

# *Restoring the Consent Of the Governed*



**The Public Check on Congress  
Would Hold It More Accountable  
For Serving the National Interest**

**Bill Bridgman**

Restoring the Consent of the Governed: The Public Check on Congress Would Hold It More  
Accountable for Serving the National Interest

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*For Andy, Steve, Scott, Ali, Leo and Mae . . .  
and the others of their generations*

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## Foreword

As I think about how together we can get the members of Congress to do a better job of handling the people's business, I recall the words of Ronald Reagan, spoken in another context long before he was president: the answer is simple, but not easy. It is "simple" in that if we want the members of Congress to do a better job, we simply must hold them more accountable for doing a better job.

Of course, if it were "easy" to hold them more accountable, we would already be doing it. Unfortunately, "we the people" may need an additional accountability mechanism, one by which we can hold the members of Congress *collectively* accountable for acting in the national interest. Such a mechanism, which we'll call the "Public Check on Congress" (PCC), would require an amendment to the Constitution. It would not be easy.

But given the stakes for ourselves and future generations, it is time to seriously consider such robust reform options.

The challenges to our democratic system have given rise to a wide range of political reform initiatives. Many are aimed directly at Congress. For example, Ranked Choice Voting (RCV) encourages a broader field of candidates to run for office without risking a "spoiler" result. It is making significant headway among local and congressional elections. Anti-gerrymandering campaigns will continue, although without the support of federal judges, following a recent Supreme Court decision. Other efforts expand voter access and level the playing field for campaign financing. These reforms deserve support.

In most cases, however, their primary objective is to improve the "inputs" to Congress (i.e., electing "better" or at least more representative citizens). But we should also investigate how we might empower the electorate to hold Congress more directly accountable for its legislative "outputs." This is the objective of the Public Check on Congress collective accountability mechanism. It would provide a strong new incentive for members of Congress to reach consensus aligned with the public interest—and act on it.

This book makes the case for the Public Check on Congress as follows:

Section I, "Summary," outlines the many benefits of collective congressional accountability and introduces a "first draft" starting point for a PCC amendment.

Section II, "A Defining Challenge," describes how high the stakes are for fixing Congress—so high, in fact, that the way we address the challenge of congressional dysfunction will be reflected in how our generation is judged.

Section III, "Creating Team Congress," identifies the key design parameters that should be reflected in a Public Check on Congress.

Section IV, "The Public Check on Congress: A Starting Point," provides the rationale for the draft formulation for this amendment. Political scientists, constitutional scholars, and other interested parties should consider this an open invitation to critically examine and refine this formulation, leading to a finalized version worthy of broad public support.

Section V, “PCC at Work,” describes several important examples where the dynamic of PCC would constructively influence Congress’s behavior.

Section VI, “Can We the People Handle PCC Responsibly?” responds to such questions as:

- ✓ Are the American people so severely polarized that there is now no such thing as the “national interest”?
- ✓ Will PCC become the kind of flawed “direct democracy” mechanism that we have sometimes seen in states such as California and in other countries such as Britain (Brexit)?
- ✓ Weren’t the Founding Fathers wary of giving “the people” too much political power?
- ✓ Hasn’t the recent economic success of China shown that a little less “people power” might be a good thing?

In each instance, the answer supports PCC.

Section VII, “Getting Members of Congress on Board,” discusses the significant benefits they will derive from PCC.

Section VIII, “Seizing the Narrative,” responds to several likely criticisms PCC will face as the public debate on the subject gets underway.

And finally, Section IX offers some concluding observations.

Ben Franklin’s words at the end of the Constitutional Convention in 1787 are often cited to highlight the moral responsibility the American people accepted when we ratified that Constitution. He was asked by a passerby what kind of government he and his fellow framers had devised for America. He replied, “A republic, if you can keep it.” By that he meant, among other things, fixing it if it isn’t working properly. My inner Ben Franklin is telling me that it is time for us to make a repair. What is yours telling you?

Bill Bridgman  
Elmhurst, Illinois  
August 2019

## I. Summary

Our political system is under enormous stress. The warning signs are flashing red almost everywhere we look. Perhaps none is more ominous than the growing sense of alienation felt by many of our fellow Americans toward our government in Washington. Until recently, we could tell ourselves that, over the years, Americans had been gradually losing faith only in our politicians. Now it is clear that many are losing faith in our democratic system of government itself.

This is particularly true among our younger generations. For example, a quarter of millennials recently responded that it is “unimportant” that we are free to elect our own leaders. Take a deep breath and ask yourself: How long can a democracy survive that level of indifference among its soon-to-be largest and most influential cohort?

For many, it’s a self-evident truth that Congress is the source of much of the dysfunction—the broken branch of American politics, as it has frequently been called. Members of Congress of both parties have become supremely adept amplifiers and exploiters of this dysfunction for their own purposes. Their routine use of such tribal behaviors as gratuitous obstruction, blame-gamesmanship, and demonization of the other party have largely supplanted the bipartisan compromise upon which our system of checks and balances depends.

Perhaps no symptom of congressional dysfunction is more apparent than the obscene amount of money in politics. Moneyed interests are now brazenly transparent in their efforts to tilt the system in their favor. While 90% of the public believes this is a top problem with our political system, Congress has done little in recent years to fix it.

These trends highlight the fact that a critical missing piece of our political system is our ability to hold members of Congress adequately accountable for their overall performance. Even in the “wave” election of November 2018, this accountability gap was stark: although the national approval rate for Congress was at 20%, the reelection rate for running incumbents was 90%.

What if we took away from the members of Congress their ability to blame each other? What if we Americans could force them to take joint responsibility for Congress’s overall performance? And if it takes an amendment to the Constitution to accomplish this, what might such a collective congressional accountability mechanism look like? The stakes are too high not to spend some time pondering these questions.

### **What do we mean by “collective accountability” for Congress?**

Let’s look at it this way. Each member of Congress has two major responsibilities: first, an individual responsibility to the local district or state constituency that elected him or her; and second, a collective responsibility shared with the other members of Congress to act in the best interests of the nation as a whole.

Although each member of Congress has both individual and collective responsibilities, they are held accountable through the current election process only for meeting the first responsibility to their individual district or state. The nation as a whole has no opportunity for holding members of

Congress accountable for meeting their collective responsibility to the nation. We can draw a short straight line from this accountability gap to the dysfunction that is now a way of life in Congress.

The Public Check on Congress would fill that accountability gap.

Although such a significant structural change to our political system would require an amendment to the Constitution, a rapidly growing majority of Americans are now ready to consider such reforms. Pew Research recently found that 61% of Americans support “significant changes” to the fundamental “design and structure” of our political system to make it work better in current times. There are many reasons the American public would find PCC a particularly appealing change.

### **What are the benefits of the Public Check on Congress (PCC)?**

“When I feel the heat, I see the light.” Thus spoke Everett Dirksen, who represented Illinois for 35 years in Congress and was for much of that time the Republican minority leader of the Senate. Not much has changed in the laws of congressional thermodynamics since Dirksen left the Senate 50 years ago. Members of Congress still respond to heat.

Unfortunately, these days most of that heat comes from moneyed special interests, fringe “base” factions, and tribal party leaders. Members of Congress simply don’t feel much heat from the mainstream national electorate. That would change with collective accountability.

The Public Check on Congress would be a new source of heat and light, one that Congress as a whole could not ignore. Members of Congress would see a new clause in their employment contract: to keep their jobs, they would have to accept a much higher level of joint, bipartisan responsibility for Congress’s overall performance.

Here are some of the key benefits we could expect from PCC:

- ✓ A properly constructed PCC would establish a significant penalty for the excessive partisan gridlock, obstructionism, toxic demonization, and relentless blame-gamesmanship that have become the default behaviors of members of Congress over the past several decades. With PCC, these would become self-defeating lose-lose tactics. In their place would be a new strong incentive for Congress to compromise and act on important legislation in a manner consistent with the national interest.
- ✓ Among the issues that would be taken up with some urgency by the newly responsive Congress would be: reducing the money and special interest influence in politics; combining effective border security with humane treatment of immigrants; striking a reasonable balance on Congress’s many favorite polarizing “wedge issues” (e.g., gun rights vs. gun control and pro-life vs. pro-choice); returning to long-forsaken principles of fiscal responsibility; reforming social security and healthcare entitlement programs consistent with long-term affordability and intergenerational fairness; and delivering responsible policies on the environment, defense spending, authorization for use of military force, protection of our election processes from foreign interference, executive oversight, etc.
- ✓ PCC would be constitutionally designed to occur at infrequent intervals (every 8 years in the sample formulation provided in this book). Thus, it would oblige members of Congress to think more strategically over a much longer time horizon as they develop their legislation.

- ✓ This longer cycle would also force members of Congress to be more responsive to the many younger citizens who couldn't vote in the next district/state election but would be able to vote in the next national PCC referendum on Congress.
- ✓ PCC would reduce the polarization in both Congress and the country. A national referendum on Congress's overall performance would focus on issues, where we are much less divided, rather than on personalities, where negative advertising exploits the "lesser of evils" character of all of our current national elections.
- ✓ Here is a scenario you could imagine with PCC in place: the leaders of the House and Senate—currently Nancy and Mitch and Chuck and Kevin—standing together at the end of a PCC cycle to defend their collective record and to lay out their plans for the next cycle. And then we the national electorate would have our say.

### **One Formulation of PCC**

The concept of collective accountability for Congress is new. A national consensus will have to be developed in support of a particular formulation to be inserted into the Constitution. Here is one formulation that can serve as a starting point for that consensus-building effort.

#### *The Public Check on Congress Constitutional Amendment (Draft)*

- ✓ *A nationwide referendum on Congress's overall performance is held once every eight years. Congress needs a 35% approval rating to "pass." If this occurs, there are no further PCC procedures until the next referendum eight years later.*
- ✓ *If the approval rating is less than 35%, a second, "recall" nationwide vote is held two years later.*
- ✓ *If the support for Congress is again below 35%, then one-third of the members of each house of Congress—the most senior third in terms of total tenure in Congress—are to be replaced by elections held in their home districts and states by no later than the next general congressional election. They cannot run again for either house for ten years. Anyone having left Congress at any time during the prior five years is also ineligible to run again for ten years.*
- ✓ *Eight years after the replacements are selected, the next PCC referendum is held.*

### **There are many advantages to this version of PCC:**

- ✓ Its effectiveness is based on something near and dear to the heart of most politicians: retention of their jobs.
- ✓ It is completely nonpartisan: leaders of both parties, as well as both houses of Congress, are equally at risk.
- ✓ The incentive would be broadly shared throughout the PCC cycle, far beyond the one-third that happen to be on the bubble at the end of the cycle.

- ✓ The focus on the most senior members of Congress assures that those with the most power for the longest period will exercise that power in service to the nation.
- ✓ Although the consequences of recall are severe, the PCC hurdle would be a fairly easy one for Congress to cross with adequate performance. It would take two supermajority votes—separated by a two-year grace period—to recall senior members of Congress.
- ✓ There are many reasons for members of Congress themselves to support PCC. These are discussed in detail in Section VII. Importantly, PCC would be far more “carrot” than “stick.” The positive vote Congress could expect to routinely receive would strengthen its institutional bond with the public and provide a nationwide mandate to help it regain “first branch” status as intended by the Founders.
- ✓ Also of interest to members of Congress would be the long period before they must face their first PCC vote. The time required for constitutional ratification, as well as the PCC cycle itself, would be a virtual grandfathering for those voting to approve the amendment.
- ✓ Nonetheless, we should see a dramatic improvement in congressional behavior and performance early in the amendment process as PCC becomes a new source of heat and light.

### **Shifting paradigms**

The concept of collective congressional accountability is a bit out of the box. Many will initially be tempted to reflexively dismiss it. They will claim that it is too difficult to amend the Constitution, that there may be unintended consequences, that members of Congress can never be persuaded to accept more accountability, that we Americans no longer have a shared national interest, that we can’t be trusted with more political influence, that our Founding Fathers never intended that members of Congress be held collectively accountable, etc., etc.

We will deal with each of these reactions in various sections of the book. We will find that while the case for PCC requires a bit of “steep” time to allow us to relax these paradigms, it becomes increasingly compelling the longer one thinks it through.

### **Next Steps**

The Public Check on Congress collective accountability amendment is still in concept form. Much work will have to be done by political scientists, constitutional scholars, and other ahead-of-the-curve thought leaders to find the best formulation.

Once a consensus version starts to take shape, PCC should quickly gather public support. For example, three quarters of the public already support a constitutional amendment establishing term limits for members of Congress. PCC would be an improvement on that reform—a credible threat of term limits (i.e., the recall of senior members) with the outcome tied directly to the public’s appraisal of Congress’s performance. Members of Congress, too, would certainly prefer PCC, with its contingency on performance, to outright term limits.

The biggest losers with PCC, and thus the source of greatest resistance, will be the moneyed special interest groups and fringe partisan factions that now enjoy outsized influence. They would be forced to surrender much of that influence to the public at large. But even many of these interests will ultimately benefit from a Congress that is able to act in better alignment with our common good.

## II. A Defining Challenge

It seems to be occurring more and more frequently these days. You read about some particularly self-serving antic by one group of Congressmen or another and your sense of disgust prompts you to blurt out, “If these clowns worked for me, I’d fire the whole lot of them.”

Perfectly understandable. As it happens, however, there are three things wrong with your hypothetical statement. The first is that it is not hypothetical. The fact is that the members of Congress *do* work for you . . . and for me and for all other American citizens. To quote Lincoln, ours is a “government of the people, by the people, and for the people.” To quote the Constitution, it is we the people who are the boss.

The second thing wrong with your statement is that, despite appearances, they are not a bunch of clowns. The members of Congress are behaving in a highly rational way that allows them to get reelected at an astonishingly high rate—typically over 90% of those who choose to run. The way Congress works today, there is little incentive for its members to collaborate across party lines since their lack of collective accomplishment does not adversely affect their ability to get themselves reelected.

And the third thing wrong with that statement is that you would not fire them—at least not before you had taken a careful look at the incentives that are driving their behavior and made the changes needed to fix that incentive and accountability system. Otherwise, the replacements would simply become a new bunch of clowns.

As the dysfunction in Washington has become increasingly obvious to all, a very large library of “how to fix Congress” books, reports, blogs, television specials, and TED Talks has accumulated. They come from the halls of academia, think tanks, Congress itself, the media, and many other precincts. In most instances, the prescription offered up is one form or another of “the people need to hold the members of Congress more accountable.” It is hard to argue with that.

But then the obvious follow-up question is whether we the people have the tools we need for holding the members of Congress adequately accountable. If, as in present circumstances, they are able to get themselves reelected while ignoring the national interest, then it is clear that we have an accountability gap. We need something more than the vote each of us now has for our individual representative every two years and for our two senators every six years.

Let’s explore the benefits of one more accountability tool—one by which we American citizens together can hold the members of Congress more accountable for meeting their collective responsibility to the country as a whole, thereby creating a much greater incentive than they now have to work together. We will call that collective accountability tool the Public Check on Congress (PCC).

Of course, the current mechanisms by which members of Congress are held accountable by the citizens of their individual districts and states are established by the US Constitution. If now it becomes necessary to strengthen our ability to hold members of Congress more collectively accountable for meeting their responsibilities to the nation as a whole, it would be necessary to amend the Constitution. This is a degree of freedom we need to allow ourselves to repair a highly dysfunctional Congress.

There are those who will say that we should not tinker with the basic checks and balances originally established by the framers of our Constitution. To them I would respond—with no fear whatsoever of being proven wrong—that if George Washington, James Madison, Alexander Hamilton, Benjamin Franklin, and the others were to return to us today to update the Constitution for current conditions, their first order of business would be to insert some mechanism by which the members of Congress could be held accountable for their collective performance. More on this in a later section of this book.

There are others who will say that nothing could be more unimaginable than amending the Constitution to increase the accountability of the members of Congress when they themselves are an integral part of the process of amending the Constitution. Later in this book, I will discuss how most members of Congress will see significant benefits for themselves in a properly constructed Public Check on Congress.

And then there will be those who identify the challenge of mobilizing the American citizenry to support a change of this scale and consequence. The first step will be to devise the right accountability mechanism. In this book, I put forward one possibility. It may not be the best option, but it is a serviceable starting point for developing a consensus formulation that would merit the support of the public at large.

From there, the American public could be counted on to do the heavy lifting. For example, if we Americans were convinced that our government in Washington could be brought back to good health by means of a straightforward blood transfusion, 300 million pints of blood would be offered up the next day. This is because we Americans desperately want to see our democracy work properly. And if we become convinced of how that can be made to happen, we will provide whatever popular momentum is necessary.

We already know that the ultimate responsibility is ours. Long ago, our forefathers fought a revolution to throw off monarchy and aristocracy. That left us the people as the sovereign authority of the United States. Government by consent of the governed was ordained and established as the bedrock principle of the new republic. And now, 232 years later, if we are no longer satisfied with our ability to provide or withhold our consent, it is we the people of this generation who must intervene. It is our sovereign duty to restore government by consent of the governed. We didn't ask for this challenge, but the need to address it has become critical on our watch. Our response will determine whether we are worthy of the mantle our forefathers tailored for us.

The process for amending the Constitution is laid out in Article V of that document. This could take several years. However, we would not have to wait that long for Congress to start shaping up. Once a national conversation on PCC begins and it registers as a likely outcome on the radar screen of the members of Congress, we will congratulate them more frequently for compromising on and enacting important legislation. We will castigate them less frequently for shutting down the government, fabricating self-serving “wedge” issues, kicking many cans down the road, and ignoring other cans altogether. Given human nature, and in particular politician nature, they will quickly adapt in anticipation of the approaching new reality of collective accountability.

Under other circumstances, you and I could discuss at our leisure the great opportunity we have to fix Congress. Unfortunately, the time for viewing this as an opportunity is past. What we are faced with now is a clear and present necessity. We can no longer hope to simply “muddle through” and “see what happens.” That is what we have been doing for many years and it is clear that time is not on our side. Our political system was intended to be the servant of the people. However, if we the people do not step up to fully perform as its master, other masters will readily fill that vacuum. The money now flooding our political system is the handwriting on that wall.

Perhaps sometime soon you will allow yourself the pleasure of reading (or rereading) *The Federalist Papers*, that masterful compilation of arguments from 1787–88 urging the adoption of the proposed Constitution. Start at the beginning, Federalist No. 1, where Alexander Hamilton writes in the first paragraph:

*It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force. If there be any truth in the remark, the crisis at which we are arrived may with propriety be regarded as the era in which that decision is to be made; and a wrong election of the part we shall act may, in this view, deserve to be considered as the general misfortune of mankind.*

Given the stakes at that critical moment in our nation’s history, no one has accused Hamilton of overstating the importance of the decision to be made.

The stakes are also high today, and the question before us is much the same: whether we as a society are capable of repairing dysfunctional government institutions—upon which rests, in significant measure, the destiny of our country—through the exercise of intelligent reflection and choice, or whether we will opt to simply leave things to chance. Our generation will be defined, in part, by the way in which we respond to that challenge.

### III. Creating Team Congress

A long-serving democratic senator from Iowa, Tom Harkin, once said that the power of members of Congress is not derived from what they can do but from what they can prevent. Others echo that sentiment by labeling our system of government not a democracy but a “vetocracy” in recognition of the many ways small groups of members of Congress—and sometimes even individual members—can veto constructive and sometimes necessary action. Given the separation of powers and checks and balances that are embedded in our system, many claim we suffer from vetocracy more than any other modern democratic country.

As a result, Congress accomplishes very little, and yet too much of what is accomplished bears the markings of extreme, polarizing partisanship. Meanwhile, each member of Congress is able to go back during election time to his or her tiny subset of the national electorate and plead that they fought the good fight. What is missing is an obligation for members of Congress—of both parties and both houses—to defend together what they actually accomplished, with significant consequences if that record were not adequate.

This is not rocket science. A great many organizations and institutions need to motivate their members to perform strongly both as individuals and as constructive members of a group with collective responsibilities. The “incentive package” for these organizations is designed to reward good performance with respect to both individual and group responsibilities. In most sectors, this “incentive package” consists of financial compensation, promotion, etc.

For elected politicians, the most effective “incentive package” is retention in office. Retention in office by means of existing local elections is already used to motivate members of Congress to meet their responsibilities to their local constituents. Let’s see if we can devise a good way in which retention in office could also be used to motivate members of Congress to meet their responsibilities to the nation as a whole. In other words, let’s see what a Public Check on Congress might look like.

#### **The Public Check on Congress: Statement of Purpose**

The first step in developing PCC is to state its purpose. Here is a first cut that others can modify in the spirit of continuous improvement:

- ✓ *To strengthen the incentive for the members of Congress to cooperate across party lines and between the two houses of Congress to pass legislation better aligned with America’s national interests.*

This is the core of PCC. It calls for increased collaboration and compromise not only within each house of Congress but also between the two houses. It would provide an increased measure of accountability for the actions of Congress as a whole.

- ✓ *To moderate the influence on members of Congress of moneyed special interests, fringe political factions, and tribal party politics.*

This part of the statement of purpose recognizes that the rebalancing of accountability and influence is away from high-access special interests—especially those that are out of step with national mainstream sentiment—and fringe political

factions with their undue campaign leverage. The corresponding benefit accrues to “we the people of the United States.”

- ✓ *To empower Congress to regain the legislative efficacy and public respect originally intended for it by the framers of the Constitution.*

Importantly, this new accountability mechanism must promote the opportunity for Congress to reestablish itself as a respected and trusted institution. The constitutional framers originally visualized it as first among the branches of government. A PCC mechanism will not have fully served its purpose if it does not restore, in addition to the *consent* of the governed, the *respect and trust* of the governed.

- ✓ *To acknowledge the restraint that we the people must recognize in the exercise of our sovereign power.*

And finally, whatever PCC mechanism we put in place must reflect judicious moderation on our part. Given the frustration and anger that many citizens feel today, it would be all too tempting to install a mechanism that goes overboard in micromanaging and penalizing the members of Congress. To adapt a quotation from Poor Richard (an alter ego of constitutional framer Ben Franklin), “Anger never struck a good bargain.” Our motivation must not be rooted in anger at the members of Congress but rather in affection for the institution of Congress. With that in mind, we should be able to devise a PCC that constitutes an enlightened, restrained exercise of our sovereign power.

## **Other Considerations**

Beyond the overall purpose of PCC outlined above, there are a number of other considerations that ought to be taken into account in its development. Again, let’s start with a first draft list of these considerations, to which others can add, subtract, or modify.

- ✓ *A Public Check on Congress should provide a measure of accountability for Congress as a whole to the American citizenry as a whole.*

Under this dynamic, it would no longer be possible for each member of Congress to justify his or her actions only to the thin sliver of the electorate that sent them to Congress. Rather, the members of Congress would jointly have to justify their collective actions to the public at large.

- ✓ *It should allow the American public to express periodically their approval or disapproval of Congress’s overall performance over an extended period of time.*

The focus would be on Congress’s overall performance. There would be no vote on particular issues. It would also make sense for the public to evaluate Congress’s record over a long enough period of time to encourage its members to think more carefully about the longer term impacts of their actions.

- ✓ *It should establish sufficient consequences for substantial, sustained disapproval to assure appropriate congressional performance.*

For the PCC incentive to work, there must be a significant downside when, under PCC, the consent of the governed is withheld.

- ✓ *On balance, however, PCC should be much more “carrot” than “stick.” The predominant outcome should be a new positive connection between Congress and the American people, strengthening Congress’s incentive and capacity to act in the broad public interest.*

The downside consequences from withheld consent must be extremely rare. Rather, Congress must be able to expect to earn that consent with a reasonable and good-faith effort to comply with the will of the people. This would lead to a much healthier relationship between Congress and the public.

- ✓ *We must be willing to amend the Constitution to implement the appropriate Public Check on Congress.*

A PCC that fulfills its purpose and meets these considerations will require an amendment to the Constitution. We must accept that as part of our task of fixing the dysfunction in Congress.

There will no doubt be additional considerations to take into account as we think this through, but let’s work with these for now.

Before moving on, let me share a fantasy I sometimes have about Congress. It is triggered when I see a congressional committee hearing on television. You know the scenario: all the impressive-looking congressmen and congresswomen sitting in their large swivel chairs on several platform tiers, looking down at the witness sitting alone in a straight-backed chair in the center of the arena. The witness is placed under oath. Then the inquisition begins. It can last for hours and sometimes for days.

At some point, my fantasy kicks in and the roles are reversed. The solitary citizen is suddenly transformed into the boss of the members of the committee. Her chair rises up while their platforms descend. She puts them under oath and interrogates them on their activities during their terms in Congress. She demands a report, issued jointly by all members of the committee, where together they make their best case that their collective actions have justified the responsibility the American people have given them. The report must be signed by all committee members, Republicans and Democrats alike. And if it is inadequate, the jobs of all members of the committee are equally in jeopardy. On the other hand, if their team report is highly satisfactory, their jobs are secure for the present.

If we could put in place the right kind of Public Check on Congress, we might be able to realize some of the elements of this fantasy—except it would apply to Congress as a whole, not just to one committee.

#### **IV. The Public Check on Congress: A Starting Point**

Now let's take our statement of purpose and our list of additional considerations and construct a specific Public Check on Congress mechanism, one that would establish some collective accountability for the members of Congress. With more than two centuries of familiarity with our current system of exclusive individual accountability, anything we would add would look a bit strange at first. So at this point, let's think of this as an exercise in brainstorming during which ideas are initially given the benefit of the doubt and allowed some time to prove themselves.

##### **One Formulation for a Public Check on Congress**

This is how we might be able to get the members of Congress to work more constructively together:

###### *The Public Check on Congress Constitutional Amendment (Draft)*

- ✓ *A nationwide referendum on Congress's overall performance is held once every eight years. Congress needs a 35% approval rating to "pass." If this occurs, there are no further PCC procedures until the next referendum eight years later.*
- ✓ *If the approval rating is less than 35%, a second, "recall" nationwide vote is held two years later.*
- ✓ *If the support for Congress is again below 35%, then one-third of the members of each house of Congress—the most senior third in terms of total tenure in Congress—are to be replaced by elections held in their home districts and states by no later than the next general congressional election. They cannot run again for either house for ten years. Anyone having left Congress at any time during the prior five years is also ineligible to run again for ten years.*
- ✓ *Eight years after the replacements are selected, the next PCC referendum is held.*

Here are some key observations on this version of PCC:

The effectiveness of the collective accountability mechanism is based on something near and dear to the hearts of most members of Congress: the retention of their jobs.

The accountability is directly to the American citizenry as a whole. This is in sharp contrast to the highly "atomized" voice of the people, which can scarcely be discerned today in the 535 individual elections for the members of Congress. And it is also much clearer than the voice that elects our President—a voice filtered through the electoral college (and sometimes the Supreme Court) and is elicited most energetically from only a few swing states.

PCC would be totally nonpartisan. Politicians of all parties would be equally at risk.

In all of our current national elections, the choice presented to the American people is between individual candidates—what many consider a choice of the lesser of evils. In contrast, the PCC referendum would call upon the American public to focus much more exclusively on issues and policies enacted by Congress over the past cycle. It would be detached from personalities, partisan

demonization, and other toxic distractions that are exploited in many individual congressional elections. The question before the American people would not be which party is doing a better job but whether Congress as a whole is doing an adequate job.

This version of PCC puts a very substantial fraction of the members of Congress at risk—far more than the one-third that would be recalled. This is because of the uncertainty that many more members would feel as to whether they would ultimately slip into that third by the time of the final recall vote. Thus, the incentive to cooperate would be very widely shared among the members of Congress throughout the PCC cycle.

PCC is focused on the more senior members of Congress, those who are leaders of their party caucuses, chairs and ranking members of committees and subcommittees, etc. The rationale for this focus is that the seniority-driven power structure of Congress puts them in the best position to assure that Congress earns a passing grade at PCC time. They have both the obligation and opportunity to rein in others who might be tempted to abuse rules and procedures to create an unacceptable level of dysfunction. Thus, PCC would give the more senior members of Congress a very strong incentive to act like “the adults in the room.”

Of course, if Congress earns a failing grade, PCC would sweep out those who have been around the longest. It would act like a conditional term limit on those members of Congress when triggered by the condition of deep, sustained dissatisfaction with Congress’s performance by a supermajority of the American public.

While it is true that the consequences of a PCC recall are quite severe, the formulation above is designed to ensure that such an eventuality will very rarely occur. The approval rating required, 35%, is readily achievable with a reasonable level of responsiveness to the PCC incentive. Further, with the second vote held two years later before a recall is implemented, Congress has a generous grace period to get its act together.

This double vote might be viewed as similar to the two-step process for removing a president: impeachment by the House of Representatives followed by removal by the Senate. Over the course of 230-plus years, we have had three presidential impeachments by the House but no removals by the Senate. We have had one presidential resignation under threat of impeachment and removal.

The PCC process as set out above occurs once every eight years. Thus, it is no “sword of Damocles” continuously hanging over the head of the members of Congress. Rather, an extended period of time between PCC votes will encourage Congress to think much more strategically about its legislation. It will be acutely aware that whatever it does must play well not only in the next individual election but also further down the road at the time of the next PCC vote. America has a great deal to gain by lengthening the horizon that members of Congress incorporate into their political calculations.

On balance, then, this version of PCC is intended to create a strong incentive for members of Congress of both parties and both houses to form bipartisan majorities to pass legislation and formulate policies that will be consistent with the interests of the broad center of the American public. It would be infrequent enough with a relatively low approval bar so as not to unduly

interfere with reasonable advocacy of bona fide policy differences. It might be thought of as a helpful stabilizing gyroscope to assist Congress in maintaining its bearings in its service to the American public.

The details of how a PCC vote would be conducted could be as straightforward as a single box added to the ballot across the nation when the general election for members of Congress is held. If Congress succeeds in achieving the approval threshold—35% in this example—that would be the end of the PCC process until the next cycle.

If not, then another vote could be similarly incorporated into the next congressional elections two years later. At that point, if Congress's approval exceeds the threshold, nothing further need be done. If Congress fails again on the second PCC vote, then the one-third most senior members of each house of Congress at that time are to be replaced at the next election, if not sooner.

In reality, these members become instant lame ducks, even if they won their individual elections, and will have little credibility in Congress. One can anticipate that very quickly within Congress they will be replaced in their positions of authority (committee chairs, party leadership, etc.). It will also be an option for individual states to replace their recalled senators and representatives much earlier by holding replacement elections at whatever point in time they choose to do so. It would not be surprising if most states choose to hold replacement elections sooner rather than later so that their state would be represented by a full slate of credible representatives as quickly as possible after a recall.

But the replacement procedures must be thought of as a very remote contingency. The members of Congress would have every reasonable opportunity to meet the PCC nationwide approval threshold without unduly interfering with their obligations to their individual constituencies.

This PCC formulation is a first draft. There are many variations of the parameters that must be carefully thought through in developing a PCC constitutional amendment. The challenge will be to set the frequency of PCC, the approval thresholds, the fraction of Congress at risk, etc., within the “Goldilocks zone,” (i.e., the zone where the influence of PCC is neither too strong, resulting in congressional overreaction such as pandering to the public, nor too weak, where it does not have the desired effect). The formulation described here is offered as a starting point for that determination.

## V. PCC at Work

Let's take a look at several specific examples of how the Public Check on Congress would affect Congress's behavior and legislative outcomes.

**Money in politics.** The vast majority of Americans agree that there is just too much money seeking and finding ways to influence our national politics. This is particularly true with respect to "special interests," which can accumulate huge sums for direct and indirect financing of campaigns for candidates for Congress and for president. The framers of our Constitution would consider this phenomenon a double obscenity: first for the way in which these vast sums distort our government's decision-making; and second for the outrageous fraction of our lawmakers' time (often over 50%) that is tied up with soliciting these funds. Total campaign spending for congressional elections in 2018 was \$5.7 billion. Dollars outvoted citizens by 50 to 1. It is time for the citizens to deploy a countermeasure.

If the members of Congress knew that we citizens had the Public Check on Congress accountability tool at our disposal, we could be certain that they would fix campaign financing well before the first PCC vote. This would include putting in place the needed laws, timely approval of right-minded federal election commissioners, rules and regulations governing the House and Senate with respect to special interest contributions and access, revolving door restrictions, etc.

To the extent that decisions of the Supreme Court have exacerbated the problem (such as the five to four Citizens United decision), the Senate would "carefully consider" the views of future court nominees regarding campaign financing as part of the approval process. This would ensure a reversal by a future court. And if some change to the Constitution itself were ultimately necessary, Congress would be highly motivated to get that ball rolling.

As the first PCC vote approaches, it would not be good enough for Congress to simply put these measures in place. The public would have to be convinced that they were functioning effectively for Congress to get its PCC pass.

**Fiscal responsibility.** Let's start this discussion by agreeing on what we mean by congressional fiscal responsibility: that the members of Congress work together to pass a budget consistent with immediate requirements and longer-term needs of the American people; that the bottom line reflects a strong bias against large deficits; that when, as a country, we decide to go to war, the expenditures for war are planned for and paid for; that to the extent that entitlement programs are simply unsustainable in the longer term, Congress would develop and implement a course correction consistent with intergenerational fairness; and that such bargaining tactics as shutting down the government or refusing to pay government bills are never legitimate.

At one level, this definition of fiscal responsibility is so obvious that one wonders why it is necessary to discuss it here. At another level, it describes a condition seemingly foreign to most members of Congress.

We will come much closer to this norm if the leaders of both parties of both houses of Congress are obligated periodically to jointly justify to the American people how they have managed the finances of the country. They will not want to have to explain why kicking the can down the road

was central to their strategic fiscal vision; or how brinksmanship over basic government functions paid off for the American people; or why we are no closer to solving the entitlement problems than when the PCC cycle began; or why we haven't made serious progress during that time on obvious, sensible, and fair tax reforms. With PCC, there won't be anyplace to hide or anyone else to blame. If the members of Congress want to avoid being held accountable for the continuation of our current fiscal mess, they will have to do something constructive about it.

**Health care.** Health care is one of the most important yet also one of the most unnecessarily polarizing policy arenas in Congress. Depending on your point of view, the Affordable Care Act (Obamacare) of 2009–2010 was either pushed through by the Democratic majority without accommodating Republican input or the Republicans frantically tried to obstruct it at every turn to prevent a major Democratic policy success. This lack of Republican collaboration was particularly surprising given the ACA's similarity to health care expansion programs proposed previously by prominent Republicans and conservative think tanks. In any event, ACA suffered significantly from single party ownership. While it was a major step forward in health care policy, hyperpartisan politics transformed it into a highly divisive wedge issue.

After the 2016 election, Republicans had their shot at single-party control. They had campaigned on the promise of replacing Obamacare with "something better." Their majority party tactics were familiar: putting forward their own program without input from the other side. In July 2017, their bill came within a single vote in the Senate of becoming law. On that day, public support for the bill was 17%.

If PCC had been in place during those years, the handling of health care would have been completely different. Both parties would have had a strong collective incentive to participate fully from the outset. Their collaboration and compromise would have delivered a healthcare program for which they would have felt a joint ownership. And with a new hardwired accountability to the public at large, there would have been an aggressive bipartisan effort to bend the underlying health care cost curve. And if they didn't get everything quite right at first, they would have come back together promptly to fine-tune the legislation to improve upon it. And throughout this process, members of Congress of both parties would know that the final verdict on the success of their efforts would be rendered by the American people as a whole, not by special interests or tiny inflamed fringes of the electorate.

**Declaration of war.** Whatever one may think about the advisability of going to war in Iraq in 2003, there can be little doubt that the process by which Congress authorized that war was both hasty and sloppy. Congress did not take the time to reconcile divergent intelligence reports from various parts of the administration and other credible sources on such basic questions as the Iraqi connection to the 9/11 attacks, the presence of weapons of mass destruction in Iraq, the size of US armed forces that would be necessary, estimates of the cost of the war, reconstruction requirements, etc. Reasonable inquiries and fuller deliberation might well have led to much improved conduct of the war or even a different decision.

As it was, Congress's timetable was driven in large part by the administration's desire to complete the war authorization process in October 2002, ahead of the midterm elections the following month. If, in addition to those elections, the members of Congress had also been obliged to

anticipate that their war vote, and the process by which they reached it, would be carefully scrutinized by the public as a whole at a subsequent PCC referendum, one could be sure that much greater care would have been exercised by Congress in preparing themselves for that vote.

PCC would have a very healthy effect on a great many other difficult policy decisions that Congress must make. It would give Congress enough time to think about problems strategically. It would not preempt special interests from having their seat at the table, but they would not be allowed to dominate the broader public interest. For some difficult, complicated issues, special commissions could be established as has been done for military base realignment and closings (BRAC) and as was attempted several times to rein in fiscal deficits. PCC would give such commissions added leverage.

In the end, both parties would be obliged to take ownership of solutions since they will be held jointly accountable by the public. Since demonization and other polarizing behaviors would be counterproductive during the lead up to a PCC vote, one could expect a much healthier working environment among the members of Congress.

Not long ago, a former secretary of defense who had worked for both Republican and Democratic administrations called the dysfunction in Washington “the greatest national security threat to this country.” Business leaders throughout America cite this same problem as the greatest hindrance today to strengthening our economic competitiveness on the world stage. On virtually every other front, where smart, constructive action by our national government could make a positive difference in our quality of life, we find this same obstacle. Our members of Congress need some serious reorientation to get refocused on serving the national interest with an appropriate sense of urgency. One way to spell “reorientation” is “PCC.”

## VI. Can We the People Handle PCC Responsibly?

PCC would change the allocation of political power in favor of the American people. There are some who will question whether we can handle it responsibly. While I have no doubts on this score, I accept it as a legitimate question.

The various dimensions of this concern run along the following lines:

- ✓ Are the American people so severely polarized that there is now no such thing as the “national interest”?
- ✓ Will PCC become the kind of flawed “direct democracy” mechanism that we have sometimes seen in such states as California and in other countries such as Brexit in Britain?
- ✓ Weren’t the Founding Fathers wary of giving “the people” too much power?
- ✓ Hasn’t the recent economic success of China shown that a little less “people power” might be a good thing?

Each of these concerns is worthy of a response.

### **Are we the people too politically polarized?**

It has become fashionable to diagnose the American public as so irreconcilably polarized that we can scarcely be expected to agree on anything anymore. In addition to our political differences, we have been described as increasingly divided by ethnic group, education level, income level, religious views, city vs. suburban vs. rural dwellers, “elite snobs” vs. “deplorables,” etc.

This narrative is easy to overstate. To be sure, we have our differences. That is part of our national identity. But we also have a culture of tolerance. That, too, is part of our identity. It is the part that allows us to call ourselves the *United States of America*.

Studies consistently show that our politics have become polarized far more than American society as a whole. Over the last 30 years or so, political parties have vigorously fanned the embers of division by blaming and demonizing the other. It’s a very useful tactic when the only way we can express our outrage at Party X is to vote for Party Y.

But when you take parties and personalities off the table and focus on issues, we Americans share a great deal of common ground. And 85% of us, including vast majorities of both parties and independents, want our members of Congress to work across party lines and find that common ground. We have long wished for a way to say, “A pox on both your parties. If you won’t work together on the country’s behalf, you will both suffer the consequences, and your noisy base cannot save you.”

Of course, the more likely outcome with the Public Check on Congress is not to throw anyone out but to shape them up. We would expect to see a bit more of the spirit of Harry Truman, who said, “It’s amazing what you can accomplish when you don’t care who gets credit for it.” With a constructive collective response by Congress to the PCC incentive, the credit would be very broadly shared.

PCC would be a much different type of national vote than any we have previously experienced. It would be a referendum on the overall bipartisan performance of Congress, rather than a “lesser of evils” contest of polarizing partisanship. Every vote throughout the country would count, rather than those in a few swing districts and states. Since it would occur only once a decade or so, we might take a little extra time to prepare for it, perhaps checking out a few more facts and listening to a few more informed opinions. And if there were a widespread sense of dissatisfaction with Congress, the PCC vote would be enormously consequential.

But under most circumstances, the vote wouldn’t be a particularly close call. With PCC, we could expect Congress to make a good-faith effort to act in better alignment with the long-term national interest. We the people would then hold up our end of the bargain by giving them a strong pass on the PCC ballot. The PCC process might even contribute to a little less use of the term “polarization.” Perhaps, in its place, we might find more use for the term “solidarity.”

### **Hasn’t “direct democracy” been problematic in states like California and other countries like Britain?**

Ours is a “representative democracy” in which you and I don’t vote directly for laws ourselves. Rather, we vote for people to represent us in Washington where they cast the votes for specific legislation and policies.

About a century ago, some states modified their individual state constitutions to allow a bit of “direct democracy.” Citizens, by petition, could call for a statewide vote on a particular “proposition.” If a majority of voters supported the proposition in the following general election, it would become state law. In that instance, the direct democracy of the ballot initiative would replace the representative democracy of the state legislature.

In addition to ballot initiatives, the term “direct democracy” includes public referendums to override laws passed by the legislature and the recall of specific elected state officials. The governor of California was recalled in 2003. More recently, an unsuccessful recall attempt was undertaken against the governor of Wisconsin.

California has been the most active state in terms of direct democracy initiatives. In recent years, it has had some success—for example, by ending political gerrymandering. Often, however, these initiatives serve a narrow political agenda but can succeed by means of an intensive campaign by the interests that support it. It is even possible to have two contradictory initiatives on the same ballot and for both to win. Many in California and in other states feel that there are times when direct democracy movements, however well-intentioned, only serve to inflame public passions and exacerbate the dysfunction in state politics.

These concerns would not apply to the Public Check on Congress concept. There is little comparison between PCC as put forward here and the kind of state-level direct democracy mechanisms that have generated criticism.

Most importantly, the referendum for PCC is not connected to individual pieces of legislation, public policy, or political party. PCC cannot be used to mandate funding for a partisan project, settle a specific civil rights question, impose restrictions on revenue generation, or promote any of the other intrusive micromanagement initiatives that have bedeviled some states. Rather, its sole

purpose is to allow the American public to tell Congress whether its overall performance is acceptable.

The recall election—the second stage of PCC—should it ever come to pass, would also be unlike any used by the states. Its sole effect is to remove the senior-most leaders of both parties. Thus, unlike state-level recalls, it could not be used as a partisan tool for vindictive targeting of individual members of a particular party.

Therefore, PCC should not be looked upon as a direct democracy–type interference with representative democracy. Rather, it is simply an option for strengthening the accountability framework of our representative democracy.

It is also instructive to contrast PCC with the unfortunate use of a national referendum by the United Kingdom in June 2016 to opt out of the European Union. Brexit was the product of dangerous ad hoc parliamentary dealmaking between factions of Britain’s governing Conservative Party. It asked the British voters to pass judgment on a very complicated policy question requiring more time and information than was available to the average voter. And despite the enormous irreversible consequences, the question was to be decided by a simple majority.

None of these high-risk characteristics of Brexit would apply to PCC. There would be nothing ad hoc about a constitutionally established election held at constitutionally established intervals. PCC would simply become an integral part of the regular rhythm of congressional accountability. It would ask a simple question well within the purview of the electorate: “Are you satisfied with the overall performance of Congress?” Further, PCC would require a supermajority of voters across the nation in two separate elections two years apart in order to implement the penalty for poor congressional performance. This would allow cool heads to prevail in the PCC process.

Plain and simple, PCC should not summon up the concerns that poorly designed referendum mechanisms have induced elsewhere.

### **Weren’t the Founding Fathers wary of giving “the people” too much power?**

It is true that the Founding Fathers had a nuanced view of the extent to which the people of late 18th-century America could be entrusted with political power. To begin with, their definition of “the people” was severely truncated to exclude women, slaves, and most others who didn’t own some property. While those who remained could vote directly for their representatives, their voice for senators at that time was distilled through state legislatures and distilled yet further for the selection of the president.

On the other hand, when it came time to ratify the proposed Constitution, the Founders knew that it must have the greatest possible legitimacy for its acceptance. They went back to we the people in each state. There, people’s conventions determined whether or not to exercise their sovereign political power to ordain and establish the proposed Constitution of the United States. The people in all thirteen states said yes.

The concern the Founders had with the broad electorate was reflected again in their concern over the representatives who were elected to the national government. The rather complicated system of separation of powers overlain with a network of checks and balances was intended to promote

consensus exercise of enumerated powers, protection of individual rights, and prevention of tyranny by either the majority or a minority. That’s a lot to get right. For the most part, they did. But we should not be surprised if now, after 232 years, we need to tweak that system.

It might be worth our while to consider the Founders’ views on amending the Constitution. Let’s start with the fact that virtually none of the actual signers was completely happy with it. That it emerged at all was due in part to their ability to make difficult compromises. But it was also due to the confidence they had in future generations to make the changes that were certain to become necessary over time. Here, for example, is part of a letter from George Washington, who presided over the Constitutional Convention, to his nephew dated November 10, 1787, two months after the convention concluded:

*The warmest friends and the best supporters the Constitution has, do not contend that it is free from imperfections; but they found them unavoidable and are sensible; if evil is likely to arise there from, the remedy must come hereafter; for in the present moment, it is not to be obtained; and, as there is a Constitutional door open for it, I think the People (for it is with them to Judge) can as they will have the advantage of experience on their Side, decide with as much propriety on the alterations and amendments which are necessary [as] ourselves. I do not think we are more inspired, have more wisdom, or possess more virtue, than those who will come after us.*

Many of the other signers had similar thoughts. They expected that should we ever face the congressional dysfunction we are now experiencing, we would figure out how to remedy it. And if it were to take an amendment to do it properly, then “there is a Constitutional door open for it.” It was George Washington’s faith in your wisdom and virtue and mine that allowed him to sign the Constitution. Now we have a chance to be worthy of that faith.

### **Does the economic success of China raise questions about whether we already have too much “people power” in the US?**

A major question being asked by those who study contemporary political economy is whether the “Washington Consensus” will continue to dominate world political development or the “Beijing Consensus” will take over that role. The Washington Consensus rests on the values of the Western Enlightenment—individual freedoms, representative government, and free markets. It relies on the empowerment of individual citizens by providing education and economic opportunity supported by intelligent governmental regulation and protection. America was the first country to go all in on this model and our success for most of the past 200-plus years has been a guiding light to most of the rest of the developed and developing world.

The recent success of the model used for the past 30 years by China has raised questions on whether some sacrifice of individual rights and political freedoms can allow a highly centralized and authoritarian government to foster greater economic and national success. The 2008 international financial system meltdown in the Western developed countries followed by deep recession and slow, uneven recovery—all largely avoided in China—have heightened this issue.

There is little doubt that our political dysfunction in Washington has adversely affected our economic competitiveness. Most of the areas where we view ourselves as falling behind—such as

public education, sensible regulation, macroeconomic fiscal policy, infrastructure development, and confidence in the political system itself—could be dramatically improved if we could give our members of Congress a stronger incentive to constructively address them.

The answer for America cannot be that we become more like some other country. The answer must be that we become more like America. The change that makes the most sense for us is to double down on the American people. The Public Check on Congress does just that.

If the American electorate were given the responsibility under PCC for holding members of Congress accountable for their collective actions, we would do so judiciously. In the lead-up to the referendum, we would pay due attention to expert analyses of Congress's record over the prior PCC cycle. We would give a fair hearing to the members of Congress themselves as they make their case for retention. We would discuss our views with our friends and associates. We would ask ourselves whether the laws and policies Congress enacted measure up in terms of fairness; in terms of favorable long-term consequences; in terms of addressing America's important priorities; in terms of balancing national concerns with the legitimate needs of particular groups; and in terms of being motivated by good faith with the American people. And as long as the members of Congress understand that their actions would be evaluated against these criteria, they will make every reasonable effort to meet them.

## VII. Getting Members of Congress on Board

A challenging irony of amending the Constitution to strengthen the accountability of members of Congress is that the process requires the cooperation of the members of Congress themselves. Their role would be critical since they must approve by a two-thirds majority in each house any amendment that is sent to the states for ratification.

And so, when one first hears about the PCC amendment, a deep-seated reflex kicks in: “You’ve got to be kidding.”

It might be difficult, but you owe it to your country to set that reaction aside for a little while and think this through a bit further. As it happens, a strong case can be made that a PCC-type accountability amendment could be very much in the interest of a substantial number of the members of Congress.

- ✓ First, let’s not over-vilify the members of Congress. Most of them are hardworking and conscientious, and yet they are acutely aware of the fact that as a group they are failing the American people. Those who voluntarily leave Congress often cite the enervating frustration that comes from the tribal environment, the excessive dialing-for-dollars for the next election campaign, and their collective inability to get worthwhile things done. Many who are still in Congress have admitted that they would like better “cover” from the public for standing up to party leaders and their whip teams. If the members of Congress were given an opportunity to reimagine their jobs where the incentive to work across the aisle for the common good is strengthened, many would do so. A longtime European politician might have been speaking for many in the US when he said, “We all know what to do. We just don’t know how to get reelected after we’ve done it.” PCC would provide some badly needed positive support for doing the right thing.
- ✓ In addition, PCC would give Congress a periodic mandate from the American people—one as strong, or even stronger, than the “lesser of evils” presidential mandate. This would allow Congress to reclaim the political power it has ceded over the decades to the other branches of our national government and restore itself to the “first branch” status originally envisioned for it by the Founders.
- ✓ Further, being part of a strong-performing and more popular organization would be a significant reelection advantage to congressional incumbents. Currently, we often see the absurd situation of an incumbent running against an unpopular Congress. Unfortunately, his election opponent can use that strategy more effectively than he can. If instead the incumbent could campaign positively on his role in a highly regarded Congress, he would have a powerful campaign message unavailable to his opponent.
- ✓ An important consideration for current members of Congress is the lengthy period of time before they would first face the risk of recall. It would take several years for PCC to become a part of the Constitution. After that, there would be a full PCC cycle before the

first referendum (8 years in the version described in this book). Any member of Congress voting for a PCC amendment could do the right thing for both the country and Congress and not worry about an actual PCC vote for many years.

- ✓ On the other hand, once the prospect of PCC is clear, and certainly by the time it is approved by Congress and sent to the states for ratification, it would change the accountability environment within Congress. The new incentive system would help promote a new virtuous cycle of more civil behavior, improved congressional outcomes, and greater support for members of Congress by the public.
- ✓ Farsighted members already realize that the current dysfunctional condition of Congress is not sustainable. If they don't support a relatively benign accountability adjustment like PCC in the near future, they run the risk that growing public outrage will ultimately lead to something far more intrusive and punitive. These possibilities range from unconditional term limits—already supported by a large majority of the electorate—to a new constitutional convention. Plans already afoot for such a convention include rewriting Article I to significantly circumscribe Congress's powers. Political practitioner-philosophers from Edmund Burke to Teddy Roosevelt believed the true conservative is not the one who stands pat on the status quo. He is the one who makes the smart, measured adjustments to the system in time to avoid later upheaval. In that light, PCC would be a preferred option for both the thinking progressive and the thinking conservative.

Members of Congress may not take the lead in strengthening their collective accountability to the public. But if they sense that the public has determined that this must be done, they will do the next best thing: running to the front of the parade once its direction is clear. That will be good enough.

## VIII. Seizing the Narrative

Changes to our political system do not come easily. Even if you believe that nothing is more powerful than an idea whose time has come—and the time for fixing Congress is here—the resistance to such an idea can be nearly as strong. By “resistance,” I mean not only the active opposition of interests vested in the status quo but also the passive inertia of a society rationalizing that, however necessary the change might be, it simply is not possible to do anything about it. Of these two kinds of resistance, overcoming passive social inertia will be the greater challenge.

The first step in doing so is to “seize the narrative.” Let’s take a closer look at some of the prevailing narratives that will resist us as we replace them with our narrative that “We can and we must do something to get the members of Congress to work more constructively together.”

### **“Congressional dysfunction is the new normal.”**

This is perhaps the most insidious of the narratives we will confront since it both serves the purposes of many vested interests and lets the public off the hook with respect to having to take action. Members of Congress have done such a remarkable job of lowering our expectations of them to this “new normal” that the slightest baby steps forward in any policy area are celebrated as major accomplishments. Many special interests that have built lucrative applecarts on existing loopholes and protections are quite satisfied with a system that results in gridlock. And for our part, we the people can tell ourselves that we will muddle through even as our predicament perceptibly worsens.

There is growing “intellectual” support for some of these “new normal” ideas. Every so often, there appears a scholarly treatise on how political institutions are subject to a natural life cycle. After an initial period of robust good health, these institutions reach a point where they can no longer adapt to the changing circumstances of the society they must serve. They begin to decay—a process that, according to these scholars, is so irrepressible that society is simply not able to reverse it. The American political system is characterized as having begun the decay and decline phase of its institutional life cycle.

The shortcoming in this thinking is that we the American people are perfectly capable of adjusting our political system to provide appropriate rejuvenation. It may be that such a decline does eventually come to pass. Whether or not it begins on our watch is our choice, not the application of a newly discovered law of institutional decline.

### **“We aren’t smart enough to fix it.”**

There are many variations of this plaintive plea to “leave well enough alone.” A popular version is that in 1787, America benefited from a unique conjunction of events and leaders who gathered together in Philadelphia to write our Constitution and establish our system of government. Today, the argument goes, we don’t have leaders who are sufficiently intelligent, enlightened, and virtuous to improve on that system of delicate checks and balances. If we tried, we would almost certainly screw things up. The specter of unintended consequences is often evoked to punctuate this argument.

As we look carefully at it, though, this argument has a few holes in it. Foremost, of course, is that we simply do not have the option of “leaving well enough alone” since our system is not well. Second, an important part of the genius of the framers was to perceive that Americans would be capable of making needed adjustments to the Constitution. Among those adjustments were the early adoption of the Bill of Rights, abolishing slavery, and expanding the electorate to near-universal suffrage. And surely the framers anticipated that, should it ever become necessary for future members of Congress to be held collectively accountable in some way for their actions, the Americans of that future time would figure out what to do and do it. That time is our time.

As for unintended consequences, there is always some risk. Indeed, today’s dysfunction is a consequence never intended by the framers of the Constitution. The best way to manage that risk is to enlist our best minds in designing the right solution to congressional partisan dysfunction. With a sound vetting process, a great many unintended consequences can be identified and addressed. At some point, the fear of unintended consequences itself becomes the greater fear.

**“If there were a silver bullet, we would have found it by now.”**

There are many variations of this narrative, which allows one to dismiss new ideas very quickly. It is going to take some extra effort to help this person out of the tiny box within which he does his thinking about fixing our political system and give him a bit more territory over which he can search for his silver bullet.

Of course, one doesn’t “find” silver bullets. After an exhausting search, one finds a deposit of silver ore that must be mined, refined, and then cast into the shape of a bullet. As you help your friend out of his little box, help him also recalibrate upward his expectations of the amount of effort that will be required to “find” a solution for a dysfunctional Congress.

A closely related version of this narrative is: “There is nothing new under the sun.” Since it comes from the book of Ecclesiastes in the Old Testament, it can be quoted with special piety. Perhaps you could stimulate this person’s capacity for discussing new ideas by mentioning that the sun first rose on a vast new republic freely formed by the peoples of thirteen sovereign states about 2000 years after Ecclesiastes was written.

There are many other narratives and paradigms that we share among ourselves that shape our understanding of our political system. Most of them are born of great reverence and veneration for the Constitution. This veneration, which naturally restrains us from making impetuous changes to it, has been an important source of national stability and unity over the years. But we shouldn’t allow it to interfere with that greater veneration that obliges us to keep our system in good repair.

## **IX. Conclusion**

American democracy is on the clock. For the past several decades, we have witnessed a downward trajectory in Congress's ability to function properly. The growing disconnect between Congress and its electorate has earned it dismal approval ratings and severe loss of trust. As we look ahead, we can expect a growing requirement for sensible, strategic, and fair political decisions that are broadly accepted as being in the national interest. This will require that the members of our Congress act in a qualitatively different way than they do at present.

The implication is clear. Our generation of Americans is called on to shore up our representative system of government. One approach worthy of expeditious examination and refinement is to strengthen the institutional accountability of Congress by holding its members collectively accountable for the discharge of their collective responsibilities to the country.

As a concept, the Public Check on Congress is quite straightforward. The next step is for our ahead-of-the-curve thought leaders to identify a consensus formulation. A starting point is offered up in this book.

The American public will then take a careful look at PCC. There is much to be enthusiastic about. Younger generations should quickly grasp the importance of incentivizing bipartisan policies that place more emphasis on long-term sustainability. We older generations should be anxious to fix a system that has deteriorated so markedly on our watch. And every one of us should feel enormous pride in a national response to Ben Franklin's challenge: "Yes, Ben, we're going to keep our republic."

## About the Author



Bill Bridgman is a retired businessman living near Chicago. He first publicized the concept of collective congressional accountability in 2010, when it became apparent that Congress was broken and PCC could be an important part of the solution. Events in the interim have reinforced that conclusion.

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