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EYE ON THE NEWS

Let's Make Congress More Accountable

Trust in government has eroded as officials deflect responsibility—but we have it in our power to change that.

David Schoenbrod

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In the 1950s, we sang these lines wholeheartedly in school: “My country, ‘tis of thee/Sweet land of liberty/Of thee I sing!” My classmates and I thought our country was a “sweet land of liberty” because the government strove to serve the people. Our esteem for America reflected that of adults around us. Polls from that era found that three-quarters of voters trusted the federal government to “do the right thing” almost all the time. Today, only one-fifth of voters have such trust. Now, as Thanksgiving 2018 approaches, most Americans don’t know why we have soured on this “land of the pilgrims’ pride.” Our complaints about Washington, while often valid, fail to explain the loss of trust. Many blame President Donald Trump, but polls showed similar levels of distrust under President Barack Obama. Polarization and gridlock are symptoms of some deeper cause.

To understand why Washington lost our trust, we need to see why it had it in the first place. The delegates who convened in Philadelphia in 1787 to frame a constitution for the young nation feared that a government based on the consent of the governed would, given people’s clashing interests, lead to bitter divisions. To avert such an outcome, the Constitution looked to make elected officials in Congress responsible for the consequences of key policy choices. That’s why Congress was required to publish the votes of its members on controversial issues. By contrast, in Britain at the time, Members of Parliament could keep their doings secret.

This responsibility was intended to spark open debate. If, for example, citizens of one city got their legislators to press Congress to spend money to improve their harbor, those legislators might run up against other legislators whose constituents would resent

that cost. The debate would make the proposed action's consequences evident to both sets of legislators and their constituents. Citizens could participate in the open debate without being public policy experts. They read the press, listened to the incumbents and their opponents on the hustings, and reacted at the ballot box. For more than a century and a half after the ratification of the Constitution, practical considerations forced members of Congress to legislate in ways that highlighted their responsibility for unpopular consequences. Unless it raised taxes, Congress could not easily finance those harbor improvements by running a deficit and borrowing the money because voters opposed large deficits and borrowing except in emergencies.

This opposition lasted well into the twentieth century. As a candidate for president in 1932, Franklin Roosevelt criticized the deficits incurred under President Herbert Hoover and vowed to cut spending "to accomplish a saving of not less than 25 percent in the cost of the federal government." Under Roosevelt, the country did run large deficits, but it also faced grave emergencies—the Great Depression and then World War II. Even so, in passing Social Security in 1935, Roosevelt and Congress took responsibility for imposing taxes that would raise funds fully sufficient to pay for the future benefits then promised.

Later, however, the public began to think of Washington as capable of working wonders. It had gotten the country through the Great Depression, won World War II, invented the atomic bomb, built the interstate highway system, presided over the rise of the world's richest economy, and enacted meaningful civil rights legislation. With Washington's potent reputation, Democrats and Republicans in Congress, along with President Lyndon Johnson, got away with enacting Medicare in 1965 without imposing taxes sufficient to pay for the future benefits then promised. That left responsibility for the necessary tax increases to future congresses and presidents. Leaving large costs to the future became the course of least resistance for both spending increases and tax cuts, whether in times of boom or bust, whichever party was in power.

With regulation as well, practical considerations had long kept legislators from taking credit for popular consequences but ducking blame for unpopular ones. They had either enacted a regulation themselves (which made apparent their responsibility for both the regulatory protection and the regulatory burdens imposed) or gave an agency a free hand to design and impose regulations (which shifted most of the credit and blame to the agency). By the end of the 1960s, however, Congress devised a new approach to regulation that gave its members most of the credit and little of the blame. In the Clean Air Act of 1970, Congress granted all citizens a supposedly ironclad right to healthy air

by the end of the 1970s and ordered the Environmental Protection Agency to impose the burdens necessary to make it so.

In enacting the statute, neither legislators nor the president bothered to find out what it would take to make the air healthy by the end of the 1970s. They simply took credit for the promise, knowing that the burdens would come later and be announced by the EPA. That's why Democrats and Republicans voted for the statute almost unanimously and President Richard Nixon signed it with great fanfare. Later, the EPA found that meeting the statutory deadline would require taking most cars off the road in the hearts of major cities. Legislators from both parties blamed the agency for the burdens that it imposed and its gross failure to keep the statutory promise of healthy air.

In this, as with just about every aspect of government operations, Congress has found ways to take credit for popular promises while shifting blame for unpopular consequences. Neither Democrats nor Republicans can fix the problem by unilaterally foreswearing the legislative techniques that allow them to evade blame for unpopular consequences. Doing so would give an edge to the other party. The only hope is to impose new ground rules on the legislative process that would require both parties to shoulder responsibility.

Some politicians and citizens have proposed a constitutional amendment to prevent deficit spending unless super-majorities in Congress declare an emergency. This would restore one of the legislative norms that prevailed prior to the 1960s. But our fiscal peril comes not from the deficits in the current year or the year after, but rather from the cost of entitlement programs and tax policies that will, if continued, cause the deficit to soar to unsustainable levels in future decades. Balancing the budget in the near term won't stop that. Besides, the campaign for the constitutional amendment, which has gone on for decades, is unlikely to succeed. Its continuance allows the elected officials who support it to claim fiscal responsibility without naming what tax hikes or spending cuts they would impose to make our fiscal future sustainable.

Congress and the president could, however, take responsibility for unpopular consequences with a simple gesture: every year, they could put in every mailbox estimates of the annual cost to the average family of the future tax increases or spending cuts needed to keep government solvent over the long run, and how much that cost has changed given the action or inaction of Congress over the past year. This could be done without a constitutional amendment, through a statute that I call the [Honest Deal Act](#).

Another plank of the Honest Deal Act would require Congress to take responsibility for regulations. That can't be done by reverting to the old ways in which Congress either enacted the regulations itself or gave agencies a blank check to design them. What Congress could do instead is enact a proposal made by FDR's guru of regulation, James Landis. He proposed that once an agency adopts a major regulatory change, whether to regulate or deregulate, the change cannot go into effect unless Congress first approves it.

If enough Americans called for their representative to enact the Honest Deal Act, the competition for power between the parties would force them to do so. We have it within our power to bring that kind of pressure on Congress. It was public pressure that forced politicians to get rid of the laws that kept people from voting because they lacked great wealth or were of a disfavored race or gender. Throughout our history, there have been many new births of freedom. We need another one now.

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