican theories of government, this proposal is designed to stimulate discussion and debate among citizens.

A well designed system should consist of an engaged citizenry that questions their political leaders while simultaneously trusting the institutions. When functioning properly, it protects the liberty of its citizens as the ancients had championed, but these periods of flourishing are intrinsically tied to the engagement of the people. We are fortunate because our representative government is designed to inherently yield to us the ability to demand a just system. This paper explores embracing regional representation and strengthening our federal legislative branch with a subordinate system of regional congresses. Recognizing that structural changes alone won't be enough, we will also examine establishing a continuing education requirement for all members of congress. The job of modern members of congress should require a great level of expertise in the art of statesmanship and as the ancient philosophers argued, our political leaders should be duty-bound, and value knowledge beyond opinion. Establishing a continuing education requirement for members of congress will improve our elected officials and those drawn to run for office. Improving the quality of congressional members should also begin to restore the citizenry's respect for elected officials and provide a foundational level of competence that will be demanded of any elected official.

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INTRODUCTION

THE LOSS OF VIRTUE: SEEKING A SOLUTION BEFORE IT'S TOO LATE

The American people continue to evolve and as we progress, we must have a political system that reflects our noblest ideals rather than the unprincipled base emotions of the mob. Our increasingly complex societal systems may address our basic needs for safety but while we celebrate advances in science and technology, we seem to have neglected our government structure thereby allowing it to stagnate. The contemporary American federal government no longer reflects the balanced mixed form originally envisioned, and worse, in its current form it is unable to meet the future needs of our nation. This thesis will explore the original design of our political system and the weaknesses is our federal legislative branch. While both the executive and judicial branches of the federal government also bear great responsibility for our system's decline, we will focus on the legislative branch. If we hope to reestablish virtue in our system, we must restore the desire for, and access to, civic education. We must stimulate our citizenry to reengage and fulfill their responsibility to the republic. And recognizing the legislative branch as the direct representation of the people's voice in our system of government, I argue it is the best place to begin.

Modern nation-states in the Western World like Great Britain, Mexico, and the United States of America, we seem to have reached the common acceptance that the best form of government, so far, is the republican form. We've designed political systems founded in the ideals first put forth by the philosophers of the ancient nation city-states of Greece and Rome. No political system is perfect, or permanent, but republicanism allows

for the voice of the people to influence the actions of the system and thereby provides the people an ability to protect their own liberty. Modern republican systems are normally designed to have built-in flexibility to allow for the necessary evolution, from a negative freedom to a positive freedom.

The American political system was the world's first attempt at a modern republican system. It was originally envisioned to provide freedom from tyranny and oppression, and has now shifted away from a fear of oppression and toward a freedom for opportunities, reflecting the parallel change in which freedom is understood. Modern Americans, no longer fearing the oppression of a foreign country, have grown to expect a system of government that provides direct payments and services for them in the form of infrastructure and social programs. But while Americans' expectations of their government have evolved, the government structure has not. This shortcoming has allowed the strengthening of divisions within the populace as natural factions seem to be pulling further and further away from a position of compromise. Some argue the modern American political system has improved society as citizens, previously without options, can now have an opportunity for a better life resulting in an improved standard of living for the entire society. Others contend that our system has become a perversion of government as it attempts to do too much and is encroaching more and more on our individual liberty.

As we examine some of the problems with our political system it is important to note that truly innovative political thought normally does not emerge during times of peace and harmony. Major political theories are born of times of crisis as an attempt to meet the current problems, as well as limit similar calamities in the future. We are in a

crisis now. And the magnitude of our crisis is exacerbated because thorough and exhaustive political discussions no longer occur in the public forum. Too often people seek assurances of their preconceived opinions and this is enabled by easily accessed web-based organizations selectively utilizing information from questionable sources. It is also important to note this is not the first crisis our system has faced. The years immediately following the American Revolutionary War were an incredibly uncertain and dark time. The Articles of Confederation proved to be ineffective but the states were unsure of what form of central government they were willing to accept. All the while dangers, domestic and foreign, threatened the flailing young country. From the early days of the American Revolution, our political system has been based upon the consent of the people, and in our early days, not all Americans recognized the terminal faults of the Articles nor did they agree on the necessary solutions. Some struggled to accept the fact that state governments' debts, going unpaid, were worsening the decline of the economy. Additionally, most citizens were primarily concerned with the problems facing their own state and didn't yet view the thirteen states as a unified country. Even as more and more people recognized the perilous state of the country, it seemed that hardly anyone could agree on what the final political structure should look like.

And this was not the only time our young nation would approach the brink of destruction. In 1861, only 72 years after George Washington was inaugurated as our first president under the U.S. Constitution, we were nearly destroyed by a civil war. The northern states were relying less on slavery as they benefited from industrialization and an emerging financial industry. This burgeoning economic environment fostered advanced farming techniques and improved modes of transportation which provided

more food to the growing urban areas, while also allowing for the growth of factories and manufactured goods. Meanwhile southern states' reliance on slave labor became entrenched in their culture as their dependency on a largely agricultural based economy intensified. As wealth grew, those who benefitted defended their way of life and sought new ways to protect it from what they likely viewed as the encroachment of their individual rights. These and other conflicts led us to the U.S. Civil War but the principal issues of slavery and states rights can be tied directly to some of the arguments that were debated in the Pennsylvania state house during the Constitutional Convention of 1787.

We must not forget that some of the compromises that were made among the Framers, and ratified by the states, were not necessary the best for the country over the long run and certainly didn't assuage simmering discord. Unfortunately, expedient compromises such as the one which proposed to end the importation of enslaved people within 20 years following the enactment of the U.S. Constitution while still allowing enslaved people to be counted as merely three-fifths of a person,¹ did not appease the opposing factions, rather it simply allowed for resentment to smolder and arguments to drag on.² Soon members of the new congress, as well as numerous state legislatures, sought ways to reengage on this divisive issue.³ These earnest endeavors seemed to increase political tensions as the southern states, benefitting from their disproportionate

¹ U.S. Constitution, Article I, Section 2, 9.

² U.S. Congress, *Annals of Congress*, House of Representatives, Debates and Proceedings, 1789-1824. 1st Cong., 2nd sess., 1790. Vol. 2, 1224-33, accessed on January 15, 2016, <https://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=001/llac001.db&recNum=612>.

³ Documents on Slavery, Major Document Collection, Slavery: Statutes and Treaties, Avalon Project Documents in Law, History and Diplomacy, accessed December 6, 2015, http://avalon.law.yale.edu/subject_menus/slavery.asp.

representation⁴ in the rowdy House of Representatives, continued their defiance of abolitionists. This compromise born of necessity during the summer of 1787 in the Pennsylvania state house, exploded into open warfare between the 23 states forming the Union and the 11 southern states who seceded to form the Confederate States of America. In this end, the American Civil War led to the death of an estimated 851,000 Americans⁵ as well as the passage and enactment of the 13th Amendment to the Constitution finally ending the enslavement of people in our country.

We survived those crises and others, because of great leaders willing to accept their role in our system, even during times of incredible strife. And, since we are a republic, we will no doubt face times of trouble in the future. While piling in comparison to our revolutionary and civil wars, we are nonetheless, once again at a crossroads in our history. If we don't admit our flaws and accept the importance of our challenges ahead, we as a republic will not be able to survive contemporary crises, or those yet to come.

The statesmen, the virtuous leaders so vital to our republic, are lacking in our political system. And I don't believe they will come back to our system unless we make some tough decisions, and implement some necessary changes. Over the next few chapters I plan to lay out a proposal for discussion and I admit, we must have more than a graduate school thesis on these issues. However, I argue projects like this are extremely

⁴ Garry Willis, *Negro President: Jefferson and the Slave Power* (New York: Houghton Mifflin, 2005), xii-xv, xvii, 1-9, accessed December 6, 2015, https://books.google.com/books?id=YZRPxR4hBdoC&pg=PR8&source=gbs_selected_pages&cad=3#v=onepage&q&f=false.

⁵ *Encyclopaedia Britannica Online*, s.v. "American Civil War," accessed December 6, 2015, <http://www.britannica.com/event/American-Civil-War>.

important as a solution will not be found until there is a principled and respectful national discussion. I hope this paper will serve as a catalyst to some citizens because we must encourage our families and neighbors to engage. More citizens must discuss and debate well founded ideas so we can develop refined solutions that will lead to true reform.

The contemporary political columnist George Will wrote in 1983 that politics is soul craft. The relationship between citizens and their government must be more than simply that of an entity that provides security from dangers. While most people would likely agree security is important, the primary reason for political or government systems must be much more than that. A successful political system should reflect the classical republican ideals of institutions designed to allow for the betterment of the people. Modern political theorist, Quentin Skinner, explains Thomas Hobbes' argument regarding the primacy of fear and how governments use fear to keep order thereby providing man with liberty and protection from the dangers that lurk outside of the political system.⁶ Hobbes' views seem to clash with some of the ideas our republic is based on, as it would also appear the ancients argued that man cannot truly be free in a government ruling by fear, as the government would be an entity allowing man the illusion of freedom. In other words, man may think he is free to do as he or she pleases but ultimately, it is the government that decides the limitations of man's liberty. This idea of liberty being provided by the government is completely at odds with our Declaration of Independence. While the Declaration of Independence is not a legally

⁶ Quentin Skinner, "How Thomas Hobbes came to argue that fear underpinned all human motivation and action," *BBC Radio 3 - The Essay (MP3 podcast)*, *BBC Radio*, February 25, 2015, accessed November 11, 2015, <https://itunes.apple.com/us/podcast/quentin-skinner/id471685852?i=336354437&mt=2>.

binding document, it is a manifestation of John Locke's *Second Treatise of Civil Government* influence on the views of the Framers regarding the source of man's liberty as being naturally "endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness."⁷ This tells us that the leaders of the American Revolution originally envisioned a government subordinate to our natural rights. They wanted a government with no ability to grant liberty or undermine it. It is also important to note what Hobbes proposes as it does seem that modern governments do use fear, but fear of a government is not the best way to maintain a safe and well-ordered society. Fear and respect are separate emotions and if a system is properly created to protect the natural liberty of the citizens, it will inspire citizens' faith in their political system. Therefore, a government modeled in the ancient republican theory or respecting man's liberty should be able to establish a nation-state that truly allows its citizens to thrive.

Respecting a political system does not mean citizens shall implicitly trust their government. A well designed system should consist of an engaged citizenry that questions their political leaders while simultaneously trusting the institutions. They must remain resolute, prepared to refine the system when necessary. Some people refer to our system as an experiment⁸ and this terminology is not new. In fact, the august George Washington used this term in his 1789 first inaugural address when he describes how providence guided the creation of the new republican "experiment entrusted to the hands

⁷ U. S. Declaration of Independence, the second sentence explains "We hold these truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness."

⁸ John H. Rhodehamel, *The Great Experiment: George Washington and the American Republic* (New Haven, CT: Yale University Press, 1998), cover.

of the American people....”⁹ This was not the only time Mr. Washington uses the description. We see it again when he writes to historian Catharine Sawbridge Macaulay Graham¹⁰ of England, explaining his belief that America is “the last great experiment, for promoting human happiness....”¹¹ Our system remains an experiment but importantly, it is an experiment that retains legitimacy only through the people’s consent.

The people selected the delegates that ultimately ratified the United States Constitution and throughout the Philadelphia Convention of 1787, no individual person’s vision of a perfect political system ruled. Delegates argued and debated ideas until finally reaching a compromise which became our written constitution. Throughout this thesis I will refer to leaders of the American Revolution and the delegates of the Philadelphia Convention of 1787 as the Founding Fathers, the Founders, or the Framers. In modern America it has become commonly accepted to use the term Founding Fathers to refer to any of the men who played a leading role in the creation of our country. And there is no point in disputing the fact that the genesis of our nation was led by some brilliant patriots. However, leading up to and during our Revolution, while these early American statesmen came up with the basic structure for our political system, no

⁹ George Washington First Inaugural Address: Final Version, 30 April 1789, *The Papers of George Washington, Presidential Series, vol. 2, 1 April 1789–15 June 1789*, ed. Dorothy Twohig (Charlottesville, VA: University Press of Virginia, 1987), 173–177, accessed December 6, 2015, <http://founders.archives.gov/documents/Washington/05-02-02-0130-0003>.

¹⁰ Karen Green, "Catharine Macaulay," *Stanford Encyclopedia of Philosophy* (Spring 2014 Edition), ed. Edward N. Zalta, accessed December 8, 2015, <http://plato.stanford.edu/entries/catharine-macaulay/>.

¹¹ George Washington to Catharine Sawbridge Macaulay Graham, 9 January 1790, *The Papers of George Washington, Presidential Series, vol. 4, 8 September 1789–15 January 1790*, ed. Dorothy Twohig (Charlottesville, VA: University Press of Virginia, 1993), 551–554, accessed December 7, 2015, <http://founders.archives.gov/documents/Washington/05-04-02-0363>.

proposal had any true value until it was ultimately sanctioned by the citizens. Therefore, since no one begot a system of government upon the citizens, there are times when I believe it is more precise to refer to some of these great men, specifically the delegates of the Philadelphia Convention of 1787 and the leaders of the Constitution's ratification, as the Framers. All of these statesmen were politicians that cared deeply about the future of our country and by combining that passion together with their knowledge of the history of political theory, they established the framework for a political structure that continues. Their work created an unorthodox system that has since evolved and grown from the original thirteen states confined to the eastern seaboard, into a country of vast territory spanning physically from the Atlantic Ocean to the Pacific.

The system is a continuing experiment and it survives because of the changes and compromises that have preserved it. When functioning properly, it protects the liberty of its citizens as the ancients had championed, but these periods of flourishing are intrinsically tied to the engagement of the people. As a result, there have been many times when citizens, either due to indifference or a strong desire for security, have allowed government institutions to grow to be oppressive and corrupted by power. For our experiment in governing to continue to work we must demand more from our leaders, and most importantly, we must demand more from ourselves. If we accept the definition of a truly free man as Skinner explains of Hobbes's writings, as "someone who 'can write or forbear, speak or be silent, according to his will...'"¹² then we owe it to our fellow citizens to play an active role in our system, as liberty cannot survive alone.

¹² Quentin Skinner, *Hobbes and Republican Liberty* (New York: Cambridge University Press, 2008), 34.

The world is chaotic and left isolated, a person's liberty will one day be encroached upon by the freedom of another. Liberty must have balance to exist and therefore, in order for liberty to survive it demands a certain level of responsibility of every individual. As we work to maintain a political system that provides the best environment possible for liberty to thrive we must strive to maintain an appreciation of the foundational teachings of the ancient philosophers. Plato clearly describes what a citizen owes to his or her political system, asserting that each citizen fills a vital role and must "be the best possible craftsmen at their own work..."¹³ In other words, each and every citizen has a natural duty to strive to be the best possible person they can be. No matter what your craft is, do it well, take pride in your work, and the work of others, and respect your fellow citizens.

No one can accurately predict the future, but with a well-developed understanding of the past we can be prepared for the unknown that awaits. Fortunately for us, the Founders shared a fundamental understanding of political systems of the past. More than just a shared knowledge of history, they also grasped that politics are more than just governing. When Alexander Hamilton, a key figure in the Revolution and one of the original Framers of the U.S. Constitution, proclaims in Federalist 11, "Let the thirteen States, bound together in a strict and indissoluble Union, concur in erecting one great American system, superior to the control of all transatlantic force or influence..."¹⁴ he was trying to inspire his fellow leaders. But while some people attempt to dismiss this as just an early signal of American exceptionalism I disagree because I argue he was saying

¹³ Plato, *Republic* book IV, 421c.

¹⁴ Alexander Hamilton, "Federalist No. 11," *The Federalist: A Commentary on the Constitution of the United States*, ed. Robert Scigliano (New York: Random House, 2001), 69.

much more. Hamilton's Federalist 11 is not simply rhetoric and polemic, but rather a reminder to his fellow Framers of the importance of unity and the great responsibility all American citizens have to each other. Hamilton believed our young country's diversity is an incredible strength and that through unity we can achieve greatness. Of course Hamilton, nor any of the Framers, could have fully grasped the enormous physical territory and world influence our nation possesses today, but their common understanding of republican government allowed them to negotiate an initial system of government so dynamic that, despite our republic growing to a previously unimaginable size, retains an ability to focus on the welfare of the people.

Despite this brilliantly designed system, more and more Americans believe that our society has deteriorated past a point of repair, claiming that the government no longer works for the American citizen. Or worse, that we have surrendered too much liberty to satisfy an insatiable desire for safety. At times this may indeed be true. With the advent of social media and the flood of information created by the twenty-four-hour news cycle, stories that were previously local issues have now been thrust onto the national stage on a regular basis. This bombardment of information seems to feed a negative narrative thereby inciting citizens' desire for expansive government provided security. While Skinner has a strong point regarding the use of fear to maintain order, today we have different factions within our country using this constant deluge of fear inducing stories to maintain their political power over citizens and sow distrust of the government system we have. The threat of factions is worsening. Fewer people understand the philosophical theories our political system is based upon. This ignorance combined with an increasing consumption of unsubstantiated information, feeds the misguided view that our ever-

evolving system has declined past a salvageable point. In order to overcome the some of the major problems weakening our political system we must move past arguing who is to blame for our nation's decline. Our system has been built with an ability to correct as we go and just like a great ship at sea may at times veer off course, it should not be immediately thought to be lost. Through a series of corrections, we can foster the necessary political will to reestablish the appropriate bearings and resume our way.

Regardless of the wisdom or virtue of the designers of any political system, the citizens must consistently accept their role in the protection of all liberty, as well as the necessity of an evolving system. And as a country we have come a long way. We the citizens retain the ability, and the responsibility, to make necessary corrections as we have done before. Around the time of the Constitution's ratification the average life expectancy was likely around thirty-five to thirty-eight years for a white male, the population was approximately 3,900,000¹⁵ people spread sparsely throughout the thirteen states, slavery was an accepted institution, and our economy was largely agrarian based. Despite our precarious start, the average life expectancy for an American citizen today has improved to 78.8 years¹⁶, our population is over 322,000,000¹⁷, and slavery has been rejected and universally recognized as a terrible injustice. It is plain to see, we have

¹⁵ U.S. Census Bureau, History Through the Decades Fast Facts, 1790 Fast Facts, *The 1790 Census*, accessed November 21, 2015, http://www.census.gov/history/www/through_the_decades/fast_facts/1790_fast_facts.html.

¹⁶ U.S. Department of Health & Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, *NCHS Data Brief No. 178, December 2014 – Mortality in the United States, 2013* Kenneth D. Kochanek, M.A.; Sherry L. Murphy, B.S.; Jiaquan, M.D.; Elizabeth Arias, Ph.D., accessed November 21, 2015, <http://www.cdc.gov/nchs/data/databriefs/db178.pdf>.

¹⁷ U.S. Census Bureau, *U.S. and World Population Clock*, November 21, 2015 18:27 UTC (Eastern+5), accessed November 21, 2015, <http://www.census.gov/popclock/>.

endured many low points in our relatively brief history but, despite our imperfections, we remain a functioning republic. And while our system does not always function well, it is important to remind ourselves that it was not designed for efficiency. Realizing that we have a natural responsibility to properly maintain our system in order to preserve the liberty of every American, we must encourage each other to learn from our mistakes and continue to strive for justice. We are fortunate because our representative government is designed to inherently yield to us the ability to demand a just system, and unlike the republics of antiquity, and even those of the Founders' time, our system has advanced to the point of recognizing and protecting the liberty of all people regardless of race or sex. We should not ignore how far we have come. No political system is perfect and ours is far from unsalvageable.

Today we are faced with a legislative branch disconnected from the American people and the number of citizens who seem to recognize this lurking danger is growing.¹⁸ But while some people argue the merits of term limits and increased transparency in the operations of government as the solution to this problem, the fact remains that the American people's faith in our legislative leaders continues to decline. Left unchecked, this cynicism will fester and eventually metastasize into a complete resentment for our political system which would prove lethal to the republic.

As we craft a solution to our modern problems, I propose we reexamine the foundations the Framers used. Using these original ideas, I will combine them with contemporary theories to create a series of proposed changes to the structure of the

¹⁸ "Campaign 2016: Modest Interest, High Stakes," *Pew Research Center*, April 2, 2015, accessed September 12, 2015, <http://www.people-press.org/files/2015/04/4-2-2015-2016-release1.pdf>.

federal legislative branch. Once executed, these changes would gradually impact all of the institutions of our political system. We cannot, nor should we, limit or attempt to control the people who our fellow citizens chose to elect to our institutions. However, we can and we must strengthen the design of our institutions themselves. By beginning with our legislative branch and reestablishing it as a deliberative institution responsive to the welfare of the citizens, we will insure that a branch of government is truly dedicated to the protection of liberty. This example of liberty should engender the respect of the people and inspire the citizenry to seek knowledge and properly reengage in our system.

Seeking a Solution Before It's Too Late

Currently the structure of the federal legislative branch is not meeting the needs of our Republic and the built in protections, originally designed to safeguard it from unprincipled leaders, have proven to be ineffective. This institution has been beset by factions and no longer provides the necessary counterweight to the executive and judicial branches of the federal government. The standards for Members of Congress, established in Article 1 of the U. S. Constitution are clear but rudimentary. As more and more unenlightened politicians have exploited these weak requirements it has created a natural deterrent for virtuous leaders. In order to implement much needed improvements to our federal government we must have sophisticated public servants willing to lead. It is important to recognize that we cannot simply expand the size of the federal legislative branch which has been frozen by statute since 1929.¹⁹ Additionally, it would be foolish to expand the body to reflect the original ratio established at the time of the founding, as

¹⁹ U.S. House of Representatives, History, Art & Archives, *The Permanent Apportionment Act of 1929*, accessed November 21, 2015, <http://history.house.gov/HistoricalHighlight/Detail>.

that would create a congress consisting of hundreds of thousands of members. It is easy to assume a legislative body that enormous would be unwieldy, and most importantly, increasing the size wouldn't improve any protections from the unvirtuous leaders who would continue to plague the entire political system.

The beginning of the United States of America was not a glorious moment of divine providence as some people mistakenly characterize it. The birth of our nation should not be described as a solitary event or point in history. In fact, the American creation story spans a large period of time and could even be argued to be continuing today. In order to know where we are going we must seek to understand all of our history. The Framers of the constitution were not only virtuous men; they were also well versed on the ancient theories of republicanism. From the early committees of correspondence, continuing through the signing of our Declaration of Independence, the cessation of hostilities with Great Britain, the Philadelphia Convention in the summer of 1787, and through the ratification of the constitution we see examples of this.

While the Articles of Confederation lasted for nearly a decade, our inception as the United States of America was not complete until the individual state ratification conventions of 1787, 1788, and 1789. The process was long and grueling and at times it was a bare knuckle brawl, while at other times it was a sensible debate of ideas. Most importantly, it was a time of a truly engaged citizenry led by politicians who shared the same goal of establishing a just political system. As James Madison explains in

Federalist 51, “Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in pursuit.”²⁰

Through the great work of many distinguished minds a compromise was achieved. Admittedly, no compromise is perfect, even ours had some flaws, but the flaws pale in comparison to the simple elegance of the compact and our need for a republican system of government. Or as George Washington explained in a letter to Benjamin Harrison following the Philadelphia Convention, writing, “I wish the Constitution which is offered had been made more perfect, but I sincerely believe it is the best that could be obtained at this time—and as a constitutional door is op[e]ned for amendment hereafter....”²¹ Many similar concerns from those early days of the republic remain and we must dedicate ourselves to continuing our work just as the Framers did.

The question of whether elected representatives are able to truly and fairly represent their constituents remains relevant today. Our incredible geographic size and the ability of factions to rise into power has further weaken the basic legislative process. Throughout this paper I will explore some of the more glaring inefficiencies and inequalities in our system. And from here, I’ll propose a way to better reflect the natural regions which make up our modern United States of America. I posit that our country still consists of smaller sub-republics, each with distinct wants and needs. Therefore, we must implement a well designed system of improved representation and mechanisms to

²⁰ Madison, “Federalist No. 51,” in Scigliano, 334.

²¹ George Washington to Benjamin Harrison, 24 September 1787, *The Papers of George Washington, Confederation Series, vol. 5, 1 February 1787–31 December 1787*, ed. W. W. Abbot (Charlottesville, VA: University Press of Virginia, 1997), 339–340, accessed November 1, 2015, <http://founders.archives.gov/documents/Washington/04-05-02-0316>.

protect the *libertas* of the sub-republics, which will thereby strengthen the *libertas* of our entire republic.

Merely changing the structure of the legislative branch will not be enough. The lack of the virtuous statesmen viciously wounds our system and previous attempts to repair the American political system have proven ineffectual. In order to address the lack of virtue in our leaders, we must attempt to build virtue into our system. Just as excellence breeds excellence, I propose strive to institutionalize virtue in the legislative branch in order to inspire virtue in our current leaders, while also attracting virtuous leaders back into our political system. Today's federal legislative branch lacks professionalization and this allows for hyper-partisanship along with poor legislating. Currently, elected men and women seem to dismiss the idea of becoming great legislators and instead choose to focus on defending the ideologies of their political party.

Of course, we must not create unnecessary barriers to entry, as every citizen has a right to run for elected office. However, once a person is elected office they immediately assume a duty to best serve their constituents and our nation. All citizens have a moral obligation to be the best person they can be, but contrary to this natural responsibility, it seems today that many elected officials believe that, once elected, their primary responsibility is to the political ideology they prefer to associate with. This mindset leads to poor legislative leaders and worse, unnecessarily severe political divisions. When politicians are unable to properly understand complex issues they lose any ability to educate their constituents. And since people are naturally drawn to factions, this dereliction of elected leaders is exacerbated as it removes one of our political system's basic protections against factions. These non-virtuous leaders often celebrate their own

ignorance of the opposing party's point of view and the voice of the mob grows unchecked. This type of shameful legislating aligns perfectly with some of the greatest fears of our Framers.

Just consider the amount of influence our federal elected officials wield over our daily lives and compare that to the power of different licensed professions. American society recognizes the importance of establishing continuing education requirements to be maintained by those licensed to practice certain professions such as real estate sales or medicine but I believe it would be hard to argue that these professions could cause much wide spread danger to the entire community. By requiring that a minimum level of proficiency must be maintained you assure a certain level of proficiency in a particular profession and you also introduce a disincentive to unqualified people from entering that profession.

Amazingly enough, there are no continuing education requirements for our federal legislators, which seems antithetical to the ideals of our great experiment. We deserve elected leaders focused on improving their legislative proficiency rather than raising campaign funds. Of course it would be foolish to assume any elected official would take this leap unless we create some sort of incentive for them to do so. By establishing a foundational set of standards for our elected leaders to be judged, we will attempt to create a natural mechanism that incentivizes them to reach and surpass those standards.

This thesis is not designed to be a manifesto but rather a reasonable suggestion. It would be irresponsible to simply light the fuse of change and run away, but we are obligated to find a way to reignite our citizenry's engagement in our system. We must

encourage a robust discussion of reasonable ways to rebuild our system to better reflect the ideals of the ancients and the Founders. We should work to restore the balance at the federal and regional levels, and we must restore the dignity of intellectual curiosity. Science and business are important subjects to be studied, but if we don't study our own humanity then ultimately what use are monetary or scientific achievements.

It is the natural responsibility of every citizen to examine the soul craft of politics and with this paper I hope to play a role in the conversation. Much like the debate at the time of the constitution's ratification, there is a lot at stake and passions may flare, but unlike that time, we aren't building an unconventional political system. We are extremely fortunate because we are able to draw from lessons of the ancients, the Founders, and modern thinkers. And with this knowledge at our disposal I am confident we can return virtue to our system. In doing so we will strengthen our institutions to survive future times of non-virtuous leaders. All the while rehabilitating the leaders worth saving, and instilling an expectation for the future officials to live up to.

The debate over the best system of government for our nation did not end after the Philadelphia Convention in 1787 nor after the ratification. As politics continue, so does the debate as to how we should govern ourselves. In 1814, many years after leaving public life, former President John Adams still recognized his responsibility to defend the theories maintained in the American prototypical system of government. After being attacked in print by an economist named John Taylor for his defense of a natural aristocracy, Mr. Adams responded that morals are not natural and therefore do not occur

simply by accident. And as just as Aristotle teaches,²² virtue is acquired through a lifetime of seeking and maintaining knowledge.²³ Justice will not occur spontaneously and we cannot stand and wait for a lightening bolt that will never come. We must seek the virtue of America again and we must cement it back into our foundation for another two hundred and twenty-six years.

²² “By human virtue we do not mean the excellence of the body, but that of the soul, and we define happiness as an activity of the soul. If this is true, the student of politics must obviously have some knowledge of the workings of the soul...thus, the student of politics must study the soul...” Aristotle, *Nicomachean Ethics* 1102a15-25.

²³ John Adams to John Taylor, 15 April 1814, *The Adams Papers - Early Access Document*, Founders Online, National Archives, accessed November 2, 2015, <http://founders.archives.gov/documents/Adams/99-02-02-6278>.

CHAPTER 1

THE INCOMPLETE AMERICAN EXPERIMENT: A NATION BUILT ON A FOUNDATION OF POLITICAL THOUGHT

Our American political system could not exist without the ideas of Ancient Greece and Rome, or the classical republicans of the Enlightenment. And as the theory of republicanism serves as the foundation for our American political system, it is the responsibility of every citizen to study these ideas and the events of our country's founding. The men who created our American political system may have had divine providence guiding them as they achieved the rare balance of ambition, wisdom, and political will, necessary to create a new republican based political system. Unfortunately, the greatness of those who created our system is at risk of being wasted as our citizenry grows increasingly complacent.

A republican system of government is not perfect but it remains the most just system humans have successfully established. It must have a constitution describing the role and limits of government. The constitution must clearly declare that the country or state will be ruled by laws and consequently no citizen is above the laws of the republic. The laws of a republic are created by the approval of the majority, with a cooperative minority. Furthermore, these laws must be founded in reason and focused on the common good of the people. Once the citizens recognize the good of the commonwealth benefits them all, they will consent to recurrent elections of representative agents to operate the system of government. Most importantly, the citizens of a republic have the great responsibility to remain engaged in their political system. They must maintain vigilance over the entirety of the system, to include all government agents and laws. To

fortify the power of the engaged citizenry, as well as endeavor to maintain a balance of powers among the different branches of government, a republican system of government must be a mixed design. Beyond the design of the system, a republic must be based upon a foundational acceptance of the natural freedom of its citizens. The people in a republic are all equally free and they should value their own liberty but not value it above the liberty of their fellow citizen. In a political system where all citizens seek the protection of the liberty of others, each individual citizen is ensured that others are doing them same for them.¹ Since all people are equally free and respectful of the natural right of freedom, the citizens will then consent to cede some of their individual freedom to a just political system that consists of laws nurturing liberty.² And in a republic, if the system of government is well administered by virtuous leaders, it will remain focused on the welfare of the people, and the people will grow beholden to it.³

The concept of republicanism is most certainly not new and many of the Founders were well studied in history and political theories. John Adams maintained a great reverence for the soul craft of politics. As evidenced in a letter to Mercy Otis Warren of Massachusetts in April of 1776 wherein he explains the necessary ingredients for a republican political system as follows:

Public Virtue cannot exist in a Nation without private, and public Virtue is the only Foundation of Republics. There must be a possitive Passion for the public good, the public Interest, Honour, Power, and Glory, established in the Minds of

¹ Philip Pettit, *On The People's Terms: A Republican Theory and Model of Democracy* (New York: Cambridge University Press, 2012), 286-93.

² John Locke, *The Second Treatise of Civil Government* (Adelaide, Australia: ebooks@Adelaide, 2014), S6-8, S87, S89-90, eBooks, accessed March 13, 2016, <https://ebooks.adelaide.edu.au/l/locke/john/181s/index.html>.

³ Charles de Secondat, Baron de Montesquieu, *The Spirit of Laws* (Kitchener, Ontario: Batoche Books, 2001), 16-17, 51, 59-60, Adobe PDF eBook.

the People, or there can be no Republican Government, nor any real Liberty. And this public Passion must be Superiour to all private Passions. Men must be ready, they must pride themselves, and be happy to sacrifice their private Pleasures, Passions, and Interests, nay their private Friendships and dearest Connections, when they Stand in Competition with the Rights of society.⁴

He was most certainly not alone in his study of politics. Alexander Hamilton and John Jay of New York, along with James Madison of Virginia, all had an extraordinary command of political theory. During the intense struggle to ratify the U.S. Constitution these three men penned *The Federalist Papers*, a series of essays that were recognized at the time, and remain today, one of the most valuable treatise on self-governing.⁵

Writing under the pseudonym Publius, they combined lessons of the ancient Grecian and Roman republics⁶ with a broad knowledge of contemporary political systems such as the confederacy of republics in the Netherlands.⁷ Madison, Hamilton, and Jay were not the only Framers savvy in the theories of ancient and enlightenment philosophers. Even as early as 1726, a young twenty year old Benjamin Franklin, traveling home to Philadelphia, made references to his love of the ancients in his journal, writing “one of the philosophers, I think it was Plato, used to say, that he had rather be the veriest stupid block in nature, than the possessor of all knowledge without some

⁴ John Adams to Mercy Otis Warren, April 16, 1776, *Papers of John Adams*, vol. 4, February–August 1776, ed. Robert J. Taylor (Cambridge, MA: Harvard University Press, 1979), 123–126, accessed January 15, 2016, <http://founders.archives.gov/documents/Adams/06-04-02-0044>.

⁵ Thomas Jefferson to James Madison, November 18, 1788, *Papers of Thomas Jefferson*, vol. 14, 8 October 1788–26 March 1789, ed. Julian P. Boyd (Princeton, NJ: Princeton University Press, 1958), 187–190, accessed January 16, 2016, <http://founders.archives.gov/documents/Jefferson/01-14-02-0062>.

⁶ Madison and Hamilton, “Federalist No. 18,” “Federalist No. 34,” and “Federalist No. 63,” in Scigliano, 105-11, 201, 404-07, 409.

⁷ Madison and Hamilton, “Federalist No. 19,” “Federalist No. 20,” and “Federalist No. 39,” in Scigliano, 112-118, 118-122, 239-40.

intelligent being to communicate it to.”⁸ At that time Franklin couldn’t have known the significance of his study of philosophy but this common characteristic, shared by all of the Framers, proved to be crucial to the creation of the American political system.

Revolutionary war hero and first American president, George Washington of Virginia, put great effort into crafting a reputation as the embodiment of the ideals of the new American political system and he remains one of the most deified of the Founders.⁹ Washington recognized the new system would be dependent on virtuous statesmen willing to sacrifice their time and talents for the good of the republic. The statesmen, after having completed the work of the commonwealth, then must willingly and peacefully relinquish their power to the next person elected to replace them. A political system where power is peacefully transferred while also keeping the dangers of democracy in check is not a simple task as Madison explained writing, “ambition must be made to counteract ambition...If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary.”¹⁰ Washington, recognizing the importance of setting the appropriate precedent of the peaceful transition of power for the new federal government, voluntarily

⁸ Benjamin Franklin, “Journal of a Voyage, 1726,” *Papers of Benjamin Franklin, vol. 1, January 6, 1706 through December 31, 1734*, ed. Leonard W. Labaree (New Haven, CT: Yale University Press, 1959), 72-99, accessed December 19, 2015, <http://founders.archives.gov/documents/Franklin/01-01-02-0029>.

⁹ “Apotheosis of Washington,” Architect of the Capitol, last modified October 10, 2014, accessed January 16, 2016, <http://www.aoc.gov/capitol-hill/other-paintings-and-murals/apotheosis-washington>.

¹⁰ Madison, “Federalist No. 51,” in Scigliano, 331.

stepped down from the office of the presidency after his second term.¹¹ This tradition remained intact until Franklin D. Roosevelt abandoned it, leading to the adoption of the 22nd Amendment to the Constitution in 1951 which formally limited all future presidents to the original practice of no more than two terms.¹²

A lot of the writings produced throughout the birthing period of our nation targeted an engaged American citizenry, many who had a firm understanding of the basic theories of republican government. In 1831 while visiting America, Alexis de Tocqueville observed an impressive level of civic engagement, writing in his book

Democracy in America:

When you attentively examine the laws that were promulgated during these early years of the American republics, you are struck by the legislator's knowledge of government and advanced theories. It is evident that he had a more elevated and complete idea of the duties of society towards its members than European legislators of that time and the he imposed obligations on society that society still eluded elsewhere.¹³

Early duty-bound American citizens had already been successfully operating their local and state governments well before the creation of the U.S. Constitution. The Framers, both the federalists and anti-federalists, were extremely aware of their audience and the

¹¹ George Washington's Farewell Address 19 September 1796, *Papers of George Washington: Presidential Series (1788-1797)*: Digital Edition, Early Access Document, ed. Theodore J. Crackel (Charlottesville, VA: University of Virginia Press, 2007), accessed January 16, 2016, http://gwpapers.virginia.edu/documents_gw/farewell/transcript.html.

¹² "Franklin D. Roosevelt's Presidency," Franklin D. Roosevelt Presidential Library and Museum, accessed January 16, 2016, <http://www.fdrlibrary.marist.edu/facts.html#presidency>.

¹³ Alexis de Tocqueville, *Democracy in America*, ed. Eduardo Nolla, tran. James T. Schleifer (Indianapolis: Liberty Fund, 2012), 66.

gravity of what was at stake¹⁴ while they publicly debated the merits of the newly crafted American political system.

Our mixed-form democratic republic was not founded immediately after the Revolutionary War ended in 1783 and only a small number of the thought leaders from America's war of independence even attended the Constitutional Convention in Philadelphia in the summer of 1787. However, we must not ignore that the actions of all of the Founders were critical to creating the political system we continue to operate under. The first attempt of a country-wide political system was a weak alliance among the states designed to be administered by a legislative body where each state held an equal amount of power. In 1776, just a little over a week after the Declaration of Independence was signed, the Second Continental Congress began consideration of the Articles of Confederation.¹⁵ And perhaps as a harbinger of the shortcomings of the newly proposed system, the Articles, sent to the states in November 1777, languished among them until finally achieving ratification of all of the respective state legislatures in 1781.¹⁶ Upon ratification, the Continental Congress immediately assumed the new title of Confederation Congress, but following the conclusion of the war, the weak

¹⁴ Pauline Maier, *Ratification: The People Debate the Constitution, 1787-1788* (New York: Simon & Schuster Paperbacks, 2011), ix.

¹⁵ Journals of the Continental Congress, 1774-1789--Friday, July 12, 1776, *A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774-1875*, ed. Worthington C. Ford (Washington, D.C.: Library of Congress, 1904-37), 546, accessed January 16, 2016, [https://memory.loc.gov/cgi-bin/ampage?collId=lljc&fileName=005/lljc005.db&recNum=130&itemLink=r?ammem/hlaw:@field\(DOCID+@lit\(jc00532\)\)%230050131&linkText=1](https://memory.loc.gov/cgi-bin/ampage?collId=lljc&fileName=005/lljc005.db&recNum=130&itemLink=r?ammem/hlaw:@field(DOCID+@lit(jc00532))%230050131&linkText=1).

¹⁶ Thomas Jefferson, 6 January 1821, "Autobiography by Thomas Jefferson 1743 - 1790," *Papers of Thomas Jefferson*, Avalon Project Documents in Law, History and Diplomacy, accessed December 13, 2015, http://avalon.law.yale.edu/19th_century/jeffauto.asp#artconfdebate.

confederation of states quickly proved ineffective as the legislative body struggled to pass laws or even to reach a proper quorum for action.

The leaders of the American Revolution had not originally set out to establish an independent country. Originally seeking redress for their grievances with the mother country, the colonists soon found themselves faced with funding and fighting a war, while concurrently navigating international relations. But none of the events of the mid-1770s came without warning. As early as the 1760s we can see examples of discord between the American colonies and the British government. In 1763 the French and Indian War came to an end but it left a large number of colonists feeling the war had been forced upon them. The British government, faced with an enormous debt from the war, decided it easiest to enact new laws to pay down the war debt while also strengthening their control over the colonies. The Sugar Act¹⁷ and Stamp Act,¹⁸ designed specifically for these purposes, were wildly unpopular among the colonies and relations rapidly deteriorated even reaching the point where groups of colonists began to physically attack the agents of the British government tasked with enforcing the new laws.

Emerging leaders of the American Revolution took to the newspapers of the colonies to articulate the colonists' frustrations with the current political system, creating an American tradition that continues today. In 1765 John Adams' *Dissertation on the Canon and the Feudal Law*,¹⁹ was printed in the Boston Gazette over a series of months.

¹⁷ Sugar Act, 1764, George II.

¹⁸ Stamp Act, 1765, George II.

¹⁹ Editorial Note, *Papers of John Adams, vol. 1, September 1755–October 1773*, ed. Robert J. Taylor (Cambridge, MA: Harvard University Press, 1977), 103–106, accessed December 18, 2015, <http://founders.archives.gov/documents/Adams/06-01-02-0052-0001>.

Adams' essay expressed the general unhappiness with the Stamp Act and asserted the natural rights of the colonists as, "antecedent to all earthly government—*Rights* that cannot be repealed or restrained by human laws—*Rights* derived from the great legislator of the universe."²⁰ While this essay didn't seem to have much of an impact at the time, it clearly shows an early demand for the recognition of people's natural rights, and this theme will echo throughout the writings of the Founders.

Frustration among the colonists grew and in the fall of 1765 representatives from nine colonies assembled in New York to form the Stamp Act Congress. Still seeking to persuade the mother country, they crafted resolutions explaining their objections to the laws using ingratiating language such as "the Members of this Congress, sincerely devoted, with the warmest Sentiments of Affection and Duty to his Majesty's Person and Government..." while simultaneously asserting the "inherent rights and liberties..." of the colonists as citizens of Great Britain.²¹ Their goal was to mend the strained relationship, not to secede. In his January 1st, 1766 diary entry, Adams explains their delicate situation as "this Year brings Ruin or Salvation to the British Colonies. The Eyes of all America, are fixed on the B[ritish] Parliament. In short Britain and America are staring at each other.—And they will probably stare more and more for sometime."²²

²⁰ "III. A Dissertation on the Canon and the Feudal Law, No. 1, August 12, 1765," *Papers of John Adams, vol. 1, September 1755–October 1773*, ed. Robert J. Taylor (Cambridge, MA: Harvard University Press, 1977), 111–115, accessed December 18, 2015, <http://founders.archives.gov/documents/Adams/06-01-02-0052-0004>.

²¹ "Resolutions of the Stamp Act Congress," Avalon Project Documents in Law, History and Diplomacy, accessed December 18, 2015, http://avalon.law.yale.edu/18th_century/resolu65.asp.

²² Journal entry Wednesday, January 1st, 1766, *Papers of John Adams, Diary and Autobiography of John Adams, vol. 1, 1755–1770*, ed. L. H. Butterfield (Cambridge, MA: Harvard University Press, 1961), 282–301, accessed December 18, 2015, <http://founders.archives.gov/documents/Adams/01-01-02-0010-0001>.

Possibly in response to such entreaties, Great Britain did eventually repeal the Stamp Act later that year. But this gesture rang hollow as other repressive laws like the Sugar and Currency Acts of 1764 and the Quartering Act of 1765 remained.

During this time, the colonists struggled with accepting a subordinate place in the British political system and sought ways to assuage the increasingly tyrannical actions of the British government. The British did not seem concerned about the opinions of the colonists as they deployed troops to Boston and New York to exert their control over the port cities. Adding to the perceived insult, they then created the Townsend Acts in 1767 to collect from the colonists the additional revenue needed to pay for the occupying army. In response, an attorney from Pennsylvania named John Dickenson took to writing *Letters from a farmer in Pennsylvania, to the inhabitants of the British Colonies*. These twelve letters, first printed in the Pennsylvania Chronical, were soon reprinted in papers across the different colonies. The letters were written from the point of view of an American farmer and called for all of the colonies to unite in defense against the unjust laws being implemented by the British government. Dickenson reaffirmed the constitutional rights of colonists as Englishmen and put forward that parliament's taxing of the colonies violated the rights of the English colonists because they had no representation in parliament. Dickenson was not calling for independence. Instead, his petition went to great lengths to promote his fellow colonists' loyalty to Great Britain while also explaining their grievances against the new laws.²³ The entire endeavor, and

²³ John Dickenson, "Letter III," "Letter IV," "Letter VI," "Letter VII," "Letter XII," *Letters from a Farmer in Pennsylvania*, ed. R. T. H. Halsey (New York: Outlook Company, 1903), Library of Congress eBook, 33-35, 40-45, 62-66, 75-78, 146.

specifically his reference to John Locke in *Letter VII*,²⁴ provide solid examples of the common acceptance of man's liberty being natural and not granted by any government, and that all governing must be based in reason.

The popularity of the *Letters from a Pennsylvania Farmer* grew, but so did the violence. Colonists' anger over the occupying armies and oppressive laws increased, eventually leading to the Boston Massacre in 1770 which unofficially marked the point-of-no-return for many of the colonists. By this point even the repeal of the Townsend Acts wasn't enough, and in 1772 the individual colonies began to establish committees of correspondence to formally communicate among the colonies and foreign governments. This coordination allowed for the colonies to respond to Great Britain with a unified voice and also assisted in cultivating a shared national identity among the early colonists. In 1774, as boycotts and altercations escalated, the British Parliament responded by passing the Intolerable Acts. In response, the colonists established the First Continental Congress which issued the *Declaration and Resolves of the First Continental Congress* formally listing the natural rights of all colonists. This predecessor to our American Bill of Rights describes these rights as "immutable" while declaring that all citizens "are entitled to life, liberty and property..." and by right can "participate in their legislative council." It goes on to explain that citizens cannot be taxed without representation, and if accused of a crime, citizens have the right to a trial "by their peers." Additionally, citizens have "a right peaceably to assemble..." and to petition the government to address their grievances. It goes on to state there must be separate branches of government

²⁴ Dickenson, "Letter VII," in Halsey, 76.

independent of the executive power and most importantly, it puts forth that none of these rights can be taken away without the consent of those governed.²⁵

In 1775, faced with an increasingly antagonistic British government,²⁶ the Founders decided the time had come to break away from the distant government of Great Britain. The colonies were united against Great Britain but the loyalties of the citizens remained primarily with their individual states. John Adams of Massachusetts and Richard Henry Lee of Virginia, recognizing the importance of each state having a clearly defined independent government, advanced a resolution²⁷ on May 10, 1776 calling on each colony to establish their own written constitution. This action began the argument that continues today regarding how truly independent, or sovereign, the individual states are. While the states do enjoy a certain level of independence within their borders, it is plain to see that states must, just as citizens do, sacrifice some of their liberty to the larger American political system²⁸ in order to preserve the liberty of all of the united states.

Of all of the early state constitutions, Virginia stands out because of their inclusion of a declaration of the rights of man which were used later by Madison during

²⁵ Declaration and Resolves of the First Continental Congress October 14, 1774, Avalon Project Documents in Law, History and Diplomacy, accessed January 17, 2016, http://avalon.law.yale.edu/18th_century/resolves.asp.

²⁶ Proclamation by the King for Suppressing Rebellion and Sedition, King George III August 23, 1775, accessed December 19, 2015, <http://teachingamericanhistory.org/library/document/proclamation-by-the-king-for-suppressing-rebellion-and-sedition/>.

²⁷ Journals of the Continental Congress, 1774-1789, ed. Worthington, C. Ford (Washington, D.C., 1904-37), vol. 4, 342, accessed December 19, 2015, <http://memory.loc.gov/cgi-bin/ampage?collId=lljc&fileName=004/lljc004.db&recNum=341&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28jc0041%29%29%230040001&linkText=1>.

²⁸ Timothy Zick, “Are the States Sovereign?” (Faculty Publications, College of William and Mary Law School, 2005), accessed January 17, 2016, <http://scholarship.law.wm.edu/facpubs/275/>.

the establishment of the American Bill of Rights.²⁹ Primarily written by George Mason³⁰, the Virginia Declaration of Rights put forth that “all men are by nature equally free and independent, and have certain inherent rights...” which cannot be taken away or given away by a government and that “all power is vested in, and consequently derived from, the people.”³¹ The Virginia declaration drew from the ideas of thinkers like John Locke, putting forward that since a political system is essentially a contract between the citizens and their government, the government’s power is dependent on the consent of its citizens. We see these ideas again later that summer, as the Second Continental Congress crafted the formal announcement which explains the reasons that the colonies were breaking away from Great Britain in order to establish a new country.³² Thomas Jefferson of Virginia, Roger Sherman of Connecticut, and Philip Livingston of New York, along with John Adams and Ben Franklin produced the text of the Declaration of Independence using language reflecting their familiarity with the classical republicanism foundation that man is by right, naturally free.

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness—That to secure these Rights,

²⁹ Of Debates in Congress, *Annals of Congress*, House of Representatives, 1st Congress, 1st Session, A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774-1875 (Library of Congress), 440-68, accessed January 18, 2016, <http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=001/llac001.db&recNum=221>.

³⁰ Charters of Freedom, Bill of Rights, The Virginia Bill of Rights, U.S. National Archives, accessed December 19, 2015, http://www.archives.gov/exhibits/charters/virginia_declaration_of_rights.html.

³¹ Virginia Declaration of Rights, Avalon Project Documents in Law, History and Diplomacy, accessed January 17, 2016, http://avalon.law.yale.edu/18th_century/virginia.asp.

³² Journals of the Continental Congress, 1774-1789, ed. Worthington, C. Ford (Washington, D.C., 1904-37), vol. 5, 431, accessed December 19, 2015, <https://memory.loc.gov/cgi-bin/ampage?collId=lljc&fileName=005/lljc005.db&recNum=15&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28jc0051%29%29%230050001&linkText=1>.

Governments are instituted among Men, deriving their just Powers from the Consent of the Governed.³³

This document was an eloquent declaration of rights and grievances. It was not a blueprint for a system of government, but the language clearly reflects the republican ideals our U.S. Constitution would later be based upon.

The Founders relied heavily upon ancient political philosophers and those from the Enlightenment, but the ties to some specific thinkers are easier to see than others. For instance, we can clearly see the influence of John Locke's writing regarding man's natural freedom. Locke argues that all creatures in nature are free and since all men are naturally free, they are all then, at a basic level, equal within their political system. This theory is not an endorsement of some sort of communist system where everyone is considered completely equal but rather a belief that in the natural state, no creature has a natural power over another. Additionally, Locke believes man's capacity for reason provides the ability to recognize the natural rights of all people but also demands that man has a duty to not violate the rights of others. Therefore, if someone does do harm to another, it is the people's duty to appropriately punish the violator as the offender has violated natural law.³⁴ This makes man equally responsible to not encroach upon the freedom of others while equally responsible to appropriately punish those who do. Locke's theory of justice being natural is likely founded in the ideas of the ancient Roman philosophers like Cicero who asserted that man's ability to reason is given by nature, and man must use this natural ability to reason when establishing any system of

³³ U.S. Declaration of Independence July 4, 1776, accessed December 19, 2015, http://www.archives.gov/exhibits/charters/declaration_transcript.html.

³⁴ Locke, *Second Treatise of Civil Government*, S4-9, S87.

laws. Consequently, a just political system recognizes man's naturally liberty as "justice is established not by opinion but by nature."³⁵

Locke was not the only Enlightenment thinker to influence the theories of the Founders. Thomas Hobbes approached man's connection to his political system from a much more pessimistic view arguing the state of nature is a state of constant war and danger. According to Hobbes, man seeks the protection of a political system. And while Hobbes acknowledges the social contract between citizen and ruler, he contends that it cannot be a true contract nor can it last because each individual judges the value of continuing such a contract subjectively.³⁶ The idea of a social contract between the citizens and the rulers is certainly not new and while Locke agrees with the idea of a social contract, he breaks from Hobbes's Machiavellian view arguing that man has the ability to consent to a political system but, man can only consent to a political system that is focused on the common good. The language of the Declaration reflects the ideas of both Hobbes and Locke, but it seems to better reflect Locke's positive view of the social contract as it proclaims the power of government is granted to it by the people and the government must remain limited to only acting in the best interest of the governed.³⁷ When creating this document, the Founders knew the rights of man meant little unless man is living within a political system that accepts these rights as beyond the ability of any government to grant.

³⁵ Cicero, *On the Laws*, 1.28-33.

³⁶ Jean Hampton, "The Failure of Hobbes's Social Contract Argument," *The Social Contract Theorists – Critical Essays on Hobbes, Locke, and Rousseau*, ed. Christopher W. Morris (Lanham, MD: Rowman & Littlefield Publishers, 1999), 51-54.

³⁷ Locke, *Second Treatise of Civil Government*, S89, S124, S131, S134-5.

In 1783 the American war of independence was officially declared over with the signing of the Treaty of Paris. Former colonies, now states of a new and independent confederation, were faced with governing as equal, separate, and independent republics under the Articles of Confederation. Great Britain's guardianship had ended but the new country immediately found itself in great financial debt to France, Spain, and bankers of the Dutch Republic. Making the young country's precarious situation even worse, the weaknesses of the Articles of Confederation were quickly becoming impossible to ignore. The Confederation Congress had no way to command the states to pay what the overall country owed, meanwhile many of the states were already struggling with the debts they were independently responsible for. The Confederation Congress lacked an ability to issue and maintain a uniform system of currency and remained nearly crippled by their dependency on the approval of nine states to pass any of the much needed reforms.³⁸ The Confederation was coming apart at the seams – the economy was in shambles, there was no strong centralized system of government, and many people were unsure of the immediate future for the new county.

In October of 1785, George Washington, writing to James Warren³⁹ who had served under him as the Army's first Paymaster General during the war, laid out his concerns. Washington did not think the country was prepared to handle its recent victory, explaining he did "not think we possess wisdom or Justice enough to cultivate it properly. Illiberality, Jealousy, and local policy mix too much in all our public councils for the

³⁸ Maier, *Ratification*, 11-17.

³⁹ Colonel A.B. Carey, "The Army of the United States Historical Sketches of Staff and Line with Portraits of Generals-in-Chief," *U.S. Army Center of Military History*, ed. Brigadier General Theophilus Francis Rodenbough and Major William L. Haskin (New York: Maynard, Merrill, & CO., 1896), 100, accessed December 19, 2015, <http://www.history.army.mil/books/r&h/R&H-Pay.htm>.

good government of the Union.” Washington was frustrated. He and other leaders of the American Revolution already had sacrificed so much, only to then be faced with entrenched political interests and citizens unwilling to agree to the changes necessary for a properly functioning government. Much like modern America, the citizenry seemed to contradict themselves. The American system was envisioned to be based on the will of the citizens and not a monarchy, but following the Revolutionary War the people’s refusal to trust elected officials and grant them “sufficient powers to order and direct the affairs” lead a worried Washington to acknowledge “the wheels of Government are clogged, and...we are descending into the vale of confusion and darkness.”⁴⁰

John Adams⁴¹ and Thomas Jefferson⁴² were limited in their ability to act as they were serving abroad as the respective ministers to Great Britain and France, but consensus was spreading throughout the states. James Madison and George Mason of Virginia, and Alexander Hamilton of New York began to call for a convention to address these problems before it was too late. Mason witnessed the shortcomings of the Articles first hand. When he was called upon by Governor Patrick Henry to negotiate an agreement for the use of the Potomac river with a delegation from Maryland, Mason traveled to Alexandria, Virginia only to discover the rest of the Virginia delegation not

⁴⁰ George Washington to James Warren, 7 October 1785, *Papers of George Washington, Confederation Series, vol. 3, 19 May 1785–31 March 1786*, ed. W. W. Abbot (Charlottesville, VA: University Press of Virginia, 1994), 298–301, accessed December 19, 2015, <http://founders.archives.gov/documents/Washington/04-03-02-0266>.

⁴¹ John Adams to Samuel Adams, 1 May 1784, *Papers of John Adams, vol. 16, February 1784–March 1785*, ed. Gregg L. Lint (Cambridge, MA: Harvard University Press, 2012), 180–182, accessed December 19, 2015, <http://founders.archives.gov/documents/Adams/06-16-02-0095>.

⁴² Thomas Jefferson to John Adams, 24 September 1785, *Papers of Thomas Jefferson, vol. 8, 25 February–31 October 1785*, ed. Julian P. Boyd (Princeton, NJ: Princeton University Press, 1953), 545–546, accessed December 19, 2015, <http://founders.archives.gov/documents/Jefferson/01-08-02-0425>.

there and the Maryland delegation arriving without any authority to make a binding agreement. Since there was no central government to determine simple things such as the shared use of waterways for commerce by the different states, the need for these types of negotiations between the states was becoming a major hindrance to the fledgling economy of the young country. Fortunately, Mason didn't waste this opportunity. He connected with George Washington in nearby Mount Vernon and coordinated the call for a convention in Annapolis for the purpose of addressing the fatally-flawed Articles of Confederation before it was too late.⁴³ In September 1786, the Annapolis Convention met and quickly reached a consensus, recommending to the Confederation Congress, that there should be a "a convention of delegates, who shall have been appointed by the several states, be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation."⁴⁴ The Confederacy's weakness was undeniable. A bloody insurrection in western Massachusetts⁴⁵ coupled with the spiraling debts of the states led the Confederation Congress to adopt Rufus King's resolution endorsing the proposed

⁴³ George Mason to James Madison, 9 August 1785, *Papers of James Madison*, vol. 8, 10 March 1784-28 March 1786, ed. Robert A. Rutland and William M. E. Rachal (Chicago: University of Chicago Press, 1973), 337-339, accessed December 19, 2015, <http://founders.archives.gov/documents/Madison/01-08-02-0179>.

⁴⁴ "Elliot's Debates, Volume 1," A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774-1875 (Library of Congress), 120, accessed December 19, 2015, [http://memory.loc.gov/cgi-bin/ampage?collId=lled&fileName=001/lled001.db&recNum=135&itemLink=r?ammem/hlaw:@field\(DO CID+@lit\(ed00147\)\):%230010136&linkText=1](http://memory.loc.gov/cgi-bin/ampage?collId=lled&fileName=001/lled001.db&recNum=135&itemLink=r?ammem/hlaw:@field(DO CID+@lit(ed00147)):%230010136&linkText=1).

⁴⁵ Henry Knox to George Washington, 22 February 1787, *Papers of George Washington*, *Confederation Series*, vol. 5, 1 February 1787-31 December 1787, ed. W. W. Abbot (Charlottesville, VA: University Press of Virginia, 1997), 47, accessed December 31, 2015, <http://founders.archives.gov/documents/Washington/04-05-02-0041>.

convention of the states. The delegates of the states would travel to Philadelphia in June of 1787 tasked with repairing the dysfunctional Articles of Confederation.⁴⁶

The Philadelphia Convention provided the opportunity for the Framers to emerge from the larger group of the Founders. In preparation for the conclave, Madison tasked himself with studying political systems of the world. He immersed himself in the histories of ancient republics and confederacies, devouring the writings of thinkers like Montesquieu and Polybius as he crafted his strategy.⁴⁷ Madison recognized the value of studying the history of governing, later explaining in *Federalist 20*, “experience is the oracle of truth; and where its responses are unequivocal, they ought to be conclusive and sacred.”⁴⁸ The debates of the Philadelphia Convention would be serious well informed discussions regarding how best to govern. The delegates were familiar with the classical republicanism of the Enlightenment and often illustrated their positions with references to well know historical figures of ancient Greece and Rome. The Framer’s combined world view provided the unique opportunity necessary for the conception of a new theory of government. This new system, as envisioned, would reward rational citizens, and be durable enough to survive the irrational ones.

⁴⁶ Report of Proceedings in Congress; February 21, 1787, Documents Illustrative of the Formation of the Union of the American States, House Document No 398, arranged by Charles C. Tansill (Government Printing Office, 1927), accessed December 31, 2015, http://avalon.law.yale.edu/18th_century/const04.asp.

⁴⁷ Notes on Ancient and Modern Confederacies, April–June 1786, *Papers of James Madison*, vol. 9, 9 April 1786–24 May 1787 and supplement 1781–1784, ed. Robert A. Rutland and William M. E. Rachal (Chicago: University of Chicago Press, 1975), 3–23, accessed December 19, 2015, <http://founders.archives.gov/documents/Madison/01-09-02-0001>.

⁴⁸ Madison and Hamilton, “Federalist No. 20,” in Scigliano, 123.

Of course, not all of the delegates were comfortable with completely abandoning the Articles of Confederation.⁴⁹ Two members of the New York delegation, John Lansing, Jr. and Robert Yates, were so disgusted they abandoned the convention in July and then later in December, published a letter to the New York Governor explaining their reasons for leaving and encouraging the people of New York to reject this new constitution.⁵⁰ Fortunately for us, the majority of the delegates agreed the country needed a legitimate and successful representative government, based on republican ideals, and formed with the consent of the citizens. Throughout the convention the delegates fell along the sides of federalists who supported a strong central government,⁵¹ and anti-federalists who were leery of a strong central government and preferred that greater power be reserved in the state governments.⁵²

Different arguments ranging from whether the convention had the authority to create a new government, to the appropriate structure of the new system were exhaustively debated until finally in September 1787, the delegates came to the

⁴⁹ James Madison, "Records of the Federal Convention, Wednesday June 20," in *The records of the Federal convention of 1787*, ed. Max Farrand, vol. 1 (New Haven, CT: Yale University Press, 1911), 336-44, accessed March 12, 2016, <http://hdl.handle.net/2027/hvd.32044011218906?urlappend=%3Bseq=374>

⁵⁰ Robert Yates and John Lansing, Jr. to Governor of New York, 21 December 1787, *Secret proceedings and debates of the convention assembled at Philadelphia, in the year 1787, for the purpose of forming the Constitution of the United States of America* (Richmond, VA: W. Curtiss, 1839), 303-7, accessed March 12, 2016, <http://hdl.handle.net/2027/loc.ark:/13960/t6f19pz5g?urlappend=%3Bseq=319>.

⁵¹ Introduction of the Virginia Plan Wednesday May 30, 1787, *Debates in the Federal Convention of 1787, which framed the Constitution of the United States of America, reported by James Madison, a delegate from the state of Virginia*, ed. Gaillard Hund and James Brown Scott (Oxford University Press, 1920), Avalon Project Documents in Law, History and Diplomacy, accessed January 3, 2016, http://avalon.law.yale.edu/18th_century/debates_530.asp.

⁵² James Madison, "Records of the Federal Convention, Wednesday June 27," in *The Records of the Federal Convention of 1787*, ed. Max Farrand, vol. 1 (New Haven, CT: Yale University Press, 1911), 437-41, accessed March 12, 2016, <http://hdl.handle.net/2027/hvd.32044011218906?urlappend=%3Bseq=475>.

agreement that they had fulfilled their goal.⁵³ Utilizing pieces of different theories, the new political system was to have a national government made up of three separate institutions or branches, and this federal government would have supremacy over the individual state governments. The states would be guaranteed a republican system of government, the ability to create and enforce state specific laws, to establish and maintain a state court system, and to maintain local or state police forces along with state militias. Additionally, all states would be guaranteed equal protection from foreign or domestic intrusion, and if two thirds of the states deem it necessary, they have the ability to call for a convention of the states for the propose of approving new amendments to the Constitution. Most importantly, the individual states had the responsibility to each call for their own ratification conventions. The new constitution would remain dormant until nine of the original thirteen states ratified it.

The legislative branch, known as the United States Congress, is a bi-cameral elected body, with the power to tax, to incur and pay national debts, and crucial to that period in time, it would assume the Revolutionary War debts of the states. The legislative branch has the power to pay for an army and navy, and the responsibility for declaring war. They are in charge of regulating commerce among the states and with foreign entities, and they would establish standards for currency, weights, and measures to be recognized by all the states. This was thought to simplify the relations between the

⁵³ James Madison, "Records of the Federal Convention, Monday September 17," in *The Records of the Federal Convention of 1787*, ed. Max Farrand, vol. 2 (New Haven, CT: Yale University Press, 1911), 644-5, 648, accessed March 12, 2016, <http://hdl.handle.net/2027/hvd.32044010426294?urlappend=%3Bseq=650>.

states while also encouraging interstate commerce. The House of Representatives is to be elected directly by the people every two years and originally set at one representative for every thirty thousand citizens. Most importantly, the power to tax is firmly vested with the people's house as any new federal tax is to originate in the house. The United States Senate, designed to be the voice of the states within the federal government, consists of two senators, originally appointed by each respective state, serving six year terms. The senate has the responsibility to approve of presidential appointments, ratify treaties, and to try all impeachments. The Framers envisioned the senate as a body of statesmen who would advise the executive branch while also matching the executive's energy. The senate also was expected to serve as a calming check to the heated passions of the people's house. Any new law needs to be passed by both the house and the senate before going to the president for his or her signature, or veto.

The executive was designed to be led by the president who was to be selected by highly qualified electors. And the electors would be selected by the states in order to protect the selection from passions of the people and the congress. The president is tasked with the responsibility of executing the laws while retaining the power to veto laws he or she believes unnecessary. They serve as the Commander-in-Chief of the military, and can nominate certain officers, ambassadors, and judges, as well as negotiate treaties with the advice and consent of the senate. The president has the ability to pardon citizens of certain convictions and the vice president serves as a member of the senate with the ability to vote in the case of a tie. While the president can veto a law, the congress can overturn the veto with a two thirds majority of the house and senate voting in the affirmative. And finally, the judicial branch was created to be a check on both the

other branches and is tasked with maintaining our court system and deciding cases between states or citizens. Independent of the other two branches, the courts are also responsible for interpreting the laws passed by the legislative and executed by the executive.⁵⁴

The delegates tried to craft a new system of government that would remain subordinate to the people, with all of the institutions of governing serving as a check to the powers of the other. The federal government, consisting of three branches would strain against each other and the states would retain their individual government systems while also having a voice in the senate. Many of the compromises of the summer of 1787 were already recognized as insufficient even before the completion of the ratification by the states. Fortunately, Framers like Madison immediately took on the tireless task of addressing some of the more egregious shortcomings. Following the ratification of the U.S. Constitution, Madison was elected to the first congress and in the early months of the new federal government he shepherded through 17 amendments to assuage some of the fears of the anti-federalists. The senate further whittled this down to 12, and by December 15, 1791, three-fourths of the states had ratified the first 10 amendments to the constitution now commonly referred to as our “Bill of Rights.”⁵⁵

We continue to live in a political system designed by the original compromise of 1787 and while there are some aspects of our system that have evolved to meet the needs of a maturing country, many of the shortcomings of the Framers’ work remain a danger

⁵⁴ United States Constitution

⁵⁵ “Of Debates in Congress,” *Annals of Congress*, House of Representatives, 1st Congress, 1st Session, A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774-1875 (Library of Congress), 440-68, accessed January 18, 2016, <http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=001/llac001.db&recNum=221>.

to our modern political system. Most importantly, the structure of our legislative branch continues to handicap the nation's progress. During the convention, the delegates spent a lot of time trying to find the appropriate balance for a political system of independent states flourishing along with a capable central government. They rightly feared a great consolidation of power with any single person or specific group, because if left unchecked they knew the majority would run roughshod over the interests and opinions of the minority.⁵⁶ In addition to the widespread fear of tyranny, they also struggled against provincialism among each of the delegates. After the conclusion of the Revolutionary War, unity among the states began to wane. Nationalism as we understand it today, had yet to take hold and the majority of early Americans identified primarily with their home state. Southern states, often larger geographically but with fewer citizens, were dependent on agriculturally based economies consisting of enormous plantations that needed slave labor to function profitably. Northern states generally had smaller farms, but they also had a higher population of citizens due to their many larger cities. Some of the convention's delegates were against slavery and wanted to end the disgraceful practice but the concerns of the delegates varied - sometimes wildly. The path to reaching a compromise which would appease enough of the delegates, and be ratified by nine of the thirteen states without amendment, was nearly impossible.

Southern states feared losing their primary economic driver. They recognized the importance of ensuring a strong level of representation in the new federal government because if they didn't, it would promise to be a long term danger to their way of life.

⁵⁶ Madison, "Federalist No. 51," in Scigliano, 333-4.

This created a paradox for the southern delegates. They couldn't allow for enslaved people to be fully recognized and counted as part of the representation scheme because that would force them to admit that slaves were people and therefore had natural rights. Due to this, they rejected different proposals calling for a representative legislature based simply on the census number of voting males in the state. Fearing an impasse, the convention struck a compromise the southern delegates could accept. It would establish a representative house in the legislative branch but still protect the institution of slavery, ensuring the importation of slaves for the next twenty years. Worst of all, this compromise firmly established the country's institutionalized discrimination by counting enslaved people as 3/5 of a man for the purposes of government representation.⁵⁷ This terrible agreement may have been extremely important to the creation and ratification of the constitution but it remains a stain on our history and brought our system of government to its knees less than a hundred years later as our civil war laid waste to hundreds of thousands of Americans. A just political system must fundamentally recognize and protect the natural rights of all people – plain and simple.

The issue of proper representation constitutes more than simply the counting of people. In September, 1787 as the Convention was winding down, George Mason reminded the delegates of the importance of limiting the power of the majority over the minority. He and many other Framers feared the liberty of the minority being trampled by the tyranny of the majority. Recognizing the importance of moderation, Mason

⁵⁷ "Slavery and Representation July 11-12, 1787," *Debates in the Federal Convention of 1787, which framed the Constitution of the United States of America, reported by James Madison, a delegate from the state of Virginia*, ed. Gaillard Hund and James Brown Scott (Oxford University Press, 1920), Avalon Project Documents in Law, History and Diplomacy, accessed January 3, 2015, http://avalon.law.yale.edu/18th_century/debates_711.asp.

worried of a new majority taking office and easily dismissing the laws of the previous congress.⁵⁸ While he fought hard throughout the convention, he was ultimately unable to convince other delegates to include a bill of rights in the final document. For Mason the constitution fell well short of the minimum protections for liberty that he believed vital to the character of the newly emerging American identity.⁵⁹ Of course many of the Framers were frustrated, but they also recognized a republican system of government doesn't guarantee that everyone would agree on everything. No matter how virtuous and well educated, man is fallible, and to help insulate our system from man's weakness, the Framers crafted a bi-cameral legislative branch designed to encourage compromise.⁶⁰

During the convention and after, the Framers remained divided along the lines of federalists supporting a stronger centralized government, and anti-federalists preferring a system of powerful states with a weak central government similar to the Articles of Confederation. While the Framers were originally able to work through their clear differences, they did not properly appreciate the impending danger of a two-party system. Both Madison and Hamilton were aware of the dangers posed by powerful factions, they had studied previous systems destroyed by internal strife and even addressed

⁵⁸ James Madison, "Records of the Federal Convention, Wednesday September 12," in *The Records of the Federal Convention of 1787*, ed. Max Farrand, vol. 2 (New Haven, CT: Yale University Press, 1911), 641-3, accessed March 12, 2016, 586-7, <http://hdl.handle.net/2027/hvd.32044014266134?urlappend=%3Bseq=600>.

⁵⁹ George Mason in James Madison's "Records of the Federal Convention, Saturday September 15," in *The Records of the Federal Convention of 1787*, ed. Max Farrand, vol. 2 (New Haven, CT: Yale University Press, 1911), 637-40, accessed March 13, 2016, <http://hdl.handle.net/2027/hvd.32044014266134?urlappend=%3Bseq=651>.

⁶⁰ James Madison to Thomas Jefferson October 24, 1787, *Papers of Thomas Jefferson, vol. 12, 7 August 1787-31 March 1788*, ed. Julian P. Boyd (Princeton NJ: Princeton University Press, 1955), 270-286, accessed December 19, 2015, <http://founders.archives.gov/documents/Jefferson/01-12-02-0274>.

Montesquieu's warnings in *Federalist 9 and 10*.⁶¹ They posited that the country's large geographical size and mixed form of government would be able to protect our system from rising factions. This argument may have helped assuage some fears during the ratification, but the theory itself remains weak. Madison and Hamilton were both also well versed in the theories of the ancients like Polybius⁶² and Cicero,⁶³ which they relied upon for their ideas of mixed government as the basis for the structured checks and balances among our political institutions. But the ancients provided them more than a theory of a mixed constitution – they also provided the warning that all political systems are inherently flawed due to the dependence on humans. Humans are flawed creatures and regardless of the barriers and protections built into any political system, they will all eventually fail.

It is possible that many of the Framers felt they had to suppress or ignore some of their own concerns for the sake of expediency but there were Framers that spoke out recognizing the original protections from factions were inadequate. Maybe we should reexamine some of the warnings of the anti-federalists. Brutus I, likely written by Robert Yates, warned that our model won't properly represent the people. He envisioned our country growing to an enormous geographic size and recognized that in such a large country, the needs and desires of the people must vary widely. Brutus knew that

⁶¹ Hamilton and Madison, "Federalist No. 9," and "Federalist No. 10," in Scigliano, 47-61.

⁶² Madison, "Federalist No. 63," in Scigliano, 409.

⁶³ Alexander Hamilton's Notes, June 18, 1787, *Papers of Alexander Hamilton, vol. 4, January 1787–May 1788*, ed. Harold C. Syrett (New York: Columbia University Press, 1962), 178–187, accessed January 18, 2016, <http://founders.archives.gov/documents/Hamilton/01-04-02-0098-0002>.

someday the we would reach the point where, as noted below:

the legislature cannot attend to the various concerns and wants of its different parts. It cannot be sufficiently numerous to be acquainted with the local condition and wants of the different districts, and if it could, it is impossible it should have sufficient time to attend to and provide for all the variety of cases of this nature, that would be continually arising.⁶⁴

Brutus recognized that great diversity is more likely to cause conflict rather than protection. He warned of weakened state governments growing dependent on the federal government for funding. He warned of a federal government that, “will introduce itself into every corner of the city, and country.”⁶⁵ Brutus worried of us reaching a point where citizens are no longer, “satisfied that those who represent them are men of integrity....”⁶⁶ Many of the anti-federalists wrote impressive essays that didn’t take hold at the time but seem near prophetic now. History often forgets the defeated but fortunately for us, our system was designed to allow for dissent, and we can still access much of the writing of all of the Framers, federalist and anti-federalist, as we look to repair our faltering system.

We continue to be confined by two major political parties and extreme factions have over taken the platforms of both. The original ratio for members of the House of Representatives of one representative for every forty thousand citizens was abandoned for fear of created an institution so large as to prove unmanageable. Unfortunately, instead of properly addressing the issues of appropriate representation, congress passed the Apportionment Act of 1911 (Public Law 62-5) thereby freezing the number of house

⁶⁴ Robert Yates, “Brutus I,” *Anti-Federalist Papers and the Constitutional Convention Debates: The Clashes and Compromises that Gave Birth to Our Government*, ed. Ralph Ketcham (New York: First Signet Classics, 2003), 292.

⁶⁵ Yates, “Brutus VI,” in Ketcham, 297.

⁶⁶ Yates, “Brutus IV,” in Ketcham, 345.

members with full voting rights at 435. Over two hundred and twenty-six years after our constitution's ratification, we still have not even begun to address the quality of our representatives and therefore the voice of the people is weakened further. With no way to ensure the character of those elected, we continue to be left with members with no appreciation for the soul craft of politics. And regrettably, these unvirtuous savages, in the name of hundreds of thousands of citizens, make poorly crafted decisions that impact millions of lives.

The states no longer have a voice in the federal government and the natural aristocracy of intelligent and virtuous statesmen originally envisioned by the Framers are not drawn to public service in the senate. Of course, we should accept that the senate may have never met the expectations of the Framers. After the first 125 years, faced with increasing corruption among political leaders in the states, the American people felt it necessary to relegate the senate to a smaller version of the house by enacting the 17th Amendment⁶⁷ thereby taking the power of selecting senators away from the states and leaving it subject to the whims of the voting populace. We are in danger due to the lack of qualified leaders in the house and senate. The lack of appropriate representation for the people, and for the states, continues to weaken the separation of powers, and has not slowed the rise of tyrannical factions throughout of our system.

The Framers knew the country would change. They used vague language for the dual purpose of appeasing some political leaders during the ratification and to allow for necessary adaptations by future generations. But they didn't anticipate our citizenry's

⁶⁷ Notification of the Ratification of the 17th Amendment to the Constitution, May 31, 1913, National Archives Center for Legislative Archives, accessed January 3, 2016, <https://www.archives.gov/legislative/features/17th-amendment/notification.html>.

sense of duty to deteriorate as it has. Of course, the constitution as written, was not perfect, but the flexibility built into it allows us to make necessary changes. As Dr. Franklin said on the last day of the convention, “I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us, and there is no form of Government but what may be a blessing to the people if well administered....”⁶⁸ Our liberty is in danger today just as it was in 1787 but Dr. Franklin is correct. Our American political system had to be created as it was – due to the circumstances it was the only way. Fortunately, our system leaves us with the ability, and the responsibility, to craft appropriate solutions and inspire the political will to put those solutions into place.

⁶⁸ Dr. Benjamin Franklin, September 17, 1787, Debates in the Federal Convention of 1787, ed. Gaillard Hund and James Brown Scott (Oxford University Press, 1920), Avalon Project Documents in Law, History and Diplomacy, accessed January 3, 2015, http://avalon.law.yale.edu/18th_century/debates_917.asp.

CHAPTER 2

THE PROBLEM WITH NUMBERS: AN INEFFECTIVE INSTITUTION AND AN UNENGAGED CITIZENRY

We have established that our country was not founded in one grand singular act - it was, and remains today, an unceasing struggle. And as our political system was created by the citizens, we are guaranteed to remain in a constant state of change as the opinions of the majority will naturally shift and those elected to office will often simply reflect the latest public opinion. Because of this, our style of political system allows us to remain at risk of repeating mistakes of the past. And unfortunately, we have a history of the ignoring our past mistakes in favor of future possibilities. As early as the 1830s Tocqueville observes in his famous tome, *Democracy in America*, that American "society seems to live from day to day, like an army in the field. Yet, the art of administration is definitely a science; and all sciences, to progress, need to link together the discoveries of different generations as they succeed each other...."¹ In order to improve we must look at our mistakes, acknowledge them, study them, and then propose well crafted solutions. Too often today, people let passions guide their politics, inadvertently ignoring the clear facts of the matter at hand. So much information is available that sometimes we may feel inundated, unable to discern the truth from propaganda. This is one of the reasons it seems so many citizens have disengaged from their natural republican duty. It is always easier to simply complain about what is wrong than it is to implement solutions. Worse, it currently seems that some Americans think it's even easier to just ignore the problems with our system and their responsibility to do something about it.

¹ Tocqueville, *Democracy in America*, 331-2.

For the past eighty years, the power of the federal government has grown incredibly compared to the states. While the three branches of the federal government continue as the Framers designed, competing against each other and thereby hampering the consolidation of power among any one of them, we are seeing more of the weaknesses in the design of our system. The distinct shift away from the original compromise-inducing design is worsened as the federal government has assumed many of the roles previously performed by the states.² This shift was born as the executive branch was called upon to respond to the incredible economic turmoil of the Great Depression. As the country was crippled by crisis, President Franklin Delano Roosevelt's administration created a series of executive branch programs and institutions referred to as the *New Deal*³ in an attempt to combat the economic destruction that was plaguing the country. The programs of the *New Deal*, combined with a growing distrust of state governments at the time, changed the role of the federal government's executive branch from a system of agencies with distinct missions, into a diverse and powerful centralized organization that provides a large assortment of services and programs directly to citizens.⁴

Amendments to the constitution, intending to better reflect the desires of our nation have also dramatically changed the structure of our political system. Some amendments have been successful in their goals but also many have had unexpected

² Alice Rivlin, *Reviving the American Dream: The Economy, the States & the Federal Government* (Washington, D.C.: Brookings Institution, 1992), 83.

³ "Great Depression and World War II, 1929-1945," American Memory Timeline, Library of Congress, accessed January 24, 2016, <http://www.loc.gov/teachers/classroommaterials/presentationsandactivities/presentations/timeline/depwwii/>

⁴ Rivlin, *Reviving the American Dream*, 86-96.

consequences – both good and bad. As we discussed previously, during the first session of the first U.S. Congress in 1789, James Madison guided the process of crafting and ratifying the amendments which became our much lauded Bill of Rights.⁵ These first amendments were extremely important to the success of our fledgling political system as they addressed some of the issues that had been raised in the different state ratification conventions, therefore likely alleviating some of the lingering concerns of the leading anti-federalists. In fact, the 10th Amendment went so far as to attempt to define the power of the states in relation to the federal government.

I argue the passage of these first ten amendments so early in our federal government's very first congress, and led by one of the Framers none the less, clearly demonstrates that the constitution has never been, nor was ever meant to be, a final product. Or as Jefferson eloquently explains to C.W.F. Dumas in 1787 that “when we find our constitutions defective and insufficient to secure the happiness of our people, we can assemble with all the coolness of philosophers and set it to rights, while every other nation on earth must have recourse to arms to amend or to restore their constitutions.”⁶

While some of the earliest amendments sought to clarify the limits of the federal government, later ones would increase the power of the federal government, inversely weakening the power of the states. Two clear examples are the 14th and 17th amendments. In 1868, following the end of the American Civil War, the 14th Amendment established that all people born in the United States, to include those

⁵ Maier, *Ratification*, 446-7, 459-60.

⁶ “Thomas Jefferson to C.W.F. Dumas, 10 September 1787,” *Papers of Thomas Jefferson*, vol. 12, 7 August 1787–31 March 1788, ed. Julian P. Boyd (Princeton: Princeton University Press, 1955), 113, accessed March 17, 2016, <http://founders.archives.gov/documents/Jefferson/01-12-02-0108>.

recently freed from enslavement, are citizens. Likely recognizing that some of the states may not properly recognize the rights of former slaves, the amendment uses clear language explaining that, “no state shall make or enforce any law that shall abridge the privileges or immunities of citizens...nor shall any state deprive any person of life, liberty, or process without due process of law; nor...equal protection of the law.”⁷ Another example came later in 1913, as people had grown to view the system of state legislatures choosing U.S. Senators as dysfunctional. The ratification of the 17th Amendment removed the power to select individual state’s senators from the state legislatures and returned that power to the citizens. Of course this also meant the states would no longer be represented in the U.S. Senate as originally the Framers originally designed.⁸

The judicial branch solidified the role and responsibility of the courts as early as 1803 with the case of *Marbury v. Madison*.⁹ This U.S. Supreme Court decision asserted the power of judicial review under article III of the constitution thereby firmly establishing the strength and independence of the judicial branch as well as its ability to keep the executive and legislative branches in check. As it was born of compromise, much of the constitution’s language is imprecise, and at times this allows for conflicting interpretations. Therefore, the federal courts’ decisions serve the important role of clarifying our understanding of what laws or government actions are acceptable under our

⁷ U.S. Constitution, amend. 14, sec. 1.

⁸ U.S. Constitution, amend. 17.

⁹ Ronald D. Rotunda, *Modern Constitutional Law: Cases and Notes*, 10th ed. (St. Paul, MN: Thomson Reuters, 2012) 1-9.

constitution. Some court decisions nullify legislative actions while others negate executive branch actions. But for our purposes, it is important to specifically point out a few of the more consequential rulings of the Warren and Burger Courts as they dramatically altered our American political system. Cases such as *Elkins v. U.S.*¹⁰ and *Mapp v. Ohio*¹¹ greatly impacted the course of legal precedent as the court began using the 14th Amendment as a vehicle to “incorporate” the states. This interpretation of the 14th Amendment has nearly guaranteed the dominance of the federal government over the states. Simply stated, the courts decided that all state laws are no different than federal laws in that they must respect the same limits defined by the U.S Constitution. The U.S. Supreme Court officially relegated the states to be secondary to the central government – they would no longer be independent sovereignties as originally envisaged.

Now of course the legislative branch wants to hold fast to its constitutionally defined powers. The indisputable powers to tax and appropriate federal spending, regulate interstate commerce, approve the nominations of certain federal officials, as well as the ability to override the president’s veto have ensured congress does not slide into a role subordinate to the other federal branches. Unfortunately, this insulation has unintentionally allowed for the quality of its members to degrade since the other elements of our political system are unable to exact institutional changes to the legislative branch. It seems we have clearly broken from Madison’s vision of a system of government able to create and enforce laws while its powers are naturally constrained as he described as

¹⁰ *James Butler Elkins and Raymond Frederick Clark, Petitioners, v. United States of America*, 364 U.S. 206 (1960).

¹¹ *Mapp v. Ohio*, 367 U.S. 643 (1961).

“ambition must be made to counteract ambition....”¹² The increase in the democratization of our senate and the two party control of the entire legislative branch, increasingly reveals the tyranny of the majority that great thinkers like John Adams¹³ had warned of. And the over-democratization of our entire system, coupled with a declining level of citizen education and engagement, has exacerbated the decreasing quality of those elected to office and weakened the protections from factions envisioned by James Madison.¹⁴

The danger of an unchecked legislative majority was already visible to Tocqueville in 1835 as he explained “the French, under the old monarchy, held as a given that the king could do no wrong...Americans have the same opinion about the majority.”¹⁵ Regardless of the founding principles of our political system, Tocqueville clearly recognized the alarming ability of the majority to suppress true political expression.¹⁶ He even goes so far as proposing the strength of the American majority is greater than that of the Spanish Inquisition, explaining “the Inquisition was never able to prevent the circulation in Spain of books opposed to the religion of the greatest number.

¹² Madison, “Federalist No. 51,” in Scigliano, 331.

¹³ John Adams, *A Defence of the Constitutions of Government of the United States of America* (London, 1794), 1:198-201, accessed January 24, 2016, Eighteenth Century Collections Online, Gale, Georgetown University.

¹⁴ Madison, “The Federalist No. 10,” in Scigliano, 53-61.

¹⁵ Tocqueville, *Democracy in America*, 405.

¹⁶ *Ibid.*, 417.

The dominion of the majority does better in the United States: it has removed even the thought of publishing such books.”¹⁷

An Ineffective Institution

To better understand the decline of the character of our leaders we should begin by looking at the underwhelming requirements for individuals seeking membership in our legislative branch, found in Article 1 of the U.S. Constitution. The person merely must be a citizen for a specific number of years, have reached a certain age, and be living in the state which they will represent. There are no requirements for a thorough understanding of our political system or any defined level of knowledge or proficiency that shall be maintained in order to stay in office. All a person must do is meet the basic requirements and receive more votes than their opponent.

Looking back at the 1st congress, we see an institution comprised of members without personal staffs and nearly half of those in the house, and only slightly more than half of those in the senator, even had college degrees. Of course, even without college degrees, many people of that time were likely better read than most college graduates today. Nevertheless, we can't view this by today's standards because it doesn't tell us the full story. These first members reflected the higher echelon of a young country which consisted of a large number of people unable to read or write.¹⁸ It can also be argued that their jobs were much simpler since the country only had approximately 3,929,214

¹⁷ Ibid., 419.

¹⁸ Mark Strand, Michael S. Johnson, Jerome F. Climer, *Surviving Inside Congress, 4th ed.: A Guide for Prospective, New and Not-So-New Congressional Staff – and a Guided Tour for Those Who Just Want to Learn How It All Works* (Alexandria, VA: Congressional Institute, 2015), 7.

citizens and occupied less than 870,000 square miles of land.¹⁹ Also the interactions between members and constituents were limited as there were no modern conveyances for communication such as the telephone, television, or radio. Today the educational backgrounds of congressional members has improved to the point where, in the 114th Congress, 100% of the senators and 94% of the house have a bachelor's degree.²⁰ A person could try to argue that similar to the 1st congress, modern elected officials reflect a higher level of education since only 28.8% of the general public have earned a bachelor's degree.²¹ However, unlike early congresses, the job of modern members has grown so large it now demands a heavy reliance upon large professional staffs²² but we can't simply compare the education levels of the staffers to the general public. The staffers are not elected and therefore must not take the place of the members who are ultimately accountable to the citizens for the legislative decisions they make.

Understandably, as the members' responsibilities continue to increase, so does their natural dependency on professional staff. In the 114th congress there are approximately 7 to 8,000 staffers in the personal offices, committees, and leadership offices of the house²³ and around 7,000 staffers in the senate. Alas, despite the members'

¹⁹ George Thomas Kurian, ed., *Datapedia of the United States: American History in Numbers*, 3rd ed. (Lanham, MD, Bernan Press, 2004), 18, accessed January 25, 2016, ProQuest Ebrary.

²⁰ Jennifer E. Manning, "Membership of the 114th Congress: A Profile," *Congressional Research Service*, October 31, 2015, accessed January 31, 2016, <https://www.fas.org/sgp/crs/misc/R43869.pdf>.

²¹ U.S. Census Bureau. *Quick Facts*. Accessed January 31, 2016, <http://quickfacts.census.gov/qfd/states/00000.html>.

²² Ida A. Brudnick, "Congressional Salaries and Allowances: In Brief," *Congressional Research Service*, December 30, 2014, accessed January 31, 2016, http://library.clerk.house.gov/reference-files/114_20150106_Salary.pdf.

²³ Daniel Schuman, "Keeping Congress Competent: Staff Pay, Turnover, And What It Means for Democracy," *Sunlight Foundation*, December 21, 2010, accessed January 31, 2016, <http://is.gd/j9Dwd>.

intensifying need for professional staff, these are both overall decreases since 1979.²⁴ To make matters worse, due to congressional staffers' extreme workload and insufficient salaries, 46% self-report seeking a new job within the year. It's even more troubling if we narrow this down to only the Washington based staff because the number then jumps to 63%.²⁵ This alarming level of staff turn-over makes it extremely hard for most office to maintain the necessary institutional knowledge to function properly. Now we if consider how our population has grown from the original 3.9 million or so in the 1790s to over 322,000,000²⁶ today, while also expanding geographically from the original 870,000 square miles to a monstrous size of approximately 3,531,905 square miles²⁷, we should become extremely concerned that we haven't upgraded our legislative branch to meet the modern needs of our citizens and our republic.

Of course simply continuing to observe the original ratio of legislative branch members mandated in article 1, section 2 of the U.S. Constitution, wouldn't improve representation. It would do nothing more than create a completely unwieldy federal

²⁴ Norman J. Ornstein, et al., "Chapter 5: Congressional Staff and Operating Expenses," in *Vital Statistics on Congress Data on the U.S. Congress – A Joint Effort from Brookings and the American Enterprise Institute*, last updated July 11, 2013 (Washington D.C.: Brookings, 2014), 2, accessed January 31, 2016, http://www.brookings.edu/~media/Research/Files/Reports/2013/07/vital-statistics-congress-mann-ornstein/Vital-Statistics-Chapter-5--Congressional-Staff-and-Operating-Expenses_UPDATE.pdf?la=en.

²⁵ Nicole Folk Cooper and Justina Victor et al., "Life in Congress: Job Satisfaction and Engagement of House and Senate Staff," *Congressional Management Foundation and the Society for Human Resource Management* (March 2013), 6, accessed January 31, 2016, http://www.congressfoundation.org/storage/documents/CMF_Pubs/life-in-congress-job-satisfaction-engagement.pdf.

²⁶ U.S. Census Bureau. *U.S. Population*, accessed January 25, 2016, <http://www.census.gov/topics/population.html>.

²⁷ U.S. Census Bureau. *Quick Facts*, accessed January 25, 2016, <http://quickfacts.census.gov/qfd/states/00000.html>.

legislative body made up of hundreds of thousands of people. And despite the assurances in *Federalist 10 and 55*, simply increasing our population, and thereby the pool of citizens we can draw from, is not enough to protect us from powerful factions or guarantee that virtuous people will pursue public service.²⁸ The discussion regarding the total number of congressional members was, as we discussed in the previous chapter, already decided in the early twentieth century with the passage of the *Apportionment Act of 1911*²⁹ which froze the number of house members with full voting rights at 435. Even the first congress didn't reflect the compromises of the Philadelphia convention. Since they didn't have a proper census of the people, they couldn't meet the constitutionally mandated ratio for representation which means the composition of 65 house members and 26 senators was more of an educated guess. Once that first census was completed it would show the first congress' ratio of approximately 60,450 to 1 already had blown past the original constitutional directed ratio of 30,000 to 1. Possibly recognizing the risk of this becoming an ongoing problem, Madison even included a proposal to adjust the number of representatives and establish a minimum and maximum size for the legislative branch in the first constitutional amendments he introduced.³⁰

The ratio of members to citizens is only one element of determining whether the American people are properly represented in the legislative branch. We must address the

²⁸ James Madison, "The Federalist No. 10," "The Federalist No. 55," in Scigliano, 60-1, 357.

²⁹ U.S. Congress. U.S. House of Representatives. "The 1911 House Reapportionment," *History, Art & Archives, U.S. House of Representatives*, Accessed January 25, 2016, <http://history.house.gov/HistoricalHighlight/Detail>.

³⁰ Representative Madison of Virginia, speaking for the introduction of amendments to the constitution, on June 8, 1789, 1st Cong., 1st sess., *Annals of Congress*, House of Representatives: 451, accessed January 25, 2016, <https://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=001/llac001.db&recNum=227>.

quality of the individual members of congress. First let's look at the members we have now and see how productive they are. It may be debatable whether congress does or doesn't spend enough time in Washington but I argue congress' current three-day work week isn't working. This dysfunctional trend began in the 1990s as it became the norm for members to shun the idea of moving their families to the capitol city, fleeing Washington whenever possible to show their contempt toward the federal government and their loyalty to their constituents.³¹ I suppose someone could defend this practice, arguing that members cannot possibly understand the will of the people if they aren't back in their states speaking with constituents. Of course this superficial argument would require us to ignore the incredible technology, commonly available to the general public, which makes it increasingly easier for constituents to make their opinions known. Modern day citizens can call the members' Washington or district offices, or they can send letters and emails. No to mention that members now all have Twitter accounts and Facebook pages, allowing constituents the ability to submit near instant feedback to elected officials through social media.³² Also, just being back in their home state does not guarantee they utilize their time for welfare of the republic.

To try to determine how productive members of congress are we will refer to data from a survey conducted jointly by the *Congressional Management Foundation (CFM)* and the *Society for Human Resource Management (SHRM)*. This survey is based on

³¹ Michael Thorning, "Mr. Smith Goes to Washington Too Little," *Bipartisan Policy Center*, November 10, 2015, accessed January 25, 2016, <http://bipartisanpolicy.org/blog/mr-smith-goes-to-washington-too-little/>.

³² Bradford Fitch and Kathy Goldschmidt, "#Social Congress 2015," *Congressional Management Foundation*, October 14, 2015, 7-10, accessed January 26, 2016, <http://www.congressfoundation.org/projects/communicating-with-congress/social-congress-2015>.

responses from senate and house congressional staff and members of the U.S. House of Representatives. Due to the lack of Senator respondents we will focus more so on house members as that is the data we have available. The the majority of congressional house members surveyed answered that they spend an estimated 59 to 70 hours working each week both in Washington and back in their home states. They also self-reported that, while at home, they spend 32% of their time engaging with constituents with the large majority reportedly feeling this is an appropriate amount of time to spend on constituent services.³³ It is understandable that house members place a high value on constituent case work. Despite that fact that it is only one of the many responsibilities of congressional members, it has become a powerful tool to engender the support of voters who need help navigating bureaucratic executive branch agencies that have grown increasingly complex as they provide more services directly to citizens. Once we take the amount of time spent with constituents and include the self-reported 12% of time spent at home on policy or legislative work, it leaves a house member with about 54% of their time in their home state for other activities like campaigning or spending time with friends and family.

Using the same CFM/SHRM survey, we can also see that house members self-reported spending 35% of their time in Washington working on legislation and policy issues, with an additional 17% on constituents. This seems to be a slight improvement but it can't possibly provide enough time for the members to properly study the different legislation at hand. Especially once we take into account that each member of the house

³³ Nicole Folk Cooper and Justina Victor et al., "Life in Congress: The Member Perspective," *Congressional Management Foundation and the Society for Human Resource Management*, March 2013, 10-11, 15, 28, accessed January 22, 2016, <http://www.congressfoundation.org/projects/life-in-congress/the-member-perspective>.

has an average of 5.3 committee and subcommittee assignments (senators maintain an average 10.8).³⁴ Committee assignments each demand large amounts of time for preparation and involvement in committee hearings. Add to this that members take part in floor debates, vote on rules or bills, meet with party leaders, and receive briefings from subject matter experts of the different federal agencies. Assuming a standard American 5-day work week, and removing weekends and federal holidays, there are approximately 251 working days per year. Each congress only lasts for a total of two years, we can assume they only have approximately 502 possible working days to be in Washington. Let's look at period from the 104th congress, elected in the 1994 elections, through the end of the 113th congress which ended in 2014.³⁵ This shows us that the house has only spent an average of about 56% of the possible working days per congress actually in Washington. And the senate only comes in slightly better at about 64% over the same time period.³⁶ If we then take the survey data and extrapolate it over the same 20-year time period, we can see that out of the total possible 5,020 working days, members of the U.S. House of Representatives have actually only spent the equivalent of about 984 workdays in Washington focused on legislative issues. All citizens should be concern by this number. It seems that modern congressional house members are spending so much

³⁴ Norman J. Ornstein, et al., "Chapter 4: Congressional Committee Data" in *Vital Statistics on Congress Data on the U.S. Congress – A Joint Effort from Brookings and the American Enterprise Institute*, last updated July 11, 2013 (Washington D.C.: Brookings, 2014), 5-6, accessed January 30, 2016, <https://docs.google.com/viewer?url=http%3A%2F%2Fwww.brookings.edu%2F~%2Fmedia%2FResearch%2FFiles%2FReports%2F2013%2F07%2Fvital-statistics-congress-mann-ornstein%2FVital-Statistics-Chapter-4--Congressional-Committee-Data.pdf%3F1a%3Den>.

³⁵ "Past Days in Session of the U.S. Congress," *Library of Congress, Congress.gov*, accessed January 26, 2016, <https://congress.gov/past-days-in-session>.

³⁶ See Appendix: Table 2.1. Congress in the Capitol.

time traveling back to their home states and working as customer service representatives for their constituents they cannot possibly have enough time to spend the appropriate amount of focus on their legislative and oversight responsibilities.

So we have a congress with an enormous workload, a finite amount of time to conduct the people's business, and a disproportionate amount of time dedicated to helping constituents navigate executive branch agencies or traveling back to their states. We should recognize that while this current structure doesn't seem to meet the needs of the republic it does help improve the likelihood of members' reelections. According to the *Center for Responsive Politics*, since 1990, incumbents in the house have been reelected about 93% of the time with the worst year being 2010 when only 85% of the incumbents won reelections. The senate is pretty reliable as well. Since 1990 about 88% of senate incumbents won reelection with the worst years being 2000 and 2006 when the number dipped to 79%. Obviously, it's good to be the incumbent, but incumbent or not, winning isn't cheap. In the 2012 election cycle, the average house winner spent \$1,567,379 while average senate winner spent the understandably higher amount of \$11,474,362.³⁷ With so many demands on the time of the member we can imagine the pressure to raise money must be constant, specifically for house members since they are up for reelection every two years.

Despite the limited amount of time congress spends actually legislating, they still manage to pass laws. In fact, the 113th congress was able to navigate the 7,048 bills and

³⁷ "Election Stats," *Center for Responsive Politics*, accessed January 26, 2016, https://www.opensecrets.org/bigpicture/elec_stats.php?cycle=2012.

amendments introduced in the house, and the 5,604 introduced in the senate³⁸ to eventually pass 296 public laws. They did however wait until nearly the last minute, passing 111 of them during the lame duck session that followed the elections.³⁹ We should also note that not all 296 laws were of the utmost importance to our republic, that is unless you place a great value on naming federal buildings and bridges after individuals. It seems the members of the 113th congress do, at least important enough to spend a healthy portion of their limited legislative time to pass 57 of them. This is not an outlier but rather keeping with the trend. According to the Congressional Research Service (CRS), from the 108th to the 112th Congress, approximately 20% of the laws passed by each of those congresses were to simply name U.S. Postal Service buildings.⁴⁰ It seems the 113th wasn't prepared to buck the trend as they also came in at approximately 20% for naming laws, but to their credit, unlike those other congresses, this number also includes other federal buildings rather than just postal service ones. Once we remove the non-postal facility naming laws of the 113th it brings us to a total of 465 laws naming postal facilities over the past 12 years.⁴¹ With so many issues facing

³⁸ Library of Congress, *THOMAS, Browse Bills & Resolutions 113th Congress (2013-2014)*, accessed January 30, 2016, <http://thomas.loc.gov/home/LegislativeData.php?&n=Browse&c=113>.

³⁹ Drew Desilver, "In late spurt of activity, Congress avoids 'least productive' title," *Fact Tank: News in the Numbers* (Washington, D.C.: Pew Research Center, 2014), accessed January 30, 2016, <http://pewrsr.ch/1y13OnQ>.

⁴⁰ Kevin R. Kosar, "Naming Post Offices Through Legislation," *Congressional Research Service*, 2013, accessed January 31, 2016, <http://big.assets.huffingtonpost.com/postoffices.pdf>.

⁴¹ "Postal Facilities Dedicated by Congress in Honor of Individuals," *United States Postal Service, Who We Are: Our History: Post Offices and Facilities*, last updated January 1, 2016, accessed January 30, 2016 <https://docs.google.com/viewer?url=https%3A%2F%2Fabout.usps.com%2Fwho-we-are%2Fpostal-history%2Fdedicated-facilities.pdf>.

our country, these kinds of numbers should cause you to question whether members of congress even have the ability to properly prioritize their time.

As an institution, congress is constantly faced with many different interests struggling for attention. In order to draw the proper attention to issues individual members are concerned about, they must build support among their colleagues. These groups are officially called *Congressional Member Organizations (CMO)*, but are commonly referred to as caucuses. The senate only officially recognizes one CMO, but senators are often members of the groups recognized by their house counterparts. According to the *Committee on House Administration*, the 114th congress has a total of 282 of these groups.⁴² At first glance, maybe this is one of the protections against factions that Madison was envisioning in Federalist No. 10 when he recommended that we, “extend the sphere,” to spread out the power among different interest groups.⁴³ Of course, if that was the case it would like be evident in the voting patterns of the members. Unfortunately, these caucuses often don’t seem to wield much legislative power since it appears that more often than not, party affiliation trumps caucus memberships. According to information tracked by the Sunlight Foundation’s Open Congress website, in the first session of the 113th Congress the average senate democrat voted along party lines 95% of the time, while their republican colleagues voted with their party an average of 88%. The house looks pretty similar as the democrats voted with their party an

⁴² Committee on House Administration, 114th Congress Congressional Member Organizations (CMOs), 114th Cong., 1st sess., 2015, accessed January 31, 2016, [http://cha.house.gov/sites/republicans.cha.house.gov/files/documents/cmo_cso_docs/114CMOList\(3.17.15\).pdf](http://cha.house.gov/sites/republicans.cha.house.gov/files/documents/cmo_cso_docs/114CMOList(3.17.15).pdf).

⁴³ Madison, “The Federalist No. 10,” in Scigliano, 60.

average of 93.2% of the time, while the house republicans kept up the party loyalty trend with an average of 94.2%.⁴⁴

Going back to Robert Yates writing as Brutus during the ratification in 1787, he seemed to have anticipated the type of congress we have now. Yates warns us about a disconnected legislative branch, explaining that “representatives of one part will be continually striving against those of the other. This will retard the operations of government, and prevent such conclusions as will promote the public good....”⁴⁵ His unfortunately prophetic writing seems to be justified by research showing Americans’ declining trust in our political system since the 1960s has recently reached alarmingly low levels. As recently as November 2015, according to the *Pew Research Center*, only around 19% of Americans have trust in our federal government overall.⁴⁶ That same month, *Gallup, Inc.* estimated congress’ approval rating was a dismal 11%. And this is only a small improvement over congress’ 9% approval rating in 2013.⁴⁷ It wasn’t always this bad, in the 1960s congress maintained an approval rating of around 60% but that has steadily declined while voters have continued to elect increasingly partisan candidates.⁴⁸

⁴⁴ “6.2 Voting with Party,” *113th United States Congress, Ballotpedia: The Encyclopedia of American Politics*, as of May 2014, accessed January 31, 2016, https://ballotpedia.org/113th_United_States_Congress#Voting_with_the_party.

⁴⁵ Robert Yates, “Brutus I: 18 October 1787,” *The Anti-Federalist Papers and Constitutional Convention Debates: The Clashes and Compromises that Gave Birth to Our Government*, ed. Ralph Ketcham (New York: Signet Classics, 2003), 290.

⁴⁶ Carroll Doherty et al., “Beyond Distrust: How Americans View Their Government,” *Pew Research Center* (November 2015): 4, 18, accessed January 9, 2016, <http://www.people-press.org/2015/11/23/beyond-distrust-how-americans-view-their-government/>.

⁴⁷ Jeffrey M. Jones, “Congress Job Approval Rating Slips to 11%,” *Gallup* (November 2015): accessed January 9, 2016, http://www.gallup.com/poll/186581/congress-job-approval-rating-slips.aspx?utm_source=genericbutton&utm_medium=organic&utm_campaign=sharing.

This type of irrational voter behavior may be exacerbated by Americans' tendency to live among other like-minded people of similar socio-economic status, combined with the increase of gerrymandered congressional districts,⁴⁹ and the incredible increase in political campaign spending by groups like Super Political Action Committees (*SuperPACs*).⁵⁰ Earlier we looked at amount the winning house and senate candidates spent on average in the 2012 election cycle but I failed to mention that the total cost for the congressional races for that cycle was \$3,664,141,430. Unlike that race, the 2014 election cycle didn't coincide with a presidential election but the total amount spent for entire 2014 cycle comes to \$3,769,652,999⁵¹ and *SuperPACs* alone were responsible for \$345,117,042⁵² of it.

Furthering the the public's declining faith in the legislative branch is the repeated failure of properly managing the federal budget. Before the Great Depression federal government spending was around 3 percent of our country's Gross Domestic Product (GDP)⁵³ but this has increased dramatically to the point of approximately 21.2 percent of

⁴⁸ Clio Andris, et al., "The Rise of Partisanship and Super-Cooperators in the U.S. House of Representatives," *Public Library of Science PLoS ONE* 10(4): e0123507, April 21, 2015, accessed January 31, 2016, <http://dx.doi.org/10.1371/journal.pone.0123507>.

⁴⁹ Ben Wofford, "The Great Gerrymandering Debate," *Brown Political Review*, July 15, 2014, accessed January 31, 2016, <http://www.brownpoliticalreview.org/2014/07/the-great-gerrymandering-debate/>.

⁵⁰ "Super PACs," *Center for Responsive Politics*, accessed February 6, 2016, <https://www.opensecrets.org/pacs/superpacs.php>.

⁵¹ "Estimated Cost of Election 2014," *Center for Responsive Politics*, accessed January 31, 2016, <https://www.opensecrets.org/overview/cost.php>.

⁵² "2014 Outside Spending, by Super Pac," *Center for Responsive Politics*, accessed February 6, 2016, <https://www.opensecrets.org/outsidespending/summ.php?cycle=2014&chrt=V&disp=O&type=S>.

⁵³ Allen Schick, *The Federal Budget Politics, Policy, Process*, 3rd ed. (Washington, D.C.: Brookings, 2007), 16,17.

GDP today.⁵⁴ The mandatory spending portion of the federal budget for 2016 alone is expected to increase “from \$2.3 trillion in 2015 to \$2.5 trillion (or 13.3 percent of GDP).”⁵⁵ This is money that the federal government must pay out to citizens and states through programs and grants according to a statute-based formula. This means that approximately 60% of total federal spending each year is on autopilot as many citizens now depend on this annual funding for things like healthcare or income. This automated system of direct payments to states and citizens make it extremely hard for the legislative branch to keep accountability of how the money is used. It also reinforces the trend of members’ acting as the customer service element of federal agencies. The perpetual funding of these entitlement programs combined with members’ dependency on assisting their constituents in accessing these funds, makes it much harder to arrest the growth of this type of spending.

Article I, section 9 of our constitution assigns the legislative branch the power to fund the federal government, it therefore one of the core functions of the legislative branch to authorize and appropriate every tax dollar spent. This core function allows congress a powerful control mechanism over the executive branch. Congress determines how long an organization has to use specific funds, they can choose to defund, or reduce funding for programs or policies they disagree with. They can also structure appropriations to compel the executive branch to implement programs or policies that congress wants. Congress members often take great interest in the spending levels of the

⁵⁴ Keith Hall, et al., “The Budget and Economic Outlook: 2016 to 2026: January 2016,” *Congressional Budget Office*, 4, accessed January 31, 2016, <https://www.cbo.gov/publication/51129>.

⁵⁵ *Ibid.*, 62.

different programs and agencies that are funded through discretionary accounts. They will hold hearings, require congressionally mandated progress reports, and receive briefings from the subject matter experts implementing the programs throughout the fiscal year. But while congress is often very public about their desire to reign in government spending, they often focus simply on discretionary spending which only makes up approximately 40% of federal spending. By adopting a piecemeal approach to federal spending issues, the legislative branch has actually weakened itself. When the economy dips unexpectedly or a series of disasters occur during the fiscal year, this causes an increased demand for programs such as Temporary Assistance for Needy Families (TANF) or Medicaid, and the federal government must automatically increase the amounts appropriated to meet the needs of the programs. Mandatory spending is very sensitive to outside economic forces beyond the control of congress therefore the legislative branch has reduced their own power to arrest growth for 60% of the federal budget.⁵⁶

The modern federal budget process, created by the *Congressional Budget Act of 1974*, is so dysfunctional that from 1977 to 2013 congress was only able to successfully pass the budget before the end of the fiscal year in 1989, 1995, and 1997.⁵⁷ The process has become increasingly cumbersome causing it to be susceptible to increased party polarization and this vulnerability to powerful political factions has led to government

⁵⁶ Schick, *Federal Budget Politics, Policy, Process*, 212.

⁵⁷ Norman J. Ornstein, et al., "Chapter 7: Congressional Action on the Federal Budget" in *Vital Statistics on Congress Data on the U.S. Congress – A Joint Effort from Brookings and the American Enterprise Institute*, last updated July 11, 2013 (Washington D.C.: Brookings, 2014), 11, accessed January 31, 2016, <http://www.brookings.edu/~media/Research/Files/Reports/2013/07/vital-statistics-congress-mann-ornstein/Vital-Statistics-Chapter-7--Congressional-Action-on-the-Federal-Budget.pdf?la=en>.

shutdowns in 1995-96 and 2013.⁵⁸ It is becoming clear that the current federal budget process is not sufficient for the needs of our republic. It is crucial that congress take appropriate action before much longer. If the legislative branch doesn't accept its responsibility and gain control of the federal budget process, we could soon reach a point where the government itself becomes crippled by the cost of our debt. This would impact all citizens as "federal spending on interest payments would rise, requiring large tax hikes and deep spending cuts." This would also have a negative impact the private economy by making it more expensive for companies to borrow money or hire employees.⁵⁹ The danger is very real as we can see in the Congressional Budget Office's January 2016 updated estimate for the budget outlook over the next 10 years. It is now anticipated that the 2016 budget deficit will reach approximately \$544 billion and is likely to continue to increase, possibly reaching an estimated \$1.3 trillion by 2026.⁶⁰

A Dangerously Unengaged Citizenry

The poor performance of our legislative branch is a major contributing factor of the American citizens' rapidly declining civic engagement. Our citizenry's generally low opinion of our legislative branch is quite noticeable in the recent U.S. Census Bureau report which shows the 2014 congressional election turnout rate was the lowest since the federal government began tracking this information in 1978. Only 41.9 percent of U.S.

⁵⁸ "Policy Basics: Introduction to the Federal Budget Process," *Center on Budget and Policy Priorities*, updated April 20, 2015, accessed January 31, 2017, <http://www.cbpp.org/research/policy-basics-introduction-to-the-federal-budget-process>.

⁵⁹ Mark Strand, Michael S. Johnson, Jerome F. Climer, *Surviving Inside Congress, 4th ed.: A Guide for Prospective, New and Not-So-New Congressional Staff – and a Guided Tour for Those Who Just Want to Learn How It All Works* (Alexandria, VA: Congressional Institute, 2015), 151-3.

⁶⁰ Keith Hall, et al., "The Budget and Economic Outlook: 2016 to 2026: January 2016," *Congressional Budget Office*, 144, accessed January 31, 2016, <https://www.cbo.gov/publication/51129>.

citizens voted and this was even lower than the 2010 election cycle that came in at a dismal 45.5 percent. During this 36-year window, the best we could do was 51.9 percent in 1982 and 47.8 percent in 2006. Other than those two mediocre efforts, the number of eligible U.S. citizens voting in congressional elections has been trending downward. When we begin to look at the percentages by age groups we still see declines but there is one exception. Citizens 65 years and older have tended to hold steady at the 59 to 60 percent level.⁶¹ This could be possibly due to programs like Social Security which provides direct payments to citizens over the age of 67 who have worked for 10 years or more,⁶² and subsidized health insurance for people over 65. It seems that people who have been paying their Social Security tax for their entire working life and were planning to retire would want to elect officials that would protect their payout. Of course, it could just be that people over 65 take their job as citizens more seriously than other age groups, or even a combination of both factors.

Figuring out why people vote is hard to actually quantify. If we assumed that older voters only participated in elections simply to protect their Social Security payments, then we could also expect to see a large spike in voter engagement among the unemployed since they would likely be dependent on unemployment insurance which is largely funded by the federal government. But this isn't the case, in fact, both employed citizens (41.2 percent) and unemployed citizens (43.3 percent) reported voters are within

⁶¹ U.S. Census Bureau, *Who Votes? Congressional Elections and the American Electorate: 1978-2014: Population Characteristic*, by Thom File, July 2015, 2-6, accessed February 1, 2016, <https://www.census.gov/content/dam/Census/library/publications/2015/demo/p20-577.pdf>.

⁶² U.S. Social Security Administration, *Social Security: How you Earn Credits 2015*, accessed February 1, 2016, <https://docs.google.com/viewer?url=https%3A%2F%2Fwww.ssa.gov%2Fpubs%2FEN-05-10072.pdf>.

a very close margin of one another. We do begin to see a noticeable difference in voting activity when we look at education level. The percentage of reported voters with only a high school diploma was only 33.9 percent compared to those with advanced degrees who came in at 62 percent.⁶³

So why do people vote? Or maybe more importantly, why don't they vote? Stephen Dubner and Steven Levitt, the journalist-economist-duo responsible for the *Freakonomics* series of books, blogs, and podcasts wrote in a 2005 New York Times Magazine article, "voting exacts a cost – in time, effort, lost productivity – with no discernible payoff perhaps some vague sense of having done your "civic duty.""⁶⁴ For a political system dependent on citizen engagement like ours, an extremely cynical view like this should be shunned, but looking at the Census Bureau data, it appears to be growing more socially acceptable. It is easy to see why a lot of eligible voters don't take the time to vote in congressional elections if they don't trust the members of congress in the first place. According to the *Brookings Democracy Dashboard*, in 2014 only 28 percent of Americans said they trusted the legislative branch and only 15 percent said they approved of the job the legislative branch was doing.⁶⁵ It is incredibly hard to entice someone to vote for an institution they already distrust and we make it even harder when we generally predict who will win before the election occurs. The *Freakonomics* writers

⁶³ U.S. Census Bureau, *Who Votes? Congressional Elections and the American Electorate: 1978-2014: Population Characteristic*, by Thom File, July 2015, 6, accessed February 1, 2016, <https://www.census.gov/content/dam/Census/library/publications/2015/demo/p20-577.pdf>.

⁶⁴ Stephen J. Dubner and Steven D. Levitt, "Why Vote?," New York Times Magazine, November 6, 2005, accessed February 1, 2016, <http://nyti.ms/1N6CyHT>.

⁶⁵ "Brookings Democracy Dashboard," Brookings Institution, updated January 27, 2016, accessed February 1, 2016, <http://www.brookings.edu/research/interactives/2016/democracy-dashboard>.

also go on to tell us that only 1 time in the past 100 years a congressional election has been decided by a single vote.⁶⁶ Additionally, it appears that from 1998 to 2010, if *Cook Political* rated a race as solid or leaning Democrat or Republican they were right at least 92% of the time.⁶⁷ So if your individual vote won't likely swing the election and you just read that *Cook Political* is calling the race in favor of the candidate you dislike, there would need to be a very compelling reason for you to vote.

There is no silver bullet so to speak. There is no simple way to encourage more Americans to vote and even if they did, we have no guarantee that increased voter engagement will help. In September of 2015 Gallup found that, from a poll of over 1,000 adult Americans, only 66 percent knew what party current controls the house, only 43 percent knew that each state has two senators, only 28 percent knew that house terms last for two years, and only 13 percent could name the current majority leader of the senate. Of the 17 percent considered to be knowledgeable about congress, 66 percent of those respondents think congress is not doing a good job.⁶⁸ In other words, the more people know about congress the worse their opinion of congress is. Gallup also found that 20 percent of Americans who reportedly follow political news is likely correlated to the similar number of Americans with a functioning knowledge of our legislative branch.

⁶⁶ Stephen J. Dubner and Steven D. Levitt, "Why Vote?," *New York Times Magazine*, November 6, 2005, accessed February 1, 2016, <http://nyti.ms/1N6CyHT>.

⁶⁷ Nate Silver, *The Signal and the Noise: Why So Many Predictions Fail—but Some Don't* (New York: Penguin Press, 2012), 70.

⁶⁸ Frank Newport, Lydia Saad, Michael Traugott, "The More Americans Know Congress, the Worse They Rate It," September 25, 2015, *Gallup*, accessed February 7, 2016, <http://www.gallup.com/poll/185912/americans-know-congress-worse-rate.aspx>.

So how do modern Americans get their news? According to a recent Pew Research Center, in 2014 approximately 61 percent of Americans between the ages of 18 to 33 got their news about politics through social media, specifically *Facebook*. Americans ages 34 to 49 weren't much better - 51 percent of them reportedly use *Facebook* for their political news. And while the number is only 39 percent for the 50 to 68 year olds, it is clear that more and more Americans are turning to online news sources rather than to traditional sources like printed newspapers and magazines, or cable news.⁶⁹ It is also interesting to note that when asked about their trust or distrust of the 36 leading news sources,⁷⁰ all three of the major age groups held similar levels of trust (37 to 41 percent) and distrust (21 to 23 percent).⁷¹ In other words, there is a general distrust of modern news reporting.

Now we are facing a crisis of causality. We need an engaged citizenry to hold our elected officials accountable but the obvious dysfunction of our legislative branch deters virtuous people from wanting to seek office. This leaves us with substandard elected officials, which then further discourages citizen involvement. As the quality of our legislators decline, so too does the number of engaged voters. Making matters worse, we have more and more money being spent in our elections which provides a barrier for entry to people interested in running for office, while protecting incumbents. Most

⁶⁹ Amy Mitchell, "State of the News Media 2015," *Pew Research Center: Journalism & Media*, April 29, 2015, accessed February 7, 2016, <http://pewrsr.ch/1zbGqpc>.

⁷⁰ Amy Mitchell, Jeffrey Gottfried, Katerina Eva Matsa, "Millennials and Political News: Appendix B: Trust and Distrust of News Sources by Age Group," *Pew Research Center: Journalism & Media*, June 1, 2015, accessed February 7, 2016, <http://pewrsr.ch/1d9kRvx>.

⁷¹ "Overall Trust and Distrust of News Sources Roughly the Same Across Generations," *Pew Research Center: Journalism & Media*, May 28, 2015, accessed February 7, 2016, <http://pewrsr.ch/1PZRKMZ>.

mainstream journalists seem to have abrogated their duty to hold elected officials to account. The desire for access to officials combined with a drive for ratings and readership seems to be hastening the peoples' declining trust in journalism. The legislative branch is the voice of the people and therefore pivotal to our entire American political system. The only way to arrest the degeneration of our entire political system is to first restore our citizens' faith in the legislative branch. Just as you have to crawl before you can walk, and walk before you can run, we must first restore the peoples' institution. Only then can we begin to address some of the other major issues facing our system.

CHAPTER 3

OUR REPUBLIC OF SUB-REPUBLICS: INCREASED REGIONALISM AND PROFESSIONALIZED POLITICIANS

American nationalism has grown over the past two hundred years. Originally people were patriots of the ideals of the confederation of American states but they primarily identified as citizens of their individual states. The patriotism of the late 1700's has been co-opted by nationalism and given us the modern American citizen who seems to primarily identify as citizens of a homogeneous country. Modern patriotism can serve our republic well when uniting our citizenry toward the common good of our country, but it can also be very dangerous. Unfortunately, throughout our short history, our patriotism has often reached a jingoistic fervor that allows us to ignore our weaknesses and shortcomings as a political system. Even more concerning, is that a growing number of modern Americans seem to use patriotism as justification for embracing a false nativism, ignoring the fact that our American genetic map reflects all of the countries of the world.¹

In order for the American political system to benefit from healthy patriotism we must first embrace our complex national identity. Modern American patriotism should promote our unique ancestries and acknowledge our natural mix of different concerns and priorities. Our country is a natural mosaic of different individual life experiences, reflective of the region where we have spent most of our lives, combined with a mixture

¹ U.S. Department of Commerce, Census Bureau Selected Social Characteristics in the United States: 2010-2014 American Community Survey 5-Year Estimates, Ancestry, accessed January 10, 2016, <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

of some indelible traits we inherit from our unique individual ancestries.² Therefore, it is natural for the concerns of the American people to vary according to where they live in the country and their associated socioeconomic class. For example, a farmer living in rural Montana may not be very concerned about increasing federal mass transit funding and instead spends her time worrying about water and mineral rights. Meanwhile a waiter living 2,000 miles away in Manhattan may be very concerned about the federal funding that helps maintain the subways he depends on to get to and from work, paying little mind to water and mineral rights of land owners. Neither of them is wrong. They just have different points of view.

We have been warned by James Madison, Montesquieu, George Washington, and others of the danger of factions. And left unchecked, there is no denying the destructive power of factions. Madison was correct when he argued in *Federalist No. 10* that we cannot destroy factions, and I believe we must continue to seek new and more effective ways to properly mitigate the damage caused by factions in our republic. Our political system is based on the idea of a meritocracy where inequalities are accepted when just and useful for our society. When people don't view the inequalities as justified they often seek the protection of a faction or group, and as the group will seek to strengthen itself, the group will seek the appropriate people that will help it survive. Of course there are outliers and exceptions, but most people do not seek to endanger themselves, or be alone. This could be why people seek the comfort and familiarity of groups that share similar beliefs and life experiences.

² Robert Boyd and Peter J. Richerson, "Solving the Puzzle of Human Cooperation," in *Evolution and Culture: A Fyssen Foundation Symposium*, ed. Stephen C. Levinson and Pierre Jaisson (Cambridge, MA: MIT Press, 2006), 127.

Often taking the form of special interest groups, today's factions are even more powerful than our Framers imagined. And though factions are natural,³ most modern special interest groups are actually seeking inequality to benefit their own position regardless of the expense to other groups. We need to accept that the current protections from modern factions are not working. Humans' are naturally inclined to seek safety in numbers,⁴ therefore we must explore new tactics in our struggle against factions. The image of the self-made independent man is a figment of American folklore. People are social animals and need the support of other people in order to survive.⁵ We should focus on channeling the strength of factions and using their natural tendencies to benefit our political system. And once we craft the appropriate channels, we should then be able to craft a simple way to better insulate our political system from the ever present danger of factions.

Recognizing and Utilizing the Natural American Regions

First, let's look at how we can channel the power of factions to benefit the American political system. Our republic is not made up of a homogeneous people or geographic area. Seeking examples, I initially turned to our European progenitors. However, I quickly abandoned that endeavor. England's Westminster system is a parliamentary system without a written constitution. And while the United Kingdom has become more diverse in modern times, it simply doesn't compare to the size and young

³ Allan J. Cigler and Burdett A. Loomis, eds., "Introduction: The Changing Nature of Interest Group Politics," *Interest Group Politics*, 8th ed. (Washington, D.C.: CQ Press, 2012), 2-3.

⁴ Locke, *Second Treatise of Civil Government*, S15, S127, S130.

⁵ Aristotle, I.ii.I253aI-I253a29.

history of the United States. Looking to the other countries of Europe we will find that the Council of Europe has established a *Congress of Local and Regional Authorities*.⁶ Unfortunately, the council and its congress are not governing bodies elected by the citizens for the purpose of passing laws. The Council is a human rights organization and its regional congress structure is simply an advisory body which promotes and protects local self-governing. While important, it doesn't translate to our political system.

The United States of America has an enormous population made up of a constantly changing mix of people, each with with a complex array of ethnic and cultural backgrounds. This plus the fact that geographically, the continental United States is made up of 48 different states, consisting of numerous mountain ranges, rainforests, and deserts and spanning nine different climate regions,⁷ is pretty incredible to comprehend. We have 486 urbanized areas of 50,000 people or more,⁸ and there are over 300 languages spoken in households throughout the country.⁹ Recently in 2011, Colin Woodard released a book titled *American Nations: A History of the Eleven Rival Regional Cultures of North America* where he draws upon the history of struggles among

⁶ "Congress of Local and Regional Authorities," *Council of Europe*, accessed February 16, 2016, <http://www.coe.int/t/congress>.

⁷ Thomas R. Karl and Walter James Koss, "Regional and National Monthly, Seasonal, and Annual Temperature Weighted by Area, 1895-1983," *Historical Climatology Series 4-3, National Climatic Data Center, Asheville, NC*, 38, accessed February 12, 2016, <http://www.ncdc.noaa.gov/monitoring-references/maps/us-climate-regions.php>.

⁸ U.S. Department of Commerce, Census Bureau *2010 Census Urban and Rural Classification and Urban Area Criteria*, accessed February 16, 2016, <https://www.census.gov/geo/reference/ua/urban-rural-2010.html>.

⁹ U.S. Department of Commerce, Census Bureau, *Detailed Languages Spoken at Home and Ability to Speak English for the Population 5 Years and Over: 2009-2013, Appendix A: Primary Language Code List*, accessed February 12, 2016, https://docs.google.com/viewer?url=http%3A%2F%2Fwww.census.gov%2Fhhes%2Fsocdemo%2Flanguage%2Fabout%2F02_Primary_list.pdf.

the different regions since the founding of our country. He takes data from sources like historical voting trends, religious identification, racial make up, and others to craft 11 different regions he named “Yankeedom,” “New Netherland,” “The Midlands,” “Tidewater,” “Greater Appalachia,” “Deep South,” “El Norte,” “The Left Coast,” “The Far West,” “New France,” and “First Nation.” Unfortunately, at least for our purposes, Woodard’s selection of natural regions doesn’t easily align. But, regardless of the fact that his regions can’t work for governing, they do prove extremely valuable as they are a clear illustration of some of the naturally occurring differences that make up our country.

State borders do not define the different cultures of America. They were created at different times in our history and often due to unique circumstances. Many of the first Americans identified strongly with their home states, but it seems modern Americans no longer have the same state focused allegiance. One thing is for certain, the different regions of our country often are faced with region-specific issues that many other parts of America do not understand. This lack of commonality is one of the natural elements feeding our propensity to align with some of our customary factions. Modern advances in communication technology have dramatically improved communications from different locations throughout the country. But technology can’t improve an individual’s understanding of local or regional issues if a person doesn’t already have an appreciation for the uniqueness of the area. Understanding comes from immediate interactions with others. Personal engagement teaches people to appreciate the level of concern a person may have for economic conditions caused by drought, or the closure of a major manufacturing hub. People living in urban areas have a different appreciation for urban based social programs, while people in more rural areas may place greater importance on

expanding infrastructure, regulating agri-business, or increasing agricultural insurance programs to defend from poor growing seasons.

Due to our many differences, I propose we accept our regional responsibilities and embrace regional representation. Accepting that people act provincially, we should create the appropriate institutions to harness these tendencies and thereby improve all of the natural sub-republics of the United States of America. Our natural sub-republics aren't often acknowledged but they are recognizable once you begin to look for them. Our federal judicial branch includes the U.S. Court of Appeals which is arranged across the country in 12 regions, all subordinate to the Supreme Court.¹⁰ We even have a central banking system that is made up of 12 Federal Reserve Districts. After 124 years of repeated financial crises our central banking system was finally established, and recognizing the value of proximity for the proper regulation of our different regional economies, they spread the new system around the country rather than create a monolithic institution.¹¹ We have different climate zones which range from the hot and humid inland areas of the deep south, to hot and dry areas of west Texas, to very cold areas of the upper most northeast, and the rainy but temperate coastal areas of the Pacific northwest. One area may be concerned about flooding while another is simultaneously experiencing water shortages.

¹⁰ Administrative Office of the U.S. courts, *Understanding the Federal Courts*, 5, 7, accessed February 27, 2016, <http://www.uscourts.gov/file/understanding-federal-courtspdf>.

¹¹ Tim Todd, "The Balance of Power: The Political Fight for an Independent Central Bank, 1790-Present," *Public Affairs Department of the Federal Reserve Bank of Kansas City*, 2012, 9-15, accessed February 13, 2016, <https://www.kansascityfed.org/publicat/balanceofpower/balanceofpower.pdf>.

We need to embrace the sub-republics that make up our republic. Using U.S. Census Regions and Divisions as my starting point, I have created an imperfect list of 10 regions. These sub-republics reflect different population centers, with different costs of living, and differing amounts of federal taxes paid and spent towards transportation. It should be noted that these sub-republics appear to naturally align geographically as many of the states have similar populations and regional price parities.¹² The sub-republics of Eastern Central (EC), North Central (NC), Midwest North (MN), Mountain West (MW), Northeast Atlantic (NA), Northeast New England (NNE), Pacific West (PW), Middle Chesapeake (MC), Atlantic South (AS), and West Southern Central (WSC) would be tasked with forming bicameral legislative bodies, reflective of the federal congress with defined responsibilities and structures.¹³

Recognition of our sub-republics is a key element to any proposal for reforming our dysfunctional federal legislative branch. The design of our legislative branch is outdated and this has allowed the infiltration of factions along with the misappropriation of members' time. When members are in session they should be in Washington alongside their colleagues, and focused on the study of national policies and their effects. If we ever hope to create a U.S. Congress of men and women who actually are able to spend an appropriate time legislating rather than performing customer service, we must give them the tools to make this transition.

¹² Regional Price Parities (RPPs) is an index created by the U.S. Department of Commerce Bureau of Economic Analysis. This index compares local prices by state or metropolitan area for certain goods and services as a percentage of the national price levels which are accepted as equal to 100.0 for a given year.

¹³ Table 3.1. Proposed Regional Congresses of the Ten Sub-republics.

To help us in our endeavor to modernize our federal legislative branch, I propose establishing a subordinate system of regional congresses. The creation of a regional system would reestablish the link between the states and the federal legislative branch, thereby strengthening each. And unlike the previous design of state appointed senators, this could be designed to resist the corruption that demanded the enactment of the 17th Amendment. This proposal would not supplant the different state legislatures, nor would it in any way encroach on the states' police power under the 10th amendment. They state legislatures would still need to fulfill the legislative responsibilities of their respective states and they would be strengthened by the added responsibility of working with their state's executive branch to properly define what federal funding and programs they believe are most needed in their state. Additionally, the regional congresses would serve a dual function. They would have limited and clearly defined powers to operate as an extension of the federal congress, while also restoring the voice of the states in the federal legislative branch by representing the concerns of their region's states directly to the federal congress.

The different regional congresses would each represent one of the sub-republics. The upper body of the respective congresses would consist of an equal numbers of members from each state of their region, while the lower bodies would be representative, based on the federal census count. In recognition of the continued value of the lessons contained in the Federalist Papers, I would propose we refer to the upper bodies as the Publius. Candidates could not run for this upper body unless they have already served a complete term in the lower house and members of the Publius would serve for 5 year terms. The prerequisite of previous office will ensure the upper body members have an

understanding of both the state they represent and the functions of the regional congress. There must be an equation devised to determine the total number of upper house members as it should be uniform across all regional congresses and allow for the use of simple Publius Regional Congress Districts (PRCDs). The districts would vary in geographic size as the states vary in size, and PRCDs would not respect natural geographic features, but the standard grid would over lay each state to help ensure that all the regions of the different states have representation in the regional congresses.

In recognition of the sage warnings of the Anti-federalists, I propose we refer to the lower house as the Cato. The lower house would be similar to members of the U.S. House as they would be up for election every 2 years. And similar to the Publius, candidates cannot run for the lower house unless they have already served a complete term as a member of their state legislature. This requirement will ensure the members of the Cato have an understanding of many of the issues facing the state they will be representing. These members would also represent a specific district but unlike congressional districts, the Cato Regional Congress Districts (CRCDS) would be census based and follow a standard formula that shall not be manipulated by any political party. CRCDS will automatically contract or expand as the census numbers determine. And in order to limit the need for additional infrastructure, the regional congresses shall rotate locations among the state houses of their region, and the administrative needs of the regional congress members will be funded at the discretion of their state.

Elections for all seats in the Publius and the Cato will have a set start and finish date and shall last for no longer than 3 months. And the fundraising for such races can only occur during the first month of the official campaign cycle, can only be raised from

individuals with a primary home of record in the candidate's state, and at the end of each campaign cycle, any remaining funds must be refunded to the donors or be submitted to the state of the candidate for use by the state's general fund. All reporting of fundraising activity will be submitted to the Federal Elections Committee on a monthly basis during the 3-month campaign cycle. No accounts can be opened prior to the official starting date and all accounts must be zeroed out within 30 days of the completion of the election cycle.

An additional protection against improper influence of interest groups would be the restrictions placed upon former regional congress members. At the time of establishing the regional system, an incontestable rule must be included. And that is that no member can lobby any state, regional, or federal government official for the amount of time equal to the total number of years they served in any state, regional, and federal legislative offices.¹⁴ The only exception to this rule would be in situations where an individual is elected to a state or federal executive branch office or is appointed to a confirmable position in state or federal government.¹⁵ As we prove the value of the shortened campaign periods, the improved structure for political fundraising, and the limited ability of members to benefit financially from their time in office, we can begin to implement these same rules for the entire federal congress. And since most members of congress seem to dislike the current corrupted process we can anticipate a weakening defense of the status quo over time.

¹⁴ If a person serves 2 years in a state legislature and 5 years in a regional congress, they would then be restricted from all lobbying activities for a minimum of 7 years.

¹⁵ Federal positions would be limited to appointments which require a full senate vote for confirmation, and state positions would be limited to appointments that require their respective state legislature's confirmation.

Once the system of regional congresses has been established, I propose we turn over the responsibility of constituent services to the members of the regional congresses. This will assure that citizens continue to receive the appropriate attention from their elected officials to assist them with the myriad of federal programs and agencies. Modern federal programs and agencies are spread across the country. This means the members of the regional congresses would be better positioned to interact with the local or regional leaders of the different federal programs and therefore better able to properly address issues as they arise. And since the regional congresses would be subordinate overall to the federal congress, they would be required to submit regular reports to the federal delegations of their regions' states regarding all issues or concerns related to federal programs or agencies. This realignment allows for the appropriate concentration on the local issues while ensuring the federal congressional members receive reliable information from trusted sources in their regions. This information can then be used by the federal congressional members as they determine the best way to address concerns of national importance.

The federal congress will be dependent on the work of the regional congresses, driving them to provide accurate information which will aid the federal congress in addressing legislative needs in a timely manner. The dual dependency among the federal legislative institution and the regional congresses will allow for a natural power struggle, and by enabling members of the federal legislative branch to focus on national issues and policies, it should encourage them to begin acting as a deliberative body of thinkers rather than permanent campaigners. The federal congress would be discouraged from encroaching on the authority of the regional congresses as both the citizens and the states

would grow to value the regional congresses role as representing them in the federal government. The federal congress would risk terrible harm to their own reputations if they were viewed as taking away the states' voice or the American citizens' improved ability to navigate federal programs and agencies.

One of the most crippling problems in the modern federal budget process is that the U.S. Congress is both the body that creates the budget resolution and the body that must then pass the actual budget.¹⁶ And as discussed in the last chapter, from 1977 through 2013 congress was only able to pass the a final budget before the end of the fiscal year a total of three times.¹⁷ Article I, Section 9 of our constitution assigns the legislative branch the power to fund the federal government. And every federal tax dollar spent must have an appropriation passed by the legislative branch which provides congress vital oversight of the implementation of federal programs and the spending of our nation's tax dollars. However, despite this constitutional responsibility, congress refuses to fix a budget process that is broken and as mandatory appropriations continue to grow unchecked, influences less than half of the overall federal budget.

While we shouldn't propose that congress abdicate their constitutional responsibility, I put forward that our federal congress equalize the weight of the federal budget process across the regional congresses. If the American people accept the concept of regional congresses, we can simply amend the current federal budget process through

¹⁶ Allen Schick, *Federal Budget, Politics, Policy, Process*, 3rd ed. (Washington, D.C.: Brookings, 2007) 50, 124-5, 132.

¹⁷ Norman J. Ornstein, et al., "Chapter 7: Congressional Action on the Federal Budget" in *Vital Statistics on Congress Data on the U.S. Congress – A Joint Effort from Brookings and the American Enterprise Institute*, last updated July 11, 2013 (Washington D.C.: Brookings, 2014), 11, accessed January 31, 2016, <http://www.brookings.edu/~media/Research/Files/Reports/2013/07/vital-statistics-congress-mann-ornstein/Vital-Statistics-Chapter-7--Congressional-Action-on-the-Federal-Budget.pdf?la=en>.

federal statute. The executive branch will still be required to submit their budget request in February of the calendar year, however unlike the current non-binding resolution process, the federal congress would then be required to craft and pass a binding budget resolution. This new binding document would depend on the executive's budget proposal and information provided by the 10 regional congresses by the first day of session in January of each year. This will allow the federal congress to determine the best general needs for the entire country and the general amounts for the country to spend by region. This separation of duties will allow the federal congress to establish caps for the spending of the specific accounts by region. The caps would be determined based on a combination of the needs of the sub-republics, as reported by the regional congresses, and the requests of the executive branch. This mechanism encourages the federal congress to make educated decisions regarding federal spending as opposed to the current process where positions are overly influenced by political party affiliation. And the regional congresses would be required to pass and submit a budget for their respective region that falls within the spending limits set by the federal congress.

Regional congresses would also have a limited time to craft and pass their budget once they have been assigned the allotted amount for their individual region. Should a regional congress not pass a budget within the allotted time, they would be disbanded by order of the federal congress and the accounts for the programs and agencies within that region would be suspended until the election of a replacement regional congress could occur, but no later than 120 days from the date of disbandment. Even in extreme cases when a disbandment would be necessary, it would not shutdown the entire federal budget but rather regional specific programs. An automatic shutdown feature, combined with

the limited role of the regional congresses and the proximity of members of both the Publius and the Cato to their constituents should serve a forcing function on the budget process itself. This proposed new federal budget process would provide the American people with better access to the members of their region's House of Publius and Cato. And ideally, the improved access would provide a greater opportunity for citizens to better understand the issues impacting their region and encourage them to engage in the budget process.

While the federal congress decides the proper amounts to allocate to the individual regions, their decisions would depend heavily on the information provided by the executive branch, the regional congresses, and the states themselves. The needs of the specific regions naturally vary due to their populations and density, natural geographic features, and major industries. Therefore, as a starting point, I would propose limiting the focus of this regional structure to discretionary spending accounts that include programs related to natural resources and the environment (budget function 300), agriculture (budget function 350), transportation (budget function 400), and community and regional development (budget function 450 and 600). The budget is organized into general topic categories referred to as budget functions. In other words, all accounts related to the subject of agricultural spending, regardless of the federal agency responsible, would fall under the category of budget function 350. Programs that supply food through food stamps or the national school lunch program, fall under budget function 600, generally referred to as income security.¹⁸ This will allow the legislative

¹⁸ U.S. Government Accountability Office, *Glossary of Terms Used in the Federal Budget Process September 2005: Appendix IV: Budget Functional Classification*, GAO-05-734SP, 124-151, accessed February 27, 2016, <http://www.gao.gov/new.items/d05734sp.pdf>.

branch to allocate a fair distribution of general funding for the sub-republics while also limiting the government's ability to needlessly expand spending measures. This will not be simple as the federal budget process has become incredibly complicated and hard to follow, but the federal congress would remain in control as they would still be responsible for identifying the amounts to be tasked to the regions for debate and recommended distribution. As the new system would mature, the structure of federal budget could be reformed to better manage mandatory funding accounts and through the use of the regional congresses, improve how the allotments to different federal programs are determined.

The empowerment of the regions should provide a civic stimulus to the states and the citizenry as it would place the decision making power closer to the people. Should they believe it important to fund more roads, citizens would have the ability to dedicate more funding to new construction for highways and state and local roadway grant programs. Should the people decide they want to raise revenue in order to supplement limited federal funding for specific regionally important programs, they could work in conjunction with their state governments and coordinate among them to identify non-federal ways to raise needed revenue. General federal policies and programs would still be decided by the federal congress in order to protect us from major quality of life discrepancies among the regions. However, the regions would be responsible for deciding how some of the funding for specific federal programs is spent within the region. This new structure would also reinforce the understanding that federal spending is finite as the block amounts set by the federal congress would not be disputable during that budget cycle.

Each budget passed by the regional congresses would then be submitted to the federal congress, as the federal congress would also retain supremacy with a veto authority over the budgets submitted to them. Once received, the federal congress would be required to call a simple up or down vote on the budget as submitted. In times where the budgets submitted by the regional congresses expand beyond the budget resolution limits and do not have the appropriate regional funding identified to pay for any overage, there would be no time allowed for debate in the federal congress, nor any ability to amend the submitted regional budgets. This would limit political posturing as members would not be able to take to the floor to slow down the process while bloviating about non-budget-related subjects. And in times where supplemental regional funding has been identified in the budget submissions, this would allow for over-budget spending in times of national crisis when passing a budget quickly is extremely important. Additionally, the regional budgets that are submitted within the appropriate timelines and the defined amounts would not be subjected to the rest of the federal budget process. This could further insulate regionally valued programs from the wild political swings that currently plague our federal congress.

The powers and functions of the regional houses of Publius and Cato must be clearly defined and limited, but without the necessary changes to our current form of federalism, our states and metropolitan areas will become less competitive in the global economy.¹⁹ While this proposal only begins to address our political problems, it should provide the some of the tools necessary to begin to address some of the current educational, social, and economic shortcomings our regions are all experiencing. If we

¹⁹ Rivlin, *Reviving the American Dream*, 10-11, 30-31, 119-121.

don't begin necessary political reforms now, our states and metropolitan areas will continue to weaken and turn to the federal government for increased support and funding. As political power and government services have become concentrated, they have often become overly bureaucratic and entrenched. Of course, we cannot simply turn back the clock and realign powers back to the states. Many state powers were rightly taken away due to the states' inability to restrain their own institutions from encroaching on the liberty of their citizens. We can however, strengthen the states, the local governments, the citizens, and even our federal government with this new arrangement of power. This new structure would encourage the federal congress to make necessary budget decisions and remove some of the process confusion some members currently use to obscure their actions, or lack there of. No member wants to be responsible for reducing the funding of a program that directly impacts their constituents. But if the member can appropriately reign in the general federal government spending while also empowering the regional congresses to appropriate the limited funding as the region sees fit, we can expect to see signs of a renewed appreciation for duty begin to sprout.

This proposal does not abandon the design of the Framers in any way. In fact, it builds upon their appreciation of a mixed constitution. This proposal, as simple as it is, embraces the idea Madison puts forward in Federalist No. 10. Realigning a major element of our political system will ease the current concentration of power. It would provide an opportunity to draw from an expanded pool of qualified citizens and select the best people to conduct their regionally focused duty.²⁰ We have seen repeated clarion

²⁰ Madison, "The Federalist No. 10," in Robert Scigliano, 60.

calls for civic duty and political virtue fail. Rather than repeating past mistakes, the clearly defined roles of the sub-republic congresses should prod modern American citizens toward civic engagement due by disguising it as their own selfish concerns. And as Philip Pettit points explains, “recruitment does not have to appeal merely to the abstract call of virtue. There will be no problems with a civic vigilance that is exercised on the basis of such particularistic enthusiasm and attachment....”²¹ As long as the people engage in the federal budget process for reasons that benefit their individual sub-republic and consequently, the welfare of the entire republic, we will begin to restore one of the missing elements of our political system. This complimentary regional legislative structure will demand the citizenry’s attention and inspire sensible scrutiny of our federal government.

Our system is currently drifting dangerously close to a tyranny of the majority, and often it seems the majority has been hijacked by special interest groups, making even the opinion of the majority a poor reflection of the will of the people. And as our system has grown incredibly complex, less people understand its structure and functions. Rather than accepting their duty as engaged citizens, people often mistakenly accept extreme liberty or extreme democracy as appropriate substitutes for a well designed political system. But Montesquieu warns:

the principle of democracy is corrupted not only when the spirit of equality is extinct, but likewise when they fall into a spirit of extreme equality, and when each citizen would fain be upon a level with those whom he has chosen to command him. Then the people, incapable of bearing the very power they have delegated, want to manage everything themselves, to debate for the senate, to execute for the magistrate, and to decide for the judges. When this is the case,

²¹ Pettit, *On The People’s Terms*, 227.

virtue can no longer subsist in the republic. The people are desirous of exercising the functions of the magistrates, who cease to be revered. The deliberations of the senate are slighted; all respect is then laid aside for the senators, and consequently for old age.²²

Of course simply demanding citizens begin to respect elected members of our legislative branch is guaranteed to fail as we've already discussed congress' extremely low approval ratings. However, despite the American public's general disdain for the U.S. Congress as a whole, it can be assumed that some members may be deserving of a higher level of respect. Unfortunately, in those select situations, even quality members are immediately discounted or voted out of office due to their association with the unpopular institution. We should be concerned as the problem of negative association also discourages current members from attempting to educate or correct their constituents. It is easier for incumbents to appease the majority, no matter the extreme, in the hopes of retaining their position. Even worse, this additional barrier to entry further diminishes the chances of virtuous statesmen seeking to enter the political system.

But as we accept the natural sub-republics of the United States, and establish the necessary regional institutions within our legislative branch, we will begin to channel the strength of some factions and begin the process of restoring balance in our political system. Furthermore, a successfully constructed system of sub-republic congresses would also enable us to realize the additional benefit of creating our own farm system²³ for American legislators. And by providing a graduated process that trains and vets

²² Montesquieu, *Spirit of Laws*, 130.

²³ Farm System is a modern term used to describe a group of minor league baseball teams that are affiliated with a specific Major League Baseball team. These subsidiary teams train players for the purpose of the players improving to the point where they can be brought up to play for the Major League Baseball team.

potential congressional candidates, we would improve our chances for better qualified candidates for future federal congresses. As Madison (or Hamilton) argues in Federalist No. 53, "no man can be a competent legislator who does not add to an upright intention and a sound judgment a certain degree of knowledge of the subjects on which he is to legislate."²⁴ Admittedly, this protection alone will not be enough to properly arrest our systems' current decline but it would begin to institutionalize a higher expectation of political leaders. Candidates for office would begin to be discouraged from celebrating their ignorance of governing and instead would be encouraged to promote their legislative experience.

Professionalizing Elected Politicians Through Continuing Education

Reforming the structure of our system isn't enough to assure good governing. For true reform, we must further insulate our system from the contagion of factions as well. Establishing a multi-layered protective barrier of knowledge would serve as an additional safeguard that could concurrently strengthen our new regional layer, while also improving the functions of the central government. To begin to neutralize today's hyper-partisanship, and generally poor legislating, we must professionalize the legislative branch. Improving both the institution and the members will encourage moderation in our political process and begin to foster the all-important educated vigilance of the people, while also encouraging virtue to return to our republic.

As we discussed in the previous chapters, members of our earliest congresses did not need to be professionalized to meet the early needs of our system. The country's needs were simpler; the executive branch had a limited role, complex globalization was

²⁴ Madison or Hamilton, "Federalist No. 53," in Scigliano, 344.

many years away, and the states enjoyed a large level of independence in their laws and the administration of their institutions. Furthermore, most members of earliest congresses were well educated in the ways of legislating, often cutting their teeth in local and state legislative bodies. As Tocqueville observes, "in the town, the republic is already fully alive. The town names its magistrates of all sorts; it taxes itself; it apports and levies the tax on itself."²⁵ But we now exist in a complicated world and we must play the cards we are dealt.

The need for qualified legislators is hardly debatable. The ancient philosopher Cicero taught us that:

just as the overseer knows the nature of the land, and the manager knows how to read...so too the leader we are talking about will have been eager to learn about justice and laws and will have given close attention to their sources...he will be very learned in the fundamentals of law, without which no one can be just, and he will not be ignorant of the civil law, but in the same way that a helmsman knows the stars and a doctor physics.²⁶

Embracing this basic truth will allow us to begin to build some virtue back into our system. The longer we ignore this obvious weakness the longer we allow political party affiliation to have a greater influence on the votes of members than accurate information, thought, and debate.²⁷

Most skilled professions require the practitioners maintain a certain level of proficiency. In order to regulate these professions and maintain a skilled workforce, regulatory bodies at the state or national level determine the certifications, credentials,

²⁵ Tocqueville, *Democracy in America*, 66.

²⁶ Cicero, *On the Commonwealth*, 5.5.

²⁷ Clio Andris, et al., "The Rise of Partisanship and Super-Cooperators in the U.S. House of Representatives," *Public Library of Science PLoS ONE* 10(4): e0123507, April 21, 2015, accessed February 15, 2016, <http://dx.doi.org/10.1371/journal.pone.0123507>.

and job specific continuing education requirements that all practitioners must achieve. The job of a member of the U.S. Congress should require a great level of expertise in the art of statesmanship. As the ancients argued, our political leaders should be duty-bound, valuing knowledge beyond opinion. They should also protect citizens from those who ignore reason and are driven by their passions. On a frequent basis members are called on to make numerous decisions that impact the lives of hundreds of millions of people. Taking a state from each of the 10 sub-republics, Table 3.1 shows the continuing education requirements for four common professions.

Table 3.2. Continuing Education Requirements Across Sub-republics

	Professional Engineer	Pharmacist	Emergency Physician	Real Estate Agent
Alabama	15 hrs. annual	15 hrs. annual	25 hrs. annual	15 hrs. biennial
Ohio	15 hrs. annual	6 hrs. triennial	100 hrs. biennial	30 hrs. triennial
Iowa	30 hrs. biennial	30 hrs. biennial	40 hrs. biennial	36 hrs. triennial
Nevada	30 hrs. biennial	30 hrs. biennial	40 hrs. biennial	24 hrs. biennial
New Jersey	24 hrs. biennial	30 hrs. biennial	100 hrs. biennial	12 hrs. biennial
Maine	30 hrs. biennial	15 hrs. annual	100 hrs. biennial	21 hrs. biennial
Oregon	30 hrs. biennial	15 hrs. annual	60 hrs. biennial	30 hrs. biennial
Virginia	16 hrs. biennial	15 hrs. annual	60 hrs. biennial	24 hrs. biennial
Florida	8 hrs. biennial	30 hrs. biennial	40 hrs. biennial	14 hrs. biennial
Texas	15 hrs. annual	30 hrs. biennial	48 hrs. biennial	18 hrs. biennial

Source: State websites listing of continuing education requirements by profession, (Author's Table)

It is important for doctors, pharmacists, and engineers to maintain proficiency in a profession, if they were to commit a mistake or have a lapse in judgment it could cause irreparable harm to people. The 541²⁸ members of congress have far greater reach than

²⁸ This number is a combination of the 100 members of the senate, the 435 voting members of the house, and the 6 non-voting delegates from American Samoa, the District of Columbia, Guam, U.S. Virgin Islands, and Puerto Rico.

an average pharmacist or doctor and I argue the proficiency of a member of congress must be understood as exponentially more important. We must prioritize the the proficiency of our political leaders if we ever hope to salvage our political system.

One of the additional benefits of the regional congresses will be that they take some of the workload from the federal congress. But if left unfilled, this new excess capacity would immediately be filled by interest groups seeking to gain the attention of the members for their own benefit. If we allow this to happen it would nullify the benefits of the new regional system and further weaken our republic. Therefore, I submit that we establish a continuing education requirement for all members of congress. Once in place, this would improve the people that have been elected to the role of federal legislator and inevitably improve the quality of the legislative branch overall. The undertaking of the highly technical task of creating the continuing education requirements for congress cannot be dismissed to passions of the voting public or the ideologically driven political party leaders. The correct curriculum of each congress must be determined by learned professionals and I propose we craft a system to guarantee the appropriate mechanisms are in place.

First, I propose that as all members of congress are sworn in, they must also pledge to take part in the curriculum determined for each congress by the Independent Congressional Education Council (ICEC). The ICEC will build upon institutions already in place and be administrated by the Library of Congress. The ICEC should consist of a collection of academic leaders reflective of the best institutions and thinkers in the republic. I would also propose a structure made up of a director with support staff who would be responsible for the operations and administrative functions of the ICEC. The

council members should consist of academic leaders from the top 20 institutions of higher learning, as determined each year by the Carnegie Classification of Institutions of Higher Education²⁹ and 30 land-grant or agricultural colleges and universities. The land-grant and agricultural school members of the ICEC should rotate so that no school would serve successive terms on the council and all land-grant and agricultural schools would have an opportunity to take part in the council. Each school, when selected to take part in the council would be expected to send a specified number of representatives from the disciplines of political theory and philosophy, economics, American history, world history, world religions, sociology, life science, agricultural science, and mathematics.

The members of the ICEC would meet for a week long planning conference, 6 months prior to the beginning of a new congress. The meeting should be conducted in a secluded location, closed to the public, to allow the members an appropriate forum to determine the curriculum for the incoming congress. In order to keep the power of the ICEC in check, the deliberations of the ICEC should be made public record no sooner than 5 years after the conclusion the planning conference. This would provide an appropriate level of transparency while also protecting the institution from political influence. During each planning conference the ICEC would determine two subjects for each house of congress to study during each session of the congress. This will ensure that every member of congress has the opportunity to pursue four courses of study during each congress. Classes should be held on Tuesday and Wednesday nights at locations near the U.S. Capitol from January through the end of September each year. This will

²⁹ Carnegie Classification of Institutions of Higher Education, Center for Postsecondary Research, Indiana University School of Education, accessed February 15, 2016, <http://carnegieclassifications.iu.edu/index.php>.

allow appropriate time for members to study the subject matter and also to campaign as needed in the month of October when it is an election year. At the conclusion of the week long planning conference, the ICEC would announce the curriculum of the congress as well as the professors selected to teach the courses for each congressional session.

The ICEC should also have the responsibility of maintaining a public facing website. The website should provide the curriculum of each congress and include the syllabus for each course. This allows the American people to follow along with every congressional member's course of study each session. Additionally, the ICEC site must be updated monthly with the attendance record of each member and their mid-term and final grades for each course. Members' academic records will remain accessible on the site as long as they are in office. This would encourage the ICEC to update and change the course work for each congress so that no course would be repeated in successive congresses. Ultimately, the ICEC should always strive to best prepare the members of congress so that the members will have the ability to best address the needs of our country and protect the liberty of our citizens.

Establishing a continuing education requirement will not overburden those who are elected to congress. Members would be forced to work together as they would all have the same clear academic responsibilities. In other words, this would serve as a great equalizer. Members would be sequestered from their political fights for a predetermined amount of time each year, and would be forced to learn more about issues they may not have previously been exposed to before. This common ground would allow members to have a greater appreciation for their colleagues' positions on issues and also provide them

with better tools for finding solutions to our nation's problems. And as the members would be driven to improve, the publishing of their grades and attendance on an accessible web site will create an objective metric with which the American citizenry could properly judge the quality of those elected to office. Members who value this opportunity should be appropriately rewarded by a constituency that better trusts the decisions of their member. Members that ignore this opportunity, instead choosing to spend time focused on ideological theatrics and political fundraising, should be seen by the voting public for what they truly are.

By simplifying the citizenry's ability to hold their members accountable we should soon see more virtuous people drawn to public service. The quality of people seeking office would improve and we could expect many of the unvirtuous people in the system would soon be washed out from most congressional offices. Using the easily accessible ICEC information, the citizenry could hold all elected leaders to a universal standard. And while the quality of congressional members would begin to improve, the citizens would likely begin to develop respect for the members and trust their judgment. Improving the quality and credibility of the members will also provide the added benefit of reducing the fear of being demonized for amending a position on an issue as new information becomes available. This would encourage members to speak out against injustice and protect the rights of the minority from the possible tyranny of the majority. In doing so, we would reaffirm the desire of Framers like George Mason who argued that in order for a government to last, it must have the consent of the people, and it must

protect the rights of all citizens, to include the rights of the minority from the power of the majority.³⁰

Of course this proposal cannot create a political Shangri-La, but it would provide a much more favorable environment for knowledgeable and civil debate. As American citizens learn to demand virtuous leaders we could also better hold the fourth estate accountable as well. In this scenario, citizens would have gained the ability to objectively gauge the expertise of members related to specific subject areas. Therefore, when a journalist allows a congressional member to make unfounded public statements well beyond their area of expertise, and the journalist fails to question the legitimacy of the member's claim, the citizens will be able to recognize these failings. And just as citizens will demand higher caliber political leaders, we can naturally expect the people will demand a higher quality of journalism. And as the commonly acceptable level of knowledge for our political leaders improves, we can expect legislators with superior knowledge of specific policy areas would be entrusted to chair the committees with jurisdiction over those areas. This would further weaken the control of the party leaders and encourage leaders who are dedicated to seeking the best policies for the welfare of the entire country as opposed to the current process of rewarding certain interest groups and disadvantaging others.

As we have discussed throughout this paper, Americans are disengaged from their political system. Further exacerbating the situation, the increasing number of unvirtuous people elected to perform the functions of government aren't giving our citizens much reason to take part. Our political system is increasingly complicated and

³⁰ Maier, *Ratification*, 43.

many Americans' don't understand or identify with it. People feel helpless at the hands of a political system they don't understand and natural mistrust of elected officials has veered from a healthy level of skepticism of government, to a surreal world that stimulates the propagation of conspiracy theories. A recent study of the impact of social media and our growing inability to combat the spread of false information, reflects the damage currently being caused by our political leaders. As more people go online for their news, it increases their access to likeminded people and thereby strengthens their conspiratorial views. Left unchecked, unvirtuous political leaders will continue to infect our citizenry and further weaken our society's ability to successfully refute false information.³¹

With a few adjustments we can create major reforms in our legislative branch. And if successful, these positive changes would likely proliferate throughout our entire political system. Shifting some responsibilities away from our central government out among the natural sub-republics, and concurrently establishing continuing education requirements for the members of the federal legislative branch, we can begin to restore citizens' faith in our government and also attempt to institutionalize virtue in our political system. We must accept the differences of our citizenry and attack the disease of distrust. Mr. Madison and Hamilton were correct when they argued in Federalist No. 55 that we can't simply overcome passion with reason. Reason is not enough, and that is why the

³¹ Fabiana Zollo, et al. "Debunking in a World of Tribes," *arXiv.org Cornell University Library* (Fall 2015): 9-11, accessed February 16, 2016, <http://arxiv.org/pdf/1510.04267v1.pdf>.

proposal of simultaneously channeling the power of factions, while also creating an insulating barrier of knowledge, is a simple and effective approach.³²

³² Madison or Hamilton, "Federalist No. 55," in Scigliano, 356.

CHAPTER 4

CONCLUSION: WHERE DO WE GO FROM HERE?

No one is worried about what was done before...In America, society seems to live from day to day, like an army in the field. Yet, the art of administration is definitely a science; and all sciences, to progress, need to link together the discoveries of different generations as they succeed each other...So democracy pushed to its extreme limits, harms progress in the art of governing.¹

- Alexis de Tocqueville, 1835

The American political system is still quite young but we must embrace our short history in order to prepare for our future. I've often heard people say that the first step towards recovery is admitting you have a problem. We have a problem, but how bad is it? In the late 1780s we were teetering on the edge. We existed as a loose confederation of states with an unforeseeable future. The thirteen states had just fought a terrible war for independence and the memories of burned homes and family and friends killed in battle still were fresh in the minds of many people. People had already sacrificed so much just for the ability to attempt self-governance, that they feared surrendering any of their newly recognized rights to a central government beyond their physical reach. Communications at the time were poor and the idea of breaking away from a strong government like Britain and replacing it with a political system established by the citizens was unheard of. Making matters even more complicated, the early American states were nearly crippled by a post-war economic depression which they were ill-equipped to address because of the incredibly flawed Articles of Confederacy which could not appropriately meet the needs of the country.

¹ Tocqueville, *Democracy in America*, 331-2.

Since there was no federal government, state governors like New York's George Clinton began to enact reforms to successfully rescue their own state's economy regardless of the impact on the other states or the country as a whole. The country did not have a standard currency or a standard system of weights and measures, and each state retained such an extreme level of sovereignty that they needed to negotiate treaties with one another to allow for basic interstate commerce. The economic situation was so desperate that it even led to violent uprisings. In Massachusetts a former Continental Army Captain named Daniel Shays led a force of over 1,000 militia men as they tried to storm an armory to acquire weapons they then would use to march on Massachusetts state government offices. The uprising ended in bloodshed and many Americans were fearful this would not be the end of the violence as the weak political system was unable to address the country's domestic problems. Of course the weak confederacy was also unable to defend from foreign aggression as well. The young country faced incredible danger from recalcitrant British troops who refused to leave their positions in the western frontier and Spain which occupied Florida along the United States' permeable southern border. Of course, we must never forget that before our country was even 100 years old, we nearly tore ourselves apart as we took up arms against our fellow countryman in a bloody civil war.

In other words, it's been worse. Of course, if we don't act, it could very possibly get nearly as bad as our early days. Fortunately for us, the modern United States of America exists in a very different time. We have modern communications and a modern economy, and despite having a political system that has not evolved to meet our contemporary needs, we still retain a basic foundation of a free nation ruled by the

people. This means we, the American citizens, have the ability to fix our own political system. We've explored the creation of our system and discussed some of our biggest weaknesses – lack of civic engagement and an ineffective federal legislative branch. We've also discussed a modest proposal that could set us back on the correct path to restore the much needed virtue in our political system. A political system built to promote virtuous statesmen will give us the necessary tools to elect good leaders as well as reestablish the necessary level of civic duty a republic must have to survive. Often people read papers like this and they may acknowledge some of the proposals are well founded but they will quickly dismiss it as unrealistic once they are faced with the quandary of how to implement the necessary changes. So let's discuss how we could actually do this.

First, we need to educate people on the problem and the proposed relatively simple solution. We have already discussed some of the major flaws in our American political system – mainly lack of virtuous leaders and lagging citizen engagement. Rather than wring our hands and lament that the task is too hard, let's focus on how we can begin to reach influential people. So who should we reach out to? Again, just as our proposal for repairing the legislative portion of our political system is designed to exploit the tools available, we should approach implementing the proposed remediation in a similar fashion.

Just as the Federalists waged a campaign to win ratification of the constitution, we need to undertake a campaign to educate the American people of the merits of our proposal. And since we are looking to change a portion of our political system, we will need to abide by the current federal statutes and regulations regarding political organizing

and campaigning. This means establishing a proper political action committee through the Federal Elections Commission (FEC) and the U.S. Internal Revenue Service (IRS). We'll also need to incorporate our organization which means enlisting an attorney to assist us and make sure we don't mistakenly violate any campaign laws. For our purposes let's use the name, the American Regional Reformation Organization (ARRO) as a place holder. Once we begin to include others on this quest we would likely come up with a better name, something that our fellow citizens view as inspirational, but for now we're using ARRO.

As we continue along the registration process, we'd likely need to file ARRO as a social welfare organization, sometimes referred to as a 501(c)(4)². Since we would not be seeking to make any money off of our endeavor, our organization would be a not-for-profit group. However, since we would be considered a political organization we would likely be required to pay taxes on the funds we use to lobby elected officials and the people donating the money to our campaign would not be able to deduct the contribution from their federal taxes. This structure of a political organization is likely the best to raise the appropriate amount of money necessary, and once we register with the U.S. House and Senate, to lobby federal elected officials. Our proposal would not aim to raise or spend large amounts of money but unfortunately campaigns cost money. In fact, an entire industry depends on political spending in the form of candidate and issue campaigns.

² U.S. Internal Revenue Service, Applying for Tax Exempt Status, last updated November 18, 2015, accessed February 28, 2016, <https://www.irs.gov/Charities-&-Non-Profits/Other-Non-Profits/Social-Welfare-Organizations>.

We discussed in chapter 2, the billions of dollars spent each year on political activity at the federal level. Since we would be competing with interest groups and candidates for Americans' attention we would need to find a way to break through the noise. Since we are proposing a way to improve our legislative system, rather than to promote a political party's platform, we would mainly focus on grassroots campaign tactics. Regardless, we would need to find ways to legally and ethically raise money in order to help amplify our message and catch the attention of the lawmakers necessary to pass the needed legislation. Fortunately, we live in a time where we can raise money by crowdsourcing³ through a robust presence on the internet and through earned media. We should set a reasonable donation limit of a few hundred dollars per donor to force us to seek smaller donations from a large swath of Americans, rather than large amounts of money from powerful individuals would increase the emotional investment of those that support this idea as well. By increasing the pool of people that give a small amount of money, you can provide people an opportunity to invest in something they believe in. Of course, however the money is raised, I would stress that any and all money raised and spent to the must be appropriately tracked and reported to Federal Elections Commission. Once you start raising money for political activity you begin to place your movement at risk of being corrupted by the influence of others. A true movement dedicated to fixing the political system must remain open and transparent to all American citizens.

Movements normally begin when a group of people gather to further a common goal. Sometimes these begin as people protesting a power structure that they believe is

³ Crowdsourcing is defined by *Merriam-Webster's* online dictionary as "the practice of obtaining needed services, ideas, or content by soliciting contributions from a large group of people and especially from the online community rather than from traditional employees or suppliers."

unfair. We have seen these types of social movements throughout American history. Politically disadvantaged groups have bound together to draw attention to issues like dangerous working conditions and unfair wages, or discrimination of people due to their race or sex. And many of these movements have successfully influenced changes to the political system that have attempted to address these inequalities. However, inequality is not the only spark for a political movement to begin. Movements can also begin with an idea that the majority of society is currently ignorant of. We would fall into this category of movements. We should embrace our political system and work within it rather than protest it or attempt to disrupt it. As all successful movements, we should seek out alliances with other Americans that share our interest of fixing our political system. By building consensus we will be able to counteract the factions currently benefiting from our broken political process when they attempt to discredit our idea.

Money and organization are just the administrative functions necessary to begin political change. We could never hope to succeed without building a coalition of trusted institutions, made up of people that are trustworthy and respected by American citizens. And we must recognize that Americans trust certain organizations and professions more than others. There is frequent news coverage of celebrities or professional political activists, but these people are often viewed as generally associated with the positions of one major American political party or the other. For our purposes, we should remain focused on seeking people that Americans trust and don't necessarily associate with political activism. According to a 2015 Gallup poll, Americans view nurses, pharmacists,

doctors, and teachers as having high ethical standards.⁴ And according to another 2015 Gallup poll, Americans trust the institutions⁵ of the military, followed by small business, the police, and organized religion. For our purposes, I'd recommend we cherry pick from these options and seek out medical professionals, teachers, small business owners, and a few select retired statesmen who are generally held in high regard. As we engage our fellow Americans, and seek coalitions with trustworthy institutions, we must be straightforward and honest throughout the process. We cannot compromise our integrity.

Next would come the less than glamorous work of reaching out to everyday citizens and talking to them about our idea. Unlike the 1780s, we don't need to work behind closed doors or attack political leaders under the guise of a concerned farmer or famous ancient philosopher. We would need to conduct additional research, write opinion papers, and publish letters to the editor. We must encourage friends and family to go out and discuss ideas with their other friends and neighbors at neighborhood and civic organization meetings. In other words, we need to begin the citizen engagement ourselves. We can't take a combative position with those that disagree with us but we must also maintain a focus on reforming our legislative branch of federal government. Therefore, the answer to the question of how to get American citizens to engage in their political system again, is this – we have to do it. It's us, you and me. People like John Adams and James Madison could have continued with their careers and waited for others

⁴ "Honesty/Ethics in Professions," *Gallup* (December 2015), accessed February 28, 2016, <http://www.gallup.com/poll/1654/honesty-ethics-professions.aspx>.

⁵ "Confidence in Institutions," *Gallup* (June 2015), accessed February 28, 2015, <http://www.gallup.com/poll/1597/confidence-institutions.aspx>.

to take action, but they didn't. They seized an opportunity to improve their political system and thanks to the work of all of the Framers, we have the ability today to repair the very political system they created so many years ago.

I'll admit it, this is the tough part. Many people have become jaded by our political system. Just like the *Freakonomics* authors pointed out earlier, it is hard to convince someone to vote or take part in the political process when they can't see how their action will help influence the outcome, or how they will benefit. Too many people have become what is referred to by economists as, the free rider problem. This is where people benefit from the work of others or they simply choose to use more of a common resource than what they have paid for it. We cannot wait for others to take action, and as we toil, we must remain dedicated to encouraging our fellow citizens to participate in our system. We also must be cognizant of the dangers of making radical changes which put our system at risk of the unintended consequences often caused by acting in haste. Any major change to our system should come down to deliberate incremental changes. Our system was originally designed to be a slow-moving system of overlapping powers to ensure that radical changes are discouraged. We must accept moderation as a key element of successful republican government and convince people of their duty to be a part of the reform process.

Our proposed changes to the legislative branch will fill the current void between the federal and state governments. The original compromise that created our American political system included a mechanism for the voice of the states to be included in the legislative branch. Unfortunately, the states squandered this capability, and the ability to select the U.S. senators to represent their states was rightfully given back to the people.

And since the ratification of the 17th amendment in 1913, no one has figured out an appropriate way to successfully reinsert the states into the federal government. Some politicians and activists call for simply repealing the 17th amendment, but that wouldn't provide any assurances that the states wouldn't abuse their power just as they did before. Our proposal, on the other hand, would provide a clear and simple way to bring the states back into the federal legislative branch while maintaining the proper checks on their power.

The regional congresses would be elected by the people and have a clearly defined role. If the congresses are unable to perform their assigned duties, there are numerous options for recourse. If the citizens are unhappy, they can vote them out of office. If the state legislatures and executive do not feel the regional congress members from their state are properly representing them, they can choose to not fund the administrative needs of the regional office holders. And if a regional congress is unable to pass the necessary legislation within the time and budget limits set by the federal congress, the federal congress has the ability to disband the regional congress and call for new elections in order to establish a completely new regional congress. This also has the added benefit of protecting the rest of the country as well. Even in situations where a regional congress fails to do their job, the federal government is not at risk of shutting down. The only people impacted by this failure would be the citizens of that sub-republic. In other words, if the North Central regional congress fails to pass their budget allocations, it would only impact the federally funded programs and services in the North Central region. All of the other regions that successfully passed their portion of the

federal budget would continue to function. These types of protections and mutual dependencies would encourage everyone to do their job.

The federal agencies dependent on the funding allocation decisions will be incentivized to provide appropriate and accurate information to the regional congresses to ensure the members make informed decisions regarding how to allocate the federal funding. The state executives and legislatures will want to work closely with the regional congress members to ensure that the needs of their state are addressed as best as possible. The federal congressional members will want the regional congresses to succeed since they will be dependent on the regional congresses performing their jobs and providing them with reliable information. Additionally, the regional congress members themselves will be incentivized to perform their jobs well. They cannot easily turn to lobbying due to a clearly defined cooling off period and citizens are unlikely to elect them to a higher office if they have failed at the position of regional congress member. Most importantly, the people would be incentivized to engage with their elected members of the regional congresses. The members would be more accessible due to the smaller number of people they would represent, which means they will have more time to discuss the concerns of the constituents. This proximity will also make it easier for the regional congress members to assist citizens with navigating federal programs such as Social Security, the Supplemental Nutrition Assistance Program, or Veterans' Benefits. Additionally, they would be responsible to work with local officials and metropolitan planning organizations in order to properly allocate federal transportation and community developments funds. And since the regional congress members will have a clearly

defined period of time to raise money and campaign, they will have more time to focus on their work rather than constantly campaigning for re-election.

By establishing this outgrowth of the federal legislative branch we will simplify at least two very visible processes. Transportation funding and constituent casework. As state and local officials would naturally gain a stronger voice in the process of allocating federal funding for programs and services, they will no longer be as dependent on hired lobbyists or large advocacy groups. The decline in use of lobbyists will begin to reduce the need for political spending as the local and state officials will now have the ability to work directly with the officials that make the final funding decisions. The needs of the metropolitan areas and states will no longer be competing with unrelated interests from across the country. Also, they will no longer be at risk of being diluted in order to better align with the general needs of large advocacy groups. Large membership organizations can still help advocate general federal policies but the individual regions will be empowered to better define the needs of their states.

Another way the regional congresses will simplify the system is by taking on the responsibility of constituent services. Every state has veterans, and many veterans utilize the benefits they earned through their military service. The U.S. Department of Veterans Affairs (VA) is responsible for administering these benefits. The VA has over 360,000 employees, operating the largest healthcare system in the country, with facilities in every states, providing healthcare to 6.7 million patients in 2015. The VA also is responsible for paying out over \$73 billion to disabled veterans last year.⁶ It is understandable that an

⁶ U.S. Department of Veterans Affairs, *VA Office of Budget Annual Budget Submission, Budget in Brief 2017*, February 9, 2016, 2, 13-14, accessed February 28, 2016, <http://www.va.gov/budget/docs/summary/Fy2017-BudgetInBrief.pdf>.

organization this large will be hard for the average citizen to navigate, especially in times of medical crisis. By allowing the regional congresses to take on constituent services they will be able to better assist citizens in need. If there is a veteran having problems with their local VA medical center, the regional congress member can call the medical center's leadership for immediate assistance. Or in the case of problems with a veteran's disability claim, the VA has a regional office in every state which again would be accessible to the regional congress members. By equalizing the casework of citizens among the regional congress members they will be able to provide more attentive constituent services to citizens and develop stronger working relationships with the local leaders of federal programs and agencies. Current casework often must travel through multiple layers of bureaucracy in order to reach the local leaders whose responsibility it is to address the issue. This new structure will eliminate the need for a large centralized bureaucracy and will improve the responsiveness of federal agencies. Additionally, the federal congress will retain their ability to maintain oversight of federal programs as the regional congress members would be required to provide regular reports to the federal congress as to the volume and nature of all casework regarding federal agencies. Unlike now, the federal congress members will be able to spend the appropriate time needed to study the problems of certain federal agencies and determine proper solutions.

It is also important to point out that the implementation of the regional congresses won't immediately displace current elected officials. Once these reforms are put into place, the federal congressional members will be able to better focus on the legislative process, but we recognize this would be a gradual process. However, as we combine the regional congressional system with the newly established continuing education

requirements for the federal congress we will see a natural shift towards a higher caliber of political leader. In fact, we may have virtuous statesmen trapped by the current system who will flourish once these reforms are in place. Once changes are put into place, these leaders will have the tools they need to thrive and the weaker members will no longer be able to easily hide behind political ideology. Once we have begun to successfully educate people on this proposal we can expect virtuous elected officials to embrace the reforms. We will also be able to recognize unvirtuous leaders as they will naturally oppose a proposal like ours. These unacceptable politicians know they cannot meet the requirements of a reformed political system, and we must not allow their selfishness to hinder the progress of the American people.

Ultimately, we need an adaptable system to meet our current and future needs, and we do not need a constitutional amendment to put the changes in place. As with any reforms, our proposal may need to be changed in the future and the chains of an amendment will hinder future generations' ability to make necessary adjustments. Furthermore, an amendment process could open the door for a new constitution convention – the first one since 1787. At the very least, without these reforms any constitutional convention would be in danger of being hijacked by the entrenched political factions that currently afflict our political system. I posit that the reforms we need can simply be put into place by federal statute.

We should follow the precedent established by laws such as the Apportionment Acts of 1911 and 1929⁷ which, despite contradicting constitutional language, set the

⁷ History, Art & Archives, U.S. House of Representatives, "1911 House Reapportionment," accessed March 13, 2016, <http://history.house.gov/Historical-Highlights/1901-1950/The-1911-House-reapportionment/>.

permanent size for the federal congress. Congress can simply pass laws similar to the Federal-Aid Highway Act of 1962 in order to establish the regional congresses. This was the law that established the metropolitan planning organizations (MPOs) that currently assist the U.S. Department of Transportation local transportation planning. MPOs perform important functions and will be vital in assisting regional congresses, but they are too far removed from the accountability of the citizens and cannot provide the additional value to reestablishing the states into the federal legislative branch. In order to further accommodate the newly established regional congresses, congress should seek to amend laws such as the 1974 Congressional Budget and Impoundment Control Act and the 1990 Budget Enforcement Act. This would formally establish the portion of the congressional budget process that would be delegated to the regional congresses.

If congress is able to pass the necessary statutes for establishing the regional congresses, this would also be an acknowledgment of the natural sub-republics of America. It will signal to the American people that we should all accept our country's natural diversity rather than hide behind the false narrative of a homogeneous people. Of course, we will need to do more than simply launch an educational campaign and establish a system of regional congresses to truly inspire citizen engagement. We must also implement the continuing education requirements for all members of the federal congress. This will require a great deal of political will as political party leadership will likely recognize that this will greatly benefit the citizens while also greatly reducing their parties' ability to control members. Seeking the support of business leaders, educators, former elected officials, and religious leaders would show a united and diverse coalition of people all demanding better political leaders. Since we seek to improve our

understanding and tolerance of each other, we must be willing to learn about the beliefs of those we don't agree with or understand. As the grassroots grow into a full movement of Americans calling for common sense reforms to our political system, we should be able to prove to our current elected officials that these changes are in their best interests as well.

The idea of requiring congressional members to take part in a series of continuing education courses is not completely unorthodox. Since 1947, the Committee on House Administration has been responsible for crafting a series of educational briefings for new house members when they first report to Washington. Unfortunately, this orientation is normally limited to helping the freshmen members understand how to manage their new congressional offices and navigate the different buildings of the U.S. Capitol. Of course, Harvard Kennedy School's Institute of Politics also invites freshmen members for an educational series. This orientation is regrettably only a few days of classes as well, but they designed to help new members develop a better understanding of the legislative process. Unfortunately, this is not mandatory and it is also a one-time deal. The Senate Sergeant at Arms is tasked with the planning the orientation for incoming senators, but just as the house, this is a one-time affair focused on the institution and administrative responsibilities, rather than the craft of statesmanship.

This is why it is so important that we create a robust congressional continuing education program, properly managed by the Library of Congress in close coordination with the American higher education community. The Independent Congressional Education Council (ICEC) will be the body responsible with crafting the curriculum of each congress and if structured correctly it should serve as a manifestation of the best

theories in our American political system. The members of the ICEC must be principled, since by passing the necessary legislation to establish it, the current members of congress will be entrusting their fate to the wisdom of the ICEC. Current and future congressional members, and the American people must have confidence that the ICEC will craft fair and rigorous curriculum. If the institution and the people are not understood to be incorruptible, then we can't expect this new job requirement to be respected.

A successful republican political system must maintain a fair balance of power among its different institutions. And we live in a rapidly changing world which demands a more dynamic system in order to properly meet our evolving needs. However, as any reform can have unintended consequences, it is the duty of every American citizen to keep vigilance over our system. If we each accept our universal duty to our republic, we can do it. We can reaffirm the limits of government defined in our constitution. We can strengthen the power of the citizens over those elected to represent us. We can rightly demand virtuous leaders as we will provide our elected officials with the tools needed to operate our system. We can instill virtue in our political system by establishing the constant pursuit of knowledge as our standard. We can demand laws founded in reason rather than passion or fear. We can have an American political system that fosters the pursuit of the soul craft of politics.

In closing, I want to draw your attention to some of the words of Benjamin Franklin on the last day of the Philadelphia Convention where he describes the opportunity the Framers had before them then.

I confess that there are several parts of this constitution which I do not at present approve, but I am not sure I shall never approve them: For having lived long, I have experienced many instances of being obliged by better information, or fuller

consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others...I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us, and there is no form of Government but what may be a blessing to the people if well administered... I doubt too whether any other Convention we can obtain, may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does... Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best... Much of the strength & efficiency of any Government in procuring and securing happiness to the people, depends, on opinion, on the general opinion of the goodness of the Government, as well as well as of the wisdom and integrity of its Governors.⁸

Despite all of our faults and shortcomings, Franklin's words from 229 years ago still describes our political system today. It can be good when we the citizens make it good.

⁸ James Madison, "Records of the Federal Convention, Monday September 17," in *The Records of the Federal Convention of 1787*, ed. Max Farrand, vol. 2 (New Haven, CT: Yale University Press, 1911), 641-3, accessed March 12, 2016, 641-3, <http://hdl.handle.net/2027/hvd.32044014266134?urlappend=%3Bseq=655>.

APPENDIX A:

Table 2.1. Congress in the Capitol

	Session of Congress	Available Working Days	HOUSE Calendar Days	HOUSE 2 Year Percentage	SENATE Calendar Days	SENATE 2 Year Percentage
<u>104th Congress</u>						
1995-1996	First	251	183		211	
1996-1997	Second	251	128		132	
	TOTAL	502	311	62%	343	68%
<u>105th Congress</u>						
1997-1998	First	251	133		153	
1998-1999	Second	251	119		143	
	TOTAL	502	252	50%	296	59%
<u>106th Congress</u>						
1999-2000	First	251	138		162	
2000-2001	Second	251	138		141	
	TOTAL	502	276	55%	303	60%
<u>107th Congress</u>						
2001-2002	First	251	146		173	
2002-2003	Second	251	126		149	
	TOTAL	502	272	54%	322	64%
<u>108th Congress</u>						
2003-2004	First	251	138		167	
2004-2005	Second	251	110		133	
	TOTAL	502	248	49%	300	60%
<u>109th Congress</u>						
2005-2006	First	251	143		159	
2006-2007	Second	251	104		138	
	TOTAL	502	247	49%	297	59%
<u>110th Congress</u>						
2007-2008	First	251	167		190	
2008-2009	Second	251	119		184	
	TOTAL	502	286	57%	374	75%
<u>111th Congress</u>						
2009-2010	First	251	162		191	
2010-2011	Second	251	128		158	
	TOTAL	502	290	58%	349	70%
<u>112th Congress</u>						
2011-2012	First	251	177		170	
2012-2013	Second	251	153		153	
	TOTAL	502	330	66%	323	64%
<u>113th Congress</u>						
2013-2014	First	251	161		156	
2014-2015	Second	251	137		136	
	TOTAL	502	298	59%	292	58%
<u>20 YEAR TOTAL</u>						
	1995 - 2015	5,020	2,810	56%	3,199	64%

Source: Data from CONGRESS.GOV, Past Days in Session of the U.S. Congress, (Author's Table)

Table 3.1. Proposed Regional Congresses of the Ten Sub-republics, (Author's Table)

STATE	POPULATION Census 2010*	REGION	Regional Price Parities - All Items (Compared to National Average Price set at 100)	Total Internal Revenue Collections,**	Amount Dedicated to Highway Account***	Amount Dedicated to Mass Transit Account***	Estimated Total Amount Paid Into Highway Trust Fund
Alabama	4,779,736	Eastern Central	90.60	\$19,895,499,000	\$579,307,000	\$92,115,000	\$671,422,000
Kentucky	4,339,367	Eastern Central	89.70	\$23,383,446,000	\$538,081,000	\$83,013,000	\$621,094,000
Mississippi	2,967,297	Eastern Central	88.90	\$9,093,125,000	\$389,926,000	\$59,783,000	\$449,709,000
Tennessee	6,346,105	Eastern Central	91.50	\$44,557,310,000	\$700,014,000	\$111,420,000	\$811,434,000
Illinois	12,830,632	North Central	100.40	\$111,038,760,000	\$1,120,449,000	\$176,469,000	\$1,296,918,000
Indiana	6,483,802	North Central	92.00	\$43,319,888,000	\$763,887,000	\$116,200,000	\$880,087,000
Michigan	9,883,640	North Central	95.30	\$53,797,386,000	\$897,316,000	\$149,529,000	\$1,046,845,000
Ohio	11,536,504	North Central	90.90	\$106,483,026,000	\$1,121,130,000	\$178,110,000	\$1,299,240,000
Wisconsin	5,686,986	North Central	92.60	\$38,212,743,000	\$559,794,000	\$88,942,000	\$648,736,000
Iowa	3,046,355	Midwest North	89.30	\$17,576,087,000	\$401,067,000	\$60,539,000	\$461,606,000
Kansas	2,853,118	Midwest North	90.40	\$18,820,984,000	\$318,679,000	\$49,131,000	\$367,810,000
Minnesota	5,303,925	Midwest North	96.80	\$68,010,129,000	\$539,355,000	\$86,775,000	\$626,130,000
Missouri	5,988,927	Midwest North	88.70	\$46,099,972,000	\$743,615,000	\$116,532,000	\$860,147,000
Nebraska	1,826,341	Midwest North	90.20	\$17,641,943,000	\$230,412,000	\$33,822,000	\$264,234,000
North Dakota	672,591	Midwest North	88.20	\$4,283,479,000	\$108,638,000	\$15,587,000	\$124,225,000
South Dakota	814,180	Midwest North	87.20	\$4,304,997,000	\$120,878,000	\$17,859,000	\$138,737,000
Arizona	6,392,017	Mountain West	99.90	\$31,678,131,000	\$595,936,000	\$94,304,000	\$690,240,000
Colorado	5,029,196	Mountain West	99.00	\$39,288,418,000	\$461,516,000	\$73,943,000	\$535,459,000
Idaho	1,567,582	Mountain West	93.50	\$6,216,877,000	\$162,845,000	\$24,771,000	\$187,616,000
Montana	989,415	Mountain West	93.90	\$4,000,333,000	\$138,295,000	\$20,219,000	\$158,514,000
Nevada	2,700,551	Mountain West	99.30	\$12,881,374,000	\$251,430,000	\$39,671,000	\$291,101,000
New Mexico	2,059,179	Mountain West	94.10	\$7,613,384,000	\$268,995,000	\$39,567,000	\$308,562,000
Utah	2,763,885	Mountain West	95.60	\$13,528,119,000	\$270,959,000	\$40,927,000	\$311,886,000
Wyoming	563,626	Mountain West	95.50	\$3,830,149,000	\$140,614,000	\$18,503,000	\$159,117,000
New Jersey	8,791,894	Northeast Atlantic	111.50	\$118,942,547,000	\$864,243,000	\$141,922,000	\$1,006,165,000
New York	19,378,102	Northeast Atlantic	114.10	\$200,209,720,000	\$1,221,504,000	\$196,464,000	\$1,417,968,000
Pennsylvania	12,702,379	Northeast Atlantic	98.70	\$101,858,754,000	\$1,158,416,000	\$183,424,000	\$1,341,840,000

STATE	POPULATION Census 2010*	REGION	Regional Price Parities - All Items (Compared to National Average Price set at 100)		Total Internal Revenue Collections**	Amount Dedicated to Highway Account***	Amount Dedicated to Mass Transit Account***	Estimated Total Amount Paid Into Highway Trust Fund
			REGION	Price set at 100)				
Connecticut	3,574,097	New England	110.50		\$43,997,544,000	\$301,142,000	\$50,049,000	\$351,191,000
Maine	1,328,361	New England	97.30		\$5,895,843,000	\$154,216,000	\$24,151,000	\$178,367,000
Massachusetts	6,547,629	New England	107.40		\$71,418,253,000	\$527,269,000	\$89,258,000	\$616,527,000
New Hampshire	1,316,470	New England	105.60		\$8,377,325,000	\$132,949,000	\$22,698,000	\$155,647,000
Rhode Island	1,052,567	New England	99.80		\$10,510,440,000	\$74,049,000	\$12,545,000	\$86,594,000
Vermont	625,741	New England	99.70		\$3,208,532,000	\$64,523,000	\$10,800,000	\$75,323,000
Alaska	710,231	Pacific West	106.10		\$4,685,206,000	\$115,125,000	\$15,136,000	\$130,261,000
Hawaii	1,360,301	Pacific West	116.10		\$6,280,828,000	\$80,690,000	\$13,956,000	\$94,646,000
California	37,253,956	Pacific West	110.70		\$273,353,106,000	\$2,990,437,000	\$495,485,000	\$3,485,922,000
Oregon	3,831,074	Pacific West	97.50		\$21,138,851,000	\$368,176,000	\$56,950,000	\$425,126,000
Washington	6,724,540	Pacific West	102.00		\$48,437,113,000	\$567,226,000	\$91,960,000	\$659,186,000
Delaware	897,934	Middle	103.70		\$15,327,877,000	\$83,461,000	\$14,014,000	\$97,475,000
District of Columbia	601,723	Middle	115.50		\$18,400,477,000	\$22,491,000	\$3,694,000	\$26,185,000
Maryland	5,773,552	Middle	110.30		\$47,672,215,000	\$575,336,000	\$95,450,000	\$670,786,000
Virginia	8,001,024	Middle	103.10		\$57,954,746,000	\$856,743,000	\$137,623,000	\$994,366,000
West Virginia	1,852,994	Middle	88.70		\$6,000,615,000	\$200,621,000	\$31,075,000	\$231,696,000
Florida	18,801,310	Atlantic South	100.00		\$111,364,742,000	\$1,590,250,000	\$266,354,000	\$1,856,604,000
Georgia	9,687,653	Atlantic South	94.80		\$60,505,759,000	\$1,067,167,000	\$171,286,000	\$1,238,453,000
North Carolina	9,535,483	Atlantic South	92.80		\$57,548,933,000	\$912,879,000	\$148,789,000	\$1,061,668,000
Puerto Rico	3,725,789	Atlantic South	N/A		\$997,102,000	N/A	N/A	N/A
South Carolina	4,625,364	Atlantic South	92.20		\$17,360,842,000	\$583,364,000	\$93,972,000	\$677,336,000

STATE	POPULATION Census 2010*	REGION	Regional Price Parities - All Items (Compared to National Average Price set at 100)	Total Internal Revenue Collections**	Amount Dedicated to Highway Account***	Amount Dedicated to Mass Transit Account***	Estimated Total Amount Paid Into Highway Trust Fund
Arkansas	2,915,918	West Southern Central	89.30	\$28,249,718,000	\$380,384,000	\$57,051,000	\$437,435,000
Louisiana	4,533,372	West Southern Central	93.10	\$34,562,547,000	\$535,850,000	\$83,652,000	\$619,502,000
Oklahoma	3,751,351	West Southern Central	90.90	\$23,398,453,000	\$472,069,000	\$70,933,000	\$543,002,000
Texas	25,145,561	West Southern Central	97.60	\$189,142,112,000	\$2,851,077,000	\$444,620,000	\$3,295,697,000

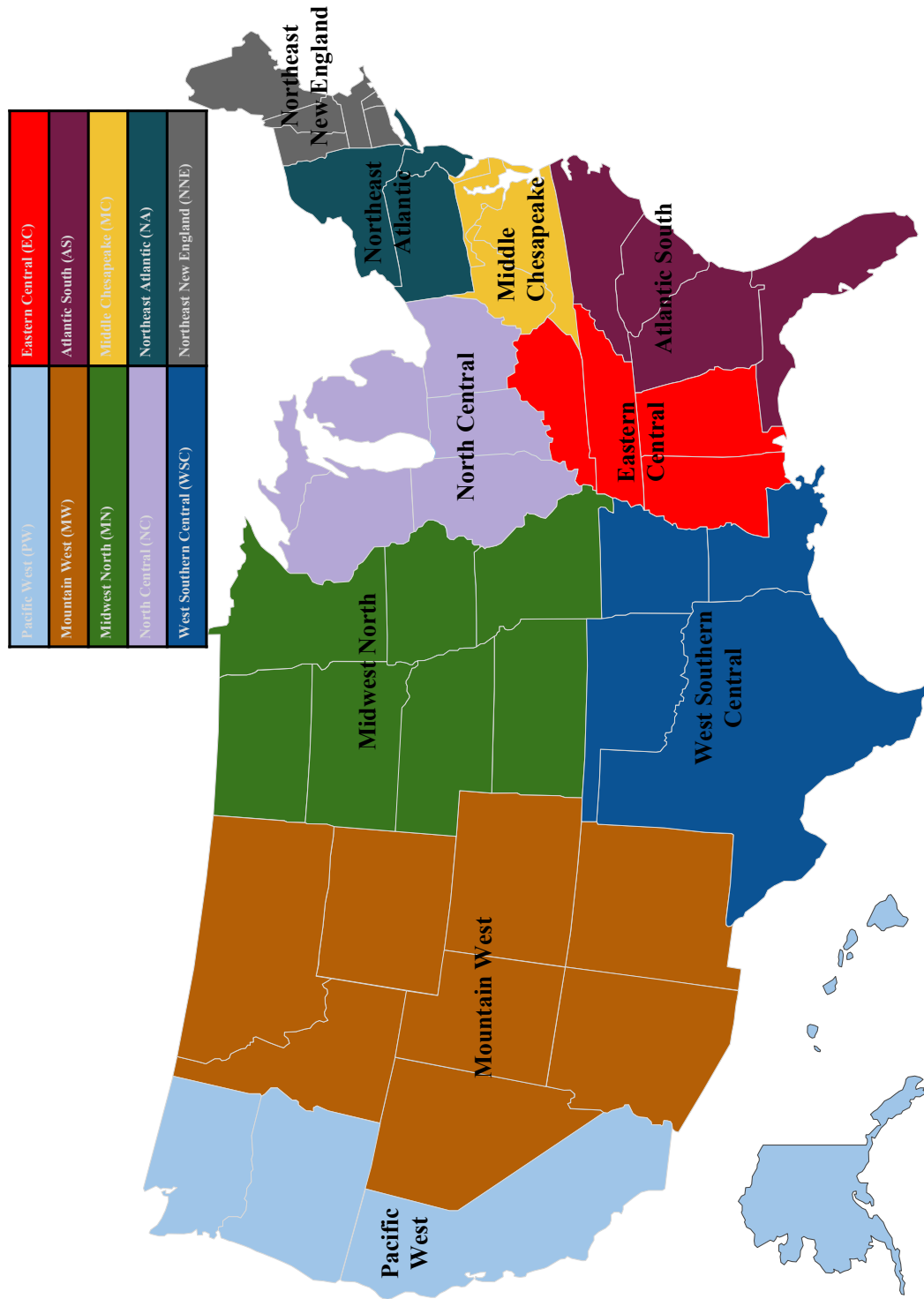
Source: Regions based on U.S. Census Regions and Divisions combined with rough grouping by RPP and general geographic features

* Based on Table 1. Annual Estimate of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2010 to July 1, 2015, U.S. Census Bureau, Population Division, Release Date: December 2015, accessed February 14, 2016, <http://www.census.gov/popest/data/state/totals/2015/tables/NST-EST2015-01.xlsx>.

** Based on Table 5. Gross Collections, by Type of Tax and State, Fiscal Year 2010, Chief Financial Officer, Revenue Financial Management, accessed February 14, 2016, <https://www.irs.gov/pub/irs-soi/10db05co.xls>.

*** Federal Highway Trust Fund Receipts Attributable to Highway Users in Each State Fiscal Year 2010 Revised August 2011, accessed February 14, 2016, <http://www.fhwa.dot.gov/policyinformation/statistics/2010/je9.cfm#foot1>

Image 1. United States of America Proposed Regional Congress System Map



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