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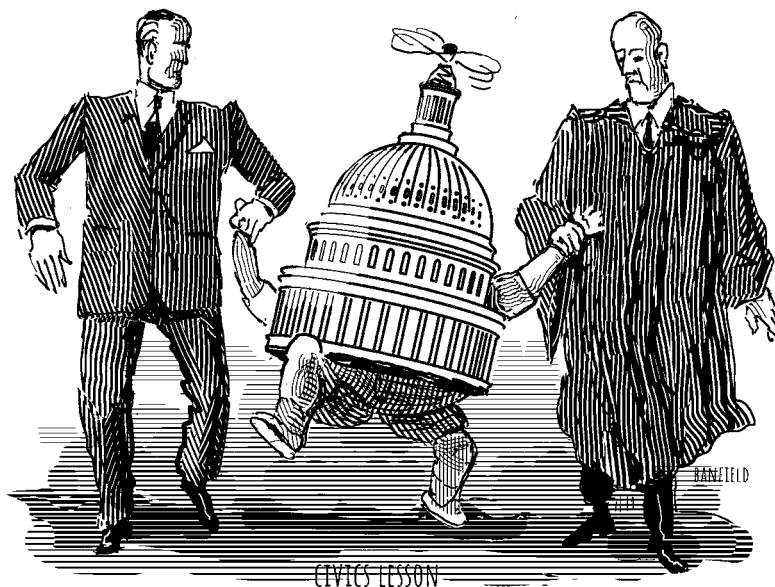
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Book Review by Joseph Postell

## THE FRACTIOUS ARENA

*Why Congress?*, by Philip Wallach.  
Oxford University Press, 336 pages, \$29.95



IT IS NEWS TO NO ONE THAT CONGRESS needs to be rehabilitated. It is mired in persistent, historically low approval ratings. The most significant policy changes today are made by the executive and judicial branches rather than by our elected representatives. Discontent in the House of Representatives finally boiled over in January 2023 when the chamber cast 15 votes before selecting Representative Kevin McCarthy (R-CA) as its speaker. More upheaval ensued this October, when Florida Representative Matt Gaetz took advantage of a new rule established during the January negotiations and called for a “motion to vacate,” in which every Democrat and a handful of Republicans voted to remove McCarthy from his role. After three weeks of jockeying, Mike Johnson of Louisiana was sworn in as the new Speaker of the House. The House Freedom Caucus, of which Gaetz is a prominent member, argues that the best way to rehabilitate Congress is to decentralize power by wresting it away from establishment party leaders.

In *Why Congress?* Philip Wallach, a senior fellow at the American Enterprise Institute (AEI), presents a vision for reorganizing Congress on the same principles as those put forward by Gaetz and his associates—and therein lies a paradox. Wallach hopes that the same reforms endorsed by the Freedom Caucus in order to give themselves more in-

fluence will empower moderates and enable compromise. The book offers an excellent account of how Congress reached its current state of near-obsolence; more importantly, Wallach makes a clear and stirring argument that the American republic cannot flourish without a strong Congress. His proposals for reform, however, either overlook or dismiss changes that might more effectively return Congress to its rightful place as the government’s first branch.

WALLACH’S CENTRAL CONCERN IS the decline of politics in America. He argues, counterintuitively but rightly, that Americans are bitterly divided today because they don’t engage in politics. By “politics,” Wallach refers not to ideological combat on social media but the bargaining and compromising that take place among competing interests in a pluralistic society. As James Madison famously explained in *The Federalist*, the framers designed a political system that would encompass a variety of interests and even factions. These interests would necessarily clash as the national government determined how and on what bases to assess taxes, conduct foreign affairs, and so on. For the outcome of the conflict to be considered legitimate, the political process had to provide a place for interest groups to express their views and engage in confrontation and compromise. Congress was that place.

In short, as Wallach writes in his introduction, “we must find ways to accommodate each other in addressing the biggest problems of the day, and Congress is the place we must do it.” Wallach fears a possible future in which Congress is transformed into a parliamentary-style body, because it will then have “nearly done away with politics.” In his postscript, written as an open letter, he tells members of Congress: “You have an obligation to engage in *politics*.” This advice is especially important for the Right, which loves ideas and policy but abhors the bargaining and compromising that is necessary to make gradual progress in a popular form of government.

IN WALLACH’S VIEW, THERE ARE TWO main problems with a society that discards politics. The first is the corresponding decline in governmental legitimacy and peace among fellow citizens. When citizens refuse to engage with each other and bargain through their differences, they sacrifice “the means to work through problems peacefully.” The policies that are made by the majority will not be seen as legitimate by the minority. As Wallach explains, “Congress’ most important function is to bring the nation’s disparate factions together, put them into dialogue with each other on the nation’s most pressing challenges, and then push them to accommodate each other in a way that all parties can live with.” A party or a group may lose politically,

but being involved in the bargaining process is itself valuable. Moreover, the majority may end up granting concessions to the minority in order to produce a more lasting and durable policy, thus reinforcing the legitimacy of the ultimate arrangement.

The second problem with a post-politics society is that it exchanges policymaking for administrative governance and judicial fiat. “When Congress fails to act,” Wallach writes, “the executive branch steps into the vacuum, and the judiciary is forced to either acquiesce to or reject policies, even if no legislative replacements are in the offing.” Examples of this are everywhere today, from executive orders on immigration, vaccine mandates, and student loans, to judicial decisions about climate change, abortion, and affirmative action. In all of these cases, Congress essentially stood on the sidelines. When major questions are resolved by the executive and judicial branches, people no longer think of themselves as governed by representatives.

**W**ALLACH’S CALL TO REINVIGORATE Congress therefore deserves to be taken up by anyone who is concerned about the trajectory of American politics and American constitutionalism but has not yet given up on them. His proposals for reforming Congress, however, are less convincing than his diagnoses. They follow a typical pattern among conservatives who pine for the mid-20th-century Congress in which committees operated pretty much independently of party leadership and everyone seemed to get along. Wallach imagines a Congress in which “[c]ommittees are restored to primacy through rule changes that ensure they can set the agenda, members put their constituents’ policy needs ahead of their party leaders’ calls for lockstep unity, and floor debate is recovered as a means of actual persuasion.”

This is an apt description of what I identified in “Congress In Limbo” (Heritage Foundation First Principles Series, July 2023) as the “Third Era” of Congress, spanning roughly 1911 to 1974. (Wallach refers to the period from 1940 to 1970 as the time “When Congress Worked.”) But this Third Era is also the era in which the modern administrative state was constructed and expanded, suggesting that conservatives’ nostalgia for it may be misplaced. Granted, negotiations during this period were bipartisan, but the parties worked well together because they were both interested in delegating power to unelected bureaucrats. Members who were not party leaders used their influence on committees to serve the narrow interests that dominated their dis-

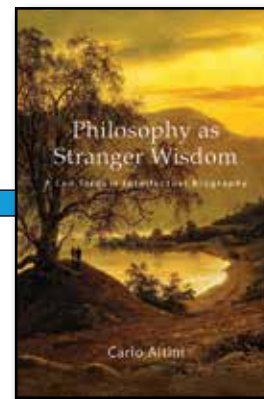
tricts. Michigan Representative John Dingell, for example, skillfully wielded the House Energy and Commerce Committee’s oversight powers to protect Detroit automakers.

Admittedly, the mid-20th-century Congress supervised the power it granted to the bureaucracy through oversight and appropriations (unlike today’s Congress, which seems entirely out to lunch). This supervision, however, was performed by committees whose members self-selected because they could more effectively promote the interests of narrow groups. This “iron triangle” model of Congress may have been more peaceful, but it did not effectively serve the interests of the American people as a whole. More importantly, it contributed to one of the problems Wallach wants solved: the emergence of the president as the only elected official with a national vision who can address national problems. The presidency attained this monopoly on statesmanship in the 20th century largely because Congress was organized to serve parochial interests through delegation and oversight.

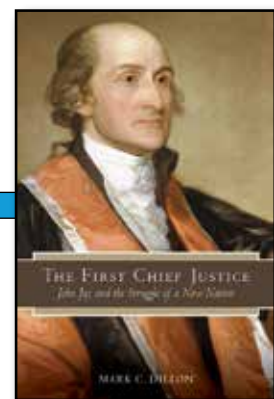
**R**ETURNING TO A MODEL OF CONGRESS in which individual members have more power and autonomy would be counterproductive to Wallach’s aims for a second reason: it would not have the effect of empowering moderates or promoting compromise. Curiously, when Wallach searches in his final chapter for reforms to increase moderates’ control over Congress, he overlooks or dismisses the most important one: strengthening the political parties. He does consider some of the more radical proposals that have recently been offered: proportional representation (in which each district would elect multiple representatives, and each party would win a number of seats proportional to the percentage of votes received), additional seats in the House of Representatives, and nonpartisan primaries. Wallach expresses a mixture of enthusiasm and skepticism for all of these. But he does not address the arguments of so-called “Political Realists,” who argue that the parties are the best institutions for building effective governing coalitions.

As these realists explain, parties empower moderates because they care about winning majority control of governing institutions. When they are allowed to nominate candidates, they do so with the goal of appealing to the broadest number of voters across their coalitions—whereas voters in primaries tend to produce a narrower variety of more extreme candidates. Party leaders organize legislatures so that the various factions and interests within them can resolve their differences,

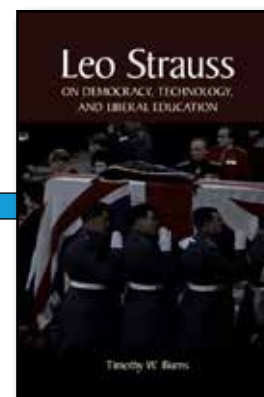
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forge compromises in meetings such as legislative caucuses, and enact those compromises into law. These are Wallach's goals, but he misses the key institution that can meet them. Scholars of political parties have long argued that parties used to play this aggregating role in our system, but were supplanted by the Progressives who advocated direct democracy and candidate-centered politics.

**W**ALLACH SEEMS AWARE OF THE ARGUMENT for parties, but he casts it as quixotic. Summarizing the realists' vision, he writes: "Factional struggle in the legislature would be contained by powerful parties, which would—somehow—dissolve factional struggle among the lawmakers within their ranks as they fashioned clearly differentiated policy programs." Wallach argues that it is unrealistic to expect parties to formulate policy programs that overcome factional conflict within their ranks. Yet this is precisely what party platforms and party conventions did, on the whole successfully, throughout the 19th century.

One reason why Wallach dismisses parties is that he adopts the "Madison-Wilson" dichotomy. In this dichotomy, James Madison stands for a pluralistic model of Congress, where local and diverse interests are allowed to act independently, without being forced into a nationalized partisan box. Woodrow

Wilson, by contrast, represents "responsible parties" on a Westminster model, in which parties stand for clearly defined ideological poles—conservative versus progressive—and the members of the party are compelled to follow party leaders and subordinate local interests to national ideological causes. Though this framework has been employed by previous writers such as political scientist and Hewlett Foundation program director Daniel Stid, it's an oversimplification. Wallach's first and most theoretical chapter, on the role of representation in Congress, follows the Madison-Wilson dichotomy but seems to admit tacitly that it is flawed. He acknowledges that it was *Madison*, not Wilson, who first organized a party in the House of Representatives to overcome diversity of interests and advance a national agenda. Within the first few years of legislating, he admits, "Representative Madison had discovered the need for internal organization and even the beginnings of party institutions to organize the interplay of factions." If Madison had discovered the importance of parties for making Congress work well, then why dismiss them as Wilsonian distortions of the constitutional system?

**I**N THE LAST ANALYSIS, WALLACH ENDS up drawing many of the right conclusions. He explains that "too little organization can leave a representative body adrift,

easy prey for opportunists; too much party organization, on the other hand, may serve to squelch the very give-and-take between factions that makes the whole arrangement fertile." In other words, Wallach argues that there needs to be an organization that can help choose leaders, set agendas, form committees, and drive the legislative process to action, without suppressing the diversity of views and interests that exist in a large republic. Well, what kind of institution might serve this purpose?

The logic of Wallach's own arguments should impel readers to a strong-party solution, even if he rejects one. In the end, *Why Congress?* is an excellent book that argues persuasively for the necessity of a thriving Congress in a diverse republic. But it mistakes the modern Congress for a party-driven, leadership-dominated institution, rather than the fractious arena of competing rogue interests that it is. He thus fails to realize that political parties are the means, not the obstacle, to making Congress serve the American people effectively in the 21st century.

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